

~~FIFTH~~ SIXTH RESTATED AND AMENDED SITE CERTIFICATE

FOR THE

KLAMATH COGENERATION PROJECT

ISSUED BY

OREGON ENERGY FACILITY SITING COUNCIL
625 MARION STREET NE
SALEM OR 973013737

PHONE: 5033784040

FAX: 5033737806

JANUARY 25, 2013

TABLE OF CONTENTS

I.	SITE CERTIFICATION.....	24
II.	DESCRIPTION OF THE FACILITY AND SITE	3
A.	Description of the Amended Facility	3
A.1.	The Energy Facility.....	3
A.2.	Related or Supporting Facilities.....	5
B.	Location of the Facility	6
B.1.	The Energy Facility Site	6
B.2.	Related or Supporting Facility Sites	6
III.	CONDITIONS REQUIRED BY COUNCIL RULES.....	7
A.	Mandatory Conditions in Site Certificates OAR 345-27-020	8
B.	Site Specific Conditions OAR 345-27-023.....	10
C.	Monitoring Conditions OAR 345-27-028.....	11
D.	Public Health and Safety Standards for Pipelines OAR 345-24-060	11
E.	Design Standards for Transmission Lines OAR 345-24-090	12
F.	Construction and Operation Rules for Facilities OAR 345- 26.....	12
IV.	CONDITIONS PURSUANT TO COUNCIL STATUTORY AUTHORITY.....	14
A.	General Conditions	14
B.	500-MW Exemption and Carbon Dioxide Emissions Standard	18
C.	Organizational, Managerial and Technical Expertise	23
D.	Financial Assurance	24
E.	Land Use	25
F.	Structural Standard.....	25
G.	Retirement and Site Restoration	27
H.	Soil Protection.....	2827
I.	Protected Areas	2928
J.	Fish and Wildlife Habitat.....	29
K.	Threatened and Endangered Species	29
L.	Scenic and Aesthetic Values	30
M.	Historic, Cultural and Archaeological Resources	30
N.	Recreation	31
O.	Socio-Economic Impacts	31
P.	Waste Minimization.....	32
Q.	Noise	33
R.	Wetlands	33
S.	Water Rights	33
T.	Public Health and Safety.....	34
V.	MATTERS NOT ADDRESSED IN OR GOVERNED BY THIS AMENDED SITE CERTIFICATE	34
A.	Federally-Delegated Programs ORS 469.503(3)	34

1	B.	Requirement Which Do Not Relate to Siting ORS 469.401(4).....	34
2	VI.	AMENDMENT OF RESTATED AND AMENDED SITE CERTIFICATE	35
3	VII.	SUCCESSORS AND ASSIGNS	35
4	VIII.	SEVERABILITY AND CONSTRUCTION	36
5	IX.	GOVERNING LAW AND FORUM.....	36
6			

~~FIFTH~~SIXTH RESTATED AND AMENDED
SITE CERTIFICATE
FOR THE
KLAMATH COGENERATION PROJECT

INTRODUCTION

This Restated and Amended Site Certificate for the Klamath Cogeneration Project (KCP or “the Facility”) is issued and executed in the manner provided by ORS Chapter 469, by and between the State of Oregon (State), acting by and through its Energy Facility Siting Council (EFSC or “the Council”), and Klamath Energy LLC (Klamath Energy or Certificate Holder), a direct subsidiary of Iberdrola Renewables, LLC (IR). The purpose of this Restated and Amended Site Certificate is to remove conditions that are no longer necessary, and to revise conditions that are still relevant, but which require updating.

The findings of fact, reasoning and conclusions of law underlying the terms and conditions of this Restated and Amended Site Certificate are set forth in the following documents, which by this reference are incorporated herein: (a) the Council's Final Order for the KCP Application for Site Certificate (dated November 6, 1996) which the Council granted on August 15, 1997, (b) the Council's Final Order for the KCP Request for Amendment (dated October 6, 1997) which the Council granted on April 17, 1998, (c) the Council's Final Order for the KCP Request for Amendment No. 2, which the Council granted on December 11, 1998, (d) the Council's Final Order approving the KCP Application to Transfer Site Certificate, which the Council granted on September 21, 2007, (e) the Council's Final Order for the KCP Request for Amendment No. 4 (dated November 25, 2008) which the Council granted on March 27, 2009, ~~and~~ (f) the Council's Final Order for the Request for Amendment No. 5, which the Council granted on January 25, 2013, and the Council's Final Order for the Request for Amendment No. 6, which the Council granted on _____ (collectively the "Final Orders").

In interpreting this Restated and Amended Site Certificate, any ambiguity will be clarified by reference to, in the following priority: (a) this Restated and Amended Site certificate, (b) the Final Order granted on January 25, 2013 for Amendment No. 5 to the Site Certificate, (c) the Final Order granted on March 27, 2009 for Amendment No. 4 to the Site Certificate, (d) the Final Order granted on September 21, 2007 approving the Request to Transfer Site Certificate, the Final Order granted on December 11, 1998 for Amendment No. 2 to the Site Certificate, the Final Order granted on April 17, 1998 for Amendment No. 1 to the Site Certificate, (g) the Final Order granted on August 15, 1997 for the Application for Site Certificate, (h) the 500-Megawatt Exemption Final Order, and, if necessary, (i) the record of the proceedings which led to those Orders.

The terms used in this Restated and Amended Site Certificate shall have the same meaning as set forth in ORS 469.300 and Oregon Administrative Rules (OAR) 345-01-010, except where otherwise stated or where the context clearly indicates otherwise. "Department" means the Oregon Department of Energy.

1 **I. SITE CERTIFICATION**

2 A. To the extent authorized by State law and subject to the conditions set forth herein, the
3 State approves and authorizes the City to construct, and the Certificate Holder to operate
4 and retire a natural gas-fired combustion turbine cogeneration Energy Facility, together
5 with certain Related or Supporting Facilities, at the Site as described in section II of this
6 Restated and Amended Site Certificate, near Klamath Falls, Oregon. ORS 469.401(1).
7 [Amendment #3]

8 B. This Restated and Amended Site Certificate shall be effective until it is terminated
9 pursuant to OAR 345-27-110, or the rules in effect on the date that termination is sought,
10 or until the Restated and Amended Site Certificate is revoked pursuant to ORS 469.440
11 and OAR 345-29-100, or the statutes and rules in effect on the date that revocation is
12 ordered. ORS 469.401(1)

13 C. This Restated and Amended Site Certificate does not address, and is not binding with
14 respect to, matters which were not addressed in the Council's Final Order. These matters
15 include but are not limited to: building code compliance, wage, hour and other labor
16 regulations, local government fees and charges, and other design or operational issues
17 that do not relate to siting the Facility (ORS 469.401(4)); and permits issued under
18 statutes and rules for which the decision on compliance has been delegated by the Federal
19 government to a state agency other than the Council. 469.503(3). Some of these matters
20 are identified in Section V of this Restated and Amended Site Certificate.

21 D. Both the State and the Certificate Holder shall abide by local ordinances and state law
22 and the rules of the Council in effect on the date this Restated and Amended Site
23 Certificate is executed. ORS 469.401(2). In addition, upon a clear showing of a
24 significant threat to the public health, safety or the environment that requires application
25 of later-adopted laws or rules, the Council may require compliance with such later-
26 adopted laws or rules. ORS 469.401(2).

27 E. For a permit, license or other approval addressed in and governed by this Restated and
28 Amended Site Certificate, the Certificate Holder shall comply with applicable state and
29 federal laws adopted in the future and related to that permit, license or other approval to
30 the extent that such compliance is required under the respective state agency statutes and
31 rules. ORS 469.401(2).

32 F. Subject to the conditions herein, this Restated and Amended Site Certificate binds the
33 State and all counties, cities and political subdivisions in this State as to the approval of
34 the Site and the construction, operation and retirement of the Facility as to matters that
35 are addressed in and governed by this Restated and Amended Site Certificate. ORS
36 469.401(3).

37 G. Each affected state agency, county, city and political subdivision in Oregon with
38 authority to issue a permit, license or other approval addressed in or governed by this
39 Restated and Amended Site Certificate shall, upon submission of the proper application
40 and payment of the proper fees, but without hearings or other proceedings, issue such

1 permit, license or other approval subject only to conditions set forth in this Restated and
2 Amended Site Certificate. ORS 469.401(3).

3 H. After issuance of this Restated and Amended Site Certificate, each state agency or local
4 government agency that issues a permit, license or other approval for the KCP shall
5 continue to exercise enforcement authority over such permit, license or other approval.
6 ORS 469.401(3).

7 I. After issuance of this Restated and Amended Site Certificate, the Council shall have
8 continuing authority over the Site and may inspect, or direct the Department to inspect, or
9 request another state agency or local government to inspect, the Site at any time in order
10 to assure that the Facility is being operated consistently with the terms and conditions of
11 this Restated and Amended Site Certificate. ORS 469.430.

12 **II. DESCRIPTION OF THE FACILITY AND SITE**

13 In the event of a conflict between the descriptions of the Facility in this Restated and Amended
14 Site Certificate and the Council's Final Orders, this Restated and Amended Site Certificate shall
15 control. Note: Amendment No. 1 to the KCP Site Certificate allowed for the option of building
16 either a 318-megawatt (MW) net output facility based on one combustion turbine configuration
17 or a 525-MW net output facility based on a two combustion turbine configuration.¹ Amendment
18 No. 2 to the KCP Site Certificate allowed for the option of either a 230-kilovolt (kV) electrical
19 interconnection transmission line or a 500-kV electrical interconnection transmission line. Since
20 the KCP has been constructed as a 525-MW net output two combustion turbine facility with a
21 500-kV electrical interconnection line, various changes were made to the KCP Site Certificate
22 upon approval of Amendment No. 3 to reflect these facts. Amendment No. 4 to the Site
23 Certificate, which revised the amount necessary to comply with the financial assurances standard
24 and made changes to the water rights section to reflect the proper water right pursuant to which
25 water is used for the KCP's operation, did not change the description of the facility and site.
26 Amendment No. 5 to the Site Certificate, i.e., this Restated and Amended Site Certificate, which
27 removes conditions that are no longer necessary (e.g., conditions which have been superseded or
28 for which the Certificate Holder has completed the required actions) and revises conditions that
29 are still relevant, but which require updating, does not change the description of the facility and
30 site.

31 **A. Description of the Amended Facility**

32 **A.1. The Energy Facility**

33 The Energy Facility is a combined-cycle, combustion turbine (CT) cogeneration facility, based
34 on two combustion turbines (CT).

¹ The KCP was initially described as a nominal 500-MW natural gas-fired electric cogeneration facility. As a consequence of upgrading the combustion turbines, Klamath Energy increased the facility's electrical output by 25 megawatts and lowered the plant heat rate by about 100 BTU/kwh. The Department analyzed the upgrades under OAR 345-027-0050(3) and concluded they did not necessitate amendment of the KCP site certificate. The Department's analysis was summarized in a letter from Adam Bless, ODOE, to Mike Roberts, Iberdrola Renewables, dated December 31, 2008.

