

OREGON DEPARTMENT OF ENERGY

Regarding Statutes, Administrative Rules and
Other Requirements Applicable to the Proposed
COB Energy Facility in Klamath County, Oregon)
)

FIRST AMENDED
PROJECT ORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38

On December 3, 2001, Peoples Energy Resources Corp. (“PERC”), through its subsidiary COB Energy Facility, LLC (the “Applicant” or “COB”), submitted a Notice of Intent (“NOI”) to the Energy Facility Siting Council (the “Council” or “EFSC”) to construct an 1150-megawatt electric generating facility near Bonanza, in Klamath County, Oregon. The proposed facility would be known as the COB Energy Facility.

The Oregon Department of Energy (the “Department” or “ODOE”) distributed the NOI to reviewers for comments and recommendations as required by ORS 469.350(2) and OAR 345-020-0040. On December 21, 2001, the Department mailed notice to the Council’s general mailing list, to the mailing list set up for the project and to the owners of property whose names and addresses COB supplied in the NOI. The NOI described the proposed facility as required by OAR 345-015-0010 and announced a public informational meeting to be held on January 15, 2002. At the request of the Department, *The Herald and News* (Klamath Falls) published a similar notification on January 3, 2002.

The Department prepared a memorandum, as described in OAR 345-015-0120, and distributed it, together with a copy of the NOI, to the officers, agencies and tribes described in OAR 345-020-0040. The Department has received and reviewed comments of the officers, agencies and tribes.

The Department held an informational meeting on January 15, 2002, and received public comment. For the purpose of consideration in this project order, the Department accepted written public comment through January 25, 2002, the date given in the public notice.

Under Oregon law, the Department must issue a project order following receipt of a Notice of Intent. ORS 469.330(3). The Department issued the original Project Order on April 5, 2002.

In May 2002, COB submitted to the Department an Addendum to the Notice of Intent to Apply for a Site Certificate (the “Addendum”). On September 5, 2002, Cob submitted to the Department the Application for a Site Certificate for the COB Energy Facility (the “Application”). On July 25, 2003, COB submitted to the Department Amendment No. 1 to the Site Certificate Application for the COB Energy Facility (“Amendment No. 1”). On October 15, 2003, COB submitted to the Department Amendment No. 2 to the Site Certificate Application for the COB Energy Facility (“Amendment No. 2”). This First Amended Project Order, issued March 31, 2004, reflects COB’s submission of the Addendum, Application, Amendment No. 1, and Amendment No. 2.

1
2 In the Addendum, COB proposed to build a related or supporting electric transmission line about
3 7.2 miles long from the proposed energy facility site to the Captain Jack Substation to the south.
4 The electric transmission line proposed in the Addendum replaces the proposal in the NOI for an
5 onsite interconnection with three existing 500-kilovolt electric transmission lines. The proposed
6 electric transmission line would pass through areas zoned Exclusive Farm Use (“EFU”), Forestry
7 Range (“FR”), and Forestry (“F”). COB must demonstrate that the related or supporting electric
8 transmission line would comply with ORS 215.275.

9
10 In Amendment No. 1, COB proposed to convert the COB Energy Facility from wet cooling to
11 air-cooling and to construct the facility in one or two phases depending on conditions of the
12 electric power market. In Amendment No. 1, COB also proposed three alternatives for the
13 disposal of process wastewater: (1) Store the wastewater in tanks located on the energy facility
14 site and routinely haul the wastewater to a wastewater treatment plant; (2) Dispose of the
15 process wastewater by means of a lined, onsite evaporation pond, and (3) irrigate COB-
16 controlled land with wastewater.

17
18 In Amendment No. 2, COB proposed two alternatives for the disposal of process wastewater: (1)
19 The preferred alternative would be to dispose of process wastewater by land application for
20 irrigation of pastureland; and (2) The back-up alternative would be to dispose of process
21 wastewater by means of a lined, on-site 20-acre evaporation pond. In Amendment No. 2, COB
22 also proposed to manage storm water flows by segregating storm water falling on the energy
23 facility site into two storm water streams. Storm water that would come into contact with plant
24 components or chemical storage areas would be treated by an oil/water separator and reused as
25 process water. Storm water that would not come into contact with plant components or chemical
26 storage areas would be rerouted to a 2.3-acre-foot storm water pond and then to a 4.7-acre
27 infiltration basin, both of which would be included under the Water Pollution Control Facilities
28 Permit (“WPCF”). By using this approach, COB would prevent the discharge of storm water
29 from the energy facility site into surface waters, offsite storm water drainage ditches, and
30 irrigation canals.

31
32 This First Amended Project Order reflects new information the Department has received since
33 the NOI. The primary changes include: (1) the switch to phased construction; (2) the addition of
34 a related or supporting electric transmission line about 7.2 miles long from the proposed energy
35 facility site to the Captain Jack Substation; (3) the switch from wet cooling to dry cooling; (4)
36 the reduction from an estimated maximum groundwater withdrawal of 7,500 gallons per minute
37 to an estimated 300 gallons per minute; (5) COB’s proposal to build two additional wells as
38 back-up for the existing Babson well identified in the NOI; (6) COB’s alternative proposals for
39 disposing of process wastewater, including land application for irrigation of pastureland and
40 proposed use of a 20-acre process wastewater evaporation pond; and (7) COB’s proposal to
41 separate storm water into two streams, one stream to be used as process water and the other to be
42 directed to a 2.3-acre-foot storm water pond and then to a 4.7-acre infiltration basin, thereby
43 preventing discharges of storm water into surface waters, offsite storm water drainage ditches,
44 and irrigation canals. The Application must fully address the facility, including each of its related
45 or supporting facilities.

