

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

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

June 6, 2003

Oregon Energy Facility Siting Council

SECOND 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 on the Application”), issued on September 14, 2001, (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”) and (c) the Council’s Final Order in the Matter of the Request for Amendment #2 of the Site Certificate for the Stateline Wind Project (“Final Order on Amendment #2”). [Amendments #1 and #2]

In interpreting this site certificate, any ambiguity will be clarified by reference to the following, in order of priority: this Second Amended Site Certificate, the Final Order on Amendment #2, the Final Order on Amendment #1, the Final Order on the Application and the record of the proceedings that led to the Final Orders on the Application and Amendments #1 and #2. [Amendments #1 and #2]

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 Orders on the Application and Amendments #1 and #2. 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). [Amendments #1 and #2]

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

27 III. DESCRIPTIONS

28 1. The Facility

29 (a) Major Structures

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

- 31 • **Stateline 1:** No more than 127 Vestas V47-660-kilowatt (kW) wind turbines
32 authorized for construction, of which 126 were built, having a total a nominal electric
33 generating capacity of 83.2 megawatts (MW) (126 turbines, each with a capacity of
34 0.66 MW) as described further in the Final Order on the Application.
- 35 • **Stateline 2:** No more than 60 Vestas V47-660-kkW wind turbines with a total a
36 nominal electric generating capacity of 39.6 MW (60 turbines, each with a capacity of
37 0.66 MW) as described further in the Final Order on Amendment #1.
- 38 • **Stateline 3:** No more than 279 Vestas V47-660-kW wind turbines with a total
39 nominal electric generating capacity of 184.1 MW (279 turbines, each with a capacity
40 of 0.66 MW) as described further in the Final Order on Amendment #2.

1 Each wind turbine is connected to a 34.5-kilovolt (kV) collector system. The wind turbines are
2 grouped in “strings” of turbines, each turbine spaced approximately 250 feet from the next,
3 generally slightly downwind of the crest of ridges. Major facility structures are further as
4 described in the Final Orders on the Application and Amendments #1 and #2. [Amendments #1 and
5 #2]

6 (b) Related or Supporting Facilities

7 The facility includes the following related or supporting facilities:

- 8 ■ Access roads to reach each turbine for construction and maintenance
- 9 ■ Underground and aboveground collector cables that transmit the electrical output
10 of the wind turbines to substations in Oregon and Washington [Amendment #2]
- 11 ■ A substation [Amendment #2]
- 12 ■ A 115-kV or 230 -kV transmission line [Amendment #2]
- 13 ■ Meteorological towers
- 14 ■ A satellite operations and maintenance building

15 Access Roads

16 County roads that extend south from Highway 12 in Washington (e.g., Hatch Grade Road and
17 Butler Grade Road) and north from Oregon Highway 11 (e.g., Vansycle Canyon Road and Butler
18 Grade Road) are the primary routes of access to the facility site. From the county roads, a web of
19 private farm roads provides access to most of the ridges upon which the facility is located.
20 Additional access roads are located along the length of each turbine string and connecting each
21 turbine string to the next. Access roads are further as described in the Final Orders on the
22 Application and Amendments #1 and #2. [Amendments #1 and #2]

23 Collector System, Substation and Transmission Line

24 The proposed wind turbines generate power at 690 volts. A transformer adjacent to each tower
25 transforms the power to 34.5 kV. From the turbines in Range 32 E, power is transmitted via
26 underground 34.5-kV electric cables buried directly in the soil approximately 3 to 4 feet below
27 the ground surface to a substation in Washington. In some cases, trenches run from the end of
28 one turbine string to the end of an adjacent turbine string to link the turbines via the underground
29 network. From most of the turbines in Range 33 E, aboveground 34.5-kV transmission
30 lines transmit power to a substation in Township 6 N, Range 33 E, Section 1 (tentatively called
31 “North Star Substation”). Overhead transmission lines, located entirely within Washington,
32 connect the Washington substation to a BPA 115-kV transmission line north of the Walla Walla
33 River and to a PacifiCorp substation just north of Highway 12. An 8.5-mile aboveground 115-kV
34 or 230-kV transmission line connects the North Star Substation to existing major transmission
35 lines in Washington. The collector system is further as described in the Final Orders on the
36 Application and Amendments #1 and #2. [Amendments #1 and #2]

37 Meteorological Towers

38 The facility includes nineteen permanent meteorological (met) towers to measure wind
39 conditions. The met towers may be guyed or unguyed towers. The met towers are otherwise as
40 described in the Final Orders on the Application and Amendments #1 and #2. [Amendments #1 and
41 #2]

1 Satellite O&M Building

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

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

7 The facility is located in Umatilla County, north and east of Helix, Oregon. The towns closest to
8 the facility are Helix, Oregon, and Touchet, Washington. The wind turbines would be located on
9 ridges east of the Columbia River and south of the Walla Walla River. The location of the
10 facility is further as described in the Final Orders on the Application and Amendments #1 and
11 #2. [Amendments #1 and #2]

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

13 This section lists conditions specifically required by OAR 345-027-0020 (Mandatory Conditions
14 in Site Certificates), OAR 345-027-0023 (Site Specific Conditions), OAR 345-027-0028
15 (Monitoring Conditions) and in OAR Chapter 345, Division 26 (Construction and Operation
16 Rules for Facilities). These conditions should be read together with the additional specific
17 facility conditions in section V to ensure compliance with the siting standards of OAR Chapter
18 345, Divisions 22 and 24 and to protect the public health and safety. These conditions apply to
19 Stateline 1. [Amendment #1]

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

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

25 **1. General Conditions**

26 (1) The Council shall not change the conditions of the site certificate except as provided for in
27 OAR Chapter 345, Division 27. (OAR 345-027-0020(1))

28 (2) The certificate holder shall design, construct, operate and retire the facility:

29 (a) Substantially as described in the site certificate;

30 (b) In compliance with the requirements of ORS Chapter 469, applicable Council rules,
31 and applicable state and local laws, rules and ordinances in effect at the time the site
32 certificate is issued; and

33 (c) In compliance with all applicable permit requirements of other state agencies.

