

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

**In the Matter of Request for Amendment 6 for the  
Stateline Wind Project Site Certificate**

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)  
) **FINAL ORDER ON REQUEST FOR**  
) **AMENDMENT 6 TO THE SITE**  
) **CERTIFICATE**

January 28, 2022

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- Attachment E: Draft Amended Revegetation Plan
- Attachment F: Draft Amended Wildlife Monitoring and Mitigation Plan

1 **I. INTRODUCTION**

2  
3 The Oregon Energy Facility Siting Council (EFSC or Council) issues this final order, in accordance  
4 with Oregon Revised Statute (ORS) 469.405(1) and Oregon Administrative Rule (OAR) 345-027-  
5 0372, based on its review of Request for Amendment 6 (RFA6) to the Stateline Wind Project site  
6 certificate, comments and recommendations received by specific state agencies, including local,  
7 state and tribal governments during review of the preliminary and complete amendment  
8 request; comments received on the record of the draft proposed order (DPO) public hearing;  
9 and comments received by the Energy Facility Siting Council (Council) on December 17, 2021  
10 following their review of the DPO.

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

17  
18 Request for Amendment 6 is specific to Vansycle II and therefore is submitted by FPL Stateline.  
19 FPL Stateline requests the Council approve the following changes<sup>1</sup>:

- 20  
21 • Replace blades and nacelles of up to 43 existing wind turbines, resulting in an increase in  
22 maximum blade-tip height from 440 to 499 feet, reduce the minimum ground clearance  
23 from 85 to 59 feet, increase in hub height from 262.5 to 295 feet, and increase in  
24 generating capacity from 2.3 to 2.66 MW.<sup>2</sup>  
25  
26 • Options to: 1) construct and operate 2 new 2.3 MW wind turbines, within maximum  
27 dimensions presented above, and/or 2) decommission and replace up to 4 2.3 MW  
28 existing wind turbines, within maximum dimensions presented above; for a maximum  
29 total of 45 turbines, and a maximum increase in peak generating capacity of 20 MW –  
30 from 99 to 119 MW.  
31  
32 • Construct and operate a 50 MW battery energy storage system (BESS), consisting of  
33 approximately 72 containers, each with a skid-mounted power transformer, bi-  
34 directional inverter and cooling unit; 18 inverters with step-up transformers; and  
35 interconnection facilities (control house, protective device and power transformer) on  
36 11 acres within the site boundary, near the substation.  
37

---

<sup>1</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 3.1, Table 2.

<sup>2</sup> In RFA6, the certificate holder represents three options (Base case [Option 1], Option 2 [Option A], and Option 2 [Option B]), which are consolidated into a maximum-impact scenario for purposes of the analysis presented in this order.



- 1 • Temporarily disturb approximately 211 acres for road widening, crane paths, rotor  
2 assembly areas, and a 20-acre staging areas; permanently disturb approximately 12  
3 acres for up to 5 new wind turbine foundations, the BESS, and 0.44-mile segment of a  
4 16-foot wide new road.

5  
6 Under OAR 345-027-0350(4), an amendment is required because the proposed changes could  
7 result in a significant impact not previously addressed by Council, could impair the certificate  
8 holder's ability to comply with site certificate conditions, and could require a new or amended  
9 condition, as evaluated in this order. In RFA6, the certificate holder proposed changes to  
10 conditions: 37, 93, 137 through 147. In this order the Council amended the following conditions  
11 109, 137, 138, 139, 140, 141, 142, 144 and 145.

12  
13 The Council also added several new conditions (conditions 148 through 158) to the site  
14 certificate.

15  
16 Based upon review of this amendment request, in conjunction with comments and  
17 recommendations received by a third-party consultant, Tribal Governments, state agencies and  
18 local governments, the Council approves and grant a sixth amended site certificate for the  
19 Stateline Wind Project, subject to the existing, new and amended conditions set forth in this  
20 order.

21  
22 **I.A. Name and Address of Certificate Holder**

23  
24 FPL Energy Stateline II, Inc.  
25 700 Universe Blvd.  
26 Juno Beach, FL 33408

27  
28 ***Parent Company of the Certificate Holder***

29  
30 NextEra Energy Resources, LLC  
31 700 Universe Blvd.  
32 Juno Beach, FL 33408

33  
34 ***Certificate Holder Contact***

35  
36 Chris Powers, Senior Project Manager  
37 NextEra Energy Resources, LLC  
38 700 Universe Blvd  
39 Juno Beach, FL 33408

40  
41  
42  
43  
44 David Lawlor, Director of Development

1 NextEra Energy Resources, LLC  
2 700 Universe Blvd  
3 Juno Beach, FL 33408  
4

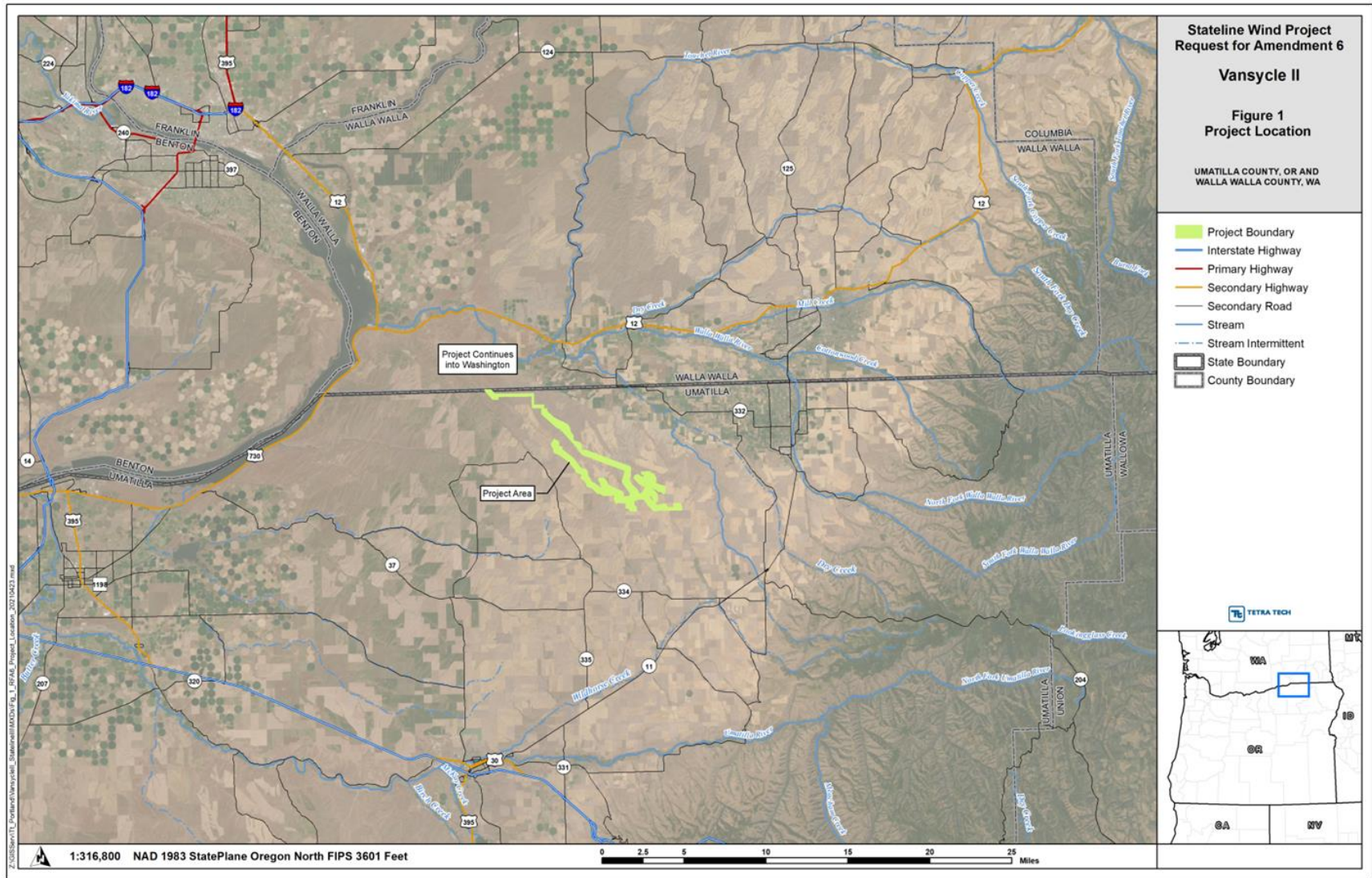
5 **I.B. Description of the Approved Facility**  
6

7 The Stateline Wind Project (facility) consists of two operational units, with a combined peak  
8 generating capacity of 222 MW. Stateline 1 & 2 (Unit 1) is composed of 186 wind turbines and  
9 has a peak generating capacity of up to 123 MW. Vansycle II (Unit 2) consists of 43 wind  
10 turbines with a peak generating capacity of 99 MW.  
11

12 **I.C. Description of Approved Vansycle II Facility Site Location**  
13

14 The facility is located in northern Umatilla County, north and east of Helix, Oregon, as  
15 presented in Figure 1, *Regional Location of Proposed RFA6 Facility Modifications (Vansycle II)*.  
16 The towns closest to the facility are Helix, Oregon, and Touchet, Washington.

1 **Figure 1: Regional Location of Proposed RFA6 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. The Council issued the First  
6 Amended Site Certificate on May 17, 2002, authorizing an increase in the total number of wind  
7 turbines from 127 to 187 and an increase in facility peak generating capacity from 83.8 to 123  
8 MW. The Council issued the Second Amended Site Certificate on June 6, 2003, authorizing  
9 construction and operation of Stateline 3 (now referred to Vansycle II), which included 279 0.66  
10 MW wind turbines. The Council issued the Third Amended Site Certificate on June 20, 2005,  
11 authorizing an extension of the Stateline 3 (Vansycle II) construction deadlines; and the Fourth  
12 Amended Site Certificate on March 27, 2009 authorizing a partial site certificate transfer. The  
13 Fifth Amended Site Certificate was approved by Council on May 17, 2019 and included a name  
14 change (Stateline 3 to Vansycle II Wind Project), repowering of 43 existing turbines, and  
15 redevelopment of temporary laydown areas and access roads. Council approval of repowering  
16 authorized an increase in blade length from 148 feet to 177 feet, an increase in rotor diameter  
17 from 305 feet to 354 feet, an increase in total height from 416 feet to 440 feet, and a decrease  
18 in the minimum ground clearance from 111 feet to 85 feet.<sup>3</sup> The certificate holder has not  
19 completed the repowering actions approved in 2019.  
20

21 The Department received preliminary Request for Amendment 6 (RFA6) on July 23, 2021,  
22 seeking Council approval of a new repower scenario and additional development actions, which  
23 are the subject of this order. The procedural history of RFA6 is described in Section II.B,  
24 *Amendment Review Process* and II.C *Council Review Process* below.  
25

26 **II. AMENDMENT PROCESS**  
27

28 **II.A. Requested Amendment**  
29

30 Request for Amendment 6 is specific to Vansycle II and therefore is submitted by FPL Stateline.  
31 FPL Stateline requests that Council approve the following changes<sup>4</sup>:  
32

- 33 • Replace blades and nacelles of up to 43 existing wind turbines, resulting in an increase in  
34 maximum blade-tip height from 440 to 499 feet, reduce the minimum ground clearance  
35 from 85 to 59 feet, increase in hub height from 262.5 to 295 feet, and increase  
36 generating capacity from 2.3 to 2.66 MW.<sup>5</sup>  
37
- 38 • Options to construct and operate: 1) 2 new 2.3 MW wind turbines, within maximum  
39 dimensions presented above, and/or 2) decommission and replace up to 4 2.3 MW

---

<sup>3</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 1.2.

<sup>4</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 3.1, Table 2.

<sup>5</sup> In RFA6, the certificate holder represents three options (Base case [Option 1], Option 2 [Option A], and Option 2 [Option B]), which are consolidated into a maximum-impact scenario for purposes of the analysis presented in this order.

1 existing wind turbines, within maximum dimensions presented above; for a maximum  
2 total of 45 turbines, and a maximum increase in peak generating capacity of 20 MW –  
3 from 99 to 119 MW.

- 4
- 5 • Construct and operate a 50 MW battery energy storage system (BESS), consisting of  
6 approximately 72 containers, each with a skid-mounted power transformer, bi-  
7 directional inverter and cooling unit; 18 inverters with step-up transformers; and  
8 interconnection facilities (control house, protective device and power transformer) on  
9 11 acres within the site boundary, near the substation.
- 10
- 11 • Temporarily disturb approximately 211 acres for road widening, crane paths, rotor  
12 assembly areas, and a 20-acre staging areas; permanently disturb approximately 12  
13 acres for up to 5 new wind turbine foundations, the BESS, and 0.44-mile segment of a  
14 16-foot wide new road.
- 15

#### 16 *Wind Turbine Repower*

17

18 Changes proposed include repowering (replacing blades and nacelles) of 43 existing wind  
19 turbines, replacing up to 4 wind turbines and constructing up to 2 new wind turbines, but any  
20 variation in these options would not result in more than 45 repowered, replaced and/or new  
21 wind turbines within the Vansycle II unit. The proposed wind turbine changes would result in  
22 increased per turbine capacity, from 2.3 to 2.66 MW, and overall Vansycle II generating  
23 capacity from 99 to 119 MW; increased maximum blade-tip height from 440 to 499 feet,  
24 reduced minimum aboveground blade-tip clearance from 85 to 59 feet, and increased hub  
25 height from 262.5 to 295 feet.

#### 26 *Temporary and permanent disturbance*

27

28

29 The total temporary disturbance is estimated at approximately 212 acres.<sup>6</sup> Temporary  
30 disturbance would result from a 20-acre staging area, 126 acres for rotor assembly areas (2.5  
31 acres per turbine), and 68 acres from road widening and crane paths (16 to 38 feet for 15.7  
32 miles). Figure 2, *Location of Proposed RFA6 Facility Modifications* represents the location of  
33 repowering activities and disturbance areas within the Vansycle II site boundary area.  
34 Temporary disturbance must be restored consistent with existing conditions and in accordance  
35 with revegetation and reclamation requirements of the final Revegetation Plan.

36

37 The total permanent disturbance is estimated at 12 acres, including 0.08 acres for 2 new wind  
38 turbine foundations; 0.09 acres (0.44-mile) for new access roads; and 11 acres for the BESS, as  
39 further described below.

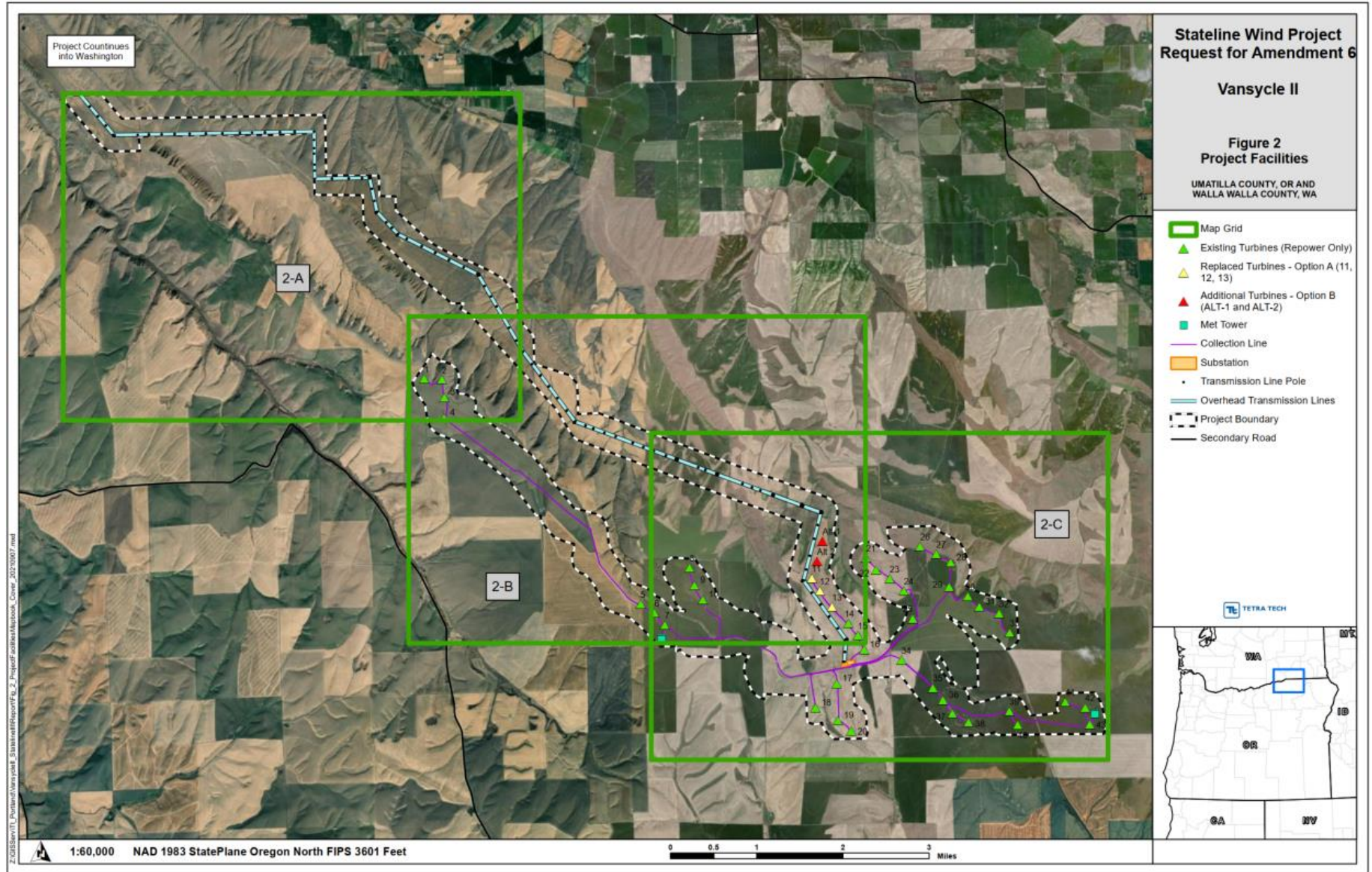
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<sup>6</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 3.5 Table 3.



1 **Figure 2: Location of Proposed RFA6 Facility Modifications**



2

1 *Battery Storage*  
2

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

- 5 • Batteries - Lithium-ion system would require regular change out of batteries as they  
6 degrade over time at a rate depending on usage. It is conservatively assumed the  
7 battery would need to be replaced every 15-20 years, or 1-2 times over the operational  
8 life of the repowered facility, which is assumed to be approximately 30 years.<sup>7</sup>
- 9 • Approximately 72 steel containers, each approximately 20 feet in length by 9 feet in  
10 width.
- 11 • Approximately 18 inverters (four containers per inverter) with associated step up  
12 transformers, each having a combined skid footprint approximately 30 feet by 10 feet  
13 and power ratings for 3.43 mega-volt-ampere (MVA) and 3.55 MVA, respectively.
- 14 • Interconnection facilities including a control house, protective device, and power  
15 transformer.
- 16 • Battery and inverter equipment would connect via a combination of above ground cable  
17 trays, underground conduit, direct-buried cable and/or covered cable trenches installed  
18 at a minimum depth of 3-feet below grade.<sup>8</sup>
- 19 • Battery containers and inverter skids would either be placed on an engineered grade or  
20 on poured concrete foundations or utilize steel piles, depending on site conditions and  
21 Umatilla County Building Department requirements.
- 22 • Utilize existing control house for communication equipment.
- 23 • Each container within the BESS would have its own skid-mounted power transformer  
24 and bi-directional inverter as shown in Figure 2. The bi-directional inverter allows  
25 energy to flow in or out of the battery to provide charge and discharge. Power switches  
26 and relays would protect the system. No emergency generator or backup power system  
27 would be provided, however local distribution could be used as a backup auxiliary  
28 source.
- 29 • Cooling units would be placed either on top of the building enclosure or containers or  
30 along the side.<sup>9</sup>
- 31 • Site surfacing would be primarily gravel, with a maximum of 7.2 acres of the energy  
32 storage area graveled to a depth of 6 inches, using approximately 4,160 tons of gravel.

33  
34 The total area of the BESS site would be approximately 11 acres, and would include  
35 approximately 3,000 linear feet of fence. Figure 3 shows the location and a conceptual site plan  
36 of the 50-MW BESS, as well as connection into the substation and control house.<sup>10</sup>

37  
38 *Spill and fire prevention measures of the BESS*  
39

---

<sup>7</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 3.3.

<sup>8</sup> UCDC Section 152.616(HHH)(f)

<sup>9</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 3.2

<sup>10</sup> *Id.*

1 The proposed BESS would include the following design features to minimize fire and safety  
2 risks:<sup>11</sup>

- 3 • The BESS would have a fire suppression system designed in accordance with applicable  
4 standards specified by the Umatilla County building department through the permitting  
5 process which would include the 2014 Oregon Structural Specialty Code et. seq.
- 6 • The BESS would have 350-gallon or greater water buffaloes located at the site (per  
7 Condition 34).
- 8 • The BESS would be stored in completely contained, leak-proof steel containers, serving  
9 as secondary containment for the modules housing the battery cells.
- 10 • The 11-acre BESS site would be constructed and operated within a fenced area (per  
11 Condition 35).
- 12 • The BESS would be electronically monitored allowing for tracking and responding to  
13 issue of battery malfunction.
- 14 • O&M staff would conduct monthly inspections according to the manufacturer’s  
15 recommendations.
- 16 • Requirements of Emergency Action Plan (per Conditions 48 and 85) would be adhered  
17 to, including emergency (e.g., fire) response procedures.

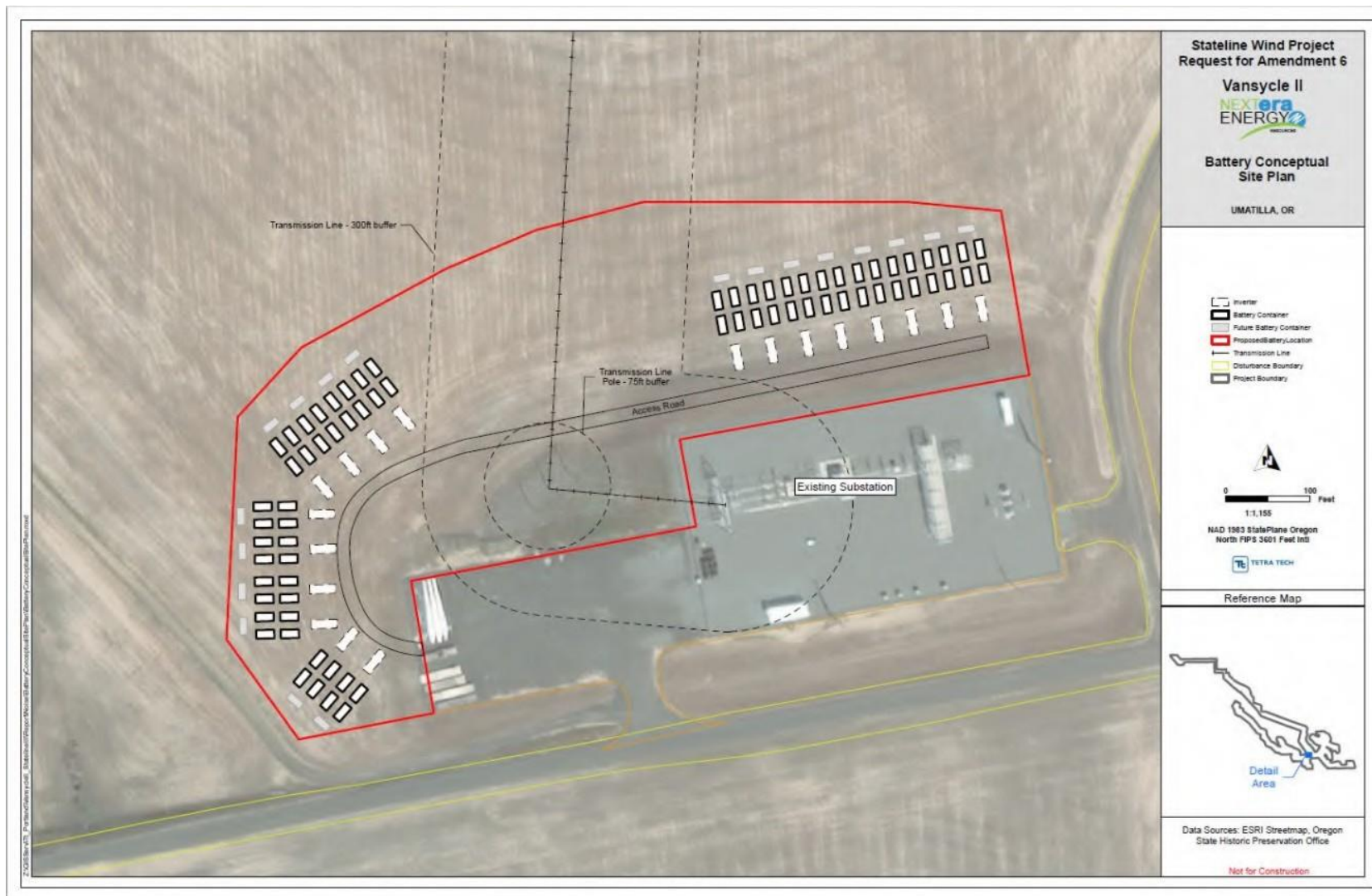
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<sup>11</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.13.



1 **Figure 3: 50 MW Battery Energy Storage System Conceptual Site Plan<sup>12</sup>**



2

<sup>12</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Sec. 3.2, Graphic 1.

## II.B. Amendment Review Process

### *Type B Review Amendment Determination Request/Preliminary Amendment Request*

Council rules describe the differences in review processes for the Type A and Type B review paths at OAR 345-027-0351. The Type A review is the standard or “default” amendment review process for changes that require an amendment. A key procedural difference between the Type A and Type B review process is that the Type A review requires a public hearing on the DPO, and provides an opportunity to request a contested case proceeding on the Department’s proposed order. Another difference between the Type A and Type B review process relates to the time afforded to the Department in its determination of completeness of the amendment and issuance of the DPO. It is important to note that Council rules authorize the Department to adjust the timelines for these specific procedural requirements, if necessary.

A certificate holder may submit an amendment determination request to the Department for a written determination of whether a request for amendment justifies review under the Type B review process. The certificate holder has the burden of justifying the appropriateness of the Type B review process as described in OAR 345-027-0051(3). The Department may consider, but is not limited to, the factors identified in OAR 345-027-0357(8) when determining whether to process an amendment request under Type B review.

The Department received pRFA6, with updated property owner information, inclusive of a Type B Review Amendment Determination Request (Type B Review ADR), on July 23, 2021.<sup>13</sup> The Type B Review ADR requested that the Department review and determine whether, based on evaluation of the factors contained within OAR 345-027-0357(8), the amendment request should be reviewed under the Type B review process. On August 5, 2021, the Department provided notice of receipt of pRFA6 and the Type B Review ADR through its email distribution list via ClickDimensions; pRFA6, the Type B Review ADR and Public Notice of pRFA6 were posted to the Department’s facility specific website for the Stateline Wind Project.<sup>14</sup> Pursuant to OAR 345-027-0360(2), on August 5, 2021, notice of the pRFA was also sent to the Council’s general mailing list, special mailing list via ClickDimensions, reviewing agencies (OAR 345-001-0010(52)) and property owners (OAR 345-027-0360(1)(f)).<sup>15</sup>

Pursuant to OAR 345-027-0357(6), on October 19, 2021, the Department issued a written determination to the certificate holder stating that Type A review be maintained for the

---

<sup>13</sup> Electronic copies of pRFA6 were received on July 12, 2021. Upon review of these materials, the Department requested that the certificate holder provide property owner and mapping information pursuant to OAR 345-021-0010(1)(f)(A) to ensure accurate noticing of pRFA6. Therefore, pRFA6 receipt date is based on receipt of the updated property owner information.