1
2 OAR 345-015-160(1) requires in relevant sections that the Department issue a project order that
3 establishes the following:
4

- 5 (a) All state statutes and administrative rules containing standards or criteria that
6 must be met for the Council to issue a site certificate for the proposed facility,
7 including applicable standards of Divisions 22, 23 and 24 of OAR Chapter 345;
8
- 9 (b) All local government ordinances applicable to the Council's decision on the
10 proposed facility;
11
- 12 (c) All application requirements in OAR 345-021-0010 applicable to the proposed
13 facility;
14
- 15 (d) All state and local permits necessary to the construction and operation of the
16 proposed facility and the name of each agency with the authority to issue such
17 permits;
18
- 19 (e) Any other data and information that must be included in the application for a site
20 certificate to allow the Council to determine whether the proposed facility will
21 comply with applicable statutes, administrative rules and local government
22 ordinances;
23
- 24 (f) The analysis areas for the proposed facility;
25
- 26 (g) Public concerns that address matters within the jurisdiction of the Council that the
27 applicant shall consider and discuss in the application for a site certificate, based
28 on comments from the public and reviewing agencies; and
29
- 30 (h) The expiration date of the notice of intent, according to OAR 345-020-0060(1).
31

32 ORS 469.401(4) provides that a site certificate issued by the Council does not govern certain
33 matters. This First Amended Project Order does not consider matters outside the Council's
34 jurisdiction. However, COB must nevertheless comply with all statutes, regulations and local
35 ordinances applicable to the proposed facility.
36

37 As provided in ORS 469.330(4), the Department or the Council may amend this project order at
38 any time.
39

40 THEREFORE, the Oregon Department of Energy, pursuant to OAR 345-015-0160(1), orders
41 that:
42

43
44 **I. DEFINITIONS (See OAR 345-001-0010)**
45

1 As used in this Project Order:
2

3 “Energy facility” means the proposed electric power generating plant. The term “energy facility”
4 does not include any related or supporting facility. If a reference is intended to apply to both the
5 energy facility and its related or supporting facilities, the term “facility” is used.
6

7 “Energy facility site” means all land upon which an energy facility is located or proposed to be
8 located.
9

10 “Facility” means an energy facility, together with any related or supporting facility.
11

12 “Related or supporting facility” means any structure proposed to be built in connection with the
13 energy facility, including but not limited to pipeline valves, regulators, compressors, vaults,
14 enclosures, switching stations, substations, associated equipment, associated transmission lines,
15 reservoirs, intake structures, road and rail access, pipelines, barge basins, office or public
16 buildings, construction laydown, staging and parking areas, and commercial and industrial
17 structures or other structures proposed by the applicant to be constructed or substantially
18 modified in connection with the construction or operation of the energy facility. For the proposed
19 COB Energy Facility, related or supporting facilities include the following: water supply well
20 and pipeline; wastewater evaporation pond and pipeline; electric transmission line and towers;
21 new access road for the transmission line; natural gas pipeline; any laydown or storage areas
22 outside of the energy facility site; and any potential wastewater land application areas and
23 equipment. “Related or supporting facility” does not include any structure existing prior to
24 construction of the energy facility, unless such structure must be significantly modified solely to
25 serve the energy facility.
26

27 “Related or supporting facilities site” means all land upon which related or supporting facilities
28 for an energy facility are located or proposed to be located, including any linear rights-of-way.
29

30 “Site “ means all land upon which a facility is located or proposed to be located.
31

32 **II. STATUTES, ADMINISTRATIVE RULES, RELATED PERMITS OR OTHER** 33 **APPROVALS AND DISCUSSION OF SPECIFIC INFORMATION** 34

35 This section identifies Oregon statutes and administrative rules that COB must address in the
36 application as well as state and local permits and approvals necessary to the construction and
37 operation of the proposed facility and other data and information that COB must include in the
38 application. Because COB seeks approval to construct the proposed facility in either a single
39 phase or two phases, COB must address the effects of both the single-phase construction
40 alternative and the two-phase construction alternative, as applicable.
41

42 **1. ENERGY FACILITY SITING COUNCIL** 43

44 **Statutes and rules:** ORS 469.310, .401, .501, .503, .504 and .507; OAR Chapter 345,
45 Divisions 21, 22, 24, 26 and 27.

1
2 **Permit:** An energy facility site certificate is required before construction or operation.

3
4 **Discussion:** Section IV below describes specific application requirements under OAR
5 345-021-0010.

6
7 All general standards (OAR Chapter 345, Division 22) apply to the proposed facility.

8
9 The need standard for non-generating facilities (OAR Chapter 345, Division 23) does not
10 apply to the proposed facility.

11
12 The specific siting standards for energy facilities that emit carbon dioxide (OAR 345-
13 024-0500 through -0720) apply to the proposed facility. The proposed energy facility is a
14 base-load gas plant with supplemental duct firing. COB must include information about
15 the proposed design and construction of the energy facility that provides evidence to
16 support findings by the Council as required by OAR 345-024-0550, -0560, -0590, -0600,
17 -0710 and -0720.

18
19 If the Council issues a site certificate for the proposed project, the certificate holder must
20 implement a compliance plan, as described in OAR 345-026-0048. The site certificate
21 will contain the mandatory conditions, applicable site-specific conditions, and monitoring
22 conditions described in OAR 345-027-0020, -0023 and -0028.

23
24 **2. OREGON DEPARTMENT OF AGRICULTURE – PLANT**
25 **CONSERVATION BIOLOGY PROGRAM**

26
27 **Statutes and rules:** ORS Chapter 564; OAR Chapter 603, Division 73.

28
29 **Permit:** None required.

30
31 **Discussion:** The Oregon Department of Agriculture (ODA) provides technical review
32 and recommendations on compliance with the Council's threatened and endangered
33 species standard (OAR 345-022-0070) as it relates to plant species.

34
35 OAR 603-73-0070 contains the state list of endangered and threatened plant species.
36 OAR 603-73-0080 gives ODA the authority to designate candidate plants. If COB finds
37 any state-listed threatened or endangered plant species that may be affected by the
38 proposed facility, COB must address the requirements of OAR 603-73-0090(5)(d)(A)-(E)
39 in the application.

40
41 COB shall include in Exhibit Q of its application a list of both state and federally listed
42 endangered, threatened and candidate plant species that have potential to occur in the
43 analysis area. COB shall identify these species based on a review of literature,

1 consultation with knowledgeable individuals, and reference to species listed on the
2 Oregon Natural Heritage Program database.¹ COB shall include in its application a
3 description and the results of a field survey for the listed plant species. A qualified
4 individual shall conduct the field survey during the season or seasons appropriate to the
5 plant species under consideration. The field survey report should include written
6 descriptions of the survey methods and areas surveyed.

7
8 COB should consult with the Oregon Department of Agriculture, Native Plant
9 Conservation Program, regarding field survey methods, schedule and qualifications of
10 field survey personnel.

