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**ATTACHMENT E
FINAL ORDER
SUMMIT/WESTWARD PROJECT**

**LAND USE STANDARD ANALYSIS
OAR 345-022-0030**

10 **I. INTRODUCTION AND OVERVIEW**

11
12 Under the Council’s Land Use standard, OAR 345-022-0030, the Energy Facility Siting
13 Council (the “Council”) must determine whether the proposed facility complies with the
14 statewide planning goals adopted by the Oregon Land Conservation and Development
15 Commission (the “LCDC”). Westward Energy, LLC (“Summit/Westward” or the
16 “Applicant”) is the applicant and has elected to address this standard by obtaining a land use
17 determination from the Council pursuant to ORS 469.504(1)(b). As is relevant here, this
18 requires the following finding:

19
20 “(A) The facility complies with applicable substantive criteria from the
21 affected local government’s acknowledged comprehensive plan and
22 land use regulations that are required by the statewide planning goals
23 and in effect on the date the application is submitted, and with any
24 Land Conservation and Development Commission administrative rules
25 and goals and any land use statutes directly applicable to the facility
26 under ORS 197.646(3); [or]

27
28 “(B) For an energy facility or a related or supporting facility that must be
29 evaluated against the applicable substantive criteria pursuant to
30 subsection (5) of this section, that the proposed facility does not
31 comply with one or more of the applicable substantive criteria but does
32 otherwise comply with the applicable statewide planning goals, or that
33 an exception to any applicable statewide planning goal is justified
34 under subsection (2) of this section.” ORS 469.504(1)(b); *see also*
35 OAR 345-022-0030(2)(b).¹

36
37 The proposed facility (the “Summit Project” or the “Project”), as addressed in the Final
38 Order and in the site certificate and as described in the Application for Site Certificate
39 (“ASC”), will comprise an energy facility, natural-gas pipeline, water intake pipeline, and
40 electrical transmission line, as well as a temporary construction staging area. The facility will
41 be located on land within the land use jurisdiction of Columbia County (the “County”).
42

43 **II. DESCRIPTION OF PROPOSED FACILITIES**

¹ ORS 469.504(1)(b)(C) does not apply, because the special advisory group has recommended the applicable substantive criteria.

1
2 The proposed energy facility will consist of two combustion turbine generators, two heat-
3 recovery steam generators, and one steam turbine generator. It will be located on property
4 owned by the Port of St. Helens (the “Port”), approximately 4.5 miles from the city of
5 Clatskanie and approximately 0.25 mile south of the Columbia River. The parcel to be leased
6 from the Port includes 53 acres, of which about 20 acres will be occupied by the energy
7 facility and switchyard.

8
9 The energy facility will be fueled by natural gas from the existing Kelso-Beaver (“K-B”)
10 pipeline. An interconnecting pipeline 16 inches in diameter will be constructed below grade
11 between the existing K-B pipeline and the energy facility. The interconnecting pipeline will
12 be approximately 5,100 feet long and will be placed in existing road rights-of- way. The gas
13 pipeline right-of-way is proposed to be 25 feet wide and would occupy about three acres.

14
15 A water pipeline would supply water to the energy facility from Ranney® collectors located
16 in Bradbury Slough. The water pipeline would be located in a 25-foot right-of-way about
17 8,500 feet long, primarily in existing road rights-of- way. It would occupy about five acres.

18
19 Summit/Westward has contracted with Portland General Electric Company (“PGE”) for
20 transmission of electric power between the Summit Project and the Bonneville Power
21 Administration (“BPA”) Allston Substation, approximately 10 miles from the energy facility.
22 The transmission line would be constructed and operated by PGE and will be fully reviewed
23 under the ASC for PGE’s Port Westward Generation Project (“PWGP”), which the Oregon
24 Office of Energy (the “Office” or “OOE”) filed on April 11, 2002. Summit/Westward
25 proposes a short (1,000 feet) transmission line that would interconnect the energy facility
26 with the PGE transmission line at a “dead-end” structure to be erected on the energy facility
27 site.

28 29 **III. COLUMBIA COUNTY LAND USE REGULATIONS**

30
31 The proposed facility will be located entirely within the County’s planning jurisdiction. As a
32 result, these facilities will be subject to the provisions of the Columbia County Zoning
33 Ordinance (“CCZO”). The applicable regulations are those that were in effect in July 2001,
34 when Summit/Westward submitted its ASC.

35
36 Pursuant to ORS 469.480, the Council named the Columbia County Board of Commissioners
37 as special advisory group. Pursuant to ORS 469.504(5), Columbia County Land Use Services
38 identified applicable substantive criteria. In a letter from Glenn Higgins, Columbia County
39 Chief Planner, to Adam Bless of the Office, the County identified the following criteria:

40 41 Columbia County Zoning Ordinance - Specific Criteria for the Resource Industrial Planned 42 Development (“RIPD”) Zone²

43 CCZO § 681.1 through .6

44 CCZO § 683.1.A, .B.1 through .B.3, and .C.1 through .C.4

² The County did not identify CCZO § 684 as applicable. However, this Attachment to the Final Order addresses those criteria, and the Applicant discussed them in the ASC.

1 CCZO § 683.3 through 683.4

2
3 Columbia County Zoning Ordinance – General Criteria³

4 CCZO §1503.5 A through G

5 CCZO §1550.5 through 1550.13

6
7 Comprehensive Plan Goals and Policies

8 Resource Industrial Development, goals and policies 1 through 3 A-G;

9 Economy, goals and policies 1, 2, 8, and 11;

10 Industrial Development, goals and policies 1, 2, 5, 9, 11, and 12;

11 Transportation, goals and policies 3 and 5; and

12 Public Facilities, goals and policies 1, 4 and 13.

13
14 Summit/Westward proposes to use an approximately 10-acre construction staging area during
15 construction. That staging area will be immediately adjacent to the energy facility site on
16 land zoned Primary Agricultural (“PA-38”) and is discussed below in Section V. In addition,
17 Summit/Westward has requested a number of variances, which are discussed below in
18 Section VI.

19
20 This Attachment to the Final Order is therefore organized as follows. First, we review the
21 proposed facility for compliance with the specific conditional-use criteria for the RIPD zone.
22 We then review the proposed facility for compliance with the general criteria from the CCZO
23 for conditional uses. Next, we address the design-review criteria found in CCZO §§ 1550.5
24 through .13. We then address applicable criteria from the Comprehensive Plan’s goals and
25 policies. Next, we address the temporary staging area, followed by Summit/Westward’s
26 variance requests. Last, we address any regulations of the LCDC that are directly applicable
27 to the facility under ORS 197.646.

28
29 **A. SPECIFIC CRITERIA FOR RIPD ZONE**

30
31 The proposed facility is located entirely within the County’s RIPD zone.⁴ The proposed
32 facility is permissible as a conditional use in the RIPD zone. CCZO § 683 provides that:

33
34 “The following uses may be permitted subject to the conditions imposed for
35 each use:

36
37 “.1 Production, processing, assembling, packaging, or treatment of
38 materials; research and development laboratories; and storage and
39 distribution of services and facilities subject to the following
40 findings:”

41 The proposed facility is permitted subject to the prescribed conditions because it is a use that

³ The County also identified CCZO §§ 1313.1 through .5 and 1400. Those sections are addressed in the discussion of CCZO § 683.3.

⁴ Unless otherwise noted, the discussion of the Project or the facility includes the gas pipeline, water line, and interconnection to the PGE transmission line, all of which are in the RIPD zone and subject to the same criteria as the energy facility.

1 involves the production of electricity through processing a material (natural gas), as well as
2 the distribution of that electricity as a service. The related and supporting facilities are also
3 permitted under prescribed conditions within the RIPD zone. The pipelines are uses that
4 facilitate the production of electricity. The transmission line distributes that electricity.
5 Further, the chief planner for Columbia County has stated that “storage and distribution of
6 services” was inserted into the ordinance to recognize and provide for the then-existing
7 Beaver Power Plant, which is a gas-fired electric generating facility. In 2001, the Beaver
8 Power Plant applied for an expansion, which the County approved as an expansion to a
9 facility for “storage and distribution of services.” For these reasons, the Project is a
10 conditional use in the RIPD zone.

11
12 **CCZO § 681 Purpose:**

13
14 “The purpose of this district is to implement the policies of the
15 Comprehensive Plan for Rural Industrial Areas. These provisions are intended
16 to accommodate rural and natural resource related industries, which:

17
18 “.1 Are not generally labor intensive;”

19
20 The Summit Project is not generally labor intensive. Once the Project is constructed, about
21 20 permanent workers will be needed to staff the plant, including operators, maintenance
22 personnel, and three to four administrators.

23
24 The energy facility site is 53 acres. This indicates a ratio of 0.38 employees per acre. In the
25 County’s Industrial Economic Analysis, which formed the factual basis for the County’s
26 Exception Statement for the Port Westward Industrial Area (see Comp Plan page 115), the
27 County estimated the employment capacity of vacant buildable industrial sites at Port
28 Westward at 1.0 employee per acre. Therefore, the projected employment density at the
29 proposed energy facility is lower than the figure the County estimated in its Comprehensive
30 Plan.

31
32 “.2 Are land extensive;”

33
34 The Project is land-extensive. The parcel of land Summit/Westward is leasing in order to site
35 the Project is approximately 53 acres, of which approximately 20 acres would be
36 permanently occupied by Project facilities.

37
38 “.3 Require a rural location in order to take advantage of adequate rail
39 and/or vehicle and/or deep water port and/or airstrip access;”

40
41 The energy facility requires a rural location to utilize the Columbia River and Bradbury
42 Slough as water sources, and to take advantage of the existing facilities, including the
43 existing intake structure on the Columbia River/Bradbury Slough and the natural-gas
44 pipeline. The site also affords access to the Burlington Northern Railroad Astoria-to-Portland
45 branch line and docking facilities on the Columbia River, which will be used to ship the
46 heaviest pieces of equipment during construction.

1 “.4 Complement the character and development of the surrounding rural
2 area;”
3

4 The Project complements the character and development of the surrounding rural area.
5 Although the site is located in an area that currently supports some agriculture, the site is
6 located within the Port Westward Exception area identified in the Comprehensive Plan and
7 zoned for industrial use.
8

9 The area already has a “substantial commitment to industrial use.” Comprehensive Plan at
10 115. The Port Westward area totals 905 acres, of which 120 acres contain PGE’s Beaver
11 Power Plant, a 535-MW electric generating plant. Near the Beaver Power Plant are a 1,250-
12 foot dock and a 1.3-million-barrel tank farm. Approximately 300 acres of the 905-acre
13 industrial area contain dredge fill and are no longer considered resource lands. The remaining
14 485 acres are needed for future industrial expansion. Development at or near the site includes
15 deep-water port facilities, access to rail services, water intake facilities, a natural gas
16 pipeline, and a transmission corridor. The proposed facility will complement and utilize this
17 existing infrastructure. Surrounding lands to the north and east are also within the RIPD
18 zone.
19

20 The surrounding area to the south and west is zoned PA-38 and in agricultural use. The most
21 significant agricultural operation in the Project vicinity is approximately 6,000 acres of
22 hybrid poplars grown for pulp and/or lumber production. Other agricultural uses in the
23 vicinity (*i.e.*, within about five miles of the site) include seed grass, mint, and berry crops. No
24 Prime Farmland (Class I or Class II soils) is located on or in the vicinity of the Project site.
25 The low levels of employment and low levels of traffic during normal operations are
26 consistent with the low-intensity uses on the neighboring rural land. The proposed energy
27 facility will not interfere with these uses. Noise from the energy facility will meet Oregon
28 Department of Environmental Quality (“DEQ”) noise standards and will generally be lower
29 than the noise associated with farm equipment. The facility will not affect soil productivity
30 because it will comply with the Council’s Soil Protection standard, OAR 345-022-0022.
31 Summit/Westward’s projections regarding deposition of salts and chemicals from the
32 cooling-tower plume demonstrate that there will be no significant impact on soil. The facility
33 will not contribute to soil erosion or groundwater pollution, because it will comply with the
34 terms of National Pollutant Discharge Elimination System (“NPDES”) stormwater discharge
35 permits issued by DEQ during construction and operation. Conditions to prevent and mitigate
36 adverse impacts on soils are proposed at section D.5 of the Final Order. A construction
37 staging area will be located on agricultural land (as more fully discussed in Section V), but
38 the Summit/Westward will restore that area to full use upon completion of construction.
39

40 The Project will not affect refuges, sanctuaries, or scenic waterways and will not have off-
41 site impacts that might affect refuges or protected areas, because of their distance from the
42 site. As noted in the discussion of the Council’s Protected Areas standard, OAR
43 345-022-0040, (section D.6 of the Final Order), the nearest such protected areas are 12 miles
44 from the site and are too far away to be affected by construction or operation of the facility.
45 Summit/Westward has designed the energy facility and linear facilities (natural-gas pipeline,
46 transmission line, and water supply line) to avoid and minimize impacts to jurisdictional
47 wetlands. Summit/Westward will provide compensatory mitigation for any wetlands affected

1 by the Project, under conditions of a removal-fill permit meeting Oregon Division of State
2 Lands (“DSL”) requirements.

