

BEFORE THE HEARINGS OFFICER

KLAMATH COUNTY, OREGON

In the Matter of Application for
a Conditional Use Permit CUP
101-98, submitted by PacifiCorp.

CUP 101-98

FINDINGS AND CONCLUSIONS
AND ORDER

I. APPLICANT

PacifiCorp.

II. ADDRESSES

PacifiCorp
800 N. E. Multnomah
Portland, Oregon 97232

III. ACTION REQUESTED

PacifiCorp requests a conditional use permit (CUP) from Klamath County to authorize a realignment of a segment of PacifiCorp's existing Meridian-Captain Jack 500 kV transmission line (Meridian-Captain Jack Line). As discussed below, this realignment is necessary to provide the City of Klamath Falls (City) with an alternative electrical interconnection for the Klamath Cogeneration Project (Project).

PacifiCorp's application and supporting materials are contained in the Application for Conditional Use Permit 101-98 (Realigned Segment of 500 kV Transmission Line) (referred to herein as Application or App.).

This request was heard by the Hearings Officer at a public hearing on December 4, 1998 and reviewed for conformity with Klamath County Land Development Code (LDC) Article 44 and the Comprehensive Land Use Plan, Policies for Klamath County, Oregon (Comprehensive Plan). The Hearings Officer in review of the Application was Joan-Marie Michelsen. The applicant appeared and offered testimony through James Kincaid of Cable, Huston, Benedict & Haagensen LLP and Allan Vandehey of PacifiCorp. The Planning Department was represented by Kim Lundahl, Senior Planner. The recording secretary was Karen Burg.

IV. LEGAL DESCRIPTION OF AFFECTED LAND

The existing Meridian-Captain Jack Line is located approximately 3,500 feet to the north and northeast of the Project's electrical switchyard. PacifiCorp will realign the line

to connect with the Project's electrical switchyard. The realigned 500 kV transmission line will be located almost entirely on property currently owned by Collins. A very short stretch of the line passes over a one-quarter acre parcel of property owned by Columbia. The property is outside the limits of the City, outside of the Urban Growth Boundary, and within the land use jurisdiction of Klamath County. The path of the proposed realignment is in Section 18 of Township 39 South, Range 9 East, about one-half mile west of the U.S. Highway 97 bridge over the Klamath River and approximately 1,200 feet north of the Klamath River. (App. Figure 1.)

V. RELEVANT FACTS

A. General Background.

In 1995, Klamath County issued CUP 29-95 to the City. CUP 29-95 authorizes the Project, which is a natural gas-fired combined-cycle cogeneration facility. The Project will generate electricity for sale and will also generate steam for use by Collins and potentially other industries. The Project as currently authorized includes a 230 kV switchyard and an approximately four-mile long 230 kV transmission line to PacifiCorp's existing Klamath Falls substation. The County authorized the Project's 230 kV transmission line and other ancillary facilities necessary to support the Project in CUP 54-97.

As an alternative to the Project's 230 kV transmission line and electrical interconnection, the City proposed that the Project interconnect to the Meridian-Captain Jack Line. PKE, on behalf of the City, filed an application with the County to amend CUP 29-95 for the Project to authorize a 500 kV switchyard and a five-acre expansion of the energy facility site. The County is concurrently considering CUP 102-98, PKE's application for the facilities necessary for the Project's 500 kV electrical interconnection.

CUP 101-98 relates solely to PacifiCorp's realignment of a segment of the existing Meridian-Captain Jack Line. The realignment is necessary for the Project's 500 kV electrical interconnection. PacifiCorp will design, construct, own, operate and maintain the realignment of PacifiCorp's Meridian-Captain Jack Line. The City will own the 500 kV electrical switchyard. PacifiCorp and the City will enter into an agreement governing the Project's interconnection to the 500 kV transmission system.

The proposed realignment of the existing Meridian-Captain Jack Line and connection to the Project's switchyard will ensure full continuity of the existing 500 kV transmission line and accommodate the Project's interconnection with PacifiCorp's 500 kV electrical transmission system.

The transmission line realignment is potentially an Extensive Impact Service and Utility under the Klamath County Land Development Code (LDC) Article 11 and requires CUP land use approval from Klamath County under LDC Article 44. Pursuant to Klamath County Land Development Code (LDC) Section 44.050A, PacifiCorp submitted the Application. Collins and Columbia are the owners of the land on which the realigned transmission line will be located. Collins' and Columbia Plywood's consents are indicated by their signatures on the Application. The recorded Right-of-Way (ROW) granted by Columbia Plywood Corporation to PacifiCorp is attached as Attachment B to the Application.

The Oregon Energy Facility Siting Council (EFSC) issued a Site Certificate for Project. PKE, on behalf of the City, applied to EFSC for an amendment to the Site Certificate to authorize an expansion of the electrical switchyard and realignment of the 500 kV transmission line. PacifiCorp and the City expect approval of the amendment of the Site Certification from EFSC in December 1998.