11 12 **3. DEPARTMENT OF ENVIRONMENTAL QUALITY**

13 14 (a) AIR QUALITY

15
16 **Statutes and rules:** ORS Chapters 468A; OAR Chapter 340, Division 216

17
18 **Permits:** Prevention of Significant Deterioration (PSD) Permit
19 Air Contaminant Discharge Permit (ACDP)
20 Federal Operating Permit (Title V)
21 Acid Rain Permit (Title IV)
22

23 **Discussion:** The air quality permit program is delegated by the US Environmental
24 Protection Agency to the Oregon Department of Environmental Quality (“DEQ”). The
25 Council does not have jurisdiction for determining compliance with the applicable law.
26 However, the Council may rely on the determinations of compliance and the conditions
27 in federally delegated permits in making its determination about whether other standards
28 and requirements under Council jurisdiction are met. Under OAR 345-021-0000(5), the
29 Department shall not find a site certificate application complete unless the applicant has
30 submitted three copies of all of its federally delegated permit applications. In addition, as
31 described in OAR 345-021-0000(5)(b), before the Department may find the site
32 certificate application complete, COB must submit to the Department a letter or other
33 indication from DEQ stating that DEQ has received the permit applications from COB,
34 identifying any additional information DEQ is likely to need from COB based on DEQ’s
35 review of the applications as submitted, and estimating the date when DEQ will complete
36 its review and issue its permit decisions. This condition applies to the PSD permit and
37 ACDP. COB must submit the Federal Operating Permit and Acid Rain Permit
38 applications to DEQ one year after the facility begins operation.
39

¹ Council rule OAR 345-022-070 applies only to state-listed plant and animal species. However, Council rule OAR 345-021-0010(1)(q) requires applicants to consider plant and animal species listed as endangered or threatened under both state and federal law. This is because the Council, in making its decision, must be mindful of possible adverse impacts to federally listed species. Note also that OAR 345-022-0070 applies to all lands affected by a proposed facility including state, federal and private lands.

1 (b) WATER QUALITY

2
3 **Statutes and rules:** ORS Chapter 468B; OAR Chapter 340, Divisions 40 and 45.

4
5 **Permit:** National Pollutant Discharge Elimination System (NPDES) and Water Pollution
6 Control Facilities (WPCF).

7
8 **Discussion:** As described in OAR 345-021-0000(5), COB must submit to the Department
9 copies of any application for a state or local government agency permit. In addition,
10 before finding the site certificate application complete, the Department must receive the
11 letter or other indication described in OAR 345-021-0000(5)(a) or (b).

12
13 Storm Water

14 The US Environmental Protection Agency has delegated authority to the Oregon
15 Department of Environmental Quality (DEQ) to issue NPDES Storm Water Discharge
16 permits for construction and operation activities. COB will need a NPDES permit for
17 storm water discharge during construction.

18
19 The Council does not have jurisdiction over the federally delegated NPDES permit.
20 However, the Council may rely on the determinations of compliance and the conditions
21 in the federally delegated permit in making its determination about whether other
22 standards and requirements under the Council's jurisdiction are met.

23
24 Under OAR 345-021-0000(5), the Department shall not find a site certificate application
25 complete unless the applicant has submitted to the Department three copies of all of its
26 federally delegated permit applications. The applicant must also provide a letter or other
27 indication from DEQ stating that the agency has received a permit application from the
28 applicant, identifying any additional information the agency is likely to need from the
29 applicant based on the agency's review of the application as submitted, and estimating
30 the date when the agency will complete its review and issue a permit decision.

31
32 In Amendment No. 2, COB proposed managing storm water flows during operation of
33 the energy facility by segregating storm water falling on the energy facility site into two
34 storm water streams. Storm water that would come into contact with plant components or
35 chemical storage areas would be treated by an oil/water separator and reused as process
36 water. Storm water that would not come into contact with plant components or chemical
37 storage areas would be rerouted to a 4.7-acre infiltration basin. There would be no
38 discharge of storm water from the energy facility site, and storm water rerouted to the
39 2.3-acre-foot storm water pond and then to the 4.7-acre infiltration pond would be
40 covered under the Water Pollution Control Facilities ("WPCF") permit. The WPCF
41 permit application must include data and calculations used to determine the most efficient
42 size and location of the storm water pond and infiltration basin, *i.e.*, a storm water pond
43 and infiltration basin that would achieve the purpose of capturing storm water giving due
44 consideration to conservation of land, soil and water resources.

1 Septic System

2 COB's NOI states that the facility will discharge sanitary wastes to an on-site septic
3 system, which requires a WPCF permit. COB must first verify that the site is suitable for
4 an on-site septic system by applying to DEQ or its designated agency for a site evaluation
5 of groundwater and soil conditions. If the site is deemed suitable, COB must then apply
6 for a WPCF permit either separately or as part of a permit for the entire facility if that is
7 the selected option for wastewater disposal.

8
9 Wastewater

10 In Amendment No. 2, COB proposed two alternatives for disposal of process wastewater:
11 (1) land application for irrigation of pastureland; or (2) use of a 20-acre process
12 wastewater evaporation pond.

13
14 In order to implement either of its proposed alternatives for disposal of process
15 wastewater, COB will need a WPCF permit. For the land application option, the WPCF
16 permit application must include data and calculations used to determine the most efficient
17 size and location of the land application area, *i.e.*, land application area that would
18 achieve the purpose of disposing of process wastewater giving due consideration to
19 conservation of land, soil and water resources. For the evaporation pond, the WPCF
20 permit application must include data and calculations used to determine the most efficient
21 size and location of the process wastewater evaporation pond, *i.e.*, pond size that would
22 achieve the purpose of disposing of process wastewater giving due consideration to
23 conservation of land and water resources.

24
25 (c) NOISE

26
27 **Statutes and rules:** ORS 467.020, .030; OAR 340-035-0035

28
29 **Permit:** None required.

30
31 **Discussion:** COB must comply with DEQ's noise standard. The requirement is
32 incorporated in the general standard of review, OAR 345-022-0000.

33
34 In the application, COB should include a noise analysis. The application must contain
35 information to support a finding by the Council that the proposed facility would comply with the
36 requirements of OAR 340-035-0035.

37
38 (d) HAZARDOUS MATERIALS

39
40 **Statutes and rules:** ORS Chapters 465 and 466; OAR Chapter 340, Divisions 100
41 through 122.

42
43 **Permit:** None required.