<sup>14</sup> OAR 345-027-0360(2)(b)

<sup>15</sup> SWPAMD6Doc2 pRFA Public Notice 2021-08-05.

modifications proposed in pRFA6.<sup>16</sup> On the same day, the Type B Review ADR Determination was posted to the Department's project website for the Stateline Wind Project and provided to the certificate holder.<sup>17</sup> Council was notified of the Department's determination via email and during the Secretary Report (Agenda Item A) at the October 22, 2021 Council meeting. OAR 345-027-0357(7) allows that, at the request of the certificate holder, the Department's determination must be referred to the Council for concurrence, modification, or rejection, which, in this instance, was not exercised. Electronic notice of the Department's Type B Review ADR determination was issued on November 23, 2021, in conjunction with the electronic notice issued for the DPO via ClickDimensions.<sup>18</sup>

#### *Preliminary Amendment Request Review*

On August 26, 2021, the Department determined pRFA6 to be incomplete and requested additional information to complete its evaluation and prepare the DPO, in accordance with OAR 345-027-0363(2)(A) and (B). The Department requested supplemental information from the certificate holder on August 26, October 14, October 26, and November 12, 2021. Certificate holder responses to the Department's information request were received on September 24, October 19, November 5, and November 16, 2021.

As presented in Attachment B of this order, the Department received comments on pRFA6 from the following reviewing agencies:

- Oregon Department of Aviation
- Umatilla County Planning Department
- Confederated Tribes of the Umatilla Indian Reservation (CTUIR)
- Oregon State Historic Preservation Office (SHPO)
- Haley & Aldrich, Inc.'s Senior Technical Specialist (Professional Engineer)

Comments from these agencies and third-party consultant were incorporated into the analysis of Council standards below, as applicable.

After reviewing the responses to its information request, the Department determined the RFA to be complete and on November 17, 2021 issued a completeness determination. Under OAR 345-027-0063(5), an RFA is complete when the Department determines that a certificate holder has submitted information adequate for the Council to make findings or impose conditions for all applicable laws and Council standards. On November 23, 2021, the Department posted an announcement on its project website notifying the public that the complete RFA6 had been received.

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<sup>16</sup> SWPAMD6Doc10 ADR Type B Evaluation and Type A Department Response 2021-10-19

<sup>17</sup> SWPAMD6Doc10-1 ADR Type B Evaluation and Type A Department Response Cert Holder Transmittal 2021-10-19

<sup>18</sup> SWPAMD6Doc13 DPO Public Notice 2021-11-23.

**II.C. Council Review Process**

*Draft Proposed Order*

The Department issued its DPO on RFA6, under the Type A process, and Public Notice on November 23, 2021, and opened a 23-day comment period. Pursuant to OAR 345-027-0367(2), notice of the DPO was sent to the Council’s general mailing list, special mailing list via ClickDimensions, reviewing agencies (OAR 345-001-0010(52)) and property owners (OAR 345-027-0360(1))f).<sup>19</sup>

The Council conducted a remote DPO public hearing via WebEx/Teleconference at its regularly scheduled December 16, 2021 meeting.<sup>20</sup> Prior to the close of the hearing the Council voted to continue the comment period until 10:00 a.m. on December 17, 2021 to afford the certificate holder an opportunity to response to issues raised at the hearing. At the close of the comment period, written and oral comments had been received from the certificate holder, 4 members of the public, Umatilla Board of Commissioners (as the Special Advisory Group [SAG]) and 2 state governmental agencies, as presented in Table 1 below.

**Table 1: Summary of Comments Received on the Record of the DPO Public Hearing**

<b>Commenter Name</b>	<b>Title/Entity/Organization</b>	<b>Date Received</b>	<b>Comment Format (Written/Oral)</b>	<b>Comment Scope/Topic</b>
Charles Little	Public	12/06/21	Written	In support of RFA6
David Lawlor, Chris Powers, and Anneke Solsby	FPL Energy Stateline II, Inc. (certificate holder)	12/13/21; 12/16/21; 12/17/21	Written/oral	Type A amendment review path; recommended Soil Protection and Land Use conditions;

<sup>19</sup> Id.

<sup>20</sup> Under OAR 354-027-0367, after the issuance of the draft proposed order, the Council must conduct a public hearing on the request for amendment to the site certificate *in the vicinity of the facility*, however at its regularly scheduled November 19, 2021 Council meeting, Council waived by consensus the in-person/in the vicinity requirement for the hearing permitted under OAR 345-015-0003(1). OAR 345-015-0003(1) states: The Council or Chair may waive any provision of OAR chapter 345 requiring that a public meeting or public hearing be held in person or in a specific geographical area, if:

- (a) The Council or Chair finds that in-person attendance at the meeting or hearing would present a risk to public health or safety or the health and safety of the participants;
- (b) The public meeting or public hearing is held through the use of telephone or other electronic communication in accordance with ORS 192.610 to 192.690; and
- (c) For public hearings, the Council provides an opportunity for submission of testimony by telephone, video, or through some other electronic or virtual means, or provides a means of submitting written testimony, including by email or other electronic methods, that the Council may consider in a timely manner.

**Table 1: Summary of Comments Received on the Record of the DPO Public Hearing**

<b>Commenter Name</b>	<b>Title/Entity/Organization</b>	<b>Date Received</b>	<b>Comment Format (Written/Oral)</b>	<b>Comment Scope/Topic</b>
				recommended new and amended retirement and financial assurance conditions
Jason Allen	Historic Preservation Specialist, Oregon State Historic Preservation Office (SHPO)	12/13/21	Written	Concurrence on certificate holder evaluation of above-ground historic resources
James Hayner, on behalf of Kirk and Gunder Terjeson	Attorney at law, representing landowners	12/15/21	Written	Opposition to road right of way relocation of Butler Grade
George Murdock	Umatilla County Board of Commissioners, Special Advisory Group	12/15/21	Written	Recommended Land Use conditions; Waste Minimization condition (blade recycling)
Irene Gilbert	Public	12/16/21	Oral	Blade recycling/impacts to landfills
Henry Davies/Richard Jolly	Blue Mountain Alliance	12/16/21	Written/oral	Legal disposal of waste generated from repowering
Seth Thompson	Aviation Planner, Oregon Department of Aviation (ODA)	12/16/21	Written	Applicability of hazard/obstruction review for new and replacement wind turbines

Note: See Attachment B of this order for all comments received on the record of the DPO public hearing.

In accordance with OAR 345-027-0367(7), Council reviewed the DPO and public comments on the DPO on December 17, 2021.<sup>21</sup> Council's review and comments on the DPO and issues raised in comments received, as provided to the Department, is summarized below and incorporated into the recommended findings of fact in Section III.C. *Structural Standard*, Section III.D. *Soil Protection*, Section III.E. *Land Use*, Section III.G. *Retirement and Financial Assurance*, Section III.H. *Fish and Wildlife Habitat*, Section III.K. *Historic, Cultural and Archeological Resources*, Section III.P.1. *Public Health and Safety Standards for Wind Energy Facilities* and Section III.P.2. *Cumulative Effects Standard for Wind Energy Facilities* of this order.

<sup>21</sup> SWPAMD6Doc21 EFSC DPO Review 2021-12-17.

### *Structural Standard*

At the December 17, 2021 meeting, Council reviewed the DPO and recommended that the certificate holder's proposed amendments to Condition 140 and 141, as presented in Section III.C. *Structural Standard* of the DPO, be modified to require that the certificate holder, prior to repowering, complete a foundation suitability analysis; develop and implement a minimum annual inspection and monitoring scheme for the 43 repowered wind turbines but informed further by the results of the foundation suitability analysis, to then be submitted to the Department for review and approval in consultation with DOGAMI or a third-party consultant; and, establish that any foundation mitigation or remediation deemed necessary through the final turbine foundation suitability analysis be described and submitted to the Department to determine whether the changes require a site certificate amendment pursuant to OAR 345-027-0357(2). Based on Council input, changes were incorporated into recommended amended Condition 140 in the proposed order.

### *Soil Protection*

Certificate holder commented on the Department's recommended Condition 152, as presented in Section III.D. *Soil Protection* of the DPO, requesting that the condition language be amended because the condition "requires several additional pre-construction and construction steps necessary and agency reviews that are unnecessary for the limited repair and maintenance activities required to facilitate the proposed repower."

Based on Council's review on December 17, 2021, the Department described that Condition 152, as proposed in the DPO, was intended to provide a framework for evaluating predisturbance soil conditions and ensure that there are methods for evaluating and tracking success of soil reclamation, neither of which are included in the certificate holder's Revegetation Plan, Noxious Weed Plan or specifically a part of the 1200-C permit. Council agreed that there should be a requirement for evaluating success of soil reclamation when soil impacts are represented as temporary. Based on Council input, the certificate holder's proposed change to condition language was not incorporated into the proposed order (note, condition numbering change in the proposed order from 152 to 151).

### *Land Use*

#### 1. Recommended Condition 152 (of the Draft Proposed Order)

Certificate holder commented on the Department's recommended Condition 153, as presented in Section III.E. *Land Use* of the DPO, and requested that the condition, if imposed, be amended to clarify that an amended conditional use permit would only be required for the components that necessitate an amendment pursuant to Umatilla County Development Code (UCDC) 152.16(HHH)(10) (note, condition numbering changed from 153 to 152 in the proposed order).

Umatilla County Board of Commissioners, the appointed Special Advisory Group (SAG) for this facility, also commented on the Department's recommended Condition 153. The SAG requested that the condition language specify that zoning permits, per affected tax lot, would be required for any new or modified structures pursuant to UCDC 152.025.

Based on Council's review on December 17, 2021, Council directed the Department to amend the condition as requested by the certificate holder and the SAG based on the following analysis and reasons:

- UCDC 152.025 establishes that zoning permits are required for any new or modified structures. Therefore, zoning permits would be required prior to construction of the new, replacement or repowered wind turbines.
- UCDC 152.616(HHH)(10) establishes the types of changes that would require a conditional use permit amendment, including expansion of site boundary, increase in the number of wind turbines, increase in generator output by more than 25 percent or changes to private roads or access points.
- The certificate holder proposes several changes in RFA6, which may be completed in part or in totality, where if completed in part, the changes may not align with those specified in UCDC 152.616(HHH)(10). If certificate holder only repowers 43 existing wind turbines or repowers some of the 43 existing wind turbines and completes some of the 4 replacement wind turbines, neither scenario align with the UCDC 152.616(HHH)(10) criteria and therefore on their own, would not trigger a conditional use permit amendment.
- The Department consulted with Umatilla County Planning Director Robert Waldher on December 16, 2021, who confirmed concurrence with the above reasons and analysis that an amended conditional use permit would only be required for the two new wind turbines and 0.44-mile access road, if constructed.

## 2. Recommended Condition 153 (of the Draft Proposed Order)

The SAG commented on the Department's recommended Condition 154 and requested that the condition be further amended to specify that the construction and operational Emergency Response Plans required to satisfy UCDC 152.616(10)(c) be developed by the certificate holder in coordination with emergency response providers and local fire districts, and that the plans specify that mutual aid agreements may be necessary; and that the condition require that the plans be provided to the Department and Umatilla County Planning Department (note, condition numbering changed from 154 to 153 in the proposed order).

Based on Council's review on December 17, 2021, it was determined that the SAG's comments were consistent with the scope and intent of UCDC 152.616(10)(c) and the requested condition amendments were incorporated into Section III.E.1 of the proposed order.

## 3. Recommended Condition 154 (of the Draft Proposed Order)

Certificate holder commented on the Department's recommended Condition 155, as presented in Section III.E. *Land Use*, and requested that the condition, if imposed, only apply to the proposed 2 new wind turbines because the proposed repowering of 43 wind turbines and proposed 4 replacement wind turbines represent an allowable "non-conforming" use (UCDC 152.003)<sup>22</sup> which may be altered because the proposed alteration would not result in an increase in adverse impacts from the "non-conformance" (UCDC 152.597(C)(2)) (note, condition numbering changed from 155 to 154 in the proposed order).

Umatilla County commented on the Department's recommended Condition 155 and requested that the certificate holder be required to provide GIS data to both the Department and the county, to adequately evaluate compliance with the 2-mile setback. Umatilla County also affirmed the interpretation on inapplicability of the 2-mile setback to the repowered and replacement wind turbines; and, the 2-mile setback would apply to the proposed 2 new wind turbines.<sup>23</sup>

Based on Council's review on December 17, 2021, Council directed the Department to amend the condition as requested by the certificate holder based on the following analysis and reasons:

- The 43 existing wind turbines were approved and constructed in 2009, prior to adoption of UCDC 152.616(HHH)(6)(a)(3), which established a 2-mile setback requirement for wind turbines to rural residential structures.
- Based on the above timing, the 43 wind turbines represent an allowable non-conforming use pursuant to UCDC 152.003.
- The proposed repower would not result in changes in the location or proximity of the wind turbines to rural residences.
- The closest residence to a proposed repowered wind turbine is located at 0.3 miles and is a participating landowner, and as a participating landowner, the setback does not apply per UCDC 152.616(HHH)(6)(a)(3).
- The closest residence not located on property for which the site boundary is located is 1.1 miles away from the proposed repowered and replacement wind turbine. Based on this distance, there would not be an expected increase in non-conformance.

Based on the above reasons and analysis, the 2-mile setback was determined inapplicable to the repowered and replacement wind turbines.<sup>24</sup>

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<sup>22</sup> UCDC 152.003 – N – defines "non-conforming structure or use" as "a lawful existing structure or use at the time this chapter or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located."

<sup>23</sup> At the January 28, 2022 meeting, Council directed staff to incorporate clarifications into the summary of their review of DPO comments, including clarifying that the 2-mile setback under UCDC 152.616(HHH)(6)(a)(3) would apply to the 2 new wind turbines, and would be inapplicable to the repowered and replacement turbines. See Agenda Item E (Action Item) portion of the January 28, 2022 EFSC Meeting Minutes, or listen/watch Agenda Item E of the January 28, 2022 EFSC Meeting recording. 2022-1-28-EFSC-FINAL Meeting-Minutes; Audio/Video for Agenda Item E = 01:50:14 - 2022-1-28-EFSC-Meeting-Audio/Video.

<sup>24</sup> Id.



#### 4. Recommended Condition 155 (of the Draft Proposed Order)

Certificate holder commented on the Department's recommended Condition 156, as presented in Section III.E. *Land Use*, and requested that the condition, if imposed, only apply to the proposed 2 new turbines, new access roads and BESS, excluding the requirement to consult with landowners on temporary disturbance associated with repowered and replacement turbines (note, condition numbering changed from 156 to 155 in the proposed order). The certificate holder expressed that landowner consultation of farm road improvements is already required by existing Condition 44.

Based on Council's review on December 17, 2021, Council directed the Department to maintain Condition 156, as presented in the DPO, based on the following analysis and reasons:

- Council imposed Condition 44 in the original site certificate for the facility, based on a representation made by the applicant in the 2001 Application for Site Certificate, which applied to construction of new access roads. While the certificate holder suggests that compliance with Condition 44 would ensure that landowners potentially impacted by the approximately 211 acres of temporary disturbance would be consulted, Condition 44 was not imposed to specifically apply to the type of development actions proposed in RFA6 (i.e. temporary expansion of existing roads and crane paths, temporary disturbance from 20-acre laydown areas, and temporary disturbance at turbine pad areas).
- The intent of the Department's recommended Condition 156 was to require that the certificate holder coordinate with all agricultural landowners potentially impacted by temporary and permanent disturbance, and require that evidence be provided to the Department documenting that landowner consultation occurred. The condition would also require an explanation by the certificate holder, if landowner requests were received but then not accepted, of the reasons why landowner requests were determined infeasible.

#### 5. UCDC 152.616 HHH(6)(a)(4)

Mr. Hayner, attorney at law, representing Kirk Terjeson and Gunder Terjeson – landowners with property adjacent to the Vansycle II site boundary - commented that the certificate holder's proposal to potentially move or expand the road at Butler Grade would severely impact the Terjeson Ranches farmland, where the property owners have not agreed to allowing such access.

The certificate holder responded to this comment and stated that they have, "reached out and begun coordinating with them." Certificate holder describes that, if the road right-of-way is adjusted, it would impact approximately 2 acres of the Terjeson's land.

Comments provided by Mr. Hayner did not include facts or evidence, nor did they reference a standard or other legal requirement believed to apply to the issue, to support further evaluation by the certificate holder, the Department or Council. The Department notes, however, that OAR 345-025-0006(5), establishes a mandatory site certificate condition that is imposed in all EFSC site certificates and is imposed as Condition 11 in the Stateline Wind Project Site Certificate. This condition requires that the certificate holder obtain legal rights of the site of any construction

activities. In order to relocate or adjust the road right of way, approval is required from Umatilla County (see recommended amended Condition 141); any expansion or modification of the road would not be permitted under the site certificate until the certificate holder acquires the necessary legal rights, which may also include landowner approval dependent upon right-of-way law.

#### *Fish and Wildlife Habitat*

At the December 17, 2021 meeting, Council reviewed the DPO and requested that the Department's recommended Condition 158, as presented in Section III.H. *Fish and Wildlife Habitat* of the DPO, ensure that the "review and approval" of the final Noxious Weed Control Plan not be interpreted as to bind the Department to "approval" if modification or rejection of the plan is necessary (note, condition numbering changed from 158 to 156 in the proposed order). In response to these comments, the Department amended its recommended findings of fact to clarify the intent of the review and approval process established by the condition.

#### *Retirement and Financial Assurance*

Certificate holder requested that the bonding requirement imposed in the Department's recommended Condition 157, as presented in Section III.G. *Retirement and Financial Assurance* of the DPO, be amended to exclude the costs of repowering and replacing the existing turbines, and rely on existing Condition 109 for those associated costs. This change would narrow the scope of the bonding requirement of recommended Condition 157 to any "new turbines and/or battery storage approved in the Final Order on Amendment 6." The certificate holder asserts that the existing bonding requirements of Condition 109 should be maintained, and would continue to cover the "cost of updating the existing turbines with blades and nacelles will decrease due to the decrease in weight of the blades and nacelles which are a factor in the cost estimate and there will be no changes to other facilities that factor into the cost estimate such as length of collector lines or access roads - i.e. the estimate will be within the range of the existing bond." Because the facility decommissioning estimate for turbine blades and nacelles is based on weight of steel and the certificate holder's description that the weight of the turbines, once repowered, would not increase, the Council agreed that Condition 109 should be maintained.

Based on Council's review on December 17, 2021 of the certificate holder's comments, Council directed staff to remove Condition 157 and incorporate the proposed changes into existing Condition 109, for consolidation and unnecessary duplication of condition requirements.<sup>25</sup>

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<sup>25</sup> At the January 28, 2022 meeting, Council directed staff to incorporate clarifications into the summary of their review of DPO comments, to remove the Department's clarification that the certificate holder's reference to "updating" wind turbines, in their DPO comments, referred to repowering wind turbines. This clarification was removed as it was considered confusing within the context of quoted comments by the certificate holder. See Agenda Item E (Action Item) portion of the January 28, 2022 EFSC Meeting Minutes, or listen/watch Agenda Item E of the January 28, 2022 EFSC Meeting recording. 2022-1-28-EFSC-FINAL Meeting-Minutes; Audio/Video for Agenda Item E = 01:50:14 - 2022-1-28-EFSC-Meeting-Audio/Video

### *Historic, Cultural and Archeological Resources*

Oregon State Historic Preservation Office's Historic Preservation Specialist, Jason Allen, concurred with the certificate holder's evaluation of historic properties within 1-mile of the Vansycle II site boundary, including the certificate holder's determination that four properties evaluated were not likely eligible for listing on the National Register of Historic Places, and therefore would not be impacted by the proposed RFA6 facility modifications.

Based on Council's review on December 17, 2021, these comments were incorporated into the recommended findings of fact and relied upon, in part, to support the recommended conclusions of law presented in Section III.K. *Historic, Cultural and Archeological Resources* of the proposed order.

### *Public Health and Safety Standards for Wind Energy Facilities*

Seth Thompson, an Aviation Planner at the Oregon Department of Aviation (ODA), commented that the certificate holder is required to submit an obstruction analysis to Federal Aviation Administration (FAA) and ODA for the new and replacement wind turbines. Mr. Thompson requested that Council impose a condition requiring that the certificate holder first submit an obstruction analysis for the new and replacement wind turbines to ODA, to then be followed by submittal to FAA, to ensure that the new and replacement wind turbines would not pose a hazard to navigable air space.

During review of pRFA6, the certificate holder provided to ODA an obstruction analysis for the 43 existing and 2 new wind turbines, at the maximum proposed new blade-tip height. The certificate holder explained that the replacement turbines would be located within 1 arc-per-second of the existing location, where ODA/FAA hazard determinations apply within 1 arc-per-second of the location and therefore were not separately included in the analysis. On September 29, 2021, ODA provided both the Department and the certificate holder with their Determination of no Hazard letter, based on the FAA Form 7460-1 obstruction evaluation data.

Council previously imposed and amended Condition 145 requiring that the certificate holder, prior to construction, demonstrate receipt of Determinations of No Hazard or other comments from FAA and ODA. Based on the No Hazard Determinations obtained by the certificate holder from ODA, included on the record of RFA6, and existing Condition 145, no changes were made in the proposed order in response to ODA's comments.

### *Waste Minimization*

The SAG commented on existing Condition 144 and requested that the condition be amended to require that the certificate holder or its third-party contractor be required to dispose of any waste or recycled materials at a licensed facility. Similarly, Henry Davies and Richard Jolly, on behalf of

Blue Mountain Alliance, requested that Council require the certificate holder to provide a waste manifest or chain of custody from the receiving disposal facility, to ensure that the waste is disposed of at a licensed facility.

Ms. Gilbert, a member of the public, commented that RFA6 lacked specific information regarding the recycling and removal of the wind turbine blades associated with the repower. Furthermore, Ms. Gilbert expressed concern that wind turbine blades would fill up landfills, and could limit capacity for public use in the future. Ms. Gilbert also indicated that the forecasted life of the wind turbines when originally approved by council was 20 to 25 years, and questioned why the entire life [of the turbine blades] would not be utilized.

Based on the Council review on December 17, 2021, amendments to Condition 144 were incorporated into the proposed order, including specifying that waste and recycled materials were required to be received by a licensed facility, and that the certificate holder be required to demonstrate, prior to construction, an evaluation of practicable means for recycling turbine parts.

#### *Cumulative Effects Standard for Wind Facilities*

Certificate holder commented on the recommended findings of fact presented in the DPO Section III.P.2. RFA6 proposes a 0.44-mile new road segment to interconnect an existing turbine string road to the proposed location of the two new wind turbines. The certificate holder identified that this new road segment was not accurately represented in the recommended findings of fact of Section III.P.2.

Based on Council's review on December 17, 2021, the following recommended findings of fact were incorporated into Section III.P.2.

- In RFA6, Table 3 identifies that the proposed 0.44-mile new road segment would be 16-feet in width.
- The proposed land area for the new road is the same width approved for existing, facility roads in the site certificate.
- RFA6 Figures 3-B and 3-C presents the location of the proposed 0.44-mile new road segment and demonstrates that the road would provide access from an existing turbine string to the location of the proposed 2 new wind turbines, and would be located within the existing, approved site boundary.
- Access to the proposed 2 new wind turbines is necessary for both construction and operation.

Based on these recommended findings of fact, the Department recommended that Council find that the proposed 0.44-of a mile new road segment would be constructed in a manner that minimizes land area and adverse environmental impacts.

#### *Comments on Draft Amended Site Certificate*

Certificate holder commented on the Vansycle II description presented in the draft amended site certificate in DPO Attachment A, including a request to update the number of wind turbines from 43 to 45, remove the reference to 2.3 MW capacity, and update the overall capacity from 99 to 118.68 MW. The Department described to Council that it considered these changes to be administrative and consistent with the changes proposed in RFA6, and therefore were incorporated into the Proposed Order Attachment A (shown in red-line).

Certificate holder commented that, because the facility modifications proposed in RFA6 may not commence at the same time or even at all, that the site certificate include language clarifying that conditions applicable to the proposed RFA6 facility modifications may be satisfied based on the applicability of the condition to the phase or facility component within a given timeframe. The certificate holder cited ORS 469.300(6) as the basis. The Department recommended that Council consider this proposed approach to be both consistent with past Council actions on site certificates with the potential for phased construction and allowable within the context of ORS 469.300(6).

#### *Proposed Order*

Pursuant to OAR 345-027-0371, the Department issued a Proposed Order and Notice of Proposed Order on December 21, 2021. Pursuant to OAR 345-027-0371(2), notice of the Proposed Order was sent to the Council's general mailing list, special mailing list via ClickDimensions, reviewing agencies (OAR 345-001-0010(52)) and property owners (OAR 345-027-0360(1)f)). Concurrent with the issuance of the proposed order, the Department issued a Notice of Opportunity to Request a Contested Case and a public notice of the proposed order.<sup>26</sup>

The Proposed Order and Notice were also posted to the Department's facility specific website for the Stateline Wind Project.<sup>27</sup> In the Proposed Order, the Department recommended material changes to: Section III.C. *Structural Standard*, Section III.D. *Soil Protection*, Section III.E. *Land Use*, Section III.G. *Retirement and Financial Assurance* and Section III.H. *Fish and Wildlife Habitat*, based on comments received on the record of the DPO public hearing and Council comments received following their December 17, 2021 DPO review.

#### *Review of Requests for Contested Case*

No requests for contested case were received by the Department, therefore, at the regularly scheduled January 28, 2022 Council meeting, the Department presented the Proposed Order to Council, focusing on substantive changes incorporated from the DPO to the Proposed Order.

#### *Review of Proposed Order/Final Decision*

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<sup>26</sup> OAR 345-027-0371

Council reviewed the proposed order at the January 28, 2022 meeting. Following review of the proposed order, the Council adopted the proposed order, with modifications, as the final order based on the considerations described in OAR 345-027-0375(3); and granted issuance of a Sixth Amended Site Certificate.<sup>28</sup>

The Council's final order is subject to judicial review by the Oregon Supreme Court as provided in ORS 469.403.

## **II.D. Applicable Division 27 Rule Requirements**

A site certificate amendment is necessary under OAR 345-027-0350(4) because the certificate holder requests to design, construct, and operate the facility in a manner different from the description in the site certificate, and the proposed changes: (1) could result in a significant adverse impact to a resource or interest protected by a Council standard that the Council has not addressed in an earlier order; (2) could impair the certificate holder's ability to comply with a site certificate condition; or (3) could require new conditions or modification to existing conditions in the site certificate, or could meet more than one of these criteria.

The Type A amendment review process (consisting of OARs 345-027-0359, -0360, -0363, -0365, -0367, -0371 and -0375) is the default amendment review process and shall apply to the Council's review of a request for amendment proposing a change described in OAR 345-027-0350(2), (3), and (4).<sup>29</sup>

## **III. REVIEW OF THE REQUESTED AMENDMENT**

Under ORS 469.310, the Council is charged with ensuring that the "siting, construction and operation of energy facilities shall be accomplished in a manner consistent with protection of the public health and safety." ORS 469.401(2) further provides that the Council must include in the amended site certificate "conditions for the protection of the public health and safety, for the time for completion of construction, and to ensure compliance with the standards, statutes and rules described in ORS 469.501 and ORS 469.503."<sup>30</sup> The Council implements this statutory framework by adopting findings of fact, conclusions of law, and conditions of approval concerning the amended facility's compliance with EFSC standards set forth in OAR Chapter 345, Divisions 22 and 24 as well as all other applicable statutes, rules and standards (including those of other state or local agencies).

This final order includes the Council's analysis of whether the proposed RFA6 facility modifications meet each applicable Council standard (with mitigation and subject to compliance with amended and new conditions, as applicable), based on the information in the record, including the

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<sup>28</sup> The amendments to the proposed order were non-substantive (i.e. not related to Council's findings of fact or conclusions of law) and are presented in Section II.C above – in the summary of Council's review of DPO comments for Land Use and Retirement and Financial Assurance.

<sup>29</sup> OAR 345-027-0351(2).

<sup>30</sup> ORS 469.401(2).

Department's consideration of the comments received on the record of the DPO public hearing and Council comments received during the December 17, 2021 DPO review.

