



1  
2 The energy facility currently discharges its reclaimed wastewater to the Lamb-  
3 Weston, Inc., process water system. Lamb-Weston uses the water to wash potatoes and  
4 then sends it via pipeline to Madison Farms, which uses it for crop irrigation. Lamb-  
5 Weston disposes of water from the potato wash process by land application for crop  
6 irrigation under a Water Pollution Control Facility (WPCF) permit issued to Lamb-  
7 Weston by the Department of Environmental Quality (DEQ).

8  
9 The facility also has a zero discharge system to process its reclaimed wastewater.  
10 The facility initially used that system, but now keeps it in cold standby.

11  
12 In this order, all references to the “original order” are to the Final Order in the  
13 Matter of the Application Hermiston Generating Company for a Site Certificate, which  
14 the Council issued March 11, 1994. Further, all references to the “amended site  
15 certificate” are to the “Thermal Power Plant Second Amended Site Certificate for the  
16 Hermiston Generating Project,” which the Council issued on August 28, 1997.

## 17 18 **B. Procedural History**

19  
20 **B.1 Request for Expedited Review.** The Holders requested that the Council conduct  
21 an expedited review of its amendment request. OAR 345-027-0080(2) authorizes the  
22 chair of the Council to grant expedited review of an amendment “if a delay would unduly  
23 harm the certificate holder and if the facility, with the proposed change, would not likely  
24 result in a significant adverse impact.”

25  
26 The Holders’ request for expedited review of the proposed amendment states that in  
27 November 2000, Lamb-Weston needs to repair and replace its existing wastewater pipeline  
28 within its existing easement. The Holders desire to place their discharge reclaimed  
29 wastewater pipe in the same ditch and easement as the Lamb-Weston pipe that will be  
30 replaced for the part of the route that is outside of Madison Farms. For that reason, the  
31 Holders believe coordination of the two projects will significantly lessen the environmental  
32 impact of building a pipeline to carry the facility’s discharge of reclaimed wastewater by  
33 reducing the amount of ground disturbance. They also believe they will be unduly harmed if  
34 expedited review of their proposed amendment is not granted because the normal timeline  
35 for review of a site certificate amendment will not allow them to coordinate the project with  
36 Lamb-Weston.

37  
38 Karen H. Green, chair of the Council, found that the request for expedited review  
39 satisfies the criteria in OAR 345-027-0080(2). She granted the request for expedited review  
40 on October 4, 2000.

## 41 42 **B.2 Office of Energy Review Steps**

43  
44 **B.2.2 The Holders’ Request.** The Holders submitted their full request for amendment  
45 number five to the Council on October 5, 2000. They submitted an electronic version of  
46 the request, without the complete set of exhibits and maps, on October 3, 2000.

1  
2 **B.2.2.1 Office of Energy Request for Information.** On October 12, 2000, the Office  
3 sent a letter to HGP requesting information to clarify various issues. HGP replied on  
4 October 25, 2000. HGP also forwarded a letter from Kent Madison, owner of Madison  
5 Farms, dated October 23, 2000, regarding problems in using potato wash water on potato  
6 crops. HGP also replied to a number of e-mail and telephone requests from the Office to  
7 provide clarification to responses in its letter of October 25, 2000.  
8

9 **B.2.3 Review by Other Agencies, Local Governments and Tribes.** The Office,  
10 pursuant to OAR 345-27-070(1), identified potentially affected agencies, local  
11 governments and tribes and asked them to review the request for amendment. The Office  
12 mailed a copy of the amendment request along with a review report form on October 5,  
13 2000, to those agencies, local governments and tribes and asked them to reply by  
14 October 20, 2000.  
15

16 The reviewing agencies, local governments and tribes are the Oregon Department  
17 of Geology and Mineral Industries, the Oregon Department of Fish and Wildlife; the  
18 Division of State Lands; the Department of Agriculture; the Department of Land  
19 Conservation and Development; the Water Resources Department; the Department of  
20 Parks and Recreation; the State Historic Preservation Office; the Department of  
21 Transportation; the Department of Environmental Quality; the Office of State Fire  
22 Marshall; the Oregon Public Utilities Commission; the Building Codes Division; the  
23 Department of Forestry; the Northwest Power Planning Council; the Cities of Hermiston,  
24 Stanfield, Umatilla, Echo, and Irrigon; Umatilla County; the Confederated Tribes of the  
25 Umatilla Indian Reservation; and the Confederated Tribes of Warm Springs.  
26

27 **B.2.3.1 Replies.** DEQ worked with the Office in preparing its evaluation report of the  
28 impacts of land application of reclaimed wastewater and in recommending the conditions  
29 for the WPCF permit. DEQ's comments are addressed in the discussion of the WPCF  
30 permit in Section E.4.1 and in Attachments A and B. DEQ also noted that the term,  
31 "process wastewater," that the Holders used in their request has broader and inadvertent  
32 implications under federal rules. Therefore, to avoid confusion, the Council uses the  
33 term "reclaimed wastewater" to describe the cooling tower blow-down and clarifier  
34 draw-down water. (Note: In its temporary order, dated November 17, 2000, the Council  
35 used the term "industrial wastewater" to refer to the cooling tower blow-down and  
36 clarifier draw-down water. However, the Water Resources Department ("WRD")  
37 subsequently informed the Office that "industrial wastewater" has a specific meaning  
38 relating to water law. That meaning does not apply to this situation. Therefore, to avoid  
39 further confusion, the Council uses the term "reclaimed wastewater" in this final order.)  
40

41 Umatilla County commented on the applicability of the land use standard. It did  
42 not propose any conditions. Its comments on zoning permit requirements are discussed  
43 in Attachment C, relating to land use issues.  
44

1 WRD raised an issue about whether a water use permit would be required for  
2 disposal of the reclaimed wastewater. In personal communication with the Office, WRD  
3 staff stated that a water use permit would not be required if the Council found that the  
4 reclaimed water use met the requirements of ORS 537.132. Later personal  
5 communication with WRD, after the Council issued the temporary order, clarified the  
6 application of ORS 537.132. That issue is addressed in more detail in Section E.4.3.

7  
8 No other agency that replied had a comment.  
9

10 **B.2.4 Initial Public Notice.** On October 5, 2000, the Office mailed a notice of the  
11 Holders' request for amendment to all persons on the Council's general mailing list and  
12 persons on an updated mailing list for the project, pursuant to OAR 345-027-0080(3).  
13 The notice asked for comments to the Office by October 20, 2000. The Office received  
14 no comments.

15  
16 **B.2.5 Proposed Order.** The Office issued its proposed temporary order on  
17 November 7, 2000.  
18

19 **B.2.6 Notice.** On November 7, 2000, the Office mailed notice of the proposed  
20 temporary order to the Council's general mailing list, reviewing agencies, and an updated  
21 project list. The notice explained the special procedure for temporary orders issued  
22 pursuant to an expedited review procedure. The notice informed the public that the  
23 Council will decide whether to issue a temporary order granting the request at its meeting  
24 on November 17, 2000. Following that decision, the public will have 15 days to ask the  
25 Council to hold a contested case proceeding on the temporary order, pursuant to OAR  
26 345-027-0080(6).  
27

28 On January 9, 2001, the Office mailed notice of the proposed final order to the  
29 Council's general mailing list as part of the agenda for the January 19, 2001, meeting.  
30

31 **B.2.7. Public Comments on the Proposed Temporary Order.** Charles R. "Chuck"  
32 Norris wrote the Council in support of the requested amendment and noted the legislative  
33 history of changes to Oregon statutes that permitted the use of reclaimed water without  
34 requiring a separate water right. Mrs. Lucy Ziemer, a neighbor of Madison Farms, called  
35 the Office on November 14, 2000, to comment on the strong odor from the application of  
36 wastewater from Lamb-Weston, Inc., at Madison Farms. Staff informed her that this  
37 amendment request did not involve wastewater from Lamb-Weston and that the  
38 wastewater from HGP should not have a noticeable odor. On the same day, Mr. Greg  
39 Parks, another neighbor of Madison Farms, also called to comment on the odor from the  
40 land application of wastewater from Lamb-Weston. He stated his support for having  
41 additional water available for crops, however. Staff also clarified that the wastewater  
42 from HGP was different from the wastewater from Lamb-Weston. There were no other  
43 comments from the public.  
44

45 **B.2.8. Public Comments on the Temporary Order.** On November 17, 2000, the  
46 Office mailed notice of the Council's adoption of a temporary order to the Council's

1 general mailing list, reviewing agencies, and an updated project list. The Office gave  
2 notice of the procedure by which a person could request a contested case on the  
3 temporary order. There was no comment or request for contested case on the temporary  
4 order.

### 5 6 **B.3 Council Review Steps**

7 As noted above, Karen H. Green, chair of the Council, granted the Holders'  
8 request for an expedited review on October 4, 2000.

9  
10 **B.3.1 Council Notice.** The Office mailed the Holders' request for amendment and a  
11 memo summarizing the request to the Council on October 5, 2000. The Office mailed  
12 the proposed temporary order to the Council on November 7, 2000. The Office mailed  
13 the proposed final order to the Council on January 9, 2001.

14  
15 **B.3.2 Council Decision.** The Council approved the temporary order granting the  
16 request at a regular meeting on November 17, 2000. The Council issued the final order  
17 granting the request at a regular meeting on January 19, 2001.

### 18 19 **C. Overview of Request for Amendment**

20 There are two major elements to the amendment request: 1) the request for  
21 Council approval to build a buried reclaimed wastewater pipeline from the facility to  
22 booster station number one on Madison Farms, along with the pumping station at the  
23 facility; and, 2) the request for Council approval of a WPCF permit for land disposal of  
24 the HGP wastewater at Madison Farms.