1
2 **Discussion:** COB must include in the application a list of all hazardous materials stored
3 or used at the facility site during construction and operation. COB must comply with
4 DEQ regulations concerning the use, clean up and disposal of hazardous materials. The
5 requirement is incorporated in the general standard of review, OAR 345-022-0000.
6

7 **4. OREGON DEPARTMENT OF FISH AND WILDLIFE – HABITAT**
8 **CONSERVATION DIVISION**
9

10 **Statutes and rules:** ORS Chapter 496; OAR Chapter 635, Divisions 100 and 415.
11

12 **Permit:** None required
13

14 **Discussion:** The Oregon Department of Fish and Wildlife (ODFW) provides technical
15 review and recommendations on compliance with Council rules set forth at OAR
16 345-022-0040, -0060 and -0070. ODFW will base its review and recommendations on
17 state wildlife policy and threatened and endangered species policy (ORS 496.012 and
18 ORS 496.171 -.192).
19

20 OAR Chapter 635, Division 100, provides authority for adoption of the state sensitive
21 species list and the Wildlife Diversity Plan and contains the state list of threatened and
22 endangered wildlife species.
23

24 OAR Chapter 635, Division 415, classifies habitat into six categories and establishes a
25 mitigation goal for each category. COB must identify the appropriate habitat category for
26 all areas affected by the proposed facility and provide the basis for each category
27 designation. COB must show how it would comply with the habitat mitigation goals and
28 standards by appropriate monitoring and mitigation.
29

30 This section describes fish and wildlife issues and the information that will be needed in
31 the application to address these issues.
32

33 Biological Surveys

34 COB should conduct site-specific biological surveys for wildlife. The wildlife habitat
35 reconnaissance survey described on page J-3 of the NOI does not provide sufficient
36 information on the presence or absence of wildlife species in the vicinity of the project
37 site.
38

39 ODFW does not agree with the statement on Table J-6 of the NOI (Threatened and
40 Endangered Species Summary) that the following species are not likely present at the
41 project site: bald eagles, American white pelican, greater sandhill crane, tricolored
42 blackbird, and northwestern pond turtle. Bald eagles, western pond turtles and greater
43 sandhill cranes use the Lost River/Langell Valley area. In fact, Langell Valley is the
44 largest spring and fall staging area for greater sandhill cranes in Klamath County.
45

1 Given the isolated nature of the area and the general lack of surrounding development,
2 habitat should be assessed on a gross scale within ¼ mile of the perimeter of the energy
3 facility site, the wastewater land application area, and the process wastewater evaporation
4 pond, within ¼ mile on either side of the centerline of proposed gas, water and
5 wastewater pipelines, and within ¼ mile on either side of the centerline of the proposed
6 transmission line. Based on this gross scale analysis, areas of suitable habitat for
7 threatened, endangered and sensitive species should be identified within the site boundary
8 and 5 miles from the site boundary.

9
10 Ground surveys for threatened, endangered and sensitive species should be conducted
11 within these areas of suitable habitat. Threatened, endangered and sensitive species of
12 concern are: bald eagles, American white pelican, greater sandhill crane, tricolored
13 blackbird, northwestern pond turtle, pygmy rabbits, fringed Myotis bats, and pallid bats.

14
15 Survey plans should be developed in conjunction with ODFW and included in the
16 application. Survey methodologies are generally described in Survey Methodologies for
17 Sensitive, Threatened and Endangered Wildlife Species in Oregon. However, please
18 contact Tom Collom in ODFW's Klamath Falls office (541-388-6363) for additional
19 information on survey methodologies.

20
21 Application of the Department's Mitigation Policy

22 The application should categorize fish and wildlife habitat affected by the construction
23 and operation of the facility pursuant to ODFW's Mitigation Policy (OAR Chapter 635,
24 Division 415). The application should identify any impacts that project construction and
25 operation will have on fish and wildlife habitat quality and quantity, and describe the
26 actions that will be taken to mitigate for these impacts, consistent with the goals of the
27 Mitigation Policy. These actions may include avoiding certain habitat areas, limiting the
28 timing of construction to avoid sensitive time periods for wildlife, or compensation for
29 unavoidable losses. The application should also describe how mitigation actions would be
30 monitored and evaluated to ensure the success of mitigation.

31
32 Based on experience with similar projects, ODFW anticipates the project will use
33 reseeded and revegetation of areas disturbed by construction to meet the goals of the
34 ODFW's Mitigation Policy. Therefore, ODFW requests that a revegetation plan with the
35 following information be provided in the application:

- 36
37 1) A description of soil preparation/topsoil segregation methods;
38
39 2) A list of species that will be used for revegetation and information on
40 seeding/planting rates;
41
42 3) A description of the process for selecting a qualified reclamation subcontractor to
43 oversee revegetation efforts;
44

- 1 4) A description of the process for approving the final mixture of species selected by
2 the revegetation contractor;
- 3
- 4 5) A description of the performance measures that will be used to evaluate the
5 success of revegetation efforts;
- 6
- 7 6) A description of the monitoring that will occur to ensure the success of the
8 revegetation efforts; and
- 9
- 10 7) A description of the proposed reporting schedule to ODFW and the Department;
- 11
- 12 8) A description of measures that will be taken for control of noxious weeds and
13 erosion control during construction.
- 14

15 Potential Impacts on Fish and Wildlife Habitat

16 Impacts on deer winter range

17 The project site is located in the Swan Lake High Density Deer Winter Range. The
18 county plan does not designate the project site as antelope winter range; however,
19 antelope may also use the project site during the winter months.
20

21
22 Construction and operation of the COB facility may result in a loss of deer winter range
23 habitat and could reduce the habitat quality of the remaining deer winter range due to
24 increased traffic, light, and noise. In particular, the transmission line proposed in the NOI
25 Addendum bisects critical deer winter range. The proposed all-season road needed to
26 construct and maintain the proposed transmission line may harass or displace wintering
27 deer. The application should address these impacts. In addition, the application should:

- 28
- 29 1) Provide maps showing the location of winter range as identified in the Klamath
30 County comprehensive plan;
- 31
- 32 2) Indicate the location and acreage of winter range that will be impacted by the
33 project. Winter range that may be affected includes:
34
 - 35 a) Areas of winter range that will be temporarily altered during project
36 construction, *e.g.*, temporary roads, staging areas;
 - 37
 - 38 b) Areas of winter range that will be permanently occupied by project
39 features, *e.g.*, the energy facility site, the wastewater evaporation pond,
40 and the transmission line;
 - 41
 - 42 c) Areas of winter range that will be affected by construction or operational
43 noise, as determined by a noise analysis;
 - 44

- 1 d) The analysis area for evaluating the project's impacts on winter range
2 should be large enough to include the areas described above.
3
4 3) Identify the impacts of construction and operation of the facility on the quality
5 and quantity of winter range, and provide mitigation for any identified adverse
6 impacts. If forage improvements are proposed to mitigate for the project's impacts
7 on deer winter range, the application should specifically identify the locations
8 where forage improvements will be undertaken and describe the type of
9 improvements that will be undertaken. The description of forage improvements
10 should contain the same level of detail discussed above in our comments on the
11 revegetation plan.
12