34 (OAR 345-027-0020(3))

35 (3) The certificate holder shall begin and complete construction of the facility by the dates
36 specified in the site certificate. (345-027-0020(4))

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

1 See condition (24).

2 (4) The certificate holder shall prevent the development of any conditions on the site that would
3 preclude restoration of the site to a useful, non-hazardous condition to the extent that
4 prevention of such site conditions is within the control of the certificate holder. (345-027-
5 0020(7))

6 (5) The Council shall include as conditions in the site certificate all representations in the site
7 certificate application and supporting record the Council deems to be binding commitments
8 made by the applicant. (OAR 345-027-0020(10))

9 (6) For the related or supporting transmission lines:

10 (a) The certificate holder shall design, construct and operate the transmission line in
11 accordance with the requirements of the National Electrical Safety Code (American
12 National Standards Institute, Section C2, 1997 Edition); and

13 (b) The certificate holder shall develop and implement a program that provides
14 reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or
15 structures of a permanent nature that could become inadvertently charged with electricity
16 are grounded or bonded throughout the life of the line. (OAR 345-027-0023(5))

17 (7) The following general monitoring conditions apply:

18 (a) The certificate holder shall consult with affected state agencies, local governments
19 and tribes and shall develop specific monitoring programs for impacts to resources
20 protected by the standards of divisions 22 and 24 of this chapter and resources addressed by
21 applicable statutes, administrative rules and local ordinances. The certificate holder must
22 submit the monitoring programs to the Office of Energy and receive Office approval before
23 beginning construction or, as appropriate, operation of the facility.

24 (b) The certificate holder shall implement the approved monitoring programs described
25 in section (a) and monitoring programs required by permitting agencies and local
26 governments.

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

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

34 (OAR 345-027-0028)

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

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

38 (i) Within six months after beginning construction, and every six months thereafter
39 during construction of the energy facility and related or supporting facilities, the certificate
40 holder shall submit a semiannual construction progress report to the Council. In each
41 construction progress report, the certificate holder shall describe any significant changes to
42 major milestones for construction. The certificate holder shall include such information
43 related to construction as specified in the site certificate. When the reporting date coincides,

1 the certificate holder may include the construction progress report within the annual report
2 described in this rule;

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

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

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

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

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

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

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

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

28 (iii) Status of Surety Information: Documentation demonstrating that the bond or
29 other security described in OAR 345-027-0020(8) or the financial mechanism or instrument
30 described in OAR 345-027-0020(9) is in full force and effect and will remain in full force
31 and effect for the term of the next reporting period;

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

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

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

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

46 (OAR 345-026-0080)

- 1 (9) The certificate holder shall promptly notify the Office of Energy of any changes in major
2 milestones for construction, decommissioning, operation or retirement schedules. Major
3 milestones are those identified by the certificate holder in its construction, retirement or
4 decommissioning plan. (OAR 345-026-0100)
- 5 (10) The certificate holder and the Office of Energy shall exchange copies of all correspondence
6 or summaries of correspondence related to compliance with statutes, rules and local
7 ordinances on which the Council determined compliance, except for material withheld from
8 public disclosure under state or federal law or under Council rules. The certificate holder
9 may submit abstracts of reports in place of full reports; however, the certificate holder shall
10 provide full copies of abstracted reports and any summarized correspondence at the request
11 of the Office of Energy. (OAR 345-026-0105)

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

- 13 (11) Except as necessary for the initial survey or as otherwise allowed for transmission lines or
14 pipelines under this section, the certificate holder shall not begin construction, as defined in
15 OAR 345-001-0010, or create a clearing on any part of the site until the certificate holder
16 has construction rights on all parts of the site. For the purpose of this rule, “construction
17 rights” means the legal right to engage in construction activities. For transmission lines or
18 pipelines, if the certificate holder does not have construction rights on all parts of the site,
19 the certificate holder may nevertheless begin construction, as defined in OAR
20 345-001-0010, or create a clearing on a part of the site if:
21 (a) The certificate holder has construction rights on that part of the site; and
22 (b) The certificate holder would construct and operate part of the facility on that part of
23 the site even if a change in the planned route of the transmission line or pipeline occurs
24 during the certificate holder's negotiations to acquire construction rights on another part of
25 the site.
26 (OAR 345-027-0020(5))
- 27 (12) Following receipt of the site certificate, the certificate holder shall implement a plan that
28 verifies compliance with all site certificate terms and conditions and applicable statutes and
29 rules. As a part of the compliance plan, to verify compliance with the requirement to begin
30 construction by the date specified in the site certificate, the certificate holder shall report
31 promptly to the Office of Energy when construction begins. Construction is defined in OAR
32 345-001-0010. In reporting the beginning of construction, the certificate holder shall
33 describe all work on the site performed before beginning construction, including work
34 performed before the Council issued the site certificate, and shall state the cost of that work.
35 For the purpose of this exhibit, “work on the site” means any work within a site or corridor,
36 other than surveying, exploration or other activities to define or characterize the site or
37 corridor. The certificate holder shall document the compliance plan and maintain it for
38 inspection by the Office of Energy or the Council. (OAR 345-026-0048)
- 39 (13) Except as provided in OAR 345-027-0023(6), before beginning construction, the certificate
40 holder shall submit to the Office of Energy a legal description of the site. The Office shall
41 append the legal description to the site certificate. (OAR 345-027-0020(2))
42 See Condition (84).

1 (14) If the Council requires mitigation based on an affirmative finding under any standards of
2 Division 22 or Division 24 of this chapter, the certificate holder shall consult with affected
3 state agencies and local governments designated by the Council and shall develop specific
4 mitigation plans consistent with Council findings under the relevant standards. The
5 certificate holder must submit the mitigation plans to the Office and receive Office approval
6 before beginning construction or, as appropriate, operation of the facility. (OAR 345-027-
7 0020(6))

8 (15) Before beginning construction of the facility, the certificate holder shall submit to the State
9 of Oregon, through the Council, a bond or comparable security, satisfactory to the Council,
10 in an amount specified in the site certificate. The Council shall specify an amount adequate
11 to restore the site to a useful, non-hazardous condition if the certificate holder either begins
12 but does not complete construction of the facility or permanently closes the facility before
13 establishing the financial mechanism or instrument described in section OAR 345-027-
14 0020(9). The certificate holder shall maintain the bond or comparable security in effect
15 until the certificate holder has established that financial mechanism or instrument. (OAR
16 345-027-0020(8))

17 See Condition (43).

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

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

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

31 (18) The certificate holder shall notify the Office, the State Building Codes Division and the
32 Department of Geology and Mineral Industries promptly if shear zones, artesian aquifers,
33 deformations or clastic dikes are found at or in the vicinity of the site. (OAR 345-027-
34 0020(14))

