

4.0 ENVIRONMENTAL CONSULTATION, REVIEW, AND PERMIT REQUIREMENTS

A number of Federal environmental laws and administrative requirements must be satisfied by the proposed project. This chapter provides a summary of these requirements and discusses their applicability to the project. Requirements of the State of Oregon must be satisfied; they are not described in detail in this chapter but are listed in the final section.

4.1 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

This document contains information necessary for preparation of the EIS that BPA will prepare pursuant to regulations implementing the National Environmental Policy Act (42 USC §4321 et seq.), which requires Federal agencies to assess the impacts that their actions may have on the environment. BPA's potential transmission of power from the Umatilla Generating Project requires that BPA assess the potential environmental effects of the proposed project and describe them in an EIS. Decisions will be based on an understanding of the proposed project's potential environmental consequences and the actions that will be taken to protect, restore, and enhance the environment.

The Rural Utilities Services, which regulates activities affecting UECA's transmission lines, will be a cooperating agency in the NEPA process.

4.2 ENDANGERED AND THREATENED SPECIES AND CRITICAL HABITAT

The Endangered Species Act of 1973, as amended, (16 USC §1536 et seq.) requires Federal agencies to ensure that their actions do not jeopardize endangered or threatened species or their critical habitats. Sources of information for the potential occurrence of sensitive species in an area include both Federal and state lists.

Consultation letters were sent to the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) to identify Federal species of concern. The Oregon Natural Heritage Program (ONHP) was queried for information on listed and sensitive species. The Oregon Department of Agriculture (ODA) was contacted for information about protection and conservation programs. The following species were either known to occur or considered to potentially occur within the project area, based on habitat suitability and information received from the USFWS and ONHP:

- *Washington ground squirrel (Spermophilus washingtoni)* - state endangered species and a federal candidate species
- *Bald eagle (Haliaeetus leucocephalus)* - threatened in Oregon and the U.S.
- *Steelhead trout (Middle Columbia River Evolutionarily Significant Unit [ESU]) (Oncorhynchus mykiss)* - federally listed as threatened

Potential impacts of the proposed project on the listed species are discussed in Sections 3.4 and 3.5. A biological assessment was performed at the time the Port of Umatilla's intake structure was approved. No new biological assessments were prepared for any of the species listed above, as the impact of the project-related construction and operation activities would be negligible.

4.3 FISH AND WILDLIFE CONSERVATION

The Fish and Wildlife Conservation Act of 1980 (16 USC §2901 et seq.) encourages Federal agencies to conserve and promote conservation of non-game fish and wildlife species and their habitats. Water resources that promote fish and wildlife habitat have not been identified at the Umatilla Generating Project site. The Umatilla Generating Project would use an existing water right with water supplied by the Port of Umatilla. The water diverted for the proposed project would represent about 0.005 % of Columbia River discharge during the low-flow period and about 0.01% during extreme droughts. Such a small change in river discharge would not be expected to have any effect on water quality, fish or any other beneficial uses of the river.

4.4 HERITAGE CONSERVATION

The National Historic Preservation Act of 1966 as amended (16 USC §470 et seq.) requires BPA to take into account the potential effects of their undertakings on properties that are eligible for nomination to the National Register of Historic Places. BPA must consult the SHPO regarding the inventory and evaluation of properties potentially eligible for National Register nomination and to determine whether the undertaking would adversely affect them. An archival search and field survey were conducted.

The Native American Graves Protection and Repatriation Act (NAGPRA) of 1990 (25 USC §3001 et seq.) assigns ownership of Native American graves found on Federal land to Native Americans. It requires the Federal agency managing land on which the grave was found to consult with the most likely descendent of the buried person or with a culturally related person regarding the disposition of the remains.

The Umatilla Generating Project includes a quarter of a mile of new transmission line route that is located on Federal land. Any Native American graves found in this segment would be subject to the NAGPRA.

