

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

**SITE CERTIFICATE
FOR THE
COLUMBIA ETHANOL PROJECT**

ISSUED BY

**OREGON ENERGY FACILITY SITING COUNCIL
625 MARION STREET NE,
SALEM OR 97301-3742**

503.378.4040
503.373.7806 FAX

JULY 2, 2007

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

TABLE OF CONTENTS

I. INTRODUCTION 1

II. SITE CERTIFICATION 1

III. DESCRIPTIONS..... 2

 A. THE FACILITY 2

 B. RELATED OR SUPPORTING FACILITIES 3

 C. LOCATION OF THE FACILITY 4

IV. SPECIFIC FACILITY CONDITIONS 4

 A. GENERAL STANDARD OF REVIEW, OAR 345-022-0000 4

 B. ORGANIZATIONAL EXPERTISE, OAR 345-022-0010 4

 C. RETIREMENT AND FINANCIAL ASSURANCE, OAR 345-022-0050 5

 D. LAND USE, OAR 345-022-0030 8

 E. STRUCTURAL STANDARD, OAR 345-022-0020 8

 F. SOIL PROTECTION, OAR 345-022-0022 8

 G. PROTECTED AREAS, OAR 345-022-0040 9

 H. FISH AND WILDLIFE HABITAT, OAR 345-022-0060 9

 I. THREATENED AND ENDANGERED SPECIES, OAR 345-022-0070 9

 J. SCENIC RESOURCES, OAR 345-022-0080 9

 K. HISTORIC, CULTURAL AND ARCHAEOLOGICAL RESOURCES, OAR 345-022-0090 9

 L. RECREATION, OAR 345-022-0100 10

 M. PUBLIC SERVICES, OAR 345-022-0110 10

 N. WASTE MINIMIZATION, OAR 345-022-0120 10

V. OTHER APPLICABLE REGULATORY REQUIREMENTS 10

VI. CONDITIONS REQUIRED OR RECOMMENDED BY COUNCIL RULES 11

VII. GENERAL CONDITIONS 13

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

**SITE CERTIFICATE
FOR THE
COLUMBIA ETHANOL PROJECT**

26
27
28
29
30
31

I. INTRODUCTION

This Site Certificate for the Columbia Ethanol Project (“CEP”) is issued and executed in the manner provided by ORS chapter 469, by and between the State of Oregon (“State”), acting by and through its Energy Facility Siting Council (“Council”), and Pacific Ethanol Columbia, LLC (“PEC” or “certificate holder”). This site certificate is a binding agreement between the State, acting by and through the Council, and the certificate holder.

The findings of fact, reasoning and conclusions of law underlying the terms and conditions of this Site Certificate are set forth in the Council's Final Order in the Matter of the Application for a Site Certificate for the Columbia Ethanol Project, which the Council granted on July 2, 2007, and which by this reference is incorporated herein.

In interpreting this site certificate, any ambiguity shall be clarified by reference to the following, in order of priority: (1) this Site Certificate; (2) the Final Order on the Application for a Site Certificate; and (3) the record of the proceedings that led to the Final Order on the Application for a Site Certificate.

The terms used in this site certificate shall have the same meaning set forth in ORS 469.300 and OAR 345-001-0010, except where otherwise stated or where the context clearly indicates otherwise.

32
33
34
35
36
37
38
39
40
41
42
43
44

II. SITE CERTIFICATION

A. To the extent authorized by State law and subject to the conditions set forth herein, the State authorizes the certificate holder to construct, operate and retire an ethanol plant, together with certain related or supporting facilities, at the site in Morrow County, Oregon, as described in Section III of this Site Certificate. ORS 469.401(1).

B. This site certificate shall be effective until it is terminated pursuant to OAR 345-027-0110 or the rules in effect on the date that termination is sought or until the site certificate is revoked pursuant to ORS 469.440 and OAR 345-029-0100 or the statutes and rules in effect on the date that revocation is ordered. ORS 469.401(1).

C. This Site Certificate does not address, and is not binding with respect to, matters that were not addressed in the Council's Final Order on the Application for a Site Certificate. These matters include, but are not limited to: building code compliance; wage, hour and other labor regulations; local government fees and charges; other design or operational issues that do not relate to siting the facility (ORS 469.401(4)); and permits issued under statutes and rules for which the decision on compliance has been delegated by the federal government to a state agency other than the Council. ORS 469.503(3).