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

36 (19) Before beginning operation of the facility, the certificate holder shall establish a financial
37 mechanism or instrument, satisfactory to the Council, assuring the availability of adequate
38 funds throughout the life of the facility to retire the facility and restore the site to a useful,
39 non-hazardous condition as described in OAR 345-022-0130. The certificate holder shall
40 retire the facility according to an approved final retirement plan, as described in OAR 345-
41 027-0110. (OAR 345-027-0020(9))

42 See Condition (80).

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

7 (21) If the proposed energy facility is a pipeline or a transmission line or has, as a related or
8 supporting facility, a pipeline or transmission line, the Council shall specify an approved
9 corridor in the site certificate and shall allow the certificate holder to construct the pipeline
10 or transmission line anywhere within the corridor, subject to the conditions of the site
11 certificate. If the applicant has analyzed more than one corridor in its application for a site
12 certificate, the Council may, subject to the Council's standards, approve more than one
13 corridor. Before beginning operation of the facility, the certificate holder shall submit to the
14 Office a legal description of the permanent right-of-way where the applicant has built the
15 pipeline or transmission line within an approved corridor. The Office shall append the legal
16 description to the site certificate. The site of the pipeline or transmission line subject to the
17 site certificate is the area within the permanent right-of-way. (OAR 345-027-0023(6))

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

19 (22) For the related or supporting transmission lines, the certificate holder shall restore the
20 reception of radio and television at residences and commercial establishments in the
21 primary reception area to the level present prior to operations of the transmission line, at no
22 cost to residents experiencing interference resulting from the transmission line. (OAR 345-
23 027-0023(4))

24 (23) The certificate holder shall notify the Office of Energy within 72 hours of any occurrence
25 involving the facility if:
26 (a) There is an attempt by anyone to interfere with its safe operation;
27 (b) A natural event such as an earthquake, flood, tsunami or tornado, or a human-caused
28 event such as a fire or explosion affects or threatens to affect the public health and safety or
29 the environment; or
30 (c) There is any fatal injury at the facility.

31 (OAR 345-026-0170)

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

33 The conditions listed in this section include conditions based on representations in the site
34 certificate application and supporting record. The Council deems these representations to be
35 binding commitments made by the applicant. These conditions are required under OAR 345-027-
36 0020(10). These conditions apply to Stateline 1. [Amendment #1]

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

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

1 **1. General Conditions**

2 (24) The certificate holder shall begin construction of the facility within one year after the
3 effective date of the site certificate. The certificate holder shall complete construction of the
4 facility on or before two years from the effective date of the site certificate. Under OAR
5 345-015-0085(9), a site certificate is effective upon execution by the Council Chair and the
6 applicant. Completion of construction occurs upon the date commercial operation of the
7 facility begins. The Council may grant an extension of the construction beginning or
8 completion deadlines in accordance with OAR 345-027-0030 or any successor rule in effect
9 at the time the request for extension is submitted.

10 See condition (3).

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

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

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

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

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

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

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

30 (32) The certificate holder shall use hazardous materials in a manner that is protective of human
31 health and the environment and shall comply with all applicable local, state, and federal
32 environmental laws and regulations. The certificate holder shall make sure that accidental
33 releases of hazardous materials will be prevented or minimized through the proper
34 containment of these substances during transportation and use on the site. The certificate
35 holder shall make sure that any oily waste, rags or dirty or hazardous solid waste will be
36 collected in sealable drums and removed for recycling or disposal by a licensed contractor.
37 The certificate holder shall have spill kits containing items such as absorbent pads on
38 equipment and in storage facilities to respond to accidental spills. If an accidental hazardous
39 materials spill or release occurs, the certificate holder shall clean up the spill or release and
40 shall treat or dispose of contaminated soil or other materials according to applicable
41 regulations. (App G-2, V-3)

- 1 (33) The certificate holder shall provide to the Office of Energy a copy of the contract with the
2 Milton-Freewater Rural Fire Department for fire protection services during construction
3 and operation of the facility before beginning construction. (App U-25)
- 4 (34) During construction and operation of the facility, the certificate holder shall have water-
5 carrying trailers (“water buffaloes”) at appropriate locations around the facility. The
6 certificate holder shall bring a water buffalo to any job site where there is a substantial risk
7 of fire. The certificate holder shall coordinate with the fire chiefs of the Helix and Milton-
8 Freewater Rural Fire Departments as to the number, capacity and location of the water
9 buffaloes. The certificate holder shall make sure that each water buffalo has a minimum
10 capacity of 350 gallons with sufficient pump and hose equipment, as approved by the local
11 fire chiefs. The certificate holder shall have service trucks and pickup trucks capable of
12 towing water buffaloes available in sufficient numbers at all times during construction and
13 operation of the facility. (App B-12)
- 14 (35) The certificate holder shall take steps to reduce the risk of accidental injury during
15 construction and operations would be minimized by (App U-25, 26):
- 16 (a) Maintaining fencing and access gates around dangerous equipment or portions of the
17 site as feasible
 - 18 (b) Posting warning signs near high-voltage equipment
 - 19 (c) Requiring construction contractors to provide specific job-related training to
20 employees, including cardiopulmonary resuscitation, first aid, tower climbing, rescue
21 techniques and safety equipment inspection
 - 22 (d) Requiring each worker to be familiar with site safety
 - 23 (e) Assigning safety officers to monitor construction activities and methods during each
24 work shift
 - 25 (f) Ensuring that workers on each shift are certified in first aid
 - 26 (g) Ensuring a well-stocked first-aid supply kit is accessible on-site at all times and that
27 each worker knows its location
 - 28 (h) Conducting periodic safety meetings for construction and maintenance staff
- 29 (36) The certificate holder shall notify the Office of Energy and the Umatilla County Planning
30 Department of any accidents including mechanical failures on the site associated with the
31 operation of the wind power facility that may result in public health and safety concerns.
32 (ORS 469.310)
- 33 (37) To reduce the visual impact of the facility, the certificate holder shall:
- 34 (a) Design, construct and operate a facility consisting of:
 - 35 (i) Stateline 1: No more than 127 Vestas V47-660-kilowatt (kW) wind turbines (App
36 B-2, Table B-3) [Amendments #1 and #2]
 - 37 (ii) Stateline 2: No more than 60 Vestas V47-660-kW wind turbines [Amendments #1
38 and #2]
 - 39 (iii) Stateline 3: No more than 279 Vestas V47-660-kW wind turbines [Amendment #2]
 - 40 (b) Group the turbines in strings of 2 to 37 turbines, each spaced approximately 250 feet
41 from the next [Amendments #1 and #2]
 - 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)