1. Description of the Proposed Use.

This application proposes realignment of the existing 500 kV Meridian-Captain Jack Line to connect with the Project's switchyard. The existing Meridian-Captain Jack Line is located approximately 3,500 feet to the north and east of the Project site. The proposed realignment will extend from the existing Meridian-Captain Jack Line south and east to the Project's expanded switchyard and then back to the existing Meridian Captain Jack Line. (App. Figure 2.)

Specifically, PacifiCorp will remove approximately 800 feet of the existing transmission line and replace it with approximately 6,500 feet of new transmission line for the realignment. Tower #4/26 of the existing line will be removed and replaced with a new tower located approximately 100 feet to the southeast along the existing line's route. From this new tower, the new alignment will run southwest approximately 3,000 feet to the Project's energy facility site (EFS) switchyard. From the switchyard, the return portion of the new alignment will run northeast (paralleling the other portion of the new alignment for about 80-90% of its distance) to a point south of existing tower #5/26 on the Meridian-Captain Jack Line. At this point, the return portion of the new alignment will run north to tower #5/26. The return distance from the Project switchyard to the existing 500 kV line is approximately 3,500 feet.

Where the two segments of the new alignment parallel each other, it is anticipated that the total ROW will be approximately 300 feet wide. Where the two portions of the new alignment diverge, it is anticipated that each ROW will be approximately 175 feet wide. For that area where the realigned 500 kV transmission

line crosses PacifiCorp's existing 69 kV line that runs to the north of the EFS, the 69 kV line will be modified (e.g., by a change in routing or pole configuration).

It is anticipated that eight new lattice tower structures will be needed for the realigned segment of the Meridian-Captain Jack Line. The towers will be free-standing metal structures. Variations in the basic tower design types may be used according to structural requirements at particular tower sites. The heights of the towers will vary from approximately 100 to 140 feet. The realigned segment of the Meridian-Captain Jack Line uses an overhead three-phase AC line. Each phase will consist of a three-conductor bundle, making nine conductors in total. The conductors will be suspended from the towers by "V" string insulator assemblies. (App. Figure 3.)

Construction activities for the 500 kV transmission line realignment will be concentrated in a 6.5-acre area. The 500 kV transmission line realignment will require removal of approximately 800 feet of existing transmission line and construction of approximately 6,500 feet of new transmission line. The realignment requires approximately 20 acres of right-of-way. It is estimated that temporary and permanent land disturbance associated with the 500 kV transmission line realignment would be approximately 6.5 acres and 0.5 acres, respectively.

PacifiCorp will comply with applicable federal, Oregon and local safety codes and standards for the construction of the transmission line normally used in the design and construction of this type of facility. These requirements will be incorporated into the facility design during the detailed design phase of the transmission line realignment.

1. Character of the Surrounding Area.

The site for the transmission line realignment is located in an area zoned heavy industrial (IH) that is outside the Urban Growth Boundary. (App. Attachment A, p. 33.) The IH zoning extends about three-fourths of a mile to the north from the proposed realignment. North of the IH zone, the property is zoned suburban residential. A small area near the northwest side of the proposed realignment, about one-half of a mile from the Project, is zoned non-resource. Much of this property, as well as the land immediately to the north of the proposed realignment, is dry land.

To the west of the proposed realignment is Collins' mill property which is zoned heavy industrial. Suburban residential zoning is located west of the proposed realignment, but is separated from the proposed realignment by the Collins land that is zoned heavy industrial. The location of the proposed realignment near the Project site is at a lower elevation than West Klamath

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which will reduce the visual impact for this residential community.

The Collins property and the IH zoning extend south to the northwest side of the Klamath River. Across the Klamath River on the southeast side of the river is the Klamath Wildlife Refuge (zoned open space and conservation). Also on the southeast side of the river, but north of the Refuge, is land that is zoned exclusive farm use (EFU). Some of this land is planted in crops. U.S. Highway 97 bisects the EFU land, crosses the river and extends north to the eastern border of the Project property. To the east of the highway is Columbia and to the north of Columbia is Reames Country Club (zoned recreation-commercial). Reames Country Club is separated from the Project by over one-half mile of land zoned heavy industrial.

In summary, the 500 kV transmission line realignment will be completely surrounded by property zoned heavy industrial with the properties adjacent to the heavy industrial zoned property used for industry, residences, wildlife refuge and recreation, and farming.

The Meridian-Captain Jack line is currently adjacent to these uses. The use and enjoyment of these properties will not be adversely affected by the proposed 500 kV transmission line realignment. The 500 kV transmission line realignment shall be located and operated to minimize any potential impacts to the livability, value or appropriate development of abutting properties and the surrounding area.

Based on this evaluation, the Hearings Officer finds and concludes that the Application is consistent with and complies with the review criteria in LDC Section 44.030A through C. The Hearings Officer approves and grants the Application. In support of the Hearings Officer's approval and grant of CUP 101-98, the Hearings Officer makes the following findings and conclusions.