- 1 D. Both the State and the certificate holder shall abide by local ordinances and state law and
2 the rules of the Council in effect on the date this site certificate is executed. In addition,
3 upon a clear showing of a significant threat to the public health, safety or the environment
4 that requires application of later-adopted laws or rules, the Council may require
5 compliance with such later-adopted laws or rules. ORS 469.401(2).
6
- 7 E For a permit, license or other approval addressed in and governed by this site certificate,
8 the certificate holder shall comply with applicable state and federal laws adopted in the
9 future to the extent that such compliance is required under the respective state agency
10 statutes and rules. ORS 469.401(2).
11
- 12 F. Subject to the conditions herein, this site certificate binds the State and all counties, cities
13 and political subdivisions in this state as to the approval of the site and the construction,
14 operation and retirement of the facility as to matters that are addressed in and governed
15 by this site certificate. ORS 469.401(3).
16
- 17 G. Each affected state agency, county, city and political subdivision in Oregon with
18 authority to issue a permit, license or other approval addressed in or governed by this site
19 certificate shall, upon submission of the proper application and payment of the proper
20 fees, but without hearings or other proceedings, issue such permit, license or other
21 approval subject only to conditions set forth in this site certificate. ORS 469.401(3).
22
- 23 H. After issuance of this site certificate, each state agency or local government agency that
24 issues a permit, license or other approval for the facility shall continue to exercise
25 enforcement authority over such permit, license or other approval. ORS 469.401(3).
26
- 27 I. After issuance of this site certificate, the Council shall have continuing authority over the
28 site and may inspect, or direct the Department to inspect, or request another state agency
29 or local government to inspect, the site at any time in order to assure that the facility is
30 being operated consistently with the terms and conditions of this site certificate. ORS
31 469.430.
32

33 **III. DESCRIPTIONS**

34 **A. THE FACILITY**

35 The energy facility is an ethanol plant capable of producing 35 million gallons per year
36 (MMgy) of ethanol located on a 25-acre parcel in the Boardman Industrial Park, Port of Morrow,
37 Morrow County, Oregon. Major plant components consist of buildings, storage tanks and bins.
38 By means of an existing rail loop, corn will be delivered to the site. In the processing building,
39 ground corn will be mixed with water and enzymes to make a mash, and the mash will be cooked
40 in a series of retention tanks to break the complex sugars down into fermentable sugars. The
41 processing building will house steel storage tanks for aqueous ammonia, enzymes, sulfuric acid,
42 sodium hydroxide, and urea.
43
44

1 In the fermentation building, yeast and additional enzymes will be added to the mash,
2 producing a liquid containing 10 to 20% ethanol, by weight. The liquid will be piped to the
3 distillation, drying and evaporation (DD&E) building where the solids (a by-product called
4 distiller's wet grain that would be suitable for animal feed) will be separated and transported to a
5 wet cake building for storage and ultimate trucking to local dairy or cattle operations for use as
6 feed. The liquid ethanol will be moved to ethanol storage tanks pending shipment to market by
7 barge, rail or truck.

8
9 Additional plant components include grain storage bins, an administration building, a
10 boiler building, a maintenance building, ethanol storage tanks, a diesel fuel storage tank, and a
11 gasoline tank.

12
13 The facility is currently under construction pursuant to an exemption granted by the
14 Council on May 19, 2006. Consequently, this order does not include certain conditions ordinarily
15 requiring satisfaction by the certificate holder in advance of beginning construction of a
16 proposed facility.

