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THERMAL POWER PLANT

SITE CERTIFICATE

for the

HERMISTON GENERATING PROJECT

This Site Certificate is made and entered into in the manner provided by ORS Chapter 469, as amended by Oregon Laws, 1993, Senate Bill 1016, by and between the State of Oregon (State), acting by and through its Energy Facility Siting Council (EFSC) and Hermiston Generating Company, L.P. (HGC), a Delaware limited partnership.

I. SITE CERTIFICATION

- A. To the extent authorized by State law and subject to those warranties and conditions set forth herein, the State approves and authorizes the construction, operation and retirement by HGC of a natural gas-fired combustion turbine energy facility, together with certain related or supporting facilities, at the site near Hermiston in Umatilla County, Oregon, in the manner described in HGC's application for site certificate. "Facility", as used in this site certificate, consists of the energy facility and the related or supporting facilities described in HGC's application for site certificate, except where otherwise stated or where the context clearly indicates otherwise. The facts, reasoning, conclusions and conditions relied on for approval are set out in EFSC's final order, which by this reference is incorporated herein.

Subject to the conditions herein, this certificate binds the State and all counties, cities and political subdivisions in this State as to the approval of the site and the construction, operation and retirement of the facility, as to matters that are included in and governed by this site certificate.

- B. Each affected state agency, county, city and political subdivision with authority to issue a permit, license or other approval addressed in or governed by the site certificate or EFSC's final order shall, upon submission by HGC of the proper application and payment of the proper fees, issue such permit, license or other approval without hearing or other proceeding, subject only to conditions set forth in the site certificate. Each agency that issues a permit, license or other approval to HGC shall continue to exercise enforcement authority over such permit, license or other approval.

For a permit, license or other approval addressed in the site certificate, HGC shall comply with applicable state and federal laws adopted in the future to the extent that such compliance is required under the respective state agency statutes and rules.

- 1 C. Both the State and HGC shall abide by local ordinances and state law and the rules of
2 EFSC in effect on the date the site certificate is executed. The EFSC rules in effect on
3 the date the site certificate is executed are attached as Exhibit C. In addition, upon a
4 clear showing of a significant threat to the public health, safety or the environment that
5 requires application of later-adopted laws or rules, EFSC may require compliance with
6 such later-adopted laws or rules.
7

8 **II. DESCRIPTION OF SITE AND ENERGY FACILITY**

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10 **A. Description of Site**

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12 The site where the facility is to be constructed and operated includes the following (as more
13 particularly described in HGC's application for site certificate):
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- 15 1. **Energy Facility:** The energy facility will be constructed on a site containing
16 approximately 15 acres located approximately 3 miles southwest of Hermiston,
17 Umatilla County, Oregon. The site is in the northwest quarter of Section 30,
18 Township 4 North, Range 28 East, Willamette Meridian. The location of the
19 energy facility is shown on Figures C-1a of the application for site certificate and,
20 with more particularity, on Figure B-2 of the amendment to the application (dated
21 December 24, 1993). Figures C-1a and B-2 are by this reference is incorporated
22 herein.
23

24 2. **Related or Supporting Facilities.**

- 25
26 a. **Transmission Line Right of Way:** The right-of-way for the 230 kV
27 transmission line delivering electricity from the energy facility to Bonneville
28 Power Administration's McNary Substation is located entirely within Umatilla
29 County. A portion of the right-of-way is located within the City of Umatilla.
30 The general location of the right-of-way is shown in Figure C-3 of the
31 application for the site certificate. For approximately one and one-half miles,
32 the right-of-way consists of two alternate alignments. These two alignments
33 are shown in Figure A of the amendment to the application (dated
34 December 24, 1993). Figures C-3 and A are by this reference incorporated
35 herein.
36

- 37 b. **Gas Pipeline Right of Way:** The right-of-way for the gas pipeline is
38 located entirely within Umatilla County. The right-of-way is shown in Figure
39 C-4 of the application for site certificate, and by this reference is incorporated
40 herein.
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42 **B. Description of Facility**

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44 The facility includes the following (as more particularly described in HGC's application
45 for site certificate):

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1. **Energy Facility:** The energy facility is a combustion turbine/combined cycle electric power plant fueled by natural gas. It will generate electricity for sale to energy suppliers operating in the Pacific Northwest Region, as defined in 16 USC 839a. At annual average site conditions, net of auxiliary loads and assuming no process steam supply, the energy facility will have a nominal electric generating capacity of 474.2 MW.

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The energy facility will supply process steam to a nearby potato processing facility owned by Lamb-Weston, Inc.

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The power plant consists of two units, each of which is made up of a combustion turbine generator, a heat recovery steam generator, a condenser, a steam turbine, a mechanical induced draft evaporative cooling tower, an air compressor system, an emission stack, and miscellaneous supporting equipment and improvements. Facilities common to both units include a maintenance/warehouse, a control/administration building, zero discharge facilities, a raw water storage tank, stormwater detention facilities, paved roads and a parking area.

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2. Related or Supporting Facilities:

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- a. **Transmission Line** -- A 230 kV electric transmission line will carry electricity from the energy facility to Bonneville Power Administration's McNary Substation in Umatilla County. Almost all of the line will be constructed as an upgrade of an existing 115kV line owned by the Umatilla Electric Cooperative Association. For approximately one and one-half miles, the right-of-way will be in one of two alternate alignments. These two alignments are shown in Figure A of the amendment to the application (dated December 24, 1993). In addition, approximately one-quarter mile of new right of way is required at the northern end of the line where it connects to the McNary Substation.
 - b. **Gas Pipeline** -- A buried pipeline, less than 16 inches in diameter, will carry natural gas from an interstate gas transmission line owned by Pacific Gas Transmission Company to the energy facility. The pipeline will be less than five miles in length.