### **III.A. General Standard of Review: OAR 345-022-0000**

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

*(a) The facility complies with the requirements of the Oregon Energy Facility Siting statutes, ORS 469.300 to ORS 469.570 and 469.590 to 469.619, and the standards adopted by the Council pursuant to ORS 469.501 or the overall public benefits of the facility outweigh the damage to the resources protected by the standards the facility does not meet as described in section (2);*

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

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

### **Findings of Fact**

OAR 345-022-0000 provides the Council's General Standard of Review and requires the Council to find that a preponderance of evidence on the record supports the conclusion that the proposed facility modifications comply with the requirements of EFSC statutes and the siting standards adopted by the Council and that the proposed facility modifications comply with all other Oregon statutes and administrative rules applicable to the issuance of an amended site certificate for the facility, with proposed changes. OAR 345-022-0000(2) and (3) apply to RFAs where a certificate holder has shown that the proposed facility modifications cannot meet Council standards or has shown that there is no reasonable way to meet the Council standards through mitigation or avoidance of the damage to protected resources; and, for those instances, establish criteria for

the Council to evaluate in making a balancing determination. In RFA6, the certificate holder has not represented that the proposed amendments cannot meet an applicable Council standard. Therefore, OAR 345-022- 0000(2) and (3) would not apply to this review.

The requirements of OAR 345-022-0000 are discussed in the sections that follow. The Department consulted with other local, state and Tribal agencies, and a third-party consultant during review of pRFA6 to aid in the evaluation of whether the proposed RFA6 facility modifications would maintain compliance with statutes, rules and ordinances otherwise administered by other agencies. Additionally, in many circumstances the Department relies upon these reviewing agencies' special expertise in evaluating compliance with the requirements of Council standards.

*Mandatory and Site-Specific Conditions in Site Certificates [OAR 345-025-0006 and OAR 345-025-0010]*

OAR 345-025-0006 lists certain mandatory conditions that the Council must adopt in every site certificate. Council rulemaking moved the mandatory conditions from Division 27 to Division 25. Similarly, the site certificate conditions of OAR 345-025-0010 and -0015 were moved from Division 27 to Division 25 as a result of a subsequent Council rule change. As such, the Council amends the citation for previously imposed mandatory conditions consistent with the current Division 25 rules, as presented in the draft amended site certificate and provided in Attachment A of this order.

Council previously imposed Condition 2 to align with OAR 345-025-0006(3)(a), which requires that the certificate holder design, construct, operate, and retire the facility substantially as described in the site certificate. Design features and activities associated with construction, operation and retirement of the proposed RFA6 facility modifications are presented in the draft amended Site Certificate in Attachment A, consistent with Section II.A. *Requested Amendment*, of this order to align with this mandatory condition.

Additionally, Council imposed Condition 137 to establish wind turbine dimension specifications, such as maximum blade tip height, and minimum aboveground blade tip clearance. As described in Section II.A. *Requested Amendment*, the certificate holder requests Council's approval to authorize an increase in both the maximum blade tip height and hub height (from 440 to 499 feet, and 262.5 to 295 feet respectively), but also to lower minimum aboveground blade tip clearance, from 85 to 59 feet. The impact of these changes are further evaluated below in this order. The Council amends existing condition 137 based on the proposed changes in wind turbine dimensions:

**Amended Condition 137:** The certificate holder shall construct the Vansycle II facility modifications, as approved in the ~~Fifth~~<sup>Sixth</sup> Amended Site Certificate, substantially as described in Request for Amendment ~~56~~<sup>56</sup> of the site certificate, subject to the following restrictions and compliance with other site certificate conditions. Before beginning construction, the certificate holder shall provide to the Department equipment



specifications and a description of the wind turbine dimensions to demonstrate compliance with this condition.

- (a) Vansycle II wind turbine hub height must not exceed ~~262.5~~295 feet and the maximum blade tip height must not exceed ~~440~~499 feet.
- (b) Vansycle II wind turbine rotor diameter must not exceed ~~354~~426 feet.
- (c) Vansycle II wind turbine minimum blade tip clearance must not be lower than ~~85~~59 feet above ground.

[Amendment #5, ~~#6~~]

*Certificate Expiration [OAR 345-027-0313]*

A site certificate, or amended site certificate, becomes effective upon execution by the Council Chair and the certificate holder. A site certificate, or amended site certificate, expires if construction has not commenced on or before the construction commencement deadline, as established in the site certificate and statutorily required under ORS 469.401(2).

The Council imposes construction deadlines in the amended site certificate that reflect a balance between any concern regarding potential circumstantial changes (regulatory and environmental) and the individual circumstances of the amendment request. In addition, the Council acknowledges that there are a number of unforeseen factors that can delay a certificate holder's commencement of construction and completion, including but not limited to financial, economic, or technological changes. The Council notes that while each amendment request is evaluated on its own facts, historic Council decisions on construction and commencement deadlines were reviewed to inform this analysis. In most instances of decisions on Application for Site Certificates (ASCs), Council has required construction commencement and completion of wind energy facilities within three and six years, respectively, after the effective date of the site certificate and in some instances the completion deadline is established based on date of construction commencement and not effective date of site certificate.

In RFA6 Section 4.4 Construction Schedule, the certificate holder explains that the anticipated duration to complete the proposed RFA6 facility modifications would be 10 months (March through December 2022). To provide adequate time to complete pre-construction site certificate requirements, allow sufficient time to obtain required permits not governed by the site certificate, and to be consistent with past Council requirements, the Council grants a construction commencement and completion deadline based upon three years following the amended site certificate execution date and an additional three years following date of construction commencement.

In accordance with OAR 345-025-0006(4), the Council imposes the following amended conditions:

**Amended Condition 138:** The certificate holder shall begin construction of the Vansycle II facility modifications, as approved in the ~~Fifth~~ Sixth Amended Site Certificate, within three years after the effective date of the amended site certificate [January 28, 2025]. The

certificate holder shall notify the Department when construction of the of the facility modifications, as approved in Request for Amendment ~~56~~, 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]

**Amended Condition 139:** The certificate holder shall complete construction of the Vansycle II facility modifications, as approved in the ~~Fifth-Sixth~~ Amended Site Certificate, within three years following the date of construction commencement ~~[June 12, 2025]~~. The certificate holder shall promptly notify the Department of the date of completion of construction of the Vansycle II facility modifications, as approved in Request for Amendment ~~56~~.

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

#### *Construction and Operation Rules for Facilities [OAR Chapter 345, Division 26]*

The Council has also adopted rules at OAR Chapter 345, Division 26 to ensure that construction, operation, and retirement of facilities are accomplished in a manner consistent with the protection of the public health, safety, and welfare and protection of the environment. These rules include requirements for compliance plans, inspections, reporting and notification of incidents. The certificate holder must construct the proposed RFA6 facility modifications substantially as described in the amendment request and the certificate holder must construct, operate, and retire the proposed RFA6 facility modifications in accordance with all applicable rules adopted by the Council in OAR Chapter 345, Division 26.<sup>31</sup>

#### **Conclusions of Law**

Based on the foregoing findings of fact and conclusions of law, and subject to compliance with the existing and amended conditions, the Council finds that the certificate holder would satisfy the requirements of OAR 345-022-0000.

#### **III.B. Organizational Expertise: OAR 345-022-0010**

*(1) To issue a site certificate, the Council must find that the applicant has the organizational expertise to construct, operate and retire the proposed facility in compliance with Council standards and conditions of the site certificate. To conclude that the applicant has this expertise, the Council must find that the applicant has demonstrated the ability to design, construct and operate the proposed facility in compliance with site certificate conditions and in a manner that protects public health and safety and has demonstrated the ability to restore the site to a useful, non-hazardous condition. The Council may consider the*

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<sup>31</sup> Applicable rule requirements established in OAR Chapter 345, Division 26 include OAR 345-026-0048, OAR 345-026-0080, OAR 345-026-0105, and OAR 345-026-0170.

*applicant's experience, the applicant's access to technical expertise and the applicant's past performance in constructing, operating and retiring other facilities, including, but not limited to, the number and severity of regulatory citations issued to the applicant.*

- (2) The Council may base its findings under section (1) on a rebuttable presumption that an applicant has organizational, managerial and technical expertise, if the applicant has an ISO 9000 or ISO 14000 certified program and proposes to design, construct and operate the facility according to that program.*
- (3) If the applicant does not itself obtain a state or local government permit or approval for which the Council would ordinarily determine compliance but instead relies on a permit or approval issued to a third party, the Council, to issue a site certificate, must find that the third party has, or has a reasonable likelihood of obtaining, the necessary permit or approval, and that the applicant has, or has a reasonable likelihood of entering into, a contractual or other arrangement with the third party for access to the resource or service secured by that permit or approval.*
- (4) If the applicant relies on a permit or approval issued to a third party and the third party does not have the necessary permit or approval at the time the Council issues the site certificate, the Council may issue the site certificate subject to the condition that the applicant shall not commence construction or operation as appropriate until the third party has obtained the necessary permit or approval and the applicant has a contract or other arrangement for access to the resource or service secured by that permit or approval.*

### **Findings of Fact**

Subsections (1) and (2) of the Council's Organizational Expertise standard require that the applicant (certificate holder) demonstrate its ability to design, construct operate and retire the facility with proposed changes in compliance with Council standards and all site certificate conditions, and in a manner that protects public health and safety, as well as its ability to restore the site to a useful, non-hazardous condition. The Council may consider the certificate holder's experience and past performance in constructing, operating and retiring other facilities in determining compliance with the Council's Organizational Expertise standard. Subsections (3) and (4) address third party permits.

#### *Certificate Holder's Relevant Experience in Design, Construction and Operation of Similar Facilities as proposed in RFA6*

The Council may consider a certificate holder's past performance, including but not limited to the quantity or severity of any regulatory citations in the construction or operation a facility, type of equipment, or process similar to the facility, in evaluating whether a proposed change may impact the certificate holder's ability to design, construct and operate a facility, with proposed

changes, in compliance with Council standards and site certificate conditions.<sup>32</sup> To evaluate whether the construction and operation of the proposed RFA6 facility modifications would impact the certificate holder's ability to comply with Council standards and site certificate conditions, Council evaluated the certificate holder's relevant experience constructing and operating similar systems and considers whether any regulatory citations have been received for its facilities.

The certificate holder, FPL Energy Stateline II, Inc., a wholly owned subsidiary of NextEra Energy Resources, LLC (NextEra), relies upon the organizational expertise and experience of its parent company, NextEra. In RFA6, the certificate holder explains that NextEra has not received any regulatory citations, nor has it received any North American Energy Reliability Corporation (NERC) violations, during operation of the facility, and that there have not been any changes in ownership, management or holdings to NextEra that would change Council's previous findings that they have the personnel, qualifications, and experience to construct and operate the facility, with proposed RFA6 facility modifications.<sup>33</sup> The certificate holder explains that the Stateline Wind 3/ Vansycle II Project has been operational since 2009, and that its regionally diversified portfolio of 175 facilities in America and Canadian provinces includes more than 15,000 MW of wind generation capacity. Additionally, NextEra's energy storage team has experience in the energy storage market with more than 145 MW of operating energy storage assets.

Within Oregon, NextEra subsidiaries—FPL Vansycle, LLC and FPL Energy Stateline II—constructed, own, and operate 186 turbines, with a total peak generating capacity of 123 MW at the Stateline 1 and 2 wind energy facilities, and 43 turbines with a total peak generating capacity of 99 MW at the Vansycle II Wind Energy Facility. NEER subsidiaries recently completed a 300-MW wind farm in Morrow County, Oregon – the Wheatridge Wind facilities – and in 2021 are constructing a solar facility that includes battery storage in Morrow County, Oregon.<sup>34</sup> There are no recorded violations, nor North American Energy Reliability Corporation violations for these projects.<sup>35</sup>

NextEra has repowered 1,591 MW of wind in the United States in 2017, including blade and gearbox change outs across nine sites in Texas, and (partnering with Blattner and SGRE) NEER successfully executed the repower of almost 200 SWT 2.3-93 machines owned by NextEra Energy, Inc. for ERCOT in West Texas in 2017, constituting approximately 29 percent, or 460 MWs, of the total 1,591 MWs that NextEra repowered in 2017. Therefore, NEER has experience in turbine repowering tasks and actions including wind tower repower, blade and nacelle replacement, and associated construction activities.<sup>36</sup> In RFA5, Council found that the certificate holder had the organizational expertise to repower the facility. As noted above, NextEra has demonstrated experience in constructing and operating energy storage, including Battery Energy Storage Systems, which is the only new component of the facility being proposed in RFA6.

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<sup>32</sup> OAR 345-021-0010(1)(d)(D)

<sup>33</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.2.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

Council previously imposed Condition 46, which would continue to apply to proposed RFA6 facility modifications, ensuring that the construction contractors demonstrate a proven record of environmental stewardship and compliance. Other existing site certificate conditions related to contractor requirements are also found in Conditions 32, 35, 45-48, 57, 63, 72 and 74.

- Condition 32 - requires hazardous materials to be handled, transported and disposed of by a qualified, licensed contractor.
- Condition 35 - requires construction contractors to provide specific job-related training to employees, including cardiopulmonary resuscitation, first aid, tower climbing, rescue techniques and safety equipment inspection
- Condition 45 - requires construction contractors to enter into a written agreement to repair construction-related road damage with Umatilla County.
- Condition 46 - requires certificate holder to notify the Department of the identity and qualifications of major construction contractors.
- Condition 47 - requires all construction contractors and subcontractors involved in the construction of the facility to comply with all applicable laws and regulations and with the terms and conditions of the site certificate.
- Condition 48 - requires all on-site construction contractors to prepare a site health and safety plan before beginning construction activities.
- Condition 57 - requires the certificate holder to report to the Council any change of major construction contractors.
- Condition 63 - requires instruction of all 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, and to watch out for wildlife while driving through the project area.
- Condition 74 - requires the certificate holder shall have a full-time on-site assistant construction manager, qualified in environmental compliance and familiar with all site certificate conditions, to observe contractor waste management practices.

### *Public Health and Safety*

The proposed change in turbine size could result in health and safety risks from blade failure, structural and reliability concerns, ice throw, risks to public and private providers of air transportation and agricultural services, and risks to public providers of fire service during tower rescue events. The Council's evaluation of these risks is presented in Section III.M, *Public Services* and Section III.P.1, *Public Health and Safety Standards for Wind Facilities* of this order. Based on the reasoning and analysis provided in the sections described, the Council finds that the proposed RFA6 facility modifications, including changes in maximum blade tip height and minimum aboveground blade tip clearance, would not impact the certificate holder's ability to design, construct, and operate the facility in a manner that protects public health and safety.

In RFA6, the certificate holder describes that the proposed battery energy storage system would be constructed and operated to comply with the requirements of the Department of

Transportation Pipeline and Hazardous Material Administration's 49 Code of Federal Regulations (CFR) 173.185. These regulations provide requirements for the prevention of dangerous evolution of heat; prevention of short circuits; prevention of damage to terminals; and, prevention of contact with other batteries or conductive materials. The Council notes that the same regulations would apply to the transportation of the battery storage components upon facility decommissioning. To minimize potential health and safety impacts during onsite handling and transport of battery and battery waste during proposed battery storage system construction and operation, the Council imposes the following condition:

**Condition 148:** During construction, operation, and retirement of the facility, the certificate holder shall contractually require its third-party contractor used to transport and dispose battery and battery waste to comply with all applicable federal regulations and manufacturer recommendations related to the transport and handling of battery related waste. [Amendment #6]

Additionally, Council previously imposed Condition 48 requiring that the certificate holder's contractors conduct all work in accordance with an established health and safety plan; and Condition 46, requiring that the certificate holder select construction contractors based on a proven record of compliance with regulatory and other appropriate factors. Based on compliance with these previously approved and new conditions, the Council finds that the certificate holder has the ability to design, construct and operate the proposed RFA6 facility modifications in a manner that would protect public health and safety.

#### *Ability to Restore the Site to a Useful, Non-Hazardous Condition*

As described in Section III.G, *Retirement and Financial Assurance*, the Council finds that the certificate holder would continue to be able to comply with the Retirement and Financial Assurance Standard, finding that the proposed RFA6 facility modifications would not be expected to impact the certificate holder's ability to restore the facility site to a useful, non-hazardous condition.

#### *ISO 900 or ISO 14000 Certified Program*

OAR 345-022-0010(2) is not applicable because the certificate holder has not proposed to design, construct or operate the amended facility according to an ISO 9000 or ISO 14000 certified program.

#### *Third-Party Permits*

OAR 345-022-0010(3) addresses requirements for potential third-party permits. The standard requires that prior to issuing a site certificate, the Council must find that the certificate holder has, or has a reasonable likelihood of entering into, a contractual or other arrangement with any third parties it is relying on for access to resources or services secured by a permit or approval. In

RFA6, the certificate holder identifies numerous third-party permits that may be necessary for construction of the proposed RFA6 facility modifications (e.g., Oversize Load Movement Permit/Load Registration, General Water Pollution Control Facilities (WPCF) Permit, WPCF-1000/Gravel Mining and Batch Plant, Right-of-Way Permit and Building and Utility Permits). In accordance with the standard, to ensure that the certificate holder secures third-party permits prior to construction, the Council imposes the following condition:

**Condition 149:** For the Vansycle II facility modifications, as approved in the Sixth Amended Site Certificate, the certificate holder shall:

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

[Amendment #6]

### **Conclusions of Law**

Based on the foregoing findings of fact and conclusions of law, and subject to compliance with existing and new site certificate conditions, the Council finds that the proposed RFA6 facility modifications would comply with the Council's Soil Protection standard.

### **III.C. Structural Standard: OAR 345-022-0020**

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

- (a) The applicant, through appropriate site-specific study, has adequately characterized the seismic hazard risk of the site;*
- (b) The applicant can design, engineer, and construct the facility to avoid dangers to human safety and the environment presented by seismic hazards affecting the site, as identified in subsection (1)(a);*
- (c) The applicant, through appropriate site-specific study, has adequately characterized the potential geological and soils hazards of the site and its vicinity that could, in the absence of a seismic event, adversely affect, or be aggravated by, the construction and operation of the proposed facility; and*
- (d) The applicant can design, engineer and construct the facility to avoid dangers to human safety and the environment presented by the hazards identified in subsection (c).*

*(2) The Council may not impose the Structural Standard in section (1) to approve or deny an application for an energy facility that would produce power from wind, solar or*

*geothermal energy. However, the Council may, to the extent it determines appropriate, apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.*

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

## **Findings of Fact**

As provided in section (1) above, the Structural Standard generally requires the Council to evaluate whether the applicant (certificate holder) has adequately characterized the potential seismic, geological and soil hazards of the site, and that the applicant (certificate holder) can design, engineer and construct the facility, with proposed changes, to avoid dangers to human safety from these hazards.<sup>37</sup> Pursuant to OAR 345-022-0020(2), the Council may issue a site certificate for a wind energy facility without making findings regarding compliance with the Structural Standard; however, the Council may apply the requirements of the standard to impose site certificate conditions.

The analysis area for the Structural Standard is the area within the site boundary.<sup>38</sup> As previously discussed, the site boundary includes two geographic units distinguished by the certificate holder as Stateline 1 and 2; and, Vansycle II. The evaluation of compliance with the Structural standard is based upon seismic/nonseismic hazards and potential impacts within the Vansycle II Unit site boundary area.

As presented above, the legal requirements of the Structural Standard require Council to make findings based on the adequacy of the certificate holder's evaluation of potential seismic, geological and soil hazards at the site, to then determine, based on those potential hazards, whether the proposed RFA6 changes can be adequately designed to minimize impacts to human safety. To the extent the information remains valid, the Council may rely on the record of the proceedings for this site certificate, which includes the ASC, RFA1 through RFA5, and the associated Final Orders, as well as the information and evidence provided in RFA6 (2001 through 2021) for the evaluation of potential seismic, geological and soil hazards within the analysis area.

### *Potential Seismic, Geological and Soil Hazards within the Analysis Area*

OAR 345-022-0020 requires the certificate holder to adequately characterize the potential seismic, geologic and soil hazard risks of the site. Potential hazards within the analysis area were

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<sup>37</sup> OAR 345-022-0020(3) does not apply to the facility, with proposed changes, because it is not a special criteria facility under OAR 345-015-0310.

<sup>38</sup> OAR 345-001-0010(2) defines "analysis area" as "area or areas specifically described in the project order issued under OAR 345-015-0160(1), containing resources that the proposed facility may significantly affect."



originally assessed based on the certificate holder's 2009 site-specific geotechnical investigation completed as a pre-construction requirement to satisfy Condition 132, prior to the construction of Stateline 3 (Vansycle II). The 2009 site-specific geotechnical investigation was prepared by professional registered engineers of GN Northern, Inc., and reviewed and approved by the Department in consultation with DOGAMI.<sup>39</sup>

Based on the 2009 report, seismic hazards in the analysis area result from three seismic sources: interpolate events, intraslab events, and crustal events. There is limited earthquake history in the area, with the most notable event occurring in 1936, approximately 15 miles to the northeast of the site. Small, active faults are believed to occur in the general area of the site; however, the activity of these faults is generally very low. Moreover, because groundwater is generally not present in the soil veneer atop the basalt bedrock, other hazards associated with a seismic event, such as liquefaction, lateral spreading, and subsidence, do not present a seismic hazard at the site. Additionally, the site boundary is well away from the Oregon coastline, and is not within a DOGAMI-defined tsunami evacuation zone (DOGAMI 2017); therefore, tsunami inundation is not considered a hazard.<sup>40</sup>

Based on the 2009 site-specific geotechnical investigation, the area is comprised of a series of flood basalts covered by deposits of loess – silt and fine sand deposited by wind. Basalt bedrock in the area is generally not prone to large-scale landslides. The certificate holder previously described that there is no evidence of ancient slope movement at the site and is not expected at the site.<sup>41</sup>

For RFA6, to determine whether there are any new seismic, geologic or soil hazards within the analysis area which were not previously identified on the record of site certificate proceedings for this facility, the certificate holder evaluated the following sources recommended by DOGAMI's Eastern Oregon Regional Geologist, Jason McLaughry:

- DOGAMI's Geologic Map of Oregon, Oregon Geologic Data Compilation release 7 (OGDC-7). Available online at: <https://www.oregongeology.org/geologicmap/index.htm>.
- DOGAMI's Interactive Maps & Geospatial Data. Available online at: <https://www.oregongeology.org/gis/index.htm>
- DOGAMI's Publications Center. Available online at: <https://www.oregongeology.org/pubs/index.htm>
- DOGAMI's Statewide Landslide Information Database for Oregon (SLIDO). Available online at: <https://www.oregongeology.org/slido/data.htm>
- DOGAMI's Oregon HazVu: Statewide Geohazards Viewer. Available online at: <https://www.oregongeology.org/hazvu/index.htm>

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<sup>39</sup> Certificate Holder 2009 Preconstruction Geotechnical Report.

<sup>40</sup> Id.

<sup>41</sup> Id.

- Oregon geologic data compilation, release 7 [OGDC-7] (statewide): Oregon Department of Geology and Mineral Industries Digital Data Series OGDC-7, Esri geodatabase. Available online at: <https://www.oregongeology.org/pubs/dds/p-OGDC-7.htm>

The certificate holder affirms that, based on review of the above sources, there are no new seismic or non-seismic risks, which have not been previously analyzed, within the analysis area.

*Design, Engineer and Construct Facility to Avoid Dangers to Human Safety from Seismic and Non-Seismic Hazards*

In RFA6, the certificate holder incorporates, by reference, a 2018 foundation assessment report prepared by Barr Engineering, a professional, licensed engineering firm. The assessment evaluated the adequacy of existing wind turbine foundations to support increased load of repowered wind turbines, which was evaluated by Council in the Final Order on Request for Amendment 5 (under the previously proposed (RFA5), not completed repower scenario). The assessment included data, methods, assumptions, and results and included detailed information about tower structure and the various forces that are applied to the foundation, bolts, flanges, etc. to support the tower under a wide range of potential conditions at the site.

In general, the 2018 engineering analysis confirmed that the current foundations have an adequate factor of safety for the standard modes of failure relating to bearing capacity, and also addresses relevant seismic factors of safety<sup>42</sup>. The evaluation did identify, however, that the top reinforcing steel bars within the concrete foundation were overstressed by 9 percent at the cutoff location. Barr Engineering identified, though, that the determination of “overstress” was based on Code 1a of American Concrete Institute (ACI) 318-11, Building Code Requirements for Structural Concrete, 2011, which requires the location of bar cutoffs be offset by a specified distance from the point where the reinforcing bars are no longer required, intended to apply for structurally redundant systems such as building frames and not necessarily wind turbine foundations.<sup>43</sup>

Based on the 2018 Barr report, the certificate holder committed to conducting foundation inspections based on an established protocol and sampling scheme for the 43 Vansycle II wind turbines, previously imposed in the site certificate as Conditions 140 and 141. The Department, in consultation with a third-party professional engineer from Haley-Aldrich, evaluated the 2018 Barr report and the manufacturer specifications for the proposed 2.6 MW wind turbine repower scenario to determine whether changes in load from the larger turbines would be expected to cause significant changes in the prior results. Based on review by the Department and Professional Engineer Wylan Carsen, the 2018 Barr report identified that global stability, bearing capacity and stiffness of the foundation, tower/foundation connection, and reinforced concrete ultimate and fatigue strength all resulted in reasonable results, within the acceptance criteria. Therefore, the Council finds that the proposed change, from a 2.3 to 2.6 MW wind turbine, would not be expected to result in significantly greater loads than previously evaluated. While the loads

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<sup>42</sup> Barr Engineering, Foundation Assessment Report for Stateline Wind Project. 2018.

<sup>43</sup> SWPAMD5 Request for Amendment 5 Exhibit H. 2019-01-09.

would likely be greater and/or different, given the results from the 2018 Barr report, it would not be expected that the report results/recommendations would significantly change.<sup>44</sup>

In RFA6, the certificate holder commits to completing, prior to construction, an updated foundation analysis for repowered wind turbines, based on the final technology specifications. In RFA6, the certificate holder requests Council approval to amend Conditions 140 and 141, to remove the specificity and reference to specific inspection protocols, because those protocols would be updated and/or are specific to the previous foundation evaluation, as presented below.

**Certificate Holder's Proposed Amended Condition 140:** Prior to construction of facility modifications approved in the Sixth Amended Site Certificate, the certificate holder shall provide the Department with the turbine foundation suitability analysis. If the analysis results identify necessary mitigation and remediation measures, or operational inspection timing recommendations, the certificate holder shall implement the identified measures and recommendation prior to beginning the repowering activities unless otherwise approved by the Department.

~~During operation of Vansycle II repowered wind turbines, as approved in the Fifth Amended Site Certificate, the certificate holder shall:~~

- ~~(a) Perform inspections of the Vansycle II wind turbine foundations as part of its maintenance program in order to identify changes in the foundation conditions. Inspections will be performed in accordance with the procedures described in document titled: Tower Anchor Bolt Testing/Tensioning and Foundation Grout/Concrete Inspection, Document Number PGD-00-PM-WX-9360100, Power Generation Division, Revision Number 1.5, Revision Date: 1/18/2018.~~
  - ~~(b) In Year 1 of operation of Vansycle II repowered wind turbines, inspections conducted in accordance with sub(a) will be completed for each of the 43 (up to 45) wind turbines. In Years 2 and 3, the certificate holder may reduce the number of inspections to 10 percent, or 5 wind turbines. If all inspections in Years 1, 2 and 3 pass the acceptance criteria, inspections of a 10 percent sample size, or 5 wind turbines, may occur every 5 years for the life of the facility.~~
  - ~~(c) Results of foundation inspections will be provided to the Department and DOGAMI in accordance with inspection schedule identified in Document Number PGD-00-PM-WX-9360100 and in the annual report. If signs of distress (noticeable degradation) are observed in the Vansycle II wind turbine foundations during the inspections and it is determined by the facility's Power Generation Division engineers and management that repairs are needed, the certificate holder will provide a remedial action plan to be reviewed by the Department and DOGAMI as soon as practicable.~~
  - ~~(d) Any alteration of the inspection procedures and schedule described in Document Number PGD-00-PM-WX-9360100 will require notification to and consultation with the Department and DOGAMI.~~
- ~~[AMD5; AMD6]~~

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<sup>44</sup> SWPAMD6Doc9. pRFA Consultant Review of Foundation Analysis. 2021-11-16.