17
18 **B. RELATED OR SUPPORTING FACILITIES**

19 The facility includes the following related or supporting facilities:

- 20
21 **1. NATURAL GAS PIPELINE.** Natural gas for operation of the plant boilers will be
22 provided by means of a 1,700-foot, 4-inch diameter carbon steel pipeline
23 interconnecting with the existing Cascade Natural Gas system. The pipeline is
24 installed underground along Columbia Lane on property owned by the Port of
25 Morrow.
- 26
27 **2. ELECTRIC POWER SUPPLY LINE.** Electricity for operation of the energy facility
28 will be provided by means of a 13.5-kV, 1,700-foot power supply line
29 interconnecting with the existing Umatilla Electric Cooperative system. The
30 power supply line is mounted on 40-foot wood poles spaced at about 300 feet and
31 located along Columbia Lane on property owned by the Port of Morrow.
- 32
33 **3. ETHANOL PIPELINE.** PEC proposes to transport some of the ethanol produced at
34 the energy facility by barge from an existing barge-loading facility operated by
35 Tidewater, Inc. In order to move the ethanol to the barge-loading facility, PEC
36 proposes to install a 2,500-foot, 8-inch diameter welded steel pipeline from the
37 energy facility to the barge-loading facility. After leaving the production plant,
38 the pipeline would be installed underground at a depth of at least 3½ feet until it
39 crosses the right of way for the existing Union Pacific rail line. It will cross the
40 rail line by underground bore. North of the rail line, the pipeline will be placed
41 above ground on footings in order to avoid a potential archeological site. Its entire
42 corridor is located on property owned by the Port of Morrow, and would require
43 no new right-of-way. PEC would be responsible for construction of about 2,200
44 feet of the pipeline (up to the high water line of the Columbia River). Tidewater,

1 Inc., would be responsible for obtaining necessary permits and constructing the
2 remaining 300 feet of the pipeline for connection with the barge-loading facility.

3
4 **C. LOCATION OF THE FACILITY**

5 The facility is located on a 25-acre parcel of land in Section 2, Township 4 North, Range
6 25 East, Morrow County, Oregon. This parcel comprises a portion of the Boardman Industrial
7 Park owned and operated by the Port of Morrow.

8
9 **IV. SPECIFIC FACILITY CONDITIONS**

10 The conditions listed in this section include conditions based on representations in the
11 application for a site certificate and supporting record. The Council deems these representations
12 to be binding commitments made by the certificate holder. These conditions are required under
13 OAR 345-027-0020(10).

14
15 This section includes other specific facility conditions the Council finds necessary to
16 ensure compliance with siting standards of OAR Chapter 345, Divisions 22 and 24, and to
17 protect the public health and safety.

18
19 **A. GENERAL STANDARD OF REVIEW, OAR 345-022-0000**

20 [No conditions]

21
22 **B. ORGANIZATIONAL EXPERTISE, OAR 345-022-0010**

23 (IV.B.1) The certificate holder shall report promptly to the Department any change in its
24 corporate relationship with Pacific Ethanol, Inc. The certificate holder shall report
25 promptly to the Department any change in its access to the resources, expertise
26 and personnel of Pacific Ethanol, Inc., and Delta-T.

27
28 (IV.B.2) If the certificate holder chooses a third-party contractor to operate the facility, the
29 certificate holder shall submit to the Council the identity of the contractor so the
30 Council may review the qualifications and capability of the contractor to meet the
31 standards of OAR 345-0022-0010. If the Council finds that a new contractor
32 meets these standards, the Council shall not require an amendment to the site
33 certificate for the certificate holder to hire the contractor.

34
35 (IV.B.3) Any matter of non-compliance under the site certificate shall be the responsibility
36 of the certificate holder. Any notice of violation issued under the site certificate
37 shall be issued to the certificate holder. Any civil penalties assessed under the site
38 certificate shall be levied on the certificate holder.

39
40 (IV.B.4) The certificate holder shall contractually require the EPC contractor and all
41 independent contractors and subcontractors involved in the construction and
42 operation of the facility to comply with all applicable laws and regulations and
43 with the terms and conditions of the site certificate. Such contractual provision
44 shall not operate to relieve the certificate holder of responsibility under the site
45 certificate.

- 1
2 (IV.B.5) The certificate holder shall obtain, or shall ensure that its contractors obtain,
3 necessary state and local permits or approvals required for the construction,
4 operation and retirement of the facility.
5
6 (IV.B.6) Prior to construction of the PEC portion of the ethanol pipeline that will connect
7 CEP to the Tidewater ethanol pipeline, the certificate holder shall demonstrate to
8 the Energy Facility Siting Council (“Council”) that Tidewater, Inc., has obtained
9 all necessary permits and approvals for construction of the ethanol pipeline from
10 the Ordinary High Water (“OHW”) line of the Columbia River to its point of
11 attachment with the barge-loading facility.
12
13 (IV.B.7) Prior to commercial operation, the certificate holder shall provide the Council
14 with documentation showing that DEQ has modified the Port of Morrow’s WPCF
15 permit to include the wastewater discharge from the CEP.
16

