

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

In the Matter of Request for Amendment 7 for the
Stateline Wind Project Site Certificate

) PROPOSED ORDER ON REQUEST
) FOR AMENDMENT 7 TO THE SITE
) CERTIFICATE
)

June 10, 2022

[Tracked changes version:

All changes from Draft Proposed Order to Proposed Order presented in red-line]

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ATTACHMENTS

Attachment A: Draft Amended Site Certificate

1 **I. INTRODUCTION**

2
3 The Oregon Department of Energy (Department or ODOE) issues this ~~draft~~ proposed order
4 under the Type B review process, in accordance with Oregon Revised Statute (ORS) 469.405(1)
5 and Oregon Administrative Rule (OAR) 345-027-~~0365~~0372, based on its review of Request for
6 Amendment 7 (RFA7) to the Stateline Wind Project site certificate.
7

8 There are two certificate holders for the Stateline Wind Project site certificate, based on the
9 two geographic units of the facility (Stateline 1 and 2; and Vansycle II). The certificate holder for
10 Stateline 1 and 2 is FPL Energy Vansycle, LLC (FPL Vansycle); the certificate holder for Vansycle II
11 is FPL Energy Stateline II, Inc. (FPL Stateline), both of which are wholly owned subsidiaries of
12 NextEra Energy Resources, LLC (NEER) (certificate holder owner). Request for amendment 7
13 (RFA7) is submitted by the certificate holder for Vansycle II - FPL Energy Stateline II, Inc.
14

15 RFA7 seeks Energy Facility Siting Council (EFSC or Council) approval to amend Condition 137 to
16 authorize a change in wind turbine dimensions that would apply to Vansycle II wind turbines, if
17 repowered.¹ The dimension changes include a lower above-ground blade tip clearance from 59
18 feet to 50 feet and higher hub height from 295 feet to 315 feet, which requires an amendment
19 of site certificate condition 137. These proposed changes would not increase the maximum
20 blade tip height of the turbines of 499 feet. Based upon its review of the amendment request,
21 the Department recommends Council find that the facility, with proposed changes, complies
22 with all applicable requirements and that Council grant issuance of a seventh amended site
23 certificate for the facility, subject to existing and amended site certificate conditions set forth in
24 the following ~~draft~~ proposed order. The analysis and recommendations contained in this ~~draft~~
25 proposed order are not a final determination.
26

27 Based upon its review of the amendment request, the Department recommends Council find
28 that the facility, with proposed changes, complies with all applicable requirements and grant
29 issuance of a seventh amended site certificate for the facility, subject to existing and amended
30 site certificate conditions set forth in the following this draft proposed order. The analysis and
31 recommendations contained in this ~~draft~~ proposed order are not a final determination.
32

33 **I.A. Name and Address of Certificate Holder**

34
35 FPL Energy Stateline II, Inc.
36 700 Universe Blvd.
37 Juno Beach, FL 33408
38
39
40

¹ OAR 345-027-0350(4)(c) establishes that a site certificate amendment is required for changes to conditions in the site certificate.

1 **Parent Company of the Certificate Holder**

2
3 NextEra Energy Resources, LLC
4 700 Universe Blvd.
5 Juno Beach, FL 33408
6

7 **Certificate Holder Contact**

8
9 Chris Powers, Senior Project Manager
10 NextEra Energy Resources, LLC
11 700 Universe Blvd
12 Juno Beach, FL 33408
13
14 David Lawlor, Director of Development
15 NextEra Energy Resources, LLC
16 700 Universe Blvd
17 Juno Beach, FL 33408
18

19 **I.B. Description of the Approved Facility**

20
21 The Stateline Wind Project (facility) consists of two operational units, Stateline 1 & 2 (Unit 1)
22 comprised of 186 operating wind turbines and with a peak generating capacity of up to 123
23 MW, and Vansycle II (Unit 2), which consists of 43 operating wind turbines with a generating
24 capacity of 99 MW. Vansycle II is approved to repower existing wind turbines and construct two
25 additional wind turbines, which would increase the peak generating capacity up to 119 MW,
26 which must commence prior to January 2025 and be completed within three following the
27 commencement date.

28
29 Stateline 1 & 2 includes the following operating related or supporting facilities:

- 30
- 31 • Access roads
 - 32 • Underground collection system
 - 33 • Six permanent meteorological towers
 - 34 • O&M facility

35 Vansycle II includes the following operating and approved related or supporting facilities:

- 36
- 37 • Access roads
 - 38 • Vansycle II substation and underground collection system
 - 39 • Approximately 16 miles of aboveground 230 kV transmission line (13 miles in Oregon)
 - 40 • Two permanent meteorological towers
 - 41 • O&M facility
 - 42 • Temporary laydown areas and access roads

- 1 • 50 MW lithium-ion battery energy storage system (BESS) in a series of modular
2 unoccupied containers (approved not constructed)

3

4 The changes proposed in RFA7 apply to the Vansycle II wind turbines.

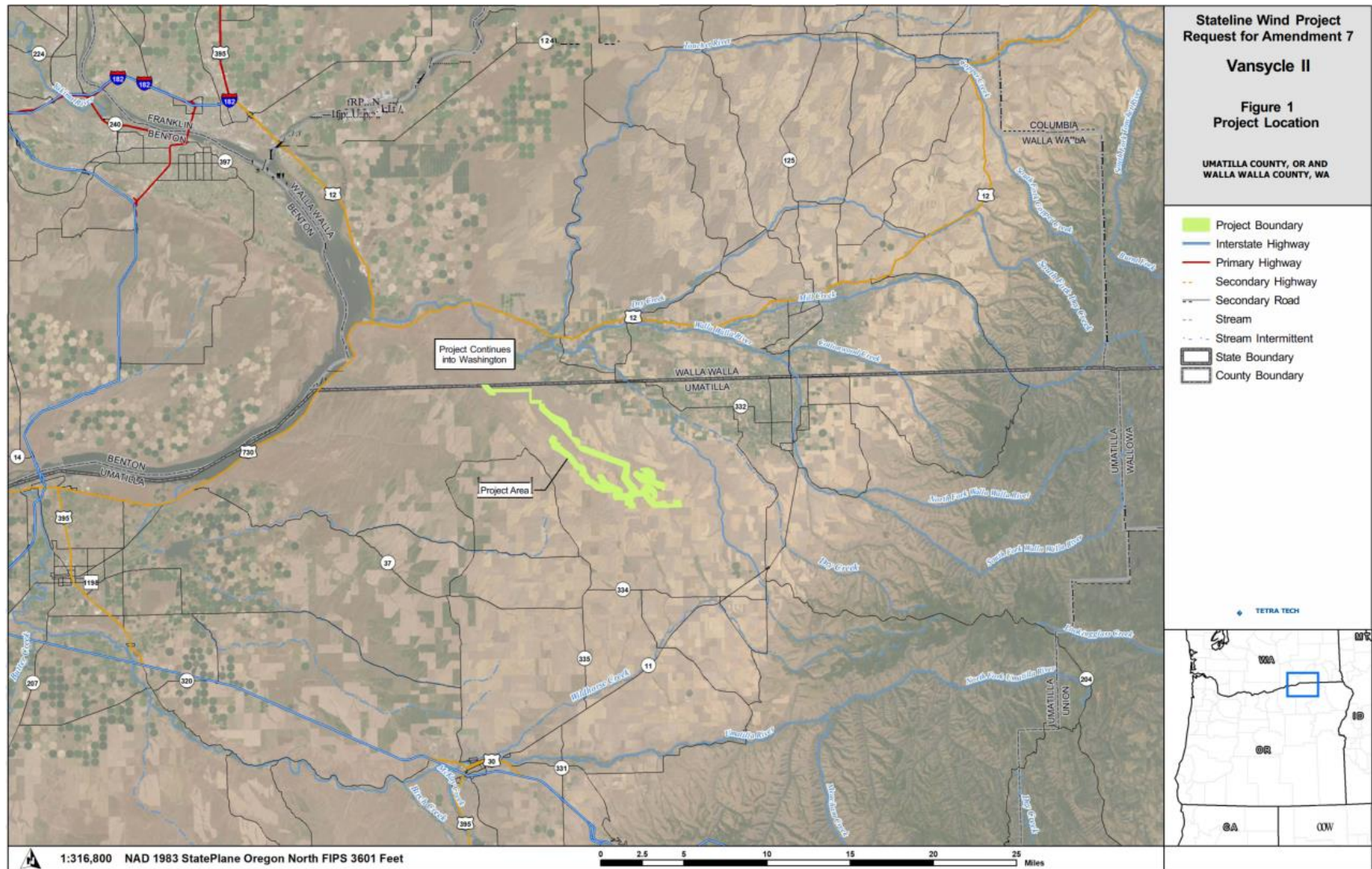
5

6 **I.C. Description of Approved Vansycle II Facility Site Location**

7

8 The Vansycle II facility is located in northern Umatilla County, north and east of Helix, Oregon,
9 as presented in Figure 1, *Regional Location of Proposed RFA7 Facility Modifications (Vansycle*
10 *II)*. The towns closest to the facility are Helix, Oregon, and Touchet, Washington.

1 **Figure 1: Regional Location of Proposed RFA7 Facility Modifications (Vansycle II)**



2

1 **I.D. Procedural History**
2

3 The Council issued a site certificate for the Stateline Wind Project (facility) on September 14,
4 2001, authorizing construction and operation of a wind energy generation facility, with up to
5 127 wind turbines, and a peak generating capacity of 83.8 MW. Since initial approval of the site
6 certificate, Council approved six site certificate amendments, as summarized below:
7

- 8 • May 17, 2002 - Council issued the First Amended Site Certificate, authorizing an increase
9 in the total number of wind turbines from 127 to 187 and an increase in facility peak
10 generating capacity from 83.8 to 123 MW.
- 11 • June 6, 2003 - Council issued the Second Amended Site Certificate, authorizing
12 construction and operation of Stateline 3 (now referred to Vansycle II), which included
13 279 0.66 MW wind turbines.
- 14 • June 20, 2005 - Council issued the Third Amended Site Certificate, authorizing an
15 extension of the Stateline 3 (Vansycle II) construction deadlines.
- 16 • March 27, 2009 - Council issued the Fourth Amended Site Certificate authorizing a
17 partial site certificate transfer.
- 18 • May 17, 2019 - Council issued the Fifth Amended Site Certificate, authorizing a name
19 change (Stateline 3 to Vansycle II Wind Project), repowering of 43 existing turbines, and
20 redevelopment of temporary laydown areas and access roads. Council approval of
21 repowering authorized an increase in blade length from 148 feet to 177 feet, an
22 increase in rotor diameter from 305 feet to 354 feet, an increase in total height from
23 416 feet to 440 feet, and a decrease in the minimum ground clearance from 111 feet to
24 85 feet.
- 25 • January 28, 2022 - Council issued the Sixth Amended Site Certificate, authorizing
26 changes to the repower scenario approved in the Fifth Amended Site Certificate,
27 construction and operation of two additional wind turbines, and changes to dimension
28 specifications including increase in the maximum blade-tip height from 440 to 499 feet,
29 lowering of the minimum ground clearance from 85 to 59 feet, increase in hub height
30 from 262.5 to 295 feet, and increased generating capacity. Council also authorized
31 construction and operation of a 50 MW battery energy storage system (BESS) and
32 temporary disturbance areas.
33

34 **II. AMENDMENT PROCESS**
35

36 **II.A. Requested Amendment**
37

38 Request for Amendment 7 is specific to Vansycle II and therefore is submitted by FPL Stateline.
39 FPL Stateline requests that the Council amend 137 to authorize a change in wind turbine
40 dimensions that would apply to Vansycle II wind turbines, if repowered.² The dimension
41 changes include a decrease in the above-ground blade tip clearance height from 59 to 50 feet

² OAR 345-027-0350(4)(c) establishes that a site certificate amendment is required for changes to conditions in the site certificate.

1 and an increase in the hub height from 295 to 315 feet, which requires an amendment of site
2 certificate condition 137. These proposed changes would not increase the maximum blade tip
3 height of the turbines of 499 feet.

4
5 To afford the Department and Council an ability to evaluate the substance of the changes
6 proposed in RFA7, the Department requested that the certificate holder identify the applicable
7 codes and requirements that apply to a manufacturer’s evaluation of wind turbine
8 specifications. The information requested was intended to answer the question of how wind
9 turbine dimensions are established and how a manufacturer evaluates whether the dimensions
10 are appropriate, especially in circumstances where the dimensions are being changes on
11 existing, operational wind turbines. In response, the certificate holder provided the following:
12

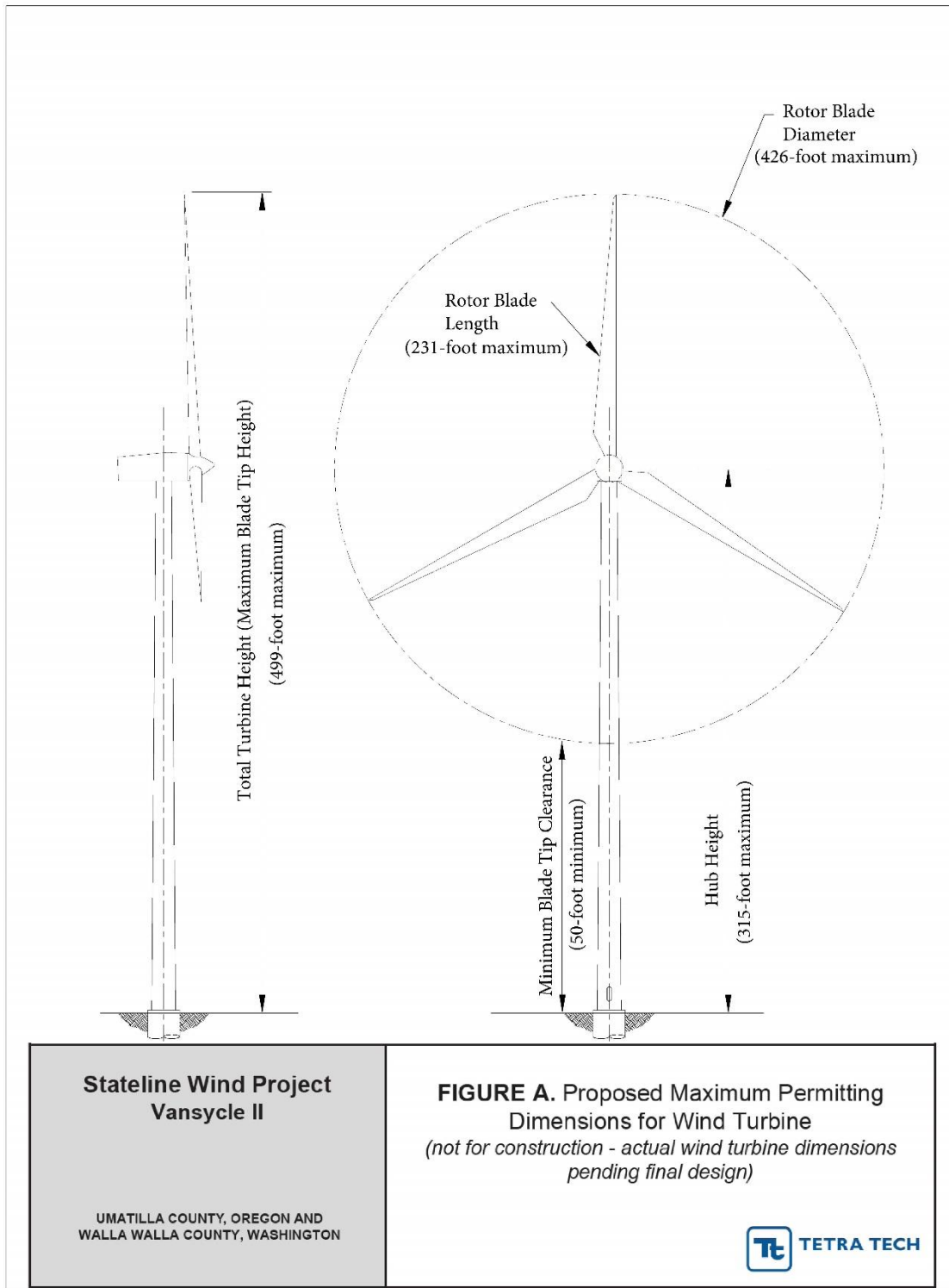
- 13 • American Society of Civil Engineers/American Wind Energy Association joint committee
14 produced a recommended practice document for design of wind energy structures that
15 provides an overall framework for the design of wind turbine support structures,
16 directing the designer to other design codes for specific elements of structural design.
- 17 • The Germanischer Lloyd Wind Guidelines provide guidance on the load cases to be
18 considered and general guidance on design criteria for wind turbine support structures.
 - 19 ○ International Electrotechnical Commission 61400 and American Society of Civil
20 Engineers 7-16 provide the basis for load development.
- 21 • International Building Code (and incorporated American Concrete Institute documents)
22 is utilized for reinforced concrete design capacities.
- 23 • DNV GL’s standard for offshore concrete structures is used for fatigue strength of
24 reinforced concrete members.

25
26 The certificate holder asserts that these codes and standards apply and have been adhered to
27 in the identification of wind turbine blade dimensions applicable to the wind turbines to be
28 repowered at Vansycle II.

29
30 In addition, the certificate holder asserts that it has a contract with a major turbine equipment
31 provider to complete a site suitability analysis and mechanical loads analysis for each
32 repowered wind turbine. The mechanical loads analysis evaluates the mechanical and
33 foundation loads of the repowered turbines to confirm all design criteria are met based on the
34 design dimensions, including hub height and above ground blade tip clearance.

35
36 The certificate holder’s proposed turbine dimensions of RFA7 are represented below in Figure
37 2, *Wind Turbine Dimensional Descriptions*.

1 **Figure 2: Wind Turbine Specifications and Dimensions**



2

1 **II.B. Amendment Review Process**
2

3 Council rules describe the differences in review processes for the Type A and Type B review
4 paths at OAR 345-027-0351.³ The Type A review is the standard or “default” amendment review
5 process for changes that require an amendment. A key procedural difference between the Type
6 A and Type B review process is that the Type A review requires a public hearing on the DPO,
7 and provides an opportunity to request a contested case proceeding on the Department’s
8 proposed order. Another difference between the Type A and Type B review process relates to
9 the time afforded to the Department in its determination of completeness of the amendment
10 and issuance of the DPO. It is important to note that Council rules authorize the Department to
11 adjust the timelines for these specific procedural requirements, if necessary.
12

13 A certificate holder may submit an amendment determination request to the Department for a
14 written determination of whether a request for amendment justifies review under the Type B
15 review process. The certificate holder has the burden of justifying the appropriateness of the
16 Type B review process as described in OAR 345-027-0351(3). The Department may consider,
17 but is not limited to, the factors identified in OAR 345-027-0357(8) when determining whether
18 to process an amendment request under Type B review.
19

20 The Department received preliminary Request for Amendment 7 (pRFA7), with property owner
21 information, inclusive of a Type B Review Amendment Determination Request (Type B Review
22 ADR), on April 19, 2022. The Type B Review ADR requested that the Department review and
23 determine whether, based on evaluation of the factors contained within OAR 345-027-0357(8),
24 the amendment request should be reviewed under the Type B review process. On April 27,
25 2022, the Department provided notice of receipt of pRFA7 and the Type B Review ADR through
26 its email distribution list via ClickDimensions; concurrently, pRFA7, the Type B Review ADR, and
27 Public Notice of pRFA7 were posted to the Department’s facility specific website for the
28 Stateline Wind Project.⁴ Pursuant to OAR 345-027-0360(2), on April 27, 2022, the notice of the
29 pRFA was sent to the Council’s general mailing list, special mailing list via ClickDimensions,
30 reviewing agencies (OAR 345-001-0010(52)) and property owners (OAR 345-027-0360(1)(f)).⁵
31

32 On May 13, 2022, the Department issued its Type B Review ADR Determination concurring with
33 the certificate holder’s analysis, which was posted to the Department’s project webpage for the
34 facility.⁶ The Department included notice of its determination concurrently with the notice
35 issued for the Draft Proposed Order through its email distribution list via ClickDimensions.⁷

³ OAR 345-027-0351(1) designates the amendment process that applies to Council’s review of a request for amendment to a site certificate to transfer a site certificate under OAR 345-027-0400, and OAR 345-027-0351(4) designates the pathway for a type c amendment under OAR 345-027-0380 which applies to a request for amendment when the change proposed in the request for amendment relates to the facility, or portion/phase of the facility, not yet in operation, but approved for construction in the site certificate or amended site certificate.

⁴ OAR 345-027-0360(2)(b)

⁵ SWPAMD7Doc2 Public Notice 2022-04-27.

⁶ SWPAMD7Doc6-1 ADR Evaluation and Response 2022-05-13.

⁷ SWPAMD7Doc7 DPO and Complete RFA Public Notice 2022-05-13.

1 On May 3, 2022, the Department determined pRFA7 to be incomplete and requested additional
2 information to complete its evaluation of pRFA7 and prepare the draft proposed order, in
3 accordance with OAR 345-027-0363(2)(A) and (B). Response were received from the certificate
4 holder on May 9, 2022.⁸

5
6 After reviewing the responses to its information request, the Department determined the RFA
7 to be complete on May 12, 2022. Under OAR 345-027-0063(5), an RFA is complete when the
8 Department determines that a certificate holder has submitted information adequate for the
9 Council to make findings or impose conditions for all applicable laws and Council standards. On
10 May 13, 2022, the Department received the complete RFA and posted an announcement on its
11 project website notifying the public that the complete RFA had been received.⁹

12 13 **II.C. Council Review Process**

14
15 The Department issued the draft proposed order, and a notice of a comment period on the
16 complete RFA7 and the draft proposed order (notice) on May 13, 2022, under the Type B
17 review process.¹⁰ The notice was distributed to all persons on the Council's general mailing list,
18 to the special mailing list established for the facility (i.e. individuals that have signed up to
19 receive electronic notices from the Department for the Stateline Wind Project or all EFSC
20 energy facilities), to a current list of property owners supplied by the certificate holder, and to a
21 list of reviewing agencies as defined in OAR 345-001-0010(52). The comment period extends
22 extended from May 13 through June 6, 2022, where no comments were received.

23
24 ~~To raise an issue on the record of the draft proposed order, a person must raise the issue in a~~
25 ~~written comment submitted on or after the date of the notice of the draft proposed order,~~
26 ~~received by the Department before the written comment deadline. The Council will not accept~~
27 ~~or consider public comments on RFA7 or on the draft proposed order after the written~~
28 ~~comment deadline, listed above, that closes the record on the draft proposed order. After the~~
29 ~~Department considers all comments received before the comment deadline for the draft~~
30 ~~proposed order, but not more than 21 days after the comment deadline, the Department will~~
31 ~~issue a proposed order.~~

32
33 On June 10, 2022, the Department issued the Proposed Order on RFA7 and Public Notice. The
34 notice was distributed to all persons on the Council's general mailing list, to the special mailing
35 list established for the facility and property owners within and extending 500-feet from the
36 property boundary in which the site boundary is located. The proposed order will include the
37 Department's consideration of comments on the draft proposed order and any additional
38 evidence received on the record of the draft proposed order. The proposed order shall
39 recommend approval, modification, or denial of the seventh amended site certificate RFA7.