Major Structures and Equipment

The two-CT Energy Facility will be capable of producing up to 525 megawatts (net) of electricity at site conditions when providing zero pounds per hour of steam to off-site industrial use. The combustion turbines will burn only natural gas. The auxiliary boiler will burn primarily natural gas, but may burn low-sulfur oil as a backup fuel. The on-site emergency diesel generator will burn low-sulfur oil. The estimated life of the Energy Facility is at least 30 years. The two-CT Energy Facility is shown in the RFA, Fig., B-3, which is included in this Restated and Amended Site Certificate as Appendix A.

The two-CT Energy Facility consists of five major pieces of equipment: two CTs, two heat recovery steam generators (HRSGs), and one steam turbine generator.

The Energy Facility includes a turbine generator building about 70 feet tall and the following related structures: two HRSGs that are approximately 110 feet tall; two HRSG emission stacks that are approximately 150 feet tall; a mechanical evaporation cooling tower about 50 feet tall; an auxiliary boiler with an exhaust stack that is about 125 feet tall; an approximately 30-foot-high, above-ground 200,000 gallon fuel oil storage tank; an electrical substation with outdoor transformers and switches; an approximately 125,000 square-foot stormwater retention/evaporation pond; on-site parking; and a variety of storage tanks and other structures. The Energy Facility includes four major systems: the power generation system, the cycle cooling system, the control system, and the electric and transmission system.

The power generation system includes three primary components: the combustion turbine generators, the HRSGs, and the steam turbine generator.

The cycle cooling system includes a water-cooled steam surface condenser, an evaporative mechanical induced draft cooling tower consisting of eight cells, boiler and cooling tower water chemical treatment systems, and a component cooling system.

The control system includes distributed control systems, an uninterruptible power supply, and an instrument air system.

The electric and transmission system includes an electric power system and a 500-kV electric transmission interconnection line segment to PacifiCorp's Meridian to Captain Jack 500-kV transmission line.

The Energy Facility also includes NO_x control systems, a continuous emissions monitoring system, a fire protection system, water treatment systems and a stormwater drainage system.

Capacity and Output

The Energy Facility is authorized to have a nominal electric generating capacity of up to 525 MW (net) at annual average site conditions with no steam to off-site industrial use and using natural gas as the fuel.

The expected ratings for the two CT Energy Facility at annual average conditions (48 degrees F) adjusted to site elevation are:

Gross power output is estimated as approximately 535 MW at zero steam to off-site industrial use, and 514 MW at 200,000 pounds per hour of steam to off-site industrial use.

Net power output is estimated as approximately 525 MW at zero steam to off-site industrial use, and 504 MW at 200,000 pounds per hour of steam to off-site industrial use.

(see Appendix B of this Restated and Amended Site Certificate - RFA, Exhibit B, p. B-6, Footnotes 1 and 2):

The Energy Facility will be designed to achieve a capacity factor in excess of 93 percent. Actual capacity factor will depend on dispatch of the Energy Facility, operating and maintenance considerations, and other factors. The forced outage rate for the Energy Facility is expected to be about two percent. The Energy Facility will be designed to operate as a dispatchable facility capable of stable operation from at least 50 up to 100 percent of its rated output and with multiple starts.

Water Use

The Energy Facility will reuse treated effluent from the City's Spring Street Wastewater Treatment Plant (SSWTP) for its major source of water. This water will be used in the cooling tower system for evaporative cooling. The two-CT Energy Facility is estimated to use up to about 2,325 gallons per minute (gpm) (about 3.35 million gallons per day) of treated effluent on an annual average basis. (For the two-CT Energy Facility, see the RFA, Exhibit O, Table O-1, in Appendix B to this Restated and Amended Site Certificate.)

The Energy Facility will obtain good quality water from the City's existing municipal water supply system. The Energy Facility is estimated to use about 160 gpm (about 0.23 million gallons per day) of this water on an annual average basis.

The Energy Facility will obtain good quality water from Collins to make steam for Collins. Based on a Collins steam demand of 200,000 lbs/hr, the Energy Facility is estimated to use about 400 gpm of Collins' water on an annual average basis. This water will reduce by an equal amount the amount of water that Collins uses to make its own steam. Of the 400 gpm, about 200 gpm will be condensed steam and about 200 gpm will be from a Collins' groundwater well. The Energy Facility will dispose of its wastewater (both process wastewater and sanitary wastewater) to the SSWTP. The two CT Energy Facility is estimated to produce up to about 695 gpm (about 1.0 million gallons per day) of wastewater on an annual average basis.

A.2. Related or Supporting Facilities

The Facility will include the following Related or Supporting Facilities:

A steam pipeline to carry steam from the Energy Facility to the Collins plant and a pipeline to return condensed steam and water to the Energy Facility. The steam pipeline will be above ground, about 18 inches in diameter and about a mile long. The return pipeline will be above ground, about six inches in diameter and about one mile long.

1 A natural gas interconnection with Pacific Gas Transmission Company's recently built Medford
2 Lateral natural gas pipeline which crosses Collins property adjacent to the Energy Facility Site.
3 The interconnection will be about 12 inches in diameter and less than 300 feet long.

4 A 500-kV switchyard that interconnects with a realigned segment of PacifiCorp's Meridian to
5 Captain Jack 500-kV electric transmission line (the 500-kV realignment), as described in the
6 Final Order for Amendment No. 2 (the 500-kV interconnection alternative). [Amendment #2]

7 A new underground pipeline to supply cooling water to the Energy Facility. The pipeline will
8 carry treated wastewater from the SSWTP. It will be about 14 to 16 inches in diameter and about
9 six miles long.

10 A new underground pipeline to return wastewater from the Energy Facility to the City's existing
11 sewer system. This line will be about eight inches in diameter and about two miles long.

12 A new underground water line to supply good quality water to the Energy Facility from the
13 City's existing water system. This line will be about six inches in diameter and about two miles
14 long.

15 **B. Location of the Facility**

16 The locations of the Energy Facility and the related or supporting facilities for the amended KCP
17 are the same of those for the KCP as originally approved in August 1997.

18 **B.1. The Energy Facility Site**

19 The Energy Facility Site is about one-half mile west of the U.S. Highway 97 bridge over the
20 Klamath River. It is on about 20 acres of land owned by Collins Products. The Site is within
21 Klamath County and is outside the City limits and the Urban Growth Boundary. The Site is in
22 Section 18 of Township 39 South, Range 9 East, in Klamath County, Oregon. The location of the
23 Facility is shown in the ASC, Fig. C-1, which is included in this Restated and Amended Site
24 Certificate as Appendix C.

25 **B.2. Related or Supporting Facility Sites**

26 The routes of the related or supporting Facilities, as originally approved, are shown in the ASC,
27 Fig C-1. The KCP's June 30, 1999 semiannual construction report confirmed that the 500-kV
28 interconnection alternative had been selected. Therefore, the following description of that
29 alternative applies. [Amendment #2]

30 The KCP energy facility site with the 500-kV interconnection alternative shall be located on
31 about 20 acres of land owned by Collins Products as shown in Figure 1 of the Request for
32 Amendment No. 2. The location of the 500-kV realignment shall be as shown in Figure 2 of the
33 Request for Amendment No. 2. [Amendment #2]

34 The Certificate Holder shall ensure that the 500-kV switchyard is designed, constructed, operated
35 and retired substantially as described in the Final Order for Amendment No. 2 and in accordance

1 with the conditions of this Restated and Amended Site Certificate and Amendment No. 2 that are
2 applicable to the KCP switchyard. [Amendment #2]

3 The Certificate Holder shall ensure that the realigned segment of the Meridian to Captain Jack
4 500-kV transmission line is designed and constructed substantially as described in the Final
5 Order for Amendment No. 2 and in accordance with the conditions of this Restated and
6 Amended Site Certificate and Amendment No. 2 that are applicable to the design and
7 construction of the KCP electrical interconnection and transmission facilities. [Amendment #2]

8 This Restated and Amended Site Certificate contains no provisions or conditions that are
9 intended to apply to the electrical operation of and transmission of electricity over the realigned
10 segment of the Meridian to Captain Jack 500-kV transmission line. [Amendment #2]

11 The route of the steam and condensate return pipelines is entirely on land owned by Collins. It
12 runs between the Energy Facility and the Collins plant to the southwest. It is within Section 18 of
13 Township 39 South, Range 9 East, and Sections 13 and 24 of Township 39 South, Range 8 East.
14 The route of the natural gas interconnection is entirely on Collins property. It is immediately
15 south of the Energy Facility. It is within Section 18 of Township 39 South, Range 9 East.

16 The route of the underground cooling water supply pipeline begins at the SSWTP. Within City
17 limits, the route is within existing City street rights-of-way. It crosses the Link River attached to
18 the underside of an existing bridge near the north end of Lake Ewauna. Upon leaving City limits,
19 the route follows an existing roadway corridor. Near Memorial Park, it follows an existing City
20 sewer force main easement to Highway 97 and then runs within Highway 97 right-of-way until it
21 reaches Collins property. From this point it crosses Collins property to the Energy Facility. The
22 route is within Sections 32 and 33 of Township 38 South, Range 9 East, and Sections 5, 8, 7 and
23 18 of Township 39 South, Range 9 East.

24 The entire length of the route of the underground wastewater return pipeline is next to the
25 cooling water supply pipeline. It begins at the Energy Facility, crosses Collins property and joins
26 Highway 97 right-of-way just north of the bridge across the Klamath River. From there it follows
27 Highway 97 right-of-way north to the intersection with Highway 66. Near the Highway 66
28 intersection, it connects into the City's existing sewer force main. It is within Sections 18 and 7
29 of Township 39 South, Range 9 East.

30 The route of the underground potable water line begins at an existing City potable water main
31 near the intersection of Highway 66 and Weyerhaeuser Road. The route is within existing county
32 street rights-of-way from Highway 66 along Weyerhaeuser Road until it reaches Collins
33 property. It then goes east across Collins property to the Energy Facility. It is within Section 13
34 of Township 39 South, Range 8 East, and Section 18 of Township 39 South, Range 9 East.

35 **III. CONDITIONS REQUIRED BY COUNCIL RULES**

36 The following conditions in this Restated and Amended Site Certificate are specifically required
37 by OAR 345-27-020 (Mandatory Conditions in Site Certificates), OAR 345-27-023 (Site
38 Specific Conditions), OAR 345-27-028 (Monitoring Conditions), OAR 345-24-060 (Public
39 Health and Safety Standards for Pipelines), OAR 345-24-090 (Design Standards for
40 Transmission Lines) and in OAR 345, division 26 (Construction and Operation Rules for

Facilities) to address Facility and site-specific conditions and requirements. These conditions shall apply in addition to, and should be read together with, the additional specific conditions in section IV of this Restated and Amended Site Certificate to ensure compliance with the standards, statutes and rules described in ORS 469.501 and 469.503.

In addition to all other conditions stated in this Restated and Amended Site Certificate, the Certificate Holder is subject to all conditions and requirements contained in the rules of the Council and local ordinances and state law in effect on the date this Restated and Amended Site Certificate is executed, except that upon a clear showing of a significant threat to the public health, safety or the environment that requires application of later-adopted laws or rules, the Council may require compliance with such later-adopted laws or rules. ORS 469.401(2).

In the event any of the conditions in this Restated and Amended Site Certificate conflict with or are inconsistent with a requirement in OAR chapter 345, or a condition in the Council's Final Orders, this Restated and Amended Site Certificate shall control.

