

## BEFORE THE HEARINGS OFFICER

## KLAMATH COUNTY, OREGON

In the Matter of Application for	)	
Amendment to Conditional Use	)	
Permit 29-95 for the Expansion	)	CUP 102-98 (Amending CUP
of Electrical Switchyard for the	)	29-95)
Klamath Cogeneration Project.	)	
	)	FINDINGS AND CONCLUSIONS
	)	AND ORDER

## I. APPLICANT

Pacific Klamath Energy, Inc. for the City of Klamath Falls.

## II. ADDRESSES

- A. Pacific Klamath Energy, Inc.  
500 N.E. Multnomah, Suite 900  
Portland, OR 97232
- B. City of Klamath Falls  
508 Main Street  
P. O. Box 237  
Klamath Falls, OR 97601

## III. ACTION REQUESTED

Pacific Klamath Energy, Inc. (PKE), on behalf of the City of Klamath Falls (City), requests an amendment to Conditional Use Permit 29-95 (CUP 29-95) to expand the Klamath Cogeneration Project (Project) facility site from 15 to 20 acres to allow for a five-acre expansion of the Project electrical switchyard. The additional five-acre area will allow the Project to construct a 500 kV electrical switchyard that would enable the Project to interconnect with PacifiCorp's existing Meridian-Captain Jack 500 kV transmission line (500 kV Line).<sup>1</sup> Because the request involves an additional five-acre area, the County is issuing a CUP 102-98 as an amendment to existing CUP 29-95.

The 500 kV electrical interconnection will be an alternative to and not a replacement of the Project's 230 kV electrical interconnection alternative, which the County approved as a part of Conditional Use Permit 54-97. The 500 kV electrical interconnection alternative will enable the Project to connect to

<sup>1</sup>PacifiCorp filed an application with the County for a separate conditional use permit to allow its realignment of the 500 kV Line to interconnect with the Project's switchyard (CUP 101-98). The County is concurrently considering CUP 101-98 for PacifiCorp's 500 kV Line realignment.

the Southern Intertie regional transmission grid system.

The City's application and supporting materials are contained in the Application for Second Amendment to Conditional Use Permit 29-95 (Expansion of Electrical Switchyard) dated October 26, 1998 (Application or App.) PKE submitted the City's Application with consent of the property owner of the land on which the Project will be located.

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 S. Kincaid of Cable Huston Benedict Haagensen & Lloyd LLP and Alan Vandehey of PacifiCorp. The Planning Department was represented by Kim Lundahl and the Recording Secretary was Karen Burg.

#### IV. LEGAL DESCRIPTION OF AFFECTED LAND

The additional five-acre area is located in Klamath County adjacent to the 15-acre energy facility site (EFS). The entire 20 acres is owned by Collins Products, L.L.C. (Collins). This land is outside the limits of the City of Klamath Falls, outside of the Urban Growth Boundary and within the land use jurisdiction of Klamath County. The EFS 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. The EFS is part of Collins' wood products plant site, a large plywood, hardboard and particle board manufacturing facility. (App. Figure 1.)

#### V. RELEVANT FACTS

##### A. General Background.

Klamath County issued the original land use approval for the Project in CUP 29-95 on June 7, 1995 and amended CUP 29-95 on December 30, 1997. The Project 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 15-acre facility, 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 ancillary facilities necessary to support the Project in CUP 54-97.

The modifications to the Project proposed in the Application

TLT\KLAMATH\klam0127.fin

for Second Amendment to Conditional Use Permit 29-95. The Project will select one of the two interconnection alternatives prior to the commencement of construction, expected to occur in mid-1999. All other aspects of the Project remain the same.

The Project's EFS is an Extensive Impact Service and Utility under the Klamath County LDC Article 11. As discussed later, the switchyard expansion described in the Application requires CUP land use approval from Klamath County under LDC Article 44. Pursuant to LDC Section 44.050A, the City submits this Application with the consent of the property owner of the land on which the Project is located.

PKE, on behalf of the City, has applied to the Oregon Energy Facility Siting Council (EFSC) for an amendment to the Site Certificate to authorize the expanded electrical switchyard. The City expects approval of the amendment to the Site Certificate from EFSC in December 1998. The Project has obtained other required permits and agency approvals.