1 (e) Paint all towers west of Butler Grade Road uniformly in a neutral light gray color.
2 Paint towers east of Butler Grade Road a neutral white color to blend in with the color of
3 the towers in the Vansycle Project. [Amendment #2]

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

7 (g) Use only the minimum lighting on its turbine strings required by the Federal Aviation
8 Administration, except:

9 (i) The satellite operations and maintenance building may have a small amount of
10 low-impact exterior lighting for security purposes (App BB-2);

11 (ii) Low-impact lighting may be used for occasional nighttime repairs, operations or
12 maintenance at the substation (at other times this lighting would be turned off). [Amendment
13 #2]

14 (h) Use only those signs required for facility safety or required by law (App BB-2)

15 (38) To restrict public access to turbine towers, the certificate holder shall install locked access
16 doors accessible only to authorized project staff. (App BB-3)

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

21 See condition (55).

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

24 (41) If the certificate holder elects to use a bond to meet the requirements of Conditions (43),
25 (80), (102) or (109), the certificate holder shall ensure that the surety is obligated to comply
26 with the requirements of applicable statutes, Council rules and this site certificate when the
27 surety exercises any legal or contractual right it may have to assume construction, operation
28 or retirement of the energy facility. The certificate holder shall also assure that the surety is
29 obligated to notify the Council that it is exercising such rights and to obtain any Council
30 approvals required by applicable statutes, Council rules and this site certificate before the
31 surety commences any activity to complete construction, operate or retire the energy
32 facility. [Amendments #1 and #2]

33 See Condition (2).

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

35 (42) The certificate holder shall notify the Office of Energy in advance of any initial road
36 improvement work that does not meet the definition of "construction" in OAR 345-001-
37 0010(10) or ORS 469.300(6) and shall provide to the Office of Energy plans of the work
38 and evidence that its value is less than \$250,000. (App B-21)

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

1 (a) The calculation of 2001 dollars shall be made using the U.S. Gross Domestic Product
2 Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of
3 Administrative Services' "Oregon Economic and Revenue Forecast," or by any successor
4 agency (the "Index"). The amount of the bond or letter of credit account shall increase
5 annually by the percentage increase in the Index and shall be pro-rated within the year to
6 the date of retirement. If at any time the Index is no longer published, the Council shall
7 select a comparable calculation of 2001 dollars. [Amendment #2]

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

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

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

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

24 See Conditions (15) and (41).

25 (44) The certificate holder shall locate roads to minimize disturbance and maximize
26 transportation efficiency and to avoid sensitive resources and unsuitable topography. The
27 certificate holder shall use existing county roads and private farm roads to the maximum
28 extent feasible. The certificate holder shall coordinate farm road improvements with
29 landowners to minimize crop impacts and to assure that the final road provides useful
30 access, where possible, to the landowners' fields. (App B-6)

31 (45) The certificate holder shall videotape all Umatilla County roads used as access to the
32 facility and shall require construction contractors to enter into a written agreement with
33 Umatilla County stating that all roads used by the contractor will be restored to as good or
34 better condition than they were before construction. (App U-24)

35 (46) The certificate holder shall notify the Office of Energy of the identity and qualifications of
36 major construction contractors for the facility. The certificate holder shall select major
37 construction contractors based on a proven record of environmental compliance and
38 stewardship, a clean record in terms of other regulatory obligations and other appropriate
39 factors. (App D-3, 4)

40 (47) The certificate holder shall contractually require all construction contractors and
41 subcontractors involved in the construction of the facility to comply with all applicable
42 laws and regulations and with the terms and conditions of the site certificate. Such
43 contractual provisions shall not operate to relieve the certificate holder of responsibility
44 under the site certificate.

- 1 See condition (2).
- 2 (48) The certificate holder shall require that all on-site construction contractors prepare a site
3 health and safety plan before beginning construction activities. The certificate holder shall
4 ensure that the plan informs employees and others onsite what to do in case of emergencies
5 and includes the locations of fire extinguishers and nearby hospitals, important telephone
6 numbers and first aid techniques. (App U-25)
- 7 (49) The certificate holder shall design the facility in accordance with seismic design provisions
8 given in the Oregon Building Code. The certificate holder shall identify localized areas of
9 S_C and S_D soil types and assure that any structures to be built in those areas are designed
10 according to the code. (App H-7, 13)
- 11 (50) The certificate holder shall provide the Office with design specifications showing the
12 locations of turbines and type of foundations to be employed and demonstrating that the
13 following conditions have been satisfied (OAR 345-022-0020):
- 14 (a) If a turbine is located within 50 feet of a slope steeper than 30° , the stability of the
15 slope has been reviewed by the foundation designer to confirm that either (i) the slope has a
16 safety factor of at least 1.1 during the maximum probable seismic event or (ii) the safety
17 factor is less than 1.1, but ground displacements will not adversely affect the stability of the
18 wind turbine. Slopes shall be evaluated in the field for each proposed turbine location.
- 19 (b) The foundation designer's review of slope displacement during a seismic event has
20 been made using a pseudo-static horizontal coefficient of 0.13g and, if the safety factor is
21 less than 1.1, the foundation designer has shown that (i) the movement will not intersect the
22 turbine, (ii) the movement will intersect the turbine but will not affect its stability, or (iii)
23 additional stabilization measures, such as anchor tie-downs or ground support systems, will
24 be employed to maintain stability.
- 25 (c) If a turbine is located where power generating or other requirements preclude
26 sufficient setback distances to avoid intersection of a moving slope with the turbine
27 foundation, the foundation designer has demonstrated that the turbine foundation will
28 withstand loads from the moving soil or has been equipped with ground support systems
29 that will withstand loads from moving soil.
- 30 (d) The foundation designer has confirmed that the turbines and conduit can tolerate
31 some movement without instability or breakage if a mapped fault were to rupture.
- 32 (51) In modifying slope angles for roads or other facilities, the certificate holder shall assure that
33 the foundation designer has achieved a factor of safety of 1.5 or greater for permanent
34 structures and a factor of safety of 1.3 or greater for temporary structures. (OAR 345-022-
35 0020)
- 36 (52) The certificate holder shall design the facility to avoid or minimize adverse impacts to
37 wildlife by measures including but not limited to the following (App P-41):
- 38 (a) Siting the turbines on ridges outside of migration flyways
- 39 (b) Siting turbines to avoid placing turbines in saddle locations along ridges (where bird
40 use is typically higher)
- 41 (c) Avoiding the use of overhead collector lines, except in Stateline 3 areas where
42 limitations in carrying capacity of underground lines make the use of overhead collector
43 lines unavoidable [Amendment #2]