As the holder of the Restated and Amended Site Certificate, the Certificate Holder shall be responsible for ensuring compliance with all provisions of this Restated and Amended Site Certificate.

A. Mandatory Conditions in Site Certificates OAR 345-27-020

(1) The Certificate Holder shall submit to the Department a legal description of the Site to be appended to this Amended and Restated Site Certificate prior to construction.

(2) The Facility shall be designed, constructed, operated and retired:

(a) Substantially as described in this Restated and Amended Site Certificate;

(b) In compliance with the requirements of ORS Chapter 469, applicable Council rules, and applicable state and local laws, rules and ordinances in effect at the time this Restated and Amended Site Certificate is issued; and

(c) In compliance with all applicable permit requirements of other state agencies.

(3) Construction of the Facility must begin and be completed by dates specified in section IV.A of this Amended and Restated Site Certificate.

(4) No construction, including clearing of a right-of-way, except for the initial survey, may commence on any part of the Facility until the Certificate Holder has adequate control, or has the statutory authority to gain control, of the lands on which clearing or construction will occur.

(5) The Certificate Holder shall submit to the State of Oregon, through the Council, a bond or comparable security, satisfactory to the Council, in an amount specified in section IV.D. of this Restated and Amended Site Certificate adequate to restore the Site to a useful condition.

1 The security the Council determines to be satisfactory is described in section IV.D of this
2 Restated and Amended Site Certificate.

3 (6) If mitigation is required after an affirmative finding by the Council under any standards
4 of OAR Chapter 345, Division 22 or Division 24, the Certificate Holder, in consultation
5 with affected state agencies and local governments designated by the Council, shall
6 develop specific mitigation plans consistent with Council findings under the relevant
7 standards. Such plans must be approved by the Department prior to the beginning of
8 construction or, as appropriate, operation.

9 (7) The Certificate Holder shall prevent any condition, over which the Certificate Holder has
10 control, from developing on the Site that would preclude restoration of the Site to a useful
11 condition.

12 (8) Conditions related to Facility retirement and Site restoration:

13 (a) The Certificate Holder shall establish a financial mechanism or instrument
14 satisfactory to the Council that will ensure funds will be available to adequately
15 retire the Facility and restore the Site. The financial mechanism the Council
16 determines to be satisfactory is described in section IV.D of this Restated and
17 Amended Site Certificate;

18 (b) At least five years prior to planned retirement of the Facility, the Certificate
19 Holder shall submit a retirement plan to the Council for approval. The plan shall
20 describe how the Site will be restored adequately to a useful condition, including
21 options for post-retirement land use, information on how impacts to fish, wildlife
22 and the environment will be minimized during the retirement process and
23 measures to protect the public against risk or danger resulting from post-
24 retirement Site conditions; and

25 (c) The Facility shall be retired after its useful life in accordance with the approved
26 final retirement plan, pursuant to OAR 345-27-110.

27 (9) This Restated and Amended Site Certificate includes as conditions those representations
28 from the Application for Site Certificate for the KCP, the Requests for Amendments Nos.
29 1, 2, 3, and 4 to the KCP, and the relevant supporting record deemed by the Council to be
30 binding commitments on the part of the Certificate Holder. The conditions that the
31 Council deems to be binding commitments on the part of the Certificate Holder are listed
32 in Section IV of this Restated and Amended Site Certificate and Appendices.

33 (10) The Certificate Holder shall restore vegetation to the extent practicable and shall
34 landscape portions of the Site disturbed by construction in a manner compatible with its
35 surroundings and/or proposed future use. Upon completion of construction, the
36 Certificate Holder shall dispose of all temporary structures not required for future use and
37 all timber, brush, refuse and flammable or combustible material resulting from the
38 clearing of land or from construction of the Facility.

- 1 (11) The Facility shall be designed, engineered and constructed to avoid potential dangers to
2 human safety presented by seismic hazards affecting the Site as defined in ORS
3 455.447(1)(d), and including amplification, that are expected to result from the
4 reasonably probable seismic event.
- 5 (12) The transfer of the site certificate from the City to Klamath Energy shall not occur until
6 Klamath Energy delivers to EFSC evidence that:
- 7 (a) The City and Klamath Energy or PPM have entered into the Cooling Water
8 Agreement described in the July 17, 2007 Memorandum of Understanding
9 included in the Request for Transfer and the September 12, 2007 letter from Jeff
10 Ball and Peter Van Alderwerelt to Adam Bless.
- 11 (b) The City and Klamath Energy or PPM have executed the agreement for Klamath
12 Energy to discharge process waste water and sanitary waste water to the SSWTP,
13 to be discharged under the SSWTP's NPDES permit
- 14 (c) The City has received the Order of the Circuit Court of Klamath County,
15 validating the City's legal authority to enter into and perform its obligations in
16 connection with the transfer, as described in item 4.3 of the Memorandum of
17 Understanding dated July 17, 2007 and included in the Request for Transfer,
- 18 (d) The Federal Energy Regulatory Commission (FERC) has issued such approvals as
19 are necessary for Klamath Energy to proceed with the acquisition of the Facility
- 20 (e) Contracts for delivery of steam to the steam host have been transferred from the
21 City to Klamath Energy or PPM,
- 22 (f) Title V and Title IV air quality permits are transferred by DEQ from the City to
23 Klamath Energy or PPM, and
- 24 (g) Klamath Energy or PPM delivers to the Council a letter of credit in the amount of
25 \$8.6 million that replaces the Termination Fund maintained by the Certificate
26 Holder to satisfy Conditions IV.D.3, IV.D.4 and IV.D.5. [Amendment #3] The
27 amount of the letter of credit shall be reduced to \$4.511 million (1st Quarter 2009
28 dollars) upon the Council's approval of Amendment 4. [Amendment #4]

29 **B. Site Specific Conditions OAR 345-27-023**

- 30 (1) The Certificate Holder shall notify the Department, the State Building Codes Division
31 and the Department of Geology and Mineral Industries promptly if Site investigations or
32 trenching reveal that conditions in the foundation rocks differ significantly from those
33 described in the Application for Site Certificate or the Request for Amendment for the
34 KCP. The Council may, at such time, require the Certificate Holder to propose additional
35 mitigating actions in consultation with the Department of Geology and Mineral Industries
36 and the Building Codes Division.

- 1 (2) The Certificate Holder shall notify the Department, the State Building Codes Division
2 and the Department of Geology and Mineral Industries promptly if shear zones, artesian
3 aquifers, deformations or clastic dikes are found at or in the vicinity of the Site.
- 4 (3) The Certificate Holder shall restore the reception of radio and television at residences and
5 commercial establishments in the primary reception area to the level present prior to
6 operations of the transmission line, at no cost to residents experiencing interference
7 resulting from the transmission line.

8 **C. Monitoring Conditions OAR 345-27-028**

- 9 (1) The Certificate Holder shall establish, in consultation with affected state agencies and
10 local governments, monitoring programs, as provided in section IV of this Restated and
11 Amended Site Certificate, for impact on resources protected by the standards of OAR
12 Chapter 345, Divisions 22 and 24, and to ensure compliance with the Restated and
13 Amended Site Certificate. The programs shall be subject to the review and approval of
14 the Council.
- 15 (2) For each monitoring program that it establishes, the Certificate Holder shall have quality
16 assurance measures that are reviewed and approved by the Department prior to
17 commencement of construction or commencement of commercial operation, as provided
18 in section IV of this Restated and Amended Site Certificate.
- 19 (3) If the Certificate Holder becomes aware of a significant environmental change or impact
20 attributable to the Facility, the Certificate Holder shall submit to the Department as soon
21 as possible a written report identifying the issue and assessing the impact on the Facility
22 and any affected conditions of this Restated and Amended Site Certificate.

23 **D. Public Health and Safety Standards for Pipelines OAR 345-24-060**

- 24 (1) For the purposes of conditions in section III.D, "pipelines" means the KCP 300-foot
25 (approximately) natural gas interconnection between the Energy Facility and the PGT
26 Medford lateral pipeline.
- 27 (2) Pipelines shall be constructed in accordance with the requirements of the U.S.
28 Department of Transportation as set forth in Title 49, Code of Federal Regulations, Part
29 192.
- 30 (3) Pipelines shall be designed so that noise resulting from operation of compressor stations
31 and other Related or Supporting Facilities shall not violate standards specified in OAR
32 Chapter 340, Division 35. Pipelines shall have mechanical structures that allow the
33 pipeline to be sealed off, in the event of leakage, in a manner that will minimize the
34 release of flammable materials. This is rebuttably presumed to be satisfied by the
35 requirements of Title 49, Code of Federal Regulations, Part 192.
- 36 (4) The Certificate Holder shall develop a program using the best available practicable
37 technology to monitor pipelines to ensure protection of public health and safety.

E. Design Standards for Transmission Lines OAR 345-24-090

For the purposes of conditions in section III.E., "transmission line" means the 500-kV transmission line described in the Final Order for Amendment No. 2 to the site certificate. [Amendment #3]

(1) The transmission line shall be designed so that alternating current electric fields shall not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the public.

(2) The transmission line shall be designed so that induced currents resulting from the transmission line and Related or Supporting Facilities will be as low as reasonably achievable. The Certificate Holder must develop and implement a program which shall provide reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or structures of a permanent nature that could become inadvertently charged with electricity shall be grounded through the life of the line.

(3) The transmission line shall be designed, constructed, and operated in a manner consistent with the 1993 edition of National Electrical Safety Code (American National Standards Institute, Section C2, 1993 Edition).

F. Construction and Operation Rules for Facilities OAR 345- 26

(1) Compliance Plans (OAR 345-26-040)

Following receipt of this Restated and Amended Site Certificate or an amendment of this Restated and Amended Site Certificate, the Certificate Holder shall implement a plan that verifies compliance with all terms and conditions of this Restated and Amended Site Certificate and applicable statutes and rules. This plan shall be documented and maintained for Department or Council inspection.

(2) Annual Status Report for Non-nuclear Facilities (OAR 345-26-080)

General Reporting Obligation for non-nuclear facilities. The Certificate Holder shall, within 120 days of the end of each calendar year, submit an annual report to the Council addressing the subjects listed in this condition. The reporting date may be changed by mutual agreement of the Council Secretary and the Certificate Holder. To the extent that information required by this condition is contained in reports the Certificate Holder submits to other state, federal or local agencies, excerpts from such other reports may be submitted to satisfy this condition. The Council reserves the right to request full copies of such excerpted reports.

Contents of Annual Report:

- (a) Facility Status: An overview of Site conditions, the status of facilities under construction, and a summary of the operating experience of facilities that are in operation. This section of the annual report shall describe any unusual events, such as earthquakes, extraordinary windstorms, major accidents, or the like,

1 which occurred during the year and which had a significant adverse impact on the
2 Facility.

3 (b) Reliability and Efficiency of Power Production: For electric power plants:

4 (A) The plant availability and capacity factors for the reporting year. If
5 equipment failures or plant breakdowns had a significant impact on those
6 factors, describe them and plans to minimize or eliminate their recurrence.

7 (B) The efficiency with which the power plant converts fuel into electric
8 energy. If fuel chargeable to power heat rate was evaluated when the
9 Facility was sited, efficiency shall be calculated using the same formula
10 and assumptions, but using actual data.