25  
26 **C.1 Reclaimed Wastewater Pipeline and Pumping Station.** The total length of the  
27 pipeline is about 5.3 miles. Because the whole pipeline, regardless of ownership, is a  
28 related and supporting facility to a generating plant with a site certificate, the whole  
29 pipeline is subject to Council standards. The Holders are responsible for ensuring that  
30 the construction and operation of the pipeline conforms to the site certificate. Along with  
31 the environmental impact standards, the major issue for the Council is to determine that  
32 the buried pipeline meets the land use standard for crossing land zoned Exclusive Farm  
33 Use ("EFU").

34  
35 Between the generating plant and the boundary of Madison Farms (2.4 miles),  
36 HGP will pay for Lamb-Weston to place the pipeline alongside Lamb-Weston's  
37 wastewater pipeline within easements that Lamb-Weston has. Because Lamb-Weston  
38 has these easements, it will initially own the HGC pipeline within the easement even  
39 though HGP is paying for it. Once HGP can negotiate its own easements, it will  
40 purchase the pipeline from Lamb-Weston.

41  
42 From the Madison Farms property line to booster station number one (2.9 miles),  
43 Madison Farms will construct and own the pipeline. HGP will pay Madison Farms to

1 construct the pipeline. The HGP pipeline diverts from the Lamb-Weston pipeline route  
2 shortly after crossing onto Madison Farms property.

3  
4 HGP will construct a reclaimed wastewater pumping station at the generating  
5 plant.

6  
7 **C.2 WPCF Permit for Land Application of Reclaimed Wastewater.** For HGP to  
8 provide reclaimed wastewater to Madison Farms for land application on crops, HGP must  
9 have a WPCF permit. Under Council statutes, the Council must decide whether to direct  
10 DEQ to issue the permit and with what conditions it must do so. The discussion of the  
11 WPCF permit is contained in Section E.4.1 and Attachment B to this order. Attachment  
12 A to this order and to the Thermal Power Plant Third Amended Site Certificate for the  
13 Hermiston Generating Project contains the WPCF permit that the Council authorizes  
14 DEQ to issue.

15  
16 **D. Amendments to Amended Site Certificate**

17 The Holders request the following amendments to the amended site certificate to  
18 allow them to construct and operate the proposed reclaimed wastewater pipeline to the  
19 land application discharge system. They also request that the Council require the DEQ to  
20 issue HGP a WPCF permit. The text shows the Holders' requested amendments to the  
21 amended site certificate as strikeouts and underlines. For each amendment, the Council  
22 adds an identification tag for amendment number five, i.e., "[Amendment No. 5]."  
23

24 **D.1 Revisions to Amended Site Certificate Conditions**

25  
26 **D.1.1** The Holders request that the Council make the following changes, as identified by  
27 double underlines, to the Second Amended Site Certificate dated August 28, 1997:  
28

29 **Part I, Section A, Paragraph 1, Last Two Sentences (Lines 31 through 39), Page 1**

30 As used in this Site Certificate, the "application for site certificate" or the ASC,  
31 includes those changes and/or additions to the Facility described in: (a) Holder's  
32 Request for Amendment No. 1, dated June 3, 1994, attached to the First Amendment  
33 as Exhibit 1; (b) Holder's Petition to Apply Subsequent Rules and Request for  
34 Amendment No. 2, dated January 19, 1996; (c) Holder's Request for Partial  
35 Assignment, dated April 26, 1996; (d) Holders' Request for Amendment dated May  
36 16, 1997; and (e) Holders' Request for Amendment dated October 3, 2000. The facts,  
37 reasoning, conclusions, and conditions relied on for approval are set out in Council's  
38 final orders dated March 11, 1994, August 12, 1994, May 10, 1996, July 23, 1996,  
39 August 28, 1997, and January 19, 2001, which by this reference are incorporated  
40 herein. [Amendment No. 5]  
41

42 The Council adopts the proposed amendment.

43  
44 **Part II, Section A.2 ("Related or Supporting Facilities"), Page 3,** add the following  
45 paragraph:  
46

1            **c. Process Water Pipeline Right of Way:** The right-of-way for the process  
2 water pipeline is located entirely within Umatilla County. The right-of-way is shown  
3 in Figure 7 of the Holders’ Request for Fifth Amendment to the Site Certificate.  
4 [Amendment No. 5]  
5

6 The Council adopts the proposed amendment as modified below to clarify that the subject is  
7 “reclaimed wastewater”:  
8

9            **c. Reclaimed Wastewater Pipeline Right of Way:** The right-of-way for the  
10 reclaimed wastewater pipeline is located entirely within Umatilla County. The right-  
11 of-way is shown in Figure 7 of the Holders’ Request for Fifth Amendment to the Site  
12 Certificate. [Amendment No. 5]  
13

14 **Part II, Section B.2 (“Related or Supporting Facilities”), Page 4,** add the following  
15 paragraph:  
16

17            **c. Process Water Pipeline – A buried pipeline will carry process water from**  
18 **the energy facility to Madison Farms. [Amendment No. 5]**  
19

20 The Council adopts the proposed amendment as modified below to clarify that the subject is  
21 “reclaimed wastewater”:  
22

23            **c. Reclaimed Wastewater Pipeline – A buried pipeline will carry reclaimed**  
24 **wastewater from the energy facility to Madison Farms. [Amendment No. 5]**  
25

26 **Part IV, Section B, “Structural Standard,” Page 7,** add the following condition:  
27

28            **(7) Topsoils and subsoils resulting from the excavation for the process water**  
29 **pipeline should be segregated and the topsoil restored to minimize impacts on soil**  
30 **fertility. [Amendment No. 5]**  
31

32 The Council adopts the proposed amendment as modified below to clarify that the subject is  
33 “reclaimed wastewater” and to substitute “shall” for “should”:  
34

35 **Part IV, Section B, “Structural Standard,” Page 7,** add the following condition:  
36

37            **(7) Topsoils and subsoils resulting from the excavation for the reclaimed wastewater**  
38 **pipeline shall be segregated and the topsoil restored to minimize impacts on soil**  
39 **fertility. [Amendment No. 5]**

40 **Part IV, Section B, “Organizational, Managerial and Technical Expertise**  
41 **Standard,” Page 9,** add the following conditions:  
42

43            **(6) Prior to commencing operation of the process water discharge pipeline to**  
44 **Madison Farms, the Holders shall demonstrate that the DEQ has issued to Holders a**

1 Water Pollution Control Facilities permit allowing for the irrigation of process water  
2 on the designated land application fields. [Amendment No. 5]  
3

4 (7) Prior to commencing operation of the process water pipeline to Madison Farms,  
5 the Holders shall have a contract with Madison Farms to accept and manage the  
6 process water flow consistent with the Water Pollution Control Facilities permit  
7 issued to Holders by DEQ. [Amendment No. 5]  
8

9 The Council adopts changes to these conditions in the discussion of the WPCF permit in  
10 Section E.4.1, below.

11  
12 **Part IV, Section C, “Waste Minimization Standard,” Page 13,** add the following  
13 condition:

14  
15 (6) Process water conveyed from the energy facility to Madison Farms for irrigation  
16 use shall comply with all applicable water quality parameters of the Water Pollution  
17 Control Facilities permit issued to Holders by DEQ. [Amendment No. 5]  
18

19 The Council adopts the proposed amendment as modified below to clarify that the subject is  
20 “reclaimed wastewater”:

21  
22 (6) Reclaimed wastewater conveyed from the energy facility to Madison Farms for  
23 irrigation use shall comply with all applicable water quality parameters of the Water  
24 Pollution Control Facilities permit issued to Holders by DEQ. [Amendment No. 5]  
25

26 **Exhibit B, Condition 1, Page 19**

27 Holders shall construct and operate a zero discharge system as described on pages B-  
28 12.a.2 through B-14.a.2 of the ASC, as amended by the “Amendment to Application  
29 for Site Certificate” dated December 24, 1993 (at pages 1 and 4), and as further  
30 amended by the “Request for Amendment,” at pages 6-8, submitted on June 3, 1994,  
31 and as further amended by the “Request for Amendment” dated May 16, 1997, and  
32 as further amended by the “Request for Amendment” dated October 3, 2000. The  
33 zero discharge system and Lamb-Weston process water system shall be reserved as  
34 backup systems. The primary system for disposing of process water shall be through  
35 agricultural irrigation at Madison Farms in accordance with the Water Pollution  
36 Control Facilities Permit granted to the Holders by the Oregon Department of  
37 Environmental Quality. [Amendment No. 5]  
38

39 The Council adopts the proposed amendment as modified below to clarify that the subject is  
40 “reclaimed wastewater”:  
41

1 Holders shall construct and operate a zero discharge system as described on pages B-  
2 12.a.2 through B-14.a.2 of the ASC, as amended by the “Amendment to Application  
3 for Site Certificate” dated December 24, 1993 (at pages 1 and 4), and as further  
4 amended by the “Request for Amendment, at pages 6-8, submitted on June 3, 1994,  
5 and as further amended by the “Request for Amendment” dated May 16, 1997, and  
6 as further amended by the “Request for Amendment” dated October 3, 2000. The  
7 zero discharge system and Lamb-Weston process water system shall be reserved as  
8 backup systems. The primary system for disposing of reclaimed wastewater shall be  
9 through agricultural irrigation at Madison Farms in accordance with the Water  
10 Pollution Control Facilities Permit granted to the Holders by the Oregon Department  
11 of Environmental Quality. [Amendment No. 5]  
12

13 The Council adopts additional conditions, as discussed below relative to specific  
14 standards. The Council also makes conforming changes to the site certificate to change  
15 that references from “process water and process wastewater” to “reclaimed wastewater”  
16 as appropriate to be consistent with the usage of the terms in this order.  
17