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In the event of a conflict between the descriptions of the facility, or the design, construction, operation, or retirement of the facility, in this site certificate, EFSC's final order, or HGC's application for site certificate, the following priority of construction shall apply to determine which document controls: first, this site certificate; second, EFSC's final order; third, HGC's application for site certificate.

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III. WARRANTIES

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In consideration of the execution of this Site Certificate by the EFSC, and pursuant to Oregon

1 Laws 1993, Senate Bill 1016, Section 11(3), HGC makes the following warranties:
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3 **A. Financial Ability**
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5 HGC warrants that it has reasonable assurance of obtaining the funds necessary to cover
6 the estimated construction, operating and retirement costs for the design lifetime of the
7 energy facility including related fuel-cycle costs, and that it will be capable of providing
8 funds as needed to construct, operate and retire the energy facility without violating its
9 bond indenture provisions, articles of incorporation, common stock covenants or similar
10 agreements.
11

12 **B. Ability to Construct and Operate**
13

14 HGC warrants that it has the ability to take those actions necessary to ensure that the
15 facility is constructed, operated and retired in a manner consistent with its representations
16 made in the application for site certificate, in this proceeding leading to the execution of
17 the site certificate, and with the terms and conditions of this agreement.
18

19 **C. Completion of Construction**
20

21 HGC warrants that completion of construction of the facility, which shall be defined as
22 the commercial operation date of the energy facility, shall occur within five years from
23 the effective date of this site certificate and EFSC's final order (the "effective date"). For
24 the purposes of this warranty, the effective date shall be deemed to be the date any
25 judicial review of EFSC's final order or of this site certificate is completed, including any
26 proceedings on remand to EFSC.
27

28 **D. Protection of the Public Health and Safety**
29

30 HGC warrants that it will take those actions, including compliance with all local, state
31 and Federal ordinances, statutes, rules and regulations in effect on the date this site
32 certificate is issued, necessary to ensure that construction, operation and retirement of the
33 facility pose no significant danger to the public health and safety. For related and
34 supporting facilities that HGC is not constructing or operating, HGC shall use its best
35 efforts to require any third party constructing or operating such related and supporting
36 facilities to abide by the terms of this warranty.
37

38 **IV. CONDITIONS**
39

40 **A. Conditions Required by OAR Chapter 345, Division 27**
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- 42 1. HGC shall design, construct, operate and retire the energy facility in accordance
43 with the requirements of the Oregon energy facility siting statutes, ORS 469.300
44 et seq., and the rules of OAR Chapter 345 applicable to the facility; all other
45 applicable Oregon statutes and rules implementing those statutes applicable to the

1 facility; and all applicable local ordinances.

- 2
- 3 2. The conditions in this site certificate may not be changed during the term of the
- 4 certificate except as provided in OAR Chapter 345, Division 27. HGC may request
- 5 that amendments to conditions be considered pursuant to the Division 27 rules in
- 6 effect at the time the amendment is filed. A request to have the amendment
- 7 considered pursuant to a later adopted version of Division 27 rules will be granted
- 8 unless the EFSC finds that applying the later-adopted rules would create a
- 9 significant threat to public health, safety or the environment.
- 10
- 11 3. HGC shall design, construct, operate and retire the facility as described in the
- 12 application for site certificate, in EFSC contested case proceedings and in
- 13 documents and representations made by HGC in support of the application for site
- 14 certificate, except as the design, construction, operation or retirement of the facility
- 15 may be modified or amended pursuant to OAR Chapter 345, Division 27. HGC
- 16 may request that modifications or amendments to the design, construction, operation
- 17 or retirement of the facility be considered pursuant to the Division 27 rules in effect
- 18 at the time the amendment is filed. A request to have the amendment considered
- 19 pursuant to a later adopted version of Division 27 rules will be granted unless the
- 20 EFSC finds that applying the later-adopted rules would create a significant threat
- 21 to public health, safety or the environment.
- 22
- 23 4. This certificate shall expire at the end of the useful life of the energy facility.
- 24 Application for termination of the site certificate shall be made according to the
- 25 provisions of OAR 345-27-110.
- 26
- 27 5. Prior to commencing construction on any part of the facility, including clearing of
- 28 a right of way, except for the initial survey, HGC shall present evidence acceptable
- 29 to the EFSC that HGC has control of all lands on which clearing or construction
- 30 will occur. If an entity other than HGC will construct any related or supporting
- 31 facility, HGC shall submit to the EFSC evidence acceptable to the EFSC that this
- 32 other entity has control over all lands on which clearing or construction will occur.
- 33 Evidence acceptable to the EFSC shall include, but is not limited to, a deed, option
- 34 to purchase, lease, easement, or other similar binding agreement.
- 35
- 36 6. HGC shall, prior to commencing construction of the facility, or a portion of the
- 37 facility, provide the EFSC with a copy of a firm power sales contract or contracts
- 38 demonstrating that 80% of the capacity from the facility, or that portion of the
- 39 facility which HGC proposes to construct, will be purchased by an energy supplier
- 40 or suppliers operating in the Pacific Northwest, as defined by 16 USC Section 839a
- 41 for a period of at least 10 years from the commercial operation date.
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- 43 7. If HGC builds a visitors information center at the site, information regarding
- 44 conservation of energy and the means by which it may be accomplished shall be
- 45 included with any energy facility information provided.