⁸ SWPAMD7Doc3-2 Certificate holder responses to ODOE RAIs 2022-05-03.

⁹ SWPAMD7Doc5 Request for Amendment 7 2022-05-12.

¹⁰ SWPAMD7Doc6 Draft Proposed Order with Attachment 2022-05-13.

1 ~~Upon issuance of the proposed order, the Department will issue a notice of the proposed order~~
2 ~~that will be sent to the same list as noted above and listed under OAR 345-027-0372(2).~~

3
4 The Council will review the proposed order on June 24, 2022 and may adopt, modify or reject
5 the proposed order based on the considerations described in OAR 345-027-0375. If the
6 proposed order is adopted or adopted, with modifications, the Council shall issue a written final
7 order granting issuance of an amended site certificate. If the proposed order is denied, the
8 Council shall issue a written final order denying issuance of the amended site certificate. In
9 making a decision to grant or deny issuance of the amended site certificate, the Council shall
10 apply the applicable laws and Council standards required under OAR 345-027-0375 and in
11 effect on the dates described in OAR 345-027-0375(3). The Council’s final order is subject to
12 judicial review by the Oregon Supreme Court as provided in ORS 469.403.

13 14 **II.D. Applicable Division 27 Rule Requirements**

15
16 A site certificate amendment is necessary under OAR 345-027-0350(4) because the changes
17 proposed in RFA7 require modification to an existing site certificate condition.

18 19 **III. SCOPE OF REVIEW OF THE REQUESTED AMENDMENT**

20
21 Under ORS 469.310, the Council is charged with ensuring that the “siting, construction and
22 operation of energy facilities shall be accomplished in a manner consistent with protection of
23 the public health and safety.” ORS 469.401(2) further provides that the Council must include in
24 the amended site certificate “conditions for the protection of the public health and safety, for
25 the time for completion of construction, and to ensure compliance with the standards, statutes
26 and rules described in ORS 469.501 and ORS 469.503.”¹¹ The Council implements this statutory
27 framework by adopting findings of fact, conclusions of law, and conditions of approval
28 concerning compliance with the Council’s Standards for Siting Facilities at OAR 345, Divisions
29 22, 24, 26, and 27.

30
31 Under OAR 345-027-0375, in making a decision to grant or deny issuance of an amended site
32 certificate, the Council must apply the applicable laws and Council standards and must
33 determine that the preponderance of evidence on the record supports that the facility, with the
34 proposed change, complies with the applicable laws or Council standards that protect a
35 resource or interest that could be affected by the proposed change. The effective dates for the
36 applicable laws or Council standards are the dates described in section OAR 345-027-0375(3),
37 which for the applicable laws and Council standards is date the Council issues its final order on
38 the request for amendment, and for the applicable substantive criteria under the Land Use
39 standard (OAR 345-022-0030), is the date the request for amendment was submitted. For all
40 requests for amendment, the Council must determine that the preponderance of evidence on
41 the record supports the conclusion that the amount of the bond or letter of credit required
42 under OAR 345-022-0050 is adequate.

¹¹ ORS 469.401(2).

1 **III.A. Standards Potentially Impacted by Request for Amendment 7**

2
3 As provided above, under OAR 345-027-0375, in making a decision to grant or deny issuance of
4 an amended site certificate, the Council must determine that the preponderance of evidence
5 on the record supports that the facility, with the proposed change, complies with the applicable
6 laws or Council standards that protect a resource or interest that could be affected by the
7 proposed change.

8
9 Council does not have standards or rules that establish minimum or maximum dimensional
10 standards for wind turbines. However, the Council’s Public Health and Safety Standards for
11 Wind Energy Facilities require that the certificate holder has demonstrated an ability to design,
12 construct and operate the facility to exclude members of the public from close proximity to the
13 turbine blades and electrical equipment, prevent structural failure of wind towers or blades
14 that could endanger the public safety, and have adequate safety devices and testing procedures
15 designed to warn of impending failure and to minimize the consequences of tower or blade
16 failure. Under the Council’s Land Use standard, the local governments’ applicable substantive
17 criteria including applicable zoning ordinances or developments codes are evaluated and could
18 include specific criteria for dimensional standards for wind turbines. Therefore, based on
19 review of RFA7, the Department recommends that compliance with the following standards be
20 evaluated because they may protect a resource or interest that could be affected by the
21 proposed change:

- 22
23 General Standard of Review: OAR 345-022-0000
24 Land Use: OAR 345-022-0030
25 Public Health and Safety Standards for Wind Energy Facilities: OAR 345-024-0010
26

27 Under OAR 345-027-0375, to issue an amended site certificate, the Council must determine
28 that the preponderance of evidence on the record supports the conclusion that the facility,
29 with the proposed change, complies with the applicable laws or Council standards that protect
30 a resource or interest that could be affected by the proposed change.

31
32 Section III.B., *Standards Not Likely to Be Impacted by Request for Amendment 7*, of this order
33 describes why the proposed changes in RFA7 would not impact resources protected under
34 other Council standards and applicable rules and how Council’s previous findings and site
35 certificate conditions may be relied upon for compliance.

36
37 III.A.1. General Standard of Review: OAR 345-022-0000

38
39 *(1) To issue a site certificate for a proposed facility or to amend a site certificate, the*
40 *Council shall determine that the preponderance of evidence on the record supports the*
41 *following conclusions:*

42
43 *(a) The facility complies with the requirements of the Oregon Energy Facility Siting*
44 *statutes, ORS 469.300 to ORS 469.570 and 469.590 to 469.619, and the standards*

1 *adopted by the Council pursuant to ORS 469.501 or the overall public benefits of the*
2 *facility outweigh the damage to the resources protected by the standards the facility*
3 *does not meet as described in section (2);*

4
5 *(b) Except as provided in OAR 345-022-0030 for land use compliance and except for*
6 *those statutes and rules for which the decision on compliance has been delegated by*
7 *the federal government to a state agency other than the Council, the facility*
8 *complies with all other Oregon statutes and administrative rules identified in the*
9 *project order, as amended, as applicable to the issuance of a site certificate for the*
10 *proposed facility. If the Council finds that applicable Oregon statutes and rules, other*
11 *than those involving federally delegated programs, would impose conflicting*
12 *requirements, the Council shall resolve the conflict consistent with the public interest.*
13 *In resolving the conflict, the Council cannot waive any applicable state statute.*

14 * * *

15 *(4) In making determinations regarding compliance with statutes, rules and ordinances*
16 *normally administered by other agencies or compliance with requirement of the Council*
17 *statutes if other agencies have special expertise, the Department of Energy shall consult*
18 *such other agencies during the notice of intent, site certificate application and site*
19 *certificate amendment processes. Nothing in these rules is intended to interfere with the*
20 *state's implementation of programs delegated to it by the federal government.*

21
22 **Findings of Fact**

23
24 The evaluation of requirements of the General Standard of Review (findings based on a
25 preponderance of evidence on the record) are addressed in the recommended findings of facts
26 and conclusions of law in the sections that follow. Upon consideration of the facts and evidence
27 in the record for Request for Amendment 7, as well as the Final Orders on Amendment 5 and 6,
28 which are incorporated herein by reference, the Department recommends Council find that the
29 General Standard of Review has been satisfied.

30
31 Council typically addresses mandatory and applicable site specific conditions, as established in
32 OAR 345-025-0006 and OAR 345-025-0010, under the General Standard of Review. Mandatory
33 conditions (OAR 345-025-0006) are established in rule and are required to be imposed in every
34 EFSC-issued site certificate; therefore, findings of fact or conclusions of law are not needed. The
35 mandatory condition established under OAR 345-025-0006(3)(a) requires that the certificate
36 holder design, construct, operate, and retire the facility substantially as described in the site
37 certificate – this mandatory condition is represented in the Stateline Wind Project site
38 certificate as Condition 2.

39
40 Council also imposed Condition 137 based on the dimensions represented and relied upon in
41 Request for Amendment 6, as presented below.

42
43 **Existing Condition 137:** The certificate holder shall construct the Vansycle II facility
44 modifications, as approved in the Sixth Amended Site Certificate, substantially as

1 described in Request for Amendment 6 of the site certificate, subject to the following
2 restrictions and compliance with other site certificate conditions. Before beginning
3 construction, the certificate holder shall provide to the Department equipment
4 specifications and a description of the wind turbine dimensions to demonstrate
5 compliance with this condition.

6 (a) Vansycle II wind turbine hub height must not exceed 295 feet and the maximum
7 blade tip height must not exceed 499 feet.

8 (b) Vansycle II wind turbine rotor diameter must not exceed 426 feet.

9 (c) Vansycle II wind turbine minimum blade tip clearance must not be lower than 59
10 feet above ground.

11 [Amendment #5, #6]

12
13 The certificate holder requests that Council approve an amendment to Condition 137, as
14 presented below:

15
16 **Certificate Holder's Proposed Amended Condition 137:** The certificate holder shall
17 construct the Vansycle II facility modifications, as approved in the Sixth Amended Site
18 Certificate, substantially as described in Request for Amendment 6 of the site certificate,
19 subject to the following restrictions and compliance with other site certificate
20 conditions. Before beginning construction, the certificate holder shall provide to the
21 Department equipment specifications and a description of the wind turbine dimensions
22 to demonstrate compliance with this condition.

23 (a) Vansycle II wind turbine hub height must not exceed 315 ~~295~~ feet and the maximum
24 blade tip height must not exceed 499 feet.

25 (b) Vansycle II wind turbine rotor diameter must not exceed 426 feet.

26 (c) Vansycle II wind turbine minimum blade tip clearance must not be lower than 50 ~~59~~
27 feet above ground.

28 [Amendment #5, #6, #7]

29
30 Based upon review of the proposed wind turbine dimension changes, as presented in this
31 order, the Department recommends Council find that establishing specific dimension
32 requirements ignores the mandatory rule language in Condition 2 and OAR 345-025-0006(3)(a)
33 that a certificate holder construct and operate the facility "substantially" as described in the
34 site certificate and unnecessarily prohibits minor changes and automatically requires that the
35 certificate holder obtain approval of a site certificate amendment without allowing review of
36 whether an amendment is required based on the significance, or lack thereof, of the potential
37 change.

38
39 The wind turbine dimension specifications would be maintained in the site certificate as part of
40 the facility description; and, the certificate holder would continue to be required to
41 demonstrate that the facility, with proposed changes, is designed, constructed, operated and
42 retired *substantially as described in the site certificate* under OAR 345-025-0006(3), Condition 2
43 and Condition 137. These conditions prohibit major modifications in the facility design from the

1 design reviewed by Council, but allows some level of modification and flexibility if certificate
2 holder can otherwise demonstrate that an amendment would not be required.

3
4 The Department recommends Council find that the certificate holder’s proposed amended
5 Condition 137 may be approved; however, the Department proposes alternative language that
6 would continue to require that the wind turbines be designed and constructed consistent with
7 the dimensions currently under review, but that an automatic amendment would not result in
8 the future if there were to be minor dimensional changes during final engineering. The
9 Department recommends Council adopt the recommended amended condition, as presented
10 below:

11
12 **Department’s Recommended Amended Condition 137:** The certificate holder shall
13 construct the Vansycle II facility modifications, as approved in the Final Orders on
14 Amendment #5, #6, and #7 ~~Sixth Amended Site Certificate~~, and substantially as
15 described in Section III.2.i of the amended Request for Amendment 6 of the site
16 certificate, ~~subject to the following restrictions and compliance with other site~~
17 ~~certificate conditions~~. Before beginning construction, the certificate holder shall provide
18 to the Department equipment specifications and a description of the wind turbine
19 dimensions to demonstrate compliance with this condition.

20 ~~(a) Vansycle II wind turbine hub height must not exceed 295 feet and the maximum~~
21 ~~blade tip height must not exceed 499 feet.~~

22 ~~(b) Vansycle II wind turbine rotor diameter must not exceed 426 feet.~~

23 ~~(c) Vansycle II wind turbine minimum blade tip clearance must not be lower than 59~~
24 ~~feet above ground.~~

25 [Amendment #5, #6, #7]

26
27 Additionally, as provided in Attachment A, the draft amended site certificate, the Department
28 recommends Council adopt administrative changes to several conditions that reference facility
29 modifications approved in the “Sixth Amended Site Certificate”. The Department
30 administratively updates the conditions to refer to the facility modifications approved in the
31 “Final Order on Amendment #6 and #7”, as applicable, to more accurately reflect the document
32 verifying approval and to be able to more clearly track the conditions over time.

33
34 **Conclusions of Law**

35
36 Based on the foregoing recommended findings of fact and conclusions of law, and subject to
37 compliance with the ~~existing and~~ recommended amended condition, the Department
38 recommends that the Council find that the certificate holder would satisfy the requirements of
39 OAR 345-022-0000.

1 III.A.2. Land Use: OAR 345-022-0030

2
3 *(1) To issue a site certificate, the Council must find that the proposed facility complies with*
4 *the statewide planning goals adopted by the Land Conservation and Development*
5 *Commission.*

6
7 *(2) The Council shall find that a proposed facility complies with section (1) if:*

8
9 *(a) The applicant elects to obtain local land use approvals under ORS 469.504(1)(a) and*
10 *the Council finds that the facility has received local land use approval under the*
11 *acknowledged comprehensive plan and land use regulations of the affected local*
12 *government; or*

13
14 *(b) The applicant elects to obtain a Council determination under ORS 469.504(1)(b) and*
15 *the Council determines that:*

16
17 *(A) The proposed facility complies with applicable substantive criteria as described in*
18 *section (3) and the facility complies with any Land Conservation and*
19 *Development Commission administrative rules and goals and any land use*
20 *statutes directly applicable to the facility under ORS 197.646(3);*

21
22 *(B) For a proposed facility that does not comply with one or more of the applicable*
23 *substantive criteria as described in section (3), the facility otherwise complies*
24 *with the statewide planning goals or an exception to any applicable statewide*
25 *planning goal is justified under section (4); or*

26
27 *(C) For a proposed facility that the Council decides, under sections (3) or (6), to*
28 *evaluate against the statewide planning goals, the proposed facility complies*
29 *with the applicable statewide planning goals or that an exception to any*
30 *applicable statewide planning goal is justified under section (4).*

31 *****

32
33 The Land Use standard requires the Council to find that the facility, with proposed RFA7
34 changes, would continue to comply with local applicable land use substantive criteria, as well as
35 the statewide planning goals adopted by the Land Conservation and Development Commission
36 (LCDC).¹² OAR 345-027-0375(3)(a) establishes that the applicable substantive criteria are those
37 that are in place on the date the request for amendment was submitted, which was April 19,
38 2022.

39
40 The analysis area for land use is the area within and extending 0.5 miles from the site boundary.

41
42 **Findings of Fact**

¹² The Council must apply the Land Use standard in conformance with the requirements of ORS 469.504.

1
 2 The Umatilla County Board of Commissioners is designated as the Special Advisory Group (SAG)
 3 to assist Council in reviews for the facility.¹³ The SAG confirmed that the Umatilla County
 4 Planning Director is authorized to provide comments on the facility on behalf of the SAG and
 5 identified applicable substantive criteria to be considered during the ASC phase and through
 6 subsequent amendment requests.

7
 8 During the review of the repower proposed in RFA6, in October 2021, the SAG provided
 9 comments indicating that no new applicable substantive criteria were identified and provided a
 10 link to the Umatilla County Development Code (UCDC) which was last updated in May 2021.
 11 The Department confirmed in its review of RFA7 that UCDC and the Umatilla Comprehensive
 12 Plan have not changed since Council’s Final Order on Amendment 6 (January 2022).

13
 14 Table 1: *Applicable Substantive Criteria – Umatilla County*, below, summarizes the applicable
 15 substantive criteria Council previously evaluated and determined the certificate holder could
 16 satisfy.

17

Table 1: Applicable Substantive Criteria – Umatilla County

Umatilla County Development Code (UCDC)	
Section 152.025	Zoning Permit
Section 152.060	Conditional Uses allowed on lands zoned for Exclusive Farm Use (EFU)
Section 152.061	Standards for all Conditional Uses on EFU Lands
Section 152.615	Additional Conditional Use Permit Restrictions
Section 152.616	Conditional Uses Permitted
Umatilla County Comprehensive Plan (UCCP)	
Agriculture: Policies 1, 8 and 17 Open Space, Scenic & Historic Areas, and Natural Areas: Policies 1(a), 5 (a & b), 6(a), 8(a), 9(a), 10 (c, d & e), 20(a), 20(b) (1-8), 22, 23(a), 24(a), 26, 37 & 38(a-c), 39(a) & 42(a) Air, Land, Water Quality: Policies 1, 7 & 8 Natural Hazards: Policies 1 & 4 Recreational Needs: Policy 1 Economy of the County: Policies 1, 4 & 8(a-f) Public Facilities & Services: Policies 1(a-d), 2, 9 & 19 Transportation: Policy 18 and 20 Energy Conservation: Policy 1	

18
 19 Based upon review of the above referenced applicable substantive criteria, there are no
 20 requirements that establish limits or that would apply to the proposed change in hub height
 21 and minimum blade tip clearances for wind turbines, ~~therefore~~ Therefore, the Department

¹³ Council appointed the Umatilla County Board of Commissions as the Special Advisory Group on July 28, 2000.

1 recommends Council find that the facility, with proposed RFA7 changes, would not change
2 Council’s previous evaluation for compliance with local applicable substantive criteria
3 designated by Umatilla County based on the date of the submission of ~~the~~RFA7.

4
5 **Conclusions of Law**

6
7 Based on the foregoing findings, the Department recommends the Council find that the facility,
8 with proposed changes, would continue to comply with the Land Use standard under OAR 345-
9 022-0030, based on the dates determined in OAR 345-027-0375(3)(a).

10
11 **III.A.3. Public Health and Safety Standards for Wind Energy Facilities: OAR 345-024-0010**

12
13 *To issue a site certificate for a proposed wind energy facility, the Council must find that the*
14 *applicant:*

15
16 *(1) Can design, construct and operate the facility to exclude members of the public from*
17 *close proximity to the turbine blades and electrical equipment.*

18
19 *(2) Can design, construct and operate the facility to preclude structural failure of the tower*
20 *or blades that could endanger the public safety and to have adequate safety devices and*
21 *testing procedures designed to warn of impending failure and to minimize the consequences*
22 *of such failure.*

23
24 OAR 345-024-0010 requires the Council to consider specific public health and safety standards
25 related to wind energy facilities. Under this standard, the Council must evaluate a certificate
26 holder’s proposed measures to exclude members of the public from proximity to the turbine
27 blades and electrical equipment, and the certificate holder’s ability to design, construct and
28 operate the facility, with proposed changes, to prevent structural failure of the tower or blades
29 and to provide sufficient safety devices to warn of failure.

30
31 **Findings of Fact**

32
33 *Potential Impacts to Health and Safety of the Public from Proximity to Turbine Blades*

34
35 The proposed RFA7 changes apply to Vansycle II existing, operational wind turbines, if
36 repowered. Based on information included in RFA7 and the Department’s review of available
37 online materials, there are no specific codes, requirements or industry standard within Oregon
38 that apply to aboveground blade tip clearance or hub height.

39
40 The lowering of the aboveground blade tip clearance from 59 to 50 feet would not be expected
41 to result in increased public health and safety risks from proximity because 50 feet is reasonably
42 higher than heights of members of the public and agricultural equipment (20 foot vertical
43 clearance) that could be used by underlying land owners. Wind turbines, if repowered, with the
44 changes proposed in RFA7, would be located at existing wind turbine tower sites, located

1 entirely on gated, private property, with locked tower doors, which would not change or be
2 impacted by the proposed RFA7 changes. Council previously imposed Conditions 35 and 38,
3 which include various safety measures and access restrictions, which would continue to apply
4 and would not be impacted by the changes proposed in RFA7.

5
6 Increasing the hub height would not increase the maximum blade tip height of the turbines
7 (approved at 499 feet); therefore, it is not anticipated that the facility, with proposed RFA7
8 changes, would impact flight paths, aerial sprayers, or other air traffic within the vicinity of the
9 facility. In addition, the certificate holder has obtained current Determination of No Hazards
10 from the Federal Aviation Administration for the location and height of all wind turbines to be
11 repowered.

12
13 Based on these facts ~~and analysis~~, the Department recommends that Council find that the
14 facility, with proposed RFA7 changes, would be designed, constructed, and operated to exclude
15 members of the public from close proximity to the turbine blades.

16
17 *Potential Impacts from Structural Failure of the Tower or Blades and Safety Devices and Testing*
18 *Procedures to Warn of Impending Failure*

19
20 As described above, OAR 345-024-0010(2) requires the Council to find that the certificate
21 holder can design, construct and operate the facility to preclude structural failure of the tower
22 or blades that could endanger public safety. In other words, the Council must evaluate if the
23 certificate holder has demonstrated that it has the ability to preclude a structural failure in the
24 first place through design, construction and operation of the turbines. OAR 345-024-0010(2)
25 does not require that a certificate holder demonstrate an *elimination* of all public health and
26 safety risk [*Emphasis added*]. Instead, it requires that the certificate holder design, construct
27 and operate the facility to avoid structural failure, to have adequate mechanisms in place to
28 warn of an impending failure, and to minimize the consequences of such failure.

29
30 Council previously imposed Condition 140 requiring that the certificate holder complete a
31 foundation analysis to confirm all foundation loads meet design criteria for all repowered
32 turbines as required per Condition 140.¹⁴ The site suitability analysis includes an evaluation of
33 the final wind turbine specifications, topography, soil types, and the safety and engineering
34 standards applicable to the wind turbines. These inputs inform the mechanical load analysis
35 and foundation analysis, which ensure that the dimensions and specifications of the repowered
36 wind turbines would not impact global stability, bearing capacity and stiffness of the
37 foundation, tower/foundation connection, reinforced concrete ultimate and fatigue strength.
38 This information would be incorporated in the wind turbine foundation suitability analysis
39 which would be submitted prior to repowering activities in compliance with Condition 140, as
40 discussed below.

41

¹⁴ SWPAMD7 Request for Amendment 7 Section 6.1.3. 2022-05-12.

1 Condition 140 requires the certificate holder conduct a wind turbine foundation suitability
2 analysis for the repowered wind turbines and an annual operational inspection schedule which
3 includes the results of the foundation suitability analysis, including any necessary mitigation
4 and/or remediation measures that would be implemented. In compliance with this condition,
5 the wind turbine foundation suitability analysis would evaluate any changes in load/fatigue that
6 result from the proposed RFA7 changes. Therefore, the Department recommends that Council
7 find that the hub height increase and lowering of the blade tip clearance proposed in RFA7, in
8 compliance with existing site certificate conditions, would not impact the certificate holder's
9 ability to design, engineer and construct the facility to avoid dangers to human safety and the
10 environment.