17 **C. RETIREMENT AND FINANCIAL ASSURANCE, OAR 345-022-0050**

- 18 (IV.C.1) The certificate holder shall retire the facility if the certificate holder permanently
19 ceases construction or operation of the facility. The certificate holder shall retire
20 the facility according to a final retirement plan approved by the Council, as
21 described in OAR 345-027-0110, and prepared pursuant to Condition (IV.C.2).
22
23 (IV.C.2) Two years before closure of the energy facility, the certificate holder shall submit
24 to the Department a proposed final retirement plan for the facility and site,
25 pursuant to OAR 345-027-0110, including:
26 (a) A plan for retirement that provides for completion of retirement within
27 two years after permanent cessation of operation of the energy facility and
28 that protects the public health and safety and the environment;
29 (b) A description of actions the certificate holder proposes to take to restore
30 the site to a useful, non-hazardous condition suitable for agricultural use;
31 and
32 (c) A detailed cost estimate, a comparison of that estimate with the dollar
33 amount secured by a bond or letter of credit and any amount contained in a
34 retirement fund, and a plan for assuring the availability of adequate funds
35 for completion of retirement.
36
37 (IV.C.3) The certificate holder shall prevent the development of any conditions on the site
38 that would preclude restoration of the site to a useful, non-hazardous condition to
39 the extent that prevention of such site conditions is within the control of the
40 certificate holder.
41
42 (IV.C.4) Within 30 days after the effective date of the site certificate, the certificate holder
43 shall submit to the State of Oregon, through the Council, a bond or letter of credit
44 in the amount of \$800,000 (in Second Quarter 2007 dollars) naming the State of
45 Oregon, acting by and through the Council, as beneficiary or payee.

- 1 (a) The certificate holder shall adjust the amount of the bond or letter of credit
2 to present value annually, using the U.S. Gross Domestic Product Implicit
3 Price Deflator, Chain-Weight, as published in the Oregon Department of
4 Administrative Services' "Oregon Economic and Revenue Forecast," or
5 by any successor agency ("Index"). If at any time the Index is no longer
6 published, the Council shall select a comparable calculation to adjust
7 Second Quarter 2007 dollars to present value.
- 8 (b) The form of bond or letter of credit shall be subject to prior approval by
9 the Council.
- 10 (c) The issuer of the bond or letter of credit shall be subject to prior approval
11 by the Council.
- 12 (d) The certificate holder shall describe the status of the bond or letter of
13 credit in the annual report submitted to the Council under Condition
14 (VI.B.6).
- 15 (e) The bond or letter of credit shall not be subject to revocation or reduction
16 before retirement of the facility.

17
18 (IV.C.5) If the certificate holder elects to use a bond to meet the requirements of Condition
19 (IV.C.4), the certificate holder shall ensure that the surety is obligated to comply
20 with the requirements of applicable statutes, Council rules and this site certificate
21 when the surety exercises any legal or contractual right it may have to assume
22 construction, operation or retirement of the energy facility. The certificate holder
23 shall also ensure that the surety is obligated to notify the Council that it is
24 exercising such rights and to obtain any Council approvals required by applicable
25 statutes, Council rules and this site certificate before the surety commences any
26 activity to complete construction or to operate or retire the energy facility.

27
28 (IV.C.6) Not later than ten years after the date of commercial operation of the energy
29 facility, and each ten years thereafter during the life of the energy facility, the
30 certificate holder shall complete an independent Phase I Environmental Site
31 Assessment of the energy facility site. Within 30 days after its completion, the
32 certificate holder shall deliver the Phase I Environmental Site Assessment report
33 to the Department.

34
35 (IV.C.7) In the event that any Phase I Environmental Site Assessment identifies improper
36 handling or storage of hazardous substances or improper record keeping
37 procedures, the certificate holder shall correct such deficiencies within six months
38 after completion of the corresponding Phase I Environmental Site Assessment. It
39 shall promptly report its corrective actions to the Department. The Council shall
40 determine whether the corrective actions are sufficient.

41
42 (IV.C.8) The certificate holder shall report to the Department any release of hazardous
43 substances, pursuant to DEQ regulations, within one working day after the
44 discovery of such release. This obligation shall be in addition to any other
45 reporting requirements applicable to such a release.