18 **E. Compliance with Council Standards**

19 The amended site certificate provides at Condition IV.A.2:

20  
21 The conditions in this Site Certificate may not be changed during the term of the  
22 certificate except as provided in OAR 345-27-050 through OAR 345-27-080, and  
23 OAR 345-27-095 (November 1995). Holder may request that amendments to  
24 conditions be considered pursuant to the Division 27 rules in effect at the time  
25 the amendment is filed. A request to have the amendment considered pursuant to  
26 a later adopted version of Division 27 rules will be granted unless the Council  
27 finds that applying the later-adopted rules would create a significant threat to  
28 public health, safety or the environment.  
29

30 The above-mentioned rules relate to the amendment process pursuant to  
31 Division 27. The Holders did not request that the Council consider the amendment  
32 request pursuant to current Division 27, so the Council is using the 1995 amendment  
33 process rules. However, the applicable 1995 rules do not differ significantly from current  
34 rules.  
35

36 OAR 345-27-070(6) sets forth the Council’s general standard for review of a  
37 request by a site certificate holder for an amendment:  
38

39 In evaluating a request for an amendment under this rule, the Council shall limit  
40 its consideration to the effects which may be produced by the proposed change or  
41 addition to the site or facility described in the request for amendment. In  
42 considering those effects, the Council shall apply state statutes, administrative  
43 rules, and local government ordinances in effect on the date the amended Site  
44 Certificate is executed.  
45

1 The following discussion of applicable standards addresses the current  
2 (February 2000/November 2000) version of the OAR Chapter 345, Division 22, rules.  
3 For OAR 345-022-0060, the discussion addresses changes to that rule that went into  
4 effect after the Council made a decision on a temporary order, but before it issued a final  
5 order. Therefore, the discussion shows compliance with both versions of the rule.  
6

## 7 **E.1 Standards Relating to the Applicant**

### 8 **E.1.1 Organizational, Managerial and Technical Expertise, OAR 345-022-010**

9 This standard has four paragraphs. Two, 022-0010(1) and 022-0010(2), relate to  
10 application qualifications and capability and two, 022-010(3) and 022-0010(4), relate to  
11 third party permits.  
12

#### 13 **E.1.1.1 Applicant Qualification and Capability, OAR 345-22-010(1)**

14 To issue a site certificate, the Council must find that the applicant has the organizational,  
15 managerial and technical expertise to construct and operate the proposed facility. To  
16 conclude that the applicant has the organizational, managerial and technical expertise to  
17 construct and operate the proposed facility, the Council must find that the applicant has a  
18 reasonable probability of successful construction and operation of the proposed facility  
19 considering the experience of the applicant, the availability of technical expertise to the  
20 applicant, and the past performance of the applicant in constructing and operating other  
21 facilities, including, but not limited to, the number and severity of regulatory citations, in  
22 constructing or operating a facility, type of equipment, or process similar to the proposed  
23 facility.  
24  
25

26 **Discussion.** The proposed modification does not involve a change in entities (i.e., the  
27 Holders or operating agent) responsible for the construction and operation of the energy  
28 facility. U.S. Operating Services Company (USOSC) is the operating agent and Hermiston  
29 Generating Company, LP, and PacifiCorp are the site certificate holders. The proposed  
30 modification involves the construction of an on-site pump station and a buried pipeline from  
31 the energy facility to Madison Farms, the operation of those facilities, and compliance with a  
32 WPCF permit. The construction and operation of the pump station and pipeline are  
33 incidental to the construction and operation of the whole facility and are within the expertise  
34 of the site certificate holders and USOSC, as determined in the Final Order on Request for  
35 Amendment No. 4.  
36

37 The actual use and operation of the land application system (i.e., reclaimed  
38 wastewater irrigation scheduling, crop maintenance, soil moisture monitoring, pivot  
39 operation, booster pump operation and maintenance, etc.) will be the responsibility of  
40 Madison Farms under a contractual agreement with HGP. However, HGP remains  
41 responsible for compliance with its WPCF permit. Madison Farms has operated land  
42 application systems for more than 10 years and currently irrigates with reclaimed wastewater  
43 from Lamb-Weston. In both cases, Madison Farms operates under contractual agreements  
44 for the beneficial reuse of reclaimed wastewater under a WPCF permit granted by the DEQ  
45 to the respective responsible parties.  
46

1 The Council finds that USOSC, Hermiston Generating Company, LP, and PacifiCorp  
2 have the expertise to operate the reclaimed wastewater disposal system and to enforce  
3 contract provisions with Madison Farms for land application pursuant to the Holders' WPCF  
4 permit.

5  
6 **Ownership of Reclaimed Wastewater Pipeline.** Although HGP is paying to install the  
7 reclaimed wastewater pipeline from HGP to booster station number one at Madison Farms, it  
8 will not initially own the pipeline, as noted in Section C.1. Lamb-Weston will own the  
9 pipeline from the property line of the facility to the property line of Madison Farms and  
10 Madison Farms will own the pipeline on its property.

11  
12 Lamb-Weston will initially own the segment to Madison Farms because it has the  
13 easements to allow it to install the pipeline. When HGP can negotiate its own easements, it  
14 will purchase the pipeline from Lamb-Weston. Madison Farms will continue to own the  
15 pipeline on its land for the foreseeable future. The Council adopts the following condition to  
16 allow the Holders to purchase the pipeline and acquire easements without the necessity of  
17 further Council action.

18  
19 **IV.B "Organizational, Managerial and Technical Expertise Standard"**

20 **(8) The Holders may purchase the reclaimed wastewater pipeline authorized by**  
21 **Amendment Number Five from Lamb-Weston, Inc., without requiring approval of**  
22 **the Council. The Holders may purchase easements and obtain necessary permission**  
23 **from property owners for the reclaimed wastewater pipeline from the facility to**  
24 **Madison Farms without requiring approval of the Council. The Holders shall report**  
25 **to the Council if they acquire easements for and purchase the pipeline. [Amendment**  
26 **No. 5]**

27  
28 **Conclusion.** The Council finds that HGP meets the requirements of OAR 345-022-  
29 0010(1) and adopts the related condition.

30  
31 **E.1.1.2 OAR 345-022-0010(2)**

32 The Council may base its findings under section (1) on a rebuttable presumption that an  
33 applicant has organizational, managerial and technical expertise, if the applicant has an  
34 ISO 9000 or ISO 14000 certified program and proposes to design, construct and operate  
35 the facility according to that program.

36  
37 **Discussion.** OAR 345-022-0010(2) establishes a rebuttable presumption of organizational,  
38 managerial and technical expertise if an applicant has an ISO 9000 or ISO 14000 certified  
39 program and proposes to design, construct and operate the facility according to that program.  
40 The Holders do not propose to submit evidence of ISO certification for this project.

41  
42 **Conclusion.** The Council finds that HGP has not requested a rebuttable presumption of  
43 expertise pursuant to OAR 345-022-0010(2).  
44

1 **E.1.1.3 Third-Party Services and Permits, OAR 345-22-010(3)**

2 If the applicant does not itself obtain a state or local government permit or approval for  
3 which the Council would ordinarily determine compliance but instead relies on a permit  
4 or approval issued to a third party, the Council, to issue a site certificate, must find that  
5 the third party has, or has a reasonable likelihood of obtaining, the necessary permit or  
6 approval, and that the applicant has, or has a reasonable likelihood of entering into, a  
7 contractual or other arrangement with the third party for access to the resource or service  
8 secured by that permit or approval.  
9

10 **Discussion.** The pipeline segment from the energy facility to Cottonwood Bend Road will  
11 be constructed on Lamb-Weston property per an agreement between Hermiston Generating  
12 and Lamb-Weston, Inc. Currently, this is a verbal agreement with a written and signed  
13 document to follow after review by both parties. After the pipeline leaves Lamb-Weston’s  
14 property, it enters and proceeds south along Cottonwood Bend Road. Lamb-Weston  
15 currently has an easement in place with Umatilla County for this segment.  
16

17 The Holders report that Lamb-Weston also has a crossing permit for passing beneath  
18 the railroad trestle from Union Pacific Railroad. Hermiston Generating still needs to obtain a  
19 crossing permit from Union Pacific to place its pipeline beneath the trestle, but this is not a  
20 state or local permit. Lamb-Weston is obtaining the appropriate permits from Umatilla  
21 County for performing construction activities in the roadway.  
22

23 The Holders report that Lamb-Weston has the necessary easements for the two canal  
24 crossings from the Westland Irrigation District and is in the process of obtaining permission  
25 for the upcoming construction activities. If the reclaimed wastewater pipeline can fit  
26 through the existing casing, no additional permission is needed to install HGP’s pipeline.  
27 However, if a separate crossing is necessary, Lamb-Weston will need to obtain permission  
28 from the Westland Irrigation District to construct the additional crossing in its current  
29 easement.  
30

31 The Holders report that Lamb-Weston has easements and permission from the  
32 private property owners south of the irrigation canal to Interstate 84. Lamb-Weston has  
33 easements and permission from the private property owners south of Interstate 84 to  
34 Madison Farms property boundary. Lamb-Weston has an easement from the State of  
35 Oregon for the conduit that holds the pipes that run beneath Interstate 84.  
36

37 The Holders report that Madison Farms has agreed to construct the remaining  
38 pipeline segment from the property boundary to booster station number one. Madison Farms  
39 will retain ownership of this pipeline segment on its property, so no easement is required.  
40

41 The Holders will pay Lamb-Weston to construct the process wastewater pipeline  
42 from the facility to the property line of Madison Farms and pay Madison Farms to construct  
43 the pipeline on its property. The Council adopts the following condition to ensure that  
44 Lamb-Weston and Madison Farms construct the pipeline in accordance with the conditions  
45 in this order and the Thermal Power Plant Third Amended Site Certificate for the Hermiston  
46 Generating Project.  
47

1 IV.B (Organizational, Managerial and Technical Expertise Standard)

2 (9) Prior to commencing construction of the reclaimed wastewater pipeline, the  
3 Holder shall submit to the Council contracts with Lamb-Weston, Inc., and Madison  
4 Farms that ensure that they construct and operate the pipeline in compliance with the  
5 conditions in the Thermal Power Plant Third Amended Site Certificate for the  
6 Hermiston Generating Project. [Amendment No. 5]

7  
8 The Council finds that Lamb-Weston and Madison Farms, as the third-parties  
9 upon which HGP relies for installing the pipeline, have obtained or have a reasonable  
10 likelihood of obtaining all permits and approvals they will require.