13 Noise

14 The application should address the noise impacts on wildlife habitat resulting from
15 construction and operation of the facility. The application should include a noise analysis
16 that identifies how the ambient noise levels will change as a result of facility construction
17 and operation, the geographic area within which these changes will be detectable to
18 wildlife, and the duration of the noise, *i.e.*, continuous or intermittent.
19

20 Because part of the proposed project site is located in an area of high-density deer winter
21 range, and may also be used by antelope, the application should specifically evaluate the
22 impact of increased noise on deer and antelope.
23

24 Wastewater Discharge

25 Amendment No. 2 proposed alternative plans for disposal of process wastewater. One
26 alternative would provide for land application of process wastewater for irrigation of
27 pastureland. Another alternative would provide for a 20-acre evaporation pond. The
28 application must address any potential impacts of the process wastewater land application
29 or evaporation pond alternatives on fish and wildlife habitat and threatened or endangered
30 plant or wildlife species.
31

32 Groundwater Withdrawal

33 The application should provide additional documentation for the statements on page J-2
34 of the NOI that "the deep groundwater bearing zones below 1,580 feet are hydraulically
35 isolated from the shallower irrigation and domestic groundwater bearing zones and the
36 Lost River and all other surface water features in the vicinity of the Energy Facility" and
37 that "pumping deep groundwater from the Babson well has no reasonable impact on the
38 shallower groundwater system (upper 500 feet) or surface water bodies in the vicinity."
39

40 The application should include a more detailed description of the 30-day aquifer test at
41 the Babson well and the results of this test. The application should also identify the
42 location of springs, seeps and other surface water features in the vicinity and describe the
43 monitoring that was conducted in order to justify the statement that pumping deep
44 groundwater from the Babson well will not affect these areas.
45

1 Bird strikes

2 The project is located in an area that is used by waterfowl and other birds. The facility's
3 exhaust stacks will be between 150 and 200 feet tall. It is not clear from the NOI whether
4 these towers will be lighted. Avian mortality at tall, lighted structures has been
5 documented. Therefore, the application should evaluate the potential for bird strikes at
6 the stacks.

7
8 Analysis Areas

9
10 Noise. The analysis area for noise impacts should include all areas within which
11 increased noise levels from project construction and operation will be detectable
12 by wildlife. The extent of this area will be determined by the noise analysis
13 described above.

14
15 Wildlife. Given the isolated nature of the area and the general lack of surrounding
16 development, the analysis area for purposes of a gross wildlife habitat analysis
17 should include all areas within ¼ mile of the perimeter of the facility site and
18 within ¼ mile on either side of the centerline of transmission, gas and water lines.
19 If the gross habitat analysis indicates suitable habitat for threatened, endangered
20 or sensitive species, ground surveys for these species should be conducted in
21 areas of suitable habitat within the site boundary and 5 miles from the site
22 boundary.

23
24 Wetlands. The analysis area for purposes of a gross wetland analysis should
25 include all areas within ¼ mile of the perimeter of the facility site and within ¼
26 mile on either side of the centerline of transmission, gas and water lines.

27
28 Review of Site Certificate Application

29 Patty Snow will be responsible for coordinating ODFW's review of the site certificate
30 application. Please send copies of the site certificate application to Ms. Snow and to the
31 following ODFW staff:

32
33 Tom Collom and John Zauner
34 ODFW Klamath Falls District Office
35 1850 Miller Island Road
36 Klamath Falls, OR 97306

Chris Carey
Wildlife Diversity Biologist
ODFW High Desert Region Office
Bend, OR 97702

37
38 **5. DEPARTMENT OF GEOLOGY AND MINERAL INDUSTRIES**

39
40 **Statutes and rules:** OAR 345-022-0020

41
42 **Permit:** None required.

43
44 **Discussion:** The Department of Geology and Mineral Industries (DOGAMI) provides
45 technical review and recommendations on compliance with Council rule OAR

1 345-22-0020. In the application, COB shall provide the results of any site-specific
2 geotechnical work done to date. A geotechnical report must be submitted to DOGAMI
3 for independent review. COB should provide a geological characterization of the project
4 area and a site-specific geotechnical assessment (including seismic hazards). The
5 geotechnical and seismic evaluations should include subsurface explorations and provide
6 adequate supporting evidence to determine if the facility can be built and operated safely.
7

8 **6. DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT:**
9

10 **Statutes and rules:** ORS Chapters 197 and 215; OAR Chapter 660.
11

12 **Permit:** None required.
13

14 **Discussion:** The Department of Land Conservation and Development provides technical
15 review and recommendations on compliance with Council rule OAR 345-22-0030.
16

17 **7. OREGON PARKS AND RECREATION DEPARTMENT**
18

19 (a) **HISTORIC PRESERVATION SECTION**
20

21 **Statutes and rules:** ORS 97.745, ORS 358.920 and 390.235; OAR Chapter 736,
22 Division 51.
23

24 **Permit:** An archaeological permit may be required to conduct archaeological
25 investigations of the site.
26

27 **Discussion:** The Oregon Historic Preservation Officer and affected tribes provide
28 technical review and recommendations on compliance with Council rule OAR
29 345-22-0090. COB shall describe an archaeological and cultural survey of the analysis
30 area to be conducted by a qualified archaeologist. COB shall include the results of the
31 survey in the application for a site certificate.
32

33 COB shall show evidence of consultation with the Klamath Tribes and the Confederated
34 Tribes of Siletz regarding archaeological and cultural sites and materials or an
35 explanation why such consultation did not occur. COB shall summarize the results of
36 consultation in the application.
37

38 (b) **OTHER PARKS PROGRAMS:**
39

40 **Statutes and rules:** ORS 390.010; OAR Chapter 736.
41

42 **Permit:** None required.
43

44 **Discussion:** The Oregon Parks and Recreation Department provides technical review and
45 recommendations on compliance with Council rules OAR 345-22-0040, -0080 and -0100.

1
2 **8. OREGON DIVISION OF STATE LANDS**

3
4 **Statutes and rules:** ORS 196.800 - .990; OAR Chapter 141, Division 85.

5
6 **Permit:** A removal-fill permit is required if 50 cubic yards or more of material is
7 removed, filled or altered within natural wetlands and waterways.

8
9 **Discussion:** COB should include information in the application to support a finding of
10 whether a removal-fill permit is or is not needed. COB must provide a complete formal
11 wetland delineation for all areas to be affected by the proposed facility. If a removal-fill
12 permit is needed, the application must include an itemized demonstration of compliance
13 with each applicable provision of ORS 196.825 and OAR 141-085-0050. Application
14 requirements regarding potential wetlands impacts are described in OAR 345-021-
15 0010(1)(j).