VI. FINDINGS AND CONCLUSIONS

The Hearings Officer concludes that CUP 101-98 is a modification to an Extensive Impact Service and Utilities under LDC Article 11. Extensive Impact Services and Utilities are recognized as conditionally permitted uses under LDC in the land use zone where these facilities will be located: Heavy Industrial (IH) LDC Section 53.430A. For this zone, the application for a conditional use permit may be approved if the provisions of LDC Article 44, Section 44.030A through C are met.

The Hearings Officer concludes that the criteria under LDC Article 44, Section 44.030.A through C are met. The following discussion shows the Hearings Officer's findings and conclusions with respect to each of the review criteria.

A. LDC Article 44 Review Criteria.

Criterion 1 - Section 44.030.A. "The use complies with policies of the Comprehensive Plan."

The Comprehensive Plan for Klamath County, Oregon contains a statement of the land use planning goals for the County and specific objectives, policies and implementation programs for these goals. The potentially applicable policies are quoted below and analyzed in the following paragraphs.

1. Goal 1: Citizen Involvement.

Goal 1 calls for citizen involvement in the planning process and includes allowing public input on all land use proposals. Klamath County has adopted one policy under Goal 1.

(1) Policy: "The County shall provide for continued citizen involvement opportunities after plan acknowledgment."

The Hearings Officer finds that notification of the hearing was given to the public as required by Oregon statutes and the LDC.

2. Goal 2: Land Use Planning.

Goal 2 requires the creation of the land use planning process and policy framework as the basis for all decisions and actions related to the use of land and to ensure an adequate factual basis for such decisions. Klamath County has adopted 13 policies under Goal 2.

(1-8) Policies: The Hearings Officer finds and concludes that policy numbers 1 through 8 do not apply to the CUP 101-98 because these policies relate to implementation of the Comprehensive Plan, policies and zoning boundaries.

(9) Policy: "Klamath County is expected to experience population increases as arrived at based on Cohort Survival Population Projections. The County shall provide support for this population increase by providing sufficient land, community facilities and other community resources."

The 500 kV transmission line realignment will not independently create a need for community facilities or governmental services. The proposed use will not create a development potential outside the Urban Growth Boundary and will not have an adverse impact on governmental sewage treatment capacity, water supplies, solid waste disposal, law enforcement, fire protection and public schools. (App. Attachment A, pp. 9-10.)

In the Application for CUP 54-97, the Project evaluated the impacts on land, community facilities and other community resources from the construction of the 230 kV transmission line from the EFS to the PacifiCorp Klamath Falls Substation. (App. Attachment A, p. 10.) These evaluations are also applicable to the 500 kV interconnection alternative (the 500 kV transmission line realignment, together with the expanded EFS authorized in CUP 102-98) and indicate that no material impacts to land, community facilities and other community resources will be evident. (App. Attachment A, p. 10.)

The Project has evaluated the effects from the approximately 10% increase in the peak and average construction workforces. In general, the possible increases in peak and average construction workforces resulting from the 500 kV interconnection alternative do not materially change the impacts on land, community facilities and other community resources considered by Klamath County in CUP 29-95 and CUP 54-97.

There will be no significant adverse impacts due to either the incremental or the total increased effects of the increased construction workforce. (App. Attachment A, p. 12.) The Hearings Officer finds and concludes that CUP 101-98 supports policy number 9.

(10-13) Policies: The Hearings Officer finds and concludes that policy numbers 1 through 13 are not applicable to CUP 101-98.

3. Goal 3: Agricultural Lands.

Goal 3 is premised on a need to preserve and to maintain agricultural lands. Agricultural lands are to be inventoried and preserved by the adoption of an exclusive farm use zone. Klamath County has adopted five policies under Goal 3.

(1-5) Policies: The Hearings Officer finds and concludes that because the proposed 500 kV transmission line realignment will not occupy any agricultural land or land zoned exclusive farm use, policy numbers 1 through 5 do not apply to CUP 101-98. (App. Attachment A, p. 12.)

4. Goal 4: Forest Lands.

Goal 4 is directed toward encouraging the preservation of forest lands for forest uses. Klamath County has adopted nine policies under Goal 4.

(1-9) Policies: The Hearings Officer finds and concludes that because the proposed use will not occupy any land

zoned Forestry or Forest/Range, policy numbers 1 through 9 do not apply to CUP 101-98. (App. Attachment A, p. 13.)

5. Goal 5: Open Space, Scenic and Historic Areas, and Natural Resources.

Goal 5 aims at conserving open spaces and protecting natural, historic and scenic resources. Klamath County has adopted 39 policies under Goal 5.

(1-5) Policies: The Hearings Officer finds and concludes that policy numbers 1 through 5 do not apply to CUP 101-98 because the 500 kV transmission line realignment will not be in a mineral, aggregate or other significant resource area, on public land, or in an area of conflicting use. (App. Attachment A, p. 13.)

(6) Policy: "Cultural areas, historic sites, and archaeological resources shall be considered when proposing a change in land use."