3
4 “5 Are consistent with the rural facilities and services existing and/or
5 planned for the area; and”
6

7 The Project is consistent with the rural facilities and services planned for the area. No
8 municipality provides sewers or sewage treatment to the Port Westward Industrial Area, and
9 no municipality will be asked to provide these services to the Project. Sewage treatment for
10 the Project will be minimal, as there will be approximately 20 employees at the site. Sewage
11 disposal for on-site kitchen and restroom facilities will be by on-site septic system, for which
12 Summit/Westward will obtain a Water Pollution Control Facilities (“WPCF”) permit from
13 DEQ. No off-site sewage treatment will be required.
14

15 Water will be provided by the Port. The Project's water requirements can be met within the
16 Port's existing water right. Section D.2.c of the Final Order includes a demonstration and
17 findings that Summit/Westward has made appropriate contractual arrangements to obtain
18 water from the Port and that the Port will obtain any needed amendments to its water right.
19

20 Wastewater discharge services are not needed, because Summit/Westward proposes a zero-
21 liquid-discharge facility. The Project will achieve zero-discharge of process wastewater by
22 installing a brine concentrator/crystallizer system on-site. This system will treat concentrated
23 brine from the circulating water treatment plant. This treatment plant will recover essentially
24 all water for reuse, leaving only a very small waste stream for treatment by the brine
25 concentrator/crystallizer. Concentrated brine solids will be shipped to a regulated landfill site
26 permitted by the federal government and/or the state to handle these wastes.
27

28 If the brine concentrator/crystallizer unit is inoperative, the brine from the wastewater stream
29 will be discharged to the temporary wastewater storage ponds. When the brine
30 concentrator/crystallizer is operational, the wastewater stored in these ponds will be
31 recirculated back to the brine concentrator/crystallizer unit.
32

33 Two storm water systems will be developed for the Project. The first storm water system will
34 recover rainwater in secondary containment areas, drains near plant equipment, and areas that
35 store hazardous material. Storm water from these sources will be directed to an oil/water
36 separator. Oily waste will be sent off-site for disposal, and the remainder will be recycled in
37 the plant’s circulating water system.
38

39 The second storm water system will recover runoff from remaining plant areas. Collection
40 and discharge of these waters will be covered by the NPDES stormwater discharge permit (a
41 federally delegated permit outside Council jurisdiction) and the stormwater pollution
42 prevention plan developed specifically for the Project. After treatment through an oil/water
43 separator, runoff will be discharged to the Beaver Drainage District's canal system. The
44 Beaver Drainage District has indicated that more than adequate capacity in the drainage
45 canals exists to accept the site's drainage.
46

1 Solid waste from the site will be minimal. Solid waste will be collected on-site and will be
2 adequately handled by the county's flow-control system for solid-waste disposal. In
3 particular, solid waste from the facility will be delivered to county transfer stations, with
4 ultimate disposal occurring at the River Bend landfill.

5
6 “.6 Will not require facility and/or service improvement at significant
7 public expense.”
8

9 The proposed facility will not require water or wastewater service at public expense. Water
10 will be purchased from the Port, which has ample capacity in its existing water right.
11 Sanitary waste will be handled utilizing an on-site septic system approved by DEQ, which
12 will be sufficient because permanent staffing at the facility will be small. The facility will not
13 require industrial wastewater discharge, because Summit/Westward intends to install a zero-
14 liquid-discharge system. The energy facility will have an on-site fire protection system
15 designed in accordance with National Fire Protection Association (“NFPA”) codes and will
16 not impose significant expense on the public generally or the Clatskanie Rural Fire
17 Department in particular.
18

19 The facility will impact local roads, particularly during construction. In an August 14, 2001
20 letter to the Office, the Columbia County Board of Commissioners wrote that local roads in
21 the area have deteriorated over time. The Commissioners noted that those roads were not
22 originally designed for heavy construction.
23

24 Summit/Westward submitted a traffic impact study and a transportation improvement study
25 by consultant Kittelson and Associates (“Kittelson”). These studies indicate that road
26 improvements are necessary, partly due to the expected impact of the Summit Project and
27 partly due to the expected impact from other anticipated industrial development. The studies
28 considered the combined impact of the Summit Project and two other potential
29 developments, the PGE PWGP and an ethanol production facility proposed by Cascade
30 Grain.
31

32 The studies recommend a traffic control plan to mitigate the impact of traffic during
33 construction, as well as mitigation measures such as guardrails on sharp curves and asphalt
34 overlays on broken pavement and narrow road sections. The studies recommend certain
35 actions that should be implemented either before or during construction, such as installation
36 of guardrails. Other actions, such as resurfacing of local roads, are recommended after
37 construction. Once construction is complete, the Summit Project impact on local roads is not
38 expected to be significant. The studies concluded that construction and operation of the
39 Summit Project will contribute about 11 percent of the impact to local roads over the next 20
40 years, assuming that all three proposed projects are constructed. The share of impact
41 attributed to the Summit Project would increase if either the PGE or Cascade Grain facility
42 were cancelled. The projected impact to local roads is also based on the assumption that
43 Summit/Westward will, to the extent practical, utilize rail and barge facilities to ship heavy
44 equipment and material to the site.
45

46 On June 5, 2002, the County and Summit/Westward entered into a Transportation
47 Improvement Contribution Agreement, under which Summit/Westward agreed to pay for its

1 share of the public transportation improvements identified in the Kittelson Transportation
2 Impact Analysis included in the ASC. By letter to the Office (dated May 23, 2002), the
3 County Board of Commissioners confirmed its intent to perform the identified improvements
4 consistent with the timeline in the Kittelson analysis (Table 5) and confirmed that the
5 planned transportation facility improvements and funding mechanisms would satisfy the
6 County's Comprehensive Plan and Zoning Ordinance.

7
8 The Council has adopted conditions that require Summit/Westward to utilize rail and barge
9 for shipment of heavy equipment and material and to work with the other prospective
10 developers to facilitate carpooling, staggered shifts, and other measures that will reduce
11 impact on local roads during construction. These proposed conditions are included in the
12 Final Order as Conditions E.6 (3) through E.6 (7).

13
14 “The uses contemplated for this district are not appropriate for location within
15 Urban Growth Boundaries due to their relationship with the site-specific
16 resources noted in the Plan and/or due to their hazardous nature.”⁵

17
18 The facility will not create a hazard that would make it unsuitable for location within an
19 Urban Growth Boundary (“UGB”). However, the facility will rely on several site-specific
20 resources and facilities, including water from the Columbia River and Bradbury Slough, the
21 K-B pipeline, existing transmission line right-of-way, existing rail lines, and the ability to
22 utilize the Columbia River for shipment of heavy equipment and material. The Project is also
23 inappropriate within the neighboring UGB because the energy-facility footprint is about 20
24 acres. Industrially zoned parcels of this size are not available within the neighboring UGB.

25
26 **CCZO § 683 Uses Permitted Under Prescribed Conditions:**

27
28 As discussed above, the proposed facility qualifies as a conditional use in the RIPD zone. As
29 such, it is subject to the following criteria:

30
31 **CCZO § 683.1**

32
33 “A. The requested use conforms with the goals and policies of the
34 Comprehensive Plan — specifically those policies regarding rural
35 industrial development and exceptions to the rural resource land goals
36 and policies.”

37
38 The County’s Comprehensive Plan provides that the goal of the RIPD zoning designation is
39 "to provide for industrial development on rural lands when such development can be shown
40 to support, utilize, or in some manner be dependent upon the natural resources of the area."
41 The Port Westward Exception Statement provides that the RIPD designation at the Port
42 Westward Industrial Area “is intended to take advantage of the location on the Columbia
43 River, the existing dock facilities, railroad, and urban services.” The gas pipeline is listed as
44 one of the existing facilities available at the site.

45

⁵ This standard appears, unnumbered, in CCZO § 681.

1 The proposed energy facility fulfills the Comprehensive Plan goal because it is an industrial
2 use that is dependent on the Columbia River and the Bradbury Slough as water sources. It
3 fulfills the purpose of the exception by taking advantage of its proximity to the Columbia
4 River, existing K-B pipeline, and existing rail and dock facilities.

5
6 The goals and policies of the Comprehensive Plan identified by the County as applicable to
7 this facility include the goals and policies for transportation, economy, public facilities,
8 resource industrial development and the Port Westward Exception Statement. Section IV of
9 this Attachment addresses these goals and policies in detail and the Council finds that the
10 proposed facility conforms to those goals and policies.

11
12 “B. The potential impact upon the area resulting from the proposed use has
13 been addressed and any adverse impact will be able to be mitigated
14 considering the following factors:

15 “1. Physiological characteristics of the site (i.e., topography,
16 drainage, etc.) and the suitability of the site for the particular
17 land use and improvements;”

18
19 The site is particularly well suited to the proposed use. Its location and features mitigate
20 potential adverse impacts. As an initial matter, the facility will be located in an area intended
21 and developed for industrial use. The proximity to docking and rail facilities will allow
22 shipment of the heaviest pieces of equipment by barge or rail. This will relieve pressure on
23 transportation facilities. The proximity of the existing transmission line right-of-way allows
24 Summit/Westward to connect to the regional transmission network without the need for a
25 new corridor. Existing roads connect the site with the K-B gas pipeline and the Port’s water
26 intake, so that gas and water pipelines will utilize existing right-of-way. The size and
27 topography of the site are also well suited for the proposed energy facility. The site is
28 substantially larger than that needed for the facility, thereby allowing a buffer area. The
29 terrain is relatively flat. Drainage ditches in the east-west and north-south direction provide
30 drainage.

31
32 Soil and drainage impacts will be mitigated because the site certificate will include
33 conditions pursuant to the Council’s Soil Protection and Structural standards.
34 Summit/Westward’s geotechnical consultant has included specific design and construction
35 recommendations addressing site topography and drainage. Beaver Drainage District was
36 consulted in making these recommendations. Summit/Westward will implement detailed
37 drainage control and mitigation plans that have been reviewed by the Council under its Soil
38 Protection standard and by DEQ under the requirements for the storm water discharge
39 permit. The Council adopted conditions in the Final Order under section E.2, Structural
40 standard, and section D.5, Soil Protection standard, which ensure compliance with this
41 requirement.

42
43 Summit/Westward has revised the site layout to reduce potential environmental impacts,
44 including impacts related to noise and wetlands. The major structures have been positioned to
45 avoid wetlands to the extent practical, and the buffer area provides a location for
46 compensatory wetland mitigation in accordance with a plan approved by DSL. Major energy
47 facility components have been positioned to reduce noise at the nearest noise-sensitive

1 receptor. The larger structures have been consolidated to reduce the overall visual effect.
2 Landscaping will be used to screen certain elements of the Project.

3
4 “2 Existing land uses and both private and public facilities and services in
5 the area;”
6

7 Existing land uses in the area include agriculture and power production. The site is located in
8 the Port Westward Exception area, which already has a substantial commitment to industrial
9 use. The site is zoned for rural industrial development and is near an existing 535-MW
10 generating plant.

