

**ENERGY FACILITY SITING COUNCIL
OF THE
STATE OF OREGON**

**First Amended Site Certificate
for the
Stateline Wind Project**

May 17, 2002

Oregon Energy Facility Siting Council
First Amended Site Certificate for the Stateline Wind Project

I. INTRODUCTION

The Energy Facility Siting Council (“Council”) issues this site certificate for the Stateline Wind Project in the manner authorized under ORS Chapter 469. This site certificate is a binding agreement between the State of Oregon (“State”), acting through the Council, and FPL Energy Vansycle LLC (“FPL” or “certificate holder”) authorizing the FPL to construct and operate the Stateline Wind Project in Umatilla County, Oregon.

The findings of fact, reasoning and conclusions of law underlying the terms and conditions of this site certificate are set forth in the following documents, incorporated herein by this reference: (a) the Council's Final Order in the Matter of the Application for a Site Certificate for the Stateline Wind Project (“final order”), issued on September 14, 2001; and (b) the Council’s Final Order in the Matter of the Request for Amendment #1 of the Site Certificate for the Stateline Wind Project (“Final Order on Amendment #1”). [Amendment #1]

In interpreting this site certificate, any ambiguity will be clarified by reference to the following, in order of priority: this First Amended Site Certificate, the Final Order on Amendment #1, the final order issued on September 14, 2001, and the record of the proceedings that led to the final order and the Final Order on Amendment #1. [Amendment #1]

The definitions in ORS 469.300 and OAR 345-001-0010 apply to terms used in this site certificate, except where otherwise stated or where the context clearly indicates otherwise.

II. SITE CERTIFICATION

1. To the extent authorized by state law and subject to the conditions set forth herein, the State authorizes FPL to construct, operate and retire a wind energy facility, together with certain related or supporting facilities, at the site in Umatilla County, Oregon, as described in Section III of this site certificate. ORS 469.401(1).
2. This site certificate is effective until it is terminated under OAR 345-027-0110 or the rules in effect on the date that termination is sought or until the site certificate is revoked under ORS 469.440 and OAR 345-029-0100 or the statutes and rules in effect on the date that revocation is ordered. ORS 469.401(1).
3. This site certificate does not address, and is not binding with respect to, matters that were not addressed in the Council’s final order or the Final Order on Amendment #1. These matters include, but are not limited to: building code compliance, wage, hour and other labor regulations, local government fees and charges and other design or operational issues that do not relate to siting the facility (ORS 469.401(4)) and permits issued under statutes and rules for which the decision on compliance has been delegated by the federal government to a state agency other than the Council. 469.503(3). [Amendment #1]
4. Both the State and the certificate holder shall abide by local ordinances, state law and the rules of the Council in effect on the date this site certificate is executed. ORS 469.401(2). In addition, upon a clear showing of a significant threat to public health, safety or the environment that requires application of later-adopted laws or rules, the Council may require compliance with such later-adopted laws or rules. ORS 469.401(2).
5. For a permit, license or other approval addressed in and governed by this site certificate, the certificate holder shall comply with applicable state and federal laws adopted in the future to the extent that such compliance is required under the respective state agency statutes and rules. ORS 469.401(2).

- 1 6. Subject to the conditions herein, this site certificate binds the State and all counties, cities and
2 political subdivisions in Oregon as to the approval of the site and the construction, operation
3 and retirement of the facility as to matters that are addressed in and governed by this site
4 certificate. ORS 469.401(3).
- 5 7. Each affected state agency, county, city and political subdivision in Oregon with authority to
6 issue a permit, license or other approval addressed in or governed by this site certificate shall,
7 upon submission of the proper application and payment of the proper fees, but without
8 hearings or other proceedings, issue such permit, license or other approval subject only to
9 conditions set forth in this site certificate. ORS 469.401(3).
- 10 8. After issuance of this site certificate, each state agency or local government agency that
11 issues a permit, license or other approval for the facility shall continue to exercise
12 enforcement authority over such permit, license or other approval. ORS 469.401(3).
- 13 9. After issuance of this site certificate, the Council shall have continuing authority over the site
14 and may inspect, or direct the Oregon Office of Energy (“Office”) to inspect, or request
15 another state agency or local government to inspect, the site at any time in order to assure
16 that the facility is being operated consistently with the terms and conditions of this site
17 certificate. ORS 469.430.

18 III. DESCRIPTIONS

19 1. The Facility

20 (a) Major Structures

21 The Stateline Wind Project (“facility”) consists of:

- 22 • **Stateline 1:** 127 Vestas V47-660-kilowatt (KW) wind turbines authorized for
23 construction, of which 126 were built, having a total a nominal electric generating
24 capacity of 83.2 MW (126 turbines, each with a capacity of 0.66 MW) as described
25 further in the final order.
- 26 • **Stateline 2:** 60 Vestas V47-660-kilowatt (KW) wind turbines with a total a nominal
27 electric generating capacity of 39.6 MW (60 turbines, each with a capacity of 0.66
28 MW) as described further in the Final Order on Amendment #1.

29 Each wind turbine is connected to the next by a 34.5-kilovolt (kV) collector system. The wind
30 turbines are grouped in “strings” of 4 to 37 turbines, each turbine spaced approximately 250 feet
31 from the next, generally slightly downwind of the crest of ridges. Underground 34.5-kV cables
32 connected to a substation in Washington collect the electrical output of each Oregon turbine
33 string. Major facility structures are further as described in the final order and in the Final Order
34 on Amendment #1. [Amendment #1]

35 (b) Related or Supporting Facilities

36 The facility includes the following related or supporting facilities:

- 37 ■ Access roads to reach each turbine for construction and maintenance
- 38 ■ Underground collector cables linking each turbine to the others in its string and
39 ultimately to the substation in Washington
- 40 ■ Meteorological towers
- 41 ■ A satellite operations and maintenance building

42 Access Roads

43 County roads that extend south from Highway 12 in Washington (e.g., Hatch Grade Road and
44 Butler Grade Road) and north from Oregon Highway 11 (e.g., Vansycle Canyon Road and Butler
45 Grade Road) are the primary routes of access to the facility site. From the county roads, a web of

1 private farm roads provides access to most of the ridges upon which the facility is located.
2 Additional access roads are located along the length of each turbine string and connecting each
3 turbine string to the next. Access roads are further as described in the final order and in the Final
4 Order on Amendment #1. [Amendment #1]

5 Collector System

6 The proposed wind turbines generate power at 690 volts. A transformer adjacent to each tower
7 transform the power to 34.5 kV. From there, power is transmitted via underground 34.5-kV
8 electric cables buried directly in the soil approximately 3 to 4 feet below the ground surface. In
9 some cases, trenches run from the end of one turbine string to the end of an adjacent turbine
10 string to link the turbines via the underground network. There are no aboveground 34.5-kV
11 transmission lines in Oregon. The underground collector system links the facility's turbines to a
12 substation located in Washington. Overhead transmission lines, located entirely within
13 Washington, connect the substation to a BPA 115-kV transmission line north of the Walla Walla
14 River and to a PacifiCorp substation just north of Highway 12. The collector system is further as
15 described in the final order and in the Final Order on Amendment #1. [Amendment #1]

16 Meteorological Towers

17 The facility includes six permanent meteorological (met) towers to measure wind conditions.
18 The met towers may be guyed or unguyed towers. The met towers are otherwise as described in
19 the final order and in the Final Order on Amendment #1. [Amendment #1]

20 Satellite O&M Building

21 The facility includes an operation and maintenance (O&M) facility, which is a satellite to the
22 primary O&M facility located in Washington. The satellite O&M facility is located along Butler
23 Grade Road south of Gardena and just south of the state line in Oregon. It is further as described
24 in the final order.

25 **2. Location of the Proposed Facility**

26 The facility is located in Umatilla County, north and east of Helix, Oregon. The towns closest to
27 the facility are Helix, Oregon, and Touchet, Washington. The wind turbines would be located on
28 ridges east of the Columbia River and south of the Walla Walla River. The location of the
29 facility is further as described in the final order and in the Final Order on Amendment #1.
30 [Amendment #1]

31 **IV. CONDITIONS FOR STATELINE 1 REQUIRED BY COUNCIL RULES**

32 This section lists conditions specifically required by OAR 345-027-0020 (Mandatory Conditions
33 in Site Certificates), OAR 345-027-0023 (Site Specific Conditions), OAR 345-027-0028
34 (Monitoring Conditions) and in OAR Chapter 345, Division 26 (Construction and Operation
35 Rules for Facilities). These conditions should be read together with the additional specific
36 facility conditions in section V to ensure compliance with the siting standards of OAR Chapter
37 345, Divisions 22 and 24 and to protect the public health and safety. These conditions apply to
38 Stateline 1. [Amendment #1]

39 The Council recognizes that many specific tasks related to the design, construction, operation
40 and retirement of the facility will be undertaken by FPL's agents or contractors. However, the
41 certificate holder is responsible for ensuring compliance with all provisions of the site certificate.