The Project conducted a study of cultural areas, historic sites and archaeological resources within the Project area. The study area included the lands on which the realigned segment of the 500 kV transmission line will be located. This study did not identify any historic, cultural or archaeological resources in the areas for the realigned segment of the 500 kV transmission line. The proposed 500 kV transmission line realignment will not cause any impact on cultural, historical and archaeological resources. (App. Attachment A, pp. 13-14.)

In the event that cultural or archaeological resources are encountered during construction of the transmission line realignment or related activities, the applicant shall halt earth-disturbing activities in the immediate vicinity of the resource immediately upon discovery and shall comply with Oregon and Federal laws. The Oregon State Historical Preservation Office (SHPO) and, in the case of Native American cultural materials, the Klamath Tribe will be notified. A qualified archaeologist ~~shall~~ be contacted and will evaluate the discovery and to recommend an appropriate course of action in consultation with the SHPO and the Klamath Tribe. (App. Attachment A, p. 14.) The Hearings Officer finds and concludes that CUP 101-98 satisfies policy number 6.

(7) Policy: "The County shall encourage the preservation and restoration of historic sites and structures whenever possible."

The Hearings Officer makes the same findings and conclusions as policy number 6.

(8) Policy: "The County shall support the inventories of historic sites as approved by the Historic Landmark Commission, and shall encourage the identification of historic sites with the cooperation of the landowner."

The Hearings Officer makes the same findings and conclusions as policy number 6.

(9) Policy: "Cultural areas, historic sites, and archaeological resources discovered in the future or overlooked during the planning process shall be inventoried (location, quantity, and quality) and significance determined."

The Hearings Officer makes the same findings and conclusions as policy number 6.

(10-13) Policies: The Hearings Officer finds and concludes that policy numbers 10 through 13 do not apply to CUP 101-98 because the location of proposed 500 kV transmission line realignment is not a 1B historic site, will not be in a Significant Overlay Zone, and will not be in Bear Valley or part of the Bear Valley roosting area or flyway. (App. Attachment A, pp. 14-15.)

(14) Policy: "The County shall protect bald eagle nest sites."

There are no bald eagle nest sites located in the area of the proposed 500 kV transmission line realignment. The nearest known nest site is about four miles north of the EFS. (App. Attachment A, p. 15.) The Hearings Officer finds and concludes that policy number 14 does not apply to CUP 101-98.

(15) Policy: "The County shall require that the private property owner take no action that would damage existing Bald Eagle nest sites."

The Hearings Officer makes the same findings and conclusions as policy number 14.

(16) Policy: "The County shall protect significant big game winter ranges and other significant wildlife habitat."

There are no significant big game winter ranges in the area of the proposed 500 kV transmission line realignment. General impacts to other wildlife habitat will be minimal and will not be increased from those discussed in the previous orders authorizing the Project. (App. Attachment A, p. 15.)

No significant adverse impacts to special status species are anticipated. Four threatened or endangered animal species are known to occur in the general Project area: shortnose sucker, Lost River sucker, bald eagle and peregrine falcon. The proposed 500 kV transmission line realignment shall not result in any adverse impacts to threatened or endangered fish species. (App. Attachment A, pp. 15-16.)

The primary concern relating to bald eagles and peregrine falcons is collision mortality due to the placement of a transmission line in flight corridors and areas of dense fog. The realigned segment of the Meridian-Captain Jack Line will be located parallel to and a sufficient distance (at least 0.25 miles) from the Klamath River (a primary flyway and area of fog) and the nearest bald eagle nesting area is approximately four miles to the north. Therefore, the potential for adverse impacts from collision mortality will not be significant. An additional concern is electrocution mortality. However, there will be no adverse impact from electrocution because of the relatively large separation between conductors on the 500 kV lines. (App. Attachment A, p. 16.)

The 500 kV transmission line realignment may result in slightly increased noise levels in the Klamath Wildlife Refuge.

The Hearings Officer finds and concludes that CUP 101-98 supports policy number 16.

(17) Policy: The Hearings Officer finds the Policy 17 does not apply.

(18-19) Policies: The 500 kV transmission line realignment will not be located on public lands, parks, cultural resources, trails or unique open space areas. (App. Attachment A, p. 17.) Therefore, the Hearings Officer finds and concludes that policy numbers 18 and 19 do not apply to CUP 101-98. Article 56-2 of the LDC states that open spaces are limited to public land or private land owned by non-profit organizations dedicated to protection of areas with fragile or unique scenic or natural qualities. The land on which the 500 kV transmission line realignment will be located does not fall in this category. (App. Attachment A, p. 17.)

(20-21) Policies: The Hearings Officer finds and concludes that policy numbers 20 and 21 do not apply to CUP 101-98 because location of the 500 kV transmission line realignment is not a public recreation land, open space in an urban expansion area, or a wooded area along a major stream or tributary. (App. Attachment A, p. 17.)

(22) Policy: "The County shall protect riparian areas."

Because there are no riparian areas within the lands covered by the proposed 500 kV transmission line realignment, the Hearings Officer finds and concludes that policy number 22 does not apply to CUP 101-98. (App. Attachment A, p. 18.)