- 1 (53) The certificate holder shall survey the status of known Swainson's hawk nests within the
2 vicinity of proposed construction before the projected date for construction to begin. If
3 active nests are found, and construction is scheduled to begin before the end of the sensitive
4 nesting and breeding season (June 1 to August 31), the certificate holder shall develop a no-
5 construction buffer in consultation with ODFW and shall not engage in construction
6 activities within the buffer until the sensitive season has ended. If construction continues
7 into the sensitive nesting and breeding season for the following year, the certificate holder
8 shall not engage in construction activities within the buffer around active nests until the
9 sensitive season has ended. [Amendment #2]
- 10 (54) The certificate holder shall conduct appropriate pre-construction nest surveys for burrowing
11 owls if construction is scheduled to occur during the sensitive period (March 15 to August
12 30). The certificate holder shall leave a no-construction buffer, developed in consultation
13 with ODFW, around any active nests during the sensitive period. [Amendment #2]
- 14 (55) The certificate holder shall conduct pre-construction surveys for state-listed threatened,
15 endangered or candidate plant species in all areas not included in earlier botanical surveys
16 of the analysis area. If any listed plants are found, FPL will notify the Office of Energy and
17 consult with the Oregon Department of Agriculture regarding appropriate measures to
18 protect the species and mitigate for impacts from construction, operation and retirement of
19 the facility. (App Q-7)
- 20 (56) The certificate holder shall conduct appropriate pre-construction surveys for the presence of
21 Washington ground squirrels in construction zones that have suitable habitat. Construction
22 zones include the areas of permanent and temporary disturbance and a 175-foot surrounding
23 buffer in which there may be incidental construction impacts. If squirrel activity is found,
24 the certificate holder shall notify the Office of Energy and develop an appropriate no-
25 construction buffer and other appropriate mitigation measures in consultation with the
26 Office and ODFW. In addition, the certificate holder shall map and stake sensitive areas to
27 be avoided during construction as required by Condition (63). [Amendment #2]

28 3. Conditions That Apply During Construction

- 29 (57) The certificate holder shall report to the Council any change of major construction
30 contractors.
- 31 See condition (8).
- 32 (58) The certificate holder shall take steps to prevent fires during construction including but not
33 limited to (App U-25):
- 34 (a) Establishing roads before accessing the site to allow vehicles to stay away from grass
 - 35 (b) Using diesel vehicles whenever possible to prevent potential ignition by catalytic
36 converters
 - 37 (c) Avoiding idling vehicles in grassy areas
 - 38 (d) Keeping cutting torches and similar equipment away from grass
 - 39 (e) Making sure that all construction personnel receive appropriate fire-safety instruction
40 from qualified local fire departments or qualified fire-fighting trainers on the job site
 - 41 (f) Making sure that fire-fighting equipment is available at all active parts of the job site.
- 42 (59) The certificate holder shall require the foundation designer to inspect excavations during
43 construction of foundations for the turbines and other facilities to confirm that geologic

1 conditions are appropriate for supporting the turbines during gravity, seismic and wind
2 loading. (OAR 345-022-0020)

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

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

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

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

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

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

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

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

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

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

23 (i) Installing sediment fencing along the downslope side of construction equipment
24 staging areas

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

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

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

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

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

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

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

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

- 1 (63) The certificate holder shall mitigate possible impacts to wildlife by measures including but
2 not limited to the following (App P-42 through 45, Q-10, 11):
3 (a) Preparing maps to show sensitive areas that are off-limits during the construction
4 phase, distributing the maps to construction staff and having a biologist flag sensitive areas
5 as needed
6 (b) Minimizing road construction and vehicle use where possible
7 (c) Posting speed limit signs throughout the construction zone
8 (d) Instructing construction personnel (including all construction contractors and their
9 personnel) on sensitive wildlife of the area and on required precautions to avoid injuring or
10 destroying wildlife
11 (e) Instructing construction personnel (including all construction contractors and their
12 personnel) to watch out for wildlife while driving through the project area, to maintain
13 reasonable driving speeds so as not to harass or accidentally strike wildlife and to be
14 particularly cautious and drive at slower speeds in a period from one hour before sunset to
15 one hour after sunrise when some wildlife species are the most active
16 (f) Requiring all construction personnel to report any injured or dead wildlife detected at
17 the facility site
18 (g) Requiring all construction personnel to respect all staked wildlife areas and associated
19 no-construction buffer areas
- 20 (64) To avoid creating habitat for raptor prey near turbine towers, the certificate holder shall
21 spread gravel on all above ground portions of the turbine pads to reduce the potential for
22 weed infestation. (App BB-5)
- 23 (65) The certificate holder shall mitigate possible impacts to fish and wildlife habitat by
24 measures including but not limited to the following (App P-42 through 45, Q-10, 11):
25 (a) Avoiding vegetation removal wherever possible
26 (b) Limiting construction activities to within public road right-of-ways where possible
27 (c) Using best management practices to prevent erosion of soil into stream channels
28 (d) Controlling invasive, weedy plant species during maintenance of project facilities
29 (e) Restoring temporarily disturbed sites to pre-construction condition or better with
30 native seed mixes as described for temporarily disturbed habitats in the Revegetation Plan
31 included in the final order as Attachment B and as revised from time to time. [Amendment #1]
32 (f) Developing re-vegetation plant mixes and habitat enhancement locations in
33 consultation with ODFW and the Umatilla County weed control board
34 (g) Monitoring re-vegetated areas to ensure successful establishment of new vegetation
35 (h) Monitoring turbine strings, roads and other disturbed areas regularly to prevent the
36 spread of noxious weeds
37 (i) Developing measures to reduce the potential spread of noxious weeds in consultation
38 with the weed control board of Umatilla County.
- 39 (66) To mitigate for the permanent elimination of one-half acre of Category 2 habitat, the
40 certificate holder shall control weeds and enhance habitat of one acre of weed-infested
41 upland habitat with native plants. The certificate holder shall carry out enhancement
42 activities as described for habitat improvement areas in the Revegetation Plan included in
43 the final order as Attachment B and as revised from time to time. The certificate holder
44 shall acquire the legal right to create and maintain the enhancement area for the life of the
45 facility by means of an outright purchase, conservation easement or similar conveyance and

1 shall provide a copy of the documentation to the Office of Energy. The certificate holder
2 shall determine the location of this habitat enhancement area in consultation with ODFW
3 and landowners. (App P-44) [Amendment #1]

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

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

16 (a) Replacing agricultural topsoil to its pre-construction condition

17 (b) Using best management practices to prevent loss of topsoil during construction

18 (c) Reseeding native habitats with a native seed mix that includes at least some seed
19 collected from the area as described for temporarily disturbed habitats in the Revegetation
20 Plan included in the final order as Attachment B and as revised from time to time.