11
12 The surrounding area is zoned PA-38. The proposed facility will require some staging in the
13 PA-38 zone, as further discussed in Section V. Upon completion of construction,
14 Summit/Westward will fully restore the staging area for agricultural use. Noise from the
15 facility will not adversely affect farming in the surrounding area, because the facility will
16 meet DEQ noise standards. The facility will not adversely affect soils in the surrounding
17 area, because it will comply with conditions imposed under the Council’s Soil Protection
18 standard, OAR 345-022-0022, listed at section D.5 of the Final Order.
19

20 Private and public facilities and services in the area include natural-gas supply, water supply,
21 rail and dock facilities, and roads. No municipality provides sewers in the Port Westward
22 area, and none will be required, because of the relatively small number of employees.
23 Sewage will be discharged to an on-site septic system under a WPCF permit issued by DEQ.
24

25 Stormwater will be discharged in accordance with storm water NPDES permits issued by
26 DEQ. After processing through an oily-water separator to remove oils and chemicals,
27 stormwater will be discharged to the Beaver Drainage District’s canal system. The Beaver
28 Drainage District has indicated that more than adequate capacity in the drainage canals exists
29 to accept the site’s drainage. Oils and chemicals removed by the oily-water separator will be
30 shipped off-site for disposal or treatment at a regulated facility.
31

32 As fully described in response to CCZO § 681.6, the County and Summit/Westward have
33 entered into a binding agreement requiring prospective developers (including
34 Summit/Westward) to pay the costs of necessary transportation improvements in the Port
35 Westward and Clatskanie areas. Proposed conditions also require Summit/Westward to
36 utilize rail and barge for shipment of heavy equipment and material and to work with the
37 other prospective developers to facilitate carpooling, staggered shifts, and other measures
38 that will reduce impact on local roads during construction. These proposed conditions appear
39 under OAR 345-022-0110, Conditions (3) through (5), at section E.6 of the Final Order.
40

41 “3 The demonstrated need for the proposed use is best met at the
42 requested site considering all factors of the rural industrial element of
43 the Comprehensive Plan.”
44

45 To establish a RIPD Zone on resource land, Columbia County was required to meet the
46 requirements for an exception to Goal 3 of the statewide planning goals. In the Port
47 Westward Exception Statement in the Comprehensive Plan, the County demonstrated a need

1 for industrial siting in the Port Westward Exception area. The findings in that statement were
2 applied on a general basis and apply specifically here. Beyond the general need for industrial
3 siting, this site is especially well suited to the particular use proposed, for the reasons
4 described above with respect to CCZO §§ 681 and 683. The factors of the resource-industrial
5 element of the Comprehensive Plan are addressed in the response to CCZO § 681 above.

6
7 “C. The requested use can be shown to comply with the following
8 standards for available services:

9 “.1 Water shall be provided by an on-site source of
10 sufficient capacity to serve the proposed use, or
11 a public or community water system capable of
12 serving the proposed use.”
13

14 Water for construction and operation of the Project will be supplied under a contract with the
15 Port. The Port has a water right permit from the state of Oregon to use up to 30 cubic feet per
16 second (“cfs”) of Columbia River water to supply commercial and industrial users in the
17 Port's service area (State of Oregon Water Right Permit No. 53677). The Project will contract
18 with the Port for approximately 7 cfs of the Port's total right. The Port will require an
19 amendment to its water right, allowing a new diversion point to serve the Summit Project.
20 Pursuant to the Council’s Organizational Expertise standard, OAR 345-022-0010(3), the
21 Oregon Water Resources Department (“WRD”) has provided evidence that there is
22 reasonable likelihood that WRD can approve the amendment, and in section D.2 of the Final
23 Order we find a reasonable likelihood that the Port will receive the necessary amendment.

24
25 “.2 Sewage will be treated by subsurface sewage system, or community or
26 public sewer system, approved by the County Sanitation and/or the
27 State DEQ.”
28

29 Sewage treatment for the Project will be minimal, as there will be approximately 20
30 employees at the site. Sanitary sewage disposal for on-site lunchroom and restroom facilities
31 will be by an on-site septic system approved by DEQ and operated under a WPCF permit. No
32 off-site sewage treatment will be required.
33

34 “.3 Access will be provided to a public right-of-way constructed to
35 standards capable of supporting the proposed use considering the
36 existing level of service and the impacts caused by the planned
37 development.”
38

39 Access to the Project will be provided by a public right-of-way capable of supporting the
40 proposed use, considering the existing level of service and the impacts expected to be caused
41 by the Project. Gravel and heavy plant components will be shipped by barge or rail to the
42 extent practicable. Regarding road access to the site, Summit/Westward submitted in its ASC
43 a detailed traffic and road impact analysis prepared by Kittelson, which identifies the
44 necessary road improvements, estimates their cost, and states the proportional share of
45 impact attributed to the Project. Summit/Westward will contribute its proportional share
46 toward necessary road improvements under a signed agreement with the County. A detailed
47 analysis of road impact issues appears in the response to CCZO § 681.6.

1
2 “.4 The property is within, and is capable of being served by, a rural fire
3 district; or, the proponents will provide on-site fire suppression
4 facilities capable of serving the proposed use. On-site facilities shall be
5 approved by either the State or local Fire Marshal.”
6

7 The Project will rely on both on-site fire protection systems and local fire protection services.
8 The Project is located within and will be served by the Clatskanie Rural Fire Protection
9 District. The on-site fire protection system will be designed to protect personnel and limit
10 property loss in the event of a fire. A 600,000-gallon raw water storage tank will be the
11 primary supply of fire water. The water storage tank will have a standpipe on the normal
12 water supply outlet line to prevent the use of the dedicated fire protection portion of the
13 storage tank’s water for other purposes. The dedicated water supply will be designed in
14 accordance with NFPA 850 to provide the appropriate minimum protection from the on-site
15 worst-case single fire. The groundwater wells providing water to the Project will provide a
16 secondary source of fire protection water, with a third source being the cooling tower water
17 basin.
18

19 **CCZO § 683.3 Signs as provided in Chapter 1300:**
20

21 CCZO § 683.3 provides that signs are allowed in the RIPD zone, subject to CCZO § 1300.
22 Section 1300 includes requirements for size, setback, illumination, and design of signs. The
23 Project will meet the requirements of CCZO § 1300.
24

25 Signage on an energy facility is typically for identification, security, or safety purposes,
26 rather than advertising, and is therefore sized to be visible only to those who need to see it.
27 The ASC states that no signs are proposed at this time. The Council has adopted Condition
28 D.4 (1) under the Land Use standard in the Final Order requiring that any signs used comply
29 with requirements of CCZO § 1300 applicable to industrial districts.
30

31 **CCZO § 683.4 Off street parking and loading as provided in Chapter 1400:**⁶
32

33 For a manufacturing use, CCZO § 1416.5 requires one parking space per employee on the
34 largest shift. Summit/Westward has provided a parking plan that provides 14 spaces (and has
35 committed to a final site plan with 21 spaces). That is more than sufficient, given that the
36 energy facility is expected to have approximately 20 employees divided among three shifts.
37 Specific requirements for dimensions of parking places and aisles, as well as accessible
38 parking and parking lot landscaping, will be addressed in a plot plan before issuance of
39 building permits. The Council has adopted Condition D.4 (2) under the Land Use standard in
40 the Final Order requiring Summit/Westward to provide for parking and loading spaces in
41 compliance with the requirements of CCZO § 1400, except as otherwise noted in Section VI
42 regarding variances.
43

⁶ CCZO §§ 683.2 and 683.5 pertain to accessory buildings and home occupations, respectively. Neither is applicable to the proposed use.

1 **CCZO § 684 Standards:**

2
3 “1 The minimum lot or parcel size for uses allowed under Section 682
4 shall be 38 acres.”

5
6 This criterion is not applicable. The facility is allowed under CCZO § 683.

7
8 “2 The minimum lot or parcel size, average lot or parcel width and depth,
9 and setbacks for uses allowed under Section 683, shall be established
10 by the Planning Commission and will be sufficient to support the
11 requested rural industrial use considering, at a minimum the following
12 factors:

13 “A. Overall scope of the project. Should the project be proposed to
14 be developed in phases, all phases shall be considered when
15 establishing the minimum lot size.

16 “B. Space required for off-street parking and loading and open
17 space, as required.

18 “C. Setbacks necessary to adequately protect adjacent properties.”

19
20 The energy facility will be located on 53 acres within the Port Westward Industrial Area and
21 leased from the Port. The energy facility will occupy 20 acres, with the remainder available
22 as a buffer zone. Summit/Westward is not proposing to develop the energy facility in phases.
23 The 20-acre site provides adequate space for all site improvements, including off-street
24 parking and loading, and incorporates setbacks from any potential surrounding uses. The site
25 contains wetlands and structures that are set back over 200 feet from the northern property
26 line. The setback of the cooling towers from the western property line is estimated to be a
27 minimum of 50 feet. The wastewater pond is approximately 45-50 feet from the eastern and
28 southern property lines. These setbacks are adequate to protect adjacent properties.

29
30 “3 Access shall be provided to a public right-of-way of sufficient
31 construction to support the intended use, as determined by the County
32 Roadmaster.”

33
34 Access to the site will be via an existing county road, Kallunki Road. This road is capable of
35 supporting all traffic that would be generated by the operation of the energy facility.
36 Summit/Westward and the County have identified improvements and mitigation measures
37 needed to address transportation-related impacts during construction and documented their
38 agreement with respect to the timing and funding of those improvements. The discussion of
39 CCZO § 681.6 includes a detailed discussion of these transportation-related impacts and the
40 conditions regarding their mitigation.

41
42 **B. GENERAL CRITERIA AT CCZO § 1503 FOR CONDITIONAL USES**

43
44 CCZO § 1503 contains general criteria for all conditional uses. Pursuant to CCZO
45 § 1503.5, Summit/Westward must demonstrate that the proposed use satisfies the following
46 criteria:

1 “A. The use is listed as a Conditional Use in the zone which is currently
2 applied to the site;”
3

4 The following uses may be permitted as conditional uses in the RIPD zone:
5

6 “Production, processing, assembling, packaging, or treatment of materials;
7 research and development laboratories; and storage and distribution of
8 services and facilities * * *.” CCZO § 683.1.
9

10 Summit/Westward proposes a use that involves the production of electricity through the
11 processing of a material (natural gas), as well as the distribution of that electricity as a
12 service. The natural-gas and water supply pipelines facilitate the production of electricity and
13 distribute gas and water. The transmission line distributes the electricity. Further, the chief
14 planner for the County has stated that “storage and distribution of services” was inserted into
15 the ordinance to recognize and provide for the then existing Beaver Power Plant, which is a
16 gas-fired electric generating facility. In 2001, the Beaver Power Plant applied for an
17 expansion, which the County approved as an expansion to a facility for “storage and
18 distribution of services.” For these reasons, the Project is a conditional use in the RIPD zone.
19

20 “B. The use meets the specific criteria established in the underlying zone;”
21

22 These specific criteria for the RIPD zone are set forth at CCZO § 683, which is addressed in
23 detail in section III.A of this Attachment. One of the specific criteria in CCZO § 683 is that
24 the requested use must conform to applicable goals and policies of the Comprehensive Plan.
25 Those goals and policies are addressed in detail in Section IV of this Attachment. As
26 conditioned, the Project will meet the applicable Comprehensive Plan goals and policies and
27 the specific criteria for the RIPD zone.
28

29 “C. The characteristics of the site are suitable for the proposed use
30 considering the size, shape, location, topography, existence of
31 improvements, and natural features;”
32

33 The site itself is 53 acres in size and flat. It is well suited for the proposed facility because it
34 will accommodate the 20-acre plant size while providing an additional 33 acres as buffer
35 area. It is located near an existing transmission corridor, an existing natural-gas supply line,
36 and the Columbia River and Bradbury Slough, which will serve as the energy facility's water
37 supply and provide convenient access to a deep-water port, making it efficient to use a barge
38 to transport the heaviest pieces of equipment to the site. The site is also served by rail lines
39 that could be used to transport heavy equipment. Existing roads between the energy facility
40 site and Bradbury Slough provides suitable right-of-way for the water supply pipeline, and
41 existing roads between the energy facility site and the K-B pipeline provide suitable right-of-
42 way for the gas supply line that will serve the energy facility.
43

44 Further, the general area already has a substantial commitment to industrial use. The site is
45 part of a 905-acre parcel owned by the Port. Approximately 120 acres of this parcel are
46 already developed and contain a 535-MW electric generating plant, a 1,250 foot loading
47 dock, and a 1.3-million-barrel tank farm. Approximately 300 acres contain dredge fill and are
48 no longer considered resource land. The remainder of the 905 acres is earmarked for future

1 industrial expansion.