4.5 STATE, AREAWIDE, AND LOCAL PLAN AND PROGRAM CONSISTENCY

4.5.1 Land Use

The project would be located in two jurisdictions: Umatilla County and the City of Umatilla. The Umatilla County Comprehensive Plan and the City of Umatilla Comprehensive Plan govern development in the project area. The proposed Umatilla Generating Project would alter land use at the power plant site from vacant to industrial use; and the site is zoned for light industrial use. The transmission line route would consist of the upgrade of an existing electric transmission line right-of-way. The natural gas pipeline would be constructed below the surface of lands zoned for agricultural use in large part and zoned for light industrial use.

4.5.2 Pacific Northwest Electric Power Planning and Conservation Act

The Pacific Northwest Electric Power Planning and Conservation Act (USC §839 et seq.) contains provisions intended to protect, mitigate, and enhance the fish and wildlife (including spawning grounds and habitat) of the Columbia River and its tributaries. Impacts to fish are addressed in section 3.5. A biological assessment was conducted at the time the Port of Umatilla's intake structure was approved. Most provisions of the Act are not relevant to BPA's action in this case, because BPA is not acquiring the output of the Umatilla Generating Project under terms that ensure the economic feasibility of the project.

4.5.3 Notice to the Federal Aviation Administration (FAA)

Construction of any facility 61 meters (200 feet) or taller above ground level requires that notice be given to the FAA. The stacks proposed at the proposed power plant would be approximately 65 meters (213 feet) tall, requiring notification of FAA.

Additionally, proximity of a facility to an airport requires that notice be given to the FAA. The closest airport to the power plant site is located approximately 10 kilometers (6 miles) northeast of the site.

A Notice of Proposed Construction or Alteration has been submitted to the FAA for construction of emission stacks and use of construction cranes at the proposed power plant site.

4.5.4 Construction-Related Permits

Grading, building, and related permits would be required from Umatilla County. The County Department of Public Works regulates development activities. The Umatilla County Board of Commissioners, in addition to requiring the proper building permits, also requires developers to complete the following activities before starting construction:

- Obtain land use approvals from Umatilla County and the City of Umatilla
- File a landscaping plan with the County prior to issuance of a building permit
- Establish fire suppression and hazardous material safety designs in consultation with the Hermiston Fire Department and the State Fire Marshal
- File a site plan with the County prior to issuance of building permits
- Submit a plan acceptable to EFSC for responding to an emergency at the Umatilla Chemical Depot
- Have the power plant facility design reviewed by the Oregon Building Codes Agency for compliance with the building codes. Issuance of building permits, electrical permits, and other plant operational permits will be coordinated through the Salem Office of the Building Codes Agency. The local office in Pendleton will be responsible for construction inspection of the project during and upon completion of construction.

4.6 COASTAL ZONE MANAGEMENT PROGRAM CONSISTENCY

The proposed project is not in the coastal zone, nor would it directly affect the coastal zone.

4.7 FLOODPLAINS

The proposed project is not in any floodplain, nor would it directly affect floodplains or contribute to flooding elsewhere.

4.8 WETLANDS

A review of National Wetlands Inventory maps and a field survey for the potential presence of jurisdictional wetlands identified nine wetland sites in the project area. Five of these wetland sites are located along the existing transmission line and four wetland sites are located along the proposed gas pipeline corridor or within the power plant site.

No wetlands are located within the area that would be the permanently disturbed footprint of the power plant. The wetland features identified include a portion of the riparian corridor along the Umatilla River, a pond that has been constructed and used for storage of potato processing reuse water, a gravel quarry, and irrigation canals. The proposed project would have no adverse effect on any wetland within the project area.

4.9 FARMLANDS

The Farmland Protection Policy Act (7 USC §4201 et seq.) directs Federal agencies to identify and quantify adverse impacts for Federal programs on farmlands. The Act's purpose is to minimize the number of Federal programs that contribute to the unnecessary and irreversible conversion of agricultural land to non-agricultural uses.

The power plant site is currently vacant and zoned for light industrial use. The Soil Conservation Service soil survey for the area indicates that the site is not prime or unique farmland.