11 (c) Status of Surety Information: The annual report shall provide documentation
12 demonstrating that the bond or other security provided under section III.A.(5) of
13 this Restated and Amended Site Certificate is in full force and effect and will
14 remain in full force and effect for the term of the next reporting period.

15 (d) Industry Trends: The annual report shall discuss any significant industry trends
16 that may affect the operations of the Facility.

17 (e) Monitoring Report: A list and description of all significant monitoring and
18 mitigation activities performed during the previous year in accordance with the
19 terms and conditions of this Restated and Amended Site Certificate, a summary of
20 the results of those activities, and a discussion of any significant changes to any
21 monitoring or mitigation program, including the reason for any such changes.

22 (f) Compliance Report: The Certificate Holder shall report all instances where it has
23 not complied with a condition of this Restated and Amended Site Certificate. For
24 ease of review, this section of the report shall use numbered subparagraphs
25 corresponding to the applicable sections of this Restated and Amended Site
26 Certificate.

27 (g) Facility Modification Report: The report shall summarize changes to the Facility
28 which the Certificate Holder has determined do not require an amendment to this
29 Restated and Amended Site Certificate in accordance with OAR 345-27-050.

30 (3) Schedule Modification (OAR 345-26-100)

31 The Certificate Holder shall promptly notify the Department of any changes in major milestones
32 for construction, decommissioning, operation, or retirement schedules. Major milestones shall be
33 as identified by the Certificate Holder in its construction, retirement, or decommissioning plan.

34 (4) Correspondence With Other State or Federal Agencies (OAR 345-26-105)

35 The Certificate Holder and the Department shall exchange with other state or federal agencies
36 copies of all correspondence related to compliance with statutes, rules and local ordinances on

1 which the Council determined compliance, except for material withheld from public disclosure
2 under state or federal law or under Council rules. Abstracts of reports may be submitted in place
3 of full reports; however, full copies of abstracted reports must be provided at the request of the
4 Department.

5 (5) Construction Report (OAR 345-26-125)

6 During construction of the Energy Facility and related or supporting facilities, the Certificate
7 Holder shall submit semiannual Construction Progress Reports to the Council. Any significant
8 changes to major milestones for construction shall be highlighted in the report.

9 (6) Notification of Incidents (OAR 345-26-170)

10 The Certificate Holder shall notify the Department within 72 hours of any occurrence involving
11 the Facility if:

12 (a) There is an attempt by anyone to interfere with its safe operation;

13 (b) A natural event such as an earthquake, flood, tsunami or tornado, or a human-
14 caused event such as a fire or explosion affects or threatens to affect the public
15 health and safety or the environment;

16 (c) There is any fatal injury at the Facility.

17 **IV. CONDITIONS PURSUANT TO COUNCIL STATUTORY AUTHORITY**

18 The following conditions are presented by subject area only as an aide to their use and shall
19 apply and should be read together. Where appropriate, citations in parentheses show the basis of
20 the condition.

21 **A. General Conditions**

22 **A.1.** The conditions in this section IV.A.1 are based on statements that the applicant made in
23 its Application for Site Certificate (ASC) (November 6, 1996), its Requests for
24 Amendments (RFAs) Nos. 1 and 2 (October 6, 1997) or in other correspondence with the
25 Department.

26 (1) The general arrangement of the KCP Energy Facility shall be substantially similar to that
27 shown in the ASC, Figure B-3, or in the RFA No. 1, Figure B-3, which are attached as
28 Appendix A to this Restated and Amended Site Certificate.

29 (2) The Energy Facility and its related or supporting facilities shall be located substantially
30 as shown in the ASC, Figure C-1 which is attached as Appendix C to this Restated and
31 Amended Site Certificate.

32 (3) The KCP fuel oil storage tank shall be surrounded by a secondary containment structure
33 with a barrier of sufficient non- permeability and sufficient volume to contain the full
34 contents of the tank and precipitation and comply with the applicable provisions of 40
35 CFR Part 112 and OAR chapter 340, division 47. The tank secondary containment area

- 1 shall have a fire protection system that complies with applicable NFPA standards for fuel
2 oil storage. (ASC, B-2, F-6)
- 3 (4) The Energy Facility shall include a fire protection pump house and a fire suppression
4 system. (ASC, B-2)
- 5 (5) KCP tanks which store hazardous substances as defined in ORS chapter 465 shall have
6 secondary containment with a barrier of sufficient non-permeability and sufficient
7 volume to comply with applicable federal and Oregon laws pertaining to the storage of
8 such hazardous substances. (ASC, B-2)
- 9 (6) The Energy Facility structures shall be architecturally designed to be visually compatible
10 with the surrounding area and the Energy Facility site shall include landscaping. (ASC,
11 B-3)
- 12 (7) The combustion turbines shall be surrounded with acoustically insulated enclosures to
13 reduce noise levels to acceptable occupational exposure levels and to provide
14 containment for automatic fire suppression equipment. (ASC, B-5)
- 15 (8) The steam turbine condenser system shall include a non- condensable gas removal system
16 and shall be designed to condense all steam from the HRSG(s) in the event a steam
17 turbine trip occurs. (ASC, B-6)
- 18 (9) The condenser system shall include redundant condensate pumping capability
19 substantially similar to that described in the ASC, page B-6 which is in Appendix B to
20 this Restated and Amended Site Certificate.
- 21 (10) The cooling tower shall include a fire protection system in accordance with applicable
22 NFPA standards pertaining to the specific materials selected for the cooling tower. (ASC,
23 B-6)
- 24 (11) The cooling tower makeup water pumping station shall include redundant pumping
25 capability substantially similar to that described in the ASC, page B-7 which is in
26 Appendix B to this Restated and Amended Site Certificate.
- 27 (12) The boiler and cooling tower chemical treatment storage areas shall include secondary
28 containment with a barrier of sufficient non-permeability and sufficient volume to
29 contain any chemical from spills or tank failures. (ASC, B-7, F-4)
- 30 (13) The Energy Facility shall have a state-of-the-art, integrated microprocessor-based control
31 system substantially similar to that described in the ASC, page B-7 which is in Appendix
32 B to this Restated and Amended Site Certificate.
- 33 (14) The Energy Facility control system shall include an uninterruptible power supply to
34 provide emergency power to critical equipment in the event of a power outage. (ASC, B-
35 8) The KCP shall include an on-site emergency diesel generator. Except for brief periods
36 for testing or maintenance, the emergency diesel generator may operate only to provide
37 on-site power during conditions when the Energy Facility is not operating and power is

- 1 not otherwise available. The emergency diesel generator shall have a capacity no greater
2 than 500 net kilowatts.
- 3 (15) DELETED (This Condition related to the 230-kV transmission line option, and since the
4 500-kV electrical interconnection option was used instead, this condition is no longer
5 relevant.)
- 6 (16) The Energy Facility shall include a fire protection system substantially similar to that
7 described in the ASC, page B-9, which is in Appendix B to this Restated and Amended
8 Site Certificate.
- 9 (17) Regenerant wastewater from mixed bed demineralizers shall be neutralized and combined
10 with cooling tower blowdown and discharged to the City's municipal wastewater system
11 substantially as described in the ASC, page B-9, which is in Appendix CB to this
12 Restated and Amended Site Certificate.
- 13 (18) The Energy Facility shall include a stormwater drainage system substantially as described
14 in the ASC, page B-10, or in the RFA No. 1, page B-5, and the ASC, page V-3, which are
15 in Appendix B to this Restated and Amended Site Certificate.
- 16 (19) KCP hazardous solid wastes shall be managed in accordance with applicable local and
17 state regulatory standards and requirements and substantially as described in the ASC,
18 page B-10, which is in Appendix B to this Restated and Amended Site Certificate.
- 19 (20) KCP non-hazardous solid wastes shall be managed substantially as described in the ASC,
20 page B-10, which is in Appendix B to this Restated and Amended Site Certificate.
- 21 (21) Stormwater collected at the Energy Facility Site, but away from equipment locations,
22 shall be discharged to an on-site stormwater retention/evaporation pond. (ASC, F-3)
- 23 (22) The wastewater pumping station at the Energy Facility Site shall include redundant
24 pumping capability substantially as described in the ASC, page B-10 which is in
25 Appendix B to this Restated and Amended Site Certificate.
- 26 (23) The Facility shall comply with the list of applicable federal, state and local safety codes
27 and standards, as described in the ASC, pages B-13 and 14 (which are in Appendix B to
28 this Restated and Amended Site Certificate), as modified by the comments of the
29 Building Codes Division Agency Report, dated December 9, 1996, InterDepartment
30 Memo dated December 13, 1996 from R. Tamerhoulet to M. Long, which is in Appendix
31 D to this Restated and Amended Site Certificate.
- 32 (24) KCP construction-related waste materials shall be managed and disposed substantially as
33 described in the ASC, pages F-1 and 2, which are in Appendix B to this Restated and
34 Amended Site Certificate.
- 35 (25) The Certificate Holder shall recycle to the extent reasonably practicable spent lube oil
36 and hydraulic fluids from major equipment. (ASC, F-4)

- (26) All Energy Facility Site area drains which are reasonably likely to contain oil contamination shall be routed to the oil/water separator. Skimmed oil from the separator shall be provided to a licensed oil recycler. (ASC, F-4)
- (27) The Certificate Holder shall provide a concrete basin at each large electrical transformer to capture any oil that might spill during a transformer failure or maintenance operation. Spilled oil and replaced oil shall be recycled to the extent reasonably practicable. (ASC, F-4)
- (28) The Energy Facility site natural gas fuel system shall be designed constructed and operated substantially as described in the ASC, page F-6, which is in Appendix B to this Restated and Amended Site Certificate.
- (29) The Certificate Holder shall manage non-fuel hazardous substances and shall include facilities substantially as described in the ASC, pages F-6 and F-7, which are in Appendix B to this Restated and Amended Site Certificate.
- (30) The Certificate Holder shall meet or exceed the safety and health requirements listed in the ASC, page F-7, which is in Appendix B to this Restated and Amended Site Certificate.
- (31) Before commencing construction, the Certificate Holder shall obtain an NPDES General Permit 1200-C for construction of the Facility. (ASC, M-1)
- (32) Before commencing construction, the Certificate Holder shall obtain an amendment to the NPDES permit for the SSWTP to allow the reuse of effluent for the KCP. (ASC, M-1)
- (33) Before commencing construction, the Certificate Holder shall obtain an Air Contaminant Discharge Permit for the Facility.
- (34) DELETED (This Condition related to the 230-kV transmission line option, and since the 500-kV electrical interconnection option was used instead, this condition is no longer relevant.)
- (35) Ground disturbance from construction of the KCP shall be limited to: the Energy Facility Site; a temporary construction parking and laydown area near the Energy Facility Site substantially as shown in the ASC, Fig. X-2, or in the RFA No. 1, Fig. X-1 (which are in Appendix C to this Restated and Amended Site Certificate); transmission line pole/structures and associated access roads, pulling areas, and construction areas; and a 40-foot width (approximate) for pipeline burial and construction equipment access which shall be located within construction rights-of-way. (ASC, N-27 and X-1)
- (36) The Facility shall not construct or use an underground storage tank. (RMI 12/20/96 letter to the Department)
- A.2.** The conditions in this section IV.A.2 are not based on representations that the applicant made in its ASC, its RFAs, or in other correspondence with the Department.