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8. Insofar as practicable, HGC shall restore vegetation and landscape portions of the site disturbed by construction in a manner which is compatible with its surroundings. Upon completion of construction, HGC shall dispose of all temporary structures not required for future use and all used timber, brush, refuse or flammable material resulting from the clearing of lands or from construction of the facility.
 9. HGC shall promptly inform the Oregon Department of Energy, the Department of Geology and Mineral Industries and the Water Resources Department if site investigations or trenching reveal that conditions in the foundation rocks differ from those previously described. The Department of Energy may require additional design measures considered necessary based on such information.
 10. HGC shall inform the Department of Energy, Department of Geology and Mineral Industries and Water Resources Department of trenching project plans on a timely basis so their representatives can inspect them. During construction, HGC shall notify these agencies if shear zones, artesian aquifers, deformations or clastic dikes are found near or beneath the site of the facility.
 11. HGC shall prevent any condition from developing on the site that would preclude restoring the site to a useful condition.
 12. At least five years prior to energy facility retirement, HGC shall submit a retirement plan to the EFSC for review and approval. The plan shall describe how the site will be restored adequately to a useful condition, including options for post-retirement land use, information on how impacts to fish, wildlife and the environment will be minimized during the retirement process and measures to protect the public against risk or danger resulting from post-retirement site conditions. HGC shall restore the site to a useful condition following retirement.

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B. Conditions Related to EFSC Standards

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Structural Standard

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(1) Prior to the start of construction, HGC shall conduct a detailed survey of the energy facility site. The survey will include core drilling and trenching sufficient to learn: 1, the overburden soil types and thicknesses under energy facility structures; 2, the depth and characterization of the bedrock under the site; 3, if evidence of seismic faulting not considered in the application is present or if there are indications that the seismic classification of the portion of the site containing the energy facility is not correct in the application. The survey shall also characterize ground response to potential seismic events. The survey shall be peer reviewed by the Oregon Department of Geology and Mineral Industries or by a private qualified registered geologist that is independent from HGC and the HGC's contractors and subcontractors. If a private geologist is used, the choice of peer reviewer shall be approved by EFSC in consultation with the Oregon Department of Geology and Mineral

1 Industries.

2
3 (2) If the detailed survey reveals evidence that is not as described in the ASC, then
4 HGC shall revise the facility design parameters to comply with corresponding UBC requirements. If
5 pre-construction seismic analysis reveals features unique to the energy facility site that justify enhanced
6 seismic design, HGC shall design safety structures critical to public health or safety in consultation
7 with the BCA, subject to approval by EFSC. Critical structures include hazardous material storage
8 areas and control rooms.

9
10 (3) Except as provided for in condition 2 above, HGC shall design and construct the
11 proposed facility to be consistent with Seismic Zone 2B requirements, in compliance with the laws and
12 regulations administered by BCA.

13
14 (4) HGC shall place electrical transmission towers to avoid, to the greatest extent
15 possible given the existing UECA corridor, the narrow strip of alluvium along the Umatilla River that
16 may be subject to liquefaction. If this strip cannot be avoided, the transmission towers shall be
17 constructed so as to otherwise mitigate for the risk of liquefaction.

18
19 (5) Placement of electrical transmission towers will include setbacks from cut slopes
20 associated with the quarry east of the Umatilla River, along the electrical transmission line route.

21
22 (6) Topsoils and subsoils resulting from excavation for the gas pipeline should be
23 segregated and the topsoil restored to minimize impacts on soil fertility.

24
25 **Land Use Standard**

26
27 (1) Following issuance of the site certificate by the Energy Facility Siting Council, and
28 prior to commencing construction of the facility, HGC shall obtain all appropriate land use permits
29 and approvals and pay all required fees of Umatilla County and the City of Umatilla. Umatilla County
30 and the City of Umatilla shall continue to exercise enforcement authority over such land use permits
31 and approvals.

32
33 (2) HGC shall file with the Umatilla County Planning Department a landscaping plan
34 for the power plant prior to issuance of a building permit. The landscaping plan shall incorporate
35 native vegetation where feasible and shall provide screening and visual buffering for the power plant
36 and its parking and loading areas to the extent reasonably feasible.

37
38 (3) The power plant shall incorporate an on-site fire suppression system and shall be
39 constructed from fire retardant materials to the extent reasonably feasible. The power plant design
40 shall incorporate spill prevention and containment designs for the storage of all hazardous materials.
41 Compliance with all applicable fire suppression and hazardous material safety requirements shall be
42 established in consultation with the Hermiston Fire Department, the State Fire Marshall, and the
43 Building Codes Agency.

44
45 (4) HGC shall file a site plan with the County which shall consist of a map showing

1 the property lines, location of buildings, access road or roads and the names of the owner and
2 developer of the site of the energy facility. The site plan shall also show that county ordinances
3 related to parking and loading requirements, setbacks, signs, and vision clearance are satisfied. This
4 shall be submitted to the county prior to the county issuing the building permit.

5
6 (5) If HGC purchases all or any part of the site of the energy facility, HGC shall file
7 with the county an application for a minor partition in conformance with the information included in
8 the site certificate application, and file and record a final plat in accordance with county ordinances.

9
10 (6) Prior to commencing construction of the energy facility, HGC shall submit a plan
11 acceptable to EFSC, in consultation with Umatilla County, for responding to an emergency at the
12 Umatilla Army Depot. The plan shall be developed in consultation with the Umatilla County Chemical
13 Stockpile Emergency Preparedness Program.

14
15 (7) With the exception of the alternate alignment described in HGC's amendment to the
16 application for site certificate (dated December 24, 1993), and the one-quarter mile section of new
17 right-of-way required immediately south of the McNary substation, the transmission line upgrade shall
18 be constructed substantially along the route of the existing UECA right-of-way. Any new right-of-way
19 required for the transmission line shall avoid populated areas to the extent practicable. HGC shall
20 configure the transmission lines to reduce EMF. Upon certification and throughout the construction
21 and operation of the facility, HGC shall provide on request by the public, information in HGC's
22 possession or publicly available related to EMF levels associated with the power plant and related
23 transmission lines.

24
25 (8) To minimize the impact on future development in the City of Umatilla, the
26 transmission line upgrade shall follow easements 60 feet from the centerline in either direction (120
27 feet total) except as necessary to comply with other federal, state, and local regulations or other Site
28 Certificate conditions.