2
3 “D. The site and proposed development is timely, considering the
4 adequacy of transportation systems, public facilities, and services
5 existing or planned for the area affected by the use;”
6

7 Adequate transportation systems, public facilities, and services either exist or are planned. As
8 noted above, a loading dock and rail line are available for shipment of the heavier pieces of
9 equipment during construction. The Project's only significant impacts on local transportation
10 will occur during construction. As discussed in detail under CCZO § 681.6, the County and
11 Summit/Westward have negotiated a detailed, binding agreement committing
12 Summit/Westward to pay its share of the cost of necessary transportation improvements.
13

14 In a May 23, 2002 letter from the Columbia County Board of Commissioners to Adam Bless,
15 the Commissioners state that the County intends to place a leveling course on Kallunki Road
16 before construction commences on the Project. The letter also states that certain
17 improvements that are recommended “before/during” construction will be implemented by
18 the County during construction of the Project. The letter also states that the County has been
19 awarded grants and loans from the U.S. Economic Development Administration and the
20 Oregon Economic & Community Development Department for the purpose of making the
21 improvements to local roads described in the Kittelson Transportation Improvement Study.
22 The County concluded that the Project is timely, considering the adequacy of existing or
23 planned transportation systems in the Port Westward/Clatskanie area.
24

25 The other public facilities and services affected by the proposed facility include water supply
26 and storm water discharge. The Summit Project will purchase water from the Port under an
27 existing water right. No municipality in the Port Westward Industrial Area provides sewage
28 treatment services. Sewage will be discharged to an on-site septic system under a DEQ
29 WPCF permit. Storm water discharge during construction and operation will be covered by
30 NPDES storm water permits issued by DEQ. Storm water will be discharged to the Beaver
31 Drainage District. Process wastewater will not require discharge. The energy facility will use
32 a zero-discharge wastewater system that will recycle process water through the cooling tower
33 and concentrate the waste into a solid form. The solid waste from the facility will be
34 delivered to County transfer stations. The County's flow-control system for solid-waste
35 disposal is adequate to handle the solid waste generated at the facility.
36

37 “E. The proposed use will not alter the character of the surrounding area in
38 a manner which substantially limits, impairs, or precludes the use of
39 surrounding properties for the primary uses listed in the underlying
40 district;”
41

42 The land leased from the Port contains 53 acres, all within the RIPD zone. The power plant
43 will occupy 20 acres, with the remainder of the property to be used as a natural buffer
44 between the Project and adjacent uses. The proposed facility is approximately 4,000 feet
45 from the existing 535-MW gas-fired Beaver Power Plant. Therefore, the Project will not
46 substantially alter the character of the surrounding area or preclude the use of surrounding
47 properties for the primary uses in the underlying district.

1
2 The surrounding area to the north and west is within the RIPD zone and already has a
3 “substantial commitment to industrial use.” The surrounding area to the south and west is
4 zoned PA-38 and in agricultural use. The discussion addressing CCZO § 681.4 demonstrates
5 that the proposed facility will not alter the character of the surrounding areas or impair the
6 use of surrounding properties for the primary uses listed in their respective districts.
7

8 “F. The proposal satisfies the goals and policies of the Comprehensive
9 Plan which apply to the proposed use;”

10
11 The goals and policies of the Columbia County Comprehensive Plan are addressed in detail
12 in Section IV, below. That section includes the Council’s finding that the proposal meets the
13 applicable goals and policies of the Comprehensive Plan.
14

15 “G. The proposal will not create any hazardous conditions;”

16
17 The potential hazards from construction and operation of the facility include the use of
18 hazardous chemicals, fire hazard, and hazards associated with the natural-gas pipeline.
19 Summit/Westward provided a list of all hazardous materials expected to be used on-site
20 during construction and operation. ASC, Exhibit G. These materials will consist of fuels,
21 lubricants, solvents, and chemicals required for water treatment. Hazardous materials will be
22 handled by personnel trained in their use and will be stored only in approved containers.
23 Delivery of these materials will comply with U.S. Department of Transportation regulations.
24 Summit/Westward has prepared a draft chemical-spill control and countermeasure plan
25 (“SPCC”) pursuant to federal regulations at 40 CFR § 112. The SPCC includes measures
26 such as secondary containment with extra capacity for hazardous liquids, double-walled pipe
27 for transport of aqueous ammonia, and a training program for personnel who will handle
28 hazardous materials. Implementation of this plan will be a condition of the site certificate.
29 Summit/Westward does not plan to store hazardous waste on-site. Hazardous waste
30 generated during construction or operation will be placed in a temporary 90-day storage area.
31 The material will then be manifested under federal and state regulations for transportation
32 off-site to a permitted hazardous-waste transfer, storage and disposal facility.
33

34 Fire hazard is not significant, because the facility will be designed with fire protection
35 systems that meet NFPA codes. The discussion under CCZO § 681.C.4 (Section III.A of this
36 Attachment) lists in detail the measures proposed to ensure adequate fire protection. The
37 natural-gas supply line does not present a significant hazard, because its design and
38 construction will be reviewed by the Oregon Public Utility Commission for compliance with
39 federal safety regulations at 49 CFR § 192.
40

41 At the end of its useful life, the facility will meet the Council’s Retirement and Financial
42 Assurance standard, which requires the Council to find that the site can be restored to a
43 useful non-hazardous condition. Therefore, the proposal will not create a hazardous
44 condition.
45

46 **C. OTHER COLUMBIA COUNTY ZONING PROVISIONS**
47

1 Certain CCZO standards apply within the County’s jurisdiction regardless of the zoning
2 designation.

3
4 **CCZO § 1550 Site Design Review:**

5
6 Columbia County Land Development Services identified site design-review criteria at CCZO
7 §§ 1550.5 through .13 as applicable criteria.

8
9 CCZO § 1550.5 does not contain substantive criteria, but it does provide a list of documents
10 required by the County for site design review. The submittal documents required are:

- 11
12 A. History.
13 B. Project narrative.
14 C. Existing site plan.
15 D. Proposed site plan.
16 E. Grading plan.
17 F. Drainage plan.
18 G. Wetland mitigation plan.
19 H. Landscaping plan
20 I. Architectural plans.
21 J. Sign drawings.
22 K. Access, parking, and circulation plan.
23 L. Impact assessment.
24 M. Site Design Review Submittal Checklist.

25
26 All of the above documents are provided in Exhibit K of the ASC. The grading and drainage
27 plans are the same plans submitted in support of compliance with the Council’s Soil
28 Protection standard, OAR 345-022-0022, and in support of the requirements for the DEQ
29 1200-C storm water discharge permit. Wetland mitigation plans were provided in support of
30 requirements for the DSL removal-fill permit. Impact assessment for fish and wildlife habitat
31 was submitted in Exhibits P and Q of the ASC in support of compliance with OAR 345-022-
32 0060 and -0070. The traffic impact assessment was submitted as Exhibit U-1 to the ASC and
33 was the basis for findings of compliance with Comprehensive Plan Resource Industrial
34 Development Policy 3.f.

35
36 In a letter dated December 21, 2001, the County notified the Office that the County had
37 received adequate documentation and considered the land use application complete, although
38 certain additional information was needed for traffic impact assessment. On February 12,
39 2002, the County notified the Office that sufficient additional information had been received
40 and that the application was complete. Therefore, the information requirements of this
41 section are met.

42
43 **CCZO § 1550.12 Landscaping: Buffering, Screening and Fencing:**

44
45 These standards address protection of existing vegetation, use of buffering and screening to
46 reduce impacts on adjacent uses that are of a different type than the Project, and standards for
47 fencing and walls.

1
2 CCZO § 1550.12.A contains requirements for preservation or replacement of on-site
3 vegetation. Pursuant to DSL wetland permitting requirements, the site certificate will be
4 conditioned to require implementation of revegetation plans approved by the Council in
5 consultation with the Oregon Department of Fish and Wildlife (“ODFW”) and DSL.
6 Summit/Westward has applied for and will comply with the terms of the required NPDES
7 storm water discharge permit for construction activities. Compliance with that permit will
8 ensure that best management practices are used to minimize erosion during construction and
9 that disturbed soils are revegetated following construction. The Council adopted conditions
10 in the Final Order under section D.5, Soil Protection standard, regarding the requirement to
11 prevent erosion. Summit/Westward has requested a variance from CCZO § 1550.12.A.2 for
12 the Project site, for security reasons.

13
14 CCZO § 1550.12.B and C contain requirements for buffering and screening. The purpose of
15 the buffering and screening standards is to reduce impacts on adjacent uses that are of a
16 different type than the Project. The energy facility does not have to be buffered or screened
17 from adjacent industrial uses. (*See* CCZO § 1550.12.B.1.) Buffering and screening
18 requirements would be applicable primarily with respect to the areas to the south and west,
19 which are zoned PA-38 and are in farm use. The ASC includes a conceptual landscaping
20 plan, dated June 3, 2002, which includes trees and shrubs to screen elements of the energy
21 facility. With the exception of CCZO § 1550.12.B.4., which is the subject of a variance
22 request, the plan reflects compliance with the buffering requirements of CCZO § 1550.12.B.
23 at the project site. Summit/Westward has requested a variance from the buffering
24 requirements of CCZO §§ 1550.12.B.1 through .B.4 for the staging area.

25
26 Summit/Westward has requested a variance from the screening requirements in CCZO
27 § 1550.C.1. CCZO § 1550.12C.2 is not applicable, because the Project will not be downhill
28 from the adjoining uses to be screened.

29
30 CCZO § 1550.12.C.3 requires landscaping for certain off-street parking facilities “adjacent to
31 a public road.” The parking facilities for at the energy facility site will not be adjacent to a
32 public road; therefore, this standard does not apply. CCZO § 1550.12.C.4 appears to be
33 permissive rather than mandatory in nature, *i.e.*, it allows but does not require certain features
34 in landscaped parking areas.

35
36 CCZO § 1550.12.C.5 requires that “loading areas, outside storage, and service facilities” be
37 screened from adjoining properties. As shown on Figure B-2 of the ASC, loading area and
38 service facilities at the energy facility will not be visible from the adjoining property, because
39 the cooling towers will screen them from view. The cooling towers have been placed where
40 they must be in order to minimize wetland impact and meet DEQ noise standards.

41
42 CCZO § 1550.12.D includes fencing requirements. As discussed above, Summit/Westward
43 requested a variance from the fencing requirements of the County’s design-review standards,
44 to allow for a nine-foot chain-link security fence around the energy facility site without slats
45 or a continuous evergreen hedge. (*See* Section VI.)

46
47 CCZO § 1550.12.E requires that “where natural vegetation or topsoil has been removed in

1 areas not occupied by structures or landscaping, such areas shall be replanted to prevent
2 erosion.” The erosion control plan for the NPDES storm water discharge permit will address
3 revegetation following construction. Summit/Westward has also committed to restore the
4 staging area upon completion of construction.

5
6 **CCZO § 1550.13 Standards for Approval:**

7
8 “A. Flood Hazard Areas: See CCZO § 1100, Flood Hazard Overlay Zone.
9 All development in Flood Hazard Areas must comply with State and
10 Federal Guidelines.”

11
12 The energy facility site is not within a designated flood plain zone.

13
14 “B. Wetlands and Riparian Areas: Alteration of wetlands and riparian
15 areas shall be in compliance with State and Federal laws.”

16
17 The Project will require a DSL removal/fill permit and will comply with wetland mitigation
18 requirements imposed by the Council in consultation with DSL.

19
20 “C. Natural Areas and Features: To the greatest practical extent possible,
21 natural areas and features of the site shall be preserved.”

22
23 The natural features and topography of the site render it suitable for construction of an
24 energy generation facility. During construction, approximately half of the site will be cleared
25 of vegetation, graded, and leveled. Construction of temporary access roads on the Project site
26 will also disturb the soil surface in limited areas. Additionally, soil will be disturbed
27 temporarily during installation of the gas and water supply pipelines. Installation of the
28 pipelines will involve excavation of a trench, temporary stockpiling of excavated soil,
29 backfilling of the trench, and compaction of the backfilled soil.