- (37) The KCP may burn only natural gas, as primary fuel, and low-sulfur oil as a backup fuel for the auxiliary boiler. The KCP may burn only low-sulfur fuel in the emergency diesel generator.
- (38) Construction of the Facility shall commence on or before March 5, 2000 (which is 30 months from the date the original Site Certificate was executed).
- (39) Construction of the Facility shall be completed on or before September 5, 2002 (which is five years from the date the original Site Certificate was executed). Construction completion of the Facility shall be the commercial operation date of the Facility.
- (40) The Council may grant an extension of the construction commencement date and the construction completion date in accordance with OAR 345-27-030, or any successor rule, in effect at the time the request for extension is requested.
- (41) The Certificate Holder shall provide to the Department as part of any request to amend the Restated and Amended Site Certificate a list of the names and mailing addresses of all owners of record, as shown on the most recent property tax assessment roll, of property located within the Site, and within 100 feet of the Site where the Site is within an urban growth boundary, and within 250 feet of the Site where the Site is outside an urban growth boundary and not within a farm or forest zone, and within 500 feet of the Site where the Site is within a farm or forest zone. "Site" as used herein means all land upon which the Facility is located and includes the Energy Facility Site and all land upon which related or supporting facilities are located.
- (42) The Certificate Holder or its authorized representative shall report to the Department within 72 hours of discovery any material violation of any condition of the Restated and Amended Site Certificate by the Certificate Holder or any of its contractors, subcontractors or agents. The Certificate Holder or its authorized representative shall report to the Department within 24 hours of discovery if the Certificate Holder or any of its contractors, subcontractors or agents creates any condition by construction or operation of the Facility that endangers the public health and safety.

B. 500-MW Exemption and Carbon Dioxide Emissions Standard

As part of this Restated and Amended Site Certificate, and as noted below, most of section IV.B has been deleted because these conditions are no longer required (refer to correspondence in Appendix D). In interpreting the remaining conditions in section IV.B of this Restated and Amended Site Certificate, any ambiguity will be clarified by reference to, and in the following priority, : (a) this Restated and Amended Site Certificate, (b) the Final Order granted on Month XX, 2013 for Amendment No. 5 to the Site Certificate, (c) the Final Order granted on March 27, 2009 for Amendment No. 4 to the Site Certificate, (d) the Final Order granted on September 21, 2007 approving the Request to Transfer Site Certificate, (e) the Final order granted on December 11, 1998 for Amendment No. 2 to the Site Certificate, (f) the Final Order granted on April 17, 1998 for the Amendment No. 1 to the Site Certificate, (g) the Final Order granted on August 15, 1997 for the Application for Site Certificate, (h) the 500 Megawatt Exemption Final Order, and if necessary, (i) the record of the proceedings which led to those Orders.

- 1 (1) DELETED – Condition requirements have been superseded. (This condition, which
2 related to the CO2 offset requirement, has been superseded, e.g., see the Council’s Order
3 dated September 21, 2007 in Appendix D to this Restated and Amended Site Certificate.
4 This condition is no longer relevant because the Certificate Holder has satisfied all the
5 CO2 offset requirements for the operating life of the KCP.) [Amendment #5]
- 6 (2) DELETED – Condition requirements have been met. (This condition, which related to
7 providing an executed steam sales contract before beginning construction, is no longer
8 relevant because its requirements have been met and construction has been completed.)
9 [Amendment #5]
- 10 (3) DELETED – Condition requirements have been met. (This condition, which related to
11 establishing an escrow account before commencing construction, is no longer relevant
12 because its requirements have been met and construction has been completed.)
13 [Amendment #5]
- 14 (4) DELETED – Condition requirements have been met. (This condition, which related to
15 implementation of an offset portfolio before commencing construction, is no longer
16 relevant because its requirements have been met and construction has been completed.)
17 [Amendment #5]
- 18 (5) DELETED – Condition requirements have been met. (This condition, which related to
19 achieving commercial operation, is no longer relevant because its requirements have been
20 met, i.e., commercial operation has been achieved.) [Amendment #5]
- 21 (6) DELETED – Condition requirements have been superseded. (This condition, which
22 related to the implementation and maintenance of a contingency fund for the CO2 offset
23 requirement, has been superseded, e.g., see the Council’s Supplemental Order dated July
24 25, 2008 in Appendix D to this Restated and Amended Site Certificate.) [Amendment #5]
- 25 (7) DELETED – Condition requirements have been superseded. (This condition, which
26 related to the disposition of financial returns resulting from implementation of the KCP’s
27 carbon offset portfolio, has been superseded, e.g., see the Council’s Supplemental Order
28 dated July 25, 2008 in Appendix D to this Restated and Amended Site Certificate. This
29 condition is no longer relevant because the Certificate Holder is no longer required to
30 monitor or report to the Council regarding the performance of the KCP’s carbon offset
31 portfolio.) [Amendment #5]
- 32 (8) DELETED – Condition requirements have been superseded. (This condition, which
33 related to CO2 offset monitoring and verification programs has been superseded, e.g., see
34 the Council’s Supplemental Order dated July 25, 2008 in Appendix D to this Restated
35 and Amended Site Certificate.) [Amendment #5]
- 36 (9) DELETED – Condition requirements have been superseded. (This condition, which
37 related to the availability of financial records for the CO2 offset program, has been
38 superseded, e.g., see the Council’s Supplemental Order dated July 25, 2008 in Appendix
39 D to this Restated and Amended Site Certificate.) [Amendment #5]

- (10) DELETED – Condition requirements have been superseded. (This condition, which related to reporting requirements for the CO2 offset program, has been superseded, e.g., see the Council’s Supplemental Order dated July 25, 2008 in Appendix D to this Restated and Amended Site Certificate.) [Amendment #5]
- (11) DELETED – Condition requirements have been superseded. (This condition, which related to a requirement for ongoing consultation regarding the CO2 offset program, has been superseded, e.g., see the Council’s Supplemental Order dated July 25, 2008 in Appendix D to this Restated and Amended Site Certificate.) [Amendment #5]
- (12) DELETED – Condition requirements have been met. (This condition, which related to the apportionment of funding for the CO2 offset portfolio, is no longer relevant because its requirements have been met.) [Amendment #5]
- (13) DELETED – Condition requirements have been superseded. (This condition, which related to the waste methane to electricity portion of the CO2 offset program, has been superseded, e.g., see the Council’s Supplemental Order dated July 25, 2008 in Appendix D to this Restated and Amended Site Certificate. This condition is no longer relevant because the Certificate Holder is no longer required to monitor or report to the Council regarding the performance of the KCP’s carbon offset portfolio.) [Amendment #5]
- (14) DELETED – Condition requirements have been superseded. (This condition, which related to the photovoltaics portion of the CO2 offset program, has been superseded, e.g., see the Council’s Supplemental Order dated July 25, 2008 in Appendix D to this Restated and Amended Site Certificate. This condition is no longer relevant because the Certificate Holder is no longer required to monitor or report to the Council regarding the performance of the KCP’s carbon offset portfolio.) [Amendment #5]
- (15) DELETED – Condition requirements have been superseded. (This condition, which related to the geothermal heating portion of the CO2 offset program, has been superseded, e.g., see the Council’s Supplemental Order dated July 25, 2008 in Appendix D to this Restated and Amended Site Certificate. This condition is no longer relevant because the Certificate Holder is no longer required to monitor or report to the Council regarding the performance of the KCP’s carbon offset portfolio.) [Amendment #5]
- (16) DELETED – Condition requirements have been superseded. (This condition, which related to the FAT portion of the CO2 offset program, has been superseded, e.g., see the Council’s Supplemental Order dated July 25, 2008 in Appendix D to this Restated and Amended Site Certificate. This condition is no longer relevant because the Certificate Holder is no longer required to monitor or report to the Council regarding the performance of the KCP’s carbon offset portfolio.) [Amendment #5]
- (17) DELETED – Condition requirements have been superseded. (This condition, which related to the matching funds under the FAT portion of the CO2 offset program, has been superseded, e.g., see the Council’s Supplemental Order dated July 25, 2008 in Appendix D to this Restated and Amended Site Certificate. This condition is no longer relevant

1 because the Certificate Holder is no longer required to monitor or report to the Council
2 regarding the performance of the KCP's carbon offset portfolio.) [Amendment #5]

3 (18) DELETED – Condition requirements have been superseded. (This condition, which
4 related to how funds for the FAT portion of the CO2 offset program were to be used, has
5 been superseded, e.g., see the Council's Supplemental Order dated July 25, 2008 in
6 Appendix D to this Restated and Amended Site Certificate. This condition is no longer
7 relevant because the Certificate Holder is no longer required to monitor or report to the
8 Council regarding the performance of the KCP's carbon offset portfolio.) [Amendment
9 #5]

10 (19) DELETED – Condition requirements have been superseded. (This condition, which
11 related to the holding of the KCP's CO2 credits by the Council, has been superseded,
12 e.g., see the Council's Supplemental Order dated July 25, 2008 in Appendix D to this
13 Restated and Amended Site Certificate. This condition is no longer relevant because the
14 Certificate Holder is no longer required to monitor or report to the Council regarding the
15 performance of the KCP's carbon offset portfolio.) [Amendment #5]

16 (20) The annual water use by the Facility shall meet the following requirements:

17 (a) The Facility shall not use more than 160 gallons per minute (gpm) on an annual
18 average basis (8,760 hours) from sources other than the SSWTP effluent during
19 all times when the SSWTP is permitted to deliver effluent to the Facility. This
20 limit shall not include water supplied as steam to the steam host.

21 (b) All other water used by the Facility shall be effluent from the SSWTP, except
22 when the SSWTP is not allowed to deliver effluent to the Facility. During such
23 times the Facility shall use only storm water collected on the Site, or in the event
24 storm water is not available, another temporary source of backup water approved
25 by the Council.

26 (c) Facility wastewater flows shall all be delivered to a sanitary sewer for delivery to
27 the SSWTP. Should the City modify its SSWTP NPDES permit to allow
28 alternative wastewater treatment, disposal, and/or reuse, the wastewater will be
29 returned to the City in compliance with the then prevailing conditions of the City
30 NPDES permit in effect at the time.

31 (21) Before beginning construction, the Certificate Holder shall provide to the Council the
32 plant performance guarantee from the executed contracts for the design and construction
33 of the Facility showing a net full power heat rate of no greater than 6795 Btu per kWh
34 (HHV) and showing the expected nominal electric generating capacity of the Facility at
35 average annual conditions with no steam load and using natural gas as the fuel, which
36 shall include liquidated damages provisions adequate to enforce the guarantee. The
37 Certificate Holder shall, as part of the post-construction completion compliance status
38 certification report, provide capacity and heat rate performance test data showing that the
39 nominal electric generating capacity of the Energy Facility is no more than 500 MW and

1 that the heat rate is no more than 6795 Btu per kWh (HHV) with no steam load and using
2 natural gas as the fuel.