1 Citation to the sources of, or basis for, the conditions are shown in parentheses.¹ Conditions are
2 numbered continuously throughout sections IV and V of this site certificate.

3 **1. General Conditions**

- 4 (1) The Council shall not change the conditions of the site certificate except as provided for in
5 OAR Chapter 345, Division 27. (OAR 345-027-0020(1))
- 6 (2) The certificate holder shall design, construct, operate and retire the facility:
7 (a) Substantially as described in the site certificate;
8 (b) In compliance with the requirements of ORS Chapter 469, applicable Council rules,
9 and applicable state and local laws, rules and ordinances in effect at the time the site
10 certificate is issued; and
11 (c) In compliance with all applicable permit requirements of other state agencies.
12 (OAR 345-027-0020(3))
- 13 (3) The certificate holder shall begin and complete construction of the facility by the dates
14 specified in the site certificate. (345-027-0020(4))
15 See condition (24).
- 16 (4) The certificate holder shall prevent the development of any conditions on the site that would
17 preclude restoration of the site to a useful, non-hazardous condition to the extent that
18 prevention of such site conditions is within the control of the certificate holder. (345-027-
19 0020(7))
- 20 (5) The Council shall include as conditions in the site certificate all representations in the site
21 certificate application and supporting record the Council deems to be binding commitments
22 made by the applicant. (OAR 345-027-0020(10))
23 The conditions that the Council deems to be binding commitments made by FPL are
24 included in section V of this site certificate.
- 25 (6) For the related or supporting transmission lines:
26 (a) The certificate holder shall design, construct and operate the transmission line in
27 accordance with the requirements of the National Electrical Safety Code (American
28 National Standards Institute, Section C2, 1997 Edition); and
29 (b) The certificate holder shall develop and implement a program that provides
30 reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or
31 structures of a permanent nature that could become inadvertently charged with electricity
32 are grounded or bonded throughout the life of the line. (OAR 345-027-0023(5))
- 33 (7) The following general monitoring conditions apply:
34 (a) The certificate holder shall consult with affected state agencies, local governments
35 and tribes and shall develop specific monitoring programs for impacts to resources
36 protected by the standards of divisions 22 and 24 of this chapter and resources addressed by
37 applicable statutes, administrative rules and local ordinances. The certificate holder must
38 submit the monitoring programs to the Office of Energy and receive Office approval before
39 beginning construction or, as appropriate, operation of the facility.
40 (b) The certificate holder shall implement the approved monitoring programs described in
41 section (a) and monitoring programs required by permitting agencies and local
42 governments.

¹ References to the site certificate application are to the application as modified by the supplement and later revisions, abbreviated as "App."

1 (c) For each monitoring program described in sections (a) and (b), the certificate holder
2 shall have quality assurance measures approved by the Office before beginning
3 construction or, as appropriate, before beginning commercial operation.

4 (d) If the certificate holder becomes aware of a significant environmental change or
5 impact attributable to the facility, the certificate holder shall, as soon as possible, submit a
6 written report to the Office describing the impact on the facility and any affected site
7 certificate conditions.

8 (OAR 345-027-0028)

9 (8) The certificate holder shall report according to the following requirements:

10 (a) General reporting obligation for non-nuclear facilities under construction or operating:

11 (i) Within six months after beginning construction, and every six months thereafter
12 during construction of the energy facility and related or supporting facilities, the certificate
13 holder shall submit a semiannual construction progress report to the Council. In each
14 construction progress report, the certificate holder shall describe any significant changes to
15 major milestones for construction. The certificate holder shall include such information
16 related to construction as specified in the site certificate. When the reporting date coincides,
17 the certificate holder may include the construction progress report within the annual report
18 described in this rule;

19 (ii) The certificate holder shall, within 120 days after the end of each calendar year
20 after beginning construction, submit an annual report to the Council addressing the subjects
21 listed in this rule. The Council secretary and the certificate holder may, by mutual
22 agreement, change the reporting date.

23 (iii) To the extent that information required by this rule is contained in reports the
24 certificate holder submits to other state, federal or local agencies, the certificate holder may
25 submit excerpts from such other reports to satisfy this rule. The Council reserves the right
26 to request full copies of such excerpted reports.

27 (b) In the annual report, the certificate holder shall include the following:

28 (i) Facility Status: An overview of site conditions, the status of facilities under
29 construction, and a summary of the operating experience of facilities that are in operation.
30 In this section of the annual report, the certificate holder shall describe any unusual events,
31 such as earthquakes, extraordinary windstorms, major accidents or the like that occurred
32 during the year and that had a significant adverse impact on the facility;

33 (ii) Reliability and Efficiency of Power Production: For electric power plants,

34 (A) The plant availability and capacity factors for the reporting year. If equipment
35 failures or plant breakdowns had a significant impact on those factors, the certificate holder
36 shall describe them and its plans to minimize or eliminate their recurrence;

37 (B) The efficiency with which the power plant converts fuel into electric energy.
38 If the fuel chargeable to power heat rate was evaluated when the facility was sited, the
39 certificate holder shall calculate efficiency using the same formula and assumptions, but
40 using actual data; and

41 (C) The facility's annual hours of operation by fuel type and, every five years
42 after beginning operation, a summary of the annual hours of operation by fuel type as
43 described in OAR 345-024-0590(5);

44 (iii) Status of Surety Information: Documentation demonstrating that the bond or
45 other security described in OAR 345-027-0020(8) or the financial mechanism or instrument

1 described in OAR 345-027-0020(9) is in full force and effect and will remain in full force
2 and effect for the term of the next reporting period;

3 (iv) Industry Trends: A discussion of any significant industry trends that may affect
4 the operations of the facility;

5 (v) Monitoring Report: A list and description of all significant monitoring and
6 mitigation activities performed during the previous year in accordance with site certificate
7 terms and conditions, a summary of the results of those activities, and a discussion of any
8 significant changes to any monitoring or mitigation program, including the reason for any
9 such changes;

10 (vi) Compliance Report: A description of all instances of noncompliance with a site
11 certificate condition. For ease of review, the certificate holder shall, in this section of the
12 report, use numbered subparagraphs corresponding to the applicable sections of the site
13 certificate;

14 (vii) Facility Modification Report: A summary of changes to the facility that the
15 certificate holder has determined do not require a site certificate amendment in accordance
16 with OAR 345-027-0050.

17 (OAR 345-026-0080)

18 (9) The certificate holder shall promptly notify the Office of Energy of any changes in major
19 milestones for construction, decommissioning, operation or retirement schedules. Major
20 milestones are those identified by the certificate holder in its construction, retirement or
21 decommissioning plan. (OAR 345-026-0100)

22 (10) The certificate holder and the Office of Energy shall exchange copies of all correspondence
23 or summaries of correspondence related to compliance with statutes, rules and local
24 ordinances on which the Council determined compliance, except for material withheld from
25 public disclosure under state or federal law or under Council rules. The certificate holder
26 may submit abstracts of reports in place of full reports; however, the certificate holder shall
27 provide full copies of abstracted reports and any summarized correspondence at the request
28 of the Office of Energy. (OAR 345-026-0105)

29 **2. Conditions That Must Be Met Before Construction Begins**

30 (11) Except as necessary for the initial survey or as otherwise allowed for transmission lines or
31 pipelines under this section, the certificate holder shall not begin construction, as defined in
32 OAR 345-001-0010, or create a clearing on any part of the site until the certificate holder
33 has construction rights on all parts of the site. For the purpose of this rule, "construction
34 rights" means the legal right to engage in construction activities. For transmission lines or
35 pipelines, if the certificate holder does not have construction rights on all parts of the site,
36 the certificate holder may nevertheless begin construction, as defined in OAR
37 345-001-0010, or create a clearing on a part of the site if:

38 (a) The certificate holder has construction rights on that part of the site; and

39 (b) The certificate holder would construct and operate part of the facility on that part of
40 the site even if a change in the planned route of the transmission line or pipeline occurs
41 during the certificate holder's negotiations to acquire construction rights on another part of
42 the site.