16
17 **9. WATER RESOURCES DEPARTMENT, WATER RIGHTS DIVISION**

18
19 **Statutes and rules:** ORS Chapters 536 through 540; OAR Chapter 690, Divisions 1
20 through 410.

21
22 **Permit:** Water right.

23
24 **Discussion:** In Amendment No. 1, COB proposes to withdraw up to 300 gallons per
25 minute of water from an existing well (the Babson well) about 2.7 miles ENE of the site.
26 The application also proposes building two back-up wells near the Babson well site.

27
28 To satisfy its water use objectives, COB proposes to apply for a new ground water right
29 for 300 gallons per minute.

30
31 In its NOI, COB proposes to reconstruct the Babson well and seal it through all
32 permeable zones between approximately 500 and 800 feet from the ground surface. From
33 there, the well would be open to the water-bearing zones below the well seal that are
34 found at depths greater than 1,500 feet.

35
36 COB contractors have pumped the existing well for a 30-day period at a rate of 3,200
37 gallons per minute. From this test and any subsequent testing process, COB will
38 characterize the aquifer(s) to determine the allowable pumping rate for operation of the
39 proposed energy facility.

40
41 The proposal is complicated by the sensitive nature of water in this desert basin for many
42 stakeholders. Selected water use and disposal methods may favor one set of public
43 interests over another. Water use is the most significant issue raised by the public in both
44 written comments and at the public meeting held on January 15, 2002.

1 COB must be able to show, to the satisfaction of the Council, that the proposed water use
2 will not adversely affect local wells or the existing groundwater and surface water
3 sources in the Klamath Basin. COB must identify, to the best of its ability, the source of
4 the groundwater the facility would use, the quantity of water needed, and the means of
5 disposal of all water discharges from the facility.
6

7 In its application, COB must include the information required about water use under
8 OAR 345-021-0010(1)(o), including all evidence the Council needs to decide whether the
9 Department of Water Resources should issue a groundwater permit. As required, the
10 evidence must include a detailed description of steps proposed to reduce consumptive
11 water use.
12

13 Because of possible competing public interests over COB's water use, COB must also
14 include a thorough discussion of alternative methods for water use, water disposal, and
15 mitigation. COB must clearly explain the benefits of its proposed methods when
16 compared with alternatives. The discussion should address water concerns raised
17 elsewhere in this project order, including those raised by the public and the Oregon
18 Department of Fish and Wildlife.
19

20 **10. PUBLIC UTILITY COMMISSION**

21 **Statutes and rules:**

22 Natural Gas Pipeline and Electric Transmission Line Safety Regulations

23 ORS 757.035	Oregon Public Utility Commission
24 ORS 757.039	Oregon Public Utility Commission
25 ORS 757.542 through 757.562	Oregon Public Utility Commission
26 ORS 756.040 and 757.600 through 757.667	Oregon Public Utility Commission
27 OAR Chapter 860, Division 024	Oregon Public Utility Commission
28 OAR Chapter 952	Oregon Utility Notification Center

29 Electric Service Supplier Regulations

30 OAR 860-038-0400	Oregon Public Utility Commission
---------------------	----------------------------------

31 **Permit:** No Oregon Public Utility Commission ("PUC") permits relate to siting. The
32 listed statutes and administrative rules pertain to safety, construction and operational
33 matters that, according to ORS 469.401(4), the site certificate does not address. COB
34 should contact the PUC for further information.
35

36 **Discussion:** The PUC will conduct safety reviews of the design and construction related
37 to natural gas pipeline and electric transmission line interconnections to the proposed
38 energy facility. The certificate holder must operate the facility in compliance with the
39 PUC's safety regulations. If the certificate holder desires to become an electricity service
40 supplier, it must be certified by the PUC and must operate the facility in accordance with
41 PUC certification requirements.
42
43
44
45

1 **11. KLAMATH COUNTY**

2
3 COB should contact the Klamath County Planning Department to discuss the
4 requirements for a conditional use permit. As provided under ORS 469.504(1)(b), COB
5 has indicated it will seek a Council determination of land use compliance. As provided in
6 ORS 469.401(3), if the Council issues a site certificate, the County will be bound to issue
7 a conditional use permit, subject only to the conditions set forth in the site certificate.
8

9 **12. OTHER CONSTRUCTION-RELATED REGULATIONS**

10
11 If the Council issues a site certificate, the certificate holder must comply with
12 construction-related regulations that apply to the proposed facility. The site certificate
13 does not address these regulations. The following list is for information only:
14

15 (a) Fire protection and hazardous materials

16
17 Various programs addressing fire protection and fire safety and the storage, use,
18 handling, and emergency response for hazardous materials and community right to know
19 laws for hazardous materials, administered by the Oregon State Fire Marshal's Office,
20 under ORS Chapters 453, 476 through 479; OAR Chapter 837, Divisions 40, 85 and 90.
21

22 (b) Water systems

23
24 Regulations pertaining to domestic water supply systems administered by the Health
25 Division of the Oregon Department of Human Services under ORS Chapter 448 and
26 OAR Chapter 333, Division 61.
27

28 (c) Building codes

29
30 Regulations pertaining to building, structure design and construction practices
31 administered by the Oregon Building Codes Division under ORS Chapter 455 and OAR
32 Chapter 918.
33

34 (d) Truck transportation and on-highway construction

35
36 Regulations on the size and weight of truck loads on state and federal highways
37 administered by the Oregon Department of Transportation under ORS Chapter 818 and
38 OAR Chapter 734, Division 82; permit for construction on a state highway or county
39 road under ORS 374.305 - .310 and OAR Chapter 734, Division 55.
40

41 **III. APPLICABLE LOCAL GOVERNMENT ORDINANCES**

42
43 The proposed site is entirely within Klamath County. The Council will determine whether the
44 proposed facility complies with applicable substantive criteria from the affected local
45 government's acknowledged comprehensive plans and with directly applicable Land

1 Conservation and Development Commission rules, as set forth in ORS 469.504(1)(b). The
2 applicable substantive criteria from the affected local government’s comprehensive plan are
3 those in effect on the date the application is submitted. COB shall contact the local land use
4 planning authority to determine the applicable substantive criteria. COB shall include in the
5 application an analysis of the proposed facility’s compliance with those applicable criteria. See
6 further discussion under Exhibit K in section IV below.