21 [Amendment #1]

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

23 (69) The certificate holder shall not place any part of the facility within any Washington ground
24 squirrel colony or on potential Washington ground squirrel burrows, except as allowed for
25 Stateline 3 facilities under the *Resource Impact Avoidance and Mitigation Plan*, included in
26 the final order as Attachment C and as revised from time to time. The certificate holder
27 shall limit permanent road widening and other improvements and shall locate temporary
28 roads and laydown areas to minimize impacts to potential Washington ground squirrel
29 habitat. [Amendment #2]

30 (70) To reduce potential injury or fatality of migratory birds, the certificate holder shall (App Q-
31 10):

32 (a) Locate turbines away from saddles in long ridges

33 (b) Locate turbines on the top or slightly downwind side of distinct ridges and set back
34 from the upwind (prevailing) side

35 (c) Use monopole design for all turbine and meteorological towers

36 (71) The certificate holder shall implement a waste management plan during construction that
37 includes but is not limited to the following measures (App V-2):

38 (a) Collecting steel scrap and transporting it to a recycling facility

39 (b) Recycling wood waste to the greatest extent feasible, depending on size and quantity
40 of scrap or leftover materials

41 (c) Using concrete waste as fill on-site or at another site or, if no reuse option is
42 available, transporting it to a local landfill

43 (d) Recycling packaging wastes (such as paper and cardboard)

44 (e) Collecting non-recyclable waste and transporting it to a local landfill

- 1 (72) The certificate holder shall require that disposal of waste concrete on-site is conducted in
2 accordance with OAR 340-093-0080, other applicable regulations and this condition. The
3 construction contractor may bury waste concrete on-site with the permission of the
4 landowner in the following manner: by placing the waste concrete in an excavated hole,
5 covering it with at least three feet of topsoil and grading the area to match existing contours
6 so that all buried concrete is at least three feet below grade. (App V-3, 4).
- 7 (73) The certificate holder shall provide portable toilets for onsite sewage handling during
8 construction and make sure that they are pumped and cleaned regularly by a licensed
9 pumper who is qualified to pump and clean portable toilet facilities. The certificate holder
10 shall minimize the generation of wastes from construction through detailed estimating of
11 materials needs and through efficient construction practices. The certificate holder shall
12 recycle any wastes generated during construction as much as feasible and shall collect any
13 non-recyclable wastes and transport such wastes to a local landfill. (App B-13, G-3, V-2)
- 14 (74) The certificate holder shall have a full-time on-site assistant construction manager, qualified
15 in environmental compliance and familiar with all site certificate conditions, to observe
16 contractor waste management practices and to assure compliance with applicable
17 regulations and construction site policy. (App V-4)
- 18 (75) The certificate holder shall post no-entry barriers by staking or flagging to ensure that
19 construction workers stay away from the vicinity of the cultural sites. The certificate holder
20 shall locate barriers to create a buffer with a minimum width of 50 feet between the cultural
21 sites and construction activities. The certificate holder shall have a qualified cultural
22 resource expert, chosen by the Confederated Tribes of the Umatilla Indian Reservation,
23 present during construction in the immediate vicinity of the sites to ensure that construction
24 crews respect the buffers. (App S-4)
- 25 (76) If previously unidentified cultural resources are encountered during construction, the
26 certificate holder shall halt earth-disturbing activities in the immediate vicinity of the find,
27 in accordance with Oregon state law (ORS 97.745 and 358.920), and shall notify the Office
28 of Energy, the Oregon State Historic Preservation Officer (SHPO) and the Confederated
29 Tribes of the Umatilla Indian Reservation (CTUIR). The certificate holder shall have a
30 qualified archaeologist evaluate the discovery and recommend subsequent courses of action
31 in consultation with the CTUIR and the SHPO. (App S-5, 6)
- 32 (77) The certificate holder shall include traffic control procedures in contract specifications for
33 construction of the facility. The certificate holder shall require flaggers to be at appropriate
34 locations at appropriate times during construction to direct traffic and to ensure minimal
35 conflicts between harvest and construction vehicles. (App U-24)
- 36 (78) The certificate holder shall confine the noisiest construction activities to the daylight hours.
37 (App X-8)
- 38 (79) The certificate holder shall construct the cable crossing of Vansycle Canyon at a time when
39 the stream is dry. The certificate holder shall remove no more than approximately 7.5 cubic
40 yards of material from the streambed crossing and shall replace a like amount of fill
41 material after the cable has been laid, restoring the area similar to the original contours of
42 the streambed. (Linehan, July 23 letter, 3)

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

2 (80) The certificate holder shall submit to the State of Oregon through the Council a bond or
3 letter of credit in the amount of \$1,161,120 (in 2001 dollars) naming the State of Oregon,
4 acting by and through the Council, as beneficiary or payee (the “retirement fund”).

5 (a) The calculation of 2001 dollars shall be made using the Index described in Condition
6 (43).

7 (b) The certificate holder shall use a form of retirement fund approved by the Council.

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

10 (d) The retirement fund shall not be subject to revocation or reduction before retirement
11 of the energy facility.

12 (e) The certificate holder shall describe the status of the retirement fund in the annual
13 report submitted to the Council under Condition (8).

14 See Conditions (19) and (41).

15 (81) After construction is complete, the certificate holder shall restore the county roads to at
16 least their pre-project condition, to the satisfaction of the county public works department.
17 (App B-6, 9)

18 (82) The certificate holder shall grade and reseed laydown areas to wheat or native grasses as
19 necessary to restore those areas to their pre-construction condition (App B-10).