43 (OAR 345-027-0020(5))

44 (12) Following receipt of the site certificate, the certificate holder shall implement a plan that
45 verifies compliance with all site certificate terms and conditions and applicable statutes and
46 rules. As a part of the compliance plan, to verify compliance with the requirement to begin

1 construction by the date specified in the site certificate, the certificate holder shall report
2 promptly to the Office of Energy when construction begins. Construction is defined in OAR
3 345-001-0010. In reporting the beginning of construction, the certificate holder shall
4 describe all work on the site performed before beginning construction, including work
5 performed before the Council issued the site certificate, and shall state the cost of that work.
6 For the purpose of this exhibit, "work on the site" means any work within a site or corridor,
7 other than surveying, exploration or other activities to define or characterize the site or
8 corridor. The certificate holder shall document the compliance plan and maintain it for
9 inspection by the Office of Energy or the Council. (OAR 345-026-0048)

10 (13) Except as provided in OAR 345-027-0023(6), before beginning construction, the certificate
11 holder shall submit to the Office of Energy a legal description of the site. The Office shall
12 append the legal description to the site certificate. (OAR 345-027-0020(2))
13 See Condition (84).

14 (14) If the Council requires mitigation based on an affirmative finding under any standards of
15 Division 22 or Division 24 of this chapter, the certificate holder shall consult with affected
16 state agencies and local governments designated by the Council and shall develop specific
17 mitigation plans consistent with Council findings under the relevant standards. The
18 certificate holder must submit the mitigation plans to the Office and receive Office approval
19 before beginning construction or, as appropriate, operation of the facility. (OAR 345-027-
20 0020(6))

21 (15) Before beginning construction of the facility, the certificate holder shall submit to the State
22 of Oregon, through the Council, a bond or comparable security, satisfactory to the Council,
23 in an amount specified in the site certificate. The Council shall specify an amount adequate
24 to restore the site to a useful, non-hazardous condition if the certificate holder either begins
25 but does not complete construction of the facility or permanently closes the facility before
26 establishing the financial mechanism or instrument described in section OAR 345-027-
27 0020(9). The certificate holder shall maintain the bond or comparable security in effect
28 until the certificate holder has established that financial mechanism or instrument. (OAR
29 345-027-0020(8))
30 See Condition (43).

31 **3. Conditions That Apply During Construction**

32 (16) The certificate holder shall design, engineer and construct the facility to avoid dangers to
33 human safety presented by seismic hazards affecting the site that are expected to result from
34 all maximum probable seismic events. As used in this rule "seismic hazard" includes
35 ground shaking, landslide, liquefaction, lateral spreading, tsunami inundation, fault
36 displacement and subsidence. (OAR 345-027-0020(12))

37 (17) The certificate holder shall notify the Office of Energy, the State Building Codes Division
38 and the Department of Geology and Mineral Industries promptly if site investigations or
39 trenching reveal that conditions in the foundation rocks differ significantly from those
40 described in the application for a site certificate. After the Office receives the notice, the
41 Council may require the certificate holder to consult with the Department of Geology and
42 Mineral Industries and the Building Codes Division and to propose mitigation actions.
43 (OAR 345-027-0020(13))

44 (18) The certificate holder shall notify the Office, the State Building Codes Division and the
45 Department of Geology and Mineral Industries promptly if shear zones, artesian aquifers,

1 deformations or clastic dikes are found at or in the vicinity of the site. (OAR 345-027-
2 0020(14))

3 **4. Conditions That Must Be Met Before Operation Begins**

4 (19) Before beginning operation of the facility, the certificate holder shall establish a financial
5 mechanism or instrument, satisfactory to the Council, assuring the availability of adequate
6 funds throughout the life of the facility to retire the facility and restore the site to a useful,
7 non-hazardous condition as described in OAR 345-022-0130. The certificate holder shall
8 retire the facility according to an approved final retirement plan, as described in OAR 345-
9 027-0110. (OAR 345-027-0020(9))

10 See Condition (80).

11 (20) Upon completion of construction, the certificate holder shall restore vegetation to the extent
12 practicable and shall landscape portions of the site disturbed by construction in a manner
13 compatible with the surroundings and proposed use. Upon completion of construction, the
14 certificate holder shall dispose of all temporary structures not required for facility operation
15 and all timber, brush, refuse and flammable or combustible material resulting from clearing
16 of land and construction of the facility. (OAR 345-027-0020(11))

17 (21) If the proposed energy facility is a pipeline or a transmission line or has, as a related or
18 supporting facility, a pipeline or transmission line, the Council shall specify an approved
19 corridor in the site certificate and shall allow the certificate holder to construct the pipeline
20 or transmission line anywhere within the corridor, subject to the conditions of the site
21 certificate. If the applicant has analyzed more than one corridor in its application for a site
22 certificate, the Council may, subject to the Council's standards, approve more than one
23 corridor. Before beginning operation of the facility, the certificate holder shall submit to the
24 Office a legal description of the permanent right-of-way where the applicant has built the
25 pipeline or transmission line within an approved corridor. The Office shall append the legal
26 description to the site certificate. The site of the pipeline or transmission line subject to the
27 site certificate is the area within the permanent right-of-way. (OAR 345-027-0023(6))

28 **5. Conditions That Must Be Met During Operation**

29 (22) For the related or supporting transmission lines, the certificate holder shall restore the
30 reception of radio and television at residences and commercial establishments in the
31 primary reception area to the level present prior to operations of the transmission line, at no
32 cost to residents experiencing interference resulting from the transmission line. (OAR 345-
33 027-0023(4))

34 (23) The certificate holder shall notify the Office of Energy within 72 hours of any occurrence
35 involving the facility if:

36 (a) There is an attempt by anyone to interfere with its safe operation;

37 (b) A natural event such as an earthquake, flood, tsunami or tornado, or a human-caused
38 event such as a fire or explosion affects or threatens to affect the public health and safety or
39 the environment; or

40 (c) There is any fatal injury at the facility.

41 (OAR 345-026-0170)

42 **V. SPECIFIC FACILITY CONDITIONS FOR STATELINE 1**

43 The conditions listed in this section include conditions based on representations in the site
44 certificate application and supporting record. The Council deems these representations to be

1 binding commitments made by the applicant. These conditions are required under OAR 345-027-
2 0020(10). These conditions apply to Stateline 1. [Amendment #1]

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

6 Citation to the sources of, or basis for, the conditions are shown in parentheses. Conditions are
7 numbered continuously throughout sections IV and V of this site certificate.

8 **1. General Conditions**

9 (24) The certificate holder shall begin construction of the facility within one year after the
10 effective date of the site certificate. The certificate holder shall complete construction of the
11 facility on or before two years from the effective date of the site certificate. Under OAR
12 345-015-0085(9), a site certificate is effective upon execution by the Council Chair and the
13 applicant. Completion of construction occurs upon the date commercial operation of the
14 facility begins. The Council may grant an extension of the construction beginning or
15 completion deadlines in accordance with OAR 345-027-0030 or any successor rule in effect
16 at the time the request for extension is submitted.