#### 1. Description of Proposed Use.

The five-acre EFS expansion from 15 to 20 acres will accommodate the 500 kV electrical switchyard which is necessary to enable the Project's interconnection with PacifiCorp's existing 500 kV transmission system.

The expanded switchyard will not change the nature of the Project's operating processes. Project operations, including, but not limited to, fuel consumption, electric generating capacity, water use, cycle cooling system, storm water collection, waste water generation, and waste management methods, will not change. Activities associated with construction of the EFS will not change.

The five-acre EFS expansion and 500 kV switchyard also will not involve any change to applicable federal, Oregon or local codes and standards or to the Project's ability to comply with such applicable codes and standards.

##### (a) Structures and Power Components.

The EFS will be expanded by five acres on the west end of the EFS to accommodate the necessary equipment for the 500 kV electrical switchyard. The additional five-acre area encompasses the possible switchyard layouts that could result from the design process. (App. Figure 2.)

The 500 kV switchyard will include step-up transformers, tie-in termination structures, circuit breakers, auxiliary transformers and a one-story control room building. Additional electrical equipment typical to a switchyard, e.g., surge arrestors, disconnect switches and bus work, will also be included. (App.

TLT\KLAMATH\klam0127.fin

Attachment A, p. 5.)

The tallest structures within the 500 kV switchyard will be the structures that carry the 500 kV lines from the step-up transformers and the tie-in termination structures. These structures, which will be approximately 120 feet tall, will be shorter than the Project's 150-foot high Heat Recovery Steam Generator exhaust stacks. (App. Figures 3 and 4.)

#### B. Character of the Surrounding Area.

The additional five-acre area is adjacent to the approved 15-acre area of the Project's EFS and located in the center of an area zoned heavy industrial (IH) that is outside the Urban Growth Boundary (UGB). The IH zoning extends about three-fourths of a mile to the north from the Project EFS. North of the IH zone, the property is zoned suburban residential. A small area on the northwest side of the Project EFS about one-half mile from the Project is zoned non-resource. Much of this property, as well as the land immediately to the north of the Project site, is dry land. (App. Attachment 1, p. 30 [incorporating App. for CUP 54-97, Ex. 1, Sec. I]).

To the west of the Project is Collins' mill property which is zoned IH. Suburban residential zoning is located west of the Project (West Klamath), but is separated from the Project by the Collins land that is zoned heavy industrial. The Project site is at a lower elevation than West Klamath which will reduce the visual impact for this residential community. *Id.*

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 on the east border of the Project EFS. To the east of the highway is Columbia Plywood Corporation (Columbia Plywood) and to the north of Columbia Plywood is Reames Country Club (zoned recreation-commercial). The Reames Country Club is separated from the Project by over one-half mile of land zoned IH. *Id.*

In summary, the additional five-acre area for the Project is completely surrounded by property zoned IH, with the properties adjacent to the IH zoned property used for industry, residences, a wildlife refuge and recreation, and farming. The use and enjoyment of these properties will not be adversely affected by the additional five-acre area that will be used for the Project's 500 kV electrical switchyard. The additional five-acre area used for the 500 kV switchyard is located and will be 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 44.030.A through C. The Hearings Officer approves and grants the Application. In support of the Hearings Officer's approval and grant of CUP 102-98 amending CUP 29-95, the Hearings Officer makes the following findings and conclusions.

#### VI. APPLICABLE STANDARDS AND REVIEW CRITERIA

The Project is an Extensive Impact Service Utility under LDC Article 11. Extensive Impact Services and Utilities are recognized as conditionally permitted uses under the LDC in the land use zone where the Project will be located: Heavy Industrial (IH). (LDC Section 53.430.A.) For the IH zone, the modifications to the Project may be permitted as an amendment to CUP 29-95 if the provisions of Article 44 are satisfied. Because the Project has already been approved by Klamath County in CUP 29-95, only the five acre EFS expansion and 500 kV switchyard need to be approved as CUP 102-98 which will amend CUP 29-95.