**Certificate Holder's Proposed (Deleted) Condition 141:**

~~During operation of the repowered Vansycle II wind turbines, as approved in the Fifth/Sixth Amended Site Certificate, the certificate holder shall:~~

- ~~(a) Perform wind turbine anchor bolt tension inspections in accordance with the technical manual titled: Tower Anchor Bolt Testing/Tensioning and Foundation Grout/Concrete Inspection, Document Number PGD-00-PM-WX-9360100, Power Generation Division, Revision Number 1.5, Revision Date 1/18/2018.~~
- ~~(b) In Year 1 of operation of Vansycle II repowered wind turbines, inspections conducted in accordance with sub(a) will be completed for each of the 43 (up to 45) wind turbines. In Years 2 and 3, the certificate holder may reduce the number of inspections to 10 percent, or 5 wind turbines. If all inspections in Years 1, 2 and 3 pass the acceptance criteria, inspections of a 10 percent sample size, or 5 wind turbines, may occur every 5 years for the life of the facility.~~
- ~~(c) Any alteration of the inspection schedule and tensioning procedures described in Document Number PGD-00-PM-WX-9360100 will require notification to and consultation with the Department and DOGAMI.~~

~~[AMD5; AMD6]~~

The certificate holder's proposed Condition 140 removes reference to a foundation inspection and monitoring schedule applicable to the proposed repowered wind turbines, and provides flexibility to the certificate holder in determining whether, based on a final foundation suitability analysis, inspections would be necessary. While the certificate holder has not yet completed a final foundation suitability analysis for the repowering scenario evaluated in this order, the Council requires that a minimum annual inspection schedule be established for the 43 wind turbines, if repowered, and that protocols, remediation or mitigation measures proposed as a result of the foundational suitability analysis be submitted to the Department for review and approval, in consultation with DOGAMI or a third-party consultant, to determine whether the proposed monitoring and inspection schedule is adequate to protect public health and safety from structural risk and evaluate whether the changes warrant a site certificate amendment under OAR 345-027-0357(2). The Council rejects the certificate holder's proposed changes to Condition 140 and 141 and amends Condition 140 as follows:<sup>45</sup>

**Amended Condition 140:** For the facility modifications approved in the Sixth Amended Site Certificate, the certificate holder shall:

- (a) Prior to construction, provide the Department the wind 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

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<sup>45</sup> During the December 17, 2021 review of the DPO, Council recommended Condition 140 be amended as presented in the Proposed Order. 2021-12-17 EFSC Minutes/Audio File/WebEx Transcript.

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).

[AMD6]

The battery storage would be collocated with the existing substation within the approved and existing site boundary in areas that were previously assessed and determined to have no structural issues precluding construction of such a facility. The certificate holder commits to follow and adhere to the most up-to-date building and structural codes, reflecting the most up to date methodologies and definitions of the ground motions used for seismic design, would be used.<sup>46</sup>

#### *Integration of Disaster Resilience Design*

Council's information requirements under OAR 345-021-0010(1)(h)(F)(i) seek an explanation of the certificate holder's proposal to integrate disaster resilience design into the proposed RFA6 changes.

In RFA6, the certificate holder identifies that disaster resilience would be integrated into the design of the proposed battery energy storage system through compliance with current building and structural codes, taking into account consideration of seismic ground motions that exceed the building code response spectrum. The certificate holder also describes that its Emergency Action Plan, provided as Attachment D of this order, includes procedures to effectively respond to a natural disaster, including on-site safety requirements and communication protocol. The Emergency Action Plan also addresses how to safely return to operations following an emergency (required per Conditions 36 and 48).

Additionally, the certificate holder describes that if an earthquake were to occur, tower and foundation inspections would be conducted to assess necessity of repairs. It is anticipated that an inspection of each turbine would take approximately 4 hours to complete, and the repowered wind turbines would commence with a phased start-up procedure: wind turbines within an individual array (or string) commencing operations once all the turbines within that array passed inspection. Assuming a 10-hour workday and the absence of any repairs that may be necessary, the certificate holder anticipates that the facility would be fully operational within approximately 2 weeks following a natural disaster event. If repairs are required, the

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<sup>46</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Sec. 6.1.3.

amount of time needed to perform those activities was not estimated, as it is highly dependent on the type of repair needed and the availability of parts and trained personnel that may be required to complete the repairs.

### **Conclusions of Law**

Based on the foregoing analysis, and in compliance with OAR 345-022-0020(2), the Council relies upon the existing and amended conditions to address the Structural Standard.

### **III.D. Soil Protection: OAR 345-022-0022**

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

### **Findings of Fact**

The Soil Protection standard requires the Council to find that the design, construction, and operation of a proposed facility, or facility with proposed changes, is not likely to result in significant adverse impacts to soils. Soil impacts that must be evaluated under this standard include, but are not limited to, wind and water erosion, compaction and chemical spills during construction, operation and retirement that could impact productive soils.

The analysis area for the Soil Protection standard, as defined in the project order, includes the area within the site boundary. As previously discussed, the site boundary includes two geographic units distinguished by the certificate holder as Stateline 1 and 2; and, Vansycle II. The evaluation of compliance with the Soil Protection standard is based upon soil type/condition and potential impacts within the Vansycle II unit site boundary area.

#### *Description of Major Soil Types*

In 2018, the certificate holder evaluated major soil types within the analysis area by reviewing Natural Resources Conservation Service's (NRCS) 2015 web soil survey.<sup>47</sup> Based on this desktop analysis, major soil types were identified as loam/silt loam soils including Licksillet very stony loam, Ritzville silt loam, and Walla Walla silt loam.<sup>48</sup> Licksillet occurs on slopes ranging from 7-40%, Ritzville from 2-40% and Walla Walla from 1-25%. There are also smaller areas of Nansene silt loam, Mikkalo silt loam, and Anderly silt loam.<sup>49</sup> These soil types are consistent with the soil types originally identified in the certificate holder's 2008 Request for Amendment 4, which included additional soil data and detailed soil maps. A summary of the soil data for the identified

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<sup>47</sup> <https://websoilsurvey.sc.egov.usda.gov/>

<sup>48</sup> SWPAMD5. Final Request for Amendment 5 Exhibit I, Table I-1, p.2. 2019-1.

<sup>49</sup> SWPAMD5. Final Request for Amendment 5 Exhibit I, Section 2.0. 2019-01.

soil types is presented in Table 2, *General Description of Soil Series within the Analysis Area* below. Based on review of the certificate holder's 2008 soil maps and Table 2 data below, the predominate soil type within the areas potentially impacted by the proposed RFA6 facility modifications is Walla Walla, where the erosion factor, K, is 0.43.<sup>50</sup> According to the Natural Resources Conservation Service, soils with a K factor greater than 0.4 are considered to have a high rate of runoff and erosion potential.

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<sup>50</sup> The K factors is an index which quantifies the relative susceptibility of the soil to sheet and rill erosion. Values range from 0.02 for the least erodible soils to 0.64 for the most erodible. United States Department of Agriculture. Natural Resources Conservation Service, Updated T and K Factors.

**Table 2: General Description of Soil Series within the Analysis Area**

Soil Name	Hydrologic Group	Water Table Depth (ft)	Bedrock Depth (in)	Permeability (in/hr)	pH	Risk of Corrosion		Erosion Factors K	Unified Soil Classifications	Plasticity Index
						Uncoated Steel	Concrete			
Licksillet	D	> 0.5	12 - 20	0.6 – 0.1	6.6 – 7.2	High	Low	0.17	CL – ML, GC, GM	NP – 5- 10
Mikkalo	N/A	N/A	22 -32	N/A	6.8 – 8.4	N/A	N/A	0.49	ML	NP – 5
Nansene	N/A	N/A	20 – 60	N/A	N/A	N/A	N/A	N/A	ML	NP - 5
Ritzville	N/A	>6	20 – 40	0.6 – 2.0	0.6 – 2.0	High	Low	0.49	ML	NP – 5 – 5
Walla Walla	B	>6	40 – 60	N/A	N/A	High	Low	0.43	ML	NP - 10

Source: SWPRFA4 Exhibit I Soil Conditions, 2008-10.



1 *Current Land Uses within the Analysis Area that Require or Depend on Productive Soils*

2  
3 In 2018, the certificate holder described that land uses within the analysis area which depend  
4 on productive soils include agriculture, primarily winter wheat, and cattle grazing. Some of the  
5 lands are enrolled in the Conservation Reserve Program (CRP), however, none of these lands  
6 would be impacted by disturbance associated with the proposed RFA6 facility modifications.  
7 Based on review of RFA6 Figure 3 maps and consultation with certificate holder representations  
8 on November 16, 2021, the majority of potential disturbance areas are actively used for  
9 agricultural purposes.<sup>51</sup>

10  
11 *Potential Impacts to Soils from Proposed RFA6 Facility Modifications*

12  
13 Potential impacts to soils from the proposed RFA6 facility modifications would result from  
14 temporary and permanent disturbance. Construction activities would include crushing (driving  
15 over) vegetation, grading and excavation, and crane tracking/walking, which would result in  
16 wind and water erosion, compaction, and subsequent loss of soil productivity on approximately  
17 211.7 acres. Impacts from construction and operational activities could include potential spills  
18 from hazardous/non-hazardous materials such as gasoline and diesel fuel, oils and lubricants,  
19 and battery cell electrolyte fluid. Permanent impacts include approximately 12 acres of  
20 permanent loss of productive soils. Upon permanent cessation of operation of the proposed  
21 RFA6 facility modifications, it is assumed that the potential soil impacts would be similar to  
22 those identified for construction.

23  
24 *Proposed Measures and Existing Site Certificate Conditions to Minimize Impacts to Soils*

25  
26 In RFA6, the certificate holder describes that potential soil compaction impacts would be  
27 minimized by the following measures:

- 28  
29
- 30 • Scheduling construction activities to occur in the dry season, as feasible, and using
  - 31 heavy equipment and other vehicles with larger tires with lower air pressure, as
  - 32 appropriate, to allow for better flotation and reduce pressure on the soil surface.
  - 33 • Checking and maintaining construction vehicle tire pressure as temperatures fluctuate
  - 34 throughout repowering activities.
  - 35 • Implementing traffic management to minimize trips and to keep trucks and vehicles in
  - 36 the same tracks as much as possible to and from individual work sites to limit the area
  - 37 of compaction.

38 The Council considers the above representations necessary to be incorporated into the site  
39 certificate as a binding commitment (OAR 345-025-0006(10)), and impose as follows:

40  
41 **Condition 150: For the Vansycle II facility modifications approved in the Sixth Amended**  
42 **Site Certificate that would result in ground-disturbance, the certificate holder shall:**

---

<sup>51</sup> Department of Energy Teleconference Communication with NextEra Energy Resources on November 16, 2021.

- 1 (a) Prior to construction, provide a schedule to the Department that demonstrates  
2 ground-disturbing activities are scheduled to avoid the rainy season (Spring), to the  
3 extent feasible.
- 4 (b) Prior to construction, ensure its contractors have contractually agreed to routinely  
5 check and maintain tire pressure for all equipment used during construction  
6 activities.
- 7 (c) During construction, ensure contractors are regularly checking and maintaining tire  
8 pressure of construction equipment prior to use.
- 9 (d) During construction, ensure contractors are minimizing compaction by limiting daily  
10 trips, using established tracks and disturbance areas, and taking measures to limit  
11 unnecessary trips and disturbance.

12 [Amendment #6]

13  
14 In RFA6, the certificate holder describes that potential soil erosion impacts would be minimized  
15 by compliance with Site Certificate Conditions 29, 60, 61 and 92, as presented below:  
16

- 17 • Condition 29 requires the following: The certificate holder shall inspect and maintain all  
18 roads, pads and trenched areas to minimize erosion. (App B-11) [Amendment #5]
- 19 • Condition 60 requires the following: The certificate holder shall conduct all construction  
20 work in compliance with an Erosion and Sediment Control Plan (ESCP) satisfactory to the  
21 Oregon Department of Environmental Quality (ODEQ) and as required under the  
22 facility's National Pollutant Discharge Elimination System (NPDES) Construction  
23 Stormwater Permit. The certificate holder shall include in the ESCP any procedures  
24 necessary to meet local erosion and sediment control requirements or stormwater  
25 management requirements. (App B-7, 13, E-3, P-41) [Amendment #5]
- 26 • Condition 61 requires the following: The certificate holder shall mitigate potential  
27 adverse impacts to soils from erosion and compaction by measures including but not  
28 limited to the following (App H-17, I-4, 5):
  - 29 (a) Maintaining vegetative buffer strips between the areas impacted by  
30 construction activities and any receiving waters.
  - 31 (b) Installing sediment fence/straw bale barriers at locations shown on the plans.
  - 32 (c) Wherever feasible, constructing roadways so that surface drainage continues  
33 along natural drainage patterns with minimal diversions through ditches and  
34 culverts.
  - 35 (d) Working with the Umatilla County Public Works Department and the local  
36 Natural Resources Conservation Service office to design water bars and other  
37 management practices to slow the flow of water on newly constructed  
38 repaired roads.
  - 39 (e) Straw mulching and discing at locations adjacent to the road that have been  
40 impacted.
  - 41 (f) Providing temporary sediment traps downstream of intermittent stream  
42 crossings.
  - 43 (g) Providing sediment type mats downstream of perennial stream crossings.
  - 44 (h) Planting designated seed mixes at impacted areas adjacent to the roads.

- 1 (i) Installing sediment fencing along the downslope side of construction
- 2 equipment staging areas.
- 3 (j) Seeding all areas that are impacted by construction and reseeding as
- 4 necessary to establish a healthy cover crop.
- 5 (k) Leaving sediment fencing, check dams and other erosion control measures in
- 6 place until the impacted areas are well vegetated and the risk of erosion has
- 7 been eliminated.
- 8 (l) Limiting truck and heavy equipment traffic, to the extent possible, to
- 9 improved roadsurfaces, and thereby limiting soil compaction and
- 10 disturbances.
- 11 (m) Scarifying and reseeding compacted areas after construction is completed.
- 12 (n) Using appropriate erosion control methods to limit soil loss due to water and
- 13 wind action.
- 14 (o) Covering roads and turbine pads with gravel immediately following exposures,
- 15 thereby limiting the time for wind or water erosion. (App I-2, 3)
- 16 (p) Using water for dust suppression during construction. (App O-1)[Amendment
- 17 #5]
- 18 • Condition 92 requires the following: The certificate holder shall mitigate potential
- 19 adverse impacts to soils from erosion by measures including but not limited to the
- 20 following (App I-3 through 5):
- 21 (a) Using drainage collection procedures to capture surface water that collects on, and
- 22 drains from, gravel surfaces or structures as a result of precipitation and routing the
- 23 water to drainage ditches lined with quarry stone or other similar materials.
- 24 (b) Using sand bags, straw bales and silt fences as needed to reduce erosion from
- 25 precipitation during repair of underground cables or other soil-disturbing repairs.
- 26 (c) If areas of erosion are observed during operation, implementing mitigation and
- 27 reclamation measures.
- 28

29 In RFA6, the certificate holder identifies that there are components of Condition 65 that would  
30 also support reclamation of temporary soil impacts, including requirements to scarify and  
31 loosen potentially compacted soils, during revegetation activities.

- 32
- 33 • Condition 65 requires the following: The certificate holder shall mitigate possible
- 34 impacts to fish and wildlife habitat by measures including but not limited to the
- 35 following (App P-42 through 45, Q-10, 11):
- 36 (a) Avoiding vegetation removal wherever possible.
- 37 (b) Limiting construction activities to within public road right-of-ways where possible.
- 38 (c) Using best management practices to prevent erosion of soil into stream channels.
- 39 (d) Controlling invasive, weedy plant species during maintenance of project facilities.
- 40 (e) Restoring temporarily disturbed sites to pre-construction condition or better with
- 41 native seed mixes as described for temporarily disturbed areas in the Revegetation
- 42 Plan included in the Final Order on Amendment #4 as Attachment B and as revised
- 43 from time to time. [Amendments #1 and #4]

- 1 (f) Developing re-vegetation plant mixes and habitat enhancement locations in
- 2 consultation with ODFW and the Umatilla County weed control board.
- 3 (g) Monitoring re-vegetated areas to ensure successful establishment of new
- 4 vegetation.
- 5 (h) Monitoring turbine strings, roads and other disturbed areas regularly to prevent the
- 6 spread of noxious weeds.
- 7 (i) Developing measures to reduce the potential spread of noxious weeds in
- 8 consultation with the weed control board of Umatilla County.
- 9 [Amendment #5]

10  
11 While not specifically identified by the certificate holder as applicable for minimizing temporary  
12 impacts to productive soils, the Council finds that the Condition 44, which requires that the  
13 certificate holder coordinate with landowners on road improvements to minimize crop impacts,  
14 is also applicable for the purpose of minimizing impacts to productive soils from the proposed  
15 RFA6 facility modifications. Condition 44 contains the following requirements:

- 16
- 17 • Condition 44 requires the following: The certificate holder shall locate roads to minimize
- 18 disturbance and maximize transportation efficiency and to avoid sensitive resources and
- 19 unsuitable topography. The certificate holder shall use existing county roads and private
- 20 farm roads to the maximum extent feasible. The certificate holder shall coordinate farm
- 21 road improvements with landowners to minimize crop impacts and to assure that the
- 22 final road provides useful access, where possible, to the landowners' fields. (App B-6)
- 23

24 As mentioned above, temporary impacts would occur within active agricultural-use areas,  
25 within soils with a moderate to high K factor. In RFA6, the certificate holder asserts that "any  
26 temporarily disturbed sites will be restored to pre-construction or better as described the  
27 Facility Revegetation Plan (Condition 65)." The draft amended Revegetation Plan (Conditions 65  
28 and 67) does not specifically address temporary agricultural impact restoration. Condition 68,  
29 however, specifies that best management practices shall be utilized during construction to  
30 prevent topsoil loss and requires replacement of agricultural topsoil following disturbance.  
31 None of the previously imposed conditions address decompaction or provide guidance as to  
32 when and how predisturbance soil conditions would be evaluated or provide evaluative criteria  
33 for restoration success of temporary impacts.<sup>52</sup> Therefore, the Council imposes the following  
34 condition to ensure the certificate holder restores temporary impacts to agriculturally  
35 productive soils.

36  
37 **Condition 151:** Prior to construction of the Vansycle II facility modifications approved in  
38 **the Sixth Amended Site Certificate, the certificate holder shall develop and submit a Soil**

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<sup>52</sup> In comments on the record of the DPO public hearing, the certificate holder requested that Condition 152, as recommended in the DPO, be amended to remove specificity on the type of soil characteristics/conditions that could be evaluated and remove any requirement for evaluating restoration success. Based on Council's review of the DPO on December 17, 2021, for the reasons described, the certificate holder's proposed condition changes were not incorporated into the Proposed Order. Condition 152 in the DPO is presented as Condition 151 in the final order.

1 Reclamation Plan specific to temporary disturbance areas, used to inform the final  
2 assessment of soil erosion and compaction impact potential, and reclamation measures.  
3 The Soil Reclamation Plan shall be incorporated and implemented as part of the Final  
4 Revegetation Plan (Condition 65).

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

20 [Amendment #6]

21  
22 In RFA6, the certificate holder describes that potential impacts from construction and  
23 operational-related spills would be minimized through compliance with Condition 32.

- 24  
25 • Condition 32 requires the following: The certificate holder shall use hazardous materials  
26 in a manner that is protective of human health and the environment and shall comply  
27 with all applicable local, state, and federal environmental laws and regulations. The  
28 certificate holder shall make sure that accidental releases of hazardous materials will be  
29 prevented or minimized through the proper containment of these substances during  
30 transportation and use on the site. The certificate holder shall make sure that any oily  
31 waste, rags or dirty or hazardous solid waste will be collected in sealable drums and  
32 removed for recycling or disposal by a licensed contractor. The certificate holder shall  
33 have spill kits containing items such as absorbent pads on equipment and in storage  
34 facilities to respond to accidental spills. If an accidental hazardous materials spill or  
35 release occurs, the certificate holder shall clean up the spill or release and shall treat or  
36 dispose of contaminated soil or other materials according to applicable regulations.  
37 (App G-2, V-3) [Amendment #5]

38  
39 In RFA6, the certificate holder describes that potential spill impacts from the proposed BESS  
40 would be minimized by the following measures:

- 41  
42 • Design of the battery storage system, including modules within steel containers  
43 provides secondary containment that would minimize the potential for an external leak  
44 of electrolyte fluid

- 1 • Regular maintenance inspections of battery system
- 2 • Electronic monitoring of the battery storage system for leak detection
- 3 • Requiring contractors to adhere to the handling guidelines of 49 Code of Federal
- 4 Regulations 173.185 – Department of Transportation Pipeline and Hazardous Material
- 5 Administration related to the shipment of lithium-ion batteries. The regulations include
- 6 the following requirements, among others:
  - 7 ○ Prevention of a dangerous evolution of heat;
  - 8 ○ Prevention of short circuits;
  - 9 ○ Prevention of damage to the terminals; and
  - 10 ○ Prevention of contact with other batteries or conductive materials.

11  
12 The Council considers the above representations are necessary to be incorporated into the site  
13 certificate as a binding commitment (OAR 345-025-0006(10)). The BESS design and inspection  
14 monitoring requirements are included in the BESS description of the site certificate (as  
15 presented in Section II.A. *Requested Amendment* of this order; the contractor requirements  
16 related to compliance with DOT regulations is imposed as Condition 149.

17  
18 *Proposed monitoring program, if any, for adverse impact to soils during construction and*  
19 *operation.*

20  
21 Compliance with the conditions previously imposed in the site certificate would require ongoing  
22 monitoring, during and post construction. The certificate holder is also obligated to submit  
23 semi-annual and annual reports demonstrating compliance with the requirements (OAR 345-  
24 026-0080(1) and (2)).

### 25 **Conclusions of Law**

26  
27  
28 Based on the foregoing findings of fact and conclusions of law, and subject to compliance with  
29 existing and new site certificate conditions, the Council finds that the proposed RFA6 facility  
30 modifications would comply with the Council’s Soil Protection standard.

### 31 **III.E. Land Use: OAR 345-022-0030**

32  
33  
34 *(1) To issue a site certificate, the Council must find that the proposed facility complies with*  
35 *the statewide planning goals adopted by the Land Conservation and Development*  
36 *Commission.*

37  
38 *(2) The Council shall find that a proposed facility complies with section (1) if:*

39  
40 *(a) The applicant elects to obtain local land use approvals under ORS 469.504(1)(a) and*  
41 *the Council finds that the facility has received local land use approval under the*  
42 *acknowledged comprehensive plan and land use regulations of the affected local*  
43 *government; or*  
44

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

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

8  
9           (B) *For a proposed facility that does not comply with one or more of the applicable*  
10           *substantive criteria as described in section (3), the facility otherwise complies*  
11           *with the statewide planning goals or an exception to any applicable statewide*  
12           *planning goal is justified under section (4); or*

13  
14           (C) *For a proposed facility that the Council decides, under sections (3) or (6), to*  
15           *evaluate against the statewide planning goals, the proposed facility complies*  
16           *with the applicable statewide planning goals or that an exception to any*  
17           *applicable statewide planning goal is justified under section (4).*

18           \*\*\*

19  
20   **Findings of Fact**

21  
22   The Land Use standard requires the Council to find that the proposed RFA6 facility components  
23   would continue to comply with local applicable land use substantive criteria, as well as the  
24   statewide planning goals adopted by the Land Conservation and Development Commission  
25   (LCDC).<sup>53</sup>

26  
27   The analysis area for land use is the area within and extending 0.5 miles from the site boundary.

28  
29   III.E.1. Local Applicable Substantive Criteria – Development Ordinance Provisions

30  
31   On July 28, 2000, during the review of the ASC, the Council appointed the Umatilla County  
32   Board of Commissioners as the Special Advisory Group (SAG) for the facility. On behalf of and as  
33   authorized by the SAG, the Umatilla County Planning Director identified applicable substantive  
34   criteria to be considered during the ASC phase and through subsequent amendment requests  
35   has identified changes in local code to be considered applicable substantive criteria. In a  
36   comment provided on pRFA6 from the Umatilla County Planning Department, no new  
37   applicable substantive criteria were identified.

38  
39   Table 3: *Applicable Substantive Criteria – Umatilla County*, below, summarizes the applicable  
40   substantive criteria Council previously evaluated and determined the certificate holder could  
41   satisfy.

42  

---

<sup>53</sup> The Council must apply the Land Use standard in conformance with the requirements of ORS 469.504.

**Table 3: Applicable Substantive Criteria – Umatilla County**

<b>Umatilla County Development Ordinance (UCDO)</b>	
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
<b>Umatilla County Comprehensive Plan (UCCP)</b>	
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	

1  
 2 An evaluation of the certificate holder’s ability to comply with the applicable substantive  
 3 criteria as presented in Table 3: *Applicable Substantive Criteria – Umatilla County* for the  
 4 proposed RFA6 facility modifications is presented below.

5  
 6 **152.025 ZONING PERMIT**

7  
 8 *(A) Prior to the construction, reconstruction, addition to or change of use of a structure,*  
 9 *or the change of use of a lot, or the installation or replacement of a mobile home on*  
 10 *a lot, a zoning permit shall be obtained from the County Planning Department.*  
 11 *Within the flood hazard area, a zoning permit shall be required for all other*  
 12 *developments including placement of fill, mining, paving, excavation or drilling.*  
 13 *Structures of 120 square feet or less in area do not require a zoning permit except*  
 14 *when located in a designated flood hazard area or when used for human habitation,*  
 15 *or as an addition to an existing dwelling. A zoning permit shall be voided after one*  
 16 *year unless construction has commenced. The Planning Commission or its authorized*  
 17 *agent may extend the permit for an additional period not to exceed one year upon*  
 18 *written request. An amended zoning permit must be obtained when changes to an*  
 19 *approved zoning permit occur. Changes include, but are not limited to, the size of the*



- 1            *proposed structure, relocation of a structure or changes in the model year of a*  
2            *proposed manufactured home, etc.*  
3            (B) *Zoning permits shall be issued by the Director according to the provisions of this*  
4            *chapter. The Planning Director shall not issue a zoning permit for the improvement*  
5            *or use of land that has been previously divided in violation of this chapter or contains*  
6            *a land use or solid waste violation, regardless of whether the applicant created the*  
7            *violation, unless the violation can be rectified as part of the development.*  
8            (C) *A zoning permit application must be signed by all legal property owners of the*  
9            *subject lot or parcel, or by a legally authorized representative. (Ord. 83-4, passed 5-*  
10           *9-83; Ord. 2008-09, passed 6-16-08; Ord. 2009-09, passed 12-8- 09; Ord. 2012-02*  
11           *passed 1-26-12; Ord. 2016-02, passed 3-16-16;)*

12  
13            General zoning provisions under UCDC Section 152.025 require that a zoning permit be  
14            obtained from the Umatilla County Planning Department prior to construction, reconstruction,  
15            addition to or change of use of a structure, or the change of use of a lot. The proposed RFA6  
16            facility modifications including the proposed repowering of 43 wind turbines, replacement of  
17            up to 4 wind turbines, construction of 2 new wind turbines and the proposed BESS constitute  
18            construction, reconstruction and addition of structures. Therefore, the Council finds that zoning  
19            permits would be required. To ensure that zoning permits are obtained by the certificate holder  
20            from Umatilla County Planning Department prior to construction, the Council adopts Condition  
21            152, as presented below. Based on compliance with Condition 152, Council finds that the  
22            certificate holder would satisfy the requirements of UCDC 152.025.<sup>54</sup>

23  
24            *152.060 CONDITIONAL USES PERMITTED.*

25  
26            *In an EFU zone the following uses may be permitted conditionally via administrative*  
27            *review (§152.769), subject to the requirements of this section, the applicable criteria in §*  
28            *152.061, §§ 152.610 through 152.615, 152.617 and §§ 152.545 through 152.562. A*  
29            *zoning permit is required following the approval of a conditional use pursuant to §*  
30            *152.025. Existing uses classified as conditional uses and listed in this section may be*  
31            *expanded subject to administrative review and subject to the requirements listed in OAR*  
32            *660, Division 033.*

33  
34            (F) *Commercial utility facilities for the purpose of generating power for public use*  
35            *by sale as provided in § 152.617 (I)(C). (For specific criteria for Wind Power*  
36            *Generation see §152.617 (I)(W)4).<sup>55</sup>*  
37

---

<sup>54</sup> On the record of the DPO public hearing, Umatilla County requested that Condition 153, as presented in the DPO, be amended to specify that zoning permits, per affected tax lot, would also be required for new or modified structures, in accordance with UCDC 152.025. SWPAMD6Doc17 DPO Comments (Umatilla Co.) 2021-12-15. Condition 153 in the DPO is Condition 152 in the final order.