11  
12 **Conclusion.** The Council finds that Holders meet the requirement of OAR 345-022-  
13 0010(3), with adoption of a new condition.

14  
15 **E.1.1.4 Third-Party Services and Permits, OAR 345-22-010(4)**

16 If the applicant relies on a permit or approval issued to a third party and the third party  
17 does not have the necessary permit or approval at the time the Council issues the site  
18 certificate, the Council may issue the site certificate subject to the condition that the  
19 certificate holder may not commence construction or operation as appropriate until the  
20 third party has obtained the necessary permit or approval and the applicant has a contract  
21 or other arrangement for access to the resource or service secured by that permit or  
22 approval.

23  
24 **Discussion.** The Council finds that it does not need to impose additional site certificate  
25 conditions relating to obtaining third-party permits because Lamb-Weston already has the  
26 necessary easements from its facility to Madison Farms.

27  
28 **Conclusion.** The Council finds that HGP meets the requirement of OAR 345-022-  
29 0010(4).

30  
31 **E.1.2 Financial Assurance Standard, OAR 345-022-0050**

32 To issue a site certificate, the Council must find that the applicant has a reasonable  
33 likelihood of obtaining a bond or comparable security, satisfactory to the Council, in an  
34 amount adequate to restore the site to a useful, non-hazardous condition if the certificate  
35 holder either begins but does not complete construction of the facility or permanently  
36 closes the facility before establishing the financial mechanism or instrument described in  
37 OAR 345-027-0020(9).

38  
39 **Discussion.** The energy facility has already been constructed. The only additional  
40 construction necessary under the requested site certification amendment is the on-site pump  
41 station and approximately 25,600 feet of reclaimed wastewater pipeline from the energy  
42 facility to the booster pump station number one at Madison Farms. The Holders state that  
43 construction cost of the land application system is less than 0.01 percent of the original  
44 facility construction cost and will not impact their ability to meet the financial assurance  
45 standards as determined in the Second Amended Site Certificate.

1  
2 **Conclusion.** The Council finds that HGP meets the financial assurance standard, OAR  
3 345-022-0050.

4  
5 **E.2 Standards Relating to the Site and Structure**

6  
7 **E.2.1 Structural Standard, OAR 345-022-0020**

8 To issue a site certificate, the Council must find that:

- 9 (1) The applicant, through appropriate site-specific study, has adequately characterized  
10 the site as to seismic zone and expected ground motion and ground failure, taking  
11 into account amplification, during the maximum credible and maximum probable  
12 seismic events; and  
13 (2) The applicant can design, engineer, and construct the facility to avoid dangers to  
14 human safety presented by seismic hazards affecting the site that are expected to  
15 result from all maximum probable seismic events. As used in this rule "seismic  
16 hazard" includes ground shaking, landslide, liquefaction, lateral spreading, tsunami  
17 inundation, fault displacement, and subsidence;  
18 (3) The applicant, through appropriate site-specific study, has adequately characterized  
19 the potential geological and soils hazards of the site and its vicinity that could, in the  
20 absence of a seismic event, adversely affect, or be aggravated by, the construction  
21 and operation of the proposed facility; and  
22 (4) The applicant can design, engineer and construct the facility to avoid dangers to  
23 human safety presented by the hazards identified in section (3).

24  
25 **Discussion. Elements 1 and 2: Seismic Hazards.** Exhibit G to the original Application  
26 for Site Certificate provides the required characterization of the facility site. In addition,  
27 Bechtel prepared and submitted a pre-construction geological survey to the Department of  
28 Geology and Mineral Industries ("DOGAMI") for peer review pursuant to Condition  
29 IV.B(1) "Structural Standard" of the Site Certificate as amended July 23, 1996. By letter  
30 dated August 12, 1994, DOGAMI concluded that no special seismic design considerations  
31 beyond those required by the Oregon Building Code are needed to assure the safety of  
32 structures critical to public health and safety. The Council finds that there is an absence of  
33 noted seismic hazards for the area and that the proposed reclaimed wastewater pipeline will  
34 be constructed in compliance with all applicable Oregon Building Codes as required by the  
35 Council.

36  
37 **Elements 3 and 4: Geological and Soils Hazards.** In addition to the previous  
38 described geological surveys, which did not note any other geological or soil hazards for  
39 the site or gas line routes, Cascade Earth Sciences performed a detailed soils assessment  
40 and geological survey at the proposed land application site. These assessments did not  
41 detect any physical hazards that would have to be mitigated before implementation of the  
42 proposed modifications. All new reclaimed wastewater lines will be constructed using  
43 HDPE piping and will be appropriately bedded according to Oregon Building Code  
44 requirements. The pipeline route will pass through established right-of-ways and  
45 easements already used for reclaimed wastewater and gas transmission lines.

1 The land application site is located on relatively level agricultural land that is not  
2 subject to subsurface shifting and sliding. Given the absence of noted geological and soil  
3 hazards and given that the reclaimed wastewater pipeline will be constructed in  
4 compliance with applicable Oregon Building Codes, The Council finds that there are no  
5 geological and soils hazards related to the actions proposed by HGP in this amendment  
6 request.

7  
8 **Conclusion.** The Council finds that HGP meets the structural standard, OAR 345-022-  
9 0020.

#### 10 **E.2.2. Soil Protection Standard, OAR 345-022-0022**

11 To issue a site certificate, the Council must find that the design, construction and  
12 operation of the facility, taking into account mitigation, is not likely to result in a  
13 significant adverse impact to soils including, but not limited to, erosion and chemical  
14 factors such as salt deposition from cooling towers, land application of liquid effluent,  
15 and chemical spills.  
16

17  
18 **Discussion.** The Council adopted the soil protection standard in November 1994, after  
19 granting the site certificate in March 1994. The November 1994 rules separated the soil  
20 protection standard from what had been part of the structural standard. The original  
21 order dealt with soils and structure in the discussion of the structural standard. This  
22 amendment addresses them separately, consistent with current rules.  
23

24 **Pipeline Impacts** The direct disturbance of soils will be from the construction of the  
25 buried pipeline from the energy facility to booster station number one on Madison Farms.  
26 That disturbance will be temporary and will occur entirely within an existing pipeline  
27 easement held by Lamb-Weston, on industrial land owned by HGP or Lamb-Weston, or  
28 on cultivated cropland. As discussed above, the Holders requested an expedited review  
29 of this amendment request so that they could coordinate construction of the pipeline with  
30 pipeline repair and replacement work by Lamb-Weston, thereby avoiding having to  
31 disturb the soils twice.  
32

33 In Section D.1.1, the Holders proposed a new Condition IV.B(7) under the  
34 “Structural Standard” section of the site certificate. The condition addresses segregation  
35 of topsoils and subsoils during pipeline construction. The Council adopts the condition  
36 with minor changes, as noted above.  
37

38 **Land Application Impacts.** The soil erodibility at the Madison Farms land application  
39 facility (MFLAF) is listed in the Umatilla County soil survey (USDA, 1988) as moderate  
40 with slopes ranging from 1 percent to 7 percent. The site is currently being used to grow  
41 a range of sprinkler irrigated crops. The Holders report there is no water runoff/erosion  
42 from the existing crop circles. The substitution of reclaimed wastewater for fresh water  
43 as a small portion of the crop water requirement should not significantly change the  
44 current water balance and therefore not change the runoff/erosion potential.

1  
2 The irrigation application rates of the pivots are between 0.015 and 0.03 inches  
3 per hour. The soils at the site have a maximum water infiltration rate of 0.3 inches per  
4 hour (USDA, 1990). The application rates are much less than the infiltration rate and,  
5 therefore, should not change the runoff/erosion status of the site. The substitution of  
6 reclaimed wastewater for a portion of the water application should not impact drainage.  
7 However, the WPCF permit will require that HGP perform soil tests twice a year with the  
8 potential to reduce sampling frequency to once a year after the first two years to  
9 determine that the leaching fraction is adequate and that sodium build-up is not  
10 occurring. Excess sodium in the soil can lead to a change in the water infiltration rate by  
11 reducing the maximum rate.

12  
13 The addition to the soil of the reclaimed wastewater and its effect on the salinity  
14 of the soil is addressed in detail in the discussion of the WPCF permit in Section E.4.1  
15 and Attachment B. Soil protection will be enforced under the WPCF permit for as long  
16 as HGP relies on land application under the WPCF permit.

17  
18 The Council finds that the application of reclaimed wastewater from HGP to the  
19 731 acres of Madison Farms will not result in significant adverse impact to the soils  
20 including erosion, drainage, or salt deposition when HGP complies with the WPCF  
21 permit.

22  
23 **Conclusion.** The Council finds that HGP meets the soil protection standard, OAR 345-  
24 022-0022, subject to a new condition.