#### VII. FINDINGS AND CONCLUSIONS

The Hearings Officer concludes that CUP 102-98 (amending CUP 29-95) 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 the LDC in the land use zone where these facilities will be located: Heavy Industrial (IH), LDC Section 53.430.A. For this zone, the CUP 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.

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

Klamath County prepared the Comprehensive Plan for Klamath County, Oregon, which has received Land Conservation and Development Commission acknowledgment. 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 Hearings Officer's

findings and conclusions that CUP 102-98 (amending CUP 29-95) is consistent with the Comprehensive Plan are provided below. The applicable goals and policies are set forth in bold.

a. 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 CUP 102-98 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 Project, as approved in CUP 29-95 and as described in the Application and approved in these Findings and Conclusions will assist the County in providing support for population increases in Klamath County.

The Hearings Officer finds and concludes that CUP 102-98 supports policy number 9.

**(10-13) Policies:** The Hearings Officer finds and concludes that policy numbers 10 through 13 are not applicable to CUP 102-98.

3. Goal 3: Agricultural Lands.

Goal 3 is premised on a need to preserve and 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 500 kV switchyard and the addition of five acres will not occupy any agricultural land or land zoned exclusive farm use (App. Attachment A, p. 10.), policy numbers 1 through 5 do not apply to CUP 102-98.

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 500 kV switchyard and the additional five acres will not occupy any land zoned Forestry or Forest/Range (App. Attachment A, p. 10), policy numbers 1 through 9 do not apply to CUP 102-98.

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 the CUP 102-98 because the 500 kV switchyard and the addition of five acres 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. 11.)

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

CUP 102-98 (amending CUP 29-95) will not cause any impact on cultural, historical and archaeological resources. An archaeological inventory survey and Native American consultation were undertaken for the Project in 1995. The study area included the additional five acres needed for expanding the electrical switchyard. The Collins' property, when it was owned by Weyerhaeuser, was recorded as an archaeological site. At that time, the qualities of the property which rendered it potentially

eligible for inclusion on the National Register of Historic Places derived from the property's association with individuals and events important in local and regional history. With the exception of a few structures (not within the Project's additional five-acre area for the 500 kV switchyard), the other features and physical remains at the Collins property are not considered significant for residual information values, research potential or public exhibition. No cultural, historic or archaeological resources other than the Weyerhaeuser property were identified during the 1995 survey and Native American consultation. (App. Attachment 1, p. 11 [incorporating App. for CUP 54-97, Ex. 1, Section T]).

In CUP 29-95, the Hearings Officer found that the Project satisfies policy number 6. The additional five acres to the EFS to accommodate the 500 kV switchyard will not change the findings and conclusions made in support of the Project regarding policy number 6. (App. Attachment A, pp. 11-12.)

In the event that cultural or archaeological resources are encountered during Project construction or related activities, the Project shall halt earth-disturbing activities in the immediate vicinity of the resource in accordance with Oregon law (ORS 97.745 and 358.920). 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 will be contacted in order to evaluate the discovery and to recommend an appropriate course of action in consultation with the SHPO and the Klamath Tribe. (App. Attachment A, pp. 11-12.) The Hearings Officer finds and concludes that the proposed amendment to CUP 29-95 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 above.

**(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 above.

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

TLT\KLAMATH\klam0127.fln

quantity, and quality) and significance determined."

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

(10-13) Policies: The Hearings Officer finds and concludes that policy numbers 10 through 13 do not apply to CUP 102-98 because the additional five-acre area 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, p. 12.)

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

There are no bald eagle nest sites located in the additional five-acre area. The nearest known nest site is about four miles north of the EFS. (App. Attachment A, pp. 12-13.) Construction of the 500 kV switchyard shall have no adverse direct impacts on the bald eagle or its habitat. The Hearings Officer finds and concludes that policy number 14 does not apply to CUP 102-98.

(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 above.

(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 additional five-acre area. General impacts from the construction of the 500 kV switchyard to other wildlife habitats will not be increased from those discussed in previous CUP 29-95 applications. (App. Attachment A, p. 13.)

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 additional five-acre area and 500 kV switchyard shall have no adverse impacts on the Lost River sucker, the shortnose sucker, bald eagles or peregrine falcons. (App. Attachment A, p. 13.) The Hearings Officer finds and concludes that CUP 102-98 supports policy number 16.