- 1
2 (IV.C.9) If the certificate holder has not remedied a release consistent with applicable
3 Oregon Department of Environmental Quality standards or if the certificate holder
4 fails to correct deficiencies identified in the course of a Phase I Environmental
5 Site Assessment within six months after the date of the release or the date of
6 completion of the Phase I Environmental Site Assessment, the certificate holder
7 shall submit to the Council for its approval an independently prepared estimate of
8 the additional cost of remediation or correction within such six-month period.
- 9 (a) Upon approval of an estimate by the Council, the certificate holder shall
10 increase the amount of its bond or letter of credit by the amount of the
11 estimate.
- 12 (b) In no event, however, shall the certificate holder be relieved of its
13 obligation to exercise all due diligence in remedying a release of
14 hazardous substances or correcting deficiencies identified in the course of
15 a Phase I Environmental Site Assessment.
- 16
- 17 (IV.C.10) All funds received by the certificate holder from the salvage of equipment and
18 buildings shall be committed to the restoration of the energy facility site to the
19 extent necessary to fund the approved site restoration and remediation.
- 20
- 21 (IV.C.11) The certificate holder shall pay the actual cost to restore the site to a useful, non-
22 hazardous condition at the time of retirement, notwithstanding the Council's
23 approval in the site certificate of an estimated amount required to restore the site.
- 24
- 25 (IV.C.12) If the Council finds that the certificate holder has permanently ceased
26 construction or operation of the facility without retiring the facility according to a
27 final retirement plan approved by the Council, as described in OAR 345-027-0110
28 and prepared pursuant to Condition (IV.C.2), the Council shall notify the
29 certificate holder and request that the certificate holder submit a proposed final
30 retirement plan to the Department within a reasonable time not to exceed 90 days.
- 31 (a) If the certificate holder does not submit a proposed final retirement plan
32 by the specified date, the Council may direct the Department to prepare a
33 proposed a final retirement plan for the Council's approval.
- 34 (b) Upon the Council's approval of the final retirement plan, the Council may
35 draw on the bond or letter of credit described in Condition (IV.C.4) to
36 restore the site to a useful, non-hazardous condition according to the final
37 retirement plan, in addition to any penalties the Council may impose under
38 OAR Chapter 345, Division 29.
- 39 (c) If the amount of the bond or letter of credit is insufficient to pay the actual
40 cost of retirement, the certificate holder shall pay any additional cost
41 necessary to restore the site to a useful, non-hazardous condition.
- 42 (d) After completion of site restoration, the Council shall issue an order to
43 terminate the site certificate if the Council finds that the facility has been
44 retired according to the approved final retirement plan.
- 45

1 **D. LAND USE, OAR 345-022-0030**

2 [No conditions]

3
4 **E. STRUCTURAL STANDARD, OAR 345-022-0020**

5 (IV.E.1) The certificate holder shall design, engineer and construct the facility to avoid
6 dangers to human safety presented by seismic hazards affecting the site that are
7 expected to result from all maximum probable seismic events. As used in this
8 condition, “seismic hazard” includes ground shaking, landslide, liquefaction,
9 lateral spreading, tsunami inundation, near field effects, hanging wall effects, fault
10 rupture, fault displacement, and subsidence.

11
12 (IV.E.2) The certificate holder shall notify the Department, the State Building Codes
13 Division and DOGAMI promptly if site investigations or trenching reveal that
14 conditions in the foundation rocks differ significantly from those described in the
15 application for a site certificate. After the Department receives the notice, the
16 Council may require the certificate holder to consult with the Department of
17 Geology and Mineral Industries and the Building Codes Division and to propose
18 mitigation actions.

19
20 (IV.E.3) The certificate holder shall notify the Department, the State Building Codes
21 Division and the Department of Geology and Mineral Industries promptly if shear
22 zones, artesian aquifers, deformations, or clastic dikes are found or suspected at or
23 in the vicinity of the site.

24
25 (IV.E.4) The certificate holder shall design, engineer and construct the facility to avoid
26 dangers to human safety presented by non-seismic or aseismic hazards affecting
27 the site. As used in this condition, “non-seismic or aseismic hazards” includes
28 settlement, landslides, groundwater, flooding, and erosion.