25  
26 **E.2.3 Land Use Standard, OAR 345-022-0030(2)(a)**

- 27 (1) To issue a site certificate, the Council must find that the facility complies with the  
28 statewide planning goals adopted by the Land Conservation and Development  
29 Commission.
- 30 (2) The Council shall find that a proposed facility complies with section (1) if:
- 31 (a) The applicant elects to obtain local land use approvals under ORS  
32 469.504(1)(a) and the Council finds that the facility has received local land  
33 use approval under the acknowledged comprehensive plan and land use  
34 regulations of the affected local government; or
- 35 (b) The applicant elects to obtain a Council determination under ORS  
36 469.504(1)(b) and the Council determines that:
- 37 (A) The proposed facility complies with applicable substantive criteria as  
38 described in section (3) and the facility complies with any Land  
39 Conservation and Development Commission administrative rules and  
40 goals and any land use statutes directly applicable to the facility under  
41 ORS 197.646(3);
- 42 (B) For a proposed facility that does not comply with one or more of the  
43 applicable substantive criteria as described in section (3), the facility  
44 otherwise complies with the statewide planning goals or an exception  
45 to any applicable statewide planning goal is justified under section (4);  
46 or
- 47 (C) For a proposed facility that the Council decides, under sections (3) and  
48 (6), to evaluate against the statewide planning goals, the proposed

1 facility complies with the applicable statewide planning goals or that  
2 an exception to any applicable statewide planning goal is justified  
3 under section (4).  
4

5 **Discussion.** The Holders elected to obtain a Council determination of compliance with  
6 the statewide planning goals under ORS 469.504(1)(b) by demonstrating that the  
7 proposed facility complies with all applicable substantive criteria. Compliance with the  
8 Council’s Land Use Standard is discussed in Attachment C.  
9

10 Based on the analysis in Attachment C, the Council finds that Holders have  
11 demonstrated compliance with the applicable criteria in Umatilla County’s acknowledged  
12 comprehensive plan and land use regulations that are required by the statewide planning  
13 goals and in effect on the date the request for amendment was submitted, as well as the  
14 Land Conservation and Development Commission administrative rules and goals and any  
15 land use statutes directly applicable to the facility under ORS 197.646(3).

16 **Conclusion.** The Council finds that HGP meets the land use standard, OAR 345-022-  
17 0030.  
18

19 **E.3 Standards Relating to the Impacts of Construction, Operation and**  
20 **Retirement**  
21

22 **E.3.1 Protected Area Standard, OAR 345-022-0040**

23 (1) Except as provided in sections (2) and (3), the Council shall not issue a site certificate  
24 for a proposed facility located in the areas listed below. To issue a site certificate, the  
25 Council must find that, taking into account mitigation, the design, construction and  
26 operation of a proposed facility located outside the areas listed below is not likely to  
27 result in significant adverse impact to the areas listed below. Cross-references in this  
28 rule to federal or state statutes or regulations are to the version of the statutes or  
29 regulations in effect as of the effective date of this rule [September 1, 2000]: \*\*\*  
30

31 **Discussion.** The bracketed date in the rule shows the anticipated revisions that went into  
32 effect on November 20, 2000. That was after the Council issued a temporary order, but  
33 before it issued a final order for this amendment request.  
34

35 Exhibit J of the original Application for Site Certificate identified the nearest  
36 “protected area” to the site is the Hermiston Agricultural Research and Extension Center,  
37 located approximately four miles east of the energy facility site. The Echo Meadows  
38 Oregon Trail Site is also located within several miles southeast of the proposed reclaimed  
39 wastewater pipeline. The only new construction proposed under this amendment, the on-  
40 site reclaimed wastewater pump station and the pipeline, will not be located within a  
41 protected area. The pipeline will be buried, and therefore would not have a significant  
42 adverse impact on the Hermiston Agricultural Research and Extension Center, the Echo  
43 Meadows Oregon Trail Site, or any other designated protected area. In addition,

1 activities associated with the operation of the proposed land application system are the  
2 same as currently performed on the site (agricultural irrigation).

3  
4 **Conclusion.** The Council finds that HGP meets the protected areas standard, OAR 345-  
5 022-0040.

6  
7 **E.3.2 Fish and Wildlife Habitat Standard, OAR 345-022-0060**

8 To issue a site certificate, the Council must find that the design, construction, operation  
9 and retirement of the facility, taking into account mitigation, is consistent with the fish  
10 and wildlife habitat mitigation goals and standards of OAR 635-415-030 [OAR-635-415-  
11 0025 in effect as of September 1, 2000].

12  
13 The Council began a rulemaking to amend OAR 345-022-0060 in September  
14 2000. The Council adopted amendments to OAR 345-022-0060 on November 17, 2000,  
15 and the rule became effective on November 20, 2000. However, the Council issued the  
16 temporary order to amend the site certificate (see OAR 345-027-0080(5)) before the  
17 amended rule took affect. Therefore, in this order the Council evaluates the proposed  
18 changes to the HGP facility under both the April 1999 Fish and Wildlife Standard and the  
19 November 2000 amended standard. (The bracketed section of the rule above shows the  
20 language of the revised rule, which includes a change to the referenced rule number.)

21  
22 **Discussion. Analysis Under OAR 345-022-0060 (April 1999).** Under the April 1999  
23 standard the Council must find that “the design, construction, operation and retirement of  
24 the facility, taking into account mitigation, is consistent with the fish and wildlife habitat  
25 mitigation goals and standards of OAR 635-415-030.” OAR 635-415-030 describes four  
26 categories of habitat in order of their importance to fish and wildlife. The rule then sets  
27 mitigation goals and corresponding implementation standards for each habitat category.

28  
29 The proposed new on-site reuse water pump station would be constructed on the  
30 energy facility site within the fenced boundary. The area now supports HGP power  
31 generation and related equipment and is Habitat Category 4, which is “of low value to  
32 fish and wildlife.” The mitigation goal is to minimize the loss of fish and wildlife habitat  
33 value. Due to the developed and industrial use of the site, construction of the pump  
34 station would have no adverse impact on fish and wildlife habitat.

35  
36 The proposed reclaimed wastewater disposal pipeline route does not cross, and  
37 would not affect, any jurisdictional wetlands, streams or creeks. It does not cross any  
38 areas that now support native vegetation. Habitat types along the proposed route include  
39 disturbed low shrub or shrub-grasslands (Category 4), irrigated and non-irrigated  
40 croplands (Category 4), rural residential land (Category 4), industrial land (Category 4),  
41 irrigation canal, which supports some narrow zones of emergent vegetation (Category 4)  
42 and irrigated pasture (Category 3). Category 3 is “habitat of high to medium value ... and  
43 is abundant statewide or within the physiographic province.” The goal is no net loss of  
44 either habitat value or habitat units. Mitigation may be provided by measures that are in-  
45 kind or out-of-kind and on-site or off-site.

1 The impacts of construction would be confined to a 30-foot wide construction  
2 zone. Construction would take place during late fall or winter when sensitive bird  
3 species would not be nesting. Holders agree to restore areas of existing vegetation and  
4 agricultural pastures and croplands to their previous condition. These measures should  
5 result in no net loss of Category 3 Habitat and should minimize the loss of fish and  
6 wildlife habitat value of Category 4 Habitat.

7  
8 The land application of HGP facility reclaimed wastewater would be on lands that  
9 are zoned Exclusive Farm Use (EFU) and are now under cultivation. The land  
10 application of reclaimed wastewater would not change how these lands are managed nor  
11 would it add new lands to crop production.

12  
13 The Council adopts the following conditions to ensure that HGP and its agents  
14 construct and operate the reclaimed wastewater disposal pipeline consistently with the  
15 Holder’s representations in support of their request for a fifth amendment.

16  
17 IV.B “Fish and Wildlife Standard”

18 (8) Holders shall begin and complete construction of the reclaimed wastewater  
19 disposal pipeline during late fall or winter of 2000/2001. Holders shall restore  
20 areas of existing vegetation and pastures to their preconstruction conditions using  
21 plant species that are appropriate to the location and acceptable to the land owner.  
22 Holders shall not allow construction activity to affect adversely the Umatilla  
23 River or its associated vegetation. [Amendment No. 5]

24  
25 IV.B “Fish and Wildlife Standard”

26 (9) Holders shall ensure that reclaimed wastewater from the HGP is land  
27 applied only on lands that were under cultivation in 2000. [Amendment No. 5]

28  
29 **Conclusion.** The Council finds that HGP meets the Council’s fish and wildlife standard,  
30 OAR 345-022-0060 (April 1999), subject to two new conditions.

31  
32 **Analysis Under OAR 345-022-0060 (November 2000).** Under the revised fish and  
33 wildlife standard, the Council must find that “the design, construction, operation and  
34 retirement of the facility, taking into account mitigation, is consistent with the fish and  
35 wildlife habitat mitigation goals and standards of OAR 635-415-0025 in effect as of  
36 September 1, 2000.” The Oregon Fish and Wildlife Commission adopted OAR 635-415-  
37 0025 in Spring 2000. The new rule amends former OAR 635-415-030 to describe six  
38 (rather than four) categories of habitat in order of their importance to fish and wildlife.  
39 The rule then sets mitigation goals and corresponding implementation standards for each  
40 habitat category.

41  
42 Under the amended standard, the proposed new on-site reuse water pump station  
43 would be Habitat Category 6, which is “habitat that has low potential to become essential  
44 or important habitat for fish and wildlife.” (New Category 6 is similar to the former

1 Category 4.) The mitigation goal is to minimize impacts. Due to the developed and  
2 industrial use of the site, construction of the pump station would have no adverse impact  
3 on fish and wildlife habitat.