30
31 Summit/Westward has designed the facility to avoid and minimize impacts to wetlands. The
32 facility has been found in compliance with Council standards that protect wetlands and fish
33 and wildlife habitat. The site certificate will include conditions for mitigation and restoration
34 of upland habitat pursuant to the Council’s Fish and Wildlife Habitat standard, OAR
35 345-022-0060, as described in detail at section D.7 of the Final Order. The site certificate
36 will include conditions for protection and mitigation of wetlands pursuant to DSL wetland
37 removal-fill permit requirements, as described in detail at section F.1.b of the Final Order.
38 Because the site has been used primarily for low-intensity agriculture, erosion and loss of soil
39 productivity will be prevented and mitigated by drainage and erosion control measures
40 approved by the Council pursuant to its Soil Protection standard OAR 345-022-0022, as
41 described in detail in Final Order section D.5, and approved by DEQ in connection with the
42 required NPDES storm water discharge permit.

43
44 “D. Historic and Cultural Sites and Structures: All historic and culturally
45 significant sites and structures identified in the Comprehensive Plan,
46 or identified for inclusion in the County Periodic Review, shall be
47 protected if they still exist.”

1
2 No significant historic or cultural resources were identified on the Project site or in the
3 surrounding area. However, if unanticipated archaeological or historical resources are
4 encountered during Project construction, all ground-disturbing activity within the vicinity of
5 the find will be halted and the Oregon State Historic Preservation Office will be promptly
6 notified to ensure compliance with relevant state and federal laws and regulations.
7

8 Before the start of vegetation-clearance or earth-disturbing activities or Project site
9 preparation, an employee training program for recognition of potential subsurface cultural
10 resources will be conducted. The training program will discuss the potential to encounter
11 cultural resources in the field, the sensitivity and importance of these resources, and the legal
12 obligations to preserve and protect such resources.
13

14 The training program shall also include a set of resource-reporting procedures and work-
15 curtailment procedures that workers are to follow if previously unknown cultural resources
16 are encountered during Project activities. The training program will be presented by a
17 cultural-resource specialist or other qualified person and may be combined with other
18 training programs prepared for hazardous materials or any other areas of interest or concern.
19

20 The site certificate will include conditions to ensure protection of historic and cultural
21 resources pursuant to the Council’s Historic, Cultural and Archaeological Resources
22 standard, OAR 345-022-0090, described in detail at Final Order section E.4.
23

24 “E. Lighting: All outdoor lights will be shielded so as not to shine directly
25 on adjacent properties and roads.”
26

27 The lighting system will be designed to minimize the impact to the surrounding areas. The
28 lighting system will include high pressure (“HP”) sodium light sources for outdoor
29 installations. The area lighting system will provide illumination for the performance of
30 general outdoor yard tasks, safety, plant security, and general site roadway access and will
31 consist of HP sodium luminaries and support poles. A low-visibility lighting scheme, using
32 shielded, high-cutoff angle fixtures, will be installed to minimize the nighttime impact on
33 nearby properties. External lighting will be turned off by daylight photosensors, as well as
34 manually from the main control room. The placement of external lights will be designed not
35 to illuminate areas adjacent to the Project site.
36

37 During periods of high maintenance activities, *e.g.*, plant outages, additional temporary
38 lighting may be set up to support specific tasks. Care will be taken to minimize the visual
39 impact to the surrounding areas.
40

41 “F. Energy Conservation: Buildings should be oriented to take advantage
42 of natural energy saving elements such as the sun, landscaping and
43 land forms.”
44

45 The major buildings associated with the facility will house the combustion turbine and other
46 power generation equipment. Those buildings will be placed and oriented as they must be in
47 order to meet DEQ noise standards and DSL wetland permitting requirements. However, the

1 Project itself is designed with energy efficiency as a primary objective.

2
3 “G. Transportation Facilities: Off-site auto and pedestrian facilities may
4 be required by the Planning Commission, Planning Director or Public
5 Works Director consistent with the Columbia County Road Standards
6 and the Columbia County Transportation Systems Plan.”
7

8 There is no anticipated need for pedestrian access to the site, because it is located in an
9 industrial area far from any residential or commercial zone and is not open to the public.
10 Regarding road access to the site, Summit/Westward submitted a detailed traffic and road
11 impact analysis, which states the necessary road improvements and estimates their cost and
12 the proportional share of impact attributed to the Project. Summit/Westward will contribute
13 its proportional share toward necessary road improvements under a signed agreement with
14 the County. A detailed analysis of road impact issues appears in the discussion of CCZO
15 § 681.6, above. There will be no need for off-site facilities, including parking. The on-site
16 parking proposed by Summit/Westward will be adequate for the facility's needs.
17

18 **IV. COLUMBIA COUNTY COMPREHENSIVE PLAN**

19
20 The applicable goals and policies identified by the County include resource industrial
21 development goals and policies, resource industrial development exceptions to resource goal
22 findings, industrial development goals and policies, economy goals and policies,
23 transportation goals and policies, and public services goals and policies. The County’s
24 Comprehensive Plan contains policies that address overall planning goals adopted by the
25 County. Although the policy statements do not contain specific substantive criteria, we
26 discuss the relevant policies below for purposes of completeness.
27

28 **Resource Industrial Development**

29
30 **Goal:** It is the goal of the County to provide for industrial development on rural
31 lands when such development can be shown to support, utilize, or in some manner be
32 dependent upon the natural resources of the area.
33

34 The Project in the proposed location will utilize natural resources in the area in the following
35 ways:
36

37 The Project will use water located at the Project site. The site is located near the Columbia
38 River. The heaviest pieces of equipment will be shipped on the Columbia River to the Project
39 site by barge. All of the water for construction and operations of the Project will be supplied
40 from the river under a contract with the Port. The Port has a water-right permit from the state
41 of Oregon to use up to 30 cfs to supply commercial and industrial users (Water Right Permit
42 No. 53677). The Project will contract with the Port for up to 7 cfs of the Port’s total right.
43

44 The Project is dependent on natural gas within the area. Natural gas will be the operating fuel
45 for the Project. Natural gas will be supplied to the Project by interconnecting with the
46 existing K-B pipeline. The K-B pipeline passes within one-half mile of the Project site.
47

1 The Project is dependent upon electricity transmission facilities in the area. The Project will
2 connect to existing or additional electricity transmission lines in the area operated by PGE.
3 The proposed facility will connect to the transmission system by utilizing either power lines
4 constructed by PGE in connection with PGE’s proposed PWGP, or new lines constructed by
5 PGE for the Summit Project. In either case, the new transmission lines will utilize the
6 existing right-of-way for the transmission line currently serving the Beaver Power Plant.
7

8 As discussed below, the Project is also consistent with the County’s rural industrial policies.
9

10 Policies: It shall be the policy of the County to:

11 “1. Designate as Rural Industrial in the Plan those lands that are currently
12 being utilized or that are recognized as being needed to accommodate
13 rural and natural-resource industries.”
14
15

16 The Project site is designated Resource Industrial in the Comprehensive Plan.
17

18 “2. Implement the Rural Industrial Plan designation through the use of a
19 single Resource Industrial - Planned Development zone.”
20

21 The property is zoned Resource Industrial - Planned Development.
22

23 “3. Restrict development on land zoned RIPD to those that:
24 “A. Are not generally labor-intensive;
25 “B. Are land-extensive;
26 “C. Are located with adequate rail, vehicle, deep-water port, and/or
27 airstrip access;⁷
28 “D. Complement the character and development of the surrounding
29 area;
30 “E. Are consistent with the rural facilities and services existing in
31 or planned for the area; and,
32 “F. Will not require facility or service improvements at significant
33 public expense; or
34 “G. Are not appropriate for location within the urban growth
35 boundary due to their hazardous nature.”⁸
36

37 The above policy elements are substantially the same as the six criteria of CCZO § 681. The
38 proposed facility complies with these criteria, as shown in Section III.A of this Attachment.
39

40 **RIPD – Exception Statement**

⁷ CCZO § 681.3 states that the proposed use *requires a rural location to take advantage* of rail, deep-water port, etc. However, the analysis of CCZO § 681.3 above would apply here.

⁸ As noted in the discussion of CCZO § 681, the proposed facility does not create a hazard. However, the facility complies with policy 3.F and need not comply with policy 3.G.

1
2 To allow the RIPD zone on resource land at Port Westward outside of UGBs, the County was
3 required to take an exception to Goal 3 of the Statewide Planning Goals. The Comprehensive
4 Plan includes a Port Westward Exception Statement that includes an analysis of the County’s
5 needs for industrial sites at the Port Westward Industrial Area and an existing, irrevocable
6 commitment of the land to non-resource uses. The exception statement states that the Port
7 Westward Industrial Area is ideally suited for industrial development because of the existing
8 Beaver Power Plant, the 1,250-foot dock adjacent to the Columbia River, the presence of rail
9 lines, a 1.3-million-barrel tank farm, existing water supply, and natural-gas service.

10
11 The Summit Project is consistent with all of these factors because it will require water,
12 natural gas, rail or barge access for delivery of heavy equipment, and a large parcel (53 acres)
13 of relatively flat land.

14
15 **Economy**

16
17 **Goals**

18
19 “1: To strengthen and diversify the economy of the County and ensure
20 stable economic growth.”

21
22 The Project will strengthen and diversify the economy of the County. The County’s economy
23 has traditionally been tied to the wood products industry. The Project will add a non-wood-
24 products industrial employer to the County. The Project is a long-term endeavor and will be a
25 stable employer.

26
27 “2: To utilize the County’s natural resources and advantages for
28 expanding and diversifying the economic base.”

29
30 The Project will utilize natural resources in that it will use the Columbia River to ship the
31 heaviest Project components to the site during construction. The proposed location takes
32 maximum advantage of existing public and private investments. It will utilize the public
33 investment made in 1966 when the federal government deeded the property to the Port for
34 economic development. The Project will take advantage of private investment in the existing
35 K-B pipeline and will maximize its location near existing private investment in the area by
36 connecting to a transmission line in an existing right-of-way, operated by PGE. The County’s
37 economy has historically been linked to the wood-products industry. The proposed facility
38 will help diversify the economy by adding an additional non-wood-products industrial use.

1
2 Policies: The County identified policies 1, 2, 8, and 11 as applicable.

3
4 “1: To encourage the creation of new and continuous employment
5 opportunities.”
6

7 During the approximate 18-month Project construction period, the construction work force
8 for the Project will fluctuate. The peak employment level during construction will be about
9 385 workers on-site, including boilermakers, carpenters, electricians, ironworkers, laborers,
10 millwrights, operators, pipe fitters, and others.

11
12 Once the Project is constructed, an operation and maintenance crew will be required to run
13 the Project. About 20 permanent workers will be needed for operation and maintenance,
14 working rotating shifts seven days a week.

15
16 Approximately once every three years, major maintenance of the rotating equipment will be
17 performed. Major maintenance will last for five to six weeks and will require 50 to 60
18 workers in addition to the regular operation and maintenance workers.

19
20 “2: To encourage a stable and diversified economy.”
21

22 The Project will reduce the County’s traditional reliance on the wood-products industry.

23
24 Given the high capital outlay associated with development of an energy facility, the Project is
25 a long-term commitment for the operator and will be a stable employer. The Project will
26 assist in diversifying the County’s economy and expand the County’s tax base.

27
28 “8: To reserve valuable industrial sites for industrial uses.”
29

30 The Project will be an industrial use on an industrial site.

31
32 “11: Coordinate with public utility companies to ensure energy supplies are
33 available to areas programmed for development and redevelopment.”
34

35 The proposed facility is an electric generating plant and will therefore add to available energy
36 supplies. Summit has arranged for PGE to provide transmission services on transmission
37 lines utilizing existing right-of-way. Natural gas will be procured utilizing the existing K-B
38 pipeline. During construction, the Project will obtain all needed energy from existing local
39 electric service provided by PGE.

40 41 **Industrial Development**

42
43 Industrial development goals are substantially the same as the economy goals. The proposed
44 facility complies with these goals for the reasons discussed above with respect to the
45 economy element.