20 (83) For any materials disposed of as fill on site, the certificate holder shall conduct such
21 disposal with the approval of the landowner and in accordance with OAR 340-093-0080
22 and other applicable regulations. (App G-3, V-3)

23 (84) For the purposes of this site certificate, the term “legal description” means a description of
24 location by reference to a map and geographic information system (GIS) data that clearly
25 and specifically identifies the physical location of all parts of the facility, including but not
26 limited to turbine towers, meteorological towers, roads and underground collection cables.
27 Notwithstanding OAR 345-027-0020(2), for the purposes of this site certificate, wind
28 turbine tower locations are analogous to location of permanent rights-of-way for pipelines
29 or transmission lines as described in OAR 345-027-0023(6). The Council approves the
30 corridor described in the final order for construction of turbine strings. Before beginning
31 operation of the facility, the certificate holder shall submit to the Office of Energy a legal
32 description of the location where the certificate holder has built turbine towers and other
33 parts of the facility. Before beginning operation of any turbines that are added to the facility
34 by amendment of the site certificate, the certificate holder shall submit to the Office of
35 Energy a legal description of the location of any additional turbine towers and related or
36 supporting facilities allowed by the amendment. The site of the facility is the area identified
37 by the legal descriptions required by this condition. By means of the legal descriptions, the
38 certificate holder shall provide to the Office of Energy and the Umatilla County Planning
39 Department the actual location of each turbine and all connecting lines. (OAR 345-027-
40 0020(3)) [Amendment #1]

41 See Condition (13).

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

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

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

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

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

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

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

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

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

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

36 **1. General Conditions**

37 (97) The certificate holder shall begin construction of Stateline 2 within six months after the
38 effective date of the First Amended Site Certificate. The certificate holder shall complete
39 construction of Stateline 2 before March 1, 2005. Under OAR 345-027-0070, an amended
40 site certificate is effective upon execution by the Council Chair and the applicant.
41 Completion of construction occurs upon the date commercial operation of the facility

1 begins. The Council may grant an extension of the construction beginning or completion
2 deadlines in accordance with OAR 345-027-0030 or any successor rule in effect at the time
3 the request for extension is submitted. [Amendment #2]

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

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

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

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

31 (101) The certificate holder shall not engage in construction activities for Stateline 2 facilities,
32 including the movement of heavy trucks and equipment, within a ¼-mile buffer around an
33 identified ferruginous hawk nest tree during the sensitive period of the nesting season
34 (March 20 to August 15), except as provided in this condition. The certificate holder shall
35 use a protocol approved by the Oregon Department of Fish and Wildlife (ODFW) to
36 determine whether the nest is occupied. The certificate holder may begin construction
37 activities before August 15 if the nest is not occupied. If the nest is occupied, the certificate
38 holder shall use a protocol approved by ODFW to determine when the young are fledged
39 (independent of the core nest site). With the approval of ODFW, the certificate holder may
40 begin construction before August 15 if the young are fledged. During the specified nesting
41 season, the certificate holder may use the road into the site with vehicles that are one ton in
42 capacity or smaller; conduct turbine, turbine tower, blade or met tower construction
43 activities that are not visible above the horizon from the vantage point of the ferruginous

1 hawk nest; and use the road one time to transport heavy equipment off the site. [Amendment
2 #2]

3 (102) In addition to the requirements of Condition (80), the certificate holder shall submit to the
4 State of Oregon through the Council a bond or letter of credit in the amount of \$899,200 (in
5 2002 dollars) naming the State of Oregon, acting by and through the Council, as beneficiary
6 or payee. In lieu of submitting a separate bond or letter of credit in the amount required
7 under this condition, the certificate holder may submit a bond or letter of credit that
8 includes the amount required under this condition and the amount required under Condition
9 (80).

10 (a) The calculation of 2002 dollars shall be made using the U.S. Gross Domestic Product
11 Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of
12 Administrative Services' "Oregon Economic and Revenue Forecast," or by any successor
13 agency (the "Index"). The amount of the bond or letter of credit account shall increase
14 annually by the percentage increase in the Index and shall be pro-rated within the year to
15 the date of retirement. If at any time the Index is no longer published, the Council shall
16 select a comparable calculation of 2002 dollars. [Amendment #2]

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

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

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

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

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

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

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

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

31 (b) Bury electrical cables

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

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

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

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

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

39 (105) The certificate holder shall enter into an agreement with the landowner of a property
40 identified as 84301 Stockman Road, Helix, Oregon, requiring that the structure remain
41 uninhabited during construction. The certificate holder shall continue the no-occupation
42 agreement during operation for the life of the Stateline 2 facility unless, based on noise
43 studies during operation, the certificate holder demonstrates to the satisfaction of the Office

1 of Energy that turbine noise measured at the property is within the range allowed for a
2 sensitive noise receptor under OAR 340-035-0035.

3 **VII. SPECIFIC FACILITY CONDITIONS FOR STATELINE 3** [This section added by
4 Amendment #2]

5 The conditions listed in this section include conditions based on representations in the request for
6 Amendment #2 and supporting record. The Council deems these representations to be binding
7 commitments made by the applicant. These conditions are required under OAR 345-027-
8 0020(10). These conditions apply to Stateline 3.

9 In addition to the conditions listed in this section, all conditions in sections IV, V and VI also
10 apply to Stateline 3, except Conditions (11), (15), (19), (24), (42), (43), (66), (67), (79), (80),
11 (97), (101), (102), (104) and (105).

12 **1. General Conditions**

13 (106) The certificate holder shall begin construction of Stateline 3 within twenty-four months
14 after the effective date of the Second Amended Site Certificate. The certificate holder shall
15 complete construction of Stateline 3 before December 31, 2005. Under OAR 345-027-0070,
16 an amended site certificate is effective upon execution by the Council Chair and the
17 applicant. Completion of construction occurs upon the date commercial operation of the
18 facility begins. The Council may grant an extension of the construction beginning or
19 completion deadlines in accordance with OAR 345-027-0030 or any successor rule in effect
20 at the time the request for extension is submitted.

21 (107) To reduce and mitigate the impacts to Category 1 habitat, the certificate holder shall
22 implement the measures described in the Resource Impact Avoidance and Mitigation Plan,
23 included in the final order as Attachment C and as revised from time to time.

24 (108) The certificate holder shall take reasonable steps to reduce or manage human exposure to
25 electromagnetic fields, including but not limited to:

26 (a) Designing and operating the transmission lines so that maximum current (amps per
27 conductor) would not exceed the following levels: For 34.5-kV underground lines, 343
28 amps; for 34.5-kV aboveground lines, 1,200 amps; for 115-kV transmission lines, 1,064
29 amps; and for 230-kV transmission lines, 535 amps.

30 (b) Providing to landowners a map of underground and overhead transmission lines on
31 their property and advising landowners of possible health risks.