7
8 **IV. APPLICABLE REQUIREMENTS FROM OAR CHAPTER 345, DIVISION 21**

9
10 The application shall include the information described in OAR 345-021-0010(1), (2) and (4).
11 COB must also submit the information required by OAR 345-021-0000, particularly the
12 information in section (5)(a) and (b) regarding the status of non-federally-delegated and federally
13 delegated permits.

14
15 (a) Exhibit A – General Information about the Applicant

16
17 Paragraphs (A) through (D) apply. Note that paragraph (B) calls for a list of
18 “participating persons, other than individuals.” “Person” is defined in OAR
19 345-001-0010(43). Include in the application information about all third-party
20 entities (persons other than individuals) that are important to the project.

21
22 (b) Exhibit B – General Information about the Proposed Facility

23
24 All paragraphs apply except (A)(vii), (viii), (ix) and (x).

25
26 COB should identify the proposed method for wastewater disposal in Exhibit B at
27 (A)(v). Information about the source of makeup water should be discussed in
28 Exhibit O of the application (see below).

29
30 In section (b)(A)(iii), COB should include a description of any underground
31 storage tanks and the materials such tanks would contain.

32
33 (c) Exhibit C – Location

34
35 Maps included in Exhibit C should provide enough information for potentially
36 affected property owners to tell whether their property is within or adjacent to the
37 site. Major roads should be named. COB must supply to the Department at least
38 one 7.5-minute quadrangle map that shows at an intelligible scale the proposed
39 locations of the energy facility site, and all related or supporting facility sites, in
40 relation to major roads, water bodies, cities and towns, important landmarks and
41 topographic features.

42
43 (d) Exhibit D – Organizational Expertise

44
45 All paragraphs apply.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

(e) Exhibit E – Permits

All paragraphs apply.

(f) Exhibit F – Property Owners

COB must identify the site of the proposed facility, including all related or supporting facilities, and any corridor identified in Exhibit B. COB must determine the appropriate distances as described in paragraphs (A) through (C), based on the location of urban growth boundaries and farm or forest zones, and provide the complete list of property owners.

(g) Exhibit G – Materials Analysis

All paragraphs apply. In section (g)(B), identify specifically the chemicals to be stored on-site. COB should consult with DEQ Hazardous Waste Division to determine whether these chemicals would be hazardous waste if spilled or released. In the application, COB should include information about that determination. Include information about containment, cleanup and disposition of hazardous waste spilled or released.

COB must identify any chemicals that may be used in the process wastewater evaporation pond. If a solid precipitate is created or if any other solids may accumulate in the process wastewater evaporation pond, COB must provide its assurance that an acceptable method for disposing of solid and semi-solid wastes is available. If COB plans to send such materials to a landfill, it must present in its application a plan for regularly testing the materials to demonstrate that they do not contain hazardous substances.

(h) Exhibit H – Geology

All paragraphs apply.

(i) Exhibit I – Soils

All paragraphs apply.

(j) Exhibit J – Wetlands

All paragraphs apply.

(k) Exhibit K – Land Use (Statewide Planning Goals)

Paragraphs A and C apply. Paragraphs B and D do not apply.

1
2 The Council's land use standard requires an evaluation of the proposed use under
3 (1) applicable substantive criteria and (2) any rules, goals, or statutes directly
4 applicable under ORS 197.646(3). [See ORS 469.504(1) and OAR 345-022-
5 0030(2)]. The applicant must demonstrate that the proposed use would comply
6 with applicable criteria from the affected local government's acknowledged
7 comprehensive plan and land use ordinances that are required by the statewide
8 planning goals and that were in effect on September 5, 2002, the date on which
9 COB submitted the Application for a Site Certificate for the COB Energy Facility.

10
11 For any related or supporting facilities located on land zoned Exclusive Farm Use
12 or Forestry Range, COB must demonstrate compliance with ORS 215.275.

13
14 (l) Exhibit L – Protected Areas

15
16 All paragraphs apply.

17
18 (m) Exhibit M – Financial Capability

19
20 All paragraphs apply.

21
22 (n) Exhibit N – Need for the Facility

23
24 Exhibit N does not apply.

25
26 (o) Exhibit O – Water Use

27
28 COB proposes to obtain a new water right for an old well COB proposes to re-
29 construct and seal through the first 500 to 800 feet below ground surface. Up to
30 two additional backup wells would be constructed and included as points of
31 appropriation in the new water right. All paragraphs apply.

32
33 (p) Exhibit P – Wildlife Habitat

34
35 All paragraphs apply.

36
37 (q) Exhibit Q – Threatened and Endangered Species

38
39 All paragraphs apply.

40
41 (r) Exhibit R – Scenic and Aesthetic Values

42
43 All paragraphs apply.
44

1 (s) Exhibit S – Historic, Cultural and Archaeological Resources

2
3 All paragraphs except (C) apply.

4
5 (t) Exhibit T – Recreation

6
7 All paragraphs apply.

8
9 (u) Exhibit U – Public Services

10
11 All paragraphs apply. Include an analysis of estimated facility-related traffic
12 during construction and operation and the potential impact on traffic safety.
13 Discuss transportation of heavy equipment and shipments of facility components
14 during construction. Include identification of approach routes, anticipated traffic
15 volume and potential damage to public roads. COB must pay special attention to
16 the towns of Bonanza, Lorella and Dairy. These towns are close to the site, but far
17 enough from Klamath Falls that construction workers as well as permanent staff
18 of the energy facility may locate there. This may represent a significant increase
19 in population and traffic, and COB must take care to analyze these possible
20 impacts.

21
22 The application must address the ability of public and private providers in the
23 analysis area to provide solid waste management services sufficient to
24 accommodate precipitate or other solid waste generated by operation of the
25 process wastewater evaporation pond.

26
27 (v) Exhibit V – Solid Waste and Wastewater

28
29 All paragraphs apply. Include in this exhibit information about obtaining a
30 hazardous waste determination for excavated soils.

31
32 The application must also include data and calculations used to determine the
33 most efficient size and location of the land application area, *i.e.*, land application
34 area that will achieve the purpose of disposing of process wastewater giving due
35 consideration to conservation of land, soil and water resources. The application
36 must include data and calculations used to determine the most efficient size of the
37 process wastewater evaporation pond, *i.e.*, pond size that will achieve the purpose
38 of disposing of process wastewater giving due consideration to conservation of
39 the water resource, including a description of precipitate or other solid waste that
40 would be generated by operation of the process wastewater evaporation pond.

41
42 (w) Exhibit W – Facility Retirement

43
44 All paragraphs apply. The applicant should include a discussion of disposal of any
45 hazardous waste or other hazardous materials.