29
30 (9) HGC shall take all reasonable precautions to minimize dust and noise during
31 construction.

32
33 (10) At the time of filing for the required city land use approval, HGC shall file a map
34 at a scale satisfactory to the city describing the transmission line corridor to allow the city to
35 appropriately depict the corridor on the official city zoning map.

36
37 **Organizational, Managerial and Technical Expertise Standard**

38
39 (1) HGC shall obtain all necessary state and local permits or approvals required for the
40 construction and operation of the facility. Said permits and approvals are listed in section (1) of the
41 Findings of Fact of EFSC's order.

42
43 (2) A quantity of water sufficient to supply the energy facility shall be applied to
44 beneficial use under the Port of Umatilla Water Right Permit Number 49497 by October 1, 1997,
45 unless the time limits for the permit are otherwise extended.

1 (3) HGC shall have a contract or other binding arrangement with the Port of Umatilla
2 for a quantity of water sufficient to supply the energy facility prior to commencement of construction.
3
4

5 *Financial Assurance Standard*
6

7 (1) Prior to commencement of construction of the facility and within a reasonable time
8 after they become available, HGC shall submit to the EFSC evidence that HGC has received
9 commitments for equity contributions and project financing with a repayment period not longer than
10 the duration of the power sales contract required under Condition (2) under the discussion on the Need
11 For Power standard, in amounts sufficient for construction and operation of the facility. Evidence may
12 be in the form of a certificate attached to the site certificate. This condition may be satisfied by
13 delivery to EFSC of an executed certificate substantially in the form attached hereto as Exhibit A.
14

15 (2) Within five days after the construction financial closing, HGC shall submit to EFSC
16 evidence that the equity contributions and loans have been made to HGC in amounts sufficient for the
17 construction and post-construction financing of the facility. This condition may be satisfied by delivery
18 to EFSC of an executed certificate substantially in the form attached hereto as Exhibit B.
19

20 (3) In the event that HGC desires to commence construction of the facility prior to the
21 construction financial closing, HGC shall submit to the State of Oregon, through EFSC, prior to
22 commencing construction, a bond or other comparable security in the amount of \$5 million, which
23 funds shall be used to restore the site (including the transmission line and gas pipeline rights-of-way)
24 if HGC fails to complete construction of the facility by the deadlines set forth in the Site Certificate.
25 The bond or other comparable security shall be issued by a surety acceptable to EFSC in a form
26 acceptable to EFSC. Construction activities along the transmission line and gas pipeline rights-of-way
27 undertaken prior to the construction financing closing shall, to the extent feasible, be minimized.
28

29 *General Standard of Review*
30

31 (1) HGC shall design, select, locate and/or orient components of the energy facility,
32 or use shielding, noise dampening or other techniques necessary to ensure that the operation of the
33 energy facility complies with OAR 340-35-035.
34

35 (2) HGC shall perform noise surveys in accordance with the requirements of OAR 340-
36 35-035 within two months of: (a) the date the first unit commences operation; (b) the date first unit
37 is operating at full rated capacity; (c) the date the second unit commences operation; and (d) the date
38 both units are operating at full rated capacity. The unit operating conditions shall be documented when
39 measurements are made in accordance with subparts (a) and (c) above. When taking the measurements
40 required by (b) above, HGC shall conduct the surveys with the operating unit operating at within ten
41 percent of rated power. When taking the measurements required by (d) above, HGC shall conduct the
42 surveys with both units operating at within ten percent of rated power.
43

44 (3) During construction, and operation of the facility, HGC shall make information in
45 HGC's possession about the noise levels generated by the facility available to the public. In selecting

1 sensitive receptors for the noise surveys and analysis, HGC shall comply with applicable DEQ rules
2 and consider all noise sensitive properties within one-half mile of the energy facility (the impact area).
3

4
5 (4) HGC shall consult with Umatilla County and the City of Umatilla and with neighbors
6 to the energy facility site to minimize the impacts of construction noise.
7

8 Fish and Wildlife Standard 9

10 (1) Areas disturbed by construction of the power plant, gas pipeline and transmission
11 line shall be revegetated upon completion of construction. Revegetation shall emphasize the use of
12 native species.
13

14 (2) If feasible, HGC shall schedule the construction of the gas pipeline and transmission
15 line to occur outside the nesting season for the state sensitive species identified in the Woodward-Clyde
16 field surveys (mid-April to August 1). These are: the long billed curlew (*Numenius americanus*),
17 Swainson's Hawk (*Buteo swainsonii*), the Grasshopper sparrow (*Ammodramus savannarum*), and the
18 Bank swallow (*Riparia riparia*). If HGC cannot schedule construction activities outside the nesting
19 season, pre-construction biological surveys shall be conducted at the energy facility site, along the
20 affected portion of the transmission line or gas pipeline right-of-way to identify location of nest sites.
21 If the surveys do not locate any nest sites of the state sensitive species named above, construction may
22 proceed. If the surveys do locate nest sites, HGC shall submit to EFSC mitigation plans acceptable
23 to EFSC in consultation with ODFW. HGC shall not commence construction in the area of the
24 identified nest sites until EFSC, in consultation with ODFW, has approved the mitigation plan. EFSC
25 will make every reasonable effort to review the plans, consult with ODFW, and revise or approve the
26 plans as quickly as possible.
27

28 (3) The transmission line shall either span or otherwise avoid wetland areas. Poles shall
29 be set back from the Umatilla River as much as possible.
30

31 (4) Because of susceptibility of soils in the project area to wind erosion, precautions
32 will be taken during construction to minimize erosion. This shall include watering of the site and
33 pipeline access road and/or use of dust palliatives.
34

35 (5) HGC shall notify the Northeast Regional office of the Oregon Department of Fish
36 and Wildlife at least one week before the start of construction for the power plant, transmission line
37 or pipeline.
38

39 (6) If appropriate, topsoils and subsoils should be segregated during excavation for the
40 pipeline to minimize impacts on soil fertility.
41

42 (7) Applicant shall consult with ODOE and ODFW on any mitigation because of water
43 withdrawal which is provided according to the terms of the settlement agreement with Columbia Basin
44 Institute.
45

Threatened or Endangered Species Standard

1 (1) Raptor protection shall be employed in the design and construction of the
2 transmission towers according to the methods described by Olendorff et. al. 1981. All energized
3 facilities shall be designed with either a minimum separation of nine feet, or other measures to reduce
4 the potential for electrocution of raptors or other birds.