(17) Policy: "The County shall preserve and

protect required sites for generation of energy and reservoirs."

The Hearings Officer finds and concludes that the Project supports policy number 17 because it will involve the generation of electric energy and steam energy. The electric energy generated from the Project will be sold to public and private utilities. The additional five acres and 500 kV electrical switchyard will facilitate cost effective wheeling of the electric energy generated from the Project through the regional transmission grid. (App. Attachment A, p. 14). The Hearings Officer finds and concludes that CUP 102-95 supports policy number 17.

(18-19) Policies: The additional five-acre area will not be located on public lands, parks, cultural resources, trails or unique open space areas and, therefore, the Hearings Officer finds and concludes that policy numbers 18 and 19 do not apply to CUP 102-98. 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 Hearings Officer finds and concludes that the additional five acres does not fall in this category of land.

(20-21) Policies: The Hearings Officer finds and concludes that policy numbers 20 and 21 do not apply to CUP 102-98 because the 500 kV switchyard and additional five acres are 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. 14.)

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

The additional five acres are immediately adjacent to the Project and are 1,200 feet north of the Klamath River and are not in a riparian area. (App. Attachment A, p. 14.) Because there are no riparian areas within the lands covered by the additional five-acre area, the Hearings Officer finds and concludes that policy number 22 does not apply to CUP 102-98.

(23-26) Policies: The Hearings Officer finds and concludes that policy numbers 23 through 26 do not apply to CUP 102-98 because the additional five acres are not a potential mineral excavation area, an aggregate extraction site, or a gravel, cinder or clay removal site. (App. Attachment A, p. 15.)

(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."

The five-acre area is above the Klamath River floodplain. (App. Attachment A, p. 15). Because the five-acre area is not in a floodplain, the Hearings Officer finds and concludes that policy number 27 does not apply to CUP 102-98.

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

In CUP 29-95, the Hearings Officer found and concluded that the Project supports policy number 28. (App. Attachment A, p. 15.) The additional five-acre area and 500 kV switchyard will not require a new water right to a groundwater resource. Therefore, the Hearings Officer finds and concludes that CUP 102-98 supports policy number 28.

**(29-33) Policies:** The Hearings Officer finds and concludes that policy numbers 29 through 33 do not apply to CUP 102-98 because the five-acre area will not be located in an area of inadequate or poor quality water, in an area of potential trails, in the section of 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. 15-16.)

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

Impacts on scenic views and sites from the proposed expanded 500 kV switchyard will be substantially the same as those from the 230 kV switchyard. The 500 kV switchyard will contain equipment that is similar in appearance to that of the 230 kV switchyard alternative. The 500 kV switchyard will include step-up transformers, tie-in termination structures, circuit breakers, auxiliary transformers, and a one-story control room building. Additional electrical equipment typical to a switchyard, e.g., surge arrestors, disconnect switches and bus work, will also be included. The tallest items within the 500 kV switchyard will be the structures that carry the 500 kV lines from the step-up transformers and the tie-in termination structures. These structures, which will be approximately 120 feet tall, will be shorter than the Project's 150-foot high Heat Recovery Steam Generator exhaust stacks (approved in CUP 29-95). (App. Attachment

A, p. 16, Figure 3.) Because the five-acre area is located in an industrially zoned area with existing industrial facilities and transmission lines, there will be no significant changes in impacts to scenic and aesthetic values. (App. Attachment A, p. 16.) The Hearings Officer finds and concludes that CUP 102-98 satisfies policy number 34.

(35-39) Policies: The Hearings Officer finds and concludes that policy numbers 35 through 39 do not apply to CUP 102-98 because the Project 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, pp. 16-17.)

#### 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."

The 500 kV switchyard alternative will not result in any changes to Project air emissions. (App. Attachment A, p. 17.) The Hearings Officer finds and concludes that CUP 102-98 satisfies policy number 1.