29
30 **F. SOIL PROTECTION, OAR 345-022-0022**

31 (IV.F.1) Throughout construction of the facility and post-construction restoration, the
32 certificate holder shall use temporary erosion and sediment control measures,
33 such as a bioswale system, sediment barrier fence, ditch checks, catch basin inlet
34 protection, and construction site entrance and exit treatments.

35
36 (IV.F.2) Throughout construction of the facility and post-construction restoration, the
37 certificate holder shall install permanent erosion control measures, as necessary.

38
39 (IV.F.3) Upon completion of construction of in an area, the certificate holder shall vegetate
40 temporarily disturbed areas to limit soil exposure to wind and water erosion.

41
42 (IV.F.4) Before beginning operation of the facility, the certificate holder shall obtain a
43 NPDES Storm Water Discharge General Permit #1200-Z (for industrial activities)
44 from the Oregon Department of Environmental Quality.

1 (IV.F.5) Upon completion of retirement of the facility, the certificate holder shall vegetate
2 temporarily disturbed areas to limit soil exposure to wind and water erosion.

3
4 (IV.F.6) During construction, operation and retirement of the facility, the certificate holder
5 shall implement a Spill Prevention Control and Countermeasure Plan (“SPCC”),
6 an Emergency Action Plan, a Hazardous Waste Emergency
7 Response/Contingency Plan, and a Hazardous Materials Management Plan.

8
9 **G. PROTECTED AREAS, OAR 345-022-0040**

10 [No conditions]

11
12 **H. FISH AND WILDLIFE HABITAT, OAR 345-022-0060**

13 (IV.H.1) After completion of construction of the facility, the certificate holder shall restore
14 areas subject to temporary disturbance to pre-construction conditions using a seed
15 mix approved by ODFW and the Morrow County Soil and Water Conservation
16 District.

17
18 (IV.H.2) The certificate holder shall implement the habitat mitigation plan submitted on
19 March 30, 2007 and shown as Attachment A to this Order.

20
21 (IV.H.3) During construction of the facility, the certificate holder shall implement the
22 following measures:
23 (a) Design the facility components to be the minimum size needed for operations;
24 (b) Use best management practices to prevent loss of topsoil during construction;
25 and
26 (c) Control noxious weeds in areas disturbed by construction activities.

27
28 **I. THREATENED AND ENDANGERED SPECIES, OAR 345-022-0070**

29 [No conditions]

30
31 **J. SCENIC RESOURCES, OAR 345-022-0080**

32 [No conditions]

33
34 **K. HISTORIC, CULTURAL AND ARCHAEOLOGICAL RESOURCES, OAR 345-022-0090**

35 (IV.K.1) Before beginning construction of the proposed related or supporting ethanol
36 pipeline, the certificate holder shall conduct additional investigation to better
37 define the vertical and horizontal extent of the archaeological resources in the
38 vicinity of the proposed ethanol pipeline in consultation with the Oregon Historic
39 Preservation Office (“SHPO”) and the Confederated Tribes of the Umatilla Indian
40 Reservation. The investigation shall include protocols and procedures for
41 protection of known cultural sites, including the identification of sites in the field
42 and on project construction maps, and for accidental discovery of additional sites.

43
44 (IV.K.2) During construction of the facility, the certificate holder shall ensure that a
45 qualified person instructs construction personnel in the identification of

1 archaeological and cultural resources, and ensure that archaeological construction
2 monitors are present to prevent accidental impacts to known cultural resources or
3 to any newly discovered resources.
4

5 (IV.K.3) During construction of the facility, in the event any archaeological or cultural
6 resources are discovered, the certificate holder shall cease all ground-disturbing
7 activities in the immediate area until a qualified archaeologist can evaluate the
8 significance of the find. If the archaeologist determines that the resources are
9 significant, the certificate holder shall make recommendations to the Council for
10 mitigation in consultation with the State Historic Preservation Office (“SHPO”),
11 the Department, the Confederated Tribes of the Umatilla Indian Reservation, and
12 other appropriate parties. Mitigation measures shall include avoidance or data
13 recovery. The certificate holder shall not restart work in the affected area until it
14 has demonstrated to the Department that it has complied with the archaeological
15 permit requirements administered by SHPO.
16

17 (IV.K.4) The location of the ethanol pipeline will be moved as shown on Figure C-2 rev. 2,
18 dated 2/15/07. The boundary between the certificate holder’s portion and
19 Tidewater’s portion is as shown on this figure.
20