46
47 Policies 1, 2, 5, 9, 11, and 12:

1
2 Industrial Development Policies 1 and 2 are identical to Economy Policies 1 and 2 and are
3 satisfied for the reasons above. Policies 5, 9, 11, and 12 are addressed as follows:

4
5 “5. Recognizes the existence of site suitable to be developed as deep-
6 water ports but are not needed as this time.”
7

8 The proposed facility site was chosen partly for its proximity to existing dock facilities.
9 Barges will be used to ship gravel and the heavier pieces of equipment.

10
11 “9. Assures land which is already used as industrial or irrevocably
12 committed to industry shall be so designated.”
13

14 The Project site is within the Port Westward Industrial Area and designated for resource
15 industrial development. The Comprehensive Plan includes the Goal 3 exception statement for
16 Port Westward and states that the 905-acre parcel that includes the facility site is already
17 irrevocably committed to industry. A 535-MW power plant, 1,250-foot loading dock, and
18 1.3-million-barrel tank farm and related facilities occupy 120 acres of the Port Westward
19 Industrial Area. Approximately 300 acres contain dredge fill and are no longer considered
20 resource land. The remainder of the 905 acres is recognized in the Comprehensive Plan as
21 needed for future industrial expansion. The County has designated this 905-acre parcel as an
22 RIPD zone.
23

24 “11. Directs industries that are land extensive, resource related, marine
25 related and/or incompatible with urban populations to those sites
26 which are appropriate to the use and are currently zoned for that
27 purpose.”
28

29 As noted in the discussion of Rural Industrial Development Policy 3, above, the proposed
30 facility is land-extensive and is dependent on resources such as natural gas, water, rail, and
31 dock facilities for which the proposed site is exceptionally well qualified.
32

33 The Project is not appropriate for a location within the neighboring UGB, because it utilizes
34 resources located outside the UGB, such as the existing natural-gas resource and Columbia
35 River water. The Project is also inappropriate within the UGB because the plant footprint
36 will be approximately 30 acres. Industrially zoned parcels of this size are not available within
37 the neighboring UGB.
38

39 “12. Is consistent with the exception statements for those sites requiring an
40 exception to the applicable resource goal.”
41

42 The Comprehensive Plan includes the Goal 3 exception statement for Port Westward.
43 Subsection (b) of this discussion of Comprehensive Plan policies discusses the exception
44 statement and demonstrates that the proposed facility is consistent with it.
45

1 **Transportation**

2
3 **Goal:** The creation of an efficient, safe and diverse transportation system to serve
4 the needs of Columbia County residents.

5
6 The Project is consistent with this goal. As fully described in the discussion of CCZO
7 § 681.6, Summit/Westward has identified necessary road improvements in the Port
8 Westward and Clatskanie area, projected the cost of those improvements and the proportion
9 of road impact attributed to the Summit Project, and entered into a cost-sharing agreement
10 with the County.

11
12 Policies 3 and 5

13
14 “3. Appropriate offsite improvements to county roads shall be required
15 whenever a development results in a major increase in traffic on an
16 existing road.”

17
18 Necessary improvements to county roads serving the site, and the funding for those
19 improvements, are addressed in detail under Rural Industrial Development Policy 3.f.

20
21 “5. Industrial uses shall be encouraged to locate in such a manner that they
22 may take advantage of the water and rail transportation systems that
23 are available to the county.”

24
25 The site’s proximity to the loading dock is noted above. The site is also served by rail lines,
26 so that either barge or rail may be used to transport heavy equipment.

27
28 **Public Facilities**

29
30 **Goal:** To plan and develop a timely, orderly and efficient arrangement of public
31 services as a framework for urban and rural development.

32
33 The proposed development is timely, considering the adequacy of transportation systems,
34 public facilities, and public services existing or planned for the area affected by the use.
35 Summit/Westward has studied and will contribute toward necessary upgrades of local roads,
36 as described in detail under CCZO § 681.6. The facility will make use of available docking
37 and rail facilities, existing natural-gas pipelines and transmission right-of-way, and an
38 existing water right. The facility will not affect solid- or liquid-waste handling services, as
39 discussed under the Council’s Public Services standard and CCZO § 1503.5.D.

40
41 Policies:

42
43 “1. To require that adequate types and levels of public facilities and
44 service be provided in advance of or concurrent with development.”

45
46 The Council has found in the Final Order under the Public Services standard that the
47 proposed facility will not burden or adversely affect the existing public facilities and services

1 in the area, as more fully described under CCZO §§ 1503.5.D and 681.5 in this Attachment.
2 Summit/Westward has studied and will contribute toward necessary upgrades of local roads,
3 as described in detail under CCZO § 681.6. The facility will make use of available docking
4 and rail facilities, as well as an existing natural-gas pipeline, transmission right-of-way, and
5 water right. No process liquid effluent will be discharged, because Summit/Westward
6 proposes a zero-discharge system. Sanitary liquid effluent will be handled by an on-site
7 septic system of sufficient size to meet facility needs, under a WPCF permit issued by DEQ.

8
9 “4. Encourage new development on lands within urban growth boundaries
10 or build and committed exception areas.”

11
12 The proposed facility site is in the Port Westward Exception area. The facility is not
13 appropriate for siting within the neighboring UGB for reasons provided in detail under
14 Industrial Development Policy 11. The proposed facility is consistent with the findings in the
15 Port Westward Exception Statement, as described in this analysis under the discussion of that
16 exception statement.

17
18 “13. To support a level of fire safety and service in all areas of the County
19 sufficient to minimize the risk of fire damage to life and property.”

20
21 The site is within and will be served by the Clatskanie Rural Fire Protection District.
22 Summit/Westward has proposed fire protection measures in compliance with the Council’s
23 Public Services standard, OAR 345-022-0110. Site-certificate conditions requiring those
24 measures are proposed at section E.6 of the Final Order.

25
26 Summary of Comprehensive Plan Goals and Policies – The Council finds the proposed
27 facility complies with the Comprehensive Plan goals and policies identified by Columbia
28 County Land Development Services.

29
30 **V. STAGING AREA IN PA-38 ZONE**

31
32 The Summit Project will comprise the energy facility and its related or supporting facilities.

33
34 “‘Related or supporting facilities’ means any structure proposed to be built in
35 connection with the energy facility ***. *** The Council interprets the terms
36 ‘proposed to be built in connection with’ as meaning that a structure is a
37 related or supporting facility if it would not be built but for construction or
38 operation of the energy facility.*** ” OAR 345-001-0010(47).

39
40 Summit/Westward proposes to construct an approximately 10-acre construction staging area
41 on Exclusive Farm Use (“EFU”)-zoned land immediately west of the energy facility. The
42 staging area will be used during construction to stage and store construction materials and for
43 parking. The area will be graded and leveled, and a six- to eight-inch gravel or stone pad will
44 be placed on a layer of geotextile fabric and compacted. The area will be fenced, and lighting
45 may be added. The fence, lighting fixtures, and pad (and perhaps the other modifications to
46 the area) are structures within the meaning of OAR 345-001-0010(47). Given that these
47 structures, albeit temporary, would not be built but for the construction and operation of the

1 energy facility, the staging area is a related and supporting facility.⁹

2
3 The construction staging area will be located on land zoned PA-38. As further described
4 below, the staging area is an accessory use to the energy facility. The energy facility is not
5 allowed outright or as a conditional use in the PA-38 zone under the local code.¹⁰ Pursuant
6 to ORS 469.504(1)(b)(B), a facility that does not comply with the substantive criteria in the
7 local land use code must demonstrate compliance with the Statewide Planning Goals. This
8 section addresses goal compliance with respect to the approximately 10-acre staging area,
9 which is the only portion of the Project that will be located in the PA-38 zone.

10
11 **Goal 1 (Citizen Involvement):** To develop a citizen involvement program that
12 insures the opportunity for citizens to be involved in all phases of the planning
13 process.

14
15 The ASC does not propose any changes to the public participation elements of either state or
16 local law. The Council's rules provide sufficient public notice and opportunity to comment to
17 satisfy the requirements of Goal 1.

18
19 **Goal 2 (Land Use Planning):** Part I — To establish a land use planning process and
20 policy framework as a basis for all decisions and actions related to use of land and to
21 assure an adequate factual base for such decisions and actions.

22
23 Summit/Westward is using an express statutory land use option, ORS 469.504(1)(b)(B), for
24 these portions of the Project.

25
26 **Goal 3 (Agricultural Lands):** To preserve and maintain agricultural lands.

27
28 The staging area will be located on agricultural land during construction. The Council finds
29 that the staging area is most properly characterized as an accessory use to the energy facility.

30
31 ORS 215.283(2)(g) authorizes siting of "[c]ommercial utility facilities for the purpose of
32 generating power for public use by sale" on EFU-zoned land, subject to ORS 215.296 and
33 any applicable local standards and conditions. In evaluating whether a related or supporting
34 facility is allowed on EFU-zoned land, it is first necessary to determine whether it is more
35 properly characterized as part of the energy facility use or as a separate use. If a related and
36 supporting facility is characterized as a part of the same use as the energy facility, it would

⁹ The Applicant may also utilize a batch plant. This improvement will likely be made available to the Project (and other businesses operating at the Port Westward Industrial Area) by the Port. The Applicant has committed to seek a site-certificate amendment if the batch plant is not provided by the Port for nonexclusive use by Port Westward businesses.

¹⁰ Columbia County has, however, already determined that a temporary-use permit is for the staging area is warranted under the local code. Summit/Westward initially requested local land use approval from the County for the staging areas. By Order TP 02-04 dated February 2, 2002, the Columbia County Planning Commission approved a temporary permit for staging areas on land adjacent to the energy facility site, in the PA-38 zone.

1 also be conditionally allowed under ORS 215.283(2)(g). If it is characterized as a separate
2 use, it will be evaluated under the subsection of ORS 215.283 applicable to that use.
3

4 The determination as to whether a given component is an accessory use that is evaluated as
5 part of the principal proposed use, or should be evaluated as a separate use, is informed by
6 *Dierking v. Clackamas County*, 38 Or LUBA 106, *aff'd* 170 Or App 683, 688 (2000). In
7 *Dierking*, the court of appeals concurred with the Oregon Land Use Board of Appeal's
8 reasoning that a component that was (1) essential to the functioning of the use (in that case,
9 the functioning of a transmission tower) and (2) had no independent utility would not be
10 treated as a separate use. This inquiry is necessarily very fact-specific.
11

12 The staging area is essential to the construction of the energy facility and has no independent
13 utility. The staging area will be fully restored upon completion of construction and will not
14 be used during facility operation. Accordingly, it is reasonable to characterize the staging
15 area as an accessory to the energy facility, which is itself a use that is conditionally allowed
16 under ORS 215.283(2)(g).
17

18 The Goal 3 rules provide for construction of a power generating facility on EFU-zoned land
19 without an exception if the facility does not preclude use of more than 20 acres of farmland
20 and:

21 "(a) Will not force a significant change in accepted farm or forest practices
22 on surrounding lands devoted to farm or forest use; and
23

24 "(b) Will not significantly increase the cost of accepted farm or forest
25 practices on land devoted to farm or forest use." OAR
26 660-033-0130(5).¹¹
27

28 As an accessory to the facility, the 10-acre staging area would be allowed, subject to that
29 standard.
30

31 The temporary use of the staging area will not force a significant change in accepted farm or
32 forest practices on surrounding lands or in the cost of those accepted farm or forest practices.
33 The staging area is bordered to the north and east by the Port Westward Industrial Area,
34 which is zoned and developed for industrial use. The parcel immediately to the north is
35 cultivated with poplars. The areas to the south and west are used for grazing and cultivation
36 of poplars, respectively. The Port, which owns the property on which the staging area will be
37 located, does not currently conduct or have any future plans to conduct agricultural activities
38 on the property. Access to the staging area will be via the main plant entrance on the north
39 side of the property, not through PA-38- zoned land. The use will be temporary and limited
40 to storage, staging, and parking. The impacts, if any, to surrounding properties would be no
41 different or greater than those associated with construction of the Project itself. Further,
42 Summit/Westward will implement erosion control measures and restore the area for
43 agricultural use upon completion of construction. Summit/Westward will stockpile the first

¹¹ OAR 660-033-0130(22) provides that an exception to Goal 3 is necessary if the use precludes use of more than 20 acres of non-high-value farmland as a commercial agricultural enterprise. The staging area is not located on high-value farmland.