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

The 500 kV interconnection alternative, including the expanded 500 kV switchyard, will slightly increase the amount of solid waste generated during the Project's life due to the increased construction workforce. (App. Attachment A, p. 17.) The increase will be approximately four cubic yards per week for 27 months. This would increase the Project's total (uncompacted) solid waste generation from about 35,360 to 35,826 cubic yards, an increase of about 466 cubic yards over the life of the Project. Adequate capacity exists for the disposal of this increased volume of solid waste. (App. Attachment A, pp. 17-18.) The Hearings Officer finds and concludes that CUP 102-98 satisfies policy number 2.

(3-5) Policies: The Hearings Officer finds and concludes that policy numbers 3 through 5 do not apply to CUP 102-98 because the 500 kV switchyard alternative will not change the amount of sanitary or industrial waste water generated from the Project and will not be a residential use. (App. Attachment A, p. 18.)

TLT\KLAMATH\klam0127.flm

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

The Hearings Officer finds and concludes that the City has identified and will comply with all state and federal environmental permitting requirements relating to the 500 kV alternative. PKE and the City have notified relevant agencies of the 500 kV switchyard alternative and are applying for appropriate amendments to permits and certificates. (App. Attachment A, p. 18.)

The Project shall comply with all requirements of environmental statutes, programs and policies applicable to the 500 kV switchyard. The Hearings Officer finds and concludes that CUP 102-98 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 Project and may be applicable to construction of the 500 kV switchyard. The Project shall obtain all local permits relating to runoff and erosion control. The additional five-acre area of the EFS contains near-surface silty sands and sandy silts soils that occur as natural deposits and man-placed fills. These soils are potentially susceptible to erosion in areas where surface water run-off is concentrated or in areas where unvegetated areas are exposed to the wind. Erosion shall be minimized by properly controlling surface water run-off and revegetating disturbed areas during and following construction. For the existing fill slopes near the Project site area, foundations will be offset adequately from the slope crest to ensure that erosion of these slopes does not impact foundation support. The Project will obtain all local permits relating to control of erosion and storm water runoff. (App. Attachment A, pp. 18-19.) The Hearings Officer finds and concludes that CUP 102-98 satisfies policy number 7.

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

The 500 kV interconnection alternative extends the EFS to the west; however, noise levels due to the 500 kV switchyard will not exceed established applicable noise level criteria. 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, p. 19.) The Hearings Officer finds and concludes that CUP 102-98 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 Project will not be located within the noise affected areas of Klamath Falls Municipal Airport (App. Attachment A, p. 20), the Hearings Officer finds and concludes that policy number 9 does not apply to CUP 102-98.

#### 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 102-98 because the 500 kV switchyard 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. 20.)

(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. Any additional storm water runoff will be managed in accordance with the requirements of the Project's coverage under the state's general construction stormwater 1200-C permit. The modifications to the Project will not affect the DEQ 1200-C NPDES General Permit for stormwater discharge during construction. (App. Attachment A, pp. 20-21.) The Project will provide for and permanently maintain landscape as required by Article 65. The Project will obtain all local permits relating to control of erosion and stormwater runoff. The modifications to the Project will not affect the Project's design to collect stormwater runoff during Project operation in an on-site evaporation pond. During operation and for the life of the Project, any additional stormwater runoff from the additional five-acre area will be collected in the evaporation pond. The Hearings Officer finds and concludes that CUP 102-98 complies with policy number 4.

TLT\KLAMATH\klam0127.fin

(5-7) Policies: The Hearings Officer finds and concludes that policy numbers 5 through 7 do not apply CUP 102-98 because the 500 kV switchyard will not be located in any floodway, within the Klamath Falls Municipal Airport area, or within a subdivision requiring fire district protection. (App. Attachment A, p. 21.)

#### 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 that Policy 1 does not apply.

(2-11) Policies: The Hearings Officer finds and concludes that policy numbers 2 through 11 do not apply CUP 102-98 because the additional five-acre area for the 500 kV switchyard is not suitable for a park or recreation area, and is not near Pelican Butte, Eagle Ridge, or Lake Ewauna. (App. Attachment A, pp. 21-22.)

#### 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 switchyard alternative will enhance the Project's ability to satisfy this policy by enabling more cost effective and efficient wheeling of electricity generated by the Project through the region's power grid. (App. Application A, p. 22.) The Hearings Officer finds and concludes that CUP 102-98 complies with policy number 1.