1
2 (x) Exhibit X – Noise

3
4 All paragraphs apply. Noise modeling and measurements must take into account
5 nearby hills, and the affect of the unique terrain on noise propagation.
6

7 (y) Exhibit Y – Carbon Dioxide Emissions

8
9 All paragraphs except (I) apply.
10

11 (z) Exhibit Z – Cooling Tower Impacts

12
13 All paragraphs apply.
14

15 (aa) Exhibit AA – Electric and Magnetic Fields

16
17 All paragraphs apply to any transmission line, regardless of size, that is a related
18 or supporting facility, including transmission lines that transport electricity from
19 the project site to any existing substation.
20

21 (bb) Exhibit BB – Other Information

22
23 Any information requested in this project order that is not addressed in any other
24 exhibit.
25

26 (cc) Exhibit CC – Other Law

27
28 Exhibit CC applies.
29

30 **V. ANALYSIS AREAS FOR THE PROPOSED FACILITY**

31
32 The analysis areas are the minimum areas that COB must study for potential impacts from the
33 construction and operation of the proposed facility. The analysis areas described in this First
34 Amended Project Order do not limit the applicant’s responsibility. They are the areas in which
35 the Department believes significant adverse impacts from the proposed facility could occur. If it
36 appears that the project’s impacts could reasonably extend beyond the analysis areas described
37 here, then COB must comply with the applicable standard with regard to the larger area where
38 impacts could occur.
39

40 For all potential impacts, the analysis area includes all the area within the site boundary. “Site
41 boundary” means the perimeter of the site of the proposed energy facility and its related or
42 supporting facilities.² In its application, COB must specifically describe the site boundary. If

² See definition of “related or supporting facilities” in OAR 345-001-0010(46).

1 temporarily disturbed laydown or staging areas will be outside the site boundary, COB must
2 identify those areas in the application and must analyze those areas for potential impacts.

3
4 The analysis areas are as follows:
5

<u>Affected Standard or Resource</u>	<u>Analysis Area</u>
Structural Standard	The area within the site boundary.
Soils	The area within the site boundary and all laydown and staging areas.
Land Use	The area within the site boundary and one-half mile from the site boundary plus laydown and staging areas.
Protected Areas	The area within the site boundary and 20 miles from the site boundary.
Surface and ground water quality and availability	The area within the site boundary and 5 miles from the site boundary (or the distance to the point of withdrawal, whatever is greater).
Fish and Wildlife Habitat	The area within the site boundary and ¼ mile from the site boundary and all laydown and staging areas.
Threatened and Endangered Species	The area within the site boundary and 5 miles from the site boundary.
Scenic and Aesthetic Values	The area within the site boundary and 30 miles from the site boundary.
Historic, Cultural and Archaeological Resources	The area within the site boundary and all laydown and staging areas.
Recreation	The area within the site boundary and five miles from the site boundary.
Public Services	The area within the site boundary and 30 miles from the site boundary.

6
7 The Council or the Department may amend this First Amended Project Order at any time, and
8 the Department may make changes to the analysis areas. If the Department determines the
9 application contains adequate information for the Council to make findings on all applicable
10 Council standards, the Department may determine the application complete, regardless of
11 whether the application contains all information required under OAR 345-021-0010.
12 Notwithstanding a determination that an application is complete, the Department may require
13 additional information from the applicant if the Department identifies a need for that information
14 during its review of the application.
15

16 **VI. PUBLIC COMMENTS THAT THE APPLICATION SHOULD ADDRESS [OAR**
17 **345-15-160(1)(g)]**
18

19 Part of the Council's process is to ensure that COB responds in its application to public concerns
20 raised during the Notice of Intent phase. Answers to the public questions and concerns listed in
21 this section may already appear in one of the standard application exhibits either under a Council
22 standard or a federally delegated permit. If so, COB must either repeat the information or list an
23 appropriate cross-reference in Exhibit BB. We recognize that some of the questions posed may
24 not fall under the Council's jurisdiction. However, they could become the subject of conditions
25 imposed on the site certificate and should be answered to the best of COB's ability.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

Water

The most frequently raised public concern has been the impact of COB’s proposed water withdrawal on water availability. In general, comments about COB’s use of water reflect fears that the proposed project will place existing water uses in jeopardy, and many requested that COB prove how its use of water will avoid doing so. Some comments addressed COB’s well pump test.

Additional concern exists about the source of the aquifer COB is proposing to tap for the project. COB should detail in Exhibit O the overall effect on the aquifer and of the presumed recharge area of such water use.

Air Emissions

Public comment has raised questions about the proposed project's emissions. In particular, the Department has received questions about the impact of additional moisture on agriculture lands in the area. However, COB eliminated the potential for adding additional moisture to nearby agricultural lands when it switched its cooling system to air-cooling.

Public Services

The Council's Public Services standard addresses areas of concern to the public, such as traffic safety, road maintenance and police/fire protection. The application must explain in Exhibit U what kinds of improvements may be needed for roads that provide access to the proposed facility. It also should detail any expected impact on police and fire protection as a result of building and operating the proposed plant and related facilities.

Specific questions or concerns about the proposed facility related to community impacts included:

- What will this company put back into the community?
- Will COB consider rebates to the community, paying rent to community for use of resources, and funding development of renewables?
- How much money will COB spend here, in the community?
- What is the CO₂ standard, how does it work, and can CO₂ mitigation money be spent here?
- Will you fund a new ambulance?
- Will COB put the ASC on hold to deal with local issues first?
- Will COB sell electricity to the community at cost?
- How will COB handle 400 people commuting during construction?

However, few of the above comments relate to the Council’s Public Services standard.

Plant-Specific Issues

Some public comments raised questions about plant design:

- 1 • How long will it be before another power line is needed?
- 2 • What is the life of the plant?
- 3 • Who will build the plant?

4

5 **VII. EXPIRATION DATE**

6

7 Pursuant to OAR 345-020-0060(1), the date of expiration of the NOI was October 5, 2003. COB

8 submitted an application for the facility for which this First Amended Project Order is issued

9 prior to October 5, 2003. No new NOI need be submitted for the facility in order to satisfy ORS

10 469.330.

11

12 **VIII. APPLICABILITY**

13

14 Failure to include an applicable statute, rule, ordinance, permit or other requirement in this First

15 Amended Project Order shall not render that statute, rule, ordinance, permit or other requirement

16 inapplicable, nor in any way relieve applicant from the duty to comply with the same.

17

18

19

20

21

22 _____

23 David Stewart-Smith, Deputy Director

24 Oregon Department of Energy

25 Date of Issuance: April 6, 2004