4  
5 Under the amended standard, the habitat types along the proposed route of the  
6 reclaimed wastewater disposal pipeline would be as follows: disturbed low shrub or  
7 shrub-grasslands (new Category 4 or 6), irrigated and non-irrigated croplands (new  
8 Category 4 or 6), rural residential land (new Category 6), industrial land (new Category  
9 6), irrigation canal which supports some narrow zones of emergent vegetation (new  
10 Category 4) and irrigated pasture (new Category 4). New Category 4 is “important  
11 habitat for fish and wildlife species.” The goal is no net loss of either habitat quantity or  
12 habitat quality. Mitigation may be provided by measures that are in-kind or out-of-kind  
13 and in-proximity or off-proximity. (New Category 4 is similar to the former Category 3.)  
14

15 The impacts of construction would be confined to a 30-foot wide construction  
16 zone. Construction would take place during late fall or winter when sensitive bird  
17 species would not be nesting. Holders agree to restore areas of existing vegetation and  
18 agricultural pastures and croplands to their previous condition. These measures should  
19 result in no net loss of new Category 4 Habitat and should minimize the loss of fish and  
20 wildlife habitat value of new Category 6 Habitat.

21  
22 The land application of HGP facility reclaimed wastewater would be on lands that  
23 are zoned Exclusive Farm Use and are now under cultivation. The land application of  
24 reclaimed wastewater would not change how these lands are managed nor would it add  
25 new lands to crop production.

26  
27 The Council adopts the following conditions to ensure that HGP and its agents  
28 construct and operate the reclaimed wastewater disposal pipeline consistently with the  
29 Holder’s representations in support of their request for a fifth amendment.

30  
31 IV.B “Fish and Wildlife Standard”

32 (8) Holders shall begin and complete construction of the reclaimed  
33 wastewater disposal pipeline during late fall or winter of 2000/2001. Holders  
34 shall restore areas of existing vegetation and pastures to their preconstruction  
35 conditions using plant species that are appropriate to the location and acceptable  
36 to the land owner. Holders shall not allow construction activity to affect  
37 adversely the Umatilla River or its associated vegetation. [Amendment No. 5]  
38

39 IV.B “Fish and Wildlife Standard”

40 (9) Holders shall ensure that reclaimed wastewater from the HGP is land  
41 applied only on lands that were under cultivation in 2000. [Amendment No. 5]  
42

43 **Conclusion.** The Council finds that HGP meets the fish and wildlife standard, OAR 345-  
44 022-0060 (November 2000), subject to two new conditions.  
45

1 **E.3.3 Threatened and Endangered Species Standard, OAR 345-022-0070**

2 To issue a site certificate, the Council, after consultation with appropriate state agencies,  
3 must find that:

4 (1) For plant species that the Oregon Department of Agriculture has listed as threatened  
5 or endangered under ORS 564.105(2), the design, construction, operation and retirement  
6 of the proposed facility, taking into account mitigation:

7 (a) Is consistent with the protection and conservation program, if any, that the  
8 Oregon Department of Agriculture has adopted under ORS 564.105(3); or

9 (b) If the Oregon Department of Agriculture has not adopted a protection and  
10 conservation program, is not likely to cause a significant reduction in the  
11 likelihood of survival or recovery of the species; and

12 (2) For wildlife species that the Oregon Fish and Wildlife Commission has listed as  
13 threatened or endangered under ORS 496.172(2), the design, construction, operation and  
14 retirement of the proposed facility, taking into account mitigation, is not likely to cause a  
15 significant reduction in the likelihood of survival or recovery of the species.

16  
17 **Discussion.** Field surveys prepared by consultants to HGP of the proposed pipeline route  
18 did not locate any plant species listed by ODA as threatened or endangered.

19  
20 Based on the reports supplied by the Holders, the Council knows of no wildlife  
21 species listed as threatened or endangered by the Oregon Fish and Wildlife Commission  
22 (OFWC) that occur along, or regularly use, the proposed pipeline route based on field  
23 surveys and available information. This includes the Washington ground squirrel that the  
24 OFWC listed as endangered in January 2000.

25  
26 Migrating and wintering bald eagles are known to use the Umatilla River and  
27 uplands in the general project area. The Council finds that it is unlikely that the proposed  
28 pipeline construction and land application of HGP reclaimed wastewater would adversely  
29 affect bald eagles. Eagles do not nest near either of these areas. Eagles do not regularly  
30 use, or rely upon the areas that would be affected by the proposed activities.

31  
32 The proposed activities would have no affect on the Umatilla River or its  
33 associated riparian habitat. The majority of the pipeline route crosses open country,  
34 gravel roads and farmland. No large trees, with the possible exception of one large  
35 cottonwood tree located on Lamb-Weston's property, would be removed. Pipeline  
36 construction and land application are typical activities in the area.

37  
38 The OFWC has listed several fish species that occur in the Columbia River in the  
39 vicinity of Umatilla. The Umatilla River in the vicinity of the proposed project provides  
40 habitat for the Middle Columbia River steelhead, which has been listed as threatened by  
41 the National Marine Fisheries Service (NMFS). The proposed pipeline and land  
42 application would not affect the HGP facility's water consumption and would not involve  
43 disturbance to either the Columbia or Umatilla Rivers.

1 **Conclusion.** The Council finds that HGP meets the threatened and endangered species  
2 standard, OAR 345-022-0070.

3  
4 **E.3.4 Scenic and Aesthetic Standard, OAR 345-022-0080**

5 To issue a site certificate, the Council must find that the design, construction, operation  
6 and retirement of the facility, taking into account mitigation, is not likely to result in  
7 significant adverse impact to scenic and aesthetic values identified as significant or  
8 important in applicable federal land management plans or in local land use plans in the  
9 analysis area.

10  
11 **Discussion.** The energy facility has already been constructed. The only additional  
12 construction necessary under the requested site certification amendment is the on-site pump  
13 station and the underground reclaimed wastewater pipeline from the energy facility to  
14 booster station number one on Madison Farms. The pump station will be a minor addition  
15 within the energy facility complex and will not affect the overall visual impact of the facility.  
16 The pipeline will be below ground and not visible, except during the short period required  
17 for construction. Finally, the land application fields are already improved with center pivots  
18 and used for crop production consistent with surrounding land use. There will be no visible  
19 changes to the land application site.

20  
21 **Conclusion.** The Council finds that HGP meets the scenic and aesthetic values standard,  
22 OAR 345-022-0080.

23  
24 **E.3.5 Historic, Cultural and Archeological Resources Standard, 345-022-0090**

25 To issue a site certificate, the Council must find that the construction, operation and  
26 retirement of the facility, taking into account mitigation, is not likely to result in  
27 significant adverse impacts to:

- 28 (1) Historic, cultural or archaeological resources that have been listed on, or  
29 would likely be listed on the National Register of Historic Places;  
30 (2) For a facility on private land, archaeological objects, as defined in ORS  
31 358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c); and  
32 (3) For a facility on public land, archaeological sites, as defined in ORS  
33 358.905(1)(c).

34  
35 **Discussion.** As discussed in the original ASC, Heritage Research Associates surveyed the  
36 energy facility site and gas pipeline route to determine the historical, cultural, and  
37 archaeological resources. It did not identify any historic, cultural or archaeological resources  
38 that were listed on state or federal registers. It did identify the West Extension Irrigation  
39 Canal, which may be eligible for listing.

40  
41 It is not likely that construction, operation, or retirement of the new pump station on  
42 the energy facility site or the new underground reclaimed wastewater line, which parallels  
43 the gas transmission line for much of the route, would result in significant impacts to such  
44 resources. The wastewater pipeline will be placed within an existing pipeline easement held  
45 by Lamb-Weston or on cultivated farmland (Madison Farms), both of which have been  
46 previously disturbed. The land application site at Madison Farms has already been actively

1 farmed in established center pivot circles, and no changes or new construction in this area  
2 are proposed.

3  
4 In addition, construction of the new facilities will be subject to the applicable site  
5 certificate conditions under the historic, cultural and archaeological standard. These require  
6 tribal notification prior to construction, and protection of any cultural or archaeological  
7 resources discovered during construction. Two of these conditions, (4) and (5), as currently  
8 written are specific to construction of the related or supporting transmission line and would  
9 not apply to the requested wastewater pipeline. The Council amends one of these conditions  
10 to include construction of the wastewater pipeline as shown below. The new language that  
11 the Council adopts is shown with double underline.

12  
13 IV.B “Historic, Cultural and Archaeological Standard”

14 (4) Holder shall take all reasonable steps to avoid disturbance of the West  
15 Extension Irrigation Canal during construction and operation of the transmission  
16 line by ensuring that transmission towers/poles are placed away from the canal  
17 banks, and by avoiding any disturbance at the canal crossing when electrical line  
18 are strung. Holder shall take all reasonable steps to avoid disturbance to  
19 Westland Irrigation District canals during construction and operation of the  
20 wastewater pipeline to Madison Farms. [Amendment No. 5]

21  
22 **Conclusion.** The Council finds that HGP meets the historic, cultural, and archeological  
23 resources standard, OAR 345-022-0090, subject to a revised condition.

24  
25 **E.3.6 Recreation Standard, OAR 345-022-0100**

26 To issue a site certificate, the Council must find that the design, construction and  
27 operation of a facility, taking into account mitigation, is not likely to result in a  
28 significant adverse impact to important recreational opportunities in the analysis area.  
29 The Council shall consider the following factors in judging the importance of a  
30 recreational opportunity:

- 31 (1) Any special designation or management of the location;
- 32 (2) The degree of demand;
- 33 (3) Outstanding or unusual qualities;
- 34 (4) Availability or rareness;
- 35 (5) Irreplaceability or irretrievability of the opportunity.