3 (22) Within two months after the completion of the first full year of commercial operation of
4 the Energy Facility, the Certificate Holder shall report to the Council the Energy
5 Facility's net full power heat rate as determined by a 100 hour test. Such test will be
6 completed within one year of commercial operation of the Energy Facility (Year One
7 Test). Based on such test the Certificate Holder shall certify the nominal electric
8 generating capacity (Year One Capacity) and the net full power heat rate (Year One Heat
9 Rate) of the Energy Facility on a new and clean basis, as defined in ORS
10 469.503(2)(e)(G). The net full power heat rate shall be measured as the total fuel input
11 divided by the net kWh production over the 100 hour test period, adjusted for difference
12 between the actual ambient Site conditions and average annual conditions. If the adjusted
13 net full power new and clean heat rate is greater than the Target Heat Rate of 6,795 Btu
14 (HHV) per kWh with no steam supplied to off-site industrial use and natural gas as the
15 fuel or 7,212 Btu (HHV) per kWh for 200,000 pounds of steam per hour exported and
16 natural gas as the fuel, or a linear interpolation or extrapolation of these values (at
17 average annual ambient conditions based on the steam energy equivalent of steam at a
18 pressure of 375 pounds per square inch gauge and a temperature of 455 degrees
19 Fahrenheit, in each case measured at the point of interconnection of the Energy Facility
20 with KCP's off-site industrial use), the Certificate Holder shall perform a second 100
21 hour test no later than one year following the completion of the first 100 hours test. If,
22 following the second 100 hour test, the net full power heat rate exceeds the adjusted new
23 full power heat rate just described, then the Certificate Holder shall develop, present to
24 the Council for approval, and implement, a program to offset the incremental CO2
25 emissions resulting from the higher heat rate. This requirement to offset the incremental
26 CO2 emissions resulting from the higher heat rate determined from the second 100 hour
27 test shall only apply to the first 318 MW of nominal electric generating capacity. The
28 higher heat rate demonstrated by the second 100 hour test shall then become the Target
29 Heat Rate.

30 (23) The Certificate Holder shall, for each calendar year following the year in which the 100-
31 hour test described above is completed, certify to the Council, based on a 100-hour test
32 conducted as described in Condition IV.B.(22) that the net full power heat rate is no
33 greater than three percent above the Target Heat Rate. In the event that the Certificate
34 Holder fails to make such certification, within sixty days following the end of each
35 calendar year, the Certificate Holder shall, at its option, either:

36 (a) Within 17 months, implement corrective measures to achieve a net full power
37 heat rate of not more than one and one-half percent greater than the heat rate
38 (based upon a 100-hour heat rate test as described in Condition IV.B.(22); or

39 (b) Develop, present to the Council for approval, and implement, a program to offset
40 the incremental CO2 emissions resulting from the new, higher heat rate in which
41 case the new, higher heat rate shall become the Target Heat Rate. This
42 requirement to offset the incremental CO2 emissions resulting from the new,

higher heat rate shall only apply to the first 318 MW of nominal electric generating capacity.

- (24) DELETED – Condition requirements have been met. (This condition, which related to the methodology for calculating offset funds and selection and contracting funds for the CO2 offset program, is no longer relevant because its requirements have been met, i.e., the necessary funds have been paid and the Certificate Holder has satisfied all the CO2 offset requirements for the operating life of the KCP.) [Amendment #5]
- (25) DELETED – Condition requirements have been met. (This condition, which related to the separation of escrow accounts, is no longer relevant because its requirements have been met, i.e., the necessary funds have been paid and the Certificate Holder has satisfied all the CO2 offset requirements for the operating life of the KCP.) [Amendment #5]
- (26) The combustion turbine units shall be fueled solely with natural gas or with synthetic gas with a carbon content per MMBtu no greater than natural gas. This fuel limitation does not apply to the use of oil in the auxiliary boiler or the emergency diesel generator.
- (27) DELETED – Condition requirements have been met. (This condition, which related to the KCP's obligations to provide CO2 offset funds, is no longer relevant because its requirements have been met, i.e., the necessary funds have been paid and the Certificate Holder has satisfied all the CO2 offset requirements for the operating life of the KCP.) [Amendment #5]

C. Organizational, Managerial and Technical Expertise

- (1) For operations after the transfer of the Site Certificate from the City to Klamath Energy, the Council has found that Klamath Energy meets the Organization Expertise Standard. [Amendment #s 3 and 5]
- (2) The Certificate Holder shall promptly notify the Council if for any reason it does not provide the services to develop, construct and operate the KCP described in this Restated and Amended Site Certificate. [Amendment #5]
- (3) The Certificate Holder shall retain a fully qualified engineering, procurement and construction (EPC) firm to construct the KCP.
- (4) Prior to construction, the Certificate Holder shall identify for the Council the EPC contractor chosen to construct the Facility. Prior to commercial operation, the Certificate Holder shall identify for the Council the contractor chosen to operate the Facility. The Certificate Holder shall report to the Council any change in EPC contractor or operator.
- (5) Any matter of non-compliance under this Restated and Amended Site Certificate shall be the responsibility of the Certificate Holder. Any notice of violation issued will be issued to the Certificate Holder. Any civil penalties levied shall be levied on the Certificate Holder. [Amendment #3]

- (6) The Certificate Holder shall contractually require the EPC contractor and all independent contractors and subcontractors involved in the construction and operation of the Facility to comply with all applicable laws and regulations and with the terms and conditions of this Restated and Amended Site Certificate. After transfer of the Site Certificate to Klamath Energy, the Certificate Holder shall require independent contractors and subcontractors involved in the operation of the Facility to comply with all applicable laws and regulations and with the terms and conditions of this Restated and Amended Site Certificate. Such contractual provision shall not operate to relieve the Certificate Holder of responsibility under this Restated and Amended Site Certificate. [Amendment #s 3 and 5]
- (7) The Certificate Holder may not begin to construct a 500-kV switchyard until PacifiCorp has obtained from Klamath County a conditional use permit to realign the Meridian to Captain Jack 500-kV transmission line as described in the Final Order on the Request for Amendment No. 2. [Amendment #2]
- (8) The Certificate Holder may not begin to construct a 500-kV switchyard until the Certificate Holder and PacifiCorp have entered into one or more agreements concerning the 500-kV electrical interconnection of the KCP to the Meridian to Captain Jack 500 kV transmission system and operation of the KCP 500-kV switchyard. [Amendment #2]

D. Financial Assurance

For Conditions IV.D.(3), IV.D.(4) and IV.D.(5) of this Restated and Amended Site Certificate, the index by which the future value of money shall be converted to 1st Quarter 2009 dollars shall be the Implicit Price Deflator for the Gross Domestic Product as published by the U.S. Bureau of Economic Analysis of the Department of Commerce or a successor agency. These values are published annually each February in the "Economic Report of the President".

- (1) DELETED – Condition requirements have been superseded. (This condition, which related to Bond Indenture requirements during the City of Klamath Falls ownership of the KCP, has been superseded because the City no longer owns the KCP and Bond Indenture requirements pertaining to the current owner, i.e., the Certificate Holder, are adequately addressed through other conditions contained within this Restated and Amended Site Certificate.) [Amendment #5]
- (2) DELETED – Condition requirements have been superseded. (This condition, which related to Bond Indenture requirements during the City of Klamath Falls ownership of the KCP, has been superseded because the City no longer owns the KCP and Bond Indenture requirements pertaining to the current owner, i.e., the Certificate Holder, are adequately addressed through other conditions contained within this Restated and Amended Site Certificate.) [Amendment #5]
- (3) The Certificate Holder shall maintain a separate fund established to provide for termination or decommissioning costs (the Decommissioning Fund), with such fund allowed to consist of a balance of cash, Investment Securities, and other holdings to be available to pay costs of termination or decommissioning, including Site restoration, of

1 the project. The Decommissioning Amount shall be \$4.511 million in 1st Quarter 2009
2 dollars. [Amendment #4]

3 (4) The Decommissioning Fund established under Condition IV.D.(3). may be drawn upon
4 by the Certificate Holder for only termination or decommissioning costs, including Site
5 restoration.

6 (5) In lieu of funding part or all of the Decommissioning Fund with cash or Investment
7 Securities or other holdings, the Certificate Holder may cause a performance and
8 payment bond, surety bond or letter of credit to be delivered to the Council which bond(s)
9 or letter of credit must be reasonably satisfactory to the Department.

10 **E. Land Use**

11 (1) The Certificate Holder shall mitigate visual impact of the Facility as viewed from
12 Highway 97 by using neutral color schemes and landscaping. (Klamath County
13 Conditional Use Permit 29-95, as amended in December 1997)

14 (2) Access to the Energy Facility Site for construction and operation shall be from Highway
15 97 and shall be subject to Oregon Department of Transportation approval. [Amendment
16 #5]

17 (3) Any performed work or construction on Oregon Department of Transportation (ODOT)
18 right-of-way as a result of the KCP shall require application and permits from ODOT.
19 (Klamath County Conditional Use Permit 54-97 and City of Klamath Falls' Conditional
20 Use Permit 6-CUP-96)

21 (4) The Certificate Holder shall obtain all necessary permits from the City of Klamath Falls
22 and Klamath County prior to operation and shall comply with all applicable codes and
23 regulations. (City of Klamath Falls' Conditional Use Permit 6-CUP-96)

24 (5) Any changes in or alterations to the electric transmission line corridor or alignment on
25 lands within the City of Klamath Falls' jurisdiction shall be approved by the City's
26 Planning Division prior to construction. (City of Klamath Falls' Conditional Use Permit
27 6-CUP-96) Such review by the City Hearings Officer does not eliminate the need for
28 Council review, if otherwise required.

29 (6) DELETED – Condition requirements have been met and/or completed. (This condition,
30 which related to the City of Klamath Falls obtaining a Conditional Use Permit prior to
31 construction of the 500 kV switchyard, is no longer relevant because the KCP's 500 kV
32 switchyard has been constructed.) [Amendment #5]

33 **F. Structural Standard**

34 (1) The Certificate Holder shall maintain the stability of the existing fill slopes by ensuring
35 that surface water runoff is controlled and directed away from the slopes and by locating
36 heavy loads and foundations at least 20 feet from the crest of existing fill slopes. (ASC,
37 page G-17, G.1)

- 1 (2) The Certificate Holder shall locate transmission line structures away from rockfall areas
2 or design the structures to withstand rockfalls. (ASC, page G-17, G.1)
- 3 (3) The foundations of the KCP Energy Facility's structures shall be supported on bedrock
4 or, in areas that are susceptible to settlement, Energy Facility foundations and pipelines
5 shall be placed on engineered fill. (ASC, page G-17, G.2)
- 6 (4) DELETED – Condition requirements have been met and/or completed. (This condition,
7 which related to potential soil property testing requirements for transmissions and
8 pipeline locations, is no longer relevant because the KCP transmission line and pipelines
9 have been constructed.) [Amendment #5]
- 10 (5) DELETED – Condition requirements have been met and/or completed. (This condition,
11 which related to the potential for encountering methane gas during construction of the
12 KCP, is no longer relevant because the KCP construction has been completed.)
13 [Amendment #5]
- 14 (6) DELETED – Condition requirements have been met and/or completed. (This condition,
15 which related to requirements for the completion of geotechnical work as part of the
16 KCP's construction, is no longer relevant because these requirements have been met and
17 construction has been completed.) [Amendment #5]
- 18 (7) DELETED – Condition requirements have been met and/or completed. (This condition,
19 which related to potential requirements for a "shake" analysis as part of the geotechnical
20 work to be performed during the KCP's construction, is no longer relevant because KCP
21 construction has been completed.) [Amendment #5]
- 22 (8) DELETED – Condition requirements have been met and/or completed. (This condition,
23 which related to the requirement to provide DOGAMI with the completed site-specific
24 geotechnical report as soon as it was available, is no longer relevant because this
25 requirement has been met and KCP construction has been completed.) [Amendment #5]
- 26 (9) DELETED – Condition requirements have been met and/or completed. (This condition,
27 which related to potential additional requirements for KCP structural design and
28 construction, is no longer relevant because KCP construction has been completed.)
29 [Amendment #5]
- 30 (10) The design and construction of the Facility shall be consistent with Seismic Zone 3
31 requirements, and in compliance with the applicable laws and regulations administered
32 by the DCBS.
- 33 (11) DELETED – Condition requirements have been met and/or completed. (This condition,
34 which related to obtaining all necessary state and local building permits during
35 construction and prior to operation, is no longer relevant because this requirement has
36 been met, KCP construction has been completed and operation initiated.) [Amendment
37 #5]