17 See condition (3).

18 (25) Within 72 hours of discovery of conditions or circumstances that may violate the terms or
19 conditions of the site certificate, the certificate holder shall report the conditions or
20 circumstances to the Office of Energy. (OAR 345-027-0020(3))

21 (26) Notwithstanding OAR 345-027-0050(2), an amendment of the site certificate is required if
22 the proposed change would increase the electrical generation capacity of the facility and
23 would increase the number of wind turbines or the dimensions of existing wind turbines.
24 (OAR 345-027-0020(3))

25 (27) The certificate holder shall restore the site to a useful, nonhazardous condition if the
26 certificate holder either begins but does not complete construction of the facility or
27 permanently closes the facility after construction is complete. (OAR 345-027-0020(3))

28 (28) The certificate holder shall report promptly to the Office of Energy any change in its
29 corporate relationship with FPL Energy LLC. The certificate holder shall report promptly to
30 the Office of Energy any change in its access to the resources, expertise and personnel of
31 FPL Energy LLC. (App A-3, D-2, OAR 345-022-0010)

32 (29) The certificate holder shall inspect and maintain all roads, pads and trenched areas to
33 minimize erosion. (App B-11)

34 (30) The certificate holder shall carry out weed control and reseedling as necessary for the life of
35 the facility, in consultation with the weed control board of Umatilla County. (App B-11)

36 (31) The certificate holder shall not store fuel or chemicals in Oregon. (App B-12)

37 (32) The certificate holder shall use hazardous materials in a manner that is protective of human
38 health and the environment and shall comply with all applicable local, state, and federal
39 environmental laws and regulations. The certificate holder shall make sure that accidental
40 releases of hazardous materials will be prevented or minimized through the proper
41 containment of these substances during transportation and use on the site. The certificate
42 holder shall make sure that any oily waste, rags or dirty or hazardous solid waste will be
43 collected in sealable drums and removed for recycling or disposal by a licensed contractor.
44 The certificate holder shall have spill kits containing items such as absorbent pads on
45 equipment and in storage facilities to respond to accidental spills. If an accidental hazardous
46 materials spill or release occurs, the certificate holder shall clean up the spill or release and

1 shall treat or dispose of contaminated soil or other materials according to applicable
2 regulations. (App G-2, V-3)

3 (33) The certificate holder shall provide to the Office of Energy a copy of the contract with the
4 Milton-Freewater Rural Fire Department for fire protection services during construction
5 and operation of the facility before beginning construction. (App U-25)

6 (34) During construction and operation of the facility, the certificate holder shall have water-
7 carrying trailers (“water buffaloes”) at appropriate locations around the facility. The
8 certificate holder shall bring a water buffalo to any job site where there is a substantial risk
9 of fire. The certificate holder shall coordinate with the fire chiefs of the Helix and Milton-
10 Freewater Rural Fire Departments as to the number, capacity and location of the water
11 buffaloes. The certificate holder shall make sure that each water buffalo has a minimum
12 capacity of 350 gallons with sufficient pump and hose equipment, as approved by the local
13 fire chiefs. The certificate holder shall have service trucks and pickup trucks capable of
14 towing water buffaloes available in sufficient numbers at all times during construction and
15 operation of the facility. (App B-12)

16 (35) The certificate holder shall take steps to reduce the risk of accidental injury during
17 construction and operations would be minimized by (App U-25, 26):

18 (a) Maintaining fencing and access gates around dangerous equipment or portions of the
19 site as feasible

20 (b) Posting warning signs near high-voltage equipment

21 (c) Requiring construction contractors to provide specific job-related training to
22 employees, including cardiopulmonary resuscitation, first aid, tower climbing, rescue
23 techniques and safety equipment inspection

24 (d) Requiring each worker to be familiar with site safety

25 (e) Assigning safety officers to monitor construction activities and methods during each
26 work shift

27 (f) Ensuring that workers on each shift are certified in first aid

28 (g) Ensuring a well-stocked first-aid supply kit is accessible on-site at all times and that
29 each worker knows its location

30 (h) Conducting periodic safety meetings for construction and maintenance staff

31 (36) The certificate holder shall notify the Office of Energy and the Umatilla County Planning
32 Department of any accidents including mechanical failures on the site associated with the
33 operation of the wind power facility that may result in public health and safety concerns.
34 (ORS 469.310)

35 (37) To reduce the visual impact of the facility, the certificate holder shall:

36 (a) Design, construct and operate a facility consisting of:

37 (i) Stateline 1: Not more than 127 Vestas V47-660-kilowatt (kW) wind turbines (App
38 B-2, Table B-3)

39 (ii) Stateline 2: 60 Vestas V47-660-kW wind turbines [Amendment #1]

40 (b) Group the turbines in strings of 4 to 37 turbines, each spaced approximately 250 feet
41 from the next (Table B-3, App B-11) [Amendment #1]

42 (c) Construct each turbine to be approximately 165 feet tall at the turbine hub and with a
43 total height of approximately 242 feet with the nacelle and blades mounted (App B-5)

44 (d) Mount nacelles on smooth, hollow steel towers, approximately 14 feet in diameter at
45 the base (App B-5)

46 (e) Paint all towers uniformly in a neutral light gray color (App B-5)

1 (f) Not allow any advertising to be used on any part of the facility or on any signs posted
2 at the facility, except that the turbine manufacturer's logo may appear on turbine nacelles
3 (App BB-2)

4 (g) Use only the minimum lighting on its turbine strings required by the Federal Aviation
5 Administration, except that the satellite operations and maintenance building may have a
6 small amount of low-impact exterior lighting for security purposes (App BB-2)

7 (h) Use only those signs required for facility safety or required by law (App BB-2)
8 (38) To restrict public access to turbine towers, the certificate holder shall install locked access
9 doors accessible only to authorized project staff. (App BB-3)

10 (39) If any state-listed threatened, endangered or candidate plant species are found during the
11 pre-construction surveys described in condition (55), the certificate holder shall use
12 appropriate measures to protect the species and mitigate for impacts from construction,
13 operation and retirement of the facility.
14 See condition (55).

15 (40) In constructing and operating the facility, the certificate holder shall make reasonable
16 efforts not to disturb the farming and ranching activities on adjacent lands. (App K-6)

17 (41) If the certificate holder elects to use a bond to meet the requirements of Conditions (43),
18 (80) or (102), the certificate holder shall assure that the surety is obligated to comply with
19 the requirements of applicable statutes, Council rules and this site certificate when the
20 surety exercises any legal or contractual right it may have to assume construction, operation
21 or retirement of the energy facility. The certificate holder shall also assure that the surety is
22 obligated to notify the Council that it is exercising such rights and to obtain any Council
23 approvals required by applicable statutes, Council rules and this site certificate before the
24 surety commences any activity to complete construction, operate or retire the energy
25 facility. [Amendment #1]
26 See Condition (2).

27 **2. Conditions That Must Be Met Before Construction Begins**

28 (42) The certificate holder shall notify the Office of Energy in advance of any initial road
29 improvement work that does not meet the definition of "construction" in OAR 345-001-
30 0010(10) or ORS 469.300(6) and shall provide to the Office of Energy plans of the work
31 and evidence that its value is less than \$250,000. (App B-21)

32 (43) The certificate holder shall submit to the State of Oregon through the Council a bond or
33 letter of credit in the amount of \$1,459,000 (in 2001 dollars) naming the State of Oregon,
34 acting by and through the Council, as beneficiary or payee.

35 (a) The calculation of 2001 dollars shall be made using the U.S. Gross Domestic Product
36 Implicit Price Deflator as published by the U. S. Department of Commerce, Bureau of
37 Economic Analysis, or any successor agency (the "Index"). The amount of the bond or
38 letter of credit account shall increase annually by the percentage increase in the Index and
39 shall be pro-rated within the year to the date of retirement. If at any time the Index is no
40 longer published, the Council shall select a comparable calculation of 2001 dollars.

41 (b) The certificate holder shall use a form of bond or letter of credit approved by the
42 Council.

43 (c) The certificate holder shall use an issuer of the bond or letter of credit approved by the
44 Council.

45 (d) The bond or letter of credit shall not be subject to revocation or reduction before the
46 certificate holder's satisfaction of Condition (19).

1 (e) The certificate holder may satisfy Sections IV.2(15) and V.2(43) of this site certificate
2 by delivering to the Council a facsimile of the duly issued letter of credit along with a
3 certification from the issuing bank. The bank's certification shall state that the original of
4 the letter of credit has been deposited with a reputable mail carrier for delivery to the
5 Council and shall provide the mail carrier's tracking number for the letter of credit. To
6 maintain the certificate holder's compliance with Sections IV.2(15) and V.2(43) of this site
7 certificate, the original of the letter of credit must be received by the Council within five
8 business days after the facsimile transmission. The parties have agreed to this condition in
9 light of unique circumstances affecting air travel and mail delivery and it is not intended by
10 the Council to have any precedential effect.