The construction right-of-way for the natural gas pipeline is zoned for agricultural use in large part. Construction of the pipeline would result in temporary disturbance to these agricultural lands, about half of which are prime farmland. Overlying soils disturbed during construction would be restored according to the mitigation plan described in Section 3.1 to ensure that the subsurface pipeline would have no negative impacts on the current agricultural operations.

The electric transmission upgrade would occur primarily within an existing right-of-way that crosses agricultural lands. Agricultural use of prime farmland could continue under the transmission lines in the rights-of-way. Construction of new transmission lines on new towers at the power plant site would be within the light industrial use zone and therefore not likely to impact agricultural land. Construction of new transmission lines on new towers at the McNary Substation would be within the city's urban growth area, and again unlikely to impact agricultural land.

4.10 RECREATION RESOURCES

No public recreation occurs at the proposed power plant site, a privately owned area zoned for light industrial use. The natural gas pipeline and electric transmission line rights-of-way are located primarily on privately owned land. It is unlikely that the proposed project would interfere with the present use of any recreation resource in the vicinity.

4.11 GLOBAL WARMING

A discussion of CO₂ and its contribution to global warming is presented in Section 3.6. The project would produce negligible amounts of other greenhouse gases, such as methane and NO_x.

4.12 PERMIT FOR STRUCTURES IN NAVIGABLE WATERS

The proposed project does not include work or structures that are in or on any navigable waters of the United States, as defined in the Rivers and Harbors Act of 1899 (33 USC §403).

4.13 PERMIT FOR DISCHARGES INTO WATERS OF THE UNITED STATES

Discharge of dredged or fill material into waters of the United States is regulated by the Army Corps of Engineers pursuant to Section 404 of the Clean Water Act. The proposed project site is located in an upland area. Although the transmission line would pass over water of the United States, it would not affect these features. There is no proposed discharge of dredged or fill materials into waters of the United States.

4.14 PERMITS FOR RIGHT-OF-WAY ON PUBLIC LANDS

The power plant and the gas pipeline for the Umatilla Generating Project would be constructed on private property. Sections of the transmission line and gas pipeline would cross irrigation canals, which would require consultation with the Bureau of Reclamation but no new right-of-way permit. The reconductoring of the transmission line will require an amendment of the existing crossing agreement. At its approach to McNary Substation, the transmission line would cross land formerly administered by the Bureau of Land Management (BLM) but which has been transferred to BPA. Therefore, no right-of-way permit would be required from the BLM. The Corps would be kept informed of actions involving the upgrade of the transmission line located along the eastern border of the Umatilla Chemical Depot, because a portion of the right-of-way is on Umatilla Chemical Depot land.

4.15 ENERGY CONSERVATION AT FEDERAL FACILITIES

The proposed project does not include the operation, maintenance, or retrofit of an existing Federal building or the construction or lease of a new Federal Building.

4.16 POLLUTION CONTROL

Several pollution control acts would apply to the project, including:

- Clean Air Act
- Clean Water Act
- Resource Conservation and Recovery Act
- Toxics Substance Control Act
- Federal Insecticide, Fungicide, and Rodenticide Act

4.16.1 Air

Emissions produced by the proposed project must meet standards established by the Environmental Protection Agency. The Clean Air Act is the principal Federal law governing air pollution control. It was most recently amended in 1990. In the project area, authority for ensuring compliance with the provisions of the Clean Air Act is delegated to ODEQ. The Umatilla Generating Project would comply with all applicable standards, as described in Section 3.6.

4.16.2 Water

The Clean Water Act of 1977, as amended, is the principal Federal law governing water pollution control. The Act was most recently amended in 1987 and reauthorized in 1991. The Clean Water Act authorizes Federal and state regulations of discharges into waters of the United States and municipal sewer systems. The NPDES is the primary instrument for implementing the Act. ODEQ is authorized to administer the NPDES program within the state. A NPDES Stormwater Discharge Permit is not required for plant operation because stormwater would not discharge to surface water at a point source. However, a NPDES Stormwater Discharge General Permit for Construction is required to address erosion control for construction activity, and the Umatilla Generating Company, L.P. applied for this permit on February 5, 2001.