<sup>55</sup> UCDO 152.617(I)(W) has been deleted in its entirety and the reader is cross-referenced to UCDO 152.616(HHH).

1 UCDC Section 152.060 pertains to uses that may be conditionally permitted in the EFU zone,  
2 subject to the requirements of UCDC 152.060 and other specified criteria. A zoning permit is  
3 required for these uses following the approval of a conditional use. All components of the  
4 proposed RFA6 facility modifications qualify as a “wind power generation facility,” which is a  
5 type of “commercial utility facility for the purpose of generating power for public use by sale”  
6 allowed as a conditional use under UCDO 152.060(F).

7  
8 Among the other criteria listed in UCDC Section 152.060, UCDC 152.061, 152.615 and 152.616  
9 apply to the proposed RFA6 facility modifications including repowering of up to 43 wind  
10 turbines, decommissioning up to 4 wind turbines, and constructing and operating up to 6 wind  
11 turbines, all not to exceed 45 wind turbines; and, a proposed 50 MW BESS.

12  
13 The Council finds that the proposed RFA6 facility modifications would continue to be a  
14 conditionally permissible land use within EFU zoned land, subject to compliance with the  
15 criteria presented in this following section.

16  
17 *UCDO Section 152.061 Standards for Conditional Uses on EFU lands.*

18  
19 *The following limitations shall apply to all conditional uses in an EFU zone. Uses may be*  
20 *approved only where such uses:*

21  
22 *(A) Will not force a significant change in accepted farm or forest practices on*  
23 *surrounding lands devoted to farm or forest use; and*

24  
25 *(B) Will not significantly increase the cost of accepted farm or forest practices on lands*  
26 *devoted to farm or forest use.*

27  
28 UCDO Section 152.061(A) and (B) establish approval standards for all conditional uses within  
29 EFU zoned land. As described in RFA6 Attachment 3 Land Use, the proposed RFA6 facility  
30 modifications would result in temporary impacts to EFU zoned land, which could impact the  
31 availability of areas for farming and result in weed dispersal, compaction and erosion. The  
32 certificate holder describes that temporarily disturbed areas would be managed for weeds and  
33 revegetated in accordance with Condition 158 and the draft amended Revegetation Plan, as  
34 provided in Attachments of this order; and affirms that dust control measures and erosion  
35 control measures in accordance with Condition 60 and 61 would be implemented.

36  
37 The certificate holder addresses potential impacts from the increase in maximum blade tip  
38 height of the wind turbines, from 440 to 499 feet, to aerial sprayers within the surrounding  
39 area and describes that the height increase would not affect how the aerial sprayers operate or  
40 create new vertical obstacles to spraying. The certificate holder affirms that the proposed  
41 facility modifications would not cause changes to field access roads or result in changes to  
42 patterns of cultivation, seeding, fertilization and harvesting because there would be not  
43 changes to the facility layout.

1 Based upon the information provided in RFA6 Exhibit K related to impacts on farm uses and  
2 farm practices, and the analysis provided above, and subject to compliance with previously  
3 imposed conditions, the Council finds that the facility, with proposed changes, would satisfy the  
4 conditional use standards at UCDO Section 152.061.

5  
6 *152.616(HHH)(6) Standards/Criteria of Approval.*

7  
8 *The following requirements and restrictions apply to the siting of a Wind Power*  
9 *Generation Facility:*

10 *152.616(10)(a) Permit Amendments.*

11 *The Wind Power Generation Facility requirements shall be facility specific, but can*  
12 *be amended as long as the Wind Power Generation Facility does not exceed the*  
13 *boundaries of the Umatilla County conditional use permit where the original Wind*  
14 *Power Generation Facility was constructed.*

15  
16 UCDC 152.616(10)(a) establishes that a conditional use permit for a wind facility may be  
17 amended, versus requiring a new conditional use permit, in circumstances when a proposed  
18 change would not impact the approved site boundary. As presented in RFA6 and as evaluated in  
19 this order, there are no proposed changes to the facility site boundary. The evaluation of  
20 whether an amended conditional use permit is required for the proposed RFA6 facility  
21 modifications is provided below, based on the UCDC 152.616(10)(b) criteria.

22  
23 *152.616(10)(b) An amendment to the conditional use permit shall be subject to the*  
24 *standards and procedures found in §152.611. Additionally, any of the following would*  
25 *require an amendment to the conditional use permit:*

- 26  
27 *(1) Expansion of the established Wind Power Generation Facility boundaries;*  
28 *(2) Increase the number of towers;*  
29 *(3) Increase generator output by more than 25 percent relative to the generation*  
30 *capacity authorized by the initial permit due to the re-powering or upgrading of*  
31 *power generation capacity; or*  
32 *(4) Changes to project private roads or access points to be established at or inside the*  
33 *project boundaries.*

34  
35 UCDC 152.616(10)(b) establishes that amendment of a conditional use permit for a wind  
36 facility would be required if the site boundary is expanded, the number of turbine towers  
37 increased, generational capacity increased by the more than 25 percent, or there are changes  
38 to private roads or access point at or inside the site boundary; and, would be subject to the  
39 standards and procedures under UCDC 162.611. Based on the proposed RFA6 facility  
40 modifications, there could be an increase in the number of wind turbine towers and changes  
41 to internal facility access roads, therefore an amendment to the conditional use permit is  
42 required for these components. To ensure that the certificate obtains an amended

1 conditional use permit for the components consistent with UCDC 152.616(10)(b)(2) and (4),  
2 and zoning permits for any new and modified structures (UCDC 152.025) per affected tax lot,  
3 the Council imposes the following condition:

4  
5 **Condition 152:** For facility components approved in the Sixth Amended Site Certificate,  
6 the certificate holder shall:

7 (a) Provide evidence to the Department of receipt of an amended conditional use  
8 permit from Umatilla County Planning Department for new wind turbines, changes  
9 to access roads and/or access points, if constructed.

10 (b) Obtain a zoning permit, per affected tax lot, for any new or modified structure in  
11 accordance with UCDC 152.025.

12 [Amendment #6]

13  
14 Based on compliance with the above-referenced condition, the Council finds that the  
15 proposed RFA6 facility modifications, as applicable, would comply with the UCDC  
16 162.616(10)(b).<sup>56</sup>

17  
18 *152.616(10)(c) In order to assure appropriate timely response by emergency service*  
19 *providers, Notification (by the Wind Power Generation Facility owner/operator) to the*  
20 *Umatilla County Planning Department of changes not requiring an amendment such*  
21 *as a change in the projectowner/operator of record, a change in the emergency plan*  
22 *or change in the maintenance contact are required to be reported immediately. An*  
23 *amendment to a Site Certificate issued by EFSC will be governed by the rules for*  
24 *amendments established by EFSC.*

25  
26 UCDC 152.616(10)(c) establishes specific changes for a wind facility that, while not triggering  
27 the requirements for a conditional use permit amendment, would trigger notification  
28 requirements to the Umatilla County Planning Department, to ensure timely response by  
29 emergency service providers to the facility in the event of an emergency. UCDC 152.616(10)(c)  
30 specifies that EFSC jurisdictional facilities would be governed by EFSC rules for an amendment.  
31 However, the EFSC amendment rules do not include a similar notification requirement intended  
32 to “assure timely response by emergency service providers”. Therefore, the notification  
33 requirements are evaluated.

34  
35 Of the changes listed in UCDC 152.616(10)(c) as necessitating notification to the Umatilla  
36 County Planning Department, there is one related to the proposed RFA6 facility modifications -  
37 a change in the emergency plan. During construction of the proposed RFA6 facility  
38 modifications, any onsite contractors would be required to develop and adhere to the  
39 requirements of onsite health and safety plans – which include emergency response

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<sup>56</sup> On the record of the DPO public hearing, the certificate holder requested that recommended Condition 153, as presented in the DPO, be amended to align with UCDC 152.616(10)(b) rather than apply to proposed facility modifications, that if completed on their own, would not trigger the CUP amendment criteria. SWPAMD6 DPO Comments (NEER) 2021-12-13. Condition 153 in the DPO is Condition 152 in the final order.

1 procedures. During operation of the proposed RFA6 facility modifications, the certificate holder  
2 would implement specific emergency response procedures designed for the proposed BESS and  
3 any changes resulting from the final design of the new, replaced and repowered turbines (see  
4 Emergency Action Plan, Attachment D of this order).

5  
6 UCDC 152.616(10)(c) specifically states the intent of the provision as “to assure appropriate  
7 timely response by emergency service providers.” Therefore, the Council imposes a condition  
8 requiring that: 1) prior to and during construction of the proposed RFA6 facility modifications,  
9 to the extent that there are new contractors or changes in health and safety plans throughout  
10 the construction process, the certificate holder develop emergency response plans in  
11 consultation with local emergency and fire service providers and shall establish whether mutual  
12 aid agreements are necessary to provide adequate services during construction and operation.  
13 Following plan development, the condition would then require that the certificate holder notify  
14 the Umatilla County Planning Department of the final or revised final emergency plans; and 2)  
15 prior to operations, develop an operational emergency plan in the same manner described  
16 above, followed by certificate holder notification to the Umatilla County Planning Department  
17 of its final Emergency Action Plan, so that Umatilla County has the opportunity to plan for  
18 adequate emergency services to the site.<sup>57</sup>

19  
20 **Condition 153: For facility modifications approved in the Sixth Amended Site Certificate,**  
21 **the certificate holder shall develop emergency response plans per (a) and (b) in**  
22 **consultation with local emergency and fire service providers and shall establish whether**  
23 **mutual aid agreements are necessary to provide adequate services during construction**  
24 **and operation:**

25 (a) **Prior to and during construction, as applicable, the certificate holder shall notify and**  
26 **provide copies of the final health and safety plans and/or emergency response plans**  
27 **to be implemented during construction activities to the Umatilla County Planning**  
28 **Department and the Department.**

29 (b) **Prior to and during operation, as applicable, the certificate holder shall notify and**  
30 **provide copies of the final Emergency Action Plan to be implemented during**  
31 **operations to the Umatilla County Planning Department and the Department.**

32 **[Amendment #6]**

33  
34 Based on compliance with the above-referenced condition, the Council finds that the proposed  
35 RFA6 facility modifications would comply with the notification requirements under UCDC  
36 162.616(10)(c).

37  
38 *152.616(HHH)(1) County Permit Procedure.*  
39

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<sup>57</sup> In comments received on the record of the DPO, Umatilla County (as the SAG) requested that recommended Condition 154 include additional requirements to ensure adequate development of the construction and operational Emergency Response Plan, and of adequate notification of the plans to emergency response providers. SWPAMD6Doc17 DPO Comments (Umatilla Co.) 2021-12-15. Condition 154 in the DPO is Condition 153 in the final order.

1           ...The County procedural requirements set forth in Section 152.616(HHH) (1)-(5),  
2           including the requirement for a hearing, will not apply to proposed Wind Power  
3           Generation facilities for which Energy Facility Siting Council is making the land use  
4           decision.

5  
6 UCDC 152.616(HHH)(1) establishes the procedural requirements that would apply to the local  
7 permitting process. Because the Stateline Wind Project and proposed RFA6 facility  
8 modifications are undergoing review through the EFSC amendment process, pursuant to ORS  
9 469.401(3), the local procedural requirements do not apply.<sup>58</sup>

10  
11           (6) *Standards/Criteria of Approval.*

12  
13           *The following requirements and restrictions apply to the siting of a Wind Power*  
14           *Generation Facility:*

15  
16           (a) *Setbacks. The minimum setback shall be a distance of not less than the following:*

17  
18                   (1) *From a turbine tower to a city urban growth boundary (UGB) shall be two*  
19                   *miles. The measurement of the setback is from the centerline of a turbine*  
20                   *tower to the edge of the UGB that was adopted by the city as of the date*  
21                   *the application was deemed complete.*

22  
23 UCDC 152.616(HHH)(a)(1) establishes setback requirements for wind turbine towers of 2 miles  
24 from a city urban growth boundary (UGB). In RFA6, the certificate holder affirms that the  
25 closest UGB in Umatilla County is the City of Helix at 4 miles. Based on review of RFA6 Exhibit K  
26 Figures K-2 (Setback Analysis), the Council agrees that the nearest UGB with 2-mile buffer  
27 would not intersect with any portion of the proposed RFA6 facility modifications within the  
28 previously approved site boundary. Therefore, the Council finds that the proposed RFA6 facility  
29 modifications would comply with this setback criterion.

30  
31                   (2) *From turbine tower to land zoned Unincorporated Community (UC) shall*  
32                   *be 1 mile.*

33  
34 UCDC 152.616(HHH)(a)(2) establishes setback requirements for wind turbine towers of 1  
35 mile from land zoned Unincorporated Community (UC). In RFA6, the certificate holder  
36 affirms that the nearest UC is Umapine, approximately 4 miles from the nearest wind  
37 turbine. Based on review of RFA6 Exhibit K Figure K-1 Zoning Map, the nearest UC appears  
38 to be located at a distance greater than 1 mile from the site boundary. Therefore, the  
39 Council finds that the proposed RFA6 facility modifications would comply with this

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<sup>58</sup> ORS 469.401(3) states, "Each affected state agency, county, city and political subdivision in Oregon with authority to issue a permit, license or other approval addressed in or governed by the site certificate shall, upon submission of the proper application and payment of the proper fees, but without hearings or other proceedings, issue such permit, license or other approval subject only to the conditions set forth in the site certificate."

1 setback criterion.

2

3

*(3) From a turbine tower to a rural residence shall be 2 miles. For purposes of this section, "rural residence" is defined as a legal, existing single family dwelling meeting the standards of §152.058 (F)(1)-(4), or a rural residence not yet in existence but for which zoning permit has been issued, on a unit of land not a part of the Wind Power Generation Facility, on the date a Wind Power Generation Facility application is submitted. For purposes of this section, the setback does not apply to residences located on properties within the Wind Power Generation Facility project application. The measurement of the setback is from the centerline of the turbine tower to the center point of the rural residence.*

13

14 UCDC 152.616(HHH)(a)(3) establishes setback requirements for wind turbine towers of 2  
15 miles from a rural residence. In RFA6, the certificate holder represents that the 2-mile  
16 setback would not apply to the 43 wind turbine proposed to be repowered because they  
17 are existing wind turbines approved in their location prior to Umatilla County's adopted of  
18 the 2-mile setback standard. As an existing structure approved and constructed prior to  
19 the adoption of UCDC 152.616(HHH)(6)(a)(3), the 43 wind turbines proposed to be  
20 repowered are an allowable non-conforming use pursuant to UCDC 152.003.<sup>59</sup> Because  
21 the proposed repower would not result in relocation of the 43 existing wind turbines,  
22 there would not be an expected increase in non-conformance (e.g. proximity would not  
23 change; closest residence to repowered wind turbine not located on lands within the site  
24 boundary is 1.1 miles away) and therefore the Council finds that the 2-mile setback would  
25 not apply. The certificate holder represents that this interpretation is consistent with a  
26 2009 personal communication with Umatilla County Land Use Planner Carol Johnson.

27

28 In addition, the proposed four replacement turbines would be located within substantially  
29 the same location as four existing turbines (if not repowered, would be decommissioned  
30 and replaced). For the same reasons described above, even though existing wind turbines  
31 would be replaced, the location would not significantly change and therefore is  
32 considered to represent an allowable, non-conforming use that would not result in  
33 increased adverse impacts. Therefore, the Council finds that the 2-mile setback would not  
34 apply to the proposed replacement wind turbines.<sup>60</sup>

35

36 In RFA6, the certificate holder describes that UCDC 152.616(HHH)(a)(3) should only apply  
37 to the proposed new wind turbines, and that the new wind turbine location would satisfy  
38 the requirements of the 2-mile rural residential setback. Based on review of RFA6

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<sup>59</sup> UCDC 152.003 – N – defines "non-conforming structure or use" as "a lawful existing structure or use at the time this chapter or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located."

<sup>60</sup> SWPAMD6Doc15 DPO Comments (NEER) 2021-12-15 – 12-17; SWPAMD6 DPO Comments (Umatilla Co.) 2021-12-15.

1 Attachment 3 Figures K-2 (Setback Analysis), the certificate holder graphically  
2 demonstrates an ability for the new wind turbines to meet this setback requirement. To  
3 ensure that the final design for the proposed new wind turbines complies with the 2-mile  
4 rural residential setback, the Council imposes the following condition:

5  
6 **Condition 154:** Prior to construction of facility modifications approved in the Sixth  
7 Amended Site Certificate, the certificate holder shall provide to the Department  
8 and Umatilla County Planning Department final design/layout maps and GIS data  
9 demonstrating compliance of any new wind turbines with the 2-mile rural  
10 residential setback, based on the UCDC 152.616(a)(3) definition of rural residence.  
11 The certificate holder shall also provide in tabular format turbine identification  
12 numbers and distance from nearest rural residence for any new turbines, as  
13 applicable, based on final design.  
14 [Amendment #6]

15  
16 Based on compliance with the above referenced condition, the Council finds that the  
17 proposed RFA6 facility modifications would comply with this setback criterion.

18  
19 *(4) From a turbine tower to the boundary right-of-way of County Roads, state*  
20 *and interstate highways, 110% of the overall tower-to-blade tip height.*  
21 *Note: The overall tower-to-blade tip height is the vertical distance*  
22 *measured from grade to the highest vertical point of the blade tip.*

23  
24 UCDC Section 152.616(HHH)(6)(a)(4) imposes setback distances based on 110 percent of the  
25 overall tower to blade tip height to county, state and interstate highway road rights-of-way.  
26 Council previously imposed Condition 126 requiring that the certificate holder comply with this  
27 setback restriction. Because this setback is based on maximum blade tip height, which would  
28 change based on the proposed wind turbine repowering, the changes included in RFA6 impact  
29 the certificate holder's ability to satisfy the setback requirement. Based on review of RFA6  
30 Attachment 3, Figure K-3 (County/Local Road Setback Analysis), there appears to be 1 existing  
31 wind turbine that would not comply with the setback requirement. In RFA6, the certificate  
32 holder represents that they are working with Umatilla County to meet the setback requirement,  
33 though evidence of meeting the setback or otherwise satisfying the requirement has not been  
34 provided to the Department. Because the certificate holder has not provided evidence that the  
35 proposed RFA6 facility modifications would comply with the road setback requirements, the  
36 Council amends Condition 141 as follows:

37  
38 **Amended Condition 141:** Prior to construction of facility modifications approved in the  
39 Sixth Amended Site Certificate associated with repowering of Vansycle II wind turbines  
40 number 1 and 21, the certificate holder shall:

41 (a) Provide the Department maps and tabular data documentation demonstrating that  
42 the final design of new, replacement and repowered wind turbines comply with the  
43 county road right of way adjacent to: 1) Gerking Flat Road and, 2) Butler Grade Road  
44 have been relocated or adjusted such that wind turbines 1 and 21 satisfy the setback



1 requirements to county road rights of way pursuant to UCDC Section  
2 152.616(HHH)(6)(a)(4), or that the certificate holder has relocated or adjusted the  
3 county road right of way. Wind turbines not meeting the setback requirements from  
4 county road rights-of-way are precluded from increasing the maximum blade tip  
5 height from 440 to 499 feet through repower activities.

6 (b) If the certificate has relocated or adjusted a county road right of way, the certificate  
7 holder shall provide to the Department ~~The documentation shall include~~ written  
8 verification from Umatilla County that confirms the county road rights of way have  
9 been adjusted. [Amendment #5, #6]

10  
11 As presented above, the amended condition would require that the certificate holder  
12 provided evidence to the Department that all new, replacement and repowered wind  
13 turbines satisfy the road setback requirement. If any would not satisfy the road setback  
14 requirement, the condition would require that the certificate holder provide evidence to  
15 the Department that the road or road right of way was adjusted or relocated in a manner  
16 that would result in compliance with the setback. If neither of these requirements are met  
17 for any of the new, replacement or repowered wind turbines, the condition would  
18 preclude the development action.<sup>61</sup>

19  
20 Based on compliance with these proposed requirements, the Council finds that the  
21 proposed RFA6 facility modifications would comply with this setback criterion.

22  
23 *(5) From tower and project components, including transmission lines,*  
24 *underground conduits and access roads, to known archeological, historical or*  
25 *cultural sites shall be on a case by case basis, and for any known*  
26 *archeological, historical or cultural site of the Confederated Tribes of the*  
27 *Umatilla Indian Reservations the setback shall be no less than 164 feet (50*  
28 *meters).*

29  
30 UCDC Section 152.616(HHH)(5) imposes a requirement to establish a setback from any  
31 project component to known archeological, historical or cultural sites, to be based on a case  
32 by case basis, and 50-meter setback requirement for any known CTUIR archeological,  
33 historical or cultural sites. As described in Section III.K. *Historic, Cultural and Archeological*  
34 *Resources* of this order, there is one known, unevaluated site (35UM 000343) which would  
35 not be avoided during construction of the proposed RFA6 facility modifications. In Section  
36 III.K. *Historic, Cultural and Archeological Resources* of this order, the Council requires that the  
37 certificate holder monitor ground-disturbing work within 30-meters of this site to ensure that  
38 any additional resources identified are evaluated and potentially protected. Because the

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<sup>61</sup> OAR 345-025-0006(5), a mandatory site certificate condition imposed in all EFSC site certificate and imposed as Condition 11 in the Stateline Wind Project Site Certificate, requires that the certificate holder obtain legal rights of the site of any construction activities. In order to relocate or adjust the road right of way, approval is required from Umatilla; any expansion or modification of the road would not be permitted under the site certificate until the certificate holder acquires the necessary legal rights, which may also include landowner approval dependent upon right-of-way law.

1 resource (35UM 000343) is a railroad grade and part of an existing road that is currently  
2 used, the Council does not impose any additional setback requirements and relies upon  
3 Condition 155 to address UCDC Section 152.616(HHH)(5).

4  
5 In RFA6, the certificate holder affirms that there are no known CTUIR resources within 50-  
6 meters of proposed RFA6 facility modifications. Based on consultation with CTUIR during  
7 review of pRFA6, the Council agrees with the certificate holder's representation and finds  
8 that there are no CTUIR-resources within 50-meters and therefore additional setback  
9 requirements are unnecessary.

10  
11 Based on the above findings of fact and analysis, the Council finds that the proposed RFA6  
12 facility modifications would comply with this setback criterion.

13  
14 *(6) New electrical transmission lines associated with the wind project shall not be*  
15 *constructed closer than 500 feet to an existing residence without prior written*  
16 *approval of the homeowner, said written approval to be recorded with county*  
17 *deed records. Exceptions to the 500 feet setback include transmission lines*  
18 *placed in a public right of way.*

19  
20 UCDC Section 152.616(HHH)(6) imposes a requirement to establish a 500-foot setback for new  
21 electrical transmission lines associated with a wind facility to an existing residence. As  
22 presented in RFA6 and this order, new electrical transmission lines are not being proposed.  
23 Therefore, Council does not need to make findings of compliance with this criterion.

24  
25 *(7) The turbine/towers shall be of a size and design to help reduce noise or other*  
26 *detrimental effects. At a minimum, the Wind Power Generation Facility shall be*  
27 *designed and operated within the limits of noise standard(s) established by the*  
28 *State of Oregon. A credible noise study may be required to verify that noise*  
29 *impacts in all wind directions are in compliance with the State noise standard.*

30  
31 UCDC Section 152.616(HHH)(7) requires that wind turbines and towers be designed to comply  
32 with the State of Oregon's noise standards. The evaluation of compliance with Oregon's noise  
33 standards is addressed in Section III.Q.1. *Noise Control Regulations* of this order.

34  
35 Based on the certificate holder's acoustic noise modeling of the proposed RFA6 facility  
36 modifications, 5 noise sensitive receptors have been identified as experiencing an increase  
37 greater than 10 dBA above ambient or assumed ambient noise (assumed ambient baseline is 26  
38 dBA, per OAR 340-035-0035(1)(b)(B)(iii)(I)); however, as described in RFA6, 4 of the 5 NSRs are  
39 "participating property owners," meaning those landowners have signed a noise waiver, and  
40 the remaining 1 NSR is a non-participating landowner and has not signed a noise waiver, which  
41 is allowable for wind facilities to satisfy the State of Oregon's noise standards (OAR 345-035-  
42 0035(1)(b)(III)-(IV). The noise modeling results also show that the proposed RFA6 facility  
43 modifications, including existing noise sources, would not exceed the maximum allowable  
44 decibel threshold of 50 dBA at any noise sensitive receptor within the analysis area.

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Council previously imposed Condition 148 requiring that, prior to repowering activities, the certificate holder complete a final noise assessment based on final noise power levels of selected noise-generating equipment, and demonstrate compliance with the anti-ambient degradation standard or submit to the Department a copy of a signed and deed-recorded waiver for any NSRs with modeled exceedances.

Based on the evaluation described above, and subject to compliance with the identified conditions, the Council finds that the proposed RFA6 facility modifications would satisfy UCDC Section 152.616(HHH)(7).

*(b) Reasonable efforts shall be made to blend the wind turbine/towers with the natural surrounding area in order to minimize impacts upon open space and the natural landscape.*

UCDC Section 152.616(HHH)(b) requires that reasonable efforts are made to blend wind turbines and towers with the natural surrounding area. Council previously imposed Condition 37 requiring that all wind turbines be painted in neutral light gray or white, and use of towers that are smooth, hollow steel and found that based on compliance with this condition, the facility would satisfy UCDC Section 152.616(HHH)(b). In RFA6, the certificate holder asserts continued compliance with the requirements of Condition 37. The Council finds that continued compliance with Condition 37 by the certificate holder would satisfy UCDC Section 152.616(HHH)(b).

*(c) The development and operation of the Wind Power Generation Facility will include reasonable efforts to protect and preserve existing trees, vegetation, water resources, wildlife, wildlife habitat, fish, avian, resources, historical, cultural and archaeological site.*

UCDC Section 152.616(HHH)(c) requires that development and operations of a wind facility reasonably protected existing trees, vegetation, water resources, wildlife, wildlife habitat, fish, avian, resources, historical, cultural and archeological sites. As presented throughout this order, the Council finds that the existing, new and amended conditions would ensure that the certificate holder satisfies UCDC Section 152.616(HHH)(c), including Conditions 29, 30, 39, 52-56, 60-65, 68-70, 89-94, 111 and 114-118.

*(d) The turbine towers shall be designed and constructed to discourage bird nesting and wildlife attraction.*

UCDC Section 152.616(HHH)(d) requires that turbine towers be designed and constructed to discourage bird nesting and wildlife attraction. To satisfy this requirement, Council previously imposed Condition 70 requiring that turbine design include monopole structures. In RFA6, the certificate holder asserts that the repowered, new and replacement turbines would all be designed in accordance with Condition 70 requirements. The Council continues to rely on the

1 certificate holder's obligation to comply with Condition 70 to find that the certificate holder can  
2 satisfy UCDC Section 152.616(HHH)(d).

3  
4 *(e) Private access roads established and controlled by the Wind Power Facility shall be*  
5 *gated and signed to protect the Wind Power Generation Facility and property*  
6 *owners from illegal or unwarranted trespass, illegal dumping and hunting and for*  
7 *emergency response.*

8  
9 UCDC Section 152.616(HHH)(e) requires that private access roads of a wind facility be gated and  
10 signed. In RFA6, the certificate holder affirms that the proposed RFA6 facility modifications do  
11 not include any new private access roads. Therefore, the Council does not need to make  
12 findings of compliance for this criterion.

13  
14 *(f) Where practicable the electrical cable collector system shall be installed*  
15 *underground, at a minimum depth of 3 feet; elsewhere the cable collector system*  
16 *shall be installed to prevent adverse impacts on agriculture operations.*

17  
18 UCDC Section 152.616(HHH)(f) requires that underground collector lines of a wind facility be  
19 installed at a minimal depth of 3-feet below grade. In RFA6, the certificate holder represents  
20 that the proposed BESS could have underground collection lines. The design requirement to  
21 install underground collector lines has been incorporated into the description of the proposed  
22 BESS in Section II.A. Therefore, the Council finds that the certificate holder would comply with  
23 152.616(HHH)(f).