11

12 Additionally, Council previously imposed other conditions that also help ensure compliance
13 with this standard:

14

- 15 • Condition 16 requires that the certificate holder design, engineer and construct the
16 facility to avoid dangers to human safety presented by seismic hazards affecting the site
17 that are expected to result from all maximum probable seismic events. As used in this
18 rule "seismic hazard" includes ground shaking, landslide, liquefaction, lateral spreading,
19 tsunami inundation, fault displacement and subsidence. (OAR 345-027-0020(12))
20
- 21 • Condition 17 requires that the certificate holder notify the Department, the State
22 Building Codes Division and the Department of Geology and Mineral Industries promptly
23 if site investigations or trenching reveal that conditions in the foundation rocks differ
24 significantly from those described in the application for a site certificate. After the
25 Department receives the notice, the Council may require the certificate holder to
26 consult with the Department of Geology and Mineral Industries and the Building Codes
27 Division and to propose mitigation actions. (OAR 345-027-0020(13)) [Amendment #4]
28
- 29 • Condition 18 requires that the certificate holder notify the Department, the State
30 Building Codes Division and the Department of Geology and Mineral Industries promptly
31 if shear zones, artesian aquifers, deformations or clastic dikes are found at or in the
32 vicinity of the site. (OAR 345- 027-0020(14)) [Amendment #4]
33
- 34 • Condition 49 requires that the certificate holder design the facility in accordance with
35 seismic design provisions given in the Oregon Building Code. The certificate holder shall
36 identify localized areas of SC and SD soil types and assure that any structures to be built
37 in those areas are designed according to the code. The certificate holder shall design all
38 components constructed after 2008 to meet the current Oregon Structural Specialty
39 Code (OSSC 2007) and the 2006 International Building Code. [Amendment #4, #5]
40
- 41 • Condition 95 requires that the certificate holder inspect turbine blades on a regular
42 basis for signs of wear or potential failure. (App BB-1) [Amendment #5]
43

1 The Department recommends that Council find that compliance with the existing conditions
2 would continue to satisfy the requirements of the standard and ensure that the facility, with
3 proposed RFA7 changes, is designed, constructed, and operated to preclude structural failure of
4 the tower or blades that could endanger public safety, and that the proposed RFA7 design
5 changes would have adequate safety devices and testing procedures to warn of impending
6 failure and minimize consequences of such failure, should it occur.

7

8 **Conclusions of Law**

9

10 Based on the foregoing analysis, and subject to compliance with existing conditions, the
11 Department recommends the Council find that the certificate holder has demonstrated an
12 ability to continue to comply with the Council’s Public Health and Safety Standards for Wind
13 Energy Facilities.

1 **III.B. Standards Not Likely to Be Impacted by Request for Amendment 7**

2

3 As described throughout this order, RFA7 solely requests minor wind turbine dimension modifications. Based on the minimal scope
 4 of the amendment request, with the exception of the evaluation provided in Section III.A. *Standards Potentially Impacted by Request*
 5 *for Amendment 7* of this order, the Department recommends Council find that the standards listed below are not likely to be
 6 impacted by RFA7 and therefore are not further evaluated in this order. The Department recommends Council rely on its findings
 7 and conclusions for these standards as presented in the Final Order on Amendment 6 (January 2022), incorporated herein by
 8 reference.

9

Table 2: Summary of Council Standards Not Likely Impacted by RFA7

Standard Citation	Standard	Department Summary
345-022-0010	Organizational Expertise	The proposed RFA7 changes would not require different or new experience or different permits not previously evaluated in the Final Order on Amendment 6. Therefore, there are no new facts to be evaluated.
345-022-0020	Structural Standard	The proposed RFA7 changes would be located within an approved site boundary, in a location where geotechnical analysis has been conducted. Council previously determined that the certificate holder adequately characterized seismic and non-seismic hazards at the site. The proposed dimension changes would not occur in areas not previously characterized for seismic and non-seismic risks and therefore would not impact the certificate holder’s ability to design, construct and operate wind turbines in a manner that would protect public health and safety risk from structural failure due to those seismic and non-seismic hazards. The proposed RFA7 changes would not impact the certificate holder’s ability to comply with the conditions previously imposed under this standard, including Condition 140 (turbine foundation suitability analysis).
345-022-0022	Soil Protection	The proposed RFA7 changes would not modify the site boundary or locations of wind turbines, nor would they impact the ability of the certificate holder to comply with conditions imposed under the Soil protection Standard, including Conditions 29: Prevention of erosion, soil disturbance; 60: Erosion and Sediment Control Plan (ESCP); 61: Best management practices (BMPs) to be included in ESCP; and 92: Prevention of impacts from erosion.

Table 2: Summary of Council Standards Not Likely Impacted by RFA7

Standard Citation	Standard	Department Summary
345-022-0040	Protected Areas	The proposed RFA7 changes would not modify the site boundary, locations of wind turbines, and would not increase the maximum blade tip height of the turbines or the repowering construction activities. Therefore, RFA7 changes would not impact Protected Areas under this Council standard.
345-022-0050	Retirement and Financial Assurance	Per OAR 345-027-0375(2)(d), Council must find that the amount of the bond or letter of credit required under OAR 345-022-0050 is adequate for all requests for amendments. The proposed changes of RFA7 would not result in a change to the facility retirement and financial assurance. Condition 109, which requires the certificate holder to update and adjust its active bond on file with the Department prior to the construction of facility modifications approved in RFA6, still applies. Therefore, the Department recommends that compliance with OAR 345-022-0050 is sustained.
345-022-0060	Fish and Wildlife Habitat	Potential impacts from the proposed RFA7 changes would not impact the certificate holder’s ability to comply with the mitigation goals and standards of OAR 635-415-0025 and the conditions previously imposed under this standard.
345-022-0070	Threatened and Endangered Species	Potential impacts from the proposed RFA7 changes would not result in new impacts to Threatened and Endangered species, or the ability of the certificate holder to comply with the Threatened and Endangered Species standard and conditions previously imposed under the standard.
345-022-0080	Scenic Resources	RFA7 would not result in changes to the site boundary, locations of wind turbines, maximum blade tip height of the turbines or repowering construction activities. Therefore, RFA7 changes would not impact Scenic Resources under this Council standard. Condition 137 (visual impact minimization from the wind turbines) would continue to apply.
345-022-0090	Historic, Cultural, and Archaeological Resources	Potential impacts from the proposed RFA7 changes would not result in new impacts to Historic, Cultural, and Archaeological Resources under this Council standard. Conditions 75 (Marking of buffer areas); 76 (Work cease due to historical find); 143 (Training and Inadvertent Discovery Plan implementation) would continue to apply.

Table 2: Summary of Council Standards Not Likely Impacted by RFA7

Standard Citation	Standard	Department Summary
345-022-0100	Recreation	Potential impacts from the proposed RFA7 changes would not result in new impacts to recreational resources under this Council standard.
345-022-0110	Public Services	Potential impacts from the proposed RFA7 changes would not result in new impacts to public services under this Council standard.
345-022-0120	Waste Minimization	Potential impacts from the proposed RFA7 changes would not result in new impacts to the certificate holder’s solid waste and wastewater plans, which includes minimization and recycling of solid waste and wastewater during the construction and operation of the facility.
	Divisions 23 Standards	Applies to nongenerating facilities and therefore do not apply to this facility or the proposed RFA7 changes
345-024-0015	Cumulative Effects Standard for Wind Energy Facilities	RFA7 would not modify the site boundary or locations of wind turbines. The dimensional changes proposed in RFA7 would not impact the certificate holder’s ability to design, construct and operate roads, transmission lines, substations, or adversely impact the risk to raptors from wind turbines, visual impacts, and lighting at the facility. RFA7 changes would not increase the height or blade length/wind swept area of the wind turbines or other impacts associated with repowering the facility approved in RFA6 Final Order.
345-024-0090	Siting Standards for Transmission Lines	RFA7 would not result in new or changes to existing transmission lines and therefore would not impact the certificate holder’s ability to comply with the standard.
340-035-0035	Noise Control Regulations	The dimension modifications proposed in RFA7 would not result in changes to the operational noise level of the facility or individual wind turbines. Thus RFA7 would not impact the certificate holder’s ability to comply with the ambient noise degradation standard or maximum allowable noise test under the DEQ noise rules.
	Removal-Fill Law	RFA7 would not modify the site boundary or locations of wind turbines, therefore the dimension modifications proposed in RFA7 would not impact wetlands or waters of the state or require a removal fill permit.
	Water Rights	RFA7 would not modify the site boundary or locations of wind turbines or require any changes in water use evaluated to conduct the repowering approved in RFA6. The dimensional changes proposed in RFA7 would not require an evaluation of water rights.

1 For the above described reasons, the Department recommends Council find that the standards
2 listed in Table 2: *Summary of Council Standards Not Likely Impacted by RFA7*, would not apply
3 or result in a potential impact from the proposed changes in RFA7.

4
5 Sections III.B.1 through III.B. ~~15-16~~ provides the language of the identified standards and other
6 applicable laws and regulations that are not likely to be impacted by RFA7, for reference
7 purposes only.

8
9 III.B.1. Organizational Expertise: OAR 345-022-0010

- 10
11 (1) *To issue a site certificate, the Council must find that the applicant has the organizational*
12 *expertise to construct, operate and retire the proposed facility in compliance with*
13 *Council standards and conditions of the site certificate. To conclude that the applicant*
14 *has this expertise, the Council must find that the applicant has demonstrated the ability*
15 *to design, construct and operate the proposed facility in compliance with site certificate*
16 *conditions and in a manner that protects public health and safety and has demonstrated*
17 *the ability to restore the site to a useful, non-hazardous condition. The Council may*
18 *consider the applicant’s experience, the applicant’s access to technical expertise and the*
19 *applicant’s past performance in constructing, operating and retiring other facilities,*
20 *including, but not limited to, the number and severity of regulatory citations issued to*
21 *the applicant.*
22
23 (2) *The Council may base its findings under section (1) on a rebuttable presumption that an*
24 *applicant has organizational, managerial and technical expertise, if the applicant has an*
25 *ISO 9000 or ISO 14000 certified program and proposes to design, construct and operate*
26 *the facility according to that program.*
27
28 (3) *If the applicant does not itself obtain a state or local government permit or approval for*
29 *which the Council would ordinarily determine compliance but instead relies on a permit*
30 *or approval issued to a third party, the Council, to issue a site certificate, must find that*
31 *the third party has, or has a reasonable likelihood of obtaining, the necessary permit or*
32 *approval, and that the applicant has, or has a reasonable likelihood of entering into, a*
33 *contractual or other arrangement with the third party for access to the resource or*
34 *service secured by that permit or approval.*
35
36 (4) *If the applicant relies on a permit or approval issued to a third party and the third party*
37 *does not have the necessary permit or approval at the time the Council issues the site*
38 *certificate, the Council may issue the site certificate subject to the condition that the*
39 *applicant shall not commence construction or operation as appropriate until the third*
40 *party has obtained the necessary permit or approval and the applicant has a contract or*
41 *other arrangement for access to the resource or service secured by that permit or*
42 *approval.*
43

1 III.B.2. Structural Standard: OAR 345-022-0020

2
3 *(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the*
4 *Council must find that:*

5
6 *(a) The applicant, through appropriate site-specific study, has adequately*
7 *characterized the seismic hazard risk of the site;*

8
9 *(b) The applicant can design, engineer, and construct the facility to avoid dangers to*
10 *human safety and the environment presented by seismic hazards affecting the*
11 *site, as identified in subsection (1)(a);*

12
13 *(c) The applicant, through appropriate site-specific study, has adequately*
14 *characterized the potential geological and soils hazards of the site and its vicinity*
15 *that could, in the absence of a seismic event, adversely affect, or be aggravated*
16 *by, the construction and operation of the proposed facility; and*

17
18 *(d) The applicant can design, engineer and construct the facility to avoid dangers to*
19 *human safety and the environment presented by the hazards identified in*
20 *subsection (c).*

21
22 *(2) The Council may not impose the Structural Standard in section (1) to approve or deny*
23 *an application for an energy facility that would produce power from wind, solar or*
24 *geothermal energy. However, the Council may, to the extent it determines*
25 *appropriate, apply the requirements of section (1) to impose conditions on a site*
26 *certificate issued for such a facility.*

27
28 *(3) The Council may not impose the Structural Standard in section (1) to deny an*
29 *application for a special criteria facility under OAR 345-015-0310. However, the*
30 *Council may, to the extent it determines appropriate, apply the requirements of*
31 *section (1) to impose conditions on a site certificate issued for such a facility.*

32
33 III.B.3. Soil Protection: OAR 345-022-0022

34
35 *To issue a site certificate, the Council must find that the design, construction and*
36 *operation of the facility, taking into account mitigation, are not likely to result in a*
37 *significant adverse impact to soils including, but not limited to, erosion and chemical*
38 *factors such as salt deposition from cooling towers, land application of liquid effluent,*
39 *and chemical spills.*

40
41 III.B.4. Protected Areas: OAR 345-022-0040

42
43 *(1) Except as provided in sections (2) and (3), the Council shall not issue a site certificate*
44 *for a proposed facility located in the areas listed below. To issue a site certificate for a*
45 *proposed facility located outside the areas listed below, the Council must find that,*

1 *taking into account mitigation, the design, construction and operation of the facility are*
2 *not likely to result in significant adverse impact to the areas listed below. References in*
3 *this rule to protected areas designated under federal or state statutes or regulations are*
4 *to the designations in effect as of May 11, 2007:*

5
6 *(a) National parks, including but not limited to Crater Lake National Park and Fort*
7 *Clatsop National Memorial;*

8
9 *(b) National monuments, including but not limited to John Day Fossil Bed National*
10 *Monument, Newberry National Volcanic Monument and Oregon Caves National*
11 *Monument;*

12
13 *(c) Wilderness areas established pursuant to The Wilderness Act, 16 U.S.C. 1131 et*
14 *seq. and areas recommended for designation as wilderness areas pursuant to 43*
15 *U.S.C. 1782;*

16
17 *(d) National and state wildlife refuges, including but not limited to Ankeny, Bandon*
18 *Marsh, Baskett Slough, Bear Valley, Cape Meares, Cold Springs, Deer Flat, Hart*
19 *Mountain, Julia Butler Hansen, Klamath Forest, Lewis and Clark, Lower Klamath,*
20 *Malheur, McKay Creek, Oregon Islands, Sheldon, Three Arch Rocks, Umatilla, Upper*
21 *Klamath, and William L. Finley;*

22
23 *(e) National coordination areas, including but not limited to Government Island,*
24 *Ochoco and Summer Lake;*

25
26 *(f) National and state fish hatcheries, including but not limited to Eagle Creek and*
27 *Warm Springs;*

28
29 *(g) National recreation and scenic areas, including but not limited to Oregon Dunes*
30 *National Recreation Area, Hell's Canyon National Recreation Area, and the Oregon*
31 *Cascades Recreation Area, and Columbia River Gorge National Scenic Area;*

32
33 *(h) State parks and waysides as listed by the Oregon Department of Parks and*
34 *Recreation and the Willamette River Greenway;*

35
36 *(i) State natural heritage areas listed in the Oregon Register of Natural Heritage*
37 *Areas pursuant to ORS 273.581;*

38
39 *(j) State estuarine sanctuaries, including but not limited to South Slough Estuarine*
40 *Sanctuary, OAR Chapter 142;*

41
42 *(k) Scenic waterways designated pursuant to ORS 390.826, wild or scenic rivers*
43 *designated pursuant to 16 U.S.C. 1271 et seq., and those waterways and rivers listed*
44 *as potentials for designation;*

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(l) Experimental areas established by the Rangeland Resources Program, College of Agriculture, Oregon State University: the Prineville site, the Burns (Squaw Butte) site, the Starkey site and the Union site;

(m) Agricultural experimental stations established by the College of Agriculture, Oregon State University, including but not limited to: Coastal Oregon Marine Experiment Station, Astoria Mid-Columbia Agriculture Research and Extension Center, Hood River Agriculture Research and Extension Center, Hermiston Columbia Basin Agriculture Research Center, Pendleton Columbia Basin Agriculture Research Center, Moro North Willamette Research and Extension Center, Aurora East Oregon Agriculture Research Center, Union Malheur Experiment Station, Ontario Eastern Oregon Agriculture Research Center, Burns Eastern Oregon Agriculture Research Center, Squaw Butte Central Oregon Experiment Station, Madras Central Oregon Experiment Station, Powell Butte Central Oregon Experiment Station, Redmond Central Station, Corvallis Coastal Oregon Marine Experiment Station, Newport Southern Oregon Experiment Station, Medford Klamath Experiment Station, Klamath Falls;

(n) Research forests established by the College of Forestry, Oregon State University, including but not limited to McDonald Forest, Paul M. Dunn Forest, the Blodgett Tract in Columbia County, the Spaulding Tract in the Mary's Peak area and the Marchel Tract;

(o) Bureau of Land Management areas of critical environmental concern, outstanding natural areas and research natural areas;

(p) State wildlife areas and management areas identified in OAR chapter 635, Division 8.

III.B.5. Retirement and Financial Assurance: OAR 345-022-0050

To issue a site certificate, the Council must find that:

- (1) The site, taking into account mitigation, can be restored adequately to a useful, non-hazardous condition following permanent cessation of construction or operation of the facility.*
- (2) The applicant has a reasonable likelihood of obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition.*

1 III.B.6. Fish and Wildlife Habitat: OAR 345-022-0060

2
3 *To issue a site certificate, the Council must find that the design, construction and*
4 *operation of the facility, taking into account mitigation, are consistent with:*

5
6 *(1) The general fish and wildlife habitat mitigation goals and standards of OAR 635-415-*
7 *0025(1) through (6) in effect as of February 24, 2017****

8
9 III.B.7. Threatened and Endangered Species: OAR 345-022-0070

10
11 *To issue a site certificate, the Council, after consultation with appropriate state agencies,*
12 *must find that:*

13
14 *(1) For plant species that the Oregon Department of Agriculture has listed as*
15 *threatened or endangered under ORS 564.105(2), the design, construction and*
16 *operation of the proposed facility, taking into account mitigation:*

17
18 *(a) Are consistent with the protection and conservation program, if any, that the*
19 *Oregon Department of Agriculture has adopted under ORS 564.105(3); or*

20
21 *(b) If the Oregon Department of Agriculture has not adopted a protection and*
22 *conservation program, are not likely to cause a significant reduction in the*
23 *likelihood of survival or recovery of the species; and*

24
25 *(2) For wildlife species that the Oregon Fish and Wildlife Commission has listed as*
26 *threatened or endangered under ORS 496.172(2), the design, construction and*
27 *operation of the proposed facility, taking into account mitigation, are not likely to*
28 *cause a significant reduction in the likelihood of survival or recovery of the species.*

29
30 III.B.8. Scenic Resources: OAR 345-022-0080

31
32 *(1) Except for facilities described in section (2), to issue a site certificate, the Council*
33 *must find that the design, construction and operation of the facility, taking into*
34 *account mitigation, are not likely to result in significant adverse impact to scenic*
35 *resources and values identified as significant or important in local land use plans,*
36 *tribal land management plans and federal land management plans for any lands*
37 *located within the analysis area described in the project order.*

38
39 III.B.9. Historic, Cultural, and Archaeological Resources: OAR 345-022-0090

40
41 *(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the*
42 *Council must find that the construction and operation of the facility, taking into account*
43 *mitigation, are not likely to result in significant adverse impacts to:*

1 (a) *Historic, cultural or archaeological resources that have been listed on, or would*
2 *likely be listed on the National Register of Historic Places;*

3
4 (b) *For a facility on private land, archaeological objects, as defined in ORS*
5 *358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c); and*

6
7 (c) *For a facility on public land, archaeological sites, as defined in ORS 358.905(1)(c).*

8
9 (2) *The Council may issue a site certificate for a facility that would produce power from*
10 *wind, solar or geothermal energy without making the findings described in section (1).*
11 *However, the Council may apply the requirements of section (1) to impose conditions on*
12 *a site certificate issued for such a facility.*

13 ***

14
15 III.B.10. Recreation: OAR 345-022-0100

16
17 (1) *Except for facilities described in section (2), to issue a site certificate, the Council must*
18 *find that the design, construction and operation of a facility, taking into account*
19 *mitigation, are not likely to result in a significant adverse impact to important*
20 *recreational opportunities in the analysis area as described in the project order. The*
21 *Council shall consider the following factors in judging the importance of a recreational*
22 *opportunity:*

23
24 (a) *Any special designation or management of the location;*

25 (b) *The degree of demand;*

26 (c) *Outstanding or unusual qualities;*

27 (d) *Availability or rareness;*

28 (e) *Irreplaceability or irretrievability of the opportunity.*

29 ***

30
31 III.B.11. Public Services: OAR 345-022-0110

32
33 (1) *Except for facilities described in sections (2) and (3), to issue a site certificate, the*
34 *Council must find that the construction and operation of the facility, taking into account*
35 *mitigation, are not likely to result in significant adverse impact to the ability of public*
36 *and private providers within the analysis area described in the project order to provide:*
37 *sewers and sewage treatment, water, storm water drainage, solid waste management,*
38 *housing, traffic safety, police and fire protection, health care and schools.*

39
40 (2) *The Council may issue a site certificate for a facility that would produce power from*
41 *wind, solar or geothermal energy without making the findings described in section (1).*
42 *However, the Council may apply the requirements of section (1) to impose conditions on*
43 *a site certificate issued for such a facility.*

44 ***

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III.B.12. Waste Minimization: OAR 345-022-0120

(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that, to the extent reasonably practicable:

(a) The applicant’s solid waste and wastewater plans are likely to minimize generation of solid waste and wastewater in the construction and operation of the facility, and when solid waste or wastewater is generated, to result in recycling and reuse of such wastes;

(b) The applicant’s plans to manage the accumulation, storage, disposal and transportation of waste generated by the construction and operation of the facility are likely to result in minimal adverse impact on surrounding and adjacent areas.

(2) The Council may issue a site certificate for a facility that would produce power from wind, solar or geothermal energy without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.

III.B.13. Division 23 Standards

The Division 23 standards apply only to “nongenerating facilities” as defined in ORS 469.503(2)(e)(K), except nongenerating facilities that are related or supporting facilities. The facility, with proposed changes, would not be a nongenerating facility as defined in statute and therefore Division 23 is inapplicable to the facility, with proposed changes.