5
6 (2) If construction of the transmission line occurs during the spring growing season for
7 Columbia Milkvetch (*Astragalus succumbens*), any population of the plant within 50 feet of the
8 proposed transmission line poles shall be flagged and avoided by construction activities.

9 10 *Scenic and Aesthetic Standard*

11 (1) To minimize visual intrusion caused by the stacks, the stacks shall be painted in a
12 matte finished neutral color to minimize the potential for glare caused by reflective surfaces. Colors
13 shall be chosen to blend with the surrounding area.

14
15 (2) Landscaping shall be used to screen the energy facility from the nearest residence
16 and roadways to the extent reasonably feasible. Shrubbery and trees planted along the perimeter of
17 the energy facility site and other landscaping shall be well-maintained and include low-maintenance
18 and indigenous plants.

19
20 (3) To minimize project visibility at night, outdoor lighting shall be limited to the extent
21 necessary to maintain safety conditions.

22 23 *Historic, Cultural and Archaeological Standard*

24
25 (1) HGC shall consult with the Confederated Tribes of the Umatilla Indian Reservation
26 (CTUIR) before commencing construction. HGC shall provide the CTUIR with an opportunity to
27 conduct a review of the oral history of the tribes. The purpose of the consultation and review is to
28 identify areas having a high potential for cultural resources within the impact area. If deemed
29 necessary by the CTUIR based on the oral history review, HGC shall conduct additional pre-
30 construction field surveys in cooperation with the CTUIR.

31
32 (2) HGC shall notify CTUIR before starting construction and shall provide the
33 opportunity for a CTUIR representative, knowledgeable in cultural resources of the area, to be
34 available for on-site monitoring during construction activities.

35
36 (3) If cultural resources are discovered during project construction or construction-
37 related activities, HGC shall stop all work in the immediate area of the find. HGC shall consult with
38 the CTUIR and SHPO. HGC shall not restart work in the affected area until CTUIR or SHPO have
39 concurred that HGC has identified actions to minimize or avoid further impacts.

40
41 (4) Applicant shall take all reasonable steps to avoid disturbance of the West Extension
42 Irrigation Canal during construction and operation of the transmission line by ensuring that
43 transmission towers/poles are placed away from the canal banks, and by avoiding any disturbance at
44 the canal crossing when electrical lines are strung.
45

1 (5) Applicant shall consult with the irrigation district in which the canal is located before
2 construction or the upgrading of the transmission line in the area of the canal in order to learn whether
3 there are any applicable restrictions.
4

5 **Socio-Economic Standard**
6

7 (1) HGC shall make a good faith effort to hire most or all permanent workers for the
8 project from the local areas.
9

10 (2) HGC shall make a good faith effort to hire as many construction workers from the
11 local area as feasible, including the Tri-city area.
12

13 (3) HGC shall enter into an Irrevocable Consent Agreement (ICA) with Umatilla
14 County. The ICA will formally acknowledge that HGC agrees to waive its right to oppose the
15 formation and equitable funding of any Local Improvement District (LID) for that portion of Westland
16 Road fronting the power plant property and extending south from the plant to its intersection with
17 Interstate Highway 84.
18

19 (4) Rail delivery shall be used to the extent practical to minimize heavy-haul truck trips
20 during construction.
21

22 (5) Traffic control measures shall be used during construction to reduce the impact of
23 traffic on Westland Road.
24

25 (6) HGC shall consult with local officials to provide assistance to construction workers
26 in need of housing and to minimize the impact on housing in the area.
27

28 **Waste Minimization Standard**
29

30 (1) Upon completion of construction, HGC shall dispose of all temporary structures not
31 required for future operation of the facility and all used timber, brush, refuse, or flammable material
32 resulting from clearing of lands or from construction of the facility.
33

34 (2) During construction of the facility, HGC shall identify means of minimizing waste
35 generation and shall recycle waste to the extent reasonably practicable. HGC shall also implement a
36 waste minimization and recycling program to remain in effect throughout the life of the Project.
37

38 (3) HGC shall design the cooling towers to limit drift to less than four-thousandths of
39 one percent of the circulating water.
40

41 (4) HGC shall operate the cooling tower circulating water system, the cooling towers and
42 the circulating water cleanup systems to maintain the total dissolved solids in the circulating water at
43 less than five thousand two hundred parts per million (5,200 ppm) on an annual average basis.
44

45 **Retirement Standard**

1 (1) HGC shall prevent any condition from developing on the site during construction,
2 operation, and retirement that would preclude restoring the site to a useful condition. HGC shall have
3 satisfied this requirement by complying with all applicable federal, state, and local environmental and
4 land use statutes and ordinances, including all rules and regulations promulgated thereto and all
5 governmental approvals issued pursuant thereto.
6