- (12) The Certificate Holder shall ensure that the 500-kV switchyard is designed to meet the requirements of the Uniform Building Code, the Oregon Structural Specialty Code, and applicable industry standards, including American Society of Civil Engineers (ASCE) 7-95 (Minimum Design Loads for Buildings and Other Structures) and Institute of Electrical and Electronics Engineers (IEEE) Standard 693 (Recommended Practices for Seismic Design of Substations). The Certificate Holder shall ensure that the equipment selected for the 500-kV switchyard conforms to the performance criteria provided in IEEE 693. (Letter dated Sept. 30, 1998 from PKE to OE) [Amendment #2]
- (13) DELETED – Condition requirements have been met and/or completed. (This condition, which related to potential additional geotechnical analyses prior to the final design of the 500 kV switchyard, is no longer relevant because the final design of the 500 kV switchyard and its construction have been completed.) [Amendment #5]
- (14) The Certificate Holder shall implement an inspection and maintenance program for the 500-kV switchyard. The program shall include scheduled visual inspections of electrical connections, structural components and switchyard apparatus, and periodic testing of breakers, switches and mechanical equipment. The program shall be designed to enable the Certificate Holder or its representative to identify and correct mechanical and structural failures that may have resulted from seismic events, or which could result from reasonably anticipated seismic events for the energy facility site. (Letter dated Sept. 30, 1998 from PKE to OE) [Amendment #2]
- (15) The Certificate Holder shall ensure that the realigned segment of the Meridian to Captain Jack 500-kV transmission line is designed and constructed substantially as described in the third paragraph of Section E.6. of the Final Order for Amendment No. 2. (Letter dated Sept. 30, 1998 from PKE to OE) [Amendment #2]

G. Retirement and Site Restoration

- (1) The Certificate Holder shall not dispose of hazardous wastes on the Site, store hazardous wastes on the Site for more than 90 days, or dispose of non-hazardous wastes on the Site. Any storage on the Site of non-hazardous wastes shall comply with applicable federal, state and local regulations. (RMI 12/20/96 letter to the Department)
- (2) The Certificate Holder shall contain accidental spills at the Energy Facility Site on-site by containment structures and procedures designed to minimize or prevent any off-site releases. (RMI 12/13/96 letter to the Department)
- (3) In the event that construction of the Facility is begun but not completed, or the Facility is closed permanently before the end of its useful life, the Site shall be restored to a useful condition.

H. Soil Protection

- (1) DELETED – Condition requirements have been met and/or completed. (This condition, which related to the stormwater runoff management during construction of the KCP, is no longer relevant because KCP construction has been completed.) [Amendment #5]
- (2) DELETED – Condition requirements have been met and/or completed. (This condition, which related to soil erosion control during construction of the KCP, is no longer relevant because KCP construction has been completed.) [Amendment #5]
- (3) DELETED – Condition requirements have been met and/or completed. (This condition, which related to soil erosion control during construction of the KCP, is no longer relevant because KCP construction has been completed.) [Amendment #5]
- (4) DELETED – Condition requirements have been met and/or completed. (This condition, which related to wind erosion control during construction of the KCP, is no longer relevant because KCP construction has been completed.) [Amendment #5]
- (5) The Certificate Holder shall develop, in consultation with appropriate agencies, an erosion control plan for construction activities that incorporates Best Management Practices. The Certificate Holder shall also develop a post-construction re-vegetation plan. This plan shall address restoration, to the extent practicable, of natural vegetation affected by Facility construction, and shall minimize erosion potential in affected areas over the life of the KCP. The Certificate Holder shall develop and implement these plans substantially as described in the ASC, page N-12, and in RMI's 10/9/96 letter to the Department, page 1 which are in Appendix B and Appendix D, respectively, to this Restated and Amended Site Certificate.
- (6) DELETED – Condition requirements have been met and/or completed. (This condition, which related to post-construction restoration of temporarily disturbed areas, is no longer relevant because KCP construction has been completed.) [Amendment #5]
- (7) The Certificate Holder shall locate the KCP's transmission line structures so as to avoid steeper slopes wherever practicable. (ASC, page G-9; RMI 12/13/96 letter to the Department)
- (8) During operation of the Facility, the Certificate Holder shall direct stormwater runoff at the Energy Facility Site to an on-site retention-evaporation pond. During operation, the Certificate Holder shall not discharge or otherwise release runoff from the Energy Facility Site. If stormwater runoff is used for on-site cooling tower makeup, cooling tower blowdown shall be discharged as wastewater to a sanitary sewer for delivery to the SSWTP.
- (9) Access for transmission line and pipelines construction and maintenance shall utilize existing roads wherever practicable and temporary access roads shall only be constructed where there is no existing access road.

I. Protected Areas

There are no conditions specifically related to protected areas.

J. Fish and Wildlife Habitat

- (1) The Certificate Holder shall operate the KCP's cooling tower system so as to comply with applicable limits for total dissolved solids (TDS) in KCP's industrial wastewater discharge permit, and in no event shall the TDS level in KCP's cooling tower system exceed 3,360 parts per million in the cooling water on an annual average basis.
- (2) The Certificate Holder shall locate facilities to maximize the use of existing utility corridors and previously disturbed and currently developed areas, whenever feasible. (ASC, page N-12, N.1)
- (3) DELETED – Condition requirements have been met and/or completed. (This condition, which related to post-construction restoration of temporarily disturbed areas, is no longer relevant because KCP construction has been completed.) [Amendment #5]
- (4) The Certificate Holder shall mitigate for the permanent loss of Category 3 habitat by creating habitat or restoring lost habitat at a 1:1 ratio to that lost, substantially as described in the ASC, page N-12, which is in Appendix B to this Restated and Amended Site Certificate. The Certificate holder shall coordinate these efforts with the ODFW as requested in their December 12, 1996 Agency Report to the Department, page 5 which is in Appendix D to this Restated and Amended Site Certificate.
- (5) DELETED – Condition requirements have been met and/or completed. (This condition, which related to providing \$20,000 to ODFW before the completion of the KCP's construction, is no longer relevant because this requirement has been met and KCP construction has been completed.) [Amendment #5]
- (6) The Certificate Holder shall manage its discharge of wastewater to a sanitary sewer for delivery to the SSWTP so as to comply with applicable limitations for temperature in the industrial wastewater discharge permit for the KCP, and any related provisions in the Reclaimed Water Use Plan for the KCP as required under the City's SSWTP NPDES permit. (ODFW Agency Report, December 12, 1996; RMI 1/20/97 letter to DEQ)
- (7) The Certificate Holder shall not disturb the bed or banks of the Klamath River during construction, operation or retirement. No direct water withdrawals from the Klamath River shall occur. The Energy Facility shall not directly discharge wastewater into the Klamath River.

K. Threatened and Endangered Species

- (1) The Certificate Holder shall manage the KCP's consumption of effluent from the SSWTP and its wastewater discharge to a sanitary sewer for delivery to the SSWTP such that the Facility's net consumption of effluent is no more than 3.65 cubic feet per second (1,640 gallons per minute) on an annual average basis (8,760 hours). Net consumption means

the difference between the amount of effluent provided by the SSWTP to the KCP and the amount of wastewater discharged to a sanitary sewer for delivery to the SSWTP from the KCP.

- (2) The Certificate Holder shall ensure that the realigned segment of the Meridian to Captain Jack 500-kV transmission line incorporates design features to prevent electrocution of raptors, such as those recommended in "Suggested Practices for Raptor Protection on Power Lines: The State of the Art in 1996" (Avian Power Line Interaction Committee. 1996. Edison Electric Institute/Raptor Research Foundation, Washington, D.C.). [Amendment #2]

L. Scenic and Aesthetic Values

- (1) The Certificate Holder shall paint the Energy Facility in a neutral color to help it blend naturally into the hill to the north. (ASC, page S-6, S.1)
- (2) The Certificate Holder shall plant low-maintenance trees such as ponderosa pine, juniper and black cottonwood around the perimeter of the Energy Facility to aid in visually screening the Energy Facility. (ASC, page S-6, S.1)
- (3) The Certificate Holder shall locate the KCP's transmission line structures so as to reduce their visual impacts. (ASC, page S-6, S.2)
- (4) DELETED (This Condition related to the 230-kV transmission line option, and since the 500-kV electrical interconnection option was used instead, this condition is no longer relevant.)
- (5) The Certificate Holder shall limit and direct outdoor nighttime lighting to the extent necessary to maintain safe conditions so as to minimize disturbance to the nearby residential area.
- (6) The Certificate Holder shall ensure that the realigned segment of the Meridian to Captain Jack 500-kV transmission line utilizes lattice tower structures with a dull surface to reduce reflectivity. [Amendment #2]

M. Historic, Cultural and Archaeological Resources

- (1) The Certificate Holder shall design, construct and operate the KCP facilities located on Collins property so as to avoid adverse impact to those qualities of the Weyerhaeuser archaeological site (OR-KL- 40) which make it eligible for listing on the National Register of Historic Places. (ASC, pages T-8, 10, T.3; RMI 10/2/96 letter to the Department)
- (2) Prior to construction of the transmission line and cooling water supply pipeline a qualified individual shall flag the perimeter of each of the three archaeological sites, Cogen 1, Cogen 2 and Cogen 3. The Certificate Holder shall design, construct and maintain the transmission line and cooling water supply pipeline so as to avoid disturbance to any of these sites. If disturbance to any of these sites is unavoidable, the

Certificate Holder shall obtain the necessary permit from the State Historic Preservation Office prior to beginning any activity that would disturb the site. (RMI 10/2/96 letter to the Department)

- (3) If archaeological sites or objects are found during construction of the KCP or related Project activities, the Certificate Holder shall halt earth-disturbing activities in the vicinity of the find. The Certificate Holder shall notify the SHPO, the Department and the Klamath Tribe and a qualified archaeologist shall evaluate the find and recommend appropriate action after consultation with the SHPO, the Department and the Klamath Tribe. (ASC, page T-10, T.2) The Certificate Holder shall not restart work in the affected area until it has complied with the applicable permit requirements administered by the SHPO currently set forth in OAR chapter 736, division 51.

- (4) Prior to construction, the Certificate Holder shall coordinate with the Klamath Tribes to arrange for Tribal monitors to be present during ground-disturbing activities associated with construction of the KCP. The Certificate Holder shall reasonably compensate Tribal monitors. (Klamath Tribes letter to the Department, undated, received by the Department June 1996)

N. Recreation

There are no conditions specifically related to recreation.