III.B.14. Cumulative Effects Standard for Wind Energy Facilities OAR 345-024-0015

To issue a site certificate for a proposed wind energy facility, the Council must find that the applicant can design and construct the facility to reduce cumulative adverse environmental effects in the vicinity by practicable measures including, but not limited to, the following:

- (1) Using existing roads to provide access to the facility site, or if new roads are needed, minimizing the amount of land used for new roads and locating them to reduce adverse environmental impacts.*
- (2) Using underground transmission lines and combining transmission routes.*
- (3) Connecting the facility to existing substations, or if new substations are needed, minimizing the number of new substations.*
- (4) Designing the facility to reduce the risk of injury to raptors or other vulnerable wildlife in areas near turbines or electrical equipment.*
- (5) Designing the components of the facility to minimize adverse visual features.*

1 (6) *Using the minimum lighting necessary for safety and security purposes and using*
2 *techniques to prevent casting glare from the site, except as otherwise required by the*
3 *Federal Aviation Administration or the Oregon Department of Aviation.*

4
5 III.B.15. Siting Standards for Transmission Lines: OAR 345-024-0090

6
7 *To issue a site certificate for a facility that includes any transmission line under Council*
8 *jurisdiction, the Council must find that the applicant:*

9
10 (1) *Can design, construct and operate the proposed transmission line so that*
11 *alternating current electric fields do not exceed 9 kV per meter at one meter above*
12 *the ground surface in areas accessible to the public;*

13
14 (2) *Can design, construct and operate the proposed transmission line so that induced*
15 *currents resulting from the transmission line and related or supporting facilities will*
16 *be as low as reasonably achievable.*

17
18 III.B.16. Other Applicable Regulatory Requirements Under Council Jurisdiction

19
20 Under ORS 469.503(3) and under the Council’s General Standard of Review (OAR 345-022-
21 0000), the Council must determine whether the proposed facility complies with “all other
22 Oregon statutes and administrative rules...as applicable to the issuance of a site certificate for
23 the proposed facility.” This section addresses the applicable Oregon statutes and administrative
24 rules that are not otherwise addressed in Council standards, including noise control regulations,
25 regulations for removal or fill of material affecting waters of the state, and regulations for
26 appropriating ground water.

27
28 III.B.16.a. Noise Control Regulations: OAR 340-035-0035

29
30 (1) *Standards and Regulations:*

31 ***

32 (b) *New Noise Sources:*

33
34 (B) *New Sources Located on Previously Unused Site:*

35
36 (iii) *For noise levels generated or caused by a wind energy facility:*

37 (i) *The increase in ambient statistical noise levels is based on an assumed*
38 *background L50 ambient noise level of 26 dBA or the actual ambient*
39 *background level. The person owning the wind energy facility may*
40 *conduct measurements to determine the actual ambient L10 and L50*
41 *background level.*

42 (ii) *The "actual ambient background level" is the measured noise level at*
43 *the appropriate measurement point as specified in subsection (3)(b) of*

1 *this rule using generally accepted noise engineering measurement*
2 *practices. Background noise measurements shall be obtained at the*
3 *appropriate measurement point, synchronized with windspeed*
4 *measurements of hub height conditions at the nearest wind turbine*
5 *location. "Actual ambient background level" does not include noise*
6 *generated or caused by the wind energy facility.*

7 *(iii) The noise levels from a wind energy facility may increase the ambient*
8 *statistical noise levels L10 and L50 by more than 10 dBA (but not*
9 *above the limits specified in Table 8), if the person who owns the noise*
10 *sensitive property executes a legally effective easement or real*
11 *covenant that benefits the property on which the wind energy facility*
12 *is located. The easement or covenant must authorize the wind energy*
13 *facility to increase the ambient statistical noise levels, L10 or L50 on*
14 *the sensitive property by more than 10 dBA at the appropriate*
15 *measurement point.*

16 *(iv) For purposes of determining whether a proposed wind energy facility*
17 *would satisfy the ambient noise standard where a landowner has not*
18 *waived the standard, noise levels at the appropriate measurement*
19 *point are predicted assuming that all of the proposed wind facility's*
20 *turbines are operating between cut-in speed and the wind speed*
21 *corresponding to the maximum sound power level established by IEC*
22 *61400-11 (version 2002-12). These predictions must be compared to*
23 *the highest of either the assumed ambient noise level of 26 dBA or to*
24 *the actual ambient background L10 and L50 noise level, if measured.*
25 *The facility complies with the noise ambient background standard if*
26 *this comparison shows that the increase in noise is not more than 10*
27 *dBa over this entire range of wind speeds.*

28 *(v) For purposes of determining whether an operating wind energy*
29 *facility complies with the ambient noise standard where a landowner*
30 *has not waived the standard, noise levels at the appropriate*
31 *measurement point are measured when the facility's nearest wind*
32 *turbine is operating over the entire range of wind speeds between cut-*
33 *in speed and the windspeed corresponding to the maximum sound*
34 *power level and no turbine that could contribute to the noise level is*
35 *disabled. The facility complies with the noise ambient background*
36 *standard if the increase in noise over either the assumed ambient*
37 *noise level of 26 dBA or to the actual ambient background L10 and*
38 *L50 noise level, if measured, is not more than 10 dBA over this entire*
39 *range of wind speeds.*

40 *(vi) For purposes of determining whether a proposed wind energy facility*
41 *would satisfy the Table 8 standards, noise levels at the appropriate*
42 *measurement point are predicted by using the turbine's maximum*
43 *sound power level following procedures established by IEC 61400-11*

1 *(version 2002-12), and assuming that all of the proposed wind*
2 *facility's turbines are operating at the maximum sound power level.*
3 *(vii) For purposes of determining whether an operating wind energy*
4 *facility satisfies the Table 8 standards, noise generated by the energy*
5 *facility is measured at the appropriate measurement point when the*
6 *facility's nearest wind turbine is operating at the windspeed*
7 *corresponding to the maximum sound power level and no turbine that*
8 *could contribute to the noise level is disabled.*
9 ***

10
11 **III.B.16.b. Removal-Fill**

12
13 The Oregon Removal-Fill Law (ORS 196.795 through 196.990) and Department of State Lands
14 (DSL) regulations (OAR 141-085-0500 through 141-085-0785) require a removal-fill permit if 50
15 cubic yards or more of material is removed, filled, or altered within any “waters of the state.”¹⁵
16 The Council, in consultation with DSL, must determine whether a removal-fill permit is needed
17 and if so, whether a removal-fill permit should be issued.

18
19 The analysis area for potential impacts to wetlands and other waters of the state, as defined in
20 the project order, is the area within the site boundary. As previously discussed, the site
21 boundary includes two geographic units distinguished by the certificate holder as Stateline 1
22 and 2; and, Vansycle II. The evaluation of compliance with Removal-Fill Law requirements is
23 based upon mapped waters of the state and potential impacts within the Vansycle II unit site
24 boundary area.

25
26 **III.B.16.c. Water Rights**

27
28 Under ORS Chapters 537 and 540 and OAR Chapter 690, the Oregon Water Resources
29 Department (OWRD) administers water rights for appropriation and use of the water resources
30 of the state. Under OAR 345-022-0000(1)(b), the Council must determine whether the facility
31 would comply with these statutes and administrative rules. OAR 345-021-0010(1)(o)(F) requires
32 that if a facility needs a groundwater permit, surface water permit, or water right transfer, that
33 a decision on authorizing such a permit rests with the Council.

34

¹⁵ ORS 196.800(15) defines “Waters of this state.” The term includes wetlands and certain other waterbodies.

1 **IV. PROPOSED CONCLUSIONS AND ORDER**

2
3 Based on the recommended findings and conclusions included in this order, the Department
4 recommends that Council make the following findings:

- 5
6 1. The facility, with proposed changes included in Request for Amendment 7 of the
7 Stateline Wind Project site certificate, complies with the requirements of the Oregon
8 Energy Facility Siting Statutes, ORS 469.300 to 469.520.
9
10 2. The facility, with proposed changes included in Request for Amendment 7 of the
11 Stateline Wind Project site certificate, complies with the standards adopted by the
12 Council pursuant to ORS 469.501.
13
14 3. The facility, with proposed changes included in Request for Amendment 7 of the
15 Stateline Wind Project site certificate, complies with all other Oregon statutes and
16 administrative rules identified in the project order as applicable to the issuance of a
17 site certificate for the facility.
18

19 Accordingly, the Department recommends that the Council find that the facility, with proposed
20 changes included in Request for Amendment 7 of the Stateline Wind Project site certificate,
21 complies with OAR 345-027-0375 and the General Standard of Review under OAR 345-022-
22 0000. The Department recommends that the Council find, based on a preponderance of the
23 evidence on the record, that the site certificate may be amended as requested.
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1 **Proposed Order**

2

3 The Department recommends Council approve Amendment 7 of the Stateline Wind Project site
4 certificate.

5

Issued this 10th day of June 2022

The OREGON DEPARTMENT OF ENERGY

By: 
Todd Cornett, Assistant Director
Oregon Department of Energy, Energy Facility Siting Division

6

7 **Attachments:**

8 Attachment A: Draft Amended Site Certificate

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Attachment A: Draft Amended Site Certificate

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

~~Sixth~~ Seventh Amended Site Certificate

**for the
Stateline Wind Project**

ISSUANCE DATES

Site Certificate	September 14, 2001
First Amended Site Certificate	May 24, 2002
Second Amended Site Certificate	June 6, 2003
Third Amended Site Certificate	June 20, 2005
Fourth Amended Site Certificate	March 27, 2009
Fifth Amended Site Certificate	May 17, 2019
Sixth Amended Site Certificate	January 28, 2022

Seventh Amended Site Certificate DATE, 2022

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Oregon Energy Facility Siting Council

SIXTH-SEVENTH AMENDED SITE CERTIFICATE FOR THE STATELINE WIND PROJECT

1 I. INTRODUCTION

2
3 The Energy Facility Siting Council (“Council”) issues this amended site certificate for the Stateline
4 Wind Project in the manner authorized under ORS Chapter 469. This site certificate is a binding
5 agreement between the State of Oregon (“State”), acting through the Council, and the certificate
6 holders. The certificate holders are FPL Energy Vansycle LLC (“FPL Vansycle”) and FPL Energy Stateline II,
7 Inc. (“FPL Stateline”). This site certificate authorizes the certificate holders to construct and operate the
8 Stateline Wind Project (the “facility”) in Umatilla County, Oregon.

9
10 The findings of fact, reasoning and conclusions of law underlying the terms and conditions of
11 this site certificate are set forth in the following documents, incorporated herein by this reference: (a)
12 the Council’s Final Order in the Matter of the Application for a Site Certificate for the Stateline Wind
13 Project (“Final Order on the Application”), issued on September 14, 2001, (b) the Council’s Final Order in
14 the Matter of the Request for Amendment #1 of the Site Certificate for the Stateline Wind Project
15 (“Final Order on Amendment #1”), (c) the Council’s Final Order in the Matter of the Request for
16 Amendment #2 of the Site Certificate for the Stateline Wind Project (“Final Order on Amendment #2”),
17 (d) the Council’s Final Order in the Matter of the Request for Amendment #3 of the Site Certificate for
18 the Stateline Wind Project (“Final Order on Amendment #3”), (e) the Council’s Final Order in the Matter
19 of the Request for Amendment #4 of the Site Certificate for the Stateline Wind Project (“Final Order on
20 Amendment #4”), (f) the Council’s Final Order in the Matter of the Request for Amendment #5 (“Final
21 Order on Amendment #5), ~~and~~ (g) the Council’s Final Order in the Matter of the Request for
22 Amendment #6 (“Final Order on Amendment #6), and (h) the Council’s Final Order in the Matter of the
23 Request for Amendment #7 (“Final Order on Amendment #7). [Amendments #1, #2, 3, #4, #5, #6, and
24 #7]

25
26 ~~[Text added here by Amendment #3 was deleted by Amendment #4]~~

27
28 In interpreting this site certificate, any ambiguity will be clarified by reference to the following,
29 in order of priority: this Seventh Amended Site Certificate, Final Order on Amendment #7, Sixth
30 Amended Site Certificate, Final Order on Amendment #6, Fifth Amended Site Certificate, Final Order on
31 Amendment #5, Fourth Amended Site Certificate, Final Order on Amendment #4, the Final Order on
32 Amendment #3, the Final Order on Amendment #2, the Final Order on Amendment #1, the Final Order
33 on the Application and the record of the proceedings that led to the Final Orders on the Application and
34 Amendments #1, #2, #3, #4, #5, and #6. [Amendments #1, #2, #3, #4, #5, ~~and~~ #6, #7]

35
36 The definitions in ORS 469.300 and OAR 345-001-0010 apply to terms used in this site
37 certificate, except where otherwise stated or where the context clearly indicates otherwise.

38
39 II. SITE CERTIFICATION

40
41 1. To the extent authorized by state law and subject to the conditions set forth herein, the State
42 authorizes FPL Vansycle to construct, operate and retire Stateline 1&2 and authorizes FPL Stateline
43 to construct, operate and retire Vansycle II as described in Section III of this site certificate. ORS
44 469.401(1). [Amendment #4, #5, #6, #7]

- 1 2. This site certificate is effective until it is terminated under OAR 345-027-0110 or the rules in effect
2 on the date that termination is sought or until the site certificate is revoked under ORS 469.440 and
3 OAR 345-029-0100 or the statutes and rules in effect on the date that revocation is ordered. ORS
4 469.401(1). [Amendment #5, #6, #7]
5
- 6 3. This site certificate does not address, and is not binding with respect to, matters that were not
7 addressed in the Council’s Final Orders on the Application and Amendments #1, #2, #3, #4, #5, and
8 #6, and #7. These matters include, but are not limited to: building code compliance, wage, hour and
9 other labor regulations, local government fees and charges and other design or operational issues
10 that do not relate to siting the facility (ORS 469.401(4)) and permits issued under statutes and rules
11 for which the decision on compliance has been delegated by the federal government to a state
12 agency other than the Council. ORS 469.503(3). [Amendments #1, #2, #3, #4, #5, and #6, #7]
13
- 14 4. The State and the certificate holders shall abide by local ordinances, state law and the rules of the
15 Council in effect on the date this site certificate is executed. ORS 469.401(2). In addition, upon a
16 clear showing of a significant threat to public health, safety or the environment that requires
17 application of later-adopted laws or rules, the Council may require compliance with such
18 later-adopted laws or rules. ORS 469.401(2). [Amendment #4, #5, #6, #7]
19
- 20 5. For a permit, license or other approval addressed in and governed by this site certificate, the
21 certificate holders shall comply with applicable state and federal laws adopted in the future to the
22 extent that such compliance is required under the respective state agency statutes and rules. ORS
23 469.401(2). [Amendment #4, #5, #6, #7]
24
- 25 6. Subject to the conditions herein, this site certificate binds the State and all counties, cities and
26 political subdivisions in Oregon as to the approval of the site and the construction, operation and
27 retirement of the facility as to matters that are addressed in and governed by this site certificate.
28 ORS 469.401(3). [Amendment #5, #6, #7]
29
- 30 7. Each affected state agency, county, city and political subdivision in Oregon with authority to issue a
31 permit, license or other approval addressed in or governed by this site certificate shall, upon
32 submission of the proper application and payment of the proper fees, but without hearings or other
33 proceedings, issue such permit, license or other approval subject only to conditions set forth in this
34 site certificate. ORS 469.401(3). [Amendment #5, #6, #7]
35
- 36 8. After issuance of this site certificate, each state agency or local government agency that issues a
37 permit, license or other approval for the facility shall continue to exercise enforcement authority
38 over such permit, license or other approval. ORS 469.401(3). [Amendment #5, #6, #7]
39
- 40 9. After issuance of this site certificate, the Council shall have continuing authority over the site and
41 may inspect, or direct the Oregon Department of Energy (“Department”) to inspect, or request
42 another state agency or local government to inspect, the site at any time in order to assure that the
43 facility is being operated consistently with the terms and conditions of this site certificate. ORS
44 469.430. [Amendment #5, #6, #7]
45

46 III. DESCRIPTIONS AND DIVIDED RESPONSIBILITY 47

1 **1. Stateline 1&2**

2
3 **(i) Major Structures**

4 Stateline 1&2 consists of 186 Vestas V47-660-kilowatt (kW) wind turbines, each having a peak
5 generating capacity of 0.66 MW.¹ Each wind turbine is connected to a 34.5-kilovolt (kV) collector system.
6 The wind turbines are grouped in “strings” of turbines, each turbine spaced approximately 250 feet from
7 the next, generally slightly downwind of the crest of ridges. Major facility structures are further as
8 described in the Final Orders on the Application and Amendments #1 and #2. [Amendments #1, #2 and #4]

9
10 **(ii) Related or Supporting Facilities**

11 Stateline 1&2 includes the following related or supporting facilities described below and in
12 greater detail in the Final Order on Amendment #4:

- 13
- 14
 - Access roads to reach each turbine for construction and maintenance
 - 15 - Underground collector cables that transmit the electrical output of the wind turbines to
 - 16 a substation in Washington [Amendment #2]
 - 17 ~~▪ [Text added by Amendment #2 was deleted by Amendment #4]~~
 - 18 ~~▪ [Text added by Amendment #2 was deleted by Amendment #4]~~
 - 19 - Meteorological towers
 - 20 - A satellite operations and maintenance building

21
22 Access Roads

23
24 County roads that extend south from Highway 12 in Washington (e.g., Hatch Grade Road and
25 Butler Grade Road) and north from Oregon Highway 11 (e.g., Vansycle Canyon Road and Butler Grade
26 Road) are the primary routes of access to the facility site. From the county roads, a web of private farm
27 roads provides access to most of the ridges upon which the facility is located. Additional access roads
28 are located along the length of each turbine string and connecting each turbine string to the next.
29 Access roads are further as described in the Final Orders on the Application and Amendments #1 and #2.
30 [Amendments #1 and #2]

31
32 Collector System

33
34 The wind turbines generate power at 690 volts. A transformer adjacent to each tower
35 transforms the power to 34.5 kV. From the turbines, power is transmitted via an underground 34.5-kV
36 collector system. Overhead transmission lines, located entirely within Washington, connect the
37 Washington substation to a BPA 115-kV transmission line north of the Walla Walla River and to a
38 PacifiCorp substation just north of Highway 12. [Amendments #1, #2 and #4]

39
40 Meteorological Towers

41
42 Stateline 1&2 includes up to six permanent meteorological (met) towers to measure wind
43 conditions. The met towers are unguyed towers. [Amendments #1, #2 and #4]

¹ The site certificate authorizes up to 187 turbines, but the certificate holder chose to build 186.

1
2 Satellite O&M Building
3

4 Stateline 1&2 includes an operation and maintenance (O&M) facility, which is a satellite to the
5 primary O&M facility located in Washington. The satellite O&M facility is located along Butler Grade
6 Road south of Gardena and just south of the state line in Oregon. [Amendment #4]
7

8 **2. Vansycle II²**

(i) Major Structures

9 Vansycle II consists of up to 45 wind turbines. Vansycle II has a combined peak generating
10 capacity of up to 118.68 MW. Major facility structures are further as described in the Final Order on
11 Amendment #4. [Amendment #4, #5, #6, #7]
12

Wind Turbine Repower

13
14 Wind turbine repowering includes removal and replacement of wind turbine hub (blade and rotor) and
15 gearbox (nacelles). Haul trucks, boom trucks and cranes are used to support repowering activities. A
16 crane is mobilized and new gearboxes, blades and hub are delivered onsite. A boom truck or telehandler
17 is used to unload and assemble new turbine blades and hub into a complete rotor. Gearboxes and
18 assembled hubs are set up on the access road adjacent to the wind turbine. The crane is used to lower
19 rotors and gearbox, which is then be place next to the crane; and, then used to pick up and set the new
20 rotor. Either a boom truck or telehandler is used to disassemble the replaced rotor (blade and hub);
21 materials are then transported offsite for proper disposal at a licensed disposal or recycling facility.
22 Facility modifications approved in the Sixth Amended Site Certificate include repowering (replacing
23 blades and nacelles) of 43 existing wind turbines, replacing up to 4 wind turbines and constructing up to
24 2 new wind turbines, but any variation in these options would not result in more than 45 repowered,
25 replaced and/or new wind turbines within the Vansycle II unit. The wind turbine changes would result in
26 increased per turbine capacity, from 2.3 to 2.66 MW; increased maximum blade-tip height from 440 to
27 499 feet, reduced minimum aboveground blade-tip clearance from ~~85-59~~ to ~~509~~ feet, and increased hub
28 height from ~~262-5295~~ to ~~315295~~ feet. [Amendment #5, #6, #7]

(ii) Related or Supporting Facilities

29 Vansycle II includes the following related or supporting facilities described below and in greater
30 detail in the Final Order on Amendment #4, and Final Order on Amendment #6:
31

- 32 ▪ Access roads to reach each turbine for construction and maintenance
- 33 ▪ Underground collector cables that transmit the electrical output of the wind turbines to
34 a substation
- 35 ▪ A substation
- 36 ▪ A 230-kV transmission line
- 37 ▪ Meteorological towers
- 38 ▪ An operations and maintenance building

² Prior to the Fifth Amended Site Certificate, Vansycle II was referred to as Stateline 3.

- 1 ▪ Temporary laydown areas and access roads
- 2 ▪ 50 MW battery energy storage system
- 3 [Amendment #4, #5, #6]

4

5 Access Roads

6

7 County roads that extend south from Highway 12 in Washington (e.g., Hatch Grade Road and
8 Butler Grade Road) and north from Oregon Highway 11 (e.g., Vansycle Canyon Road and Butler Grade
9 Road) are the primary routes of access to the facility site. From the county roads, a web of private farm
10 roads provides access to most of the ridges upon which the facility is located. Additional access roads
11 are located along the length of each turbine string and connecting each turbine string to the next.
12 [Amendment #4]

13

14 Collector System, Substation and Transmission Line

15

16 The wind turbines generate power at 690 volts. A transformer adjacent to each tower
17 transforms the power to 34.5 kV. From the turbines, power is transmitted via an underground 34.5-kV
18 collector system to a substation located in Township 5 North, Range 34 East. Approximately 16 miles of
19 aboveground 230-kV transmission line (13 miles in Oregon) connects the Vansycle II substation to
20 existing major transmission lines in Washington. [Amendment #4]

21

22 Meteorological Towers

23 Vansycle II includes two permanent meteorological (met) towers. The met towers are unguyed
24 towers. [Amendment #4]

25

26 O&M Building

27

28 Vansycle II includes an O&M building near the intersection of Wayland Road and Gerking Flat
29 Road north of Helix. [Amendment #4]

30

31 Temporary and Permanent Disturbance

32 The total temporary disturbance of RFA6 Facility modifications is estimated at approximately 212
33 acres. Temporary disturbance would result from a 20-acre staging area, 126 acres for rotor assembly
34 areas (2.5 acres per turbine), and 68 acres from road widening and crane paths (16 to 38 feet for 15.7
35 miles). Temporary disturbance must be restored consistent with existing conditions and in accordance
36 with revegetation and reclamation requirements of the final Revegetation Plan.

37

38 The total permanent disturbance is estimated at 12 acres, including 0.08 acres for 2 new wind
39 turbine foundations; 0.09 acres for new access roads; and 11 acres for the BESS.