11 See Conditions (15) and (41).

- 12 (44) The certificate holder shall locate roads to minimize disturbance and maximize
13 transportation efficiency and to avoid sensitive resources and unsuitable topography. The
14 certificate holder shall use existing county roads and private farm roads to the maximum
15 extent feasible. The certificate holder shall coordinate farm road improvements with
16 landowners to minimize crop impacts and to assure that the final road provides useful
17 access, where possible, to the landowners' fields. (App B-6)
- 18 (45) The certificate holder shall videotape all Umatilla County roads used as access to the
19 facility and shall require construction contractors to enter into a written agreement with
20 Umatilla County stating that all roads used by the contractor will be restored to as good or
21 better condition than they were before construction. (App U-24)
- 22 (46) The certificate holder shall notify the Office of Energy of the identity and qualifications of
23 major construction contractors for the facility. The certificate holder shall select major
24 construction contractors based on a proven record of environmental compliance and
25 stewardship, a clean record in terms of other regulatory obligations and other appropriate
26 factors. (App D-3, 4)
- 27 (47) The certificate holder shall contractually require all construction contractors and
28 subcontractors involved in the construction of the facility to comply with all applicable
29 laws and regulations and with the terms and conditions of the site certificate. Such
30 contractual provisions shall not operate to relieve the certificate holder of responsibility
31 under the site certificate.
32 See condition (2).
- 33 (48) The certificate holder shall require that all on-site construction contractors prepare a site
34 health and safety plan before beginning construction activities. The certificate holder shall
35 ensure that the plan informs employees and others onsite what to do in case of emergencies
36 and includes the locations of fire extinguishers and nearby hospitals, important telephone
37 numbers and first aid techniques. (App U-25)
- 38 (49) The certificate holder shall design the facility in accordance with seismic design provisions
39 given in the Oregon Building Code. The certificate holder shall identify localized areas of
40 S_C and S_D soil types and assure that any structures to be built in those areas are designed
41 according to the code. (App H-7, 13)
- 42 (50) The certificate holder shall provide the Office with design specifications showing the
43 locations of turbines and type of foundations to be employed and demonstrating that the
44 following conditions have been satisfied (OAR 345-022-0020):
45 (a) If a turbine is located within 50 feet of a slope steeper than 30°, the stability of the
46 slope has been reviewed by the foundation designer to confirm that either (i) the slope has a

1 safety factor of at least 1.1 during the maximum probable seismic event or (ii) the safety
2 factor is less than 1.1, but ground displacements will not adversely affect the stability of the
3 wind turbine. Slopes shall be evaluated in the field for each proposed turbine location.

4 (b) The foundation designer's review of slope displacement during a seismic event has
5 been made using a pseudo-static horizontal coefficient of 0.13g and, if the safety factor is
6 less than 1.1, the foundation designer has shown that (i) the movement will not intersect the
7 turbine, (ii) the movement will intersect the turbine but will not affect its stability, or (iii)
8 additional stabilization measures, such as anchor tie-downs or ground support systems, will
9 be employed to maintain stability.

10 (c) If a turbine is located where power generating or other requirements preclude
11 sufficient setback distances to avoid intersection of a moving slope with the turbine
12 foundation, the foundation designer has demonstrated that the turbine foundation will
13 withstand loads from the moving soil or has been equipped with ground support systems
14 that will withstand loads from moving soil.

15 (d) The foundation designer has confirmed that the turbines and conduit can tolerate
16 some movement without instability or breakage if a mapped fault were to rupture.

17 (51) In modifying slope angles for roads or other facilities, the certificate holder shall assure that
18 the foundation designer has achieved a factor of safety of 1.5 or greater for permanent
19 structures and a factor of safety of 1.3 or greater for temporary structures. (OAR 345-022-
20 0020)

21 (52) The certificate holder shall design the facility to avoid or minimize adverse impacts to
22 wildlife by measures including but not limited to the following (App P-41):

23 (a) Siting the turbines on ridges outside of migration flyways

24 (b) Siting turbines to avoid placing turbines in saddle locations along ridges (where bird
25 use is typically higher)

26 (c) Avoiding the use of overhead collector lines

27 (53) The certificate holder shall survey the status of known Swainson's and ferruginous hawk
28 nests within the vicinity of proposed construction before the projected date for construction
29 to begin. If active nests are found, and construction is scheduled to begin before the end of
30 the sensitive nesting and breeding season (mid-April to mid-August), the certificate holder
31 shall develop a no-construction buffer in consultation with ODFW and shall not engage in
32 construction activities within the buffer until the sensitive season has ended. If construction
33 continues into the sensitive nesting and breeding season for the following year, the
34 certificate holder shall not engage in construction activities within the buffer until the
35 sensitive season has ended. (App P-42)

36 (54) The certificate holder shall conduct pre-construction nest surveys for burrowing owls,
37 grasshopper sparrows and other ground-nesting birds (March to July). The certificate holder
38 shall leave a no-construction buffer, developed in consultation with ODFW, around any
39 active nests during the sensitive period. (App P-42)

40 (55) The certificate holder shall conduct pre-construction surveys for state-listed threatened,
41 endangered or candidate plant species in all areas not included in earlier botanical surveys
42 of the analysis area. If any listed plants are found, FPL will notify the Office of Energy and
43 consult with the Oregon Department of Agriculture regarding appropriate measures to
44 protect the species and mitigate for impacts from construction, operation and retirement of
45 the facility. (App Q-7)

1 (56) The certificate holder shall conduct pre-construction surveys for the presence of
2 Washington ground squirrels in the facility area and shall identify locations of active
3 burrows. If potentially active burrows are found, the certificate holder shall develop an
4 appropriate no-construction buffer in consultation with ODFW. If active burrows are
5 discovered that may be within proposed ground disturbing activities, the certificate holder
6 shall develop an appropriate mitigation plan in consultation with ODFW. (App Q-9, 12)

7 **3. Conditions That Apply During Construction**

8 (57) The certificate holder shall report to the Council any change of major construction
9 contractors.

10 See condition (8).

11 (58) The certificate holder shall take steps to prevent fires during construction including but not
12 limited to (App U-25):

13 (a) Establishing roads before accessing the site to allow vehicles to stay away from grass

14 (b) Using diesel vehicles whenever possible to prevent potential ignition by catalytic
15 converters

16 (c) Avoiding idling vehicles in grassy areas

17 (d) Keeping cutting torches and similar equipment away from grass

18 (e) Making sure that all construction personnel receive appropriate fire-safety instruction
19 from qualified local fire departments or qualified fire-fighting trainers on the job site

20 (f) Making sure that fire-fighting equipment is available at all active parts of the job site.

21 (59) The certificate holder shall require the foundation designer to inspect excavations during
22 construction of foundations for the turbines and other facilities to confirm that geologic
23 conditions are appropriate for supporting the turbines during gravity, seismic and wind
24 loading. (OAR 345-022-0020)

25 (60) The certificate holder shall conduct all construction work in compliance with an Erosion
26 and Sediment Control Plan (ESCP) satisfactory to the Oregon Department of
27 Environmental Quality and as required under the facility's National Pollutant Discharge
28 Elimination System (NPDES) Construction Stormwater Permit. The certificate holder shall
29 include in the ESCP any procedures necessary to meet local erosion and sediment control
30 requirements or stormwater management requirements. (App B-7, 13, E-3, P-41)

31 (61) The certificate holder shall mitigate potential adverse impacts to soils from erosion and
32 compaction by measures including but not limited to the following (App H-17, I-4, 5):

33 (a) Maintaining vegetative buffer strips between the areas impacted by construction
34 activities and any receiving waters

35 (b) Installing sediment fence/straw bale barriers at locations shown on the plans

36 (c) Wherever feasible, constructing roadways so that surface drainage continues along
37 natural drainage patterns with minimal diversions through ditches and culverts

38 (d) Working with the Umatilla County Public Works Department and the local Natural
39 Resources Conservation Service office to design water bars and other management
40 practices to slow the flow of water on newly constructed repaired roads

41 (e) Straw mulching and discing at locations adjacent to the road that have been impacted

42 (f) Providing temporary sediment traps downstream of intermittent stream crossings

43 (g) Providing sediment type mats downstream of perennial stream crossings

44 (h) Planting designated seed mixes at impacted areas adjacent to the roads

45 (i) Installing sediment fencing along the downslope side of construction equipment
46 staging areas

1 (j) Seeding all areas that are impacted by construction and reseeded as necessary to
2 establish a healthy cover crop

3 (k) Leaving sediment fencing, check dams and other erosion control measures in place
4 until the impacted areas are well vegetated and the risk of erosion has been eliminated

5 (l) Limiting truck and heavy equipment traffic, to the extent possible, to improved road
6 surfaces, and thereby limiting soil compaction and disturbances

7 (m) Scarifying and reseeded compacted areas after construction is completed

8 (n) Using appropriate erosion control methods to limit soil loss due to water and wind
9 action

10 (o) Covering roads and turbine pads with gravel immediately following exposures,
11 thereby limiting the time for wind or water erosion (App I-2, 3)