O. Socio-Economic Impacts

- (1) The Certificate Holder shall use water from the City's municipal water supply system to meet the KCP's service and potable water requirements and may use water from Collins Product's Well No. 6 to meet make-up water needs. (ASC, pages B-4 and U-4; Fig F-1; Fig B-1) [Amendment #4]

- (2) DELETED – Condition requirements have been met and/or completed. (This condition, which related to working hours of construction crafts during KCP construction, is no longer relevant because KCP construction has been completed.) [Amendment #5]

- (3) DELETED – Condition requirements have been met and/or completed. (This condition, which related to parking areas during KCP construction, is no longer relevant because KCP construction has been completed.) [Amendment #5]

- (4) Access to the Energy Facility Site during construction and operation shall be from U.S. Highway 97 onto a private road on Collins property as described in the ASC, pages U-6 and 7, which are in Appendix B to this Restated and Amended Site Certificate.

- (5) DELETED – Condition requirements have been met and/or completed. (This condition, which related to obtaining an Approach Road Permit from the ODOT prior to KCP construction, is no longer relevant because KCP construction has been completed.) [Amendment #5]

- (6) The KCP Energy Facility shall include a fire protection system substantially as described in the ASC, page U-9, which is in Appendix B to this Restated and Amended Site Certificate.

P. Waste Minimization

- (1) The Certificate Holder shall maintain a solid waste reduction and recycling program for hazardous and non-hazardous solid wastes for operation substantially as described in the ASC, page V-1, which is in Appendix B to this Restated and Amended Site Certificate.

- (2) The Certificate Holder shall reuse or recycle hazardous and non-hazardous solid waste generated during construction to the extent reasonably practicable and substantially as described in the ASC, pages F-1, U-4, and V-1, which are in Appendix B to this Restated and Amended Site Certificate.

- (3) The Certificate Holder shall reuse or recycle hazardous and non-hazardous solid waste generated during operation to the extent reasonably practicable and substantially as described in the ASC, pages U-5, and V-2 and 3, which are in Appendix B to this Restated and Amended Site Certificate.

- (4) The Certificate Holder shall maintain a wastewater minimization and reuse plan for operation substantially as described in the ASC, page V-1, which is in Appendix B to this Restated and Amended Site Certificate.

- (5) DELETED – Condition requirements have been met and/or completed. (This condition, which related to the minimization and reuse of wastewater generated during KCP construction, is no longer relevant because KCP construction has been completed.) [Amendment #5]

- (6) The Certificate Holder shall minimize and reuse wastewater generated during operation to the extent reasonably practicable and substantially as described in the ASC, pages F-2 through 3, and V-3 and 4, which are in Appendix B to this Restated and Amended Site Certificate.

- (7) During operation, the Certificate Holder shall minimize the amount of sanitary wastewater by using water flow restricting devices on bathroom and locker room sinks and showers, and by using low water consumption water closets. (ASC, V-3)

- (8) KCP water treatment demineralizers shall use programmable logic controls set to maximize resin efficiency so as to reduce overall water consumption during resin regeneration and backwashing. (ASC, V-3)

- (9) KCP HRSG boiler blowdown shall be ~~used as makeup water to the cooling tower. KCP cooling tower blowdown shall be reduced by automating the chemical treatment and blowdown system to allow the cooling tower to operate at the highest practical number of cycles of concentration~~ discharged to the City of Klamath Falls' Wastewater Treatment Plant as described in the Industrial Wastewater Discharge Permit issued by the City of Klamath Falls to Certificate Holder. (ASC, F-3, V-3)

- (10) During operation of the KCP, waste materials shall be contained on the Energy Facility Site, within the Site perimeter fence, and screened from view from the nearby residential area.

Q. Noise

- (1) DELETED – Condition requirements have been met and/or completed. (This condition, which related to construction activity noise limitations during KCP construction, is no longer relevant because KCP construction has been completed.) [Amendment #5]

- (2) The Certificate Holder shall place its combustion turbines and associated electrical generators, and the steam turbine and associated electrical generator inside an acoustically insulated building.

- (3) DELETED – Condition requirements have been met and/or completed. (This condition, which related to post-commercial operation noise testing verification, is no longer relevant because this requirement has been met.) [Amendment #5]

- (4) The Certificate Holder shall design the HRSG(s) and stack(s) with resonant frequency above the lowest natural frequency of the exhaust from the combustion turbine(s).

- (5) DELETED – Condition requirements have been met and/or completed. (This condition, which related to the requirement for consultation with Klamath County to minimize impacts of construction noise during KCP construction, is no longer relevant because KCP construction has been completed.) [Amendment #5]

- (6) DELETED (This Condition related to the 230-kV transmission line option, and since the 500-kV electrical interconnection option was used instead, this condition is no longer relevant.)

- (7) The Certificate Holder shall specify a cooling tower such that the actual noise levels associated with operation of the KCP comply with the applicable noise regulations in OAR 340-035-035(1)(b).

- (8) The Certificate Holder shall ensure that the realigned segment of the Meridian to Captain Jack 500-kV transmission line is designed and constructed so as to comply with the applicable noise regulations in OAR 340-35-035(1)(b). [Amendment #2]

R. Wetlands

There are no conditions specifically related to wetlands.

S. Water Rights

Pursuant to agreement with Collins Products as the holder of Certificate of Water Right No. 48602, the Certificate Holder may use water for general industrial use as authorized by Certificate of Water Right No. 48602 and ORS 540.520(9). [Amendment #4]

T. Public Health and Safety

(1) The Certificate Holder shall design and operate its cooling tower substantially as described in the ASC, Table M-1 on page M-4, or in the RFA No. 1, Table M-1, which are in Appendix B to this Restated and Amended Site Certificate.

(2) The Certificate Holder shall monitor, in accordance with its Reclaimed Water Use Plan approved by DEQ, the effluent it receives from the SSWTP for the presence of pathogens. The Certificate Holder shall operate its cooling tower water system in accordance with the Reclaimed Water Use Plan and the industrial wastewater discharge permit for the Facility so as to prevent public health hazards from cooling tower drift (aerosols).

V. MATTERS NOT ADDRESSED IN OR GOVERNED BY THIS AMENDED SITE CERTIFICATE

A. Federally-Delegated Programs ORS 469.503(3)

The following programs are not within the Council's jurisdiction and are not governed by this Restated and Amended Site Certificate because they are federally delegated programs:

(1) The Air Contaminant Discharge Permit program administered by DEQ, which includes, but is not limited to, the federally delegated new source review requirements of the Clean Air Act and the Prevention of Significant Deterioration (PSD) program. This authority is in ORS Chapter 468A; OAR Chapter 340, Divisions 20, 21, 22, 25, and 31;

(2) The National Pollutant Discharge Elimination System (NPDES) permit program administered by DEQ - Water Quality Division, which regulates and permits stormwater runoff and industrial wastewater discharges to public waters, directly or indirectly through discharge to a local sanitary sewer;

(3) The program regulating the design, operation, monitoring and removal of underground storage tanks that contain certain toxic and hazardous materials, including petroleum products, administered by DEQ, under ORS Chapter 466; OAR Chapter 340, Division 150; and the program relating to the generation, treatment, storage and disposal of hazardous wastes, administered by DEQ, under ORS Chapter 466; OAR Chapter 340, Divisions 100 through 113;

B. Requirement Which Do Not Relate to Siting ORS 469.401(4)

The following programs are not within the Council's jurisdiction and are not governed by this Restated and Amended Site Certificate because the programs address design-specific construction or operating standards and practices not related to siting:

(1) The Oil Spill Contingency and Prevention Plan program, administered by DEQ Water Quality Division under ORS 468B and OAR Chapter 340, Division 47, which regulates the transport, storage, handling and spill control and prevention of petroleum products;

- (2) Regulations of building, structure design and construction practices by the Oregon Building Codes Division under ORS Chapters 447, 455, 460, 476, 479, and 480; OAR Chapter 918, Divisions 225, 290, 301, 302, 400, 440, 460, 750, 770, and 780;
- (3) Various programs addressing fire protection and fire safety and the storage, use, handling, and emergency response for hazardous materials and community right to know laws for hazardous materials, administered by the Oregon State Fire Marshal's Office, under ORS Chapters 453, 476, and 480; OAR Chapter 837, Divisions 40 and 90;
- (4) The program addressing design and safety standards for natural gas pipelines and electric transmission lines administered by the Oregon Public Utilities Commission, Safety Section under ORS Chapter 757; OAR Chapter 860, Division 24;
- (5) Regulations on the size and weight of truck loads on state and federal highways administered by the Oregon Department of Transportation under ORS Chapter 818; OAR Chapter 743, Division 82;
- (6) The program regulating the possession, use and transfer of radioactive materials administered by the Oregon State Health Division (OSHD) under ORS Chapter 453; OAR Chapter 333, Divisions 100-119;
- (7) Regulations of domestic water supply systems regarding potability administered by OSHD under ORS Chapter 448;
- (8) Permits required from the Oregon Department of Transportation (ODOT) to "connect" the construction and operation access road for the KCP into a state highway;
- (9) Permits required from ODOT to place a structure within, or to cross, a state highway right-of-way;
- (10) An Industrial Wastewater Discharge Permit from the City of Klamath Falls to discharge KCP wastewater to the City's Spring Street Wastewater Treatment Plant; and
- (11) Building permits required and administered by Klamath County.

VI. AMENDMENT OF RESTATED AND AMENDED SITE CERTIFICATE

The Certificate Holder and the Council recognize that, because of the length of time that may pass between the date on which this Restated and Amended Site Certificate is executed and the date on which construction will commence, and that will pass between the time construction is commenced and the Facility is retired, it may be necessary to amend this Restated and Amended Site Certificate. Amendments shall be made in accordance with OAR Chapter 345, Division 27 or Council procedural rules regarding amendments in effect at the time the amendment is sought.

VII. SUCCESSORS AND ASSIGNS

This Restated and Amended Site Certificate, or any portion thereof, may not be transferred, assigned, or disposed of in any other manner, directly or indirectly, except in compliance with OAR 345-27-100 or Council rules in effect at the time such action is sought.

1 **VIII. SEVERABILITY AND CONSTRUCTION**

2 If any provision of this Restated and Amended Site Certificate is declared by a court to be illegal
3 or in conflict with any law, the validity of the remaining terms and conditions shall not be
4 affected, and the rights and obligations of the parties shall be construed and enforced as if the
5 Restated and Amended Site Certificate did not contain the particular provision held to be invalid.

6 **IX. GOVERNING LAW AND FORUM**

7 This Restated and Amended Site Certificate shall be governed by the laws of the State of
8 Oregon. Any litigation or arbitration arising out of this Restated and Amended Site Certificate
9 shall be conducted in an appropriate forum in Oregon.

10 **IN WITNESS WHEREOF**, this Restated and Amended Site Certificate has been executed by
11 the State of Oregon, acting by and through its Energy Facility Siting Council, and Klamath
12 Energy LLC.

13 ENERGY FACILITY SITING COUNSEL

14 By: _____
15 W. Bryan Wolfe, Chair Date
16

17 KLAMATH ENERGY LLC

18 By: _____
19 Date
20

21 By: _____
22 Date