40

41 Battery Energy Storage System (BESS)

42 The battery energy storage system (BESS) would consist of lithium-ion batteries in a series of
43 modular unoccupied containers, as described in more detail below:

- 44 • Batteries - Lithium-ion system would require regular change out of batteries as they degrade
45 over time at a rate depending on usage. It is conservatively assumed the battery would need

1 to be replaced every 15-20 years, or 1-2 times over the operational life of the repowered
2 facility, which is assumed to be approximately 30 years.

- 3 • Approximately 72 steel containers, each approximately 20 feet in length by 9 feet in width.
- 4 • Approximately 18 inverters (four containers per inverter) with associated step up
5 transformers, each having a combined skid footprint approximately 30 feet by 10 feet and
6 power ratings for 3.43 mega-volt-ampere (MVA) and 3.55 MVA, respectively.
- 7 • Interconnection facilities including a control house, protective device, and power transformer.
- 8 • Battery and inverter equipment would connect via a combination of above ground cable trays,
9 underground conduit, direct-buried cable and/or covered cable trenches installed at a
10 minimum depth of 3-feet below grade.
- 11 • Battery containers and inverter skids would either be placed on an engineered grade or on
12 poured concrete foundations or utilize steel piles, depending on site conditions and Umatilla
13 County Building Department requirements.
- 14 • Utilize existing control house for communication equipment.
- 15 • Each container within the battery storage system would have its own skid-mounted power
16 transformer and bi-directional inverter as shown in Figure 2. The bi-directional inverter allows
17 energy to flow in or out of the battery to provide charge and discharge. Power switches and
18 relays would protect the system. No emergency generator or backup power system would be
19 provided, however local distribution could be used as a backup auxiliary source.
- 20 • Cooling units would be placed either on top of the building enclosure or containers or along
21 the side.
- 22 • Site surfacing would be primarily gravel, with a maximum of 7.2 acres of the energy storage
23 area graveled to a depth of 6 inches, using approximately 4,160 tons of gravel.

24
25 The total area of the battery storage site would be approximately 11 acres, and would include
26 approximately 3,000 linear feet of fence.

27
28 *Spill and fire prevention measures of the BESS*

29
30 The BESS would include the following design features to minimize fire and safety risks:

- 31 • The BESS would have a fire suppression system designed in accordance with applicable
32 standards specified by the Umatilla County building department through the permitting
33 process which would include the 2014 Oregon Structural Specialty Code et. seq.
- 34 • The BESS would have 350-gallon or greater water buffaloes located at the site (per Condition
35 34).
- 36 • The BESS would be stored in completely contained, leak-proof steel containers, serving as
37 secondary containment for the modules housing the battery cells.
- 38 • The 11-acre BESS site would be constructed and operated within a fenced area (per Condition
39 35).
- 40 • The BESS would be electronically monitored allowing for tracking and responding to issue of
41 battery malfunction.
- 42 • O&M staff would conduct monthly inspections according to the manufacturer's
43 recommendations.
- 44 • Requirements of Emergency Action Plan (per Conditions 48 and 85) would be adhered to,
45 including emergency (e.g., fire) response procedures.
46 [Amendment #6]

1 **3. Location of the Facility**

2
3 The facility is located in Umatilla County, north and east of Helix, Oregon. The towns closest to
4 the facility are Helix, Oregon, and Touchet, Washington. The wind turbines would be located on ridges
5 east of the Columbia River and south of the Walla Walla River. The location of the facility is further ~~as~~
6 described in the Final Orders on the Application and Amendments #1, #2, #4, ~~and #5,~~ #6 and #7.
7 [Amendments #1, #2, #4, ~~and #5,~~ #6, #7]
8

9 **4. Responsibility for Stateline 1&2 and Vansycle II**

10
11 FPL Vansycle shall be individually responsible for compliance with all conditions relating to
12 Stateline 1&2, and FPL Stateline shall not be jointly responsible for such compliance. FPL Stateline shall
13 be individually responsible for compliance with all conditions relating to Vansycle II and FPL Vansycle
14 shall not be jointly responsible for such compliance. If the Council or the Oregon Department of Energy
15 (“Department”) determines that a violation of the Site Certificate or any Council order pertaining to the
16 facility may have occurred, the Council or the Department may direct appropriate inquiries to the
17 responsible entity. If the Council or the Department is unable to determine which entity is responsible,
18 the Council or the Department may direct appropriate inquiries to both entities. [Amendments #4, #5,
19 #6, #7]
20

21 **IV. CONDITIONS REQUIRED BY COUNCIL RULES**

22
23 This section lists conditions specifically required by OAR 345-027-0020 (Mandatory Conditions in
24 Site Certificates), OAR 345-027-0023 (Site Specific Conditions), OAR 345-027-0028 (Monitoring
25 Conditions) and in OAR Chapter 345, Division 26 (Construction and Operation Rules for Facilities). These
26 conditions should be read together with the additional specific facility conditions in section V to ensure
27 compliance with the siting standards of OAR Chapter 345, Divisions 22 and 24 and to protect the public
28 health and safety. [Amendments #1 and #4]
29

30 The Council recognizes that many specific tasks related to the design, construction, operation
31 and retirement of the facility will be undertaken by agents or contractors. However, FPL Vansycle is
32 responsible for ensuring compliance with all provisions of the site certificate pertaining to Stateline 1&2,
33 and FPL Stateline is responsible for ensuring compliance with all provisions of the site certificate
34 pertaining to Vansycle II. [Amendment #4].
35

36 Citation to the sources of, or basis for, certain conditions are shown in parentheses.³ Conditions
37 are numbered continuously throughout sections IV through IX of this site certificate. [Amendment #4]
38

39 In applying the conditions in this section, “certificate holder” means FPL Vansycle with regard to
40 Stateline 1&2 and FPL Stateline with regard to Vansycle II. [Amendment #4]
41

42 **1. General Conditions**

³ References to the site certificate application are to the application as modified by the supplement and later revisions, abbreviated as “App.”

- 1 **(1)** The Council may not change the conditions of the site certificate except as provided for in OAR
2 Chapter 345, Division 27. (OAR 345-025-0006(1)) [Amendment #6]
3
- 4 **(2)** The certificate holder shall design, construct, operate and retire the facility:
5 (a) Substantially as described in the site certificate;
6 (b) In compliance with the requirements of ORS Chapter 469, applicable Council rules, and
7 applicable state and local laws, rules and ordinances in effect at the time the site certificate
8 is issued; and
9 (c) In compliance with all applicable permit requirements of other state agencies.
10 (OAR 345-025-0006(3)) [Amendment #6]
11
- 12 **(3)** The certificate holder shall begin and complete construction of the facility by the dates specified in
13 the site certificate. (345-025-0006(4)) See conditions (24), (97) and (106). [Amendment #4, #6]
14
- 15 **(4)** The certificate holder shall prevent the development of any conditions on the site that would
16 preclude restoration of the site to a useful, non-hazardous condition to the extent that prevention
17 of such site conditions is within the control of the certificate holder. (345-025-0006(7))
18 [Amendment #6]
19
- 20 **(5)** The Council shall include as conditions in the site certificate all representations in the site
21 certificate application and supporting record the Council deems to be binding commitments made
22 by the applicant. (OAR 345-025-0006(10)) [Amendment #6]
23
- 24 **(6)** For the related or supporting transmission lines:
25 (a) The certificate holder shall design, construct and operate the transmission line in accordance
26 with the requirements of the National Electrical Safety Code (American National Standards
27 Institute, Section C2, 1997 Edition); and
28 (b) The certificate holder shall develop and implement a program that provides reasonable
29 assurance that all fences, gates, cattle guards, trailers, or other objects or structures of a
30 permanent nature that could become inadvertently charged with electricity are grounded or
31 bonded throughout the life of the line. (OAR 345-025-0010(4)) [Amendment #4, #6]
32
- 33 **(7)** The following general monitoring conditions apply:
34 (a) The certificate holder shall consult with affected state agencies, local governments and tribes
35 and shall develop specific monitoring programs for impacts to resources protected by the
36 standards of divisions 22 and 24 of OAR Chapter 345 and resources addressed by applicable
37 statutes, administrative rules and local ordinances. The certificate holder must submit the
38 monitoring programs to the Department of Energy and receive Department approval before
39 beginning construction or, as appropriate, operation of the facility.
40 (b) The certificate holder shall implement the approved monitoring programs described in
41 section (a) and monitoring programs required by permitting agencies and local
42 governments.
43 (c) For each monitoring program described in sections (a) and (b), the certificate holder shall
44 have quality assurance measures approved by the Department before beginning
45 construction or, as appropriate, before beginning commercial operation.
46 (d) If the certificate holder becomes aware of a significant environmental change or impact
47 attributable to the facility, the certificate holder shall, as soon as possible, submit a written

1 report to the Department describing the impact on the facility and any affected site
2 certificate conditions.
3 (OAR 345-027-0028) [Amendment #4]
4

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

6 (a) General reporting obligation for energy facilities under construction or operating:

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

15 (ii) By April 30 of each year after beginning construction, the certificate holder shall submit
16 an annual report to the Department addressing the subjects listed in this rule. The
17 Council Secretary and the certificate holder may, by mutual agreement, change the
18 reporting date.

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

23 (b) In the annual report, the certificate holder shall include the following information for the
24 calendar year preceding the date of the report:

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

30 (ii) Reliability and Efficiency of Power Production: For electric power plants, the plant
31 availability and capacity factors for the reporting year. The certificate holder shall
32 describe any equipment failures or plant breakdowns that had a significant impact on
33 those factors and shall describe any actions taken to prevent the recurrence of such
34 problems.

35 (iii) Fuel Use: For thermal power plants:

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

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

43 (iv) Status of Surety Information: Documentation demonstrating that the bonds or letters
44 of credit as described in the site certificate are in full force and effect and will remain in
45 full force and effect for the term of the next reporting period.

46 (v) Monitoring Report: A list and description of all significant monitoring and mitigation
47 activities performed during the previous year in accordance with site certificate terms
48 and conditions, a summary of the results of those activities, and a discussion of any

1 significant changes to any monitoring or mitigation program, including the reason for
2 any such changes.

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

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

10 (viii) Nongenerating Facility Carbon Dioxide Emissions: For nongenerating facilities that
11 emit carbon dioxide, a report of the annual fuel use by fuel type and annual hours of
12 operation of the carbon dioxide emitting equipment as described in OAR 345-024-
13 0630(4).

14 (OAR 345-026-0080) [Amendment #4]
15

16 **(9)** [Condition removed by Amendment #4]
17

18 **(10)** The certificate holder and the Department of Energy shall exchange copies of all correspondence
19 or summaries of correspondence related to compliance with statutes, rules and local ordinances
20 on which the Council determined compliance, except for material withheld from public disclosure
21 under state or federal law or under Council rules. The certificate holder may submit abstracts of
22 reports in place of full reports; however, the certificate holder shall provide full copies of
23 abstracted reports and any summarized correspondence at the request of the Department. (OAR
24 345-026-0105) [Amendment #4]
25

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

28 **(11)** Except as necessary for the initial survey or as otherwise allowed for wind energy facilities,
29 transmission lines or pipelines under OAR 345-027-0020(5), the certificate holder shall not begin
30 construction, as defined in OAR 345-001-0010, or create a clearing on any part of the site until the
31 certificate holder has construction rights on all parts of the site. For the purpose of this rule,
32 “construction rights” means the legal right to engage in construction activities. For wind energy
33 facilities, transmission lines or pipelines, if the certificate holder does not have construction rights
34 on all parts of the site, the certificate holder may nevertheless begin construction, as defined in
35 OAR 345-001-0010, or create a clearing on a part of the site if the certificate holder has
36 construction rights on that part of the site and:

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

40 (b) The certificate holder would construct and operate part of a wind facility on that part of the
41 site even if other parts of the facility were modified by amendment of the site certificate or
42 were not built.

43 (OAR 345-025-0006(5)) [Amendment #4, #6]
44

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

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

10
11 **(13)** The certificate holder shall submit a legal description of the site to the Department of Energy
12 within 90 days after beginning operation of the facility. The legal description required by this rule
13 means a description of metes and bounds or a description of the site by reference to a map and
14 geographic data that clearly and specifically identifies the outer boundaries that contain all parts
15 of the facility. (OAR 345-025-0006(2)) [Amendment #4, #6] See Condition (84).
16

17 **(14)** If the Council requires mitigation based on an affirmative finding under any standards of Division
18 22 or Division 24 of this chapter, the certificate holder shall consult with affected state agencies
19 and local governments designated by the Council and shall develop specific mitigation plans
20 consistent with Council findings under the relevant standards. The certificate holder must submit
21 the mitigation plans to the Office and receive Office approval before beginning construction or, as
22 appropriate, operation of the facility. (OAR 345-027-0020(6))
23

24 **(15)** Before beginning construction of the facility, the certificate holder shall submit to the State of
25 Oregon, through the Council, a bond or letter of credit in a form and amount satisfactory to the
26 Council. The certificate holder shall maintain the bond or letter of credit in effect at all times until
27 the facility has been retired. The Council may specify different amounts for the bond or letter of
28 credit during construction and during operation of the facility. (OAR 345-025-0006(8))
29 See Conditions (80) and (109). [Amendment #4, #6]
30

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

32

33 **(16)** The certificate holder shall design, engineer and construct the facility to avoid dangers to human
34 safety presented by seismic hazards affecting the site that are expected to result from all
35 maximum probable seismic events. As used in this rule "seismic hazard" includes ground shaking,
36 landslide, liquefaction, lateral spreading, tsunami inundation, fault displacement and subsidence.
37 (OAR 345-025-0006(12)) [Amendment #6]
38

39 **(17)** The certificate holder shall notify the Department, the State Building Codes Division and the
40 Department of Geology and Mineral Industries promptly if site investigations or trenching reveal
41 that conditions in the foundation rocks differ significantly from those described in the application
42 for a site certificate. After the Department receives the notice, the Council may require the
43 certificate holder to consult with the Department of Geology and Mineral Industries and the
44 Building Codes Division and to propose mitigation actions. (OAR 345-025-0006(13)) [Amendment
45 #4, #6]
46

1 **(18)** The certificate holder shall notify the Department, the State Building Codes Division and the
2 Department of Geology and Mineral Industries promptly if shear zones, artesian aquifers,
3 deformations or clastic dikes are found at or in the vicinity of the site. (OAR 345-025-0006(14))
4 [Amendment #4, #6]
5

6 **4. Conditions That Must Be Met Before Operation Begins** 7

8 **(19)** The certificate holder shall retire the facility if the certificate holder permanently ceases
9 construction or operation of the facility. The certificate holder shall retire the facility according to a
10 final retirement plan approved by the Council, as described in OAR 345-027-0410. The certificate
11 holder shall pay the actual cost to restore the site to a useful, non-hazardous condition at the time
12 of retirement, notwithstanding the Council's approval in the site certificate of an estimated
13 amount required to restore the site. (OAR 345-025-0006(9)) [Amendment #4, #6]
14

15 **(20)** Upon completion of construction, the certificate holder shall restore vegetation to the extent
16 practicable and shall landscape portions of the site disturbed by construction in a manner
17 compatible with the surroundings and proposed use. Upon completion of construction, the
18 certificate holder shall remove all temporary structures not required for facility operation and
19 dispose of all timber, brush, refuse and flammable or combustible material resulting from clearing
20 of land and construction of the facility. (OAR 345-025-0006(11)) [Amendment #4, #6]
21

22 **(21)** If the proposed energy facility is a pipeline or a transmission line or has, as a related or supporting
23 facility, a pipeline or transmission line, the Council shall specify an approved corridor in the site
24 certificate and shall allow the certificate holder to construct the pipeline or transmission line
25 anywhere within the corridor, subject to the conditions of the site certificate. If the applicant has
26 analyzed more than one corridor in its application for a site certificate, the Council may, subject to
27 the Council's standards, approve more than one corridor. (OAR 345-027-0023(5)) [Amendment #4]
28

29 **5. Conditions That Must Be Met During Operation** 30

31 **(22)** [Condition removed by Amendment #4]
32

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

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

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

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

40 (OAR 345-026-0170) [Amendment #4]
41

42 **V. SPECIFIC FACILITY CONDITIONS** 43

44 The conditions listed in this section include conditions based on representations in the site
45 certificate application and supporting record. The Council deems these representations to be binding
46 commitments made by the applicant. These conditions are required under OAR 345-027-0020(10).
47 [Amendments #1 and #4]

1
2 This section includes other specific facility conditions the Council finds necessary to ensure
3 compliance with the siting standards of OAR Chapter 345, Divisions 22 and 24, and to protect the public
4 health and safety.

5
6 Citation to the sources of, or basis for, certain conditions are shown in parentheses.
7 [Amendment #4]
8

9 Except as specifically noted, these conditions apply to all phases of the Stateline Wind Project. In
10 applying the conditions in this section, “certificate holder” means FPL Vansycle with regard to Stateline
11 1&2 and FPL Stateline with regard to Vansycle II. [Amendment #4]
12

13 **1. General Conditions**

14
15 **(24)** This condition applies to Stateline 1 only. The certificate holder shall begin construction of
16 Stateline 1 within one year after the effective date of the site certificate. The certificate holder
17 shall complete construction of Stateline 1 on or before two years from the effective date of the
18 site certificate. Under OAR 345-015-0085(9), a site certificate is effective upon execution by the
19 Council Chair and the applicant. Completion of construction occurs upon the date commercial
20 operation of Stateline 1 begins. The Council may grant an extension of the construction beginning
21 or completion deadlines in accordance with OAR 345-027-0030 or any successor rule in effect at
22 the time the request for extension is submitted. [Amendment #4]
23 See condition (3).
24

25 **(25)** Within 72 hours of discovery of conditions or circumstances that may violate the terms or
26 conditions of the site certificate, the certificate holder shall report the conditions or circumstances
27 to the Department of Energy. (OAR 345-027-0020(3)) [Amendment #4]
28

29 **(26)** Notwithstanding OAR 345-027-0050(2), an amendment of the site certificate is required if the
30 proposed change would increase the electrical generation capacity of the facility and would
31 increase the number of wind turbines or the dimensions of existing wind turbines. (OAR 345-027-
32 0020(3))
33

34 **(27)** [Condition removed by Amendment #4]
35

36 **(28)** The certificate holder shall report promptly to the Department of Energy any change in its
37 corporate relationship with NextEra Energy Resources LLC. The certificate holder shall report
38 promptly to the Department any change in its access to the resources, expertise and personnel of
39 NextEra Energy Resources LLC. (App A-3, D-2, OAR 345-022-0010) [Amendment #4, #5]
40

41 **(29)** The certificate holder shall inspect and maintain all roads, pads and trenched areas to minimize
42 erosion. (App B-11) [Amendment #5]
43

44 **(30)** The certificate holder shall carry out weed control and reseeding as necessary for the life of the
45 facility, in consultation with the weed control board of Umatilla County. (App B-11) [Amendment
46 #5]
47

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

2
3 **(32)** The certificate holder shall use hazardous materials in a manner that is protective of human health
4 and the environment and shall comply with all applicable local, state, and federal environmental
5 laws and regulations. The certificate holder shall make sure that accidental releases of hazardous
6 materials will be prevented or minimized through the proper containment of these substances
7 during transportation and use on the site. The certificate holder shall make sure that any oily
8 waste, rags or dirty or hazardous solid waste will be collected in sealable drums and removed for
9 recycling or disposal by a licensed contractor. The certificate holder shall have spill kits containing
10 items such as absorbent pads on equipment and in storage facilities to respond to accidental spills.
11 If an accidental hazardous materials spill or release occurs, the certificate holder shall clean up the
12 spill or release and shall treat or dispose of contaminated soil or other materials according to
13 applicable regulations. (App G-2, V-3) [Amendment #5]

14
15 **(33)** The certificate holder shall provide to the Department of Energy a copy of the contract with the
16 Milton-Freewater Rural Fire Department for fire protection services during construction and
17 operation of the facility before beginning construction. (App U-25) [Amendment #4, #5]

18
19 **(34)** During construction and operation of the facility, the certificate holder shall have water-carrying
20 trailers (“water buffaloes”) at appropriate locations around the facility. The certificate holder shall
21 bring a water buffalo to any job site where there is a substantial risk of fire. The certificate holder
22 shall coordinate with the fire chiefs of the Helix and Milton-Freewater Rural Fire Departments as to
23 the number, capacity and location of the water buffaloes. The certificate holder shall make sure
24 that each water buffalo has a minimum capacity of 350 gallons with sufficient pump and hose
25 equipment, as approved by the local fire chiefs. The certificate holder shall have service trucks and
26 pickup trucks capable of towing water buffaloes available in sufficient numbers at all times during
27 construction and operation of the facility. (App B-12) [Amendment #5]

28
29 **(35)** The certificate holder shall take steps to protect the facility and property from unauthorized access
30 and to reduce the risk of accidental injury during construction and operations by (App U-25, 26)
31 [Amendment #3, #5]:

32 (a) Maintaining fencing and access gates around dangerous equipment or portions of the site as
33 feasible. [Amendments #3, and #4]

34 (b) Posting warning signs near high-voltage equipment.

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

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

39 (e) Assigning safety officers to monitor construction activities and methods during each work
40 shift.

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

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

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

45
46 **(36)** The certificate holder shall notify the Department of Energy and the Umatilla County Planning
47 Department of any accidents including mechanical failures on the site associated with the

1 operation of the wind power facility that may result in public health and safety concerns. (ORS
2 469.310) [Amendments #4, #5]
3

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

- 5 (a) Design, construct and operate a facility consisting of the major structures and related or
6 supporting facilities described in the Site Certificate. [Amendments #1, #2 and #4]
- 7 (b) Group the turbines in strings of 2 to 37. [Amendments #1, #2 and #4]
- 8 (c) Construct each turbine to be not more than 295 feet tall at the turbine hub and with a total
9 height of not more than 499 feet with the nacelle and blades mounted (App B-5)
10 [Amendment #4, #6]⁴
- 11 (d) Mount nacelles on smooth, hollow steel towers. [Amendment #4]
- 12 (e) Paint all towers uniformly in a neutral light gray or white color. [Amendments #2 and #4]
- 13 (f) Not allow any advertising to be used on any part of the facility or on any signs posted at the
14 facility, except that the turbine manufacturer’s logo may appear on turbine nacelles. (App
15 BB-2)
- 16 (g) Use only the minimum lighting on its turbine strings required by the Federal Aviation
17 Administration, except:
 - 18 (i) The Stateline 1&2 satellite operations and maintenance building may have a small
19 amount of low-impact exterior lighting for security purposes (App BB-2).
 - 20 (ii) Low-impact lighting may be used for occasional nighttime repairs, operations or
21 maintenance at the substation (at other times this lighting would be turned off).
 - 22 (iii) Security lighting may be used at the Vansycle II O&M building and substation if it is
23 shielded or downward-directed to reduce glare.
24 [Amendments #2 and #4]
- 25 (h) Use only those signs required for facility safety or required by law and comply with Umatilla
26 County design requirements for signs as described in UCDC Sections 152.545 through
27 152.548. (App BB-2) [Amendment #4]
- 28 (i) Design and construct the operation and maintenance building to be generally consistent with
29 the character of similar buildings used by commercial farmers or ranchers. Upon retirement
30 of the energy facility, the operations and maintenance building must be removed or
31 converted to farm use, in accordance with Condition 19. [Amendments #3, #4]
32

33 **(38)** To restrict public access to turbine towers, the certificate holder shall install locked access doors
34 accessible only to authorized project staff. (App BB-3)
35

36 **(39)** If any state-listed threatened, endangered or candidate plant species are found during the pre-
37 construction surveys described in condition (55), the certificate holder shall use appropriate
38 measures to protect the species and mitigate for impacts from construction, operation and
39 retirement of the facility. See condition (55).
40

41 **(40)** In constructing and operating the facility, the certificate holder shall make reasonable efforts not
42 to disturb the farming and ranching activities on adjacent lands. (App K-6) [Amendment# 5]
43

⁴ See also site certificate Condition 137.