1 four to six inches of topsoil before preparing the area. Upon completion of construction,
2 Summit/Westward will restore the area by removing the fence, pad, and fabric; ripping the
3 area to reduce compaction; restoring the approximate original contour; returning the
4 stockpiled topsoil; and restoring vegetation. Summit/Westward has agreed to record a waiver
5 of the right of remonstrance against accepted farm practices in the area in which the staging
6 area will be located.

7
8 To ensure that its findings are complete and thorough, the Council has also included below
9 findings that justify an exception to Goal 3 in the event that the temporary staging area is
10 deemed to be other than an accessory to the use allowed under ORS 215.283(2)(g).

11
12 **Goal 4 (Forestlands):** To conserve forestlands by maintaining the forestland base
13 and to protect the state's forest economy by making possible economically efficient
14 forest practices that assure the continuous growing and harvesting of forest tree
15 species as the leading use on forestland consistent with sound management of soil,
16 air, water, and fish and wildlife resources and to provide for recreational opportunities
17 and agriculture

18
19 Land zoned PA-38 is considered agriculture land, not forestland; therefore, Goal 4 is not
20 directly applicable to the staging area.

21
22 **Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces):** To
23 protect natural resources and conserve scenic and historic areas and open spaces.

24
25 The following discussion includes the Goal 5 resources relevant to the laydown area.

26 27 Riparian Corridors

28
29 The staging area is not located in or near a riparian area.

30 31 Wetlands

32
33 Wetlands have been identified in the area initially designated as the staging area.
34 Summit/Westward has, however, redefined its staging area to avoid the wetlands in the
35 staging area. Summit/Westward will fence the area so as to prevent inadvertent
36 encroachment on those wetlands and will implement erosion control measures. Further, use
37 of the staging area will also avoid impacts to wetlands located on the energy facility site.

38 39 Wildlife Habitat

40
41 The staging area appears to be primarily tame pastureland (Habitat Category 3), with a small
42 amount of tree farm (Habitat Category 4). Summit/Westward's habitat mitigation plan
43 provides for restoration of impacted areas. It also provides that Summit/Westward will secure
44 and restore additional habitat functions and values on adjacent or nearby lands. The
45 mitigation plan includes the temporary staging area.

46 47 Mineral and Aggregate Resources

1
2 No inventoried aggregate resources are present on or near the staging area. In any event, no
3 aggregate resources will be adversely affected by the temporary use of the staging area.

4
5 Historic Resources

6
7 No historic resources are located on the staging area.

8
9 The following Goal 5 resources are not relevant to the staging area: federal wild and scenic
10 rivers, Oregon scenic waterways, groundwater resources, approved Oregon recreation trails,
11 natural areas, wilderness areas, energy resources, open space, and scenic views and sites.

12
13 **Goal 6 (Air, Water and Land Resources Quality):** To maintain and improve the
14 quality of the air, water and land resources of the state.

15
16 The staging area will not generate waste or discharge to air, land, or water. On a Project-wide
17 basis, however, Summit/Westward will be required to comply with all federal and state
18 permitting requirements and environmental regulations. Summit/Westward will also
19 implement erosion control measures throughout the construction period.

20
21 **Goal 7 (Areas Subject to Natural Disasters and Hazards):** To protect life and
22 property from natural disasters and hazards.

23
24 Goal 7 is intended to ensure that developments that could be damaged by natural disasters
25 with the potential for resultant injury to persons or property are not located in known areas of
26 natural disasters and hazards without appropriate safeguards in place. The staging area will
27 not entail development of the sort that creates the risks Goal 7 seeks to avoid. Further,
28 Goal 7 is addressed by the Council's Structural standard, OAR 345-022-0020, which
29 Summit/Westward has satisfied. The temporary staging area is consistent with Goal 7.

30
31 **Goal 8 (Recreational Needs):** To satisfy the recreational needs of the citizens of the
32 state and visitors and, where appropriate, to provide for the siting of recreational
33 facilities including destination resorts.

34
35 The ASC does not involve the siting of a recreational facility. Goal 8 is therefore not
36 applicable. *See also* discussion of E.5. Recreation standard, in the Final Order, OAR 345-
37 022-0100.

38
39 **Goal 9 (Economic Development):** To provide adequate opportunities throughout the
40 state for a variety of economic activities vital to the health, welfare and prosperity of
41 Oregon's citizens.

42
43 The energy facility will satisfy Goal 9 not only by providing employment opportunities
44 during construction and operation, but also by taking advantage of a good site with existing
45 infrastructure. The Goal 9 planning guidelines encourage the siting of industrial uses where
46 they have a comparative advantage. Comparative-advantage industries are defined as "those

1 economic activities which represent the most efficient use of resources, relative to other
2 geographic areas." The staging area will facilitate construction of such an industrial use.

3
4 **Goal 10 (Housing):** To provide for the housing needs of citizens of the state.

5
6 The staging area will not affect housing availability or buildable lands; therefore, Goal 10 is
7 not applicable.

8
9 **Goal 11 (Public Facilities and Services):** To plan and develop a timely, orderly and
10 efficient arrangement of public facilities and services to serve as a framework for
11 urban and rural development.

12
13 The staging area will not require any new public facilities or services beyond those required
14 for the energy facility.

15
16 **Goal 12 (Transportation):** To provide and encourage a safe, convenient and
17 economic transportation system.

18
19 The staging area will not require construction or improvement of any roads or other
20 transportation facilities and will not create any conflicts with any such facilities.

21
22 **Goal 13 (Energy Conservation):** To conserve energy.

23
24 Goal 13 requires local governments to maximize energy conservation. This goal does not
25 appear to be applicable in that the facility will create, not consume, energy.

26
27 **Goal 14 (Urbanization):** To provide for an orderly and efficient transition from
28 rural to urban use.

29
30 The temporary staging area will not require a change in any land use designations and will
31 not alter the rural character of the area. Therefore, it will not have any impact addressed
32 under Goal 14.

33
34 **Goals 15 through 19**

35
36 These goals are not applicable, because the staging area will not be located in any of the
37 geographical areas addressed by Goals 15 through 19.

38
39 **Alternative Justification for an Exception to Goal 3**

40
41 The energy facility could itself be allowed as a conditional use on agricultural land under
42 ORS 215.283(2)(g). The staging area appears to be an accessory use to the energy facility
43 use, such that it could also be permitted consistent with Goal 3 under ORS 215.283(2)(g).
44 The energy facility is not, however, located in the County's PA-38 zone and would not be
45 allowed as a permitted or conditional use in the PA-38 zone. Thus findings justifying an
46 exception to Goal 3 are included below for purposes of completeness in the event that the
47 staging area is not found to comply with Goal 3.

1
2 OAR 345-022-0030(4)(c) provides that the Council may find goal compliance for a proposed
3 facility by taking an exception to the applicable goal if the Council finds that:

4
5 “(A) Reasons justify why the state policy embodied in the applicable
6 goal should not apply;”
7

8 Goal 3 is intended to preserve and maintain agricultural land for agricultural use. Allowing
9 the temporary use of the staging area will not impair future agricultural use of that area. As
10 explained above, the use will be temporary and Summit/Westward will fully restore the area
11 upon completion of construction. The area is not currently in agricultural use, and its owner,
12 the Port, has no plans to put the area to agricultural use in the future.
13

14 At the same time, use of the staging area will further other important goals. The facility itself
15 will further the County's economic goals and development of an exception area specifically
16 designated for industrial use. The Project site cannot, however, be used for storage and
17 staging, because of constraints imposed by on-site wetlands, the protection of which is also
18 an important goal. Similarly, the RIPD-zoned parcel to the north is unavailable because it is
19 cultivated with poplars.
20

21 “(B) The significant environmental, economic, social and energy
22 consequences anticipated as a result of the proposed facility
23 have been identified and adverse impacts will be mitigated in
24 accordance with rules of the Council applicable to the siting of
25 the proposed facility; and”
26

27 Environmental

28 Any environmental impacts associated with use of the staging area will be temporary and
29 fully mitigated. Summit/Westward has committed to restore the area, including restoration of
30 topsoil and revegetation. The staging area has been defined to exclude the wetlands on the
31 property altogether, and erosion control measures will be implemented. Any adverse impacts
32 on habitat will be addressed by the habitat mitigation plan, which also encompasses the
33 staging area.
34

35 Economic

36 Use of the staging area will facilitate construction of the energy facility, which will itself
37 further important state and County economic goals. The Project will help diversify the
38 County's employment base and provide additional employment opportunities during both
39 construction and operation. The staging area will not impose any additional or different
40 economic impacts, adverse or otherwise. No inventoried aggregate resources are present on
41 or near the staging area, and the surface will be fully restored for agricultural use.
42

43 Social

44 Use of the staging area will facilitate construction of the energy facility, which itself will
45 satisfy the Council's Public Services standard. The staging area will not impose any
46 additional or different social impacts, adverse or otherwise. No historic resources are located
47 on the staging area.

1
2 Energy

3 Use of the staging area will facilitate construction of the energy facility, which will itself
4 create, rather than consume, energy. At most, the staging area will be lighted temporarily,
5 which will not impose adverse energy consequences.

6
7 “(C) The proposed facility is compatible with other adjacent uses or
8 will be made compatible through measures designed to reduce
9 adverse impacts.”

10
11 The staging area is bordered to the north and east by the Port Westward Industrial Area,
12 which is zoned and developed for industrial use. The energy facility and use of the staging
13 area will be compatible with the industrial uses at Port Westward. The energy facility will
14 border the staging area to the east. The RIPD-zoned parcel to the north is used for cultivation
15 of poplars. The areas to the south and west are used for grazing and cultivation of poplars,
16 respectively. Access to the staging area will be via the main plant entrance on the north side
17 of the property, not through PA-38-zoned land. The use will be temporary and limited to
18 storage, staging, and parking. The impacts, if any, to surrounding properties would be no
19 different or greater than those associated with construction of the Project itself. Construction
20 activities and traffic will be regulated by the conditions of approval in the site certificate.
21 Further, Summit/Westward will restore the staging area for agricultural use. Use of the
22 staging area will not be incompatible with or detrimental to the adjacent uses.

23
24 **VI. VARIANCE REQUESTS**

25
26 Summit/Westward has requested the following variances:

27
28 Parking (Staging Area) (CCZO § 1400 et seq.): A variance from the parking requirements to
29 allow use of a temporary staging area for parking by construction workers without
30 construction of the improvements generally associated with permanent parking lots.

31
32 Loading Spaces (CCZO §§ 1403.3 and 1418): A variance from the minimum loading space
33 requirements for the plant site and, if applicable, the staging area.

34
35 Screening/Fencing (CCZO §§ 1550.12.C.1, 1550.12.D.1, and 1550.12.D.3): A variance from
36 the screening requirements to allow use of an unscreened, nine-foot chain-link/barbed-wire
37 security fence around the perimeter of both the plant site and staging area.¹²

38
39 Landscaping/Buffering: A variance from the requirements of CCZO §§ 1415.2, 1415.3,
40 1415.8, 1550.12.A.2, and 1550.12.B.4 for both the plant site and staging area, as well as a
41 variance from the buffering requirements of CCZO §§ 1550.12.B.1-B.3 for the staging
42 area.¹³

¹² The height limitations in CCZO § 1550.12.D.1 do not appear applicable, as the site will not have front, rear, or side yards. If that limitation is applicable, a variance is justified for the reasons discussed with respect to the other fencing and screening requirements.