4.16.3 Solid and Hazardous Waste

Solid waste generated at the proposed project site during construction and/or operation would consist of domestic refuse, office waste, pallets, cardboard, steel banding, steel cut-offs, concrete waste and miscellaneous debris. It is estimated that about 4.5 metric tons (5.0 tons) per month of solid waste would be produced during construction and approximately 36 metric tons (40 tons) per year of refuse would be produced during operation. Solid waste would be collected in roll-off bins and trucked to a landfill. Recyclable material would be separated from the solid waste stream, stored and delivered

periodically to a recycling facility. It is expected that special disposal permits would not be required during construction and that the proposed power plant would not produce any solid wastes classified as “special wastes”. The project would comply with all Federal and state regulations dealing with the use, storage, and disposal of hazardous materials and hazardous wastes, including those covered under Division V of the 1991 Uniform Fire Code entitled “Stationary Tank Storage, Aboveground, Outside of Buildings.”

4.16.4 Safe Drinking Water

The proposed project would receive its water supply from the Port of Umatilla’s regional water supply system. The primary uses of water at the proposed power plant would be for boiler water make-up for generation of steam and cooling water make-up for the recirculating cooling water system. During plant operation, a small portion (four liters [one gallon] per minute) of the water supplied to the power plant would be treated on-site for domestic water use. This treatment process would be in compliance with the provisions of the Safe Drinking Water Act.

4.16.5 Noise

The proposed project is subject to maximum allowable levels of noise by the State of Oregon (OAR 340-035-0035). Regular operation of the project with mitigation as proposed would comply with noise standards for nearby sensitive receptors. Potential noise-related impacts of project construction and operation are discussed in Section 3.7.

4.16.6 Pesticides and Asbestos

The proposed project would not use or produce pesticides and would not distribute, use, or dispose of polychlorinated biphenyls (PCBs), although the landscaping conducted for the project may include a small amount of pesticides.

Asbestos would not be used in the facilities.

4.16.7 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

The proposed power plant site was previously used as a quarry. During the construction of the Hermiston Generating Project, it was used as a laydown area for material storage (nonhazardous).

- Waste and debris piles were not observed on the subject property. Spoils (nonhazardous) from the potato cleaning process deposited on the southeastern portion of the site.
- Stained soils were not observed on the subject property.
- No obvious hazardous substance use, storage, or disposal was observed on the subject property at the time of the site visit.
- There were no buildings or evidence of foundations in the aerial photographs or identified during the site visit on the subject property.
- The proposed power plant site was formerly used as a gravel yard and currently is sparsely vegetated.
- No uses of aboveground or underground tanks were indicated in the regulatory databases or observed at the subject property.
- No indications of groundwater or petroleum wells were identified during the site visit on the subject property.
- The subject property was not listed in any regulatory databases checked.
- Two sites within one-half mile of the subject property were listed in the regulatory databases that were checked.

4.16.8 Radon

There is no evidence to suggest that the proposed project area is affected by regulations concerning radon gas or would be affected by the Radon Gas and Indoor Air Quality Research Act of 1986 (42 USC §7401).

4.17 PERMITS

Permits would be obtained from a number of agencies before power plant construction and operation could begin. The following state and local permits would be required:

- Energy Facility Site Certificate (EFSC)
- Water Pollution Control Facility Permit (ODEQ) (this will be in the form of an amendment to Hermiston Generating Plant's existing WPCF permit)
- NPDES Stormwater Discharge General Permit for Construction Activities (ODEQ)
- On-site Sewage Disposal System Permit – Construction and Operation (ODEQ)
- Air Contaminant Discharge Permit (ODEQ)
- Title V Operating Permit (ODEQ)

- Title IV Acid Rain Program (ODEQ)
- Hazardous Waste Generator Registration (ODEQ)
- Permit for Performing Miscellaneous Operations upon a State Highway (ODOT)
- Conditional Use Permits (Umatilla County)
- Zoning Permits (Umatilla County)
- Conditional Use Permit (City of Umatilla)
- Utility Permit (Umatilla County)
- Access Permit (Umatilla County)

This list does not include Federal permits or permits pertaining to details of construction.