1 **(41)** If the certificate holder elects to use a bond to meet the requirements of Conditions (80) or (109),
2 the certificate holder shall ensure that the surety is obligated to comply with the requirements of
3 applicable statutes, Council rules and this site certificate when the surety exercises any legal or
4 contractual right it may have to assume construction, operation or retirement of the energy
5 facility. The certificate holder shall also assure that the surety is obligated to notify the Council that
6 it is exercising such rights and to obtain any Council approvals required by applicable statutes,
7 Council rules and this site certificate before the surety commences any activity to complete
8 construction, operate or retire the energy facility. [Amendments #1, #2, #4, #5] See Condition (2).
9

10 **2. Conditions That Must Be Met Before Construction Begins**
11

12 **(42)** The certificate holder shall notify the Department of Energy in advance of any initial road
13 improvement work that does not meet the definition of “construction” in OAR 345-001-0010(10)
14 or ORS 469.300(6) and shall provide to the Department plans of the work and evidence that its
15 value is less than \$250,000. (App B-21) [Amendment #4, #5]
16

17 **(43)** [Condition removed by Amendment #4]
18

19 **(44)** The certificate holder shall locate roads to minimize disturbance and maximize transportation
20 efficiency and to avoid sensitive resources and unsuitable topography. The certificate holder shall
21 use existing county roads and private farm roads to the maximum extent feasible. The certificate
22 holder shall coordinate farm road improvements with landowners to minimize crop impacts and to
23 assure that the final road provides useful access, where possible, to the landowners’ fields. (App B-
24 6)

25 **(45)** The certificate holder shall videotape all Umatilla County roads used as access to the facility and
26 shall require construction contractors to enter into a written agreement with Umatilla County
27 stating that all roads used by the contractor will be restored to as good or better condition than
28 they were before construction. (App U-24)
29

30 **(46)** The certificate holder shall notify the Department of Energy of the identity and qualifications of
31 major construction contractors for the facility. The certificate holder shall select major
32 construction contractors based on a proven record of environmental compliance and stewardship,
33 a clean record in terms of other regulatory obligations and other appropriate factors. (App D-3, 4)
34 [Amendment #4, #5]
35

36 **(47)** The certificate holder shall contractually require all construction contractors and subcontractors
37 involved in the construction of the facility to comply with all applicable laws and regulations and
38 with the terms and conditions of the site certificate. Such contractual provisions shall not operate
39 to relieve the certificate holder of responsibility under the site certificate.
40 See condition (2). [Amendment #5]
41

42 **(48)** The certificate holder shall require that all on-site construction contractors prepare a site health
43 and safety plan before beginning construction activities. The certificate holder shall ensure that
44 the plan informs employees and others onsite what to do in case of emergencies and includes the
45 locations of fire extinguishers and nearby hospitals, important telephone numbers and first aid
46 techniques. (App U-25) [Amendment #5]
47

1 **(49)** The certificate holder shall design the facility in accordance with seismic design provisions given in
2 the Oregon Building Code. The certificate holder shall identify localized areas of S_c and S_b soil types
3 and assure that any structures to be built in those areas are designed according to the code. The
4 certificate holder shall design all components constructed after 2008 to meet the current Oregon
5 Structural Specialty Code (OSSC 2007) and the 2006 International Building Code. [Amendment #4,
6 #5]
7

8 **(50)** The certificate holder shall provide the Department of Energy with design specifications showing
9 the locations of turbines and type of foundations to be employed and demonstrating that the
10 following conditions have been satisfied (OAR 345-022-0020):

11 (a) If a turbine is located within 50 feet of a slope steeper than 30° , the stability of the slope has
12 been reviewed by the foundation designer to confirm that either (i) the slope has a safety
13 factor of at least 1.1 during the maximum probable seismic event or (ii) the safety factor is
14 less than 1.1, but ground displacements will not adversely affect the stability of the wind
15 turbine. Slopes shall be evaluated in the field for each proposed turbine location.

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

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

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

29 [Amendment #4]
30

31 **(51)** In modifying slope angles for roads or other facilities, the certificate holder shall assure that the
32 foundation designer has achieved a factor of safety of 1.5 or greater for permanent structures and
33 a factor of safety of 1.3 or greater for temporary structures. (OAR 345-022-0020)
34

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

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

38 (b) Siting turbines to avoid placing turbines in saddle locations along ridges (where bird use is
39 typically higher).

40 (c) Avoiding the use of overhead collector lines. [Amendments #2 and #4]
41

42 **(53)** This condition does not apply to Stateline 2. The certificate holder shall survey the status of known
43 Swainson's hawk nests within the vicinity of proposed construction before the projected date for
44 construction to begin. If active nests are found, and construction is scheduled to begin before the
45 end of the sensitive nesting and breeding season (June 1 to August 31), the certificate holder shall
46 develop a no-construction buffer in consultation with ODFW and shall not engage in construction
47 activities within the buffer until the sensitive season has ended. If construction continues into the

1 sensitive nesting and breeding season for the following year, the certificate holder shall not
2 engage in construction activities within the buffer around active nests until the sensitive season
3 has ended. [Amendments #2,#4, #5]
4

5 **(54)** This condition does not apply to Stateline 2. The certificate holder shall conduct appropriate pre-
6 construction nest surveys for burrowing owls if construction is scheduled to occur during the
7 sensitive period (March 15 to August 30). The certificate holder shall leave a no-construction
8 buffer, developed in consultation with ODFW, around any active nests during the sensitive period.
9 [Amendments #2,#4, #5]
10

11 **(55)** This condition does not apply to Stateline 2. The certificate holder shall conduct pre-construction
12 surveys for state-listed threatened, endangered or candidate plant species in all areas not included
13 in earlier botanical surveys of the analysis area. If any listed plants are found, the certificate holder
14 will notify the Department of Energy and consult with the Oregon Department of Agriculture
15 regarding appropriate measures to protect the species and mitigate for impacts from construction,
16 operation and retirement of the facility. (App Q-7) [Amendment #4, #5]
17

18 **(56)** This condition does not apply to Stateline 2. The certificate holder shall conduct appropriate pre-
19 construction surveys for the presence of Washington ground squirrels in construction zones that
20 have suitable habitat. Construction zones include the areas of permanent and temporary
21 disturbance and a 175-foot surrounding buffer in which there may be incidental construction
22 impacts. If squirrel activity is found, the certificate holder shall notify the Department of Energy
23 and develop an appropriate no-construction buffer and other appropriate mitigation measures in
24 consultation with the Department and ODFW. In addition, the certificate holder shall map and
25 stake sensitive areas to be avoided during construction as required by Condition (63).
26 [Amendments #2,#4, #5]
27

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

29
30 **(57)** The certificate holder shall report to the Council any change of major construction contractors.
31 See condition (8).
32

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

- 35 (a) Establishing roads before accessing the site to allow vehicles to stay away from grass.
- 36 (b) Using diesel vehicles whenever possible to prevent potential ignition by catalytic 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 from
40 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 [Amendment #5]
43

44 **(59)** The certificate holder shall require the foundation designer to inspect excavations during
45 construction of foundations for the turbines and other facilities to confirm that geologic conditions
46 are appropriate for supporting the turbines during gravity, seismic and wind loading. (OAR 345-
47 022-0020)

1
2 **(60)** The certificate holder shall conduct all construction work in compliance with an Erosion and
3 Sediment Control Plan (ESCP) satisfactory to the Oregon Department of Environmental Quality and
4 as required under the facility's National Pollutant Discharge Elimination System (NPDES)
5 Construction Stormwater Permit. The certificate holder shall include in the ESCP any procedures
6 necessary to meet local erosion and sediment control requirements or stormwater management
7 requirements. (App B-7, 13, E-3, P-41) [Amendment #5]
8

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 activities
12 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 natural
15 drainage patterns with minimal diversions through ditches and culverts.
16 (d) Working with the Umatilla County Public Works Department and the local Natural Resources
17 Conservation Service office to design water bars and other management practices to slow
18 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 staging
24 areas.
25 (j) Seeding all areas that are impacted by construction and reseeding as necessary to establish a
26 healthy cover crop.
27 (k) Leaving sediment fencing, check dams and other erosion control measures in place until the
28 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 surfaces,
30 and thereby limiting soil compaction and disturbances.
31 (m) Scarifying and reseeding compacted areas after construction is completed.
32 (n) Using appropriate erosion control methods to limit soil loss due to water and wind action.
33 (o) Covering roads and turbine pads with gravel immediately following exposures, thereby
34 limiting the time for wind or water erosion. (App I-2, 3)
35 (p) Using water for dust suppression during construction. (App O-1)
36 [Amendment #5]
37

38 **(62)** The certificate holder shall place underground electrical and communications cables at a minimum
39 depth of three feet below grade in trenches along the length of each turbine string corridor and in
40 some cases in trenches from the end of one turbine string to the end of an adjacent turbine string.
41 The certificate holder shall excavate trenches and segregate the topsoil from subsoil. After
42 installing the electrical or communications cables and within two weeks of trenching, the
43 certificate holder shall backfill the trenches and replace topsoil on top. The certificate holder shall
44 reseed the area with native grasses or other plants appropriate to the location. (App B-8, I-2, W-2)
45

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

- (a) Preparing maps to show sensitive areas that are off-limits during the construction phase, distributing the maps to construction staff and having a biologist flag sensitive areas as needed.
 - (b) Minimizing road construction and vehicle use where possible.
 - (c) Posting speed limit signs throughout the construction zone.
 - (d) Instructing construction personnel (including all construction contractors and their personnel) on sensitive wildlife of the area and on required precautions to avoid injuring or destroying wildlife.
 - (e) Instructing construction personnel (including all construction contractors and their personnel) to watch out for wildlife while driving through the project area, to maintain reasonable driving speeds so as not to harass or accidentally strike wildlife and to be particularly cautious and drive at slower speeds in a period from one hour before sunset to one hour after sunrise when some wildlife species are the most active.
 - (f) Requiring all construction personnel to report any injured or dead wildlife detected at the facility site.
 - (g) Requiring all construction personnel to respect all staked wildlife areas and associated no-construction buffer areas.
- [Amendment #5]

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

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

- (a) Avoiding vegetation removal wherever possible.
- (b) Limiting construction activities to within public road right-of-ways where possible.
- (c) Using best management practices to prevent erosion of soil into stream channels.
- (d) Controlling invasive, weedy plant species during maintenance of project facilities.
- (e) Restoring temporarily disturbed sites to pre-construction condition or better with native seed mixes as described for temporarily disturbed areas in the *Revegetation Plan* included in the Final Order on Amendment #4 as Attachment B and as revised from time to time.

[Amendments #1 and #4]

- (f) Developing re-vegetation plant mixes and habitat enhancement locations in consultation with ODFW and the Umatilla County weed control board.
- (g) Monitoring re-vegetated areas to ensure successful establishment of new vegetation.
- (h) Monitoring turbine strings, roads and other disturbed areas regularly to prevent the spread of noxious weeds.
- (i) Developing measures to reduce the potential spread of noxious weeds in consultation with the weed control board of Umatilla County.

[Amendment #5]

(66) This condition applies to Stateline 1 only. To mitigate for the permanent elimination of one-half acre of Category 2 habitat, the certificate holder shall control weeds and enhance habitat of one acre of weed-infested upland habitat with native plants. The certificate holder shall carry out enhancement activities as described for habitat enhancement areas in the *Revegetation Plan* referenced in Condition 65. The certificate holder shall acquire the legal right to create and maintain the enhancement area for the life of the facility by means of an outright purchase,

1 conservation easement or similar conveyance and shall provide a copy of the documentation to
2 the Department of Energy. The certificate holder shall determine the location of this habitat
3 enhancement area in consultation with ODFW and landowners. (App P-44) [Amendments #1, and
4 #4]
5

6 **(67)** This condition does not apply to Vansycle II. To mitigate for the permanent elimination of
7 approximately 48 acres of Category 3 habitat, the certificate holder shall control weeds and
8 enhance habitat on an equal area of weed-infested land in the project vicinity. The certificate
9 holder shall carry out enhancement activities as described for habitat enhancement areas in the
10 *Revegetation Plan* referenced in Condition 65. The certificate holder shall acquire the legal right to
11 create and maintain the enhancement area for the life of the facility by means of an outright
12 purchase, conservation easement or similar conveyance and shall provide a copy of the
13 documentation to the Department of Energy. The certificate holder shall determine the location of
14 this habitat enhancement area in consultation with ODFW and landowners. (App P-44)
15 [Amendments #1, #4 and #6]
16

17 **(68)** To minimize impacts to temporarily disturbed Category 6 habitat areas, the certificate holder shall
18 use measures including but not limited to the following (App P-45):
19 (a) Replacing agricultural topsoil to its pre-construction condition.
20 (b) Using best management practices to prevent loss of topsoil during construction.
21 (c) Reseeding native habitats with a native seed mix that includes at least some seed collected
22 from the area as described for temporarily disturbed habitats in the *Revegetation Plan*
23 referenced in Condition 65. [Amendments #1 and #4]
24 (d) Controlling noxious weeds in areas disturbed by construction activities.
25 [Amendment #5]
26

27 **(69)** The certificate holder shall not place any part of the facility within any Washington ground squirrel
28 (WGS) colony or on potential Washington ground squirrel burrows. The certificate holder shall
29 have an on-site wildlife monitor who will flag habitat required for WGS survival (Category 1),
30 conduct pre-construction surveys to determine the distribution of WGS in the area and ensure that
31 construction personnel do not enter the area. The monitor shall conduct post construction
32 monitoring to document distribution of the WGS in the area. [Amendments #2,#4, #5]
33

34 **(70)** To reduce potential injury or fatality of migratory birds, the certificate holder shall (App Q-10):
35 (a) Locate turbines away from saddles in long ridges.
36 (b) Locate turbines on the top or slightly downwind side of distinct ridges and set back from the
37 upwind (prevailing) side.
38 (c) Use monopole design for all turbine and meteorological towers.
39

40 **(71)** The certificate holder shall implement a waste management plan during construction that includes
41 but is not limited to the following measures (App V-2):
42 (a) Collecting steel scrap and transporting it to a recycling facility.
43 (b) Recycling wood waste to the greatest extent feasible, depending on size and quantity of
44 scrap or leftover materials.
45 (c) Using concrete waste as fill on-site or at another site or, if no reuse option is available,
46 transporting it to a local landfill.
47 (d) Recycling packaging wastes (such as paper and cardboard).

1 (e) Collecting non-recyclable waste and transporting it to a local landfill.
2

3 **(72)** The certificate holder shall require that disposal of waste concrete on-site is conducted in
4 accordance with OAR 340-093-0080, other applicable regulations and this condition. The
5 construction contractor may bury waste concrete on-site with the permission of the landowner in
6 the following manner: by placing the waste concrete in an excavated hole, covering it with at least
7 three feet of topsoil and grading the area to match existing contours so that all buried concrete is
8 at least three feet below grade. (App V-3, 4).
9

10 **(73)** The certificate holder shall provide portable toilets for onsite sewage handling during construction
11 and make sure that they are pumped and cleaned regularly by a licensed pumper who is qualified
12 to pump and clean portable toilet facilities. The certificate holder shall minimize the generation of
13 wastes from construction through detailed estimating of materials needs and through efficient
14 construction practices. The certificate holder shall recycle any wastes generated during
15 construction as much as feasible and shall collect any non-recyclable wastes and transport such
16 wastes to a local landfill. (App B-13, G-3, V-2) [Amendment #5]
17

18 **(74)** The certificate holder shall have a full-time on-site assistant construction manager, qualified in
19 environmental compliance and familiar with all site certificate conditions, to observe contractor
20 waste management practices and to assure compliance with applicable regulations and
21 construction site policy. (App V-4) [Amendment #5]
22

23 **(75)** The certificate holder shall post high-visibility no-entry barriers around recorded cultural and
24 archaeological sites and shall to ensure that construction workers stay away from the vicinity of
25 the sites. The certificate holder shall locate barriers to create a buffer with a minimum width of 30
26 meters between the sites and construction activities. The certificate holder shall have a qualified
27 cultural resource expert to monitor the avoidance of the no-entry areas by construction workers
28 and to monitor ground disturbing activities. The certificate holder shall select a cultural resource
29 expert chosen by the Confederated Tribes of the Umatilla Indian Reservation, if available, or shall
30 select a qualified cultural resource expert, subject to Department approval, to conduct the
31 monitoring. [Amendment #4]
32

33 **(76)** If previously unidentified cultural resources are encountered during construction, the certificate
34 holder shall halt earth-disturbing activities in the immediate vicinity of the find, in accordance with
35 Oregon state law (ORS 97.745 and 358.920), and shall notify the Department of Energy, the
36 Oregon State Historic Preservation Officer (SHPO) and the Confederated Tribes of the Umatilla
37 Indian Reservation (CTUIR). The certificate holder shall have a qualified archaeologist evaluate the
38 discovery and recommend subsequent courses of action in consultation with the CTUIR and the
39 SHPO. If human remains are discovered, the certificate holder shall halt all construction activities
40 in the immediate area and shall notify the Department, SHPO, CTUIR, the County Medical
41 Examiner and the State Police. [Amendment #4]
42

43 **(77)** The certificate holder shall include traffic control procedures in contract specifications for
44 construction of the facility. The certificate holder shall require flaggers to be at appropriate
45 locations at appropriate times during construction to direct traffic and to ensure minimal conflicts
46 between harvest and construction vehicles. (App U-24) [Amendment #5]
47

1 **(78)** The certificate holder shall confine the noisiest construction activities to the daylight hours. (App
2 X-8) [Amendment #5]
3

4 **(79)** This condition does not apply to Stateline 3. The certificate holder shall construct the cable
5 crossing of Vansycle Canyon at a time when the stream is dry. The certificate holder shall remove
6 no more than approximately 7.5 cubic yards of material from the streambed crossing and shall
7 replace a like amount of fill material after the cable has been laid, restoring the area similar to the
8 original contours of the streambed. (Linehan, July 23 letter, 3) [Amendment #4]
9

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

11

12 **(80)** This condition applies to Stateline 1&2 only. Within 90 days after the effective date of the Fourth
13 Amended Site Certificate, the certificate holder shall submit to the State of Oregon through the
14 Council a bond or letter of credit in the amount of \$6.160 million (1st Quarter 2009 dollars), to be
15 adjusted to the date of issuance as described in (a), naming the State of Oregon, acting by and
16 through the Council, as beneficiary or payee.

17 (a) Subject to approval by the Department, the certificate holder shall adjust the amount of the
18 bond or letter of credit on an annual basis using the following calculation:

19 (i) Adjust the Subtotal (1st Quarter 2009 dollars) shown in Table 1 of the Final Order on
20 Amendment #4 to present value, using the U.S. Gross Domestic Product Implicit Price
21 Deflator, Chain-Weight, as published in the Oregon Department of Administrative
22 Services' "Oregon Economic and Revenue Forecast," or by any successor agency (the
23 "Index"), and using the index value for 1st Quarter 2009 dollars and the quarterly index
24 value for the date of issuance of the new bond or letter of credit. If at any time the
25 Index is no longer published, the Council shall select a comparable calculation to adjust
26 1st Quarter 2009 dollars to present value.

27 (ii) Add 1 percent of the adjusted Subtotal (i) for the adjusted performance bond amount to
28 determine the adjusted Gross Cost.

29 (iii) Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration and
30 project management costs and 10 percent of the adjusted Gross Cost (ii) for the
31 adjusted future developments contingency.

32 (iv) Add the adjusted Gross Cost (ii) to the sum of the percentages (iii) to determine the
33 adjusted Full Cost, and round the resulting total to the nearest \$1,000 to determine the
34 adjusted financial assurance amount for the reporting year.

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

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

38 (d) The bond or letter of credit shall not be subject to revocation or reduction before retirement
39 of the energy facility.

40 (e) The certificate holder shall describe the status of the bond or letter of credit in the annual
41 report submitted to the Council under Condition (8).