1
2 CCZO § 1504.1.A provides that a variance shall be granted only when the following
3 conditions and facts exist:

- 4
5 “1. The granting of the variance will not be detrimental to the public
6 safety, health, or welfare, or injurious to other property.”
7

8 Parking: Allowing construction workers to park in the staging area without development of
9 an improved parking lot will not be detrimental to the public safety, health, or welfare or
10 injurious to other property. It will allow flexible use of the staging area to accommodate the
11 level of construction and number of employees on the construction site at any given time.
12 The staging area will not be open to the public, and its use will be temporary.
13

14 Loading: When calculated based on the square footage of the energy facility, the number of
15 required loading spaces is far in excess of what is needed for this particular use. Unlike most
16 industrial uses, the energy facility will not rely on trucks for delivery of principal raw
17 materials (natural gas and water) or for shipment of its end product (electricity). Allowing a
18 reduction in the number of loading spaces will not be detrimental to public safety, health, or
19 welfare, or injurious to other property. One space will be adequate for the needs of this
20 particular industrial use, which, unlike similarly sized industrial uses, will require minimal
21 deliveries and no shipping. The loading-space requirement does not appear applicable to the
22 temporary staging area. A variance from this requirement is, however, justified for the
23 staging area, as the staging area is, in effect, one large loading area. Further, its use will be
24 temporary.
25

26 Screening/Fencing: Allowing the use of an unscreened chain-link fence around the energy
27 facility site and staging area will not be detrimental to public safety, health, or welfare or
28 injurious to other property. Security around an energy facility site requires that the
29 surrounding area be visible in order to make it easier to detect any unauthorized persons
30 attempting to enter the site. A chain-link fence provides security with good visibility and
31 better promotes public safety, health, and welfare than fencing or landscaping that interferes
32 with visibility. The nine-foot height of the fence will also prevent deer from entering the
33 plant site. The site is in an area intended for and developed with industrial uses. The existing
34 Beaver Power Plant is surrounded by a chain-link security fence. Slats or an evergreen hedge
35 are not necessary for aesthetic reasons in an area intended for and developed with industrial
36 uses.
37

38 Landscaping/Buffering: Public health, safety and welfare are not promoted by requiring
39 extensive parking lot and landscaping improvements. The facility is an industrial site within
40 an industrial park. It is closed to the public. It is buffered to the north by wetlands. The
41 buffer-area plantings proposed by Summit/Westward are appropriate, given the facility’s
42 security needs. Parking lot landscaping and revegetation in the interior of the facility would

¹³ Summit/Westward requested a variance from CCZO § 1550.12.B.1-.3 in a June 19, 2002 letter from Michelle Rudd to Adam Bless. However, on reviewing the site plans in Exhibit B and K of the ASC, the Office determined that the Project complies with these ordinances and that only the variance from CCZO § 1550.12.B.4 is required.

1 also compromise Summit/Westward’s ability to have a clear view of the facility and provide
2 the necessary level of security. The buffering requirements are not necessary for the staging
3 area, given the adjacent uses of a different type (grazing and cultivation of poplars) and the
4 temporary nature of the use.

5
6 “2. The conditions upon which the request for a variance is based are
7 unique to the property for which the variance is sought and are not
8 applicable generally to other property.”
9

10 Parking: The condition creating this use is unique because the number of employees who
11 need to park in the staging area will vary widely during different stages of construction and
12 because the use is temporary and will end as soon as construction is completed.

13
14 Loading: As discussed above, the loading requirements are unique to the energy facility use
15 of this site. An electric generating facility fueled by natural gas does not need the number of
16 spaces required of industrial uses under the CCZO. The staging area will be used on a
17 temporary basis and does not require a loading area. By its nature, the staging area will be
18 used for loading and unloading.

19
20 Screening/Fencing: The chain-link fence will be located around the energy facility site and
21 staging area. The need for the unscreened fence is related to the unique security requirements
22 of an energy facility. Facility personnel must be able to see any attempt to approach and enter
23 the energy facility and staging area in order to protect the project. Slats or an evergreen
24 hedge are not necessary for aesthetic reasons in an area intended for and developed with
25 industrial uses. The fence height (nine feet) is intended to prevent deer that frequent this area
26 from entering the Project site. These site conditions relate to the development of an industrial
27 facility in a remote location and are not generally applicable to other properties.

28
29 Landscaping/Buffering: The unique security needs at the Project site require that clear views
30 of the surrounding area be maintained. The staging area use is temporary and the property
31 will be restored for agricultural purposes upon completion of construction. These unique
32 conditions relate to the development of an industrial facility in a remote location and are not
33 generally applicable to other properties.

34
35 “3. Approval of the application will allow the property to be used only for
36 purposes authorized by the Zoning Ordinance.”
37

38 Parking: The CCZO allows temporary permits for the use of the staging area. Allowing
39 parking in the staging area without development of permanent parking lot improvements will
40 minimize or eliminate any adverse impact to the property. Further, the property will be fully
41 restored for agricultural use upon completion of construction.

42
43 Loading: Allowing a reduction in the number of loading spaces at the energy facility will not
44 change the underlying use of the property, which is allowed as a conditional use in the RIPD
45 zone. The CCZO allows temporary permits for the use of staging area property.
46

1 Screening/Fencing: Allowing an unscreened, nine-foot chain-link fence around the energy
2 facility site and staging area will not change the underlying use of the property, which is
3 allowed as a conditional use in the RIPD zone.
4

5 Landscaping/Buffering: Approval of this variance will not change the underlying use of the
6 energy facility site, which is allowed as a conditional use in the RIPD zone. Approval of this
7 variance with respect to the staging area will facilitate return of the property to agricultural
8 use when construction is completed.
9

10 “4. Strict compliance with the Zoning Ordinance would create an
11 unnecessary hardship.”
12

13 Parking: Requiring development of a parking area and associated improvements in the
14 staging area would create an unnecessary hardship because the use is temporary and will end
15 when construction is completed.
16

17 Loading: Strict compliance with the requirements with respect to loading spaces would
18 create an unnecessary hardship because it would require development of a large number of
19 unnecessary loading spaces on the energy facility site, rather than limiting development to
20 that needed for the proposed use. Requiring a loading area in the staging area would create an
21 unnecessary hardship because such a loading area is unnecessary and because the use is
22 temporary and will end when construction is completed.
23

24 Screening/Fencing: Strict compliance with the screening and fencing requirements would
25 allow use of a chain-link fence only if it had slats and was surrounded by a continuous
26 evergreen hedge, which would compromise Summit/Westward’s ability to provide the
27 necessary level of security for the energy facility. Further, the height limitations, if
28 applicable, would impede Summit/Westward's ability to keep deer out of the facility. As a
29 result, the requirements would create an unnecessary hardship.
30

31 Landscaping/Buffering: Strict compliance with the requirements would compromise
32 Summit/Westward's ability to have a clear view of the facility and provide the necessary
33 level of security, thus creating an unnecessary hardship.
34

35 “5. The granting of the variance will not adversely affect the realization of
36 the Comprehensive Plan nor violate any other provisions of the Zoning
37 Ordinance.”
38

39 Parking: Granting the variance would be consistent with the Comprehensive Plan and would
40 not violate any provision of the CCZO, because it would allow temporary use of the staging
41 area, a use the County has already found meets the County's standards for a temporary use
42 permit.
43

44 Loading: Granting the variance would be consistent with the Comprehensive Plan and would
45 not violate the CCZO in that it would allow a use permitted as a conditional use in the RIPD
46 zone while reducing the impact of that use by avoiding the development of unnecessary
47 loading spaces. Granting the variance for the staging area would be consistent with the

1 Comprehensive Plan and would not violate any provision of the CCZO, because it would
2 allow temporary use of the staging area, a use the County has already found meets the
3 County's standards for a temporary-use permit.

4
5 Screening/Fencing: The energy facility site is zoned for industrial use. The Port Westward
6 Industrial Park has an existing generating facility with a perimeter fence similar to the fence
7 requested for the energy facility site. The requested nine-foot, unscreened chain-link fence
8 will provide the requisite level of security and wildlife protection without adversely affecting
9 the objectives of the Comprehensive Plan or violating the CCZO. As noted above, use of the
10 staging area has already been found to meet the County's standards for a temporary-use
11 permit.

12
13 Landscaping/Buffering: Granting the variance would be consistent with the Comprehensive
14 Plan and would not violate the CCZO in that it would allow a use permitted as a conditional
15 use in the RIPD zone while furthering the Comprehensive Plan goals of economic
16 development and diversification. As noted above, use of the staging area has already been
17 found to meet the County's standards for a temporary-use permit.

18
19 For these reasons, the requested variances are appropriate.

20 21 **VII. DIRECTLY APPLICABLE STATE PROVISIONS**

22
23 Pursuant to ORS 197.646(3), if a local government has not amended its comprehensive plan
24 or land use regulations to implement a new or amended statewide planning goal, land use
25 statute, or LCDC rule, the new or amended state provision is directly applicable to local
26 government land use decisions. The Land Use standard (OAR 345-022-0030) requires that
27 the Council find that the facility complies with both the substantive criteria identified by the
28 local government and any rules, goals, or statutes that are directly applicable under ORS
29 197.646(3).

30
31 The County has not yet amended its land use regulations to implement certain amendments to
32 LCDC rules implementing Goal 3 and ORS 215.283. Therefore, those LCDC rules (OAR
33 660-033-0120 and -0130) are directly applicable to the Council's land use determination.¹⁴
34 ORS 215.283 identifies the nonfarm uses permitted on EFU-zoned land. To be sited on EFU-
35 zoned land, the proposed facility must fit within the scope of a use enumerated in ORS
36 215.283(1), (2), or (3).

37
38 ORS 215.283(2)(g) authorizes siting of "[c]ommercial utility facilities for the purpose of
39 generating power for public use by sale" on EFU-zoned land, subject to ORS 215.296 and
40 any applicable local standards and conditions. The energy facility itself is a use allowed
41 under ORS 215.283(2)(g). The staging area is properly characterized as an accessory to that
42 use.

43
44 The County has not amended its land use regulations to implement amendments to LCDC

¹⁴ In a letter dated September 27, 2001, Columbia County Land Use Development Services stated that there are no LCDC regulations or land use statutes directly applicable to the facility. The state provisions potentially applicable because the staging area is located on EFU zoned land are addressed for purposes of completeness.

1 rules implementing ORS 215.283(2)(g), namely, OAR 660-033-0120 and -0130. For that
2 reason, these provisions are directly applicable here. OAR 660-033-0120 (Table 1) lists the
3 uses permitted under ORS 215.283(2)(g) as “R”–or allowable uses on agricultural
4 lands–subject to the minimum standards found in OAR 660-033-0130(5) and (22).¹⁵
5

6 OAR 660-033-0130(5) provides as follows:
7

8 “ Approval requires review by the governing body or its designate under ORS
9 215.296. Uses may be approved only where such uses:

10 “(a) Will not force a significant change in accepted farm or forest practices
11 on surrounding lands devoted to farm or forest use; and

12 “(b) Will not significantly increase the cost of accepted farm or forest
13 practices on lands devoted to farm or forest use.”
14

15 The construction staging area will comply with OAR 660-033-0130(5) for the reasons
16 described above with respect to Goal 3.
17

18 OAR 660-033-0130(22) applies to non-high value farmland and provides as follows:
19

20 “(22) A power generation facility shall not preclude more than 20 acres from
21 use as a commercial agricultural enterprise unless an exception is
22 taken pursuant to OAR Chapter 660, Division 4.”
23

24 An exception is not required under OAR 330-033-0130(22) unless the "power generating
25 facility" precludes more than 20 acres from use as a commercial agricultural enterprise. The
26 construction staging area will cause only a temporary disturbance, will affect only 10 acres of
27 farmland, and is not a "power generating facility." Thus an exception is not required.
28

29 **VIII. FEDERAL LAND MANAGEMENT PLANS**

30

31 The facility will not be located on lands under federal land use jurisdiction. Therefore, there
32 is no federal land management plan applicable to the Summit Project. As a result, there are
33 no federal consistency requirements applicable to the facility.
34

35 **IX. CONCLUSION**

36

37 Based on the foregoing analysis and subject to conditions included in the Final Order, the
38 Council finds that, if necessary, a Goal 3 exception is justified and that Summit/Westward
39 has otherwise demonstrated compliance with the applicable criteria in the County’s
40 acknowledged Comprehensive Plan and land use regulations that are required by the
41 Statewide Planning Goals and were in effect on the date the application was submitted,
42 LCDC administrative rules and land use statutes directly applicable to the proposed facilities
43 under ORS 197.646(3), and applicable statewide planning goals.
44

¹⁵ According to the Applicant, there is no high value farmland on or in the vicinity of the project site, thus the 20-acre threshold in OAR 660-033-0130(22) applies. The 12-acre threshold in OAR 660-033-0130(17) applies only on high value farmland.