36  
37 **Discussion.** The only new structures associated with the requested site certificate  
38 amendment are the underground reclaimed wastewater pipeline and the on-site water pump  
39 station. These facilities will not be located on land zoned or used for recreation. The  
40 pipeline, moreover, will be buried and, therefore, would not interfere with recreational use of  
41 the ground surface. Since no land use changes will occur, the Council finds that the  
42 requested amendment will not have any significant adverse impacts to important recreational  
43 opportunities in the area.

1 **Conclusion.** The Council finds that HGP meets the recreation standard, OAR-345-022-  
2 0100.

3  
4 **E.3.7 Socio-Economic Impacts Standard, OAR 345-022-0110**

5 To issue a site certificate, the Council must find that the construction and operation of the  
6 facility, taking into account mitigation, is not likely to result in significant adverse impact  
7 to the ability of communities within the analysis area to provide the following  
8 governmental services: sewers and sewage treatment, water, storm water drainage, solid  
9 waste management, housing, traffic safety, police and fire protection, health care and  
10 schools.

11  
12 **Discussion.** The requested amendment involves only the addition of a pipeline and a  
13 reclaimed wastewater pump station at the energy facility and land application of reclaimed  
14 wastewater. Construction impacts will be limited and temporary, and these changes are  
15 not anticipated to affect the number of permanent employees at the facility, or affect the  
16 provisions of any government services. The application of reclaimed wastewater is  
17 supplemental to an existing center pivot irrigation system.

18  
19 Local contractors and workers will construct the pipeline and other improvements  
20 to the extent possible. The Holders anticipate that fewer than 30 workers will be required  
21 to construct this system. The purpose of expediting this amendment request, moreover, is  
22 to allow installation of the pipeline to occur and the same time Lamb-Weston is replacing  
23 an existing pipeline within the same ditch and easement. This coordination minimizes all  
24 impacts associated with construction.

25  
26 The project construction requirements are substantially less than that included in  
27 the original Final Order. The Council finds that the amendments should not have adverse  
28 socioeconomic impacts to communities identified in the Application for Site Certificate  
29 and referenced in the amended site certificate.

30  
31 **Conclusion.** The Council finds that HGP meets the socio-economic impacts standard,  
32 OAR 345-022-0110.

33  
34 **E.3.8 Waste Minimization Standard, OAR 345-022-0120**

35 To issue a site certificate, the Council must find that, to the extent reasonably practicable:

- 36 (1) The applicant's solid waste and wastewater plans are likely to minimize  
37 generation of solid waste and wastewater in the construction, operation, and  
38 retirement of the facility, and when solid waste or wastewater is generated, to  
39 result in recycling and reuse of such wastes;  
40 (2) The applicant's plans to manage the accumulation, storage, disposal and  
41 transportation of waste generated by the construction and operation of the facility  
42 are likely to result in minimal adverse impact on surrounding and adjacent areas.

43  
44 **Discussion.** The use of the reclaimed wastewater to augment the irrigation requirements  
45 of agricultural production is a beneficial reuse of water resources. In addition, the  
46 impacts of using this reclaimed wastewater will be minimal to surrounding and adjacent  
47 land. The Holders must comply with the Waste Minimization conditions of the amended

1 site certificate. The Holders also propose a new condition related to waste minimization and  
2 the WPCF permit, as noted in Section D.1.1 above.

3  
4 **Conclusion.** The Council finds that HGP meets the waste minimization standard, OAR  
5 345-022-0120.

6  
7 **E.3.9 Retirement Standard, OAR 345-022-0130**

8 To issue a site certificate, the Council must find that the site, taking into account  
9 mitigation, can be restored adequately to a useful, non-hazardous condition following  
10 facility retirement.

11  
12 **Discussion.** Installation of the new pump station at the energy facility site and the new  
13 reclaimed wastewater pipeline from the energy facility site to Madison Farms will not  
14 create a hazardous condition that would affect the Holders' ability to retire the facility.  
15 Furthermore, land application of the reclaimed wastewater at Madison Farms will be in  
16 compliance with a current WPCF permit, which will prevent hazardous conditions from  
17 occurring from that activity.

18  
19 **Conclusion.** The Council finds that HGP meets the retirement standard, OAR 345-022-  
20 0130.

21  
22 **E.3.10 OAR 345-0240-0550, Carbon Dioxide Standard**

23  
24 **Discussion.** This amendment request does not affect the carbon dioxide emissions from  
25 the facility.

26  
27 **Conclusion.** The Council finds that the carbon dioxide standard does not apply to HGP's  
28 request for amendment number five.

29  
30 **E.4 Other Standards**

31  
32 **E.4.1 Water Pollution Control Facility Permit**

33 The Holders request to discharge reclaimed wastewater from the facility directly  
34 to lands owned by Madison Farms. Under state law, the disposal of reclaimed  
35 wastewater directly to the land surface (often referred to as "land application") requires a  
36 WPCF permit from DEQ. In order for DEQ to approve a request for a WPCF permit, the  
37 proposed land application must comply with applicable statutes and rules and standards  
38 adopted by DEQ (OAR Chapter 340, Division 40, and OAR 340-041-0642 to -0655).  
39 Because the HGP is under Council jurisdiction and because the Holders' request for a  
40 WPCF permit requires an amendment to the site certificate for that energy facility, the  
41 Council must determine that the applicable DEQ rules and standards are met.

42  
43 In consultation with the Office, DEQ reviewed the Holders' request for a WPCF  
44 permit. Following its review, DEQ advised the Office that land application of

1 wastewater is a feasible treatment method provided that it is performed in a controlled  
2 manner that protects the environment. DEQ recommended that land application of the  
3 HGP's wastewater be approved, subject to a number of conditions that DEQ submitted to  
4 the Council as part of its evaluation and its proposed permit conditions. DEQ's  
5 proposed WPCF permit is Attachment A and its permit evaluation report is Attachment  
6 B. The Council makes Attachment A to this order to be Attachment A to the Thermal  
7 Power Plant Third Amended Site Certificate for the Hermiston Generating Project.  
8

9 The proposed WPCF contains a number of conditions designed to prevent  
10 unacceptable environmental impacts from the proposed land application. In accordance  
11 with OAR 340, Division 40, the permit includes ongoing monitoring requirements and  
12 requires HGP to perform a hydrogeological characterization and implement a  
13 groundwater monitoring program, if the monitoring or other information indicates that  
14 the operation has the potential to impact groundwater. DEQ also has the authority to  
15 reopen and modify the permit as necessary to address changing conditions or standards  
16 and new information.  
17

18 DEQ encourages facilities to provide for storage of wastewater during winter  
19 months when the weather does not allow for land application. HGP did not propose  
20 structures for storage of wastewater. As a result, the performance monitoring is designed  
21 in part to evaluate whether winter operations will be allowed. Although the WPCF  
22 permit already prohibits discharge to the land application site under certain conditions,  
23 DEQ could later require amendment of the WPCF in accordance with the state  
24 groundwater protection standards. The Council finds that because HGP has the ability to  
25 recycle cooling water for up to 1 to 2 weeks, and has both the reclaimed wastewater line  
26 to Lamb-Weston and the zero discharge system in place as backup systems, if needed,  
27 HGP should be able to maintain compliance with the permit and applicable state  
28 standards.  
29

30 In Section D.1.1, the Holders proposed Conditions IV.B (6) and (7)  
31 "Organizational, Managerial and Technical Expertise Standard." The Council modifies  
32 HGP's proposed Condition IV.B(6) to: 1) require that the Holders obtain a WPCF permit  
33 prior to beginning construction (rather than operation) of the wastewater pipeline (as  
34 required by DEQ rules); 2) to require that the Holders operate the pump and pipeline in  
35 compliance with the terms and conditions of the WPCF permit; and, 3) to make clear that  
36 DEQ will have enforcement authority over the WPCF permit.  
37

38 (6) Prior to construction, installation or operation of the pump station and  
39 reclaimed wastewater pipeline, the Holders shall pay all required fees and obtain  
40 a Water Pollution Control Facilities (WPCF) permit allowing the discharge of  
41 reclaimed wastewater on the designated land application fields. The WPCF shall  
42 be substantially in the form of Attachment A. Holders shall operate the pump  
43 station and reclaimed wastewater pipeline in full compliance with the terms and  
44 conditions of an effective WPCF permit. All reclaimed wastewater conveyed  
45 from the energy facility to Madison Farms for irrigation use shall comply with all  
46 terms and conditions of the WPCF permit. DEQ shall continue to exercise

1 enforcement over all WPCF permits applicable to Holders discharges from the  
2 reclaimed wastewater pipeline. Notwithstanding WCPF Exhibit F, Section A.4,  
3 the permit shall not be transferred without prior approval by EFSC pursuant to  
4 OAR 345-027-0100. [Amendment No. 5]  
5

6 The Council modifies proposed Condition IV.B(7) to read as follows:

7 (7) Holders shall take all measures necessary to ensure that construction,  
8 installation, modification and operation of the pump station, and reclaimed wastewater  
9 pipeline are in full compliance with the WPCF permit, including but not limited to the  
10 following:

11 (a) Prior to commencing operation of the reclaimed wastewater pipeline,  
12 have in place a contract with Madison Farms to accept and manage the  
13 reclaimed wastewater flow and land application of reclaimed wastewater  
14 in full compliance with the terms and conditions of the WPCF permit  
15 issued to Holders by DEQ. The Holders shall maintain such contracts in  
16 effect so long as Holders rely on the WPCF permit;

17 (b) Prior to commencing operation of the reclaimed wastewater pipeline,  
18 have in place a contract with Lamb-Weston that affords Holders full  
19 access to the reclaimed wastewater pipeline as necessary to ensure full  
20 compliance with the terms and conditions of the WPCF permit issued to  
21 Holders by DEQ as long as Lamb-Weston owns the reclaimed wastewater  
22 pipeline upon which the Holders rely. [Amendment No. 5]

23 **Conclusion.** The Council finds that HGP complies with the applicable requirements for  
24 a WPCF permit, subject to the conditions in this order and in Attachment A, and the  
25 Council authorizes DEQ to issue a WPCF permit to the Holders substantially as shown in  
26 Attachment A.