42 See Conditions (19) and (41).

43 [Amendment #4]
44

45 **(81)** After construction is complete, the certificate holder shall restore the county roads to at least their
46 pre-project condition, to the satisfaction of the county public works department. (App B-6, 9)
47 [Amendment #5]

- 1
2 **(82)** The certificate holder shall grade and reseed laydown areas to wheat or native grasses as
3 necessary to restore those areas to their pre-construction condition (App B-10). [Amendment #5]
4
5 **(83)** For any materials disposed of as fill on site, the certificate holder shall conduct such disposal with
6 the approval of the landowner and in accordance with OAR 340-093-0080 and other applicable
7 regulations. (App G-3, V-3) [Amendment #5]
8
9 **(84)** For the purposes of this site certificate, wind turbine tower locations are analogous to location of
10 permanent rights-of-way for pipelines or transmission lines as described in OAR 345-027-0023(5).
11 The Council approves the corridor described in the final order for construction of turbine strings.
12 As required under OAR 345-027-0020(2) and Condition 13, the certificate holder shall submit to
13 the Department of Energy a legal description of the location where the certificate holder has built
14 turbine towers and other parts of the facility. Within 90 days after beginning operation of any
15 turbines that are added to the facility by amendment of the site certificate, the certificate holder
16 shall submit to the Department a legal description of the location of any additional turbine towers
17 and related or supporting facilities allowed by the amendment. The site of the facility is the area
18 identified by the legal descriptions required by this condition. Within 90 days after beginning
19 facility operation, the certificate holder shall provide to the Department and the Umatilla County
20 Planning Department the actual latitude and longitude location or Stateplane NAD 83(91)
21 coordinates of each turbine tower, connecting lines and transmission lines and a summary of as
22 built changes in the facility from the original plan. (OAR 345-027-0020(2) and (3)) [Amendments
23 #1, #4] See Condition (13).
24

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

- 26
27 **(85)** The certificate holder shall prepare and maintain a site health and safety plan that informs
28 employees and others onsite what to do in case of emergencies and includes the locations of fire
29 extinguishers and nearby hospitals, important telephone numbers and first aid techniques. (App U-
30 25)
31
32 **(86)** The certificate holder shall recycle solid waste generated during operation of the facility as much
33 as feasible and shall collect non-recyclable waste and transport it to a local landfill. (App V-2)
34
35 **(87)** This condition applies to Stateline 1&2 only. The certificate holder shall provide portable toilets for
36 use at the satellite O&M building and shall make sure that they are pumped and cleaned regularly
37 by a licensed pumper who is qualified to pump and clean portable toilet facilities. The certificate
38 holder must contact the Oregon Department of Environmental Quality if the on-site septic system
39 is to be used. (App O-2) [Amendment #4]
40
41 **(88)** If the turbine blades need to be washed, the certificate holder shall use no more than 500 gallons
42 of water per turbine, trucked to the site by a contractor and purchased from a source with a valid
43 water right. The certificate holder shall use high-pressure cold water only and shall not use
44 chemicals or additives in the wash water. (App O-2) [Amendment #1]
45

- 1 **(89)** If any new nesting or denning sites for wildlife species of concern are located, the certificate
2 holder shall prepare maps indicating off-limit areas. In addition, the certificate holder shall
3 minimize road construction and vehicle use where possible. (P-42)
4
- 5 **(90)** The certificate holder shall mitigate possible impacts to wildlife by measures including but not
6 limited to the following (App P-43, Q-10):
7 (a) Instructing all personnel on sensitive wildlife of the area and on required precautions to
8 avoid injuring or destroying wildlife.
9 (b) Instructing all personnel to watch out for wildlife while driving through the project area, to
10 maintain reasonable driving speeds so as not to harass or accidentally strike wildlife and to
11 be particularly cautious and drive at slower speeds in a period from one hour before sunset
12 to one hour after sunrise when some wildlife species are the most active.
13 (c) Requiring all personnel to report any injured or dead wildlife detected at the facility site.
14
- 15 **(91)** The certificate holder shall mitigate possible impacts to fish and wildlife habitat by measures
16 including but not limited to the following (App P-43, Q-10):
17 (a) Using best management practices to prevent erosion of soil into stream channels.
18 (b) Controlling invasive, weedy plant species during maintenance of project facilities.
19 (c) Monitoring re-vegetated areas to ensure successful establishment of new vegetation.
20
- 21 **(92)** The certificate holder shall mitigate potential adverse impacts to soils from erosion by measures
22 including but not limited to the following (App I-3 through 5):
23 (a) Using drainage collection procedures to capture surface water that collects on, and drains
24 from, gravel surfaces or structures as a result of precipitation and routing the water to
25 drainage ditches lined with quarry stone or other similar materials.
26 (b) Using sand bags, straw bales and silt fences as needed to reduce erosion from precipitation
27 during repair of underground cables or other soil-disturbing repairs.
28 (c) If areas of erosion are observed during operation, implementing mitigation and reclamation
29 measures.
30
- 31 **(93)** The certificate holder shall conduct wildlife monitoring as described in the *Wildlife Monitoring and*
32 *Mitigation Plan (WMMP)*, included in the Final Order on Amendment #6 as Attachment F and as
33 revised from time to time. Subject to approval by the Department of Energy as to professional
34 qualifications, the certificate holder shall hire qualified wildlife consultants to carry out the
35 monitoring.
36 The certificate holder shall conduct 1-year of post-construction fatality monitoring in accordance
37 with the protocol included in the WMMP following completion of construction activities for the
38 Vansycle II facility modifications, as approved in the [Final Order on Amendment #6 Sixth Amended](#)
39 [Site Certificate](#). Additional fatality monitoring studies and necessity of additional mitigation shall
40 be determined based on the results of the 1-year post construction fatality monitoring study.
41 (OAR 345-022-0060) [Amendments #1, #4, #5, #6]
42
- 43 **(94)** If analysis of monitoring data indicates impacts to wildlife or wildlife habitat that the certificate
44 holder has not adequately addressed by mitigation and if these impacts result in a loss of habitat
45 quantity or quality, the certificate holder shall mitigate for the loss of habitat quality by measures
46 approved by the Oregon Department of Energy. (OAR 345-022-0060) [Amendment #4, #5]
47

1 **(95)** The certificate holder shall inspect turbine blades on a regular basis for signs of wear or potential
2 failure. (App BB-1) [Amendment #5]
3

4 **(96)** The certificate holder shall make sure that all on-site employees receive annual fire prevention and
5 response training by a professional fire-safety training firm. The certificate holder shall prohibit
6 employees from smoking outside of company vehicles during dry summer months and shall
7 require employees to keep vehicles on roads and off dry grassland during the dry months unless
8 necessary for work purposes. The certificate holder shall not engage in welding, cutting, grinding
9 or other flame or spark-producing operations near the turbines. The certificate holder shall equip
10 each company vehicle on site with a fire extinguisher, water spray can, shovel, Emergency
11 Response procedures book and a two-way radio for immediate communications with the O&M
12 facility. The certificate holder shall have staff in the local area on call at all times to respond in case
13 of fire or other emergency. The certificate holder shall supply all local fire departments with maps
14 of and gate keys to the facility. (App B-12) [Amendment #5]
15

16 **VI. CONDITIONS ADDED BY AMENDMENT #1** [Amendments #1 and #4]
17

18 The conditions listed in this section include conditions based on representations in the request
19 for Amendment #1 and supporting record. The Council deems these representations to be binding
20 commitments made by the applicant. These conditions are required under OAR 345-027-0020(10).
21 [Amendment #4]
22

23 Except as specifically noted, these conditions apply to all phases of the Stateline Wind Project. In
24 applying the conditions in this section, “certificate holder” means FPL Vansycle with regard to Stateline
25 1&2 and FPL Stateline with regard to Stateline 3. [Amendment #4]
26

27 **1. General Conditions**
28

29 **(97)** This condition applies to Stateline 2 only. The certificate holder shall begin construction of
30 Stateline 2 within six months after the effective date of the First Amended Site Certificate. The
31 certificate holder shall complete construction of Stateline 2 before March 1, 2005. Under OAR 345-
32 027-0070, an amended site certificate is effective upon execution by the Council Chair and the
33 applicant. Completion of construction occurs upon the date commercial operation of Stateline 2
34 begins. The Council may grant an extension of the construction beginning or completion deadlines
35 in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for
36 extension is submitted. [Amendments #2, and #4]
37

38 **(98)** [Condition removed by Amendment #4]
39

40 **(99)** Before any transfer of ownership of the facility or ownership of the site certificate holder, the
41 certificate holder shall inform the Department of the proposed new owners. The requirements of
42 OAR 345-027-0100 apply to any transfer of ownership that requires a transfer of the site
43 certificate. (OAR 345-027-0020(15) [Amendment #4]
44

45 **(100)** If the Council finds that the certificate holder has permanently ceased construction or operation
46 of the facility without retiring the facility according to a final retirement plan approved by the
47 Council, as described in OAR 345-027-0110, the Council shall notify the certificate holder and

1 request that the certificate holder submit a proposed final retirement plan to the Department of
2 Energy within a reasonable time not to exceed 90 days. If the certificate holder does not submit a
3 proposed final retirement plan by the specified date, the Council may direct the Department to
4 prepare a proposed a final retirement plan for the Council’s approval. Upon the Council’s approval
5 of the final retirement plan, the Council may draw on the bond or letter of credit described in OAR
6 345-027-0020(8) to restore the site to a useful, non-hazardous condition according to the final
7 retirement plan, in addition to any penalties the Council may impose under OAR Chapter 345,
8 Division 29. If the amount of the bond or letter of credit is insufficient to pay the actual cost of
9 retirement, the certificate holder shall pay any additional cost necessary to restore the site to a
10 useful, non-hazardous condition. After completion of site restoration, the Council shall issue an
11 order to terminate the site certificate if the Council finds that the facility has been retired
12 according to the approved final retirement plan. (OAR 345-027-0020(16) [Amendment #4]
13

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

16 **(101)** This condition applies to Stateline 2 only. The certificate holder shall not engage in construction
17 activities for Stateline 2 facilities, including the movement of heavy trucks and equipment, within a
18 ¼-mile buffer around an identified ferruginous hawk nest tree during the sensitive period of the
19 nesting season (March 20 to August 15), except as provided in this condition. The certificate holder
20 shall use a protocol approved by the Oregon Department of Fish and Wildlife (ODFW) to determine
21 whether the nest is occupied. The certificate holder may begin construction activities before
22 August 15 if the nest is not occupied. If the nest is occupied, the certificate holder shall use a
23 protocol approved by ODFW to determine when the young are fledged (independent of the core
24 nest site). With the approval of ODFW, the certificate holder may begin construction before
25 August 15 if the young are fledged. During the specified nesting season, the certificate holder may
26 use the road into the site with vehicles that are one ton in capacity or smaller; conduct turbine,
27 turbine tower, blade or met tower construction activities that are not visible above the horizon
28 from the vantage point of the ferruginous hawk nest; and use the road one time to transport
29 heavy equipment off the site. [Amendments #2, and #4]
30

31 **(102)** [Condition removed by Amendment #4]
32

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

35 **(103)** To minimize the risk of fire, the certificate holder shall:
36 (a) Construct turbines, towers and pads of fire retardant materials.
37 (b) Bury electrical cables.
38 (c) Use enclosed, locked pad-mounted transformer structures.
39 (d) Include built-in fire prevention measures in turbines.
40 (e) Not store combustible materials at the Stateline site.
41

42 **(104)** This condition applies to Stateline 2 only. To mitigate for the permanent elimination of
43 approximately 1 acre of Category 3 and 4 habitat, the certificate holder shall enlarge the habitat
44 enhancement area described in Condition (67) by 1 acre. [Amendment #4]
45

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

1 **(105)** This condition applies to Stateline 2 only. The certificate holder shall enter into an agreement
2 with the landowner of a property identified as 84301 Stockman Road, Helix, Oregon, requiring that
3 the structure remain uninhabited during construction. The certificate holder shall continue the no-
4 occupation agreement until retirement of the facility unless the certificate holder demonstrates to
5 the satisfaction of the Department that the facility complies with the applicable noise control
6 regulations under OAR 340-035-0035. The certificate holder may demonstrate compliance with
7 the regulations as to the increase in ambient statistical noise levels by entering into a legally
8 effective easement or real covenant with the owner of the property identified as 84301 Stockman
9 Road, Helix, Oregon, pursuant to which the owner authorizes the certificate holder's operation of
10 the facility to increase ambient statistical noise levels L_{10} and L_{50} by more than 10 dBA at the
11 appropriate measurement point. A legally effective easement or real covenant shall: include a legal
12 description of the burdened property (the noise sensitive property); be recorded in the real
13 property records of the county; expressly benefit the certificate holder; expressly run with the land
14 and bind all future owners, lessees or holders of any interest in the burdened property; and not be
15 subject to revocation without the certificate holder's written approval. If such easement or real
16 covenant is not in effect, then the certificate holder shall demonstrate to the satisfaction of the
17 Department, based on modeling or measurements performed in compliance with OAR 340-035-
18 0035, that an easement or real covenant is not necessary to comply with those regulations.
19 [Amendments #3, #4].
20

21 **VII. CONDITIONS ADDED BY AMENDMENT #2** [Amendments #2, and #4] 22

23 The conditions listed in this section include conditions based on representations in the request
24 for Amendment #2 and supporting record. The Council deems these representations to be binding
25 commitments made by the applicant. These conditions are required under OAR 345-027-0020(10).
26 These conditions apply to Stateline 3 only. In applying the conditions in this section, "certificate holder"
27 means FPL Stateline. [Amendment #4]
28

29 **1. General Conditions** 30

31 **(106)** The certificate holder shall begin construction of Stateline 3 by October 1, 2009. The certificate
32 holder shall complete construction of Stateline 3 before December 31, 2010. Under OAR 345-027-
33 0070, an amended site certificate is effective upon execution by the Council Chair and the
34 applicant. Completion of construction occurs upon the date commercial operation of Stateline 3
35 begins. The Council may grant an extension of the construction beginning or completion deadlines
36 in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for
37 extension is submitted. [Amendments #3 and #4]
38

39 **(107)** [Condition removed by Amendment #4]
40

41 **(108)** The certificate holder shall take reasonable steps to reduce or manage human exposure to
42 electromagnetic fields, including but not limited to:
43 (a) Designing and operating the transmission lines so that maximum current (amps per
44 conductor) would not exceed the following levels: For 34.5-kV underground lines, 560 amps
45 and for 230-kV transmission lines, 753 amps. [Amendment #4]
46 (b) Providing to landowners a map of underground and overhead transmission lines on their
47 property and advising landowners of possible health risks.

1
2 **2. Conditions That Must Be Met Before Construction Begins**
3

4 **(109)** Before beginning construction of facility modifications approved in the Final Order on
5 Amendment #6 and #7~~Sixth Amended Site Certificate~~, the certificate holder shall submit to the
6 State of Oregon through the Council a bond or letter of credit in the amount described herein
7 naming the State of Oregon, acting by and through the Council, as beneficiary or payee. The initial
8 bond or letter of credit amount for Vansycle II, with modifications approved in the Final Order on
9 Amendment #6 and #7, is \$6,906,000 million (in 4th Quarter 2021 dollars) to be adjusted to the
10 date of issuance and submitted within 60 days of execution of the Sixth Amended Site Certificate,
11 and adjusted on an annual basis thereafter, as described in sub-paragraph (a) of this Condition.

12 (a) The certificate holder may adjust the amount of the bond or letter of credit for Vansycle II,
13 with modifications approved in the Final Order on Amendment #6 and #7, by applying the
14 unit costs and general costs illustrated in Table 5 and Table 6 in the Final Order on
15 Amendment #6 and calculating the financial assurance amount as described in that order,
16 adjusted to the date of issuance as described in (b), subject to approval by the Department.

17 (b) Subject to approval by the Department, the certificate holder shall adjust the amount of the
18 bond or letter of credit on an annual basis using the following calculation:

19 (i) Adjust the Subtotal component of the initial bond or letter of credit amount (expressed in
20 4th Quarter 2021 dollars) to present value, using the U.S. Gross Domestic Product
21 Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of
22 Administrative Services' "Oregon Economic and Revenue Forecast," or by any successor
23 agency (the "Index") and using the index value for 4th Quarter 2021 dollars and the
24 quarterly index value for the date of issuance of the new bond or letter of credit. If at
25 any time the Index is no longer published, the Council shall select a comparable
26 calculation to adjust 4th Quarter 2021 dollars to present value.

27 (ii) Add 1 percent of the adjusted Subtotal (i) for the adjusted performance bond amount to
28 determine the adjusted Gross Cost.

29 (iii) Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration and
30 project management costs, and 10 percent of the adjusted Gross Cost (ii) for the
31 adjusted future developments contingency, and 20 percent of the adjusted Gross Cost
32 (ii) for the adjusted future developments contingency for the battery storage system, if
33 constructed.

34 (iv) Add the adjusted Gross Cost (ii) to the sum of the percentages (iii) to determine the
35 adjusted Full Cost, and round the resulting total to the nearest \$1,000 to determine the
36 adjusted financial assurance amount.

37 (c) The certificate holder shall use a form of bond or letter of credit approved by the Council.

38 (d) The certificate holder shall use an issuer of the bond or letter of credit approved by the
39 Council.

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

42 (f) The bond or letter of credit shall not be subject to revocation or reduction before retirement
43 of Vansycle II.

44 [Amendment #4, #6]
45

46 **(110)** At least 30 days before beginning preparation of detailed design and specifications for the
47 electrical transmission lines, the certificate holder shall consult with the Oregon Public Utility

1 Commission staff to ensure that its designs and specifications are consistent with applicable codes
2 and standards.

3
4 **(111)** [Condition removed by Amendment #4]
5

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

8 **(112)** Before beginning construction and after considering all micro-siting factors, the certificate holder
9 shall provide to the Department and to the Oregon Department of Fish and Wildlife (ODFW)
10 detailed maps of the facility site, showing the final design locations where the certificate holder
11 proposes to build facility components and the habitat categories of all areas that would be
12 affected during construction. In addition, the certificate holder shall provide a table showing the
13 acres of temporary and permanent habitat impact by habitat category and subtype, similar to
14 Table 8 in the Final Order on Amendment #4. In classifying the affected habitat into habitat
15 categories, the certificate holder shall consult with the ODFW. The certificate holder shall not
16 begin ground disturbance in an affected area until the habitat assessment has been approved by
17 the Department. The Department may employ a qualified contractor to confirm the habitat
18 assessment by on-site inspection. Based on the approved habitat assessment, the certificate
19 holder shall calculate the mitigation area requirement and shall carry out enhancement activities
20 as described in the *Stateline 3 Habitat Mitigation Plan* included in the Final Order on Amendment
21 #4 as Attachment C and as revised from time to time. The certificate holder shall acquire the legal
22 right to create and maintain the enhancement area for the life of the facility by means of an
23 outright purchase, conservation easement or similar conveyance and shall provide a copy of the
24 documentation to the Department of Energy. The certificate holder shall determine the location of
25 this habitat enhancement area in consultation with ODFW and landowners. [Amendment #4]
26

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

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

31 (b) Attach the 230-kV aboveground transmission lines to H-frame structures that consist of two
32 wooden poles connected by cross-members with a typical overall height of 61 feet and a
33 minimum design ground clearance of 25 feet to the lowest conductor as described in the
34 Request for Amendment #4.

35 (c) Design and construct the transmission lines so that:

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

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

39 [Amendment #4]
40

41 **(114)** To deter raptors from perching on transmission support structures near the wind turbines, the
42 certificate holder shall install anti-perching devices on all proposed support structures within one-
43 half mile of any turbine, unless the top of the support structure is below the base of the turbine
44 tower due to topography. Wherever feasible, the certificate holder shall use “spike-type” devices
45 instead of “triangle-type” devices. [Amendment #4]
46

1 (115) To protect raptors, the certificate holder shall design structures for 230-kV transmission lines to
2 conform to the guidelines of the Avian Power Line Interaction Committee so that electrical
3 conductors are spaced far enough apart to reduce the risk of bird electrocution. [Amendment #4]
4

5 (116) [Condition removed by Amendment #4]
6

7 (117) The certificate holder shall not engage in construction activities for Stateline 3 facilities, including
8 the movement of heavy trucks and equipment, within a ¼-mile buffer around known ferruginous
9 hawk nests during the sensitive period of the nesting season from (March 20 to August 15), except
10 as provided in this condition. The certificate holder shall use a protocol approved by the Oregon
11 Department of Fish and Wildlife (ODFW) to determine whether the nest is occupied. The
12 certificate holder may begin construction activities before August 15, if the nest is not occupied. If
13 the nest is occupied, the certificate holder shall use a protocol approved by ODFW to determine
14 when the young are fledged (independent of the core nest site). With the approval of ODFW, the
15 certificate holder may begin construction before August 15, if the young are fledged.
16

17 (118) The certificate holder shall construct stream crossings substantially as described in the Final
18 Order on Amendment #4. In particular, the certificate holder shall not remove material from
19 waters of the state or add new fill material to waters of the state such that the total volume of
20 removal and fill exceeds 50 cubic yards for the project as a whole. [Amendment #4]
21

22 4. Conditions That Must Be Met During Operation 23

24 (119) The certificate holder shall perform frequent maintenance to keep the substation transformer in
25 good repair and in reliable operating condition.
26

27 (120) The certificate holder shall verify that the actual sound power level output of the wind turbines
28 constructed for Stateline 3 meets the manufacturer’s warranty. This verification may consist of
29 field measurement or other means of verification satisfactory to the Department of Energy. The
30 certificate holder shall include the verification in the first annual report following construction of
31 any Stateline 3 turbines. [Amendment #4]
32

33 VIII. CONDITIONS ADDED BY AMENDMENT #3 34

35 (121) [Condition removed by Amendment #4]
36

37 (122) [Condition removed by Amendment #4]
38

39 IX. CONDITIONS ADDED BY AMENDMENT #4 40

41 Except as specifically noted, the conditions in this section apply to Stateline 3⁵ only. In applying
42 the conditions in this section, “certificate holder” means FPL Stateline. In applying the conditions in this

⁵ Note that Site Certificate Amendment #5 changed the name of “Stateline 3” to “Vansycle II,” however, the name has not been changed in Section IX of the site certificate as these conditions were added at the time of Amendment #4, when the name “Stateline 3” was still in use.

1 section, "certificate holder" means FPL Vansycle with regard to Stateline 1&2 and FPL Stateline with
2 regard to Stateline 3. [Amendment #4]
3

4 **(123)** The certificate holder shall design and construct Stateline 3 in compliance with the County design
5 requirements as described in Umatilla County Development Code Sections 152.010, 152.011,
6 152.015, 152.018, 152.063(E) and 152.616(HHH)(5)(F) in effect as of October 24, 2008.
7 [Amendment #4]
8

9 **(124)** The certificate holder shall ensure that construction contractors use a transportation route
10 reviewed and approved by the Umatilla County Public Works Director for all oversized and heavy
11 load transport vehicles. [Amendment #4]
12

13 **(125)** The certificate holder shall record a Covenant Not to Sue with regard to generally accepted
14 farming practices as required by Umatilla County Development Code Section 152.616(HHH)(2)(E).
15 [Amendment #4]
16

17 **(126)** The certificate holder shall construct all Stateline 3 components in compliance with the following
18 setback requirements:
19 (a) All facility components must be at least 3,520 feet from the property line of properties zoned
20 residential use or designated in the Umatilla County Comprehensive Plan as residential.
21 (b) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-
22 percent of maximum blade tip height, measured from the centerline of the turbine tower to
23 the nearest edge of any public road right-of-way. The certificate holder shall assume a
24 minimum right-of-way width of 60 feet.
25 (c) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 1,320
26 feet, measured from the centerline of the turbine tower to the center of the nearest
27 residence existing at the time of tower construction.
28 (d) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-
29 percent of maximum blade tip height, measured from the centerline of the turbine tower to
30 the nearest boundary of the certificate holder's lease area.
31 (e) The certificate holder shall not locate equipment associated with the temporary batch plant
32 within 50 feet of a public road, county road or utility right of way.
33 [Amendment #4]
34

35 **(127)** The certificate holder shall deliver a copy of the annual report required under Condition 8 to the
36 Umatilla County Planning Commission on an annual basis unless specifically discontinued by the
37 County. [Amendment #4]
38

39 **(128)** During construction, the certificate holder shall position a 3,000-gallon water truck on-site while
40 personnel are present and actively working. [Amendment #4]
41

42 **(129)** During operation, the certificate holder shall discharge sanitary wastewater generated at the
43 Stateline 3 O&M building to a licensed on-site septic system in compliance with county permit
44 requirements. The certificate holder shall locate the septic system more than 100 feet from any
45 streams, lakes or wetlands. The certificate holder shall design the septic system for a discharge
46 capacity of less than 2,500 gallons per day. [Amendment #4]
47

1 **(130)** During operation, the certificate holder shall obtain water for on-site uses from a wells located at
2 the Stateline 3 O&M building, subject to compliance with applicable permit requirements. The
3 certificate holder shall not use more than 5,000 gallons of water per day from the on-site well.
4 [Amendment #4]
5

6 **(131)** The certificate holder shall avoid permanent and temporary disturbance to all Category 1 and
7 Category 2 habitat within the Stateline 3 site boundary. [Amendment #4]
8

9 **(132)** Before beginning construction, the certificate holder shall conduct a site-specific geotechnical
10 investigation and shall report its findings to the Oregon Department of Geology & Mineral
11 Industries (DOGAMI) and the Department. The certificate holder shall conduct the geotechnical
12 investigation after consultation with DOGAMI and in general accordance with DOGAMI open file
13 report 00-04 "Guidelines for Engineering Geologic Reports and Site-Specific Seismic Hazard
14 Reports." [Amendment #4]
15

16 **(133)** Before beginning construction, the certificate holder shall provide to the Department:
17 (a) Information that identifies the final design locations of all Stateline 3 wind turbines to be
18 built.
19 (b) The maximum sound power level for the Stateline 3 substation transformers and the
20 maximum sound power level and octave band data for the turbines selected for the
21 Stateline 3 based on manufacturers' warranties or confirmed by other means acceptable to
22 the Department.
23 (c) The results of noise analysis of the facility, including the Stateline 3 components to be built
24 according to the final design, performed in a manner consistent with the requirements of
25 OAR 340-035-0035(1)(b)(B)(iii)(IV) and (VI) demonstrating to the satisfaction of the
26 Department that the total noise generated by the facility (including the noise from turbines
27 and substation transformers) would meet the ambient degradation test and maximum
28 allowable test at the appropriate measurement point for all potentially-affected noise
29 sensitive properties.
30 (d) For each noise-sensitive property where the certificate holder relies on a noise waiver to
31 demonstrate compliance in accordance with OAR 340-035-0035 (1)(b)(B)(iii)(III), a copy of a
32 legally effective easement or real covenant pursuant to which the owner of the property
33 authorizes the certificate holder's operation of the facility to increase ambient statistical
34 noise levels L_{10} and L_{50} by more than 10 dBA at the appropriate measurement point. The
35 legally-effective easement or real covenant must: include a legal description of the
36 burdened property (the noise sensitive property); be recorded in the real property records
37 of the county; expressly benefit the certificate holder; expressly run with the land and bind
38 all future owners, lessees or holders of any interest in the burdened property; and not be
39 subject to revocation without the certificate holder's written approval.