12 (p) Using water for dust suppression during construction (App O-1)

13 (62) The certificate holder shall place underground electrical and communications cables at a
14 minimum depth of three feet below grade in trenches along the length of each turbine string
15 corridor and in some cases in trenches from the end of one turbine string to the end of an
16 adjacent turbine string. The certificate holder shall excavate trenches and segregate the
17 topsoil from subsoil. After installing the electrical or communications cables and within
18 two weeks of trenching, the certificate holder shall backfill the trenches and replace topsoil
19 on top. The certificate holder shall reseed the area with native grasses or other plants
20 appropriate to the location. (App B-8, I-2, W-2)

21 (63) The certificate holder shall mitigate possible impacts to wildlife by measures including but
22 not limited to the following (App P-42 through 45, Q-10, 11):

23 (a) Preparing maps to show sensitive areas that are off-limits during the construction
24 phase, distributing the maps to construction staff and having a biologist flag sensitive areas
25 as needed

26 (b) Minimizing road construction and vehicle use where possible

27 (c) Posting speed limit signs throughout the construction zone

28 (d) Instructing construction personnel (including all construction contractors and their
29 personnel) on sensitive wildlife of the area and on required precautions to avoid injuring or
30 destroying wildlife

31 (e) Instructing construction personnel (including all construction contractors and their
32 personnel) to watch out for wildlife while driving through the project area, to maintain
33 reasonable driving speeds so as not to harass or accidentally strike wildlife and to be
34 particularly cautious and drive at slower speeds in a period from one hour before sunset to
35 one hour after sunrise when some wildlife species are the most active

36 (f) Requiring all construction personnel to report any injured or dead wildlife detected at
37 the facility site

38 (g) Requiring all construction personnel to respect all staked wildlife areas and associated
39 no-construction buffer areas

40 (64) To avoid creating habitat for raptor prey near turbine towers, the certificate holder shall
41 spread gravel on all above ground portions of the turbine pads to reduce the potential for
42 weed infestation. (App BB-5)

43 (65) The certificate holder shall mitigate possible impacts to fish and wildlife habitat by
44 measures including but not limited to the following (App P-42 through 45, Q-10, 11):

45 (a) Avoiding vegetation removal wherever possible

46 (b) Limiting construction activities to within public road right-of-ways where possible

- 1 (c) Using best management practices to prevent erosion of soil into stream channels
- 2 (d) Controlling invasive, weedy plant species during maintenance of project facilities
- 3 (e) Restoring temporarily disturbed sites to pre-construction condition or better with
- 4 native seed mixes as described for temporarily disturbed habitats in the Revegetation Plan
- 5 included in the final order as Attachment B and as revised from time to time. [Amendment #1]
- 6 (f) Developing re-vegetation plant mixes and habitat enhancement locations in
- 7 consultation with ODFW and the Umatilla County weed control board
- 8 (g) Monitoring re-vegetated areas to ensure successful establishment of new vegetation
- 9 (h) Monitoring turbine strings, roads and other disturbed areas regularly to prevent the
- 10 spread of noxious weeds
- 11 (i) Developing measures to reduce the potential spread of noxious weeds in consultation
- 12 with the weed control board of Umatilla County.

13 (66) To mitigate for the permanent elimination of one-half acre of Category 2 habitat, the
14 certificate holder shall control weeds and enhance habitat of one acre of weed-infested
15 upland habitat with native plants. The certificate holder shall carry out enhancement
16 activities as described for habitat improvement areas in the Revegetation Plan included in
17 the final order as Attachment B and as revised from time to time. The certificate holder
18 shall acquire the legal right to create and maintain the enhancement area for the life of the
19 facility by means of an outright purchase, conservation easement or similar conveyance and
20 shall provide a copy of the documentation to the Office of Energy. The certificate holder
21 shall determine the location of this habitat enhancement area in consultation with ODFW
22 and landowners. (App P-44) [Amendment #1]

23 (67) To mitigate for the permanent elimination of approximately 48 acres of Category 3 habitat,
24 the certificate holder shall control weeds and enhance habitat on an equal area of weed-
25 infested land in the project vicinity. The certificate holder shall carry out enhancement
26 activities as described for habitat improvement areas in the Revegetation Plan included in
27 the final order as Attachment B and as revised from time to time. The certificate holder
28 shall acquire the legal right to create and maintain the enhancement area for the life of the
29 facility by means of an outright purchase, conservation easement or similar conveyance and
30 shall provide a copy of the documentation to the Office of Energy. The certificate holder
31 shall determine the location of this habitat enhancement area in consultation with ODFW
32 and landowners. (App P-44) [Amendment #1]

33 (68) To minimize impacts to temporarily disturbed Category 6 habitat areas, the certificate
34 holder shall use measures including but not limited to the following (App P-45):

- 35 (a) Replacing agricultural topsoil to its pre-construction condition
- 36 (b) Using best management practices to prevent loss of topsoil during construction
- 37 (c) Reseeding native habitats with a native seed mix that includes at least some seed
- 38 collected from the area as described for temporarily disturbed habitats in the Revegetation
- 39 Plan included in the final order as Attachment B and as revised from time to time.
- 40 [Amendment #1]

41 (d) Controlling noxious weeds in areas disturbed by construction activities

42 (69) The certificate holder shall not place any part of the facility within any Washington ground
43 squirrel colony or on potential Washington ground squirrel burrows. The certificate holder
44 shall limit permanent road widening and other improvements and shall locate temporary
45 roads and laydown areas to minimize impacts to potential Washington ground squirrel
46 habitat (App Q-8, 10).

- 1 (70) To reduce potential injury or fatality of migratory birds, the certificate holder shall (App Q-
2 10):
- 3 (a) Locate turbines away from saddles in long ridges
 - 4 (b) Locate turbines on the top or slightly downwind side of distinct ridges and set back
5 from the upwind (prevailing) side
 - 6 (c) Use monopole design for all turbine and meteorological towers
- 7 (71) The certificate holder shall implement a waste management plan during construction that
8 includes but is not limited to the following measures (App V-2):
- 9 (a) Collecting steel scrap and transporting it to a recycling facility
 - 10 (b) Recycling wood waste to the greatest extent feasible, depending on size and quantity
11 of scrap or leftover materials
 - 12 (c) Using concrete waste as fill on-site or at another site or, if no reuse option is available,
13 transporting it to a local landfill
 - 14 (d) Recycling packaging wastes (such as paper and cardboard)
 - 15 (e) Collecting non-recyclable waste and transporting it to a local landfill
- 16 (72) The certificate holder shall require that disposal of waste concrete on-site is conducted in
17 accordance with OAR 340-093-0080, other applicable regulations and this condition. The
18 construction contractor may bury waste concrete on-site with the permission of the
19 landowner in the following manner: by placing the waste concrete in an excavated hole,
20 covering it with at least three feet of topsoil and grading the area to match existing contours
21 so that all buried concrete is at least three feet below grade. (App V-3, 4).
- 22 (73) The certificate holder shall provide portable toilets for onsite sewage handling during
23 construction and make sure that they are pumped and cleaned regularly by a licensed
24 pumper who is qualified to pump and clean portable toilet facilities. The certificate holder
25 shall minimize the generation of wastes from construction through detailed estimating of
26 materials needs and through efficient construction practices. The certificate holder shall
27 recycle any wastes generated during construction as much as feasible and shall collect any
28 non-recyclable wastes and transport such wastes to a local landfill. (App B-13, G-3, V-2)
- 29 (74) The certificate holder shall have a full-time on-site assistant construction manager, qualified
30 in environmental compliance and familiar with all site certificate conditions, to observe
31 contractor waste management practices and to assure compliance with applicable
32 regulations and construction site policy. (App V-4)
- 33 (75) The certificate holder shall post no-entry barriers by staking or flagging to ensure that
34 construction workers stay away from the vicinity of the cultural sites. The certificate holder
35 shall locate barriers to create a buffer with a minimum width of 50 feet between the cultural
36 sites and construction activities. The certificate holder shall have a qualified cultural
37 resource expert, chosen by the Confederated Tribes of the Umatilla Indian Reservation,
38 present during construction in the immediate vicinity of the sites to ensure that construction
39 crews respect the buffers. (App S-4)
- 40 (76) If previously unidentified cultural resources are encountered during construction, the
41 certificate holder shall halt earth-disturbing activities in the immediate vicinity of the find,
42 in accordance with Oregon state law (ORS 97.745 and 358.920), and shall notify the Office
43 of Energy, the Oregon State Historic Preservation Officer (SHPO) and the Confederated
44 Tribes of the Umatilla Indian Reservation (CTUIR). The certificate holder shall have a
45 qualified archaeologist evaluate the discovery and recommend subsequent courses of action
46 in consultation with the CTUIR and the SHPO. (App S-5, 6)