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

33 (109) In addition to the requirements of Conditions (80) and (102), the certificate holder shall
34 submit to the State of Oregon through the Council a bond or letter of credit in the amount of
35 **\$3,322,900** (in 2002 dollars) naming the State of Oregon, acting by and through the
36 Council, as beneficiary or payee. However, the Council authorizes the Office of Energy
37 staff to adjust the amount if the certificate holder constructs fewer than 279 turbines. For
38 calculating any such adjustments, the Office shall use the methodology and cost estimates
39 approved in the Final Order on Amendment #2. In lieu of submitting a separate bond or
40 letter of credit in the amount required under this condition, the certificate holder may

1 submit a bond or letter of credit that includes the amount required under this condition and
2 the amount required under Conditions (80) and (102).

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

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

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

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

16 (e) After restoration of the temporary laydown and staging areas, as required by
17 Conditions (20) and (68), the certificate holder shall increase the amount of the bond or
18 letter of credit required under this condition to **\$3,392,900** (in 2002 dollars), or to a lesser
19 proportionate amount as determined by the Office of Energy staff in the event less than 279
20 turbines are built as discussed above.

21 (f) After construction is complete, the bond or letter of credit shall not be subject to
22 revocation or reduction before retirement of the Stateline 3 site.

23 (110) At least 30 days before beginning preparation of detailed design and specifications for the
24 electrical transmission lines, the certificate holder shall consult with the Oregon Public
25 Utility Commission staff to ensure that its designs and specifications are consistent with
26 applicable codes and standards.

27 (111) The certificate holder shall perform field surveys for rare plant species during the
28 appropriate season in 2003 in those Stateline 3 areas that were not previously surveyed. The
29 certificate holder shall report the results of these surveys to the Office of Energy.

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

31 (112) To mitigate for the Stateline 3 impacts to Category 2, 3 and 5 habitat, the certificate
32 holder shall control weeds and enhance habitat on 35 acres of weed-infested land in the
33 project vicinity. The certificate holder shall carry out enhancement activities as described
34 for habitat improvement areas in the Revegetation Plan included in the final order as
35 Attachment B and as revised from time to time. The certificate holder shall acquire the legal
36 right to create and maintain the enhancement area for the life of the facility by means of an
37 outright purchase, conservation easement or similar conveyance and shall provide a copy of
38 the documentation to the Office of Energy. The certificate holder shall determine the
39 location of this habitat enhancement area in consultation with ODFW and landowners.

40 (113) To protect the public from electrical hazards including electric and magnetic field
41 exposure, the certificate holder shall:

42 (a) Enclose the substation with a seven-foot-tall chain link fence with barbed wire at the
43 top pointing out at a 45-degree angle.

1 (b) Attach the 34.5-kV aboveground collector lines to single-pole wood structures that
2 are typically 42 feet high and with minimum design ground clearance of 25 feet to the
3 lowest conductor as described in the Request for Amendment #2.

4 (c) Attach the 115-kV or 230-kV aboveground transmission lines to H-frame structures
5 that consist of two wooden poles connected by cross-members with a typical overall height
6 of 70 feet and a minimum design ground clearance of 30 feet to the lowest conductor as
7 described in the Request for Amendment #2.

8 (d) Design and construct the transmission lines so that:

9 (i) Alternating current electric fields during operation do not exceed 9 kV per meter
10 at one meter above the ground surface in areas accessible to the public, and

11 (ii) Induced voltages during operation are as low as reasonably achievable.

12 (114) To deter raptors from perching on transmission support structures near the wind turbines,
13 the certificate holder shall install anti-perching devices on all proposed single-pole and
14 double pole structures within one mile of any turbine. Wherever feasible, the certificate
15 holder shall use “spike-type” devices instead of “triangle-type” devices.

16 (115) To protect raptors, the certificate holder shall design structures for aboveground 34.5-kV,
17 115-kV and 230-kV transmission lines so that electrical conductors are spaced far enough
18 apart to reduce the risk of bird electrocution.

19 (116) Except as required for known burrowing owl nest sites under Condition (54), the
20 certificate holder may engage in construction activities within construction zones during the
21 sensitive grasshopper sparrow and other ground-nesting wildlife season (April 15 to June
22 30) subject to the requirements of this condition. Construction zones include the areas of
23 permanent and temporary disturbance and a 175-foot surrounding buffer in which there
24 may be incidental construction impacts. Construction is allowed during the sensitive period
25 only if the certificate holder has removed vegetation in the construction zone (excluding the
26 175-foot surrounding buffer) before April 15 of the year in which the construction occurs.

27 (117) The certificate holder shall not engage in construction activities for Stateline 3 facilities,
28 including the movement of heavy trucks and equipment, within a ¼-mile buffer around
29 known ferruginous hawk nests during the sensitive period of the nesting season from
30 (March 20 to August 15), except as provided in this condition. The certificate holder shall
31 use a protocol approved by the Oregon Department of Fish and Wildlife (ODFW) to
32 determine whether the nest is occupied. The certificate holder may begin construction
33 activities before August 15, if the nest is not occupied. If the nest is occupied, the certificate
34 holder shall use a protocol approved by ODFW to determine when the young are fledged
35 (independent of the core nest site). With the approval of ODFW, the certificate holder may
36 begin construction before August 15, if the young are fledged.

37 (118) The certificate holder shall construct stream crossings substantially as described in the
38 Request for Amendment #2, Exhibit 21. In particular, the certificate holder shall not use
39 more than 50 cubic yards of new fill material in total for all stream crossings combined.

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

41 (119) The certificate holder shall perform frequent maintenance to keep the substation
42 transformer in good repair and in reliable operating condition.

1 (120) The certificate holder shall verify that the actual sound power level output of the Vestas
2 V47-660-kW wind turbines meets the manufacturer's warranty. This verification may
3 consist of field measurement or other means of verification satisfactory to the Office of
4 Energy. The certificate holder shall include the verification in the first annual report
5 following construction of any Stateline 3 turbines.

6 **VIII. SUCCESSORS AND ASSIGNS**

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

9 **IX. SEVERABILITY AND CONSTRUCTION**

10 If any provision of this agreement and certificate is declared by a court to be illegal or in conflict
11 with any law, the validity of the remaining terms and conditions shall not be affected, and the
12 rights and obligations of the parties shall be construed and enforced as if the agreement and
13 certificate did not contain the particular provision held to be invalid. In the event of a conflict
14 between the conditions contained in the site certificate and the Council's final order or the Final
15 Order on Amendment #1, the conditions contained in this site certificate shall control. [Amendment
16 #1]

17 **X. GOVERNING LAW AND FORUM**

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

1 **XI. 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: _____
Dr. Roslyn Elms-Sutherland, Chair

By: _____

Print: _____

Date: _____

Date: _____