24  
25 *(g) Required permanent maintenance/operations buildings shall be located off site*  
26 *in one of Umatilla County's appropriately zoned areas, except that such a*  
27 *building may be constructed on site if:*

- 28 *(1) The building is designed and constructed generally consistent with the*  
29 *character of similar buildings used by commercial farmers or ranchers, and*  
30 *(2) The building will be removed or converted to farm use upon*  
31 *decommissioning of the Wind Power Generation Facility consistent with*  
32 *the provisions of §152.616 (HHH) (7).*

33  
34 UCDC Section 152.616(HHH)(g) requires that permanent maintenance/operations building of a  
35 wind facility be located offsite unless certain requirements are met. As presented in RFA6, the  
36 proposed RFA6 facility modifications would not include a new permanent  
37 maintenance/operation building. Therefore, the Council does not make findings of compliance  
38 for this criterion.

39  
40 *(h) A Wind Power Generation Facility shall comply with the Specific Safety Standards*  
41 *for Wind Energy Facilities delineated in OAR 345 024 0010 (as adopted at time of*  
42 *application).*

1 UCDC Section 152.616(HHH)(h) requires that wind facility components comply with the  
2 Council’s OAR 345-024-0010 requirements. The certificate holder’s ability to comply with the  
3 Council’s standard is discussed in Section IV.P.1 of this order. As evaluated in that section, the  
4 Council finds that the certificate holder would have the ability to construct and operate the  
5 proposed RFA6 facility modifications in compliance with the specific safety standards and  
6 subsequently UCDC Section 152.616(HHH)(h).  
7

8 *(i) A Covenant Not to Sue with regard to generally accepted farming practices shall be*  
9 *recorded with the County. Generally accepted farming practices shall be consistent*  
10 *with the definition of Farming Practices under ORS 30.930. The Wind Power*  
11 *Generation Facility owner/operator shall covenant not to sue owners, operators,*  
12 *contractors, employees, or invitees of property zoned for farm use for generally*  
13 *accepted farming practices.*  
14

15 UCDC Section 152.616(HHH)(i) requires owner/operators of wind facilities to record a covenant  
16 not to sue with Umatilla County to allow continued farming practices within the underlying land  
17 of the wind facility. As presented in RFA6, the proposed facility modifications would not result  
18 in changes to the site boundary. Council previously imposed Condition 125 requiring  
19 compliance with this requirement, which the certificate holder satisfied for underlying  
20 properties within the site boundary in 2010. Therefore, because the certificate holder is not  
21 proposing to amend the site boundary and the certificate holder has already demonstrated that  
22 it has recorded covenants not to sue for underlying properties within the site boundary, the  
23 Council finds that the proposed RFA6 facility modifications would continue to satisfy UCDC  
24 Section 152.616(HHH)(i).  
25

26 *(j) Roads.*

27 *(1) County Roads.*

28 *A Road Use Agreement with Umatilla County regarding the impacts and*  
29 *mitigation on county roads shall be required as a condition of approval.*  
30

31 UCDC Section 152.616(HHH)(j)(1) requires that a conditional use permit for a wind facility  
32 include a requirement for the owner/operator to execute a road use agreement with Umatilla  
33 County to address any potential impacts from facility-related use of county roads. Council  
34 previously imposed Condition 45, requiring that the certificate holder’s contractors enter into  
35 an agreement with Umatilla County for facility-related road use repairs; and Condition 81,  
36 requiring restoration of county roads to pre-project conditions. The Council finds that these  
37 conditions continue to apply to the proposed RFA6 facility modifications. Based on compliance  
38 with Conditions 45 and 81, the Council finds that the proposed RFA6 facility modifications  
39 would satisfy UCDC Section 152.616(HHH)(j).  
40

41 *(2) Project Roads.*

42 *Layout and design of the project roads shall use best management practices*  
43 *in consultation with the Soil Water Conservation District. The project road*  
44 *design shall be reviewed and certified by a civil engineer. Prior to road*

1                                    *construction the applicant shall contact the State Department of*  
2                                    *Environmental Quality and if necessary, obtain a storm water permit*  
3                                    *(National Pollution Discharge Elimination System).*  
4

5 UCDC Section 152.616(HHH)(j)(2) requires that a conditional use permit for a wind facility  
6 ensure that layout and design of roads uses best management practices in consultation with  
7 the Soil Water Conservation District, reviewed and certified by a civil engineer, and in  
8 compliance with the 1200-C General Stormwater Permit, if applicable.  
9

10 The proposed RFA6 facility modifications would include temporary and new roads. Council  
11 previously imposed Condition 61, requiring that the certificate holder work with Natural  
12 Resources Conservation Services to design water bars and other management practices to slow  
13 the flow of water on roads; and, Condition 60, requiring that the certificate holder conduct all  
14 construction work in compliance with a 1200-C permit. The Council finds that these two  
15 conditions would continue to apply to the proposed RFA6 facility modifications, and that based  
16 on compliance with these conditions, finds that the certificate holder would satisfy the  
17 requirements of UCDC Section 152.616(HHH)(j)(2).  
18

19                                    *(k) Demonstrate compliance with the standards found in OAR 660-033-0130 (37).*  
20

21 UCDC Section 152.616(HHH)(k) requires compliance with the Land Conservation and  
22 Development Commission’s minimum land use requirements for wind facilities on agricultural  
23 lands, which are established in OAR 660-033-0130(37). The applicable OAR 660-033-0130(37)  
24 requirements are evaluated below.  
25

26                                    *(b) For arable lands, meaning lands that are cultivated or suitable for cultivation,*  
27                                    *including high value farmland soils described at ORS 195.300(10), the governing*  
28                                    *body or its designate must find that:*  
29

30                                    *(A) The proposed wind power facility will not create unnecessary negative impacts*  
31                                    *on agricultural operations conducted on the subject property. Negative impacts*  
32                                    *could include, but are not limited to, the unnecessary construction of roads,*  
33                                    *dividing a field or multiple fields in such a way that creates small or isolated*  
34                                    *pieces of property that are more difficult to farm, and placing wind farm*  
35                                    *components such as meteorological towers on lands in a manner that could*  
36                                    *disrupt common and accepted farming practices;*  
37

38 UCDC Section 152.616(HHH)(k)(b)(A) applies to wind facilities located on arable land and  
39 requires a demonstration that the facility, or facility with modifications, would not create  
40 unnecessary impacts on agricultural operations. The proposed RFA6 facility modifications  
41 would include up to 12 acres in permanent impacts and 211 acres in temporary impacts, on  
42 predominately arable land (approximately 4 acres is grassland habitat). The permanent impacts  
43 would result from up to 5 new turbine foundations, the proposed 11-acre BESS site and  
44 approximately 0.9 acres of new road. The temporary impacts would result from a 20-acre

1 staging area, 126.5 acres in rotor assembly areas for each repowered, new and replacement  
2 wind turbine and 65-acres in road widening and crane paths. These impacts would occur within  
3 the approved site boundary and would largely be located within or adjacent to previously  
4 disturbed areas.

5  
6 Council previously imposed Condition 44, based on a certificate holder representation included  
7 in the original 2001 application for site certificate, requiring that the certificate holder locate  
8 roads to minimize disturbance and avoid sensitive resources; use county and private farm roads  
9 to the maximum extent feasible; coordinate farm road improvements with landowners; and,  
10 assure final roads provide useful access to landowner fields, where possible. This condition is  
11 intended to apply to permanent new and improved roads. While the certificate holder commits  
12 to adhering to the requirements of this condition for the facility modifications proposed in  
13 RFA6, as applicable, the Council imposes an additional condition to ensure that the location,  
14 extent and timing of temporary disturbance impacts within agricultural areas are planned in a  
15 manner that avoids unnecessary negative impacts, as presented below:<sup>62</sup>

16  
17 **Condition 155:** Prior to construction of the facility modifications approved in the Sixth  
18 Amended Site Certificate, the certificate holder shall provide to the Department  
19 evidence of landowner consultation for properties to be impacted by temporary and  
20 permanent disturbance. Consultation shall demonstrate that the certificate holder  
21 sought landowner input on extent and timing of disturbance and considered, to the  
22 maximum extent feasible from a technological and engineering perspective, methods to  
23 minimize unnecessary disturbance from construction and operation. The certificate  
24 holder shall provide a final design map of facility components approved in the Sixth  
25 Amended Site Certificate and shall promptly notify the Department of any changes in  
26 design that would impact any disturbance minimization measures identified after  
27 landowner consultation.  
28 [Amendment #6]

29  
30 Based on the fact that the proposed RFA6 facility modifications would be located within the  
31 existing site boundary, predominately within previously disturbed areas and compliance with  
32 the above-referenced conditions, the Council finds that the certificate holder would satisfy the  
33 requirements of UCDC Section 152.616(HHH)(k).

34  
35 *(B) The presence of a proposed wind power facility will not result in unnecessary*  
36 *soil erosion or loss that could limit agricultural productivity on the subject*  
37 *property. This provision may be satisfied by the submittal and county approval*  
38 *of a soil and erosion control plan prepared by an adequately qualified*  
39 *individual, showing how unnecessary soil erosion will be avoided or remedied*  
40 *and how topsoil will be stripped, stockpiled and clearly marked. The approved*  
41 *plan shall be attached to the decision as a condition of approval;*  
42

---

<sup>62</sup> SWPAMD6Doc15 DPO Comment (NEER) 2021-12-17.

1 UCDC Section 152.616(HHH)(k)(b)(B) applies to wind facilities located on arable land and  
2 requires a demonstration that the facility, or facility with modifications, would not create  
3 unnecessary soil erosion or loss that could limit agricultural productivity on the subject  
4 property. The impact of soil erosion and loss is evaluated in Section III.D. *Soil Protection* and is  
5 incorporated by reference. As presented in that section, the Council finds that based on  
6 previously imposed and new conditions (29, 51, 61, 92, 151 and 152), the certificate holder has  
7 the ability to minimize unnecessary soil erosion or loss during proposed RFA6 facility  
8 modifications in compliance with UCDC Section 152.616(HHH)(k)(b)(B).

9  
10 *(C) Construction or maintenance activities will not result in unnecessary soil*  
11 *compaction that reduces the productivity of soil for crop production. This*  
12 *provision may be satisfied by the submittal and county approval of a plan*  
13 *prepared by an adequately qualified individual, showing how unnecessary soil*  
14 *compaction will be avoided or remedied in a timely manner through deep soil*  
15 *decompaction or other appropriate practices. The approved plan shall be*  
16 *attached to the decision as a condition of approval; and*

17  
18 UCDC Section 152.616(HHH)(k)(b)(C) applies to wind facilities located on arable land and  
19 requires a demonstration that the facility, or facility with modifications, would not create  
20 unnecessary soil compaction that could limit agricultural productivity on the subject property.  
21 The impact of soil compaction is evaluated in Section III.D. *Soil Protection* and is incorporated  
22 by reference. As presented in that section, the Council finds that based on Conditions 151 and  
23 152, the certificate holder has the ability to minimize unnecessary soil compaction during  
24 proposed RFA6 facility modifications in compliance with UCDC Section 152.616(HHH)(k)(b)(C).

25  
26 *(D) Construction or maintenance activities will not result in the unabated*  
27 *introduction or spread of noxious weeds and other undesirable weeds species.*  
28 *This provision may be satisfied by the submittal and county approval of a weed*  
29 *control plan prepared by an adequately qualified individual that includes a*  
30 *long-term maintenance agreement. The approved plan shall be attached to the*  
31 *decision as a condition of approval.*

32  
33 UCDC Section 152.616(HHH)(k)(b)(D) applies to wind facilities located on arable land and  
34 requires a demonstration that the facility, or facility with modifications, would not result in the  
35 unabated introduction or spread of noxious weeds and other undesirable weeds species. As  
36 presented in Section III.H. *Fish and Wildlife Habitat*, the Council imposes Condition 158  
37 requiring that the certificate holder develop and submit, based on consultation with the  
38 Umatilla County Weed/Road Department, a Noxious Weed Control Plan, to be implemented  
39 prior to, during and post construction of the proposed RFA6 facility modifications. Based on  
40 compliance with Condition 158, the Council finds that the certificate holder has the ability to  
41 minimize and control the unabated introduction or spread of noxious weeds and other  
42 undesirable weeds species during proposed RFA6 facility modifications in compliance with  
43 UCDC Section 152.616(HHH)(k)(b)(D).



1            *(l) Submit a plan for dismantling of uncompleted construction and/or*  
2            *decommissioning and/or re-powering of the Wind Power Generation Facility as*  
3            *described in §152.616 (HHH)(7).*

4  
5 UCDC Section 152.616(HHH)(k)(l) applies to wind facilities located on arable land and requires  
6 that a decommissioning plan be submitted. Council previously imposed Condition 98, consistent  
7 with Mandatory Condition under OAR 345-025-0006(16), requiring that the certificate holder  
8 submit a decommissioning plan at least two years prior to decommissioning, to be approved by  
9 Council. Based on compliance with Condition 98, the Council finds that the certificate holder  
10 would continue to satisfy UCDC Section 152.616(HHH)(k)(l).

11  
12            *(m) A surety bond shall be established to cover the cost of dismantling uncompleted*  
13            *construction and/or decommissioning of the Wind Power Generation Facility, and*  
14            *site rehabilitation pursuant to §152.616 (HHH) (7) and (8). The intent of this*  
15            *requirement is to guarantee performance (not just provide financial insurance) to*  
16            *protect the public interest and the county budget from unanticipated, unwarranted*  
17            *burden to decommission wind projects. For projects being sited by the State of*  
18            *Oregon’s Energy Facility Siting Council (EFSC), the bond or letter of credit required by*  
19            *EFSC will be deemed to meet this requirement.*

20  
21 UCDC Section 152.616(HHH)(k)(m) applies to wind facilities located on arable land and requires  
22 that a surety bond be submitted for the cost of decommissioning. As evaluated in Section III.G  
23 *Retirement and Financial Assurance* of this order, the Council amends Condition 109 to  
24 requiring that, prior to construction of the proposed RFA6 facility modifications, the certificate  
25 holder submit to the Department a bond or letter of credit for the decommissioning amount of  
26 \$6.9 million.

27  
28 Based on compliance with amended Condition 109, the Council finds that the certificate holder  
29 would continue to satisfy UCDC Section 152.616(HHH)(k)(m).

30  
31            *(n)The actual latitude and longitude location or Stateplane NAD 83(91) (suitable for GPS*  
32            *mapping) coordinates of each turbine tower, connecting lines, O & M building,*  
33            *substation, project roads and transmission lines, shall be provided to Umatilla County*  
34            *on or before starting electrical production.*

35  
36 UCDC Section 152.616(HHH)(k)(n) applies to wind facilities and requires that the actual latitude  
37 and longitude locations or Stateplane NAD 83(91) coordinates of wind facility components be  
38 provided to Umatilla County on or before electrical production. Council previously imposed  
39 Condition 84, which would continue to apply to the proposed RFA6 facility modifications in  
40 order to ensure compliance with the criterion. Based on compliance with Condition 84, the  
41 Council finds that the certificate holder would continue to satisfy UCDC Section  
42 152.616(HHH)(k)(n).

1            *(o) An Operating and Facility Maintenance Plan shall be submitted and subject to County*  
2            *review and approval.*

3  
4 UCDC Section 152.616(HHH)(k)(o) applies to wind facilities and requires that an Operating and  
5 Facility Maintenance Plan be submitted to Umatilla Count for review and approval. Council  
6 previously imposed Condition 127 requiring that the certificate holder provide a copy of its  
7 EFSC Annual Report to Umatilla County. In RFA6, the certificate holder affirms that it would  
8 continue to comply with Condition 127 in order to satisfy UCDC Section 152.616(HHH)(k)(o).  
9 Based on compliance with Condition 127, the Council finds that the certificate holder would  
10 continue to satisfy UCDC Section 152.616(HHH)(k)(o).

11  
12            *(p) A summary of as built changes to the original plan, if any, shall be provided by the*  
13            *Wind Power Generation Facility owner/operator 90 days of starting electrical*  
14            *production.*

15  
16 UCDC Section 152.616(HHH)(k)(p) applies to wind facilities and requires that the certificate  
17 holder provide to the Department and Umatilla County a summary of as built changes within 90  
18 days of electrical production. Council previously imposed Condition 84 requiring that the  
19 certificate holder submit to the Department a summary of as built changes within 90 days of  
20 electrical operation. The Council finds that this condition would continue to apply to the  
21 proposed RFA6 facility modifications. Based on compliance with Condition 84, the Council finds  
22 that the certificate holder would continue to satisfy UCDC Section 152.616(HHH)(k)(p).

23  
24            *(q) Submit a Socioeconomic Assessment of the Wind Power Generation Facility.*

25  
26 UCDC Section 152.616(HHH)(k)(q) applies to wind facilities and requires that the certificate  
27 holder provide a socioeconomic assessment of the proposed RFA6 facility modifications.  
28 The certificate holder request that its evaluation provided to satisfy the Council's Public  
29 Services standard be considered to satisfy UCDC Section 152.616(HHH)(k)(q). There is not  
30 evaluative criteria for this requirement; therefore, the Council finds that findings of  
31 compliance are unnecessary.

32  
33            *(7) Dismantling/Decommissioning.*

34            *A plan for dismantling and/or decommissioning that provides for completion of*  
35            *dismantling or decommissioning of the Wind Power Generation Facility without*  
36            *significant delay and protects public health, safety and the environment in*  
37            *compliance with the restoration requirements of this section.*

38  
39            *(8) Decommissioning Fund.*

40            *The Wind Power Generation Facility owner/operator shall submit to Umatilla*  
41            *County a bond acceptable to the County, in the amount of the decommissioning*  
42            *fund naming Umatilla County beneficiary or payee.*

1 UCDC Section 152.616(HHH)(7) and (8) apply to wind facilities and requires that a  
2 decommissioning plan and bond be submitted. As evaluated in Section III.G *Retirement and*  
3 *Financial Assurance* of this order, the Council amends Condition 109 to require that, prior to  
4 construction of the proposed RFA6 facility modifications, the certificate holder submit to the  
5 Department a bond or letter of credit for the decommissioning amount considered satisfactory  
6 by Council at \$6.9 million. Additionally, Council previously imposed Condition 98, consistent  
7 with Mandatory Condition under OAR 345-025-0006(16), requiring that the certificate holder  
8 submit a decommissioning plan at least two years prior to decommissioning, to be approved by  
9 Council.

10  
11 Based on compliance with these conditions, the Council finds that the certificate holder would  
12 continue to satisfy UCDC Section 152.616(HHH)(7) and (8).

13  
14 *(9) Annual Reporting.*

15  
16 *Within 120 days after the end of each calendar year the Wind Power Generation*  
17 *Facility owner/operator shall provide Umatilla County a written and oral annual*  
18 *report including the following information:*

19  
20 UCDC Section 152.616(HHH)(7) applies to wind facilities located on arable land and requires  
21 that an Operating and Facility Maintenance Plan be submitted to Umatilla Count for review and  
22 approval. Council previously imposed Condition 127 requiring that the certificate holder  
23 provide a copy of its EFSC Annual Report to Umatilla County. In RFA6, the certificate holder  
24 affirms that it would continue to comply with Condition 127 in order to satisfy UCDC Section  
25 152.616(HHH)(k)(o). Based on compliance with Condition 127, the Council finds that the  
26 certificate holder would continue to satisfy UCDC Section 152.616(HHH)(k)(o).

27  
28 III.E.2. Local Applicable Substantive Criteria – Comprehensive Plan Goals and Policies

29  
30 In RFA6, the certificate holder identifies the following goals and policies from the Umatilla  
31 County Comprehensive Plan for which the proposed RFA6 facility modifications would comply  
32 or be consistent with:

- 33  
34
- 35 • Agriculture: Policies 1, 8 and 17
  - 36 • Open Space, Scenic & Historic Areas, and Natural Areas: Policies 1(a), 5 (a & b), 6(a),  
37 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)
  - 38 • Air, Land, Water Quality: Policies 1, 7 & 8
  - 39 • Natural Hazards: Policies 1 & 4
  - 40 • Recreational Needs: Policy 1
  - 41 • Economy of the County: Policies 1, 4 & 8(a-f)
  - 42 • Public Facilities & Services: Policies 1(a-d), 2, 9 & 19
  - 43 • Transportation: Policy 18 and 20
  - Energy Conservation: Policy 1

1  
2 Consistency with the UCCP goals and policies identified above relies entirely on the analysis  
3 presented in this order, compliance with existing and new condition and the preponderance of  
4 evidence on the record of the proceedings for the facility. Based on the information and  
5 analysis presented in this order and RFA6 Exhibit K and record of proceedings for this facility,  
6 the Council finds that the proposed RFA6 facility modifications would continue to be consistent  
7 with applicable UCCP goals and policies.

8  
9 **Conclusions of Law**

10  
11 Based on the foregoing findings and the evidence in the record, and subject to compliance with  
12 existing and new site certificate conditions, the Council finds that the facility, with proposed  
13 changes, would continue to comply with the Land Use standard.

14  
15 **III.F. Protected Areas: OAR 345-022-0040**

16  
17 *(1) Except as provided in sections (2) and (3), the Council shall not issue a site certificate*  
18 *for a proposed facility located in the areas listed below. To issue a site certificate for a*  
19 *proposed facility located outside the areas listed below, the Council must find that,*  
20 *taking into account mitigation, the design, construction and operation of the facility are*  
21 *not likely to result in significant adverse impact to the areas listed below. References in*  
22 *this rule to protected areas designated under federal or state statutes or regulations are*  
23 *to the designations in effect as of May 11, 2007:*

24  
25 *(a) National parks, including but not limited to Crater Lake National Park and Fort*  
26 *Clatsop National Memorial;*

27  
28 *(b) National monuments, including but not limited to John Day Fossil Bed National*  
29 *Monument, Newberry National Volcanic Monument and Oregon Caves National*  
30 *Monument;*

31  
32 *(c) Wilderness areas established pursuant to The Wilderness Act, 16 U.S.C. 1131 et*  
33 *seq. and areas recommended for designation as wilderness areas pursuant to 43*  
34 *U.S.C. 1782;*

35  
36 *(d) National and state wildlife refuges, including but not limited to Ankeny, Bandon*  
37 *Marsh, Baskett Slough, Bear Valley, Cape Meares, Cold Springs, Deer Flat, Hart*  
38 *Mountain, Julia Butler Hansen, Klamath Forest, Lewis and Clark, Lower Klamath,*  
39 *Malheur, McKay Creek, Oregon Islands, Sheldon, Three Arch Rocks, Umatilla, Upper*  
40 *Klamath, and William L. Finley;*

41  
42 *(e) National coordination areas, including but not limited to Government Island,*  
43 *Ochoco and Summer Lake;*  
44

1           (f) National and state fish hatcheries, including but not limited to Eagle Creek and  
2           Warm Springs;

3  
4           (g) National recreation and scenic areas, including but not limited to Oregon Dunes  
5           National Recreation Area, Hell's Canyon National Recreation Area, and the Oregon  
6           Cascades Recreation Area, and Columbia River Gorge National Scenic Area;

7  
8           (h) State parks and waysides as listed by the Oregon Department of Parks and  
9           Recreation and the Willamette River Greenway;

10  
11           (i) State natural heritage areas listed in the Oregon Register of Natural Heritage  
12           Areas pursuant to ORS 273.581;

13  
14           (j) State estuarine sanctuaries, including but not limited to South Slough Estuarine  
15           Sanctuary, OAR Chapter 142;

16  
17           (k) Scenic waterways designated pursuant to ORS 390.826, wild or scenic rivers  
18           designated pursuant to 16 U.S.C. 1271 et seq., and those waterways and rivers listed  
19           as potentials for designation;

20  
21           (l) Experimental areas established by the Rangeland Resources Program, College of  
22           Agriculture, Oregon State University: the Prineville site, the Burns (Squaw Butte) site,  
23           the Starkey site and the Union site;

24  
25           (m) Agricultural experimental stations established by the College of Agriculture,  
26           Oregon State University, including but not limited to: Coastal Oregon Marine  
27           Experiment Station, Astoria Mid-Columbia Agriculture Research and Extension  
28           Center, Hood River Agriculture Research and Extension Center, Hermiston Columbia  
29           Basin Agriculture Research Center, Pendleton Columbia Basin Agriculture Research  
30           Center, Moro North Willamette Research and Extension Center, Aurora East Oregon  
31           Agriculture Research Center, Union Malheur Experiment Station, Ontario Eastern  
32           Oregon Agriculture Research Center, Burns Eastern Oregon Agriculture Research  
33           Center, Squaw Butte Central Oregon Experiment Station, Madras Central Oregon  
34           Experiment Station, Powell Butte Central Oregon Experiment Station, Redmond  
35           Central Station, Corvallis Coastal Oregon Marine Experiment Station, Newport  
36           Southern Oregon Experiment Station, Medford Klamath Experiment Station, Klamath  
37           Falls;

38  
39           (n) Research forests established by the College of Forestry, Oregon State University,  
40           including but not limited to McDonald Forest, Paul M. Dunn Forest, the Blodgett  
41           Tract in Columbia County, the Spaulding Tract in the Mary's Peak area and the  
42           Marchel Tract;

43

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

3  
4           (p) State wildlife areas and management areas identified in OAR chapter 635,  
5           Division 8.

6           \*\*\*

7           **Findings of Fact**

8  
9           The Protected Areas standard requires the Council to find that, taking into account mitigation,  
10          the design, construction, and operation of a facility or facility, with proposed changes, are not  
11          likely to result in significant adverse impacts to any protected area as defined by OAR 345-022-  
12          0040. Impacts to protected areas are evaluated based on identification of protected areas,  
13          pursuant to OAR 345-022-0040, within the analysis area and an evaluation of the following  
14          potential impacts during facility construction and operation: excessive noise, increased traffic,  
15          water use, wastewater disposal, visual impacts of facility structures and air emissions.

16  
17          In accordance with OAR 345-001-0010(59)(e) and consistent with the study area boundary, the  
18          analysis area for protected areas is the area within and extending 20 miles from the site  
19          boundary.

20  
21          The certificate holder identifies that there are eleven (11) protected areas within the analysis  
22          area. Of the 11 “protected areas”, 4 do not meet the Council’s OAR 345-022-0040(1) definition  
23          of protected areas, including McDonald Bridge Wildlife Area, Oregon Trail National Historic  
24          Trail, Columbia Plateau State Trail and Sacajawea State Park.<sup>63</sup> First, the McDonald Bridge  
25          Wildlife Area is a wildlife area located in the state of Washington, approximately 7 miles from  
26          the site boundary. It is not identified in OAR chapter 635 division 8 and therefore does not meet  
27          OAR 345-022-0040(1)(p). Second, the Oregon Trail National Historic Trail is located  
28          approximately 15 miles from the site boundary, but is not within a Bureau of Land Management  
29          (BLM)-designated Area of Critical Environmental Concern (ACEC) and therefore does not meet  
30          OAR 345-022-0040(1)(o). Lastly, the Columbia Plateau State Trail and Sacajawea State Park are  
31          both located approximately 18 miles from the site boundary, in the state of Washington.  
32          Because they are located in Washington, they are not listed as a state park by the Oregon  
33          Department of Parks and Recreation and therefore do not meet OAR 345-022-0040(1)(h).

34  
35          The remaining 7 protected areas which meet the Council OAR 345-022-0040(1) definition of a  
36          protected area within the analysis area, and approximate distance from the site boundary, are  
37          presented in Table 4: *Protected Areas within Analysis Area and Distance from Site Boundary*  
38          below.<sup>64</sup>

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<sup>63</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.6 and Figure 4.1 Protected Areas ZVI Comparison, table provided with Figure.

<sup>64</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Figure 4.1 Protected Areas ZVI Comparison, table provided with Figure.