27  
28 **E.4.2 Noise OAR 340-035-0035(1)(a)**

29 The Council applies and enforces the DEQ's noise standards for energy facilities  
30 under its jurisdiction. The applicable standard for an existing facility is:

31  
32 Existing Noise Sources. No person owning or controlling an existing industrial or  
33 commercial noise source shall cause or permit the operation of that noise source if the  
34 statistical noise levels generated by that source and measured at an appropriate  
35 measurement point, specified in subsection (3)(b) of this rule, exceed the levels specified  
36 in Table 7, except as otherwise provided in these rules.  
37

38 **Discussion.** The requested amendment would not change the operation of the energy  
39 facility in a manner that would have an impact on noise emissions. Although some noise  
40 would be generated during the construction of the energy facility, construction noise is  
41 not subject to the standards of OAR 340-035-0035. The Holders must comply with the

1 existing conditions of the amended site certificate regarding noise, including the  
2 requirement to “consult with Umatilla County and the City of Umatilla and with  
3 neighbors to the energy facility to minimize the impacts of construction noise.” They  
4 must also “take all reasonable precautions to minimize dust and noise during  
5 construction.”

6  
7 Furthermore, the effect of OAR 345-035-0035(1)(a) is the same as the effect of  
8 OAR 345-035-0035(1)(b)(B), upon which the Council based its findings for the original  
9 order. Although the two rules refer to different tables—Tables 7 and Table 8—the  
10 content of the tables is the same. The standard that the facility must meet is the same.

11  
12 **Conclusion.** The Council finds that HGP meets the noise standard, OAR 340-035-  
13 0035(1)(a).

#### 14 15 **E.4.2 Water Rights and Notification, ORS. 537.132**

16 Because the facility is using reclaimed water, as defined in ORS 537.131, for land  
17 application, it does not require a water right if it meets the exemption requirements from a  
18 water right permit, pursuant to ORS 537.132.

##### 19 537.131 Reclaimed water.

20 As used in ORS 537.132, 540.510 and 540.610, “reclaimed water” means water that has  
21 been used for municipal purposes and after such use has been treated in a treatment works  
22 as defined in ORS 454.010, and that, as a result of treatment, is suitable for a direct  
23 beneficial purpose or a controlled use that could not otherwise occur.

##### 24 537.132 Exemption from permit requirement for reclaimed water.

25 (1) The provisions of ORS 537.130 requiring application for a permit to appropriate  
26 water shall not apply to the use of reclaimed water, if:

27 (a) The use of reclaimed water is authorized by the national pollutant discharge  
28 elimination system or water pollution control facilities permit issued pursuant to ORS  
29 468B.050 or 468B.053;

30 (b) The Department of Environmental Quality, in reviewing an application for a permit  
31 pursuant to ORS 468B.050 or 468B.053, has consulted with the State Department of Fish  
32 and Wildlife on the impact to fish and wildlife to determine that the application of  
33 reclaimed water under ORS 537.130, 537.131, 537.132, 540.510 and 540.610 shall not  
34 have a significant negative impact on fish and wildlife; and

35 (c) The Department of Environmental Quality has determined the use of reclaimed water  
36 is intended to improve the water quality of the receiving stream.

##### 37 ORS 454.010(5)

38 (a) “Treatment works” means any devices and systems used in the storage, treatment,  
39 recycling, and reclamation of municipal sewage or industrial wastes, of a liquid nature,  
40 necessary to recycle or reuse water at the most economical cost over the estimated life of  
41 the works, including intercepting sewers, outfall sewers, sewage collection systems,  
42 pumping, power, and other equipment, and their appurtenances; extensions,  
43 improvements, remodeling, additions, and alterations thereof; elements essential to  
44 provide a reliable recycled supply such as standby treatment units and clear well  
45  
46  
47

1 facilities; and any works, including site acquisition of the land that will be an integral part  
2 of residues resulting from such treatment.

3 (b) In addition to the definition contained in paragraph (a) of this subsection, “treatment  
4 works” means any other method or system for preventing, abating, reducing, storing,  
5 treating, separating, or disposing of municipal waste, including storm water runoff, or  
6 industrial waste, including waste in combined storm water and sanitary sewer systems.  
7

8 **Discussion.** The Council finds that HGP wastewater, which came originally to the  
9 facility from a municipal surface water source, is reclaimed water pursuant to ORS  
10 537.131. The Council finds that HGP meets the requirement of (1)(a) through the  
11 Council’s decision to direct DEQ to issue a WPCF pursuant to this amendment request.  
12 It meets the requirements of (1)(b) through the Council’ review of the application  
13 pursuant to its fish and wildlife habitat standard in Section E.3.2, above, which the  
14 Council conducted in consultation with the Department of Fish and Wildlife. Paragraph  
15 (1)(c) is not applicable because there is no discharge into a stream.  
16

17 The Council adopted the following condition in Section IV.B, “Waste  
18 Minimization Standard” of the “Thermal Power Plant [Temporary] Third Amended Site  
19 Certificate:  
20

21 (7) HGP shall file a reclaimed water registration form with the Water Resources  
22 Department, pursuant to ORS 537.132(2). [Amendment No. 5]  
23

24 However, subsequent discussion between WRD and Office staff clarified that the  
25 user of the reclaimed wastewater is the recipient, which will be Madison Farms. It is the  
26 responsibility of Madison Farms as the user to file a municipal reclaimed water  
27 registration form with the Water Resources Department. Therefore, the Council modifies  
28 Condition (7) as follows:  
29

30 (7) HGP shall ensure that the user of its reclaimed wastewater files a municipal  
31 reclaimed water registration form with the Water Resources Department, pursuant  
32 to ORS 537.132(2). [Amendment No. 5]  
33

34 **Conclusion.** The Council finds that HGP does not require a water right permit to dispose  
35 of its reclaimed wastewater derived from its municipal surface water source. However,  
36 HGP has a responsibility to ensure that the user of the reclaimed wastewater files a  
37 municipal reclaimed water registration form with the Water Resources Department.  
38

#### 39 **F. Effects of Ballot Measure 7**

40 After the Office circulated the proposed temporary order on November 7, 2000,  
41 Oregon voters approved Ballot Measure 7 in the 2000 general election. The measure is a  
42 constitutional amendment that requires, with limited exceptions, compensation for  
43 regulations that restrict the use of real property, where the restriction reduces the value of  
44 the real property. The Department of Justice advised the Council at its November 17,

1 2000, meeting that it is preparing legal advice regarding the meaning and application of  
2 the measure. The measure is not clear in several important respects, including its  
3 application to previously adopted regulations and to regulations setting general health,  
4 safety and public welfare requirements. The Department of Justice also advised that the  
5 Council should seek a waiver of claims arising under Ballot Measure 7.

6 The Holders agreed at the November 17, 2000, Council meeting to provide such a  
7 waiver. In addition, the Holders agreed to provide indemnity against claims of property  
8 owners arising out of Ballot Measure 7 in the amount of \$100,000 for the period of the  
9 temporary site certificate and to add the following language to the site certificate:

10 **IX. WAIVER AND INDEMNITY**

11 \_\_\_\_\_ Holders waive any and all claims arising out of or from this Site  
12 Certificate under Ballot Measure 7 (2000) (Article 1, section 18, subsections (a)  
13 through (f) of the Oregon Constitution) that they may have against the State of  
14 Oregon and/or its political subdivisions and agree to indemnify the State of  
15 Oregon and/or its political subdivisions in an amount not to exceed \$100,000  
16 cumulatively from any such claims that may arise or accrue to an owner of real  
17 property affected by this Site Certificate.

18  
19 The Council included the agreed language in the temporary site certificate that the  
20 parties signed on November 17, 2000. On December 6, 2000, Marion County Circuit  
21 Court enjoined the Secretary of State from certifying the votes on Measure 7, staying the  
22 effective date. The matter has not been resolved by the Courts as of the date of this  
23 Council order. Therefore, the Council finds that the waiver and indemnity condition  
24 included in the temporary order and temporary site certificate should be removed from  
25 the Third Amended Site Certificate for the Hermiston Generating Project.

26  
27 **G. Conclusions**

28 The Council finds that the actions in the Holders' request are consistent with  
29 current Council rules, with other applicable statutes and rules, and with statewide land  
30 use planning goals and would not cause a significant adverse impact to public health and  
31 safety or the environment. In preparing this proposed order, the Council has limited its  
32 consideration to the effects that may be produced by the proposed change to the facility  
33 described in the Holders' Request for Amendment Number Five, dated October 3, 2000,  
34 to construct a wastewater pipeline to and discharge its reclaimed wastewater at Madison  
35 Farms. In considering those effects, the Council has reviewed state statutes,  
36 administrative rules, and local government ordinances.

37  
38 Based on the above findings, the Council concludes that it should amend the site  
39 certificate for the Hermiston Generating Project as the Holders request, and as modified  
40 herein, and should issue a final order granting an amendment to the site certificate.

41  
42 **FINAL ORDER**



## CERTIFICATE OF SERVICE

I hereby certify that on January XxssXX 2001, I served true and correct copies of the Final Order In the Matter of the Thermal Power Plant Site Certificate for the Hermiston Generating Project Request for Amendment No. 5 and Thermal Power Plant Third Amended Site Certificate for the Hermiston Generating Project via mail to the service list below.

Dated: January XvcZ, 2001

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Sam Sadler  
Office of Energy

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