7 (2) Starting with the tenth year after the first unit has commenced commercial
8 operation, HGC shall evaluate the expected useful life of the facility. If in any year HGC decides that
9 the life of the facility is expected to be five years or less from the date of the evaluation, then HGC
10 shall develop a plan for decommissioning the facility. The decommissioning plan shall include the
11 following elements: (a) the requirements and procedure for removing equipment and structures from
12 the portion of the site containing the energy facility; (b) any additional requirements and procedures
13 needed to restore the energy facility site to a useful condition; (c) a description of options for post-
14 retirement land use, information on how impacts to fish, wildlife and the environment will be
15 minimized during the retirement process and measures to protect the public against risk or danger
16 resulting from post-retirement site conditions; and (d) a description of how decommissioning will be
17 funded. HGC shall submit the plan to EFSC for approval within six months of deciding that the
18 facility is to be retired.
19

20 (3) In addition, starting with the fifth year after the first unit has commenced
21 commercial operation, HGC will establish the decommissioning fund and begin making annual
22 commitments to the fund in the amount of \$200,000 (in 1993 dollars) secured by a Letter of Credit,
23 performance bond, or other security reasonably acceptable to the EFSC. Such annual commitments
24 shall continue until the total security in the decommissioning fund reaches \$5 million (in 1993 dollars).
25 In the event the security in the decommissioning fund is less than \$5 million (in 1993 dollars) at the
26 time HGC notifies the EFSC of its intent to retire the energy facility (as specified in the preceding
27 condition), the annual commitments to the decommissioning fund shall be adjusted so as to assure that
28 the total security in the fund is \$5 million (in 1993 dollars) at the time of retirement. HGC shall
29 describe the status of the fund in the annual report submitted to EFSC. All funds received by HGC
30 from the salvage of equipment or buildings shall be committed to the restoration of the energy facility
31 site, to the extent necessary to fund the approved restoration.
32

33 (4) The restoration plan shall use native vegetation to restore the energy facility site to
34 the maximum extent consistent with the anticipated use of the energy facility site after the facility is
35 retired.
36

37 **C. Conditions Related to Exemption from the Requirement to Demonstrate Need**

38

39 (1) Commencement of construction of the first unit shall begin no later than thirty months
40 after final issuance of the site certificate. As used in Condition (1) and (3) of this section, "final
41 issuance of the site certificate" occurs upon completion of any judicial review and any proceedings on
42 remand to EFSC. If commencement of construction does not begin by the end of the first year after
43 final issuance of the site certificate, HGC may produce a letter of intent or other commitment from
44 energy suppliers operating in the Pacific Northwest, as defined in 16 USC Section 839 (a), to purchase
45 at least 80% of the capacity of the facility for a period of at least ten years from the commercial

1 operation date. That portion of the project's capacity for which such a commitment from energy
2 suppliers operating in the Pacific Northwest to purchase 80% is demonstrated shall retain its exemption
3 from need showing under OAR Chapter 345, Division 23. If such a demonstration is not made within
4 the first year after final issuance of the site certificate, HGC may apply within sixty days thereafter
5 to amend its site certificate to demonstrate the facility is needed in accordance with the EFSC rules
6 and standards in effect at the time. If HGC demonstrates need, this certificate shall in all other
7 respects remain in full force and effect in accordance with its terms, except EFSC shall attach new
8 conditions regarding construction start and completion dates, and power sales contract terms consistent
9 with the demonstrated need for power.

10
11 (2) HGC shall, prior to commencing construction of the facility, or a portion of the
12 facility, provide the EFSC with a copy of a firm power sales contract or contracts demonstrating that
13 80% of the capacity from the facility, or that portion of the facility that HGC proposes to construct,
14 will be purchased by an energy supplier or suppliers operating in the Pacific Northwest, as defined by
15 16 USC Section 839(a), for a period of at least ten years from the commercial operation date.

16
17 (3) Construction completion of the facility, which shall be defined as the commercial
18 operation date of the facility, shall occur within five years from the final issuance of the site
19 certificate. EFSC may grant extensions of the construction completion date in accordance with OAR
20 345-27-030.

21 22 **D. Conditions Related to Public Health and Safety**

23
24 (1) HGC shall design, construct, operate and retire the facility in accordance with all
25 applicable statutes, rules, and ordinances.

26
27 (2) The pipeline shall be constructed in accordance with the requirements of the U.S.
28 Department of Transportation as set forth in Title 49, Code of Federal Regulations, Part 192.

29
30 (3) The pipeline shall have mechanical structures that allow the pipeline to be sealed
31 off, in the event of leakage, in a manner that will minimize the release of flammable materials. This
32 is rebuttably presumed to be satisfied if the pipeline meets the requirements of Title 49, Code of
33 Federal Regulations, Part 192.

34
35 (4) HGC shall develop a program, or assure the development of a program by the entity
36 responsible for the pipeline, using the best available, practicable technology to monitor the proposed
37 pipeline to ensure protection of public health and safety.

38
39 (5) The transmission line shall be designed so that alternating current electrical fields
40 shall not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the
41 public.

42
43 (6) The transmission line shall be designed so that induced currents resulting from the
44 transmission line and related facilities will be as low as reasonably achievable. HGC shall agree to
45 a program, or assure the entity responsible for the transmission line agrees to a program, which shall

1 provide reasonable assurance that all fences, gates, cattle guards, trailers, or other permanent objects
2 or structures that could become inadvertently charged with electricity shall be grounded through the
3 life of the line.

4
5 (7) The transmission line shall be designed, constructed, and operated in a manner
6 consistent with the National Electrical Safety Code, Section C2, 1990 Edition (American National
7 Standards Institute), as well as the Rural Electrification Administration standards, where applicable.

8
9 (8) Before commencing construction of the transmission line, HGC shall notify ODOE
10 of which alternative transmission line route it has elected to use. Once this election has been made,
11 EFSC approval of the other alternative transmission line shall terminate.