21 (IV.K.5) The pipeline may be constructed underground between the ethanol production
22 plant and the existing loop track. The pipeline will cross the loop track by
23 horizontal bore. On the north side of the existing loop track, the pipeline will be
24 placed above ground on footings designed substantially as shown in the Norwest
25 Engineering Drawing provided to the Oregon Department of Energy and dated
26 2/21/07.
27

28 (IV.K.6) The certificate holder shall ensure that a qualified archeological monitor is on site
29 during excavation of the trench and subsequent boring of the pipeline.
30

31 **L. RECREATION, OAR 345-022-0100**
32 [No conditions]
33

34 **M. PUBLIC SERVICES, OAR 345-022-0110**
35 [No conditions]
36

37 **N. WASTE MINIMIZATION, OAR 345-022-0120**
38 [No conditions]
39

40 **V. OTHER APPLICABLE REGULATORY REQUIREMENTS**
41

42 **A. REQUIREMENTS UNDER COUNCIL JURISDICTION**
43

44 **1. NOISE CONTROL REGULATIONS, OAR 340-035-0035**
45 [No conditions]

1
2 **2. REMOVAL-FILL LAW**
3 [No conditions]
4

5 **3. PUBLIC HEALTH AND SAFETY**

6 (V.A.1) The certificate holder shall consult with the Oregon Public Utility Commission
7 staff to ensure that its designs and specifications for the electrical transmission
8 line and natural gas pipeline are consistent with applicable codes and standards.
9

10 (V.A.2) With respect to the related or supporting natural gas pipeline, the certificate
11 holder shall design, construct and operate the pipeline in accordance with the
12 requirements of the U.S. Department of Transportation as set forth in Title 49,
13 Code of Federal Regulations, Part 192 and the certificate holder shall develop and
14 implement a program using the best available practical technology to monitor the
15 proposed pipeline to ensure protection of public health and safety.
16

17 **VI. CONDITIONS REQUIRED OR RECOMMENDED BY COUNCIL RULES**

18 This section lists conditions specifically required by OAR 345-027-0020 (Mandatory
19 Conditions in Site Certificates), OAR 345-027-0028 (Monitoring Conditions), and OAR Chapter
20 345, Division 26 (Construction and Operation Rules for Facilities). These conditions should be
21 read together with the specific facility conditions included in Sections IV and V to ensure
22 compliance with the siting standards of OAR Chapter 345, Divisions 22 and 24, and to protect
23 the public health and safety. The certificate holder shall comply with all site certificate
24 conditions.
25

26 The Council recognizes that many specific tasks related to the design, construction,
27 operation and retirement of the facility will be undertaken by the certificate holder's agents or
28 contractors. Nevertheless, the certificate holder is responsible for ensuring compliance with all
29 provisions of the site certificate.
30

31 **A. MANDATORY CONDITIONS IN SITE CERTIFICATES**
32

33 (VI.A.1) The Council shall not change the conditions of the site certificate except as
34 provided for in OAR 345, Division 27.
35

36 (VI.A.2) The certificate holder shall submit a legal description of the site to the Department
37 of Energy within 90 days after beginning operation of the facility. The legal
38 description required by this rule means a description of metes and bounds or a
39 description of the site by reference to a map and geographic data that clearly and
40 specifically identifies the outer boundaries that contain all parts of the facility.
41

42 (VI.A.3) The certificate holder shall design, construct, operate, and retire the facility:
43 (a) Substantially as described in the site certificate;

- 1 (b) In compliance with the requirements of ORS Chapter 469, applicable
2 Council rules, and applicable state and local laws, rules and ordinances in
3 effect at the time the site certificate is issued; and
4 (c) In compliance with all applicable permit requirements of other state
5 agencies.
6