- 1 (77) The certificate holder shall include traffic control procedures in contract specifications for
2 construction of the facility. The certificate holder shall require flaggers to be at appropriate
3 locations at appropriate times during construction to direct traffic and to ensure minimal
4 conflicts between harvest and construction vehicles. (App U-24)
- 5 (78) The certificate holder shall confine the noisiest construction activities to the daylight hours.
6 (App X-8)
- 7 (79) The certificate holder shall construct the cable crossing of Vansycle Canyon at a time when
8 the stream is dry. The certificate holder shall remove no more than approximately 7.5 cubic
9 yards of material from the streambed crossing and shall replace a like amount of fill
10 material after the cable has been laid, restoring the area similar to the original contours of
11 the streambed. (Linehan, July 23 letter, 3)

12 **4. Conditions That Must Be Met Before Operation Begins**

- 13 (80) The certificate holder shall submit to the State of Oregon through the Council a bond or
14 letter of credit in the amount of \$1,161,120 (in 2001 dollars) naming the State of Oregon,
15 acting by and through the Council, as beneficiary or payee (the “retirement fund”).
- 16 (a) The calculation of 2001 dollars shall be made using the Index described in Condition
17 (43).
- 18 (b) The certificate holder shall use a form of retirement fund approved by the Council.
- 19 (c) The certificate holder shall use an issuer of the bond or letter of credit approved by the
20 Council.
- 21 (d) The retirement fund shall not be subject to revocation or reduction before retirement
22 of the energy facility.
- 23 (e) The certificate holder shall describe the status of the retirement fund in the annual
24 report submitted to the Council under Condition (8).
25 See Conditions (19) and (41).
- 26 (81) After construction is complete, the certificate holder shall restore the county roads to at
27 least their pre-project condition, to the satisfaction of the county public works department.
28 (App B-6, 9)
- 29 (82) The certificate holder shall grade and reseed laydown areas to wheat or native grasses as
30 necessary to restore those areas to their pre-construction condition (App B-10).
- 31 (83) For any materials disposed of as fill on site, the certificate holder shall conduct such
32 disposal with the approval of the landowner and in accordance with OAR 340-093-0080
33 and other applicable regulations. (App G-3, V-3)
- 34 (84) For the purposes of this site certificate, the term “legal description” means a description of
35 location by reference to a map and geographic information system (GIS) data that clearly
36 and specifically identifies the physical location of all parts of the facility, including but not
37 limited to turbine towers, meteorological towers, roads and underground collection cables.
38 Notwithstanding OAR 345-027-0020(2), for the purposes of this site certificate, wind
39 turbine tower locations are analogous to location of permanent rights-of-way for pipelines
40 or transmission lines as described in OAR 345-027-0023(6). The Council approves the
41 corridor described in the final order for construction of turbine strings. Before beginning
42 operation of the facility, the certificate holder shall submit to the Office of Energy a legal
43 description of the location where the certificate holder has built turbine towers and other
44 parts of the facility. Before beginning operation of any turbines that are added to the facility
45 by amendment of the site certificate, the certificate holder shall submit to the Office of
46 Energy a legal description of the location of any additional turbine towers and related or

1 supporting facilities allowed by the amendment. The site of the facility is the area identified
2 by the legal descriptions required by this condition. By means of the legal descriptions, the
3 certificate holder shall provide to the Office of Energy and the Umatilla County Planning
4 Department the actual location of each turbine and all connecting lines. (OAR 345-027-
5 0020(3)) [Amendment #1]
6 See Condition (13).

7 **5. Conditions That Must Be Met During Operation**

- 8 (85) The certificate holder shall prepare and maintain a site health and safety plan that informs
9 employees and others onsite what to do in case of emergencies and includes the locations of
10 fire extinguishers and nearby hospitals, important telephone numbers and first aid
11 techniques. (App U-25)
- 12 (86) The certificate holder shall recycle solid waste generated during operation of the facility as
13 much as feasible and shall collect non-recyclable waste and transport it to a local landfill.
14 (App V-2)
- 15 (87) The certificate holder shall provide portable toilets for use at the satellite O&M building
16 and shall make sure that they are pumped and cleaned regularly by a licensed pumper who
17 is qualified to pump and clean portable toilet facilities. The certificate holder must contact
18 the Oregon Department of Environmental Quality if the on-site septic system is to be used.
19 (App O-2)
- 20 (88) If the turbine blades need to be washed, the certificate holder shall use no more than 500
21 gallons of water per turbine, trucked to the site by a contractor and purchased from a source
22 with a valid water right. The certificate holder shall use high-pressure cold water only and
23 shall not use chemicals or additives in the wash water. (App O-2) [Amendment #1]
- 24 (89) If any new nesting or denning sites for wildlife species of concern are located, the
25 certificate holder shall prepare maps indicating off-limit areas. In addition, the certificate
26 holder shall minimize road construction and vehicle use where possible. (P-42)
- 27 (90) The certificate holder shall mitigate possible impacts to wildlife by measures including but
28 not limited to the following (App P-43, Q-10):
- 29 (a) Instructing all personnel on sensitive wildlife of the area and on required precautions
30 to avoid injuring or destroying wildlife
 - 31 (b) Instructing all personnel to watch out for wildlife while driving through the project
32 area, to maintain reasonable driving speeds so as not to harass or accidentally strike wildlife
33 and to be particularly cautious and drive at slower speeds in a period from one hour before
34 sunset to one hour after sunrise when some wildlife species are the most active
 - 35 (c) Requiring all personnel to report any injured or dead wildlife detected at the facility
36 site
- 37 (91) The certificate holder shall mitigate possible impacts to fish and wildlife habitat by
38 measures including but not limited to the following (App P-43, Q-10):
- 39 (a) Using best management practices to prevent erosion of soil into stream channels
 - 40 (b) Controlling invasive, weedy plant species during maintenance of project facilities
 - 41 (c) Monitoring re-vegetated areas to ensure successful establishment of new vegetation
- 42 (92) The certificate holder shall mitigate potential adverse impacts to soils from erosion by
43 measures including but not limited to the following (App I-3 through 5):
- 44 (a) Using drainage collection procedures to capture surface water that collects on, and
45 drains from, gravel surfaces or structures as a result of precipitation and routing the water to
46 drainage ditches lined with quarry stone or other similar materials

1 (b) Using sand bags, straw bales and silt fences as needed to reduce erosion from
2 precipitation during repair of underground cables or other soil-disturbing repairs

3 (c) If areas of erosion are observed during operation, implementing mitigation and
4 reclamation measures

5 (93) The certificate holder shall conduct wildlife monitoring as described in the Oregon Wildlife
6 Monitoring Plan, included in the final order as Attachment A and as revised from time to
7 time. Subject to approval by the Office of Energy as to professional qualifications, the
8 certificate holder shall hire qualified wildlife consultants to carry out the monitoring. (OAR
9 345-022-0060) [Amendment #1]

10 (94) If analysis of monitoring data indicates impacts to wildlife or wildlife habitat that the
11 certificate holder has not adequately addressed by mitigation and if these impacts result in a
12 loss of habitat quantity or quality, the certificate holder shall mitigate for the loss of habitat
13 quality by measures approved by the Oregon Office of Energy. (OAR 345-022-0060)

14 (95) The certificate holder shall inspect turbine blades on a regular basis for signs of wear or
15 potential failure. (App BB-1)

16 (96) The certificate holder shall make sure that all on-site employees receive annual fire
17 prevention and response training by a professional fire-safety training firm. The certificate
18 holder shall prohibit employees from smoking outside of company vehicles during dry
19 summer months and shall require employees to keep vehicles on roads and off dry
20 grassland during the dry months unless necessary for work purposes. The certificate holder
21 shall not engage in welding, cutting, grinding or other flame or spark-producing operations
22 near the turbines. The certificate holder shall equip each company vehicle on site with a fire
23 extinguisher, water spray can, shovel, Emergency Response procedures book and a two-
24 way radio for immediate communications with the O&M facility. The certificate holder
25 shall have staff in the local area on call at all times to respond in case of fire or other
26 emergency. The certificate holder shall supply all local fire departments with maps of and
27 gate keys to the facility. (App B-12)

28 **VI. SPECIFIC FACILITY CONDITIONS FOR STATELINE 2** [This section added by
29 Amendment #1]

30 The conditions listed in this section include conditions based on representations in the request for
31 Amendment #1 and supporting record. The Council deems these representations to be binding
32 commitments made by the applicant. These conditions are required under OAR 345-027-
33 0020(10). These conditions apply to Stateline 2. Conditions (98), (99), (100) and (103) also
34 apply to Stateline 1.