(23-26) Policies: The Hearings Officer finds and concludes that policy numbers 23 through 26 do not apply to CUP 101-98 because the location of the 500 kV transmission line realignment is not a potential mineral excavation area, an aggregate extraction site, or a gravel, cinder or clay removal site. (App. Attachment A, p. 18.)

(27) Policy: "Nonstructural flood protection methods may be used whenever practical for conservation of floodplains. Flood control measures shall, whenever practical, utilize natural floodways, maintaining riparian habitats and historic flow volumes. When nonstructural flood protection methods are not practical because of the value of previous urban development, concrete-lined channels will be used only if all other structural methods are impractical."

Because the land where the 500 kV transmission line realignment will be located is not located in a floodplain, the Hearings Officer finds and concludes that policy number 27 does not apply to CUP 101-98. (App. Attachment A, p. 18.)

(28) Policy: "The County shall encourage the management of groundwater resources."

Groundwater resources will not be affected by the proposed 500 kV transmission line realignment. (App. Attachment A, p. 18.)

(29-33) Policies: The Hearings Officer finds and concludes that policy numbers 29 through 33 do not apply to the proposed use because the 500 kV transmission line realignment will not be located in an area of inadequate or poor quality water, in an area of potential trails, in the section of the Klamath River identified under the Wild and Scenic designation, near Salt Caves and the upper Klamath River area, or in an area under consideration for designation as a Wild and Scenic River. (App. Attachment A, pp. 18-19.)

(34) Policy: "The County shall encourage the protection of recognized scenic views and sites."

There will be no significant adverse impacts to the scenic and aesthetic values from the realigned segment of the Meridian-Captain

Jack Line.

(35-39) Policies: The Hearings Officer finds and concludes that policy numbers 35 through 39 do not apply to CUP 101-98 because the 500 kV transmission line realignment will not be a subdivision, a threat to solar access, a small hydro or wind system, within the site or secondary buffer zone for the Bear Valley Bald Eagle Refuge, or a significant geothermal area. (App. Attachment A, p. 19.)

6. Goal 6: Air, Water and Land Resources Quality.

Goal 6 attempts to maintain and to improve the quality of the air, water and land resources of Klamath County. Klamath County has adopted nine policies under Goal 6.

(1) Policy: "The County shall support efforts to maintain and improve the quality of air resources."

Other than during construction activities, the 500 kV transmission line realignment will produce no air emissions. During construction activities, air emissions (chiefly dust) will be minimal. (App. Attachment A, p. 20.) The Hearings Officer finds and concludes that CUP 101-98 satisfies policy number 1.

(2) Policy: "All solid waste discharge will be disposed of in accordance with the County's Solid Waste Management Plan."

The 500 kV interconnection alternative, including the 500 kV transmission line realignment, will slightly increase the amount of solid waste generated during construction of the Project. The increase will be approximately 4 cubic yards per week for 27 months. This would increase the Project's total (uncompacted) solid waste generation from about 35,360 to 35,828 cubic yards, an increase of about 468 cubic yards over the life of the Project. Adequate capacity exists for the disposal of this increased volume of solid waste. (App. Attachment A, p. 20.) The Hearings Officer finds and concludes that CUP 101-98 satisfies policy number 2.

(3-5) Policies: The Hearings Officer finds and concludes that policy numbers 3 through 5 do not apply to the 500 kV transmission line realignment because the alignment will not change the amount of sanitary or industrial wastewater generated from the Project and will not be a residential use. (App. Attachment A, p. 21.)

(6) Policy: "The County shall coordinate environmental management programs with State and Federal environmental statutes, programs, and policies (air, water, land and noise)."

The applicant has identified and shall comply with all state and federal environmental permitting requirements. The applicant shall comply with all applicable requirements of environmental statutes, programs and policies. (App. Attachment A, p. 21.) The Hearings Officer finds and concludes that CUP 101-98 satisfies policy number 6.

(7) Policy: "The County shall establish grading standards that limit runoff and erosion from residential, commercial, and industrial construction sites."

Articles 70 and 73 of the LDC provide requirements for construction work that will be involved with the 500 kV transmission line realignment and may be applicable. The applicant will obtain all local permits relating to runoff and erosion control. (App. Attachment A, p. 21.) The Hearings Officer finds and concludes that CUP 101-98 satisfies policy number 7.

(8) Policy: "Consideration shall be given to locating noise-sensitive activities away from noise generators."

The Hearings Officer finds the Policy 18 does not apply.

Noise levels due to the 500 kV transmission line realignment will not exceed established applicable noise level criteria. An analysis of noise from the EFS with the 500 kV interconnection alternative determined that under weather conditions without rain or fog, i.e., weather that will be experienced most of the time, the L_{50} values were estimated at less than 46 dBA at the Klamath Wildlife Refuge and less than 46 dBA at the nearest residence in West Klamath. Assuming worst case conditions for noise generation, i.e., rainy and/or foggy weather, the estimated L_{50} values were approximately 49.5 dBA at the nearest residence in West Klamath. This maximum noise level is within the requirements of the state noise control regulations for industry and commerce, i.e., less than 50 dBA. OAR 340-35-035(1)(b). (App. Attachment A, pp. 21-22.)