7 **B. OTHER CONDITIONS BY RULE**
8

- 9 (VI.B.1) With respect to the related or supporting natural gas pipeline, the certificate
10 holder shall submit to the Department copies of all incident reports involving the
11 pipeline required under 49 CFR §191.15.
12
13 (VI.B.2) Before beginning operation of the facility, the certificate holder shall submit to
14 the Department a legal description of the permanent right-of-way where the
15 applicant has built a pipeline or transmission line within an approved corridor.
16 The site of the pipeline or transmission line subject to the site certificate is the
17 area within the permanent right-of-way.
18
19 (VI.B.3) If the certificate holder becomes aware of a significant environmental change or
20 impact attributable to the facility, the certificate holder shall, as soon as possible,
21 submit a written report to the Department describing the impact on the facility and
22 any affected site certificate conditions.
23
24 (VI.B.4) Within 30 days after the effective date of the site certificate, the certificate holder
25 shall implement a plan that verifies compliance with all site certificate terms and
26 conditions and applicable statutes and rules and shall submit a copy of the plan to
27 the Department. The certificate holder shall document the compliance plan and
28 maintain it for inspection by the Department or the Council.
29
30 (VI.B.5) Within 30 days after the effective date of the site certificate, and every six months
31 thereafter during construction of the facility and related or supporting facilities,
32 the certificate holder shall submit a semi-annual construction progress report to
33 the Department. In each construction progress report, the certificate holder shall
34 describe any significant changes to major milestones for construction. When the
35 reporting date coincides, the certificate holder may include the construction
36 progress report within the annual report described in Condition (VI.B.6) below.
37
38 (VI.B.6) By April 30 of each year after beginning construction, the certificate holder shall
39 submit an annual report to the Department addressing the subjects listed in OAR
40 345-026-0080(2). The Council Secretary and the certificate holder may, by
41 mutual agreement, change the reporting date.
42
43 (VI.B.7) To the extent that information required by OAR 345-026-0080(2) is contained in
44 reports the certificate holder submits to other state, federal or local agencies, the
45 certificate holder may submit excerpts from such other reports to satisfy this

1 condition. The Council reserves the right to request full copies of such excerpted
2 reports.

3
4 (VI.B.8) The certificate holder and the Department shall exchange copies of all
5 correspondence or summaries of correspondence related to compliance with
6 statutes, rules and local ordinances on which the Council determined compliance,
7 except for material withheld from public disclosure under state or federal law or
8 under Council rules. The certificate holder may submit abstracts of reports in
9 place of full reports; however, the certificate holder shall provide full copies of
10 abstracted reports and any summarized correspondence at the request of the
11 Department.

12
13 (VI.B.9) The certificate holder shall notify the Department within 72 hours of any
14 occurrence involving the facility if:

- 15 (a) There is an attempt by anyone to interfere with its safe operation;
 - 16 (b) A natural event such as an earthquake, flood, tsunami or tornado, or a
17 human-caused event such as a fire or explosion, affects or threatens to
18 affect the public health and safety or the environment; or,
 - 19 (c) There is any fatal injury at the facility.
- 20

21 **VII. GENERAL CONDITIONS**

22
23 (VII.1) The general arrangement of the Columbia Ethanol Project shall be substantially as
24 shown in the ASC.

25
26 (VII.2) The certificate holder shall ensure that related or supporting facilities are
27 constructed in the corridors described in the ASC and in the manner described in
28 the ASC.

29
30 (VII.3) Before any transfer of ownership of the facility or ownership of the site certificate
31 holder, the certificate holder shall inform the Department of the proposed new
32 owners. The requirements of OAR 345-027-0100 shall apply to any transfer of
33 ownership that requires a transfer of the site certificate.

34
35 (VII.4) If any provision of this site certificate is declared by a court to be illegal or in
36 conflict with any law, the validity of the remaining terms and conditions shall not
37 be affected, and the rights and obligations of the parties shall be construed and
38 enforced as if the site certificate did not contain the particular provision held to be
39 invalid. In the event of a conflict between the conditions contained in the site
40 certificate and the Council's order, the conditions contained in this site certificate
41 shall control.

42
43 (VII.5) The laws of the State of Oregon shall govern this site certificate.
44

1 (VII.6) Any litigation or arbitration arising out of this agreement shall be conducted in an
2 appropriate forum in Oregon.
3
4
5

6 **IN WITNESS WHEREOF**, this Site Certificate has been executed by the State of Oregon,
7 acting by and through its Energy Facility Siting Council, and by Pacific Ethanol Columbia, LLC.
8
9

10
11
12 ENERGY FACILITY SITING COUNCIL

PACIFIC ETHANOL COLUMBIA, LLC

13
14
15 By: _____
16 David Ripma, Chair
17 Oregon Energy Facility Siting Council
18

By: _____
Print: _____

19 Date: _____
20
21
22

Date: _____