(2-5) Policies: The Hearings Officer finds and concludes that policy numbers 2 through 5 do not apply to CUP 102-98 because the additional five-acre area for the 500 kV switchyard is not a suitable site for a park or recreation area, is not near Pelican Butte or Bly, in the Upper Klamath Lake area, or an agricultural processing plant. (App. Attachment A, p. 22.)

(6) Policy: "The County shall encourage and

support development of secondary and tertiary timber industries."

The Project will support policy number 6 by providing steam energy to Collins (a timber industry) and potentially to other industrial users who are timber industries. The 500 kV switchyard will not impact or affect these benefits. (App. Attachment A, pp. 22-23.) The Hearings Officer finds and concludes that CUP 102-98 satisfies policy number 6.

(7-8) Policies: The Hearings Officer finds and concludes that policy numbers 7 and 8 do not apply to CUP 102-98 because the 500 kV switchyard will not impact agricultural markets and will not be financed by state supported industrial revenue bonds. (App. Attachment A, p. 23.)

(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 additional five-acre area is owned by Collins. 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. The 500 kV switchyard will not impact or affect these benefits. (App. Attachment A, p. 23.) The Hearings Officer finds and concludes that the Project will provide support to existing industries and CUP 102-98 complies with policy number 9.

(10-11) Policies: The Hearings Officer finds and concludes that policy numbers 10 and 11 do not apply to CUP 102-98 because the Project will not impact tourism or economic promotions. (App. Attachment A, p. 23.)

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

The additional five acres and operation of the 500 kV switchyard alternative will not impact or affect the benefits from the Project supporting policy number 12 as found in the approval of CUP 29-95, as amended. (App. Attachment A, p. 23.) The Hearings Officer finds and concludes that CUP 102-98 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 additional five acres are located in identified industrial land that has been part of the Collins plant site. (App. Attachment A, p. 24.) The Hearings Officer finds and concludes that CUP 102-98 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 additional five-acre area is located on land zoned and used for heavy industry. (App. Attachment A, p. 24.) The Hearings Officer finds and concludes that CUP 102-98 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 additional five-acre area is located on land that is dedicated to the types of industrial use that the Project will provide. (App. Attachment A, p. 24.) The Hearings Officer finds and concludes that CUP 102-98 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 the requested 500 kV interconnection alternative because the 500 kV switchyard and use of the additional five acres will not materially impact residential areas or housing. (App. Attachment A, pp. 24-25.)

#### 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

TLT\KLAMATH\klam0127.fin

concludes that policy numbers 1 through 6 do not apply to CUP 102-98 because the 500 kV switchyard and use of the additional five acres are not public facilities or services. (App. Attachment A, p. 25.)

(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."

The additional five acres for the 500 kV switchyard will be located in land zoned for heavy industrial use. As a result, the proposed use will avoid dividing existing farm units and residential areas. (App. Attachment A, p. 26.) The Hearings Officer finds and concludes that CUP 102-98 supports policy number 7.

(8-11) Policies: The Hearings Officer finds and concludes that policy numbers 8 through 11 do not apply to CUP 102-98 because the 500 kV switchyard and use of the additional five acres will not create an increased need for public services, including fire protection, medical aid or law enforcement.

(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 switchyard will not impact or affect the Project's 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 the 500 kV interconnection alternative, including the expanded switchyard. The evaluation found that the 500 kV interconnection alternative will not create an increased need for any public facilities or services. (App. Attachment A, p. 27.) The Hearings Officer finds and concludes that CUP 102-98 satisfies policy number 12.

(13-18) Policies: The Hearings Officer finds and concludes that policy numbers 13 through 18 do not apply to CUP 102-98 because the 500 kV switchyard and use of the additional five acres will not create subdivisions, will not cause a well to be dug, and will not be on rural land. (App. Attachment A, p. 27.)

## 12. Goal 12: Transportation.

Goal 12 encourages the development of a safe, convenient and economic 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 102-98 because the 500 kV switchyard construction and operation will not impact transportation in residential or municipal areas or areas designated for the Klamath Falls Municipal Airport. (App. Attachment A, p. 28.)