Under rainy/foggy conditions, the combined noise effects from the 500 kV line realignment and the EFS may result in noise levels of up to approximately 46.5 dBA at the nearest point in the wildlife refuge. The current noise levels at the northern edge of the Klamath Wildlife Refuge, directly across the Klamath River from the proposed EFS range from 48 to 54 dBA. The predicted noise levels with the 500 kV interconnection alternative are anticipated to increase the background noise levels (during the quietest conditions) along the closest edge of the Klamath Wildlife Refuge by about two to three dBA L_{50} . This level of increase would be

barely perceptible to the human ear. Any noise increase would be constant rather than highly variable and unpredictable. For these reasons, the small increase would not cause an adverse impact on wildlife at the Klamath Wildlife Refuge. In addition, heavy construction activities will be restricted to the hours of 7:00 a.m. to 10:00 p.m. to minimize the potential impact on nearby residents. (App. Attachment A, pp. 22-23.) The Hearings Officer finds and concludes that CUP 101-98 satisfies policy number 8.

(9) Policy: "Noise sensitive land uses shall be prohibited or limited within noise-affected areas of the Klamath Falls Municipal Airport in accordance with Table II-2. Conditional uses shall be permitted only when a detailed analysis of noise reduction requirements is made and needed noise insulation features are included in the building design."

Because the proposed transmission line realignment will not be located within the noise affected areas of Klamath Falls Municipal Airport, the Hearings Officer finds and concludes that policy number 9 does not apply to CUP 101-98. (App. Attachment A, p. 23.)

7. Goal 7: Areas Subject to Natural Disasters and Hazards.

Goal 7 is aimed at protecting life and property from natural disasters and hazards. Klamath County has adopted seven policies under Goal 7.

(1-3) Policies: The Hearings Officer finds and concludes that policy numbers 1 through 3 do not apply to CUP 101-98 because the 500 kV transmission line realignment will not be in a fire hazard area, will not affect the County's eligibility for participation in the Federal Emergency Management Agency's National Flood Insurance Program, and will be located on relatively low sloping terrain (2-5%). (App. Attachment A, p. 23.)

(4) Policy: "The County shall study the feasibility of requiring on-site retention of stormwater runoff."

The County has implemented this policy by adopting Article 65 of the LDC. PacifiCorp will provide for and permanently maintain the landscape as required by Article 65. PacifiCorp will obtain all local permits relating to control of erosion and stormwater runoff. (App. Attachment A, p. 23.) The Hearings Officer finds and concludes that CUP 101-98 complies with policy number 4.

(5-7) Policies: The Hearings Officer finds and concludes that policy numbers 5 through 7 do not apply to CUP 101-98 because the 500 kV transmission line realignment will not be

located in any floodway, within the Klamath Falls Municipal Airport area, or a subdivision requiring fire district protection. (App. Attachment A, p. 24.)

8. Goal 8: Recreation Needs.

Goal 8 requires satisfaction of the recreational needs of the citizens of Klamath County and visitors to the County. Klamath County has adopted 11 policies under Goal 8.

(1) Policy: The Hearings Officer finds the Policy 17 does not apply.

(2-11) Policies: The Hearings Officer finds and concludes that policy numbers 2 through 11 do not apply to CUP 101-98 because the land on which the 500 kV transmission line realignment will be located will not be suitable for a park or recreation area, nor will it be near Pelican Butte, Eagle Ridge, or Lake Ewauna. (App. Attachment A, pp. 24-25.)

9. Goal 9: County Economy.

The purpose of Goal 9 is to diversify and to improve the economy of Klamath County. Klamath County has adopted 15 policies under Goal 9.

(1) Policy: "The County shall work with local governments to coordinate and compile appropriate industrial and commercial site availability in order to develop a common regional economic development strategy."

The 500 kV transmission line realignment will provide the Project with the flexibility to interconnect to the regional transmission grid in the manner most cost effective for wheeling Project output to prospective purchasers. The revenues generated by the Project will allow the City to promote economic recovery. (App. Attachment A, p. 25.) The Hearings Officer finds and concludes that CUP 101-98 complies with policy number 1.

(2-5) Policies: Policy numbers 2 through 5 do not apply to CUP 101-98 because the Project, including the proposed 500 kV transmission line realignment, will not be a suitable site for a park or recreation area, near Pelican Butte or Bly, in the Upper Klamath Lake area, or an agricultural processing plant. (App. Attachment A, p. 25.)

(6) Policy: "The County shall encourage and support development of secondary and tertiary timber industries."

The Project supports policy number 6 by providing a reliable and cost effective source of steam to Collins. The Hearings Officer finds and concludes that, as an ancillary and supporting facility to the Project, the 500 kV transmission line realignment also satisfies policy number 6. (App. Attachment A, pp. 25-26.)