12
13 **E. Conditions Related to EFSC to Monitoring and Reporting**

14
15 (1) The following rules from OAR Chapter 345, Division 26 apply to this facility: OAR 345-
16 26-005, 345-26-010, 345-26-015, 345-26-020, 345-26-025, 345-26-050 and 345-26-145. The
17 remainder of the Division 26 rules are either outside the scope of EFSC's decisional authority under
18 SB 1016, applicable only to nuclear power plants, or superseded by specific requirements set out
19 below.

20
21 (2) Prior to commencing construction for the first unit, HGC shall submit to EFSC a program
22 acceptable to EFSC for monitoring and reporting to EFSC the status of construction of the facility.
23 The program shall include a description of a report to be submitted to EFSC at least quarterly from
24 the start of construction to commercial operation of the second unit. The report shall include, but is
25 not limited to:

26
27 (a) an assessment of the construction schedule for each unit, including any changes to
28 major milestones that affect the critical path for construction;

29
30 (b) an assessment of the financial condition of the project, including changes to the
31 power sales contract and the equity and loan commitments;

32
33 (c) an assessment of the construction staffing, including status of staffing, any staffing
34 problems that may affect construction schedule, and any deviation from plans to hire most
35 construction workers locally;

36
37 (d) any work stoppages of more than 30 days;

38
39 (e) any violations of the conditions of permits issued by any other Federal, State or
40 Local authority; including the background of the causes of the violation, the mitigation or
41 correction of the violation, and the impact of the violation on the project schedule or financing;

42
43 (f) any violations of the conditions of permits issued to third parties that are necessary
44 for construction or operation of the facility, such as Water Right Permits or Water Pollution
45 Control Facility Permits; including the background of the causes of the violation, the

1 mitigation or correction of the violation, and the impact of the violation on the project schedule
2 or financing;

3
4 (g) copies of all correspondence and reports related to facility construction which were
5 submitted to a Federal, State, or Local authority, except material withheld from public
6 disclosure under Federal or State law. Abstracts of reports may be submitted in place of full
7 reports. However, full copies of abstracted reports must be provided at the request of ODOE
8 or EFSC;

9
10 (h) Prior to commencing commercial operation of each unit, a written report certified
11 by an Oregon registered structural engineer documenting that the unit has been constructed in
12 compliance with the conditions in the site certificate adopted under the structural standard;

13
14 (i) any noncompliance with the conditions of the site certificate, including the
15 background of the causes of the noncompliance, the mitigation or correction of the
16 noncompliance and any effect on the project schedule or financing; and

17
18 (j) any other information that EFSC requests that is considered necessary to monitor and
19 evaluate the applicant's compliance with the terms and conditions of the site certificate.

20
21 (3) Prior to commencing preoperational testing for the first unit, HGC shall submit to the
22 EFSC a program acceptable to EFSC for monitoring and reporting to EFSC the status of operation of
23 the facility and of the decommissioning fund. The program shall include a description of a report to
24 be submitted to EFSC at least annually from the start of commercial operation of the first unit through
25 retirement of the last operating unit. The report shall include, but is not limited to:

26
27 (a) results of performance tests, including project efficiency testing, summaries of fuel
28 use, average volume and mass of steam supplied to the cogeneration host and the estimated
29 fuel used to generate the host steam load;

30
31 (b) in the first report submitted after commencement of commercial operation, unit heat
32 rate in Btu per kilowatt hour produced, corrected to ISO conditions and accounting for steam
33 delivered to the steam host, and also facility capacity corrected to 52.8°F, 55% relative
34 humidity, standard air pressure adjusted for elevation, no steam to process, natural gas fuel,
35 and normal steam turbine exhaust pressure, net of plant auxiliary loads;

36
37 (c) the power production by the facility by unit, by month, including peak capacity,
38 average capacity, gross and net kilowatt hour production, availability, potential capacity
39 constrained by dispatch agreement, reasons and durations of planned and unplanned outages,
40 plans to improve capacity and availability and to correct recurring problems;

41
42 (d) an assessment of the operations staffing, including status of staffing, any staffing
43 problems that may affect facility operation, and any deviation from plans to hire most
44 operations workers locally;

45

1 (e) any violations of the conditions of permits issued by any other Federal, State or
2 Local authority; including the background of the causes of the violation, the mitigation or
3 correction of the violation, and the impact of the violation on the project operation or
4 financing;

5
6 (f) any violations of the conditions of permits issued to third parties that are necessary
7 for construction or operation of the facility, such as Water Right Permits or Water Pollution
8 Control Facility Permits; including the background of the causes of the violation, the
9 mitigation or correction of the violation, and the impact of the violation and any effect on the
10 project operation or financing;

11
12 (g) copies of all correspondence related to facility operation which was submitted to a
13 Federal, State, or Local authority, except material withheld from public disclosure under
14 Federal or State law. Abstracts of reports may be submitted in place of full reports.
15 However, full copies of abstracted reports must be provided at the request of ODOE or EFSC;

16
17 (h) an assessment of the financial condition of the project, including changes to the
18 power sales contract and the equity and loan commitments.

19
20 (i) any noncompliance with the conditions of the site certificate, including the
21 background of the cause of the noncompliance, the mitigation or correction of the
22 noncompliance and any effect on the project schedule or financing; and

23
24 (j) any other information that EFSC requests that is considered necessary to monitor and
25 evaluate the applicant's compliance with the terms and conditions of the site certificate.

26
27 **(4) INFORMATION TO BE REPORTED PROMPTLY**

28
29 (a) HGC shall report any material violation of any condition of the site certificate by
30 HGC or any of its contractors, subcontractors or agents to ODOE within 72 hours.

31
32 (b) HGC shall report to ODOE within 24 hours if HGC or any of its contractors,
33 subcontractors or agents creates any condition by construction or operation of the facility that
34 endangers the public health and safety.