(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 switchyard will not be located within the airport safety zone provided in Article 58. (App. Attachment A, p. 28.) The Hearings Officer finds and concludes that policy number 12 does not apply to CUP 102-98.

(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 the transportation systems."

The 500 kV switchyard and use of the additional five acres will not result in any impact to traffic safety or costs of the transportation system. One-way vehicle trips during peak construction are estimated to increase by approximately 37 per day. This figure represents a 1% increase in the average daily vehicle trips along Highway 97. The routes used during both construction and operation remain the same. The proposed increase in traffic is minimal. (App. Attachment A, pp. 28-29.) Thus, there will be no adverse social, economic or environmental impacts or costs to the transportation system from the expansion of the electrical switchyard. The Hearings Officer finds and concludes that CUP 102-98 supports policy number 13.

(14) Policy: The Hearings Officer finds and concludes that policy number 13 does not apply to CUP 102-98 because the 500 kV switchyard and use of the additional five acres will not be

within a protected area for the Klamath Falls Municipal Airport.  
(App. Attachment A, p. 29.)

### 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 supports this policy because it will involve the generation of electric energy and steam energy. The 500 kV switchyard alternative will provide a cost effective method for transmitting the electric energy through the regional transmission grid. (App. Attachment A, p. 29.) The Hearings Officer finds and concludes that CUP 102-98 supports policy number 1.

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

The Project's 500 kV interconnection with PacifiCorp's 500 kV line has the potential to reduce transmission and transformation energy losses as compared to the 230 kV interconnection. (App. Attachment A, p. 29.) The Hearings Officer finds and concludes that the 500 kV switchyard and use of the additional five acres as proposed satisfies policy number 2.

(3-5) Policies: The Hearings Officer finds and concludes that policy numbers 3 through 5 do not apply to CUP 102-98 because the 500 kV switchyard and the additional five-acre area 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, pp. 29-30.)

### 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 finds and concludes that policy numbers 1 through 5 do not apply to CUP 102-98 because the 500 kV switchyard and the additional five-acre area will not be in an area suitable for urban expansion or study.

(App. Attachment A, p. 30.)

- 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 102-98 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 additional five-acre area is adjacent to the 15-acre parcel approved for the Project. The general character of the abutting property and area surrounding the additional five-acre area is the same as that of the Project, which is property zoned heavy industrial. Properties adjacent to the heavy industrial zoned property is used for industry, residences, wildlife refuge, recreation and farming. (App. Attachment A, p. 30.)

The Hearings Officer finds and concludes that the use and enjoyment of these properties will not be adversely affected by the additional five-acre area or the 500 kV switchyard, which will be located and operated to minimize any potential impacts to the livability, value or appropriate development of abutting properties and the surrounding area. (App. Attachment A, p. 31.)

The Hearings Officer finds and concludes that the impacts resulting from the additional five acres and 500 kV switchyard are minimal. Project operations, e.g., fuel consumption, water use and waste water generation, will not change. The Hearings Officer finds and concludes that there will be no change in air emissions from the 500 kV transmission line realignment. Further, the Hearings Officer finds and concludes that there will be a negligible change in the quantity or types of waste materials generated and no change in the waste management methods. (App. Attachment A, p. 31.)

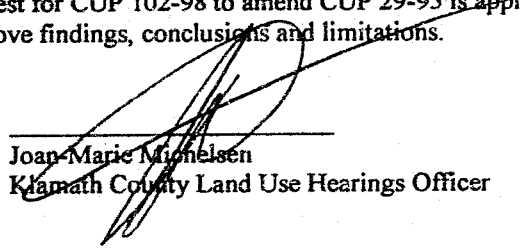
## VII. ORDER

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 102-98 (amending CUP 29-95) is consistent and complies with the LDC and the Klamath County Comprehensive Plan. Therefore,

TLT\KLAMATH\klam0127.fin

46145

It is ordered that PKE's request for CUP 102-98 to amend CUP 29-95 is approved subject to and consistent with the above findings, conclusions and limitations.

  
Joan Marie Michelsen  
Klamath County Land Use 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 46124.

FEE No Fee

By Bernetha G. Leisch Bernetha G. Leisch, County Clerk