(7-8) Policies: The Hearings Officer finds and concludes that policy numbers 7 and 8 do not apply to the CUP 101-98 because the 500 kV transmission line realignment will not impact agricultural markets and will not be financed by state supported industrial revenue bonds. (App. Attachment A, p. 26.)

(9) Policy: "The County shall encourage plans and methods that emphasize expansion of and increased productivity from existing industries and firms as a means to strengthen local and regional development."

The 500 kV transmission line realignment will be built primarily on property owned by Collins and will be operated in conjunction with Collins' operations. The Project will provide steam for Collins uses and industrial processes and other potential industrial users to reduce reliance on natural gas, fuel oil and waste wood-fired boilers. (App. Attachment A, p. 26.) The Hearings Officer finds and concludes that, as an ancillary and supporting facility to the Project, the 500 kV transmission line realignment supports policy number 9.

(10-11) Policies: The Hearings Officer finds and concludes that policy numbers 10 and 11 do not apply to CUP 101-98 because the 500 kV transmission line realignment will not impact tourism or economic promotions. (App. Attachment A, p. 26.)

(12) Policy: "The County shall support efforts to establish technical industries that will utilize trained graduates of Oregon Institute of Technology."

The Project supports policy number 12. (App. Attachment A, p. 26.) The Hearings Officer finds and concludes that, as an ancillary and supporting facility to the Project, the 500 kV transmission line realignment satisfies policy number 12.

(13) Policy: "The County shall identify potential rural, industrial and commercial sites and plan these sites for industrial and commercial uses to ensure that adequate and suitable rural, industrial and commercial lands are available."

The proposed 500 kV transmission line realignment will be

located in identified industrial land and in existing ROW dedicated to the existing Meridian-Captain Jack Line. (App. Attachment A, p. 27.) The Hearings Officer finds and concludes that CUP 101-98 supports policy number 13.

(14) Policy: "The County shall maintain a sufficient amount of industrial land in large parcels in order to encourage economic diversity and development in the community."

The 500 kV transmission line realignment will be located in a large parcel of land zoned and used for heavy industry. (App. Attachment A, p. 27.) The Hearings Officer finds and concludes that CUP 101-98 supports policy number 14.

(15) Policy: "The County shall provide appropriate land, facilities, and resources to those economic activities that represent the most efficient use of resources, relative to other geographic areas."

The 500 kV transmission line realignment will be located on land that is dedicated to the types of industrial use that the Project will provide. (App. Attachment A, p. 27.) The Hearings Officer finds and concludes that CUP 101-98 supports policy number 15.

10. Goal 10: Housing.

Goal 10 relates to the provision of adequate housing for the citizens of Klamath County. Klamath County has adopted 12 policies under Goal 10.

(1-12) Policies: The Hearings Officer finds and concludes that policy numbers 1 through 12 do not apply to CUP 101-98 because the 500 kV transmission line realignment will not materially impact residential areas or housing. (App. Attachment A, p. 27.)

It is estimated that construction for the realignment of the 500 kV transmission line may increase the Project's maximum number of direct construction workers during periods of peak construction by up to 25 workers. It is also estimated that the average number of construction workers may increase by up to 10 workers. The workforce during operations remains the same. (App. Attachment A, pp. 27-28.)

There will be no significant adverse impacts due to either the incremental or the total increased effects of the increased construction workforce on housing. (App. Attachment A, p. 28.)

11. Goal 11: Public Facilities and Services.

Goal 11 is premised on a need to plan and to develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. Klamath County has adopted 18 policies under Goal 11.

(1-6) Policies: The Hearings Officer finds and concludes that policy numbers 1 through 6 do not apply to CUP 101-98 because the 500 kV transmission line realignment will not be a public facility or service. (App. Attachment A, p. 28.)

(7) Policy: "During the planning of utility lines and facilities, the County shall encourage their location on or adjacent to existing public or private rights-of-way to avoid dividing existing farm units, and attempt to avoid residential areas."

This application for a conditional use permit proposes realignment of the existing Meridian-Captain Jack Line. A portion of the realigned line will be located on the line's existing ROW. The remaining portion of the line will run through land zoned for heavy industrial use. As a result, the 500 kV transmission line realignment will avoid dividing existing farm units and residential areas. (App. Attachment A, p. 29.) The Hearings Officer finds and concludes that CUP 101-98 supports policy number 7.

(8-11) Policies: The Hearings Officer finds and concludes that policy numbers 8 through 11 do not apply to CUP 101-98 because the 500 kV transmission line realignment will not create an increased need for public services.

(12) Policy: "Development proposals shall not be approved unless the types and levels of public facilities and services required are available or are to be provided concurrently with defined levels of development within urban and rural areas."

The 500 kV transmission line realignment will not create an increased need for police protection; fire protection; domestic water facilities; sanitary facilities; storm drainage facilities; planning, zoning and subdivision services; recreation facilities and services; telecommunication services; government services; and water facilities. The Project has evaluated the types and levels of public facilities and services required for this development. The 500 kV transmission line realignment will not create an increased need for any public facilities or services. (App. Attachment A, pp. 29-30.) The Hearings Officer finds and concludes that CUP 101-98 satisfies policy number 12.