**Table 4: Protected Areas within Analysis Area and Distance from Site Boundary**

Protected Area (OAR 345-022-0040)	Protected Area Type	Distance from Site Boundary (in miles)
McNary National Wildlife Refuge (located in Washington) OAR 345-022-0040(1)(d)	National and state wildlife refuge	5.2
Whitman Mission National Historic Site OAR 345-022-0040(1)(a)	National park	8.6
Columbia Basin Agricultural Research Center OAR 345-022-0040(1)(m)	Agricultural experimental station	11.7
South Fork Walla Walla ACEC OAR 345-022-0040(1)(o)	BLM-ACEC	16.6
North Fork Umatilla Wilderness OAR 345-022-0040(1)(c)	Wilderness area	17.6
Cold Springs National Wildlife Refuge OAR 345-022-0040(1)(d)	National and state wildlife refuge	18.5
Hat Rock State Park OAR 345-022-0040(1)(h)	State park	18.6

Source: SWPAMD6Doc20 Vansycle II Complete RFA6 2021-11-19, Figure 4.1 Protected Areas ZVI Comparison, table provided with Figure.

1  
2 Based on the certificate holder’s review of 345-022-0040(1) as provided in RFA6 Figure 4.1  
3 Protected Areas ZVI Comparison, the closest protected area to the Vansycle II site boundary is  
4 the McNary National Wildlife Refuge at a distance of 5.2 miles. The nearest protected area to  
5 the proposed RFA6 facility modifications is Whitman Mission National Historic Site, at a  
6 distance of 8.6 miles.

7  
8 Potential adverse impacts to protected areas during construction and operation of the  
9 proposed RFA6 facility modifications from noise, traffic, water use and wastewater disposal,  
10 and visual are discussed below.

11  
12 *Potential Noise Impacts*

13  
14 The significance of potential noise impacts to identified protected areas is based on the  
15 magnitude and likelihood of the impact on the affected human population or natural resource  
16 that uses the protected area.<sup>65</sup>

17  

---

<sup>65</sup> The Protected Areas standard requires the Council to find that, taking into account mitigation, the design, construction and operation of a facility are not likely to result in significant adverse impacts to any protected area as defined by OAR 345-022-0040. OAR 345-001-0010(53) defines “significant” as: “having an important consequence, either alone or in combination with other factors, based upon the magnitude and likelihood of the

1            *Construction*

2  
3    The proposed RFA6 facility modifications would generate construction-related noise.  
4    Construction related noise would be short-term and intermittent and would result from site  
5    equipment delivery, clearing, civil/foundation work and revegetation/restoration. Construction  
6    equipment noise levels range from 73 to 88 dBA at 50 feet, for a welder and dozer,  
7    respectively; and from 41 to 56 dBA at 2,000 feet for a welder and dozer.<sup>66</sup> In RFA6, the  
8    certificate holder provides acoustic emission levels for construction related activities based  
9    upon typical ranges of energy equivalent noise levels at construction sites, as documented by  
10   the United States Environmental Protection Agency (EPA) and the EPA’s “Construction Noise  
11   Control Technology Initiatives.” Using the noise levels, the certificate holder estimates that the  
12   composite (combined) noise level of construction-related equipment including 2 backhoes, 1  
13   concrete truck, 1 crane, 1 excavator, 2 forklifts, 1 generator, 2 graders, 5 haul trucks, and 1  
14   water truck would be 100 dBA at 50 feet, attenuated to 63 dBA at 2,000 feet.

15  
16   Based on noise attenuation (i.e. reduced noise per doubling of distance) at a distance greater  
17   than 8-miles, construction-related noise is not expected to be audible at the closest protected  
18   area. Based on the above facts and analysis, the Council finds that construction of proposed  
19   RFA6 facility modifications would not be likely to result in significant adverse noise impacts at  
20   the Whitman Mission National Historic Site. Because the other protected areas within the  
21   analysis area are located at greater distances from the proposed RFA6 facility modifications  
22   than the Whitman Mission National Historic Site, the Council concludes that potential  
23   construction-related noise impacts at these protected areas would also not likely be potentially  
24   significant or adverse.

25  
26            *Operation*

27  
28   In RFA6, the certificate holder provides a noise analysis for the proposed RFA6 facility  
29   modifications, based on the following sound power levels:

- 30  
31        • 45 2.6 MW wind turbines at 110 dBA (includes 2 dBA k factor)  
32        • 18 inverters, each at 91 dBA; 18 distribution transformers, each at 71 dBA; and, 18  
33        heating, ventilation and air conditioning units, each at 74 dBA for the proposed BESS  
34

35   The certificate holder utilized the above sound power levels and the Computer Aided Noise  
36   Abatement (CadnaA) acoustic modeling software to evaluate predicted noise levels for the  
37   proposed RFA6 facility modifications. Based on the acoustic modeling results, predicted  
38   operational noise levels at 3 miles would be 28 dBA.<sup>67</sup> Noise levels of 28 dBA are equivalent to a

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impact on the affected human population or natural resources, or on the importance of the natural resources affected, considering the context of the action or impact, its intensity and the degree to which possible impacts are caused by the proposed action. Nothing in this definition is intended to require a statistical analysis of the magnitude or likelihood of a particular impact.”

<sup>66</sup> SWPAMD5. Request for Amendment 5, Exhibit X, Table X-3, p.9.

<sup>67</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Appendix F.



1 rural area at nighttime or a quiet bedroom at night.<sup>68</sup> Based on noise attenuation or reduced  
2 noise level per doubling of distance, operational noise from proposed RFA6 facility  
3 modifications at the nearest protected area, Whitman Mission National Historic Site, would not  
4 be expected to be audible. Because the other protected areas within the analysis area are  
5 located at greater distances (i.e., more than 8 miles), operational noise from proposed RFA6  
6 facility modifications would not be expected to be audible at any protected area within the  
7 analysis area. Based on review of the certificate holder’s acoustic modeling results, result of  
8 noise attenuation and distance from protected areas, the Council finds that operation of the  
9 proposed RFA6 facility modifications would not be likely to result in significant adverse noise  
10 impacts to any protected areas within the analysis area.

11

12 *Potential Traffic Impacts*

13

14 *Construction*

15 The certificate holder previously describes that construction-related trucks would utilize  
16 Interstate 84 (I-84) to State Route 11 (alternatively from I-84 to State Route 331 to State Route  
17 11), then north to State Route 334 and west to Gerking Flat Road.<sup>69</sup> The designated route does  
18 not intersect with any access routes associated with the protected areas identified in Table 4  
19 above. Council previously found that the temporary increase in traffic would not result in traffic  
20 delays affecting access to protected areas and would not result in a significant adverse impact  
21 to any protected area. For the same reasons, the Council continues to find that construction-  
22 related traffic impacts would not be likely to result in a significant adverse traffic impact to  
23 protected areas within the analysis area.

24

25 *Operation*

26

27 The proposed RFA6 facility modifications would not result in new full time employees or  
28 increased maintenance visits to the site. In addition, typical access routes to the facility would  
29 not intersect or feed into any access routes associated with the protected areas identified in  
30 Table 4 above. For these reasons, the Council finds that operational-traffic impacts would not  
31 impact protected areas within the analysis area.

32

33 *Potential Water Use and Wastewater Disposal Impacts*

34

35 *Construction and Operation*

36

37 The proposed RFA6 facility modifications would utilize water during construction for dust  
38 suppression and road compaction, to be obtained by a third-party contractor, likely from the  
39 City of Helix. The approved water source would not rely on water from any protected areas nor  
40 would it discharge water to any protected areas. The proposed RFA6 facility modifications  
41 would utilize water during operations including blade washing and for fire suppression

---

<sup>68</sup> SWPAMD4 Exhibit X Noise.

<sup>69</sup> SWPAMD4. Final Order on Amendment 4. 2009

1 associated with the proposed BESS. Water would be obtained from the existing onsite, permit  
2 exempt well. Blade washwater would be discharged onsite. However, given the distance from  
3 any protected area to the site boundary or closest area of the proposed RFA6 facility  
4 modifications, the Council finds that the proposed RFA6 facility modifications would not be  
5 likely to result in significant adverse impacts from water use or washwater disposal at any  
6 protected area.

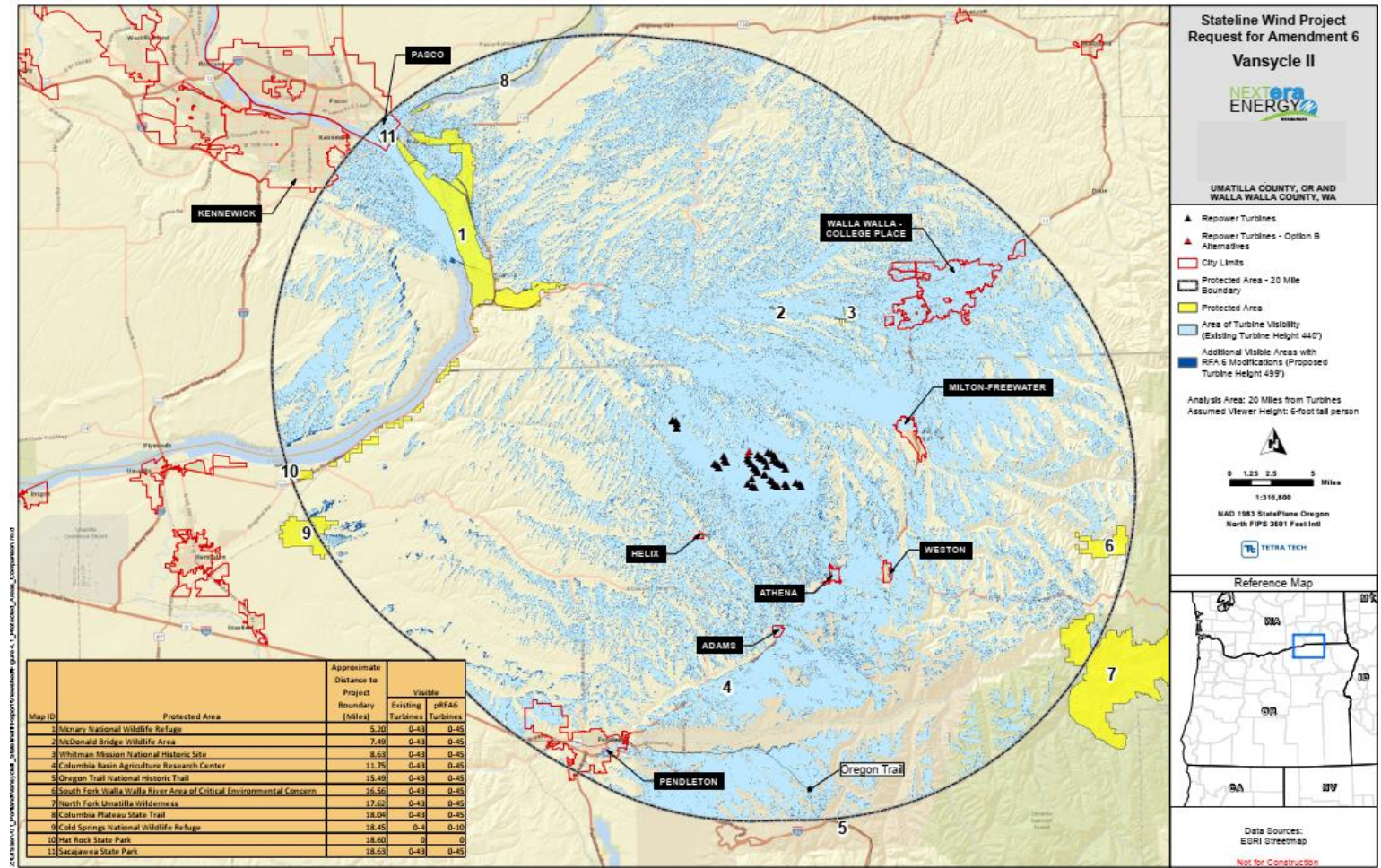
7  
8 *Potential Visual Impacts of Facility Structures*

9  
10 The proposed wind turbine repowering would increase the maximum blade tip height for up to  
11 45 wind turbines from 440 to 499 feet. To support its evaluation of potential worst-case visual  
12 impacts of the proposed repowered wind turbines at protected areas, the certificate holder  
13 completed a comparative “zone of visual influence” (ZVI) analysis, presenting the incremental  
14 increase in visibility of the existing 440-foot wind turbines compared to 499-foot wind turbines,  
15 represented in Figure 4: *Zone of Visual Influence Comparative Analysis* below. The ZVI analysis  
16 addresses potential wind turbine visibility based on topography and does not take into account  
17 screening from vegetation or existing infrastructure in the viewshed.

18  
19 As presented in Figure 4: *Zone of Visual Influence Comparative Analysis* below, area of visibility  
20 for the existing, operational facility extends throughout the entirety of the 20-mile analysis  
21 area. Based on the certificate holder’s ZVI, it is represented that the incremental increase in  
22 visibility from the proposed RFA6 facility modifications at the closest protected area, Whitman  
23 Mission National Historic Site, would be from up to 43 wind turbines to up to 45 wind turbines.  
24 At a distance greater than 8 miles, the extent of visibility from the proposed RFA6 facility  
25 modifications, even with increased visibility from 43 to 45 wind turbines, would not be  
26 expected to result in significant visibility. Based on the distance and minimal amount of  
27 potential visibility, the Council finds that the visual impacts of the proposed RFA6 facility  
28 modifications would not result in a significant adverse impact to this protected area.

29

1 Figure 4: Zone of Visual Influence Comparative Analysis



1 **Conclusions of Law**

2

3 Based on the foregoing findings, the Council concludes that the design, construction and  
4 operation of the facility, with proposed changes in RFA6, would not be likely to result in  
5 significant adverse impacts to any protected areas, in compliance with the Council’s Protected  
6 Area standard.

7

8 **III.G. Retirement and Financial Assurance: OAR 345-022-0050**

9

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

11

12 (1) *The site, taking into account mitigation, can be restored adequately to a useful, non-*  
13 *hazardous condition following permanent cessation of construction or operation of the*  
14 *facility.*

15 (2) *The applicant has a reasonable likelihood of obtaining a bond or letter of credit in a form*  
16 *and amount satisfactory to the Council to restore the site to a useful, non-hazardous*  
17 *condition.*

18

19 **Findings of Fact**

20

21 The Retirement and Financial Assurance standard requires a finding that the site of the facility,  
22 or facility with proposed changes, can be restored to a useful, non-hazardous condition at the  
23 end of the facility’s useful life, should either the certificate holder stop construction or should  
24 the facility cease to operate. In addition, it requires a demonstration that the certificate holder  
25 can obtain a bond or letter of credit in a form and amount satisfactory to the Council to restore  
26 the site to a useful, non-hazardous condition.

27

28 *Restoration of the Site Following Cessation of Construction or Operation*

29

30 OAR 345-022-0050(1) requires the Council to find that the site of a facility, with proposed  
31 changes, can be restored to a useful non-hazardous condition at the end of the facility’s useful  
32 life, or if construction of the facility were to be halted prior to completion. Council previously  
33 evaluated the tasks and actions necessary for restoring the site of the wind facility to a useful,  
34 nonhazardous condition, which are provided below for reference:<sup>70</sup>

- 35 ○ Dismantling all aboveground structures. Nacelles and rotors would be removed from the
- 36 turbine towers, and the towers would be dismantled. Pad-mounted transformers and
- 37 related aboveground equipment would be removed. Concrete tower foundations and
- 38 transformer pads would be removed to a minimum depth of three feet below grade.

---

<sup>70</sup> SWPAMD4 Final Order 2009-03-27; Section 2. Standards about the Applicant (b) Retirement and Financial Assurance.

- 1       ○ Gravel or crushed rock would be removed from adjacent turbine pad areas.
- 2       ○ The O&M building would be removed (or, at the request of the landowner, the building
- 3       might be converted to farm use).
- 4       ○ The 230-kV transmission lines and support structures would be removed. Underground
- 5       transmission lines and SCADA communication cables that are at least three feet below
- 6       grade would be left in place. At a depth of three feet, underground components and
- 7       foundations are not expected to interfere with farming practices.
- 8       ○ All excavated areas would be backfilled with topsoil and the surface would be graded.
- 9       The affected areas, including areas temporarily disturbed during site restoration
- 10      activities, would be replanted with native plant seed mixes or agricultural crops, as
- 11      appropriate, based on the use of surrounding lands. Demolition waste material would
- 12      be transported for disposal at authorized sites.
- 13      ○ For the purposes of the site restoration cost estimate, the Department assumes that
- 14      facility access roads would be removed. Road areas would be restored with topsoil,
- 15      graded and replanted with native plant seed mixes or agricultural crops, as appropriate.
- 16      Access roads might be left in place based on landowner preference.

17

18 The tasks and actions necessary to decommission and restore the site of the proposed BESS  
19 were developed by an Electrical Contractor/Estimator with 13 years of experience generating  
20 cost estimates for Tetra Tech, the certificate holder's consultant, and include the following:<sup>71, 72</sup>

- 21      ○ Batteries would be removed, packaged and transported to an offsite disposal/recycling.
- 22      ○ Remaining system components and structures such as the containers, inverters,
- 23      interconnection facilities (control house, protective device and power transformer), and
- 24      cooling units<sup>73</sup> would be dismantled using industry standard methods, and transported
- 25      to an offsite disposal/recycling facility that accepts the materials.
- 26      ○ Steel pile foundations would be broken to a maximum of three feet below grade,
- 27      excavated and transported to an offsite disposal/recycling facility.
- 28      ○ Underground utilities would be removed to a maximum of three feet below grade and
- 29      transported to an offsite disposal / recycling facility.
- 30      ○ Topsoil would be imported and placed to restore the area to pre-construction grade.
- 31      The area will then be seeded with native vegetation. The affected areas, including areas
- 32      temporarily disturbed during site restoration activities, would be replanted with native

---

<sup>71</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Appendix D.

<sup>72</sup> Transportation of lithium-ion batteries is subject to 49 Code of Federal Regulations 173.185 – Department of Transportation Pipeline and Hazardous Material Administration. SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.13.

<sup>73</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 3.2.

1 plant seed mixes or agricultural crops, as appropriate, based on the use of surrounding  
2 lands.

3  
4 The Department’s review of RFA6, Attachment 4, Section 6.1.7 (Retirement and Financial  
5 Assurance), 4.2 (Materials Analysis), and 6.2.1 (Public Health and Safety Standards for Wind  
6 Energy Facilities) affirms that most of the tasks and actions listed above appear to be  
7 represented in the certificate holder’s cost estimate for the BESS provided in Attachment 4 of  
8 RFA6. However, the Council notes that the removal, decommissioning, and restoration  
9 associated with fencing the 11-acre BESS site and the 7.2 acre area to be graveled to a depth of  
10 6 inches, using approximately 4,160 tons of gravel are not included in the description for  
11 retiring the facility, and these items do not appear to be included in the cost estimate provided  
12 by the certificate holder.<sup>74, 75</sup> This is addressed further below within the discussion of the  
13 retirement cost estimate for the battery storage facility.

14  
15 *Estimated Cost of Site Restoration*

16  
17 OAR 345-022-0050(2) requires the Council to find that the certificate holder continues to have a  
18 reasonable likelihood of obtaining a bond or letter of credit in a form and *amount* necessary to  
19 restore the site of the facility, with proposed changes, to a useful non-hazardous condition  
20 [Emphasis added].

21  
22 RFA6 Exhibit W Attachment 4 Retirement Cost Estimates provides the estimated quantities and  
23 costs associated with the proposed RFA6 facility modifications including the increased turbine  
24 heights and addition of battery storage. Below, the Council presents the turbine height  
25 modifications and the battery storage proposal separately because the unit costs for previously  
26 approved facility components and related or supporting facilities were established and adjusted  
27 from Q1 2009 dollars to Q4 2021; the unit costs for the battery storage components were  
28 adjusted from Q1 2021 (date of the pRFA submittal) to Q4 2021.

29  
30 As discussed in Section II.A., *Requested Amendment*, RFA6 includes repowering, replacing and  
31 addition of up to 45 wind turbines.<sup>76</sup> Table 5: *Vansycle II Wind Project Site Restoration Cost*  
32 *Estimate (1st Quarter 2009 Dollars) No Battery - Adjusted* below provides the estimates for  
33 decommissioning and restoring the site associated with the larger turbine models, and facility  
34 components that were included in Council’s previous approvals. To compare, RFA5 (2019)

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<sup>74</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 4.2.

<sup>75</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.2.1.

<sup>76</sup> Repowered Turbines would feature replacement blades and nacelles on up to 43 existing wind turbines, resulting in maximum dimensions that include an increase in maximum blade-tip height from 440 to 499 feet, reduction in the minimum ground clearance from 85 to 59 feet, increase in hub height from 262.5 to 295 feet, and increase in generating capacity from 2.3 to 2.66 MW. Both new and replacement turbines would not exceed the maximum dimensions of the repowered turbines.

1 Exhibit W represents the retirement estimates for the existing/operating 43 wind turbines. In  
2 RFA5 Exhibit W, the certificate holder demonstrates that there are 9,460 net tons of steel to  
3 remove and transport the 43 operational Siemens 2.3 MW wind turbines, which the Council  
4 notes is approximately 220 tons of steel per turbine.<sup>77</sup> In RFA6, the certificate holder represents  
5 there would be approximately 16,054 net tons of steel to remove and transport the 45 larger  
6 turbines, which is approximately 357 tons of steel per turbine. Based on the Council’s review of  
7 the specifications for the 2.3 MW turbine models, the weight difference between turbine sizes  
8 and quantity of tons of steel represented in Table 5 appear to be reasonable for the larger  
9 turbine specifications.<sup>78</sup> Table 5 below also reflects the minor increase of 0.44 miles of new  
10 roads that would be constructed, used during operation and retired if the new turbines are  
11 added to the facility, as well as an increase in the concrete for the additional foundations.<sup>79</sup>  
12

13 To demonstrate the updated amount necessary to restore the site of the facility, with proposed  
14 changes, to a useful non-hazardous condition, the certificate holder and Council adjusted totals  
15 from the RFA6 cost estimate based on the requirements of existing Condition 109 (discussed  
16 further below).<sup>80</sup> Condition 109 (and the Condition 153) uses the U.S. Gross Domestic Product  
17 Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of Administrative  
18 Services’ “Oregon Economic and Revenue Forecast,” using the index value for 1st Quarter 2009  
19 dollars and the quarterly index value for the date of issuance of the new bond or letter of  
20 credit, or in this case, 4<sup>th</sup> Quarter 2021. The Council provides an adjustment factor of 1.218  
21 below in Table 5 to provide the cost estimate in fourth Quarter 2021 dollars.  
22

23 The adjusted total estimate (Q4 2021) for the proposed changes to wind turbines, to restore  
24 the site of the facility to a useful non-hazardous condition would be \$6,439,000 million. As  
25 discussed further below, the total estimate (Q4 2021) for the proposed added battery storage,  
26 to restore the site of the facility to a useful non-hazardous condition would be \$467,000. The  
27 combined total bond amount to restore the facility and its related or supporting facilities would  
28 be \$6,906,000 million. The Council notes that in compliance with Condition 153, prior to  
29 repowering construction, the certificate holder would update their bond or letter of credit to  
30 reflect the turbine configuration they would construct and depending on if they remove,  
31 replace, or add turbines and the battery storage, the cost estimate may be less than what is  
32 represented here.<sup>81</sup>  
33  
34

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<sup>77</sup> 18 Vansycle II Exhibit W FRFA, Attachment W-1. Cost Estimate for Facility Site Restoration.

<sup>78</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Appendix G1 Siemens Wind Turbine SWT-2.3-108\_EN\_508

<sup>79</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 3.1 and Section 3.5.

<sup>80</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Attachment 4. Retirement Cost Estimates.

<sup>81</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.7.

**Table 5 : Vansycle II Wind Project Site Restoration Cost Estimate  
(1st Quarter 2009 Dollars) No Battery - Adjusted**

<b>Cost Estimate Component</b>	<b>Unit</b>	<b>Quantity</b>	<b>Unit Cost</b>	<b>Total</b>
<b>Turbines and Towers</b>				
Disconnect electrical, ready for disassembly	Per Turbine	45	\$1,051	\$47,295
Remove turbine blades and hubs	Per Tower	45	\$4,112	\$185,040
Remove turbine nacelles and towers	Per Net Ton Steel	16,054	\$78.45	\$1,259,436
Transport and unload scrap	Per Net Ton Steel	16,054	\$26.48	\$425,110
<b>Foundation and Pad Areas</b>				
Remove and load pad transformers	Per Tower	45	\$2,430	\$109,350
Remove turbine foundations	Per Cubic Yard Concrete	1,302	\$35.24	\$45,875
Restore turbine turnouts	Per Tower	45	\$102	\$4,590
			<b>Total</b>	<b>\$2,076,697</b>
<b>Substation</b>				
Dismantle and dispose of substation	Per Unit	1	\$58,635	\$58,635
			<b>Total</b>	<b>\$58,635</b>
<b>Met Towers</b>				
Dismantle and dispose of met towers	Per Tower	2	\$7,816	\$15,632
			<b>Total</b>	<b>\$15,632</b>
<b>Collector System</b>				
Remove junction boxes	Each	9	\$1,418	\$12,762
			<b>Total</b>	<b>\$12,762</b>
<b>O&amp;M Facility</b>				
Dismantle and dispose of O&M facility	Per Unit	1	\$12,726	\$12,726
			<b>Total</b>	<b>\$12,726</b>
<b>Transmission Lines</b>				
Remove 230-kV transmission line	Per Mile	13	\$18,261	\$237,393
			<b>Total</b>	<b>\$237,393</b>
<b>Access Roads</b>				
Road removal, grading and seeding	Per Mile	23.44	\$17,547	\$411,302
			<b>Total</b>	<b>\$411,302</b>
<b>Temporary Areas</b>				
Restore areas disturbed during restoration work	Per Acre	321	\$2,978	\$955,938
			<b>Total</b>	<b>\$955,938</b>
<b>General Costs</b>				
Permits, mobilization, engineering, overhead, utility disconnects		1	\$465,536	\$465,536
			<b>Total</b>	<b>\$465,536</b>
<b>Subtotal</b>				<b>\$4,246,621</b>
<b>Subtotal Adjusted to Current Dollars</b>	<b>1.218</b>	<b>Adjustment Factor</b>	<b>Q4 2021</b>	<b>\$5,312,522</b>
Performance Bond @		1%		\$53,125



**Table 5 : Vansycle II Wind Project Site Restoration Cost Estimate  
(1st Quarter 2009 Dollars) No Battery - Adjusted**

Cost Estimate Component	Unit	Quantity	Unit Cost	Total
<b>Gross Cost (Adjusted)</b>				<b>\$5,365,648</b>
Administration and Project Management @		10%		\$536,565
Future Developments Contingency @		10%		\$536,565
<b>Total Site Restoration Cost (current dollars)</b>				<b>\$6,438,777</b>
<b>Total Site Restoration Cost (rounded to nearest \$1,000)</b>				<b>\$6,439,000</b>

1  
 2 Table 6: *Vansycle II Wind Project Site Restoration Cost Estimate (1st Quarter 2021 Dollars)*  
 3 *Battery Only - Adjusted* below outlines the primary battery decommissioning steps derived from  
 4 RFA6 Attachment 4. As presented in Table 6, the unit costs are provided in vary depending on  
 5 the component or task described. For instance, the decommissioning for the battery units is per  
 6 MW and includes removal and disposal of the storage containers, loading, transporting and  
 7 disposing the batteries themselves, removal of inverters, interconnection facilities, and steel  
 8 pile foundations. The costs for spot grading (importing topsoil to restore the area to pre-  
 9 construction grade) and re-seeding with native vegetation are a per acre for the 11-acre area.

10  
 11 The Council notes here that the certificate holder does not provide a basis for these costs, but  
 12 as referenced above the cost estimate was generated by a professional estimator and the costs  
 13 are generally consistent with tasks, actions, and totals associated with other battery storage  
 14 facilities that Council has approved.<sup>82</sup> As outlined above, in RFA6 the certificate holder omits a  
 15 discussion of and costs associated with the removal, decommissioning, and restoration of the  
 16 11-acre BESS site fence and the 7.2 acres area to be graveled to a depth of 6 inches, using  
 17 approximately 4,160 tons of gravel. To ensure that these tasks would be complete upon final  
 18 cessation of the proposed BESS and reflected in the certificate holders’ bond or letter of credit,  
 19 the Council adds this as a task/action in addition to the certificate holder designated tasks,  
 20 actions and costs provided below in Table 5: *Vansycle II Wind Project Site Restoration Cost*  
 21 *Estimate (1st Quarter 2021 Dollars) Battery Only – Adjusted*. The Council provides the fence  
 22 removal and removal of the gravel, which includes equipment mobilization and disposal, as a  
 23 lump sum total in the amount of \$150,000 based on the Council’s estimates to complete these  
 24 tasks.