40 [Amendment #4]
41

42 **(134)** During operation, the certificate holder shall maintain a complaint response system to address
43 noise complaints. The certificate holder shall promptly notify the Department of any complaints
44 received regarding facility noise and of any actions taken by the certificate holder to address those
45 complaints. In response to a complaint from the owner of a noise sensitive property regarding
46 noise levels during operation of the facility, the Council may require the certificate holder to

1 monitor and record the statistical noise levels to verify that the certificate holder is operating the
2 facility in compliance with the noise control regulations. [Amendment #4, #5]

3
4 **(135)** During construction, the certificate holder shall not install any transmission line support
5 structures within 800 feet of any active Swainson’s hawk nest identified in 2008 or later.
6 [Amendment #4]

7
8 **(136)** This condition applies to all phases of the Stateline Wind Project. When any third-party lien or
9 security interest in the facility’s wind turbines or turbine towers is created, the certificate holder
10 shall notify such third party in writing that the wind turbines and towers are components an
11 energy facility that is subject to the terms and conditions of a Site Certificate and subject to the
12 rules of the Oregon Energy Facility Siting Council. The certificate holder shall provide to the
13 Department a copy of each written notification required under this condition and the name and
14 contact information for each third party so notified. [Amendment #4]

15
16 **X. CONDITIONS ~~ADDED BY~~ APPLICABLE TO CHANGES APPROVED IN AMENDMENT #5, #6 AND #7**
17 **(Vansycle II)**

18
19 In accordance with ORS 469.300(6), preconstruction and construction conditions identified as
20 applicable to the facility modifications approved in the Final Order on Amendment #6 and #7 Sixth
21 Amended Site Certificate may be satisfied, based on final design and configuration, of any given phase
22 or facility component.

23
24 The conditions listed in this section are specific to the facility modifications approved in the Final
25 Order on Amendment #6 Sixth Amended Site Certificate re-named [Amendment #6] and Final Order on
26 Amendment #7 [Amendment #7], and solely referred to as Vansycle II.

27
28 **(137)** The certificate holder shall construct the Vansycle II facility modifications, as approved in the
29 Final Orders on Amendment #6 and #7 Sixth Amended Site Certificate, and substantially as
30 described in the amended Request for Amendment 6 of the site certificate, subject to the
31 following restrictions and compliance with other site certificate conditions. Before beginning
32 construction, the certificate holder shall provide to the Department equipment specifications
33 and a description of the wind turbine dimensions to demonstrate compliance with this
34 condition.

35 ~~(a) Vansycle II wind turbine hub height must not exceed 295 feet and the maximum blade tip~~
36 ~~height must not exceed 499 feet.~~

37 ~~(b) Vansycle II wind turbine rotor diameter must not exceed 426 feet.~~

38 ~~(c)(a) Vansycle II wind turbine minimum blade tip clearance must not be lower than 59 feet~~
39 ~~above ground.~~

40 [Amendment #5, #6, #7]

41
42 **(138)** The certificate holder shall begin construction of the Vansycle II facility modifications, as
43 approved in the Final Order on Amendment #6 and #7 Sixth Amended Site Certificate, within
44 three years after the effective date of the amended site certificate [January 28, 2022]. The
45 certificate holder shall notify the Department when construction of the of the facility
46 modifications, as approved in Request for Amendment 6, commences. Under OAR 345-015-

0085(8), the amended site certificate is effective upon execution by the Council Chair and the certificate holder.

[Mandatory Condition OAR 345-025-0006(4); Amendment #5, #6, #7]

- (139) The certificate holder shall complete construction of the Vansycle II facility modifications, as approved in the Final Order on Amendment #6 and #7~~Sixth Amended Site Certificate~~, within three years following the date of construction commencement. The certificate holder shall promptly notify the Department of the date of completion of construction of the Vansycle II facility modifications, as approved in the Final ~~e~~Order on Amendment #6 and #7.

[Mandatory Condition OAR 345-025-0006(4); Amendment #5, #6, #7]

- (140) For the facility modifications approved in the Final Order on Amendment #6 and #7~~Sixth Amended Site Certificate~~, the certificate holder shall:

- (a) Prior to construction, provide the Department with the turbine foundation suitability analysis, applicable to the 43 existing wind turbines, if repowered. An annual operational inspection schedule and the results of the foundation suitability analysis, including any necessary mitigation and/or remediation measures, shall be incorporated into an inspection and maintenance plan, to then be implemented as part of facility operations. The plan shall be provided to the Department for review and approval, in consultation with DOGAMI or a third-party consultant.
- (b) During operation of repowered wind turbines, adhere to the remediation, inspection and monitoring requirements established in the approved plan per (a). Monitoring documentation shall be provided to the Department in the annual report per OAR 345-026-0080(1).
- (c) If any mitigation or remediation is required per(a) of this condition, prior to the repower or during repowered operations, submit in amendment determination request to the Department per OAR 345-027-0357(2).

[Amendment #5, #6, #7]

- (141) Prior to construction of facility modifications approved in the Final Order on Amendment #6 and #7~~Sixth Amended Site Certificate~~, the certificate holder shall:

- (a) Provide the Department maps and tabular data demonstrating that the final design of new, replacement and repowered wind turbines comply with the setback requirements to county road rights of way pursuant to UCDC Section 152.616(HHH)(6)(a)(4), or that the certificate holder has relocated or adjusted the county road right of way. Wind turbines not meeting the setback requirements from county road rights-of-way are precluded from increasing the maximum blade tip height from 440 to 499 feet through repower activities.
- (b) If the certificate has relocated or adjusted a county road right of way, the certificate holder shall provide to the Department written verification from Umatilla County that confirms the county road rights of way have been adjusted.

[Amendment #5, #6, #7]

- (142) During construction of Vansycle II facility modifications, as approved in the Final Order on Amendment #6 and #7~~Sixth Amended Site Certificate~~, the certificate holder shall:

- (a) Ensure all construction personnel receive environmental awareness training from a qualified professional on cultural resources and the inadvertent discovery protocols of the Inadvertent Discovery Plan.

- 1 (b) Implement and adhere to Inadvertent Discovery Plan measures previously approved in
2 Condition 75 in the event previously unidentified cultural resources are encountered, as
3 referenced in (i) – (iv) of this condition.
4 (i) The Inadvertent Discovery Plan shall establish that earth-disturbing activities be halted in
5 the immediate vicinity of the find, in accordance with Oregon state law (ORS 97.745 and
6 358.920).
7 (ii) Within 24-hours of the find, the certificate holder shall notify the Department, SHPO and
8 the Confederated Tribes of the Umatilla Indian Reservation (CTUIR).
9 (iii) The certificate holder shall have a qualified archaeologist evaluate the discovery and
10 recommend subsequent courses of action in consultation with the CTUIR and the SHPO.
11 If human remains are discovered, the certificate holder shall halt all construction
12 activities in the immediate area and shall notify the Department, SHPO, CTUIR, the
13 County Medical Examiner and the State Police.
14 [Amendment #5, #6]
15

16 **(143)** During construction of the Vansycle II facility modifications, as approved in the Final Order on
17 Amendment #6 and #7Sixth Amended Site Certificate, the certificate holder shall:

- 18 (a) Provide notice to adjacent landowners when repowering takes place to help minimize
19 access disruptions;
20 (b) Provide proper road signs and warnings, including “Oversized Load,” “Truck Access,” or
21 “Road Crossings;”
22 (c) Implement traffic diversion equipment, such as advance signs and pilot cars whenever
23 possible when slow or oversized loads are being hauled;
24 (d) Encourage carpooling for the workforce to reduce traffic volume;
25 (e) Employ flag persons as necessary to direct traffic when large equipment is exiting or
26 entering public roads to minimize risk of accidents; and
27 (f) Maintain at least one travel lane so that roadways will not be closed to traffic because of
28 vehicles entering or exiting public roads.

29 [Amendment #5, #6]
30

31 **(144)** For facility modifications approved in the Final Order on Amendment #6 and #7Sixth Amended
32 Site Certificate, the certificate holder shall:

- 33 (a) Prior to construction, provide evidence/documentation to the Department of consideration
34 and selection of a recycling facility capable and licensed to receive and process wind turbine
35 parts. The evidence/documentation shall include the total quantity (in tons) of
36 decommissioned wind turbine parts and the amount to be recycled based on contractual
37 agreement with a third-party or recycling facility.
38 (b) During construction, the certificate holder shall ensure its third-party contractors reuse or
39 recycle wind turbine blades, hubs and other removed wind turbine components to the
40 extent practicable. The certificate holder shall demonstrate that the recycling or disposal
41 facility selected to receive turbine parts is qualified and approved by an applicable
42 regulatory agency. The certificate holder shall report in its semi-annual report to the
43 Department the quantities of removed wind turbine components recycled, reused, sold for
44 scrap, and disposed of in a landfill. [Amendment #5, #6]
45

46 **(145)** Prior to construction of facility modifications approved in the Final Order on Amendment #6 and
47 #7Sixth Amended Site Certificate, the certificate holder shall submit a Notice of Proposed
48 Construction or Alteration to the Federal Aviation Administration (FAA) and the Oregon

1 Department of Aviation identifying the change in maximum blade tip height of the wind turbines
2 to be repowered. Determination of No Hazards or other comments from FAA or Oregon
3 Department of Aviation shall be provided to the Department.
4 [Amendment #5, #6]
5

6 **(146)** For the Vansycle II facility modifications, as approved in Final Order on Amendment #6 and #7~~the~~
7 Sixth Amended Site Certificate, the certificate holder shall:

- 8 (a) During design, select temporary staging areas based on a location with minimal noise impacts
9 and proximity to noise sensitive receptors.
10 (b) Prior to construction, provide notice to landowners within 1-mile of the site boundary to
11 inform of the construction start date, duration and description of activities and noise levels.
12 The notice shall include the name and phone number of the certificate holder's
13 representative which can be contacted to record construction-related noise complaints.

14 [Amendment #5, #6]
15

16 **(147)** Prior to construction of Vansycle II facility modifications, as approved in the Final Order on
17 Amendment #6 and #7~~Sixth Amended Site Certificate~~, the certificate holder shall provide to the
18 Department:

- 19 (a) Information that identifies the as-built locations of all Vansycle II wind turbines.
20 (b) The maximum sound power level for the existing Vansycle II substation transformers and the
21 maximum sound power level and octave band data for the repowered Vansycle II wind based
22 on manufacturers' warranties or confirmed by other means acceptable to the Department.
23 (c) The results of noise analysis for the Vansycle II facility modifications, as approved in the Final
24 Order on Amendment #6~~Sixth Amended Site Certificate~~, performed in a manner consistent
25 with the requirements of OAR 340-035-0035(1)(b)(B)(iii)(IV) and (VI) demonstrating to the
26 satisfaction of the Department that the total noise generated (including the noise from
27 repowered wind turbines and existing substation transformers) would meet the ambient
28 degradation test and maximum allowable test at the appropriate measurement point for all
29 potentially-affected noise sensitive properties.
30 (d) For each noise-sensitive property where the certificate holder relies on a noise waiver to
31 demonstrate compliance in accordance with OAR 340-035-0035 (1)(b)(B)(iii)(III), a copy of a
32 legally effective easement or real covenant pursuant to which the owner of the property
33 authorizes the certificate holder's operation of the facility to increase ambient statistical
34 noise levels L₁₀ and L₅₀ by more than 10 dBA at the appropriate measurement point. The
35 legally-effective easement or real covenant must: include a legal description of the burdened
36 property (the noise sensitive property); be recorded in the real property records of the
37 county; expressly benefit the certificate holder; expressly run with the land and bind all
38 future owners, lessees or holders of any interest in the burdened property; and not be
39 subject to revocation without the certificate holder's written approval.

40 [Amendment #5, #6]
41

42 **(148)** During construction, operation, and retirement of the facility modifications approved in the Final
43 Order on Amendment #6~~Sixth Amended Site Certificate~~, the certificate holder shall contractually
44 require its third-party contractor used to transport and dispose battery and battery waste to
45 comply with all applicable federal regulations and manufacturer recommendations related to the
46 transport and handling of battery related waste.

47 [Amendment #6]
48

1 **(149)** For the Vansycle II facility modifications, as approved in the Final Order on Amendment #6 and
2 #7Sixth Amended Site Certificate, the certificate holder shall:

- 3 (a) Provide to the Department a list of federal, state and local permits, including any third-party
4 permits related to facility siting; and a schedule for obtaining identified permits.
- 5 (b) Once obtained, provide copies of all permits, including third-party permits, required for
6 facility siting to the Department.

7 [Amendment #6]
8

9 **(150)** For the Vansycle II facility modifications approved in the Final Order on Amendment #6 and
10 #7Sixth Amended Site Certificate that would result in ground-disturbance, the certificate holder
11 shall:

- 12 (a) Prior to construction, provide a schedule to the Department that demonstrates ground-
13 disturbing activities are scheduled to avoid the rainy season (Spring), to the extent feasible.
- 14 (b) Prior to construction, ensure its contractors have contractually agreed to routinely check and
15 maintain tire pressure for all equipment used during construction activities.
- 16 (c) During construction, ensure contractors are regularly checking and maintaining tire pressure
17 of construction equipment prior to use.
- 18 (d) During construction, ensure contractors are minimizing compaction by limiting daily trips,
19 using established tracks and disturbance areas, and taking measures to limit unnecessary
20 trips and disturbance.

21 [Amendment #6]
22

23 **(151)** Prior to construction of the Vansycle II facility modifications approved in the Final Order on
24 Amendment #6 and #7Sixth Amended Site Certificate, the certificate holder shall develop and
25 submit a Soil Reclamation Plan specific to temporary disturbance areas, used to inform the final
26 assessment of soil erosion and compaction impact potential, and reclamation measures. The Soil
27 Reclamation Plan shall be incorporated and implemented as part of the Final Revegetation Plan
28 (Condition 65).

- 29 (a) The Soil Reclamation Plan shall include updated soil classification maps with descriptions of
30 soils impacted and may consider information including but not limited to: (1) key soil
31 properties related to soil productivity such as bulk density, K-factor, the thickness and
32 organic carbon of the A and B horizons, porosity, permeability, and water-holding capacity of
33 the soils within disturbance areas; (2) existing vegetation cover type/invasive dominated
34 areas based on literature review and preconstruction field surveys; (3) historic and current
35 land use; and (4) seasonal precipitation conditions.
- 36 (b) Based on the soil productivity information provided in (a), the certificate holder shall develop
37 quantitative reclamation criteria that will be used to measure successful reclamation of
38 disturbed soils.
- 39 (c) The Soil Reclamation Plan must be submitted to the Department for review and approval, in
40 consultation with Umatilla Soil and Water Conservation District Oregon Department of
41 Agriculture, Natural Resource Conservation Service or a third-party consultant with expertise
42 in soils.

43 [Amendment #6]
44

45 **(152)** For facility components approved in the Final Order on Amendment #6 and #7Sixth Amended
46 Site Certificate, the certificate holder shall:

- 1 (a) Provide evidence to the Department of receipt of an amended conditional use permit from
2 the Umatilla County Planning Department for new wind turbines, changes to access roads
3 and/or access points, if constructed.
4 (b) Obtain a zoning permit, per affected tax lot, for any new or modified structure in accordance
5 with UCDC 152.025.

6 [Amendment #6]
7

8 **(153)** The certificate holder shall develop emergency response plans per (a) and (b) in consultation with
9 local emergency and fire service providers and shall establish whether mutual aid agreements are
10 necessary to provide adequate services during construction and operation:

- 11 (a) Prior to and during construction of the facility modifications approved in the Final Order on
12 Amendment #6 and #7Sixth Amended Site Certificate, as applicable, the certificate holder
13 shall notify and provide copies of the final health and safety plans and/or emergency
14 response plans to be implemented during construction activities to the Umatilla County
15 Planning Department and the Department.
16 (b) Prior to and during operation of the facility modifications approved in the Final Order on
17 Amendment #6 and #7Sixth Amended Site Certificate, as applicable, the certificate holder
18 shall notify and provide copies of the final Emergency Action Plan to be implemented during
19 operations to the Umatilla County Planning Department and the Department.

20 [Amendment #6]
21

22 **(154)** Prior to construction of facility modifications approved in the Final Order on Amendment #6 and
23 #7Sixth Amended Site Certificate, the certificate holder shall provide to the Department and
24 Umatilla County Planning Department final design/layout maps and GIS data demonstrating
25 compliance of any new wind turbines with the 2-mile rural residential setback, based on the
26 UCDC 152.616(a)(3) definition of rural residence. The certificate holder shall also provide in
27 tabular format turbine identification numbers and distance from nearest rural residence for any
28 new turbines, as applicable, based on final design.

29 [Amendment #6]
30

31 **(155)** Prior to construction of the facility modifications approved in the Final Order on Amendment #6
32 and #7Sixth Amended Site Certificate, the certificate holder shall provide to the Department
33 evidence of landowner consultation for properties to be impacted by temporary and permanent
34 disturbance. Consultation shall demonstrate that the certificate holder sought landowner input
35 on extent and timing of disturbance and considered, to the maximum extent feasible from a
36 technological and engineering perspective, methods to minimize unnecessary disturbance from
37 construction and operation. The certificate holder shall provide a final design map of facility
38 components approved in the Final Order on Amendment #6 and #7Sixth Amended Site Certificate
39 and shall promptly notify the Department of any changes in design that would impact any
40 disturbance minimization measures identified after landowner consultation.

41 [Amendment #6]
42

43 **(156)** For facility modifications approved in the Final Order on Amendment #6Sixth Amended Site
44 Certificate, the certificate holder shall:

- 45 (a) Prior to construction submit to the Department, a Noxious Weed Control Plan. The certificate
46 holder shall submit the plan to the Department for review and approval, in consultation with
47 the weed control board of Umatilla County. The Noxious Weed Control Plan shall include, as

1 pertinent, but not be limited to, identification of county-listed weeds of economic concern,
2 methods for evaluating weeds within impact area, results of weed assessment, and control
3 methods specific to weed control and timing, agency consultation protocol, and process for
4 evaluating success of weed control.

5 (b) During both construction and operation, adhere to the requirements of the Noxious Weed
6 Control Plan approved per (a).

7 (c) During construction and operation, report on the results of implementation and monitoring
8 of noxious weed control to the Department in the semi-annual and annual reports required
9 per OAR 345-026-0080.

10 [Amendment #6]

11
12 **(157)** During ground-disturbance activities associated with the facility modifications approved in the
13 Final Order on Amendment #6 and #7-Sixth Amended Site Certificate, located within 30 meters of
14 site 35UM 000343, the certificate holder shall conduct monitoring by a qualified cultural resource
15 expert, unless the site is concurred by SHPO to be not likely NRHP-eligible. If additional
16 archeological resources are identified during ground disturbing activities within 30 meters of site
17 35UM 000343, the certificate holder shall conduct stop-work, reporting and response procedures
18 in accordance with its Inadvertent Discovery Plan.

19 [Amendment #6]

20
21 **(158)** Prior to construction of facility modifications approved in the Final Order on Amendment #6 and
22 #7-Sixth Amended Site Certificate, the certificate holder shall provide to the Department a copy
23 of an agreement or similar conveyance with a water service provider demonstrating agreement
24 of water usage and service at the site. Certificate holder shall provide documentation that the
25 water provider has a valid water right which allows for municipal water use within the place of
26 use of the facility.

27 [Amendment #6]

28 29 **XI. SUCCESSORS AND ASSIGNS**

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

32 **XII. SEVERABILITY AND CONSTRUCTION**

33
34 If any provision of this agreement and certificate is declared by a court to be illegal or in conflict
35 with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and
36 obligations of the parties shall be construed and enforced as if the agreement and certificate did not
37 contain the particular provision held to be invalid. In the event of a conflict between the conditions
38 contained in the amended site certificate and the Council's ~~f~~Final ~~e~~Order on the Application, or the Final
39 Orders on Amendment #1, #2, #3, #4, #5, ~~or~~ #6, or #7 the conditions contained in this amended site
40 certificate shall control. [Amendment #1, #5, #6, #7]

41 42 **XIII. GOVERNING LAW AND FORUM**

43
44 This site certificate shall be governed by the laws of the State of Oregon. Any litigation or
45 arbitration arising out of this agreement shall be conducted in an appropriate forum in Oregon.

1 **XIV. EXECUTION**

2
3
4
5
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7
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9

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

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

ENERGY FACILITY SITING COUNCIL

FPL ENERGY VANSYCLE LLC

By: _____
Marcia L. Grail, Chair
Oregon Energy Facility Siting Council

By: _____
Print: _____

Date: _____

Date: _____

FPL ENERGY STATELINE II, INC.

By: _____
Print: _____
Date: _____