(13-18) Policies: The Hearings Officer finds and concludes that policy numbers 13 through 18 do not apply to CUP 101-98 because the 500 kV transmission line realignment will not create subdivisions, will not cause a well to be dug, and will not be on rural land. (App. Attachment A, p. 30.)

12. Goal 12: Transportation:

Goal 12 encourages the development of a safe, convenient and economical transportation system. Klamath County has adopted 14 policies under Goal 12.

(1-11) Policies: The Hearings Officer finds and concludes that policy numbers 1 through 11 do not apply to CUP 101-98 because the 500 kV transmission line realignment will not impact transportation in residential or municipal areas or areas designated for the Klamath Falls Municipal Airport. (App. Attachment A, p. 30.)

(12) Policy: "Height and use of structures within the approach and departure zones designated for the Klamath Falls Municipal Airport in the 1976 Airport Master Plan shall be limited (Arnold Thompson Associates, Inc., Master Plan, Klamath Falls Municipal Airport, April, 1976)."

Article 58 of the LDC establishes an airport safety overlay for the City of Klamath Falls Kingsley Field. The 500 kV transmission line realignment will not be located within the airport safety zone provided in Article 58. (App. Attachment A, p. 31.) The Hearings Officer finds and concludes that policy number 12 does not apply to CUP 101-98.

(13) Policy: "A safe, convenient and economic transportation system, adequate to serve anticipated growth, shall be developed that will minimize adverse social, economic and environmental impacts and costs of transportation systems."

The 500 kV transmission line realignment will not result in significant adverse impacts to traffic safety or costs of the transportation system.

(14) Policy: The Hearings Officer finds and concludes that policy number 14 does not apply to CUP 101-98 because the 500 kV transmission line realignment will not impact the transportation system and will not be within a protected area for the Klamath Falls Municipal Airport. (App. Attachment A, p. 31.)

13. Goal 13: Energy Conservation.

Goal 13 requires that land use decisions be managed so as to maximize conservation of all forms of energy based on sound economic principles. Klamath County has adopted five policies under Goal 13.

(1) Policy: "The County shall encourage the use of renewable and efficient energy sources in residential, commercial and industrial development."

The Project as approved in CUP 29-95 supports policy number 1. (App. Attachment A, p. 32.) The Hearings Officer finds and concludes that, as an ancillary and supporting facility to the Project, the 500 kV transmission line realignment satisfies policy number 1.

(2) Policy: "The development and use of alternative cost effective energy in Klamath County shall be encouraged."

The interconnection by means of the 500 kV transmission line realignment has the potential to reduce transmission and transformation energy losses as compared to the 230 kV interconnection. (App. Attachment A, p. 32.) The Hearings Officer finds and concludes that CUP 101-98 satisfies policy number 2.

(3-5) Policies: The Hearings Officer finds and concludes that policy numbers 3 through 5 do not apply to CUP 101-98 because the 500 kV transmission line realignment will not be in a residential area, will not be a potential geothermal energy site, and will not be appropriate for use of timber or agricultural waste as a source of fuel. (App. Attachment A, p. 32.)

14. Goal 14: Urbanization:

Goal 14 attempts to provide for an orderly and efficient transition from rural to urban land use. Klamath County has adopted five policies under Goal 14.

(1-5) Policies: The Hearings Officer find and concludes that policy numbers 1 through 5 do not apply to CUP 101-98 because the 500 kV transmission line realignment will not be in an area suitable for urban expansion or study. (App. Attachment A, p. 32.)

B. Criterion 2 - Section 44.030.B. "The use is in conformance with all other required standards and criteria of this code."

As shown in these Findings and Conclusions, the Hearings

Officer finds and concludes that CUP 101-98 will comply with all other required standards and criteria of the LDC.

- C. Criterion 3 - Section 44.030.C. "The location, size, design, and operating characteristics of the proposed use will not have a significant adverse impact on the livability, value or appropriate development of abutting properties and the surrounding area."

The Hearings Officer finds and concludes that CUP 101-98 will not have a significant adverse impact on the livability, value or appropriate development of abutting properties or the surrounding area.

VII. ORDER

Based on an evaluation of the Application, the Planning Department's Staff Report and Recommendation, and on the above Findings and Conclusions, the Hearings Officer finds and concludes that CUP 101-98 is consistent and complies with the LDC and the Klamath County Comprehensive Plan. Therefore, it is ordered that PacifiCorp's request for CUP 101-98 is approved subject to ~~the~~ ^{be} ~~consistent with~~ above Findings & Conclusions.

Dated this 10 of December, 1998.

Hearings Officer



STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 16th day
of December A.D., 19 98 at 3:44 o'clock P. M., and duly recorded in Vol. M98,
of Deeds on Page 46103.

FEE No Fee

By Bernetha G. Letsch, County Clerk
Kathleen Brown