35
36 **V. AMENDMENT OF SITE CERTIFICATION AGREEMENT**

37
38 HGC and EFSC recognize that, because of the length of time that may pass between the date
39 on which this Agreement is executed and the date on which construction will commence, and that will
40 pass between the time construction is commenced and the energy facility is retired, it may be necessary
41 to amend this Agreement.

42
43 Amendments shall be made in accordance with OAR Chapter 345, Division 27.

44
45 **VI. SUCCESSORS AND ASSIGNS**

1 No site certificate, or any portion thereof, may be transferred, assigned, or disposed of in any
2 other manner, directly or indirectly, except in compliance with OAR 345-27-100.
3
4
5

6 **VII. SEVERABILITY AND CONSTRUCTION**
7

8 If any provision of this agreement and certificate is declared by a court to be illegal or in
9 conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the
10 rights and obligations of the parties shall be construed and enforced as if the agreement and certificate
11 did not contain the particular provision held to be invalid. In the event of a conflict between the
12 warranties and conditions contained in the site certificate and EFSC's final order, the warranties and
13 conditions contained in this site certificate shall control.
14

15 **VIII. GOVERNING LAW AND FORUM**
16

- 17 A. This agreement shall be governed by the laws of the State of Oregon.
18
19 B. Any litigation or arbitration arising out of this agreement shall be conducted in an
20 appropriate forum in Oregon.
21

22 **IN WITNESS WHEREOF**, this Site Certificate has been executed by the State of Oregon,
23 acting by and through its Energy Facility Siting Council, and Hermiston Generating Company.
24
25

26 ENERGY FACILITY SITING COUNCIL

27
28 
29 _____
30 Chair

31
32
33
34
35
36
37 3/11/94
38 DATE

39 HERMISTON GENERATING COMPANY

40
41
42
43
44
45

President

1 No site certificate, or any portion thereof, may be transferred, assigned, or disposed of in any
2 other manner, directly or indirectly, except in compliance with OAR 345-27-100.
3
4
5

6 **VII. SEVERABILITY AND CONSTRUCTION**
7

8 If any provision of this agreement and certificate is declared by a court to be illegal or in
9 conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the
10 rights and obligations of the parties shall be construed and enforced as if the agreement and certificate
11 did not contain the particular provision held to be invalid. In the event of a conflict between the
12 warranties and conditions contained in the site certificate and EFSC's final order, the warranties and
13 conditions contained in this site certificate shall control.
14

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16

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20 appropriate forum in Oregon.
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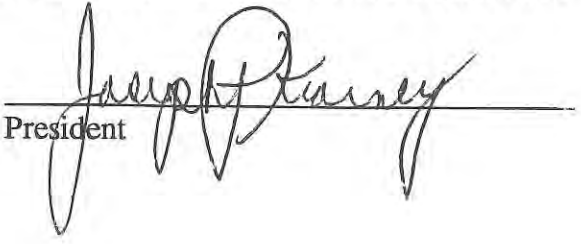
22 **IN WITNESS WHEREOF**, this Site Certificate has been executed by the State of Oregon,
23 acting by and through its Energy Facility Siting Council, and Hermiston Generating Company.
24
25

26 ENERGY FACILITY SITING COUNCIL

27
28 
29 _____
30 Chair

31
32
33
34
35
36 3/11/94
37 DATE

38 HERMISTON GENERATING COMPANY

39
40
41
42
43
44
45


President

35
36 3/16/94
37 DATE

EXHIBIT A

In the Matter of the
Application for a Site
Certificate for Hermiston
Generating Project

Certificate of Applicant,
Hermiston Generating
Company, L.P.

The undersigned is President and Chief Executive Officer of Hermiston Generating Company, L.P., the applicant (the "Applicant").

On behalf of the Applicant, the undersigned certifies to the Oregon Energy Facility Siting Council, in satisfaction of conditions of issuance of a site certificate, as follows:

1. Applicant has received commitments from the constituent partners of Applicant to fund contributions to the equity of Applicant (the "Equity Financing") in amounts which in the aggregate are sufficient to satisfy conditions for completing the debt financing of the facility described in the Application filed by the Applicant on June 11, 1993, as amended (the "Application"). The Equity Financing of Applicant will be completed on or about _____, 199_.

2. Applicant has received commitments from lending sources to loan to the Applicant funds in an amount which (a) in combination with the Equity Financing will be sufficient to pay all costs of construction of the facility described in the Application, and (b) will constitute financing of the facility beyond the construction period (the "Debt Financing"). The repayment period established under the financing agreements does not exceed the duration of the power sales contract required under the site certificate.

3. The pro forma operating statements of the Applicant which are the basis for the Equity Financing and the Debt Financing contain operating and replacement reserves which are estimated to be sufficient to pay all maintenance costs for the facility during its useful life, and to pay all retirement costs of the facility at the end of its useful life.

Dated this ___ day of _____, 199_.

Hermiston Generating Company, L.P.

By: _____
President and Chief Executive Officer

EXHIBIT B

in the Matter of the
Application for a Site
Certificate for Hermiston
Generating Project

Certificate of Applicant,
Hermiston Generating
Company, L.P.

The undersigned is President and Chief Executive Officer of Hermiston Generating Company, L.P., the applicant (the "Applicant").

On behalf of the Applicant, the undersigned certifies to the Oregon Energy Facility Siting Council, in satisfaction of conditions of issuance of a site certificate, as follows:

1. On _____, 19__ , the Applicant certified to the Oregon Energy Facility Siting Council that the Applicant had received equity and debt financing commitments (the "Financing Commitments") for construction of the Project (the "Project") described in the Application filed on June 11, 1993, as amended (the "Application").

2. The equity contributions and loans contemplated by the Financing Commitments have been contractually committed to the Applicant, which in aggregate provide funds in amounts sufficient for the construction of the Project described in the Application.

Dated this __ day of _____, 199__.
Hermiston Generating Company, L.P.

By: _____
President and Chief Executive Officer