35 In addition to the conditions listed in this section, all conditions in sections IV and V also apply
36 to Stateline 2, except Conditions (11), (15), (19), (24), (27), (39), (42), (43), (53), (54), (55),
37 (56), (66) and (80).

38 **1. General Conditions**

39 (97) The certificate holder shall begin construction of Stateline 2 within six months after the
40 effective date of the First Amended Site Certificate. The certificate holder shall complete
41 construction of Stateline 2 before March 1, 2003. Under OAR 345-027-0070, an amended
42 site certificate is effective upon execution by the Council Chair and the applicant.
43 Completion of construction occurs upon the date commercial operation of the facility
44 begins. The Council may grant an extension of the construction beginning or completion

1 deadlines in accordance with OAR 345-027-0030 or any successor rule in effect at the time
2 the request for extension is submitted.

3 (98) The certificate holder shall retire the facility if the certificate holder permanently ceases
4 construction or operation of the facility. The certificate holder shall retire the facility
5 according to a final retirement plan approved by the Council, as described in OAR 345-
6 027-0110. The certificate holder shall pay the actual cost to restore the site to a useful, non-
7 hazardous condition at the time of retirement, notwithstanding the Council's approval in the
8 site certificate of an estimated amount required to restore the site.

9 (99) Before any transfer of ownership of the facility or ownership of the site certificate holder,
10 the certificate holder shall inform the Office of Energy of the proposed new owners. The
11 requirements of OAR 345-027-0100 apply to any transfer of ownership that requires a
12 transfer of the site certificate.

13 (100) If the Council finds that the certificate holder has permanently ceased construction or
14 operation of the facility without retiring the facility according to a final retirement plan
15 approved by the Council, as described in OAR 345-027-0110, the Council shall notify the
16 certificate holder and request that the certificate holder submit a proposed final retirement
17 plan to the Office within a reasonable time not to exceed 90 days. If the certificate holder
18 does not submit a proposed final retirement plan by the specified date, the Council may
19 direct the Office to prepare a proposed a final retirement plan for the Council's approval.
20 Upon the Council's approval of the final retirement plan, the Council may draw on the bond
21 or letter of credit described in section (8) to restore the site to a useful, non-hazardous
22 condition according to the final retirement plan, in addition to any penalties the Council
23 may impose under OAR Chapter 345, Division 29. If the amount of the bond or letter of
24 credit is insufficient to pay the actual cost of retirement, the certificate holder shall pay any
25 additional cost necessary to restore the site to a useful, non-hazardous condition. After
26 completion of site restoration, the Council shall issue an order to terminate the site
27 certificate if the Council finds that the facility has been retired according to the approved
28 final retirement plan.

29 **2. Conditions That Must Be Met Before Construction Begins**

30 (101) The certificate holder shall not engage in construction activities, including the movement
31 of heavy trucks and equipment, within a ¼ mile buffer around an identified ferruginous
32 hawk nest tree during the nesting season from (March 1 to August 15), except as provided
33 in this condition. The certificate holder shall use a protocol approved by the Oregon
34 Department of Fish and Wildlife (ODFW) to determine whether the nest is occupied. The
35 certificate holder may begin construction activities before August 15, 2002, if the nest is not
36 occupied. If the nest is occupied, the certificate holder shall use a protocol approved by
37 ODFW to determine when the young are fledged (independent of the core nest site). With
38 the approval of ODFW, the certificate holder may begin construction before August 15,
39 2002, if the young are fledged.

40 (102) In addition to the requirements of Condition (80), the certificate holder shall submit to the
41 State of Oregon through the Council a bond or letter of credit in the amount of \$899,200 (in
42 2002 dollars) naming the State of Oregon, acting by and through the Council, as beneficiary
43 or payee. In lieu of submitting a separate bond or letter of credit in the amount required
44 under this condition, the certificate holder may submit a bond or letter of credit that
45 includes the amount required under this condition and the amount required under Condition
46 (80).

1 (a) The calculation of 2002 dollars shall be made using the U.S. Gross Domestic Product
2 Implicit Price Deflator as published by the U. S. Department of Commerce, Bureau of
3 Economic Analysis, or any successor agency (the "Index"). The amount of the bond or
4 letter of credit account shall increase annually by the percentage increase in the Index and
5 shall be pro-rated within the year to the date of retirement. If at any time the Index is no
6 longer published, the Council shall select a comparable calculation of 2002 dollars.

7 (b) The certificate holder shall use a form of bond or letter of credit approved by the
8 Council.

9 (c) The certificate holder shall use an issuer of the bond or letter of credit approved by the
10 Council.

11 (d) The certificate holder shall describe the status of the bond or letter of credit in the
12 annual report submitted to the Council, as required by Condition (8).

13 (e) After restoration of the temporary laydown and staging areas, as required by
14 Conditions (20) and (68), the certificate holder may reduce the amount of the bond or letter
15 of credit required under this condition to \$559,920 (in 2002 dollars).

16 (f) The bond or letter of credit shall not be subject to revocation or reduction, except as
17 allowed by paragraph (e), before retirement of the Stateline 2 site.

18 **3. Conditions That Apply During Construction**

19 (103) To minimize the risk of fire, the certificate holder shall:

20 (a) Construct turbines, towers and pads of fire retardant materials

21 (b) Bury electrical cables

22 (c) Use enclosed, locked pad-mounted transformer structures

23 (d) Include built-in fire prevention measures in turbines

24 (e) Not store combustible materials at the Stateline site.

25 (104) To mitigate for the permanent elimination of approximately 1 acre of Category 3 and 4
26 habitat, the certificate holder shall enlarge the habitat enhancement area described in
27 Condition (67) by 1 acre (making a total area of 49 acres).

28 **4. Conditions That Must Be Met During Operation**

29 (105) The certificate holder shall enter into an agreement with the landowner of a property
30 identified as 84301 Stockman Road, Helix, Oregon, requiring that the structure remain
31 uninhabited during construction. The certificate holder shall continue the no-occupation
32 agreement during operation for the life of the Stateline 2 facility unless, based on noise
33 studies during operation, the certificate holder demonstrates to the satisfaction of the Office
34 of Energy that turbine noise measured at the property is within the range allowed for a
35 sensitive noise receptor under OAR 340-035-0035.

36 **VII. SUCCESSORS AND ASSIGNS**

37 To transfer this site certificate, or any portion thereof, or to assign or dispose of it in any other
38 manner, directly or indirectly, the certificate holder shall comply with OAR 345-027-0100.

39 **VIII. SEVERABILITY AND CONSTRUCTION**

40 If any provision of this agreement and certificate is declared by a court to be illegal or in conflict
41 with any law, the validity of the remaining terms and conditions shall not be affected, and the
42 rights and obligations of the parties shall be construed and enforced as if the agreement and
43 certificate did not contain the particular provision held to be invalid. In the event of a conflict
44 between the conditions contained in the site certificate and the Council's final order or the Final

1 Order on Amendment #1, the conditions contained in this site certificate shall control. [Amendment
2 #1]

3 **IX. GOVERNING LAW AND FORUM**

4 This site certificate shall be governed by the laws of the State of Oregon. Any litigation or
5 arbitration arising out of this agreement shall be conducted in an appropriate forum in Oregon.

1 **X. EXECUTION**

2 This site certificate may be executed in counterparts and will become effective upon signature by
3 the Chair of the Energy Facility Siting Council and the authorized representative of the
4 certificate holder. [Amendment #1]

5 **IN WITNESS WHEREOF**, this site certificate has been executed by the State of Oregon, acting
6 by and through its Energy Facility Siting Council, and by FPL Energy Vansycle LLC.

ENERGY FACILITY SITING COUNCIL

FPL ENERGY VANSYCLE LLC

By: _____
Karen H. Green, Chair

By: _____

Print: _____

Date: _____

Date: _____