25

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<sup>82</sup> Decommissioning costs for other EFSC battery storage systems (without contingencies): \$413,922 Bakeoven Final Order 2020-04-24, \$279,024 Wheatridge Wind Energy Facility Final Order on Request for Amendment 2 2018-12-14.

1 Based on review of the decommissioning tasks, actions, and costs provided by the certificate  
 2 holder in RFA6 and the Council’s review of decommissioning tasks, actions, and costs for other  
 3 approved facilities with battery storage systems, and the added costs for removing fencing and  
 4 gravel from the site, the Council finds that the certificate holder’s cost estimate for  
 5 decommissioning and site restoration of the proposed BESS would be satisfactory for restoring  
 6 the site to a useful, nonhazardous condition.  
 7

**Table 6: Vansycle II Wind Project Site Restoration Cost Estimate (1st Quarter 2021 Dollars)  
 Battery Only - Adjusted**

<b>Cost Estimate Component</b>	<b>Unit</b>	<b>Quantity</b>	<b>Unit Cost</b>	<b>Total</b>
<b>Battery Storage</b>				
DC Storage System Retirement	MW	50	\$3,129	\$156,455
Spot Grade Disturbed Areas	Per Acre	11	\$585	\$6,437
Remove Fencing and Remove/Haul Gravel	Lump Sum	1	\$150,000	\$150,000
Re-Seed with Native Vegetation	Per Acre	11	\$500	\$5,500
Contractor Markups	Lump Sum	1	\$27,599	\$27,599
			<b>Total</b>	<b>\$345,991</b>
<b>Subtotal</b>				<b>\$345,991</b>
<b>Subtotal Adjusted to Current Dollars</b>	<b>1.027</b>	<b>Q4 2021</b>		<b>\$355,332</b>
Performance Bond @	1%			\$3,553
<b>Gross Cost (Adjusted to Q4 2021)</b>				<b>\$358,886</b>
Administration and Project Management @	10%			\$35,889
Future Developments Contingency for Battery @	20%			\$71,777
<b>Total Site Restoration Cost (current dollars)</b>				<b>\$466,551</b>
<b>Total Site Restoration Cost (rounded to nearest \$1,000)</b>				<b>\$467,000</b>

8  
 9 Historically, Council applied either a 10 or 20 percent future development contingency for  
 10 facilities. A higher future development contingency is typically applied by Council for facilities of  
 11 facility components with potentially hazardous subsurface impacts and uncertainty of  
 12 regulatory requirements for hazardous materials and cleanup costs. As such, the Council applies  
 13 a 20 percent future development contingency to the proposed BESS. Council has historically  
 14 applied a 10 percent future development contingency for the wind facility components, which  
 15 the Council maintains, given that the proposed changes would not result in changes in the  
 16 likelihood in potentially hazardous subsurface impacts.  
 17

18 The decommissioning cost estimate for the proposed RFA6 facility modifications, as presented  
 19 in Tables 5 and 6 above, total \$6,906,000 million, including Council’s applied contingencies.

1 Based on the analysis presented above, the Council finds that \$6,906,000 million is a  
2 satisfactory amount for restoring the site, including the changes proposed in RFA6, to a useful,  
3 non-hazardous condition.

4  
5 Council previously imposed Condition 109 requiring that, prior to construction of Vansycle II  
6 facility components, the certificate holder submit to the Department a bond or letter of credit  
7 in the amount of \$5.9 million, to be adjusted for inflation to present day (at the time of  
8 construction) and then annually for the operational life of the facility. Based on the proposed  
9 RFA6 facility modifications, the Vansycle II bond or letter of credit needs to be updated and  
10 reflected in a site certificate condition. Based on adjustments made to the initial bond or letter  
11 of credit, and to contingencies associated with the BESS, the Council amends existing Condition  
12 109 to account for the proposed RFA6 facility modifications , as presented below:<sup>83</sup>

13  
14 **Amended Condition 109:**

15 i. Before beginning construction of facility modifications approved in the Sixth  
16 Amended Site Certificate, the certificate holder shall submit to the State of Oregon  
17 through the Council a bond or letter of credit in the amount described herein  
18 naming the State of Oregon, acting by and through the Council, as beneficiary or  
19 payee. The initial bond or letter of credit amount for Vansycle II, with modifications  
20 approved in the Final Order on Amendment 6, is \$6,906,000 million (in 4<sup>th</sup> Quarter  
21 2021 dollars) to be adjusted to the date of issuance and submitted within 60 days of  
22 execution of the Sixth Amended Site Certificate, and adjusted on an annual basis  
23 thereafter, as described in sub-paragraph (a) ~~of this condition. . The certificate~~  
24 ~~holder shall adjust the amount of the bond or letter of credit on an annual basis~~  
25 ~~thereafter as described in (b).~~

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

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

35 (i) Adjust the Subtotal component of the initial bond or letter of credit amount  
36 (expressed in 4<sup>th</sup> Quarter 2021 dollars) and to present value, using the U.S.  
37 Gross Domestic Product Implicit Price Deflator, Chain-Weight, as published in  
38 the Oregon Department of Administrative Services' "Oregon Economic and  
39 Revenue Forecast," or by any successor agency (the "Index") and using the

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<sup>83</sup> SWPAMD6Doc15 DPO Comment (NEER) 2021-12-16. SWPAMD6Doc21 EFSC DPO Review. 2021-12-17.

1 index value for 4<sup>th</sup> Quarter 2021 and the quarterly index value for the date of  
2 issuance of the new bond or letter of credit. If at any time the Index is no  
3 longer published, the Council shall select a comparable calculation to adjust  
4 4<sup>th</sup> Quarter 2021 dollars to present value.

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

7 (iii) Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration  
8 and project management costs, and 10 percent of the adjusted Gross Cost (ii)  
9 for the adjusted future developments contingency, and 20 percent of the  
10 adjusted Gross Cost (ii) for the adjusted future developments contingency for  
11 the battery storage system, if constructed.

12 (iv) Add the adjusted Gross Cost (ii) to the sum of the percentages (iii) to  
13 determine the adjusted Full Cost, and round the resulting total to the nearest  
14 \$1,000 to determine the adjusted financial assurance amount.

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

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

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

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

25 [Amendment #4, #6]

26 Based upon compliance with amended Condition 109, the Council finds that the certificate  
27 holder has demonstrated an ability to restore the site of the facility, with proposed changes,  
28 based on an amount satisfactory to Council.

29  
30 *Ability of the Applicant (Certificate Holder) to Obtain a Bond or Letter of Credit*

31  
32 OAR 345-022-0050(2) requires the Council to find that the applicant (certificate holder) has a  
33 reasonable likelihood of obtaining a bond or letter of credit in a *form* and amount necessary to  
34 restore the proposed facility site to a useful non-hazardous condition [Emphasis added]. A bond  
35 or letter of credit provides a site restoration remedy to protect the state of Oregon and its  
36 citizens if the certificate holder fails to perform its obligation to restore the site. The bond or  
37 letter of credit must remain in force until the certificate holder has fully restored the site. OAR  
38 345-025-0006(8) establishes a mandatory condition to ensure compliance with this  
39 requirement, which was imposed and will be maintained through amended Condition 109.  
40

1 The Department confirmed for Council that the certificate holder has maintained compliance  
2 with existing Condition 109 and Condition 41 which stipulates bond surety requirements for  
3 compliance with Council rules and other legal obligations, to which the certificate holder has  
4 maintained compliance with. On June 30, 2021, the certificate holder obtained and provided to  
5 the Department a bond for \$4,903,000 million that met the requirements of applicable  
6 conditions. The Council relies on the fact that the certificate holder currently maintains an  
7 active bond, in the amount of \$4.9 million with the Department for the existing Vansycle II, to  
8 find that the certificate holder has demonstrated the ability to obtain a bond or letter of credit  
9 in a form and amount satisfactory to the Council to restore the site to a useful, nonhazardous  
10 condition.

11

### 12 **Conclusions of Law**

13

14 Based on the foregoing findings of fact, and subject to compliance with existing and amended  
15 conditions, the Council finds that the certificate holder would continue to comply with the  
16 Council’s Retirement and Financial Assurance standard.

17

### 18 **III.H. Fish and Wildlife Habitat: OAR 345-022-0060**

19

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

22

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

25

### 26 **Findings of Fact**

27

28 The Fish and Wildlife Habitat standard requires the Council to find that the design, construction  
29 and operation of a proposed facility, or facility with proposed changes, is consistent with the  
30 Oregon Department of Fish and Wildlife’s (ODFW) habitat mitigation policy, goals, and  
31 standards, as set forth in OAR 635-415-0025. The ODFW Habitat Mitigation Policy and EFSC Fish  
32 and Wildlife Habitat standard creates requirements to mitigate impacts to fish and wildlife  
33 habitat, based on the quantity and quality of the habitat as well as the nature, extent, and  
34 duration of the potential impacts to the habitat. The policy also establishes a habitat  
35 classification system based on value the habitat would provide to a species or group of species.  
36 There are six habitat categories; Category 1 being the most valuable and Category 6 the least  
37 valuable.

38

39 The analysis area for potential fish and wildlife habitat impacts used to evaluate RFA6, is the  
40 area within and extending ½-mile from the site boundary of Vansycle II. In the Final Order on  
41 RFA5, Habitat Categories 1, 2, 3, 4, and 6 were found to occur within the site boundary of

1 Vansycle II, and the corresponding ½-mile analysis area from the site boundary. The Habitat  
2 Categorization for RFA6 did not change from what was previously identified in RFA5. The  
3 Council previously addressed the Fish and Wildlife Habitat standard in the Final Order on the  
4 ASC, Amendment 1, Amendment 2, Amendment 3, Amendment 4, and most recently in the  
5 Final Order on Amendment 5.

6  
7 Council previously imposed numerous conditions (conditions 52, 53, 54, 56, 63, 64, 65, 68, 69,  
8 70, 89, 90, 91, 93, 94, 107, 112, 114, 115, 116, 117, 121, and 131) to ensure compliance with  
9 the general fish and wildlife habitat mitigation goals and standards. Where applicable, the  
10 Council adopts administrative changes be made to conditions that reference Stateline 3. In  
11 RFA5, Stateline 3 was renamed as Vansycle II. Additional administrative amendments to existing  
12 conditions would include updating references to attachments, so that the reference  
13 corresponds with the attachment numbering of this order. The Council finds that these  
14 administrative changes would not substantively change the intent of the previously imposed  
15 condition.

16  
17 In RFA6, the certificate holder states that “All previously imposed Council conditions for fish  
18 and wildlife habitat and applicable Threatened and Endangered Species conditions (see Table 5  
19 [of RFA6]) apply to RFA 6.”<sup>84</sup>

#### 20 21 *Habitat Types and Categories in the Analysis Area*

22  
23 To identify potential habitat category and types within areas of the proposed RFA6 facility  
24 modifications, the certificate holder relied upon the analysis provided on the record of RFA5,  
25 including both field and desktop surveys. As further discussed below, habitat types and  
26 categories that may be impacted by RFA6 modifications include: Category 3 Grassland;  
27 Category 4 Grassland; and Category 6 Dryland agriculture and Developed land.

#### 28 29 *Potential Impacts to Habitat*

30  
31 In RFA6, the certificate holder explains that the repowering would require a larger temporary  
32 disturbance area than evaluated for RFA5.<sup>85</sup> As presented in Table 7: *Estimated Temporary and*  
33 *Permanent Habitat Impacts, by Category, for Proposed RF6 Facility Modifications*, the proposed  
34 facility modifications would temporarily disturb approximately 4 acres of Category 3 habitat  
35 (Grassland), 0.2 acres of Category 4 habitat (Grassland), and 206.6 acres of Category 6 habitat  
36 (Dry Agriculture and developed). The proposed RFA6 facility modifications, including the  
37 footprint of up to five new turbine foundations, a service road to connect the new turbines, and  
38 the proposed battery storage location, would permanently disturb 12.1 acres of Category 6 dry

---

<sup>84</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.8.6.

<sup>85</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.8.2.

1 agriculture habitat, however, under ODFW’s policy Category 6 habitat does not require any  
 2 mitigation resulting from impacts to that habitat.

3

**Table 7: Estimated Temporary and Permanent Habitat Impacts, by Category, for Proposed RFA6 Facility Modifications**

Habitat Category	Temporary Impacts <sup>1</sup>	Permanent Impact <sup>2</sup>	Calculated Mitigation Area
	Acres		
<b>Proposed RFA6 Facility Modifications</b>			
Category 3 (Grassland)	4	0	0
Category 4 (Grassland)	0.2	0	0
Category 6 (Dry Agriculture)	168.9	12.1	0
Category 6 (Developed)	37.7	0	0
<b>Total Area =</b>	<b>210.9</b>	<b>12.1</b>	<b>0</b>
<b>Notes:</b>			
1. Temporal impact mitigation is based on a 1:1 ratio for Category 2, a 0.5:1 acre ratio of Category 3 and 4 and zero for Category 6.			
2. Permanent impact mitigation is based on a 2:1 ratio for Category 2, a 1:1 acre ratio of Category 3 and 4 and zero for Category 6.			

4

5 *Habitat Mitigation*

6

7 As presented in Table 7: *Estimated Temporary and Permanent Habitat Impacts, by Category, for*  
 8 *Proposed RFA6 Facility Modifications*, the proposed RFA6 facility modifications would not result  
 9 in permanent habitat impacts. Although existing Condition 112 addresses mitigation for  
 10 permanent impacts of Vansycle II on wildlife habitat, the requirement for the certificate holder  
 11 to conduct a habitat assessment would not apply to the RFA6 facility modifications due to the  
 12 lack of permanent habitat impacts. Any impacts to Category 6 habitat would not require habitat  
 13 mitigation under the standard, as Category 6 is agricultural lands.

14

15 As presented in Table 7: *Estimated Temporary and Permanent Habitat Impacts, by Category, for*  
 16 *Proposed RFA6 Facility Modifications*, proposed RFA6 facility modifications would result in  
 17 approximately 4.2 acres of temporary impacts to Category 3 and 4 grasslands. To mitigate these  
 18 temporary habitat impacts, the certificate holder would implement and adhere to the  
 19 requirements of a Revegetation Plan per Condition 65. As presented in Attachment E of this  
 20 order, the Council amends the Revegetation Plan to require that, prior to proposed RFA6 facility  
 21 modifications, the certificate holder consult with ODFW and the Department on a vegetation  
 22 survey protocol; and, then based on the protocol, complete a vegetation survey within  
 23 grassland habitat areas located within areas to be disturbed. This vegetation survey would then  
 24 be used to inform the selection of representative reference and monitoring sites, and baseline

1 conditions for which to evaluate the success criteria of the existing plan. The revegetation  
2 success criteria requires that the certificate holder demonstrate that revegetated areas have a  
3 composition of desirable vegetation stem density that is greater than, or equal to, a reference  
4 site.

5  
6 In addition, in order for the revegetation of temporary impacts to grassland habitats to be  
7 successful, the certificate holder must monitor and control for noxious weeds. To ensure that  
8 the certificate holder has a plan for noxious weed control, the Council imposes the following  
9 condition requiring that the certificate holder, prior to construction, submit a draft plan to the  
10 Department, for review and approval, in consultation with the Umatilla County Road  
11 Department. During the review, and prior to approval of the plan, the Department and Umatilla  
12 County Road Department may request modifications as necessary to ensure that the plan  
13 adequately addresses and provides a plan for monitoring and control of noxious weeds within  
14 areas to be disturbed by the proposed RFA6 facility modifications.<sup>86</sup>

15  
16 **Condition 156:** For facility modifications approved in the Sixth Amended Site Certificate,  
17 the certificate holder shall:

- 18 (a) Prior to construction, submit to the Department, a Noxious Weed Control Plan. The  
19 certificate holder shall submit the plan to the Department for review and approval,  
20 in consultation with the Umatilla County Road Department. The Noxious Weed  
21 Control Plan shall include, as pertinent, but not be limited to, identification of  
22 county-listed weeds of economic concern, methods for evaluating weeds within  
23 impact area, results of weed assessment, and control methods specific to weed  
24 control and timing, agency consultation protocol, and process for evaluating success  
25 of weed control.
- 26 (b) During both construction and operation, adhere to the requirements of the Noxious  
27 Weed Control Plan approved per (a).
- 28 (c) During construction and operation, report on the results of implementation and  
29 monitoring of noxious weed control to the Department in the semi-annual and  
30 annual reports required per OAR 345-026-0080.

31 [Amendment #6]

32  
33 The Council finds that based on compliance with the amended draft Revegetation Plan, to be  
34 finalized (i.e. final seed mix, protocol) prior to construction of the proposed RFA6 facility  
35 modifications, and above-referenced condition, that the certificate holder has the ability to  
36 meet or be consistent with the habitat mitigation goals for Category 3 and 4 temporary  
37 impacts.

38  
39 *State Sensitive Species*

---

<sup>86</sup> SWPAMD6Doc21 EFSC DPO Review 2021-12-17.



1  
2 In RFA6, the certificate holder relied upon the previous desktop review completed for the 2019  
3 RFA5 to identify State Sensitive species with the potential to occur within the RFA6 analysis  
4 area. The 2019 desktop review evaluated ODFW’s 2016 Sensitive Species List, and identified  
5 suitable habitat within the analysis area for: 18 State-sensitive species (including 3 reptiles, 10  
6 birds, and 5 bat species). Of these State-sensitive species, presence was confirmed for the  
7 following: 3 birds and 1 bat; and presence was expected or identified as having a potential to  
8 occur for the following additional State-sensitive species: 4 birds and 4 bats. The certificate  
9 holder states that the list of state sensitive wildlife species has not changed from RFA5 and the  
10 same species are expected to occur. The certificate holder states that the active Swainson’s  
11 hawk nest is approximately 0.25 miles from proposed RFA6 ground disturbance.<sup>87</sup>

12  
13 *Potential Impacts to State Sensitive Species*

14  
15 In RFA6, the certificate holder states that in accordance with Condition 53, coordination with  
16 ODFW and ODOE would occur to determine if construction restrictions will apply in the vicinity  
17 of the Swainson’s hawk nest. As mentioned above, Council previously imposed Conditions 53,  
18 54, 55 and 56 which would require pre-construction raptor nest, burrowing owl, and Special-  
19 status species surveys. These conditions would continue to apply to the proposed RFA6 facility  
20 modifications and would minimize potential impacts to State-sensitive species. Additionally,  
21 existing Condition 93 which requires the certificate holder to conduct wildlife monitoring as  
22 described in the Wildlife Monitoring and Mitigation Plan (WMMP), would continue to apply.  
23 However, the Council amends the WWMP as provided as Attachment F of this DPO to update  
24 fatality monitoring based on current industry standards. Additionally, Council previously  
25 imposed Conditions 65 and 91 which define specific mitigation measures for the certificate  
26 holder to implement during construction (Condition 65), and operation (Condition 91) to  
27 reduce or avoid impacts to wildlife habitat.

28  
29 The Council finds that subject to the previously imposed, amended, and new conditions,  
30 impacts from the proposed RFA6 facility modifications would be mitigated consistent with the  
31 EFSC Fish and Wildlife Habitat standard and ODFW’s Fish and Wildlife Habitat mitigation policy;  
32 and that the facility, with requested changes, continues to comply with the EFSC Fish and  
33 Wildlife Habitat standard.

34

---

<sup>87</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.8.3

1 **Conclusions of Law**  
2

3 Based on the foregoing findings of fact and conclusions, and subject to compliance with existing  
4 and new site certificate conditions, the Council finds that the proposed RFA6 facility  
5 modifications would comply with the Council’s Fish and Wildlife Habitat standard.  
6

7 **III.I. Threatened and Endangered Species: OAR 345-022-0070**  
8

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

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

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

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

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

28 **Findings of Fact**  
29

30 The Threatened and Endangered Species standard requires the Council to find that the design,  
31 construction, and operation of the facility, with proposed changes, are not likely to cause a  
32 significant reduction in the likelihood of survival or recovery of a fish, wildlife, or plant species  
33 listed as threatened or endangered by ODFW or Oregon Department of Agriculture (ODA). For  
34 threatened and endangered plant species, the Council must also find that the facility, with  
35 proposed changes, is consistent with an adopted protection and conservation program from  
36 ODA. Threatened and endangered species are those listed under ORS 564.105(2) for plant  
37 species and ORS 496.172(2) for fish and wildlife species. For the purposes of this standard,

1 threatened and endangered species are those identified as such by either the ODA or the  
2 Oregon Fish and Wildlife Commission.<sup>88</sup>

3  
4 The analysis area for threatened or endangered plant and wildlife species used to evaluate  
5 RFA6 is the area within and extending five miles from the site boundary of Vansycle II.  
6

7 *Potential Impacts to Identified Threatened and Endangered Species*  
8

9 In RFA6, based on available data including previous surveys completed in 2008 (for RFA4), 2018  
10 (in support of RFA5), and 2021 surveys completed in support of RFA6, the certificate holder  
11 confirmed that neither of the two T&E plant species previously identified to have the potential  
12 to occur in Umatilla County - northern wormwood and Lawrence’s milkvetch, are present in the  
13 disturbance footprint of the proposed RFA6 facility modifications. Active colonies of  
14 Washington Ground Squirrel (WGS), the only state listed threatened wildlife species that could  
15 occur within the analysis area of RFA6, were not found in proximity to proposed RFA6 facility  
16 modifications.  
17

18 Council previously imposed Conditions 69, 107, and 121, which would require the certificate  
19 holder to implement a Resource Impact Avoidance and Mitigation Plan to reduce and mitigate  
20 the impacts to WGS habitat, including avoidance of Category 1 habitat. These conditions would  
21 continue to apply to the proposed RFA6 facility modifications, and would minimize potential  
22 impacts to Identified Threatened and Endangered Species. In RFA6, the certificate holder states  
23 that “All previously imposed Council conditions for threatened and endangered species apply to  
24 RFA6.”<sup>89</sup>  
25

26 The Council concludes that because the 2021 WGS survey did not find any active colonies, sign,  
27 or potential burrows within the survey area, and continued compliance with the  
28 aforementioned existing Conditions (69,107, and 112), no new impacts to threatened and  
29 endangered species are expected to result from RFA6 facility components. the proposed RFA6  
30 facility modifications would not be likely to cause a significant reduction in the likelihood or  
31 survival of any species listed as threatened or endangered.  
32

---

<sup>88</sup> Although the Council’s Threatened and Endangered Species standard does not address federally-listed threatened or endangered species, a certificate holder must comply with all applicable federal laws, including laws protecting those species, independent of the site certificate.

<sup>89</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.9.

1 **Conclusions of Law**

2  
3 Based on the foregoing findings of fact and conclusions, and subject to compliance with the  
4 existing site certificate conditions, the Council finds that proposed RFA6 facility modifications  
5 would comply with the Council’s Threatened and Endangered Species standard.  
6

7 **III.J. Scenic Resources: OAR 345-022-0080**

8  
9 *(1) Except for facilities described in section (2), to issue a site certificate, the Council*  
10 *must find that the design, construction and operation of the facility, taking into*  
11 *account mitigation, are not likely to result in significant adverse impact to scenic*  
12 *resources and values identified as significant or important in local land use plans,*  
13 *tribal land management plans and federal land management plans for any lands*  
14 *located within the analysis area described in the project order.*  
15

16 **Findings of Fact**

17  
18 The Scenic Resources standard requires the Council to find that the facility, or facility with  
19 proposed changes, would not be likely to cause a significant adverse impact to identified scenic  
20 resources and values. To be considered under the standard, scenic resources and values must  
21 be identified as significant or important in local land use plans, tribal land management plans,  
22 and/or federal land management plans.  
23

24 The analysis area for scenic resources includes the area within and extending 10 miles from the  
25 site boundary. The certificate holder identifies that there are no lands administered by tribal  
26 governments within the analysis area.  
27

28 *Applicable Land Use Plans*

29  
30 Prior analysis conducted for RFA5 (Exhibit R) found nine applicable federal and local land use  
31 management plans within the 10-mile analysis area of the facility. In RFA6, the certificate  
32 holder identifies that four of the nine plans have been updated since RFA5 (NPS 2021, Walla  
33 Walla County 2019, WDFW 2019, Umatilla County 2018). A review of these updates conducted  
34 for RFA6 did not identify additional scenic resources or include provisions that would warrant  
35 changes to the previous analyses of scenic resources.<sup>90</sup> The nine management plans are:  
36

- 37
- 38 • Superintendent’s Compendium, Whitman Mission National Historic Site, 2018. (Federal)
  - 39 • Comprehensive Plan for Umatilla County; Open Space, Scenic and Historic Areas, and  
Natural Resources Element; Amended 1987 (Local)

---

<sup>90</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.10.

- 1 • Comprehensive Plan for the City of Helix, Amended 2006
- 2 • Comprehensive Plan for the City of Athena, Amended 1998
- 3 • Comprehensive Plan for the City of Adams, Amended 2003
- 4 • Comprehensive Plan for the City of Weston, Amended 2015
- 5 • Comprehensive Plan for the City of Milton-Freewater, Amended 1999
- 6 • 2007 Integrated Comprehensive Plan and FEIS for Walla Walla County, Updated 2009
- 7 • Blue Mountains Wildlife Area Complex 2014 Management Plan Update (McDonald
- 8 Bridge Wildlife Area)

9  
10 Based on review of above-listed land use plans, four of the nine plans have been updated since  
11 2018, which represents Council’s previous evaluation of compliance with this standard. (NPS  
12 2021, Umatilla County 2018, Walla Walla County 2019, WDFW 2019; additional resources  
13 reviewed include City of Adams 2003, City of Athena 1998, City of Helix 2006, City of Milton-  
14 Freewater 1999, City of Milton-Freewater 2020, City of Weston 2015, Umatilla County 1984,  
15 and WDFW 2021). ODOE’s review of these updates did not identify additional scenic resources  
16 or include provisions that warrant changes to the previous analyses of scenic resources.<sup>91</sup>

17  
18 None of the above-referenced plans identify any specific scenic resources as significant or  
19 important, or identify development criteria or restrictions that would apply to managing the  
20 resource for its significant or important scenic qualities. Therefore, the Council finds that the  
21 proposed RFA6 facility modifications would not impact scenic resources.

### 22 **Conclusion of Law**

23  
24  
25 Based on the above findings of fact, the Council finds that the proposed RFA6 facility  
26 modifications would continue to comply with the Council’s Scenic Resources standard.

### 27 **III.K. Historic, Cultural, and Archaeological Resources: OAR 345-022-0090**

28  
29  
30 *(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the*  
31 *Council must find that the construction and operation of the facility, taking into account*  
32 *mitigation, are not likely to result in significant adverse impacts to:*

33  
34 *(a) Historic, cultural or archaeological resources that have been listed on, or would*  
35 *likely be listed on the National Register of Historic Places;*

36  
37 *(b) For a facility on private land, archaeological objects, as defined in ORS*  
38 *358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c); and*  
39

---

<sup>91</sup>SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.10.

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

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

7                   \*\*\*

8  
9                   **Findings of Fact**

10  
11                   Subsection (1) of the Historic, Cultural and Archaeological Resources standard, OAR 345-022-  
12                   0090, requires the Council to find that the facility is not likely to result in significant adverse  
13                   impacts to identified historic, cultural, or archaeological resources. Pursuant to OAR 345-022-  
14                   0090(2), the Council may issue a site certificate for a facility that would produce power from  
15                   wind energy without making findings regarding the Historic, Cultural and Archeological  
16                   standard; however, the Council may impose site certificate conditions based upon the  
17                   requirements of the standard.

18  
19                   This standard is intended to protect the public interest in preserving historic, cultural or  
20                   archaeological resources, including sites listed on, or eligible for listing on, the National Register  
21                   of Historic Places (NRHP). To comply with this standard, the Council must find that the  
22                   certificate holder has conducted appropriate surveys within areas of potential impact to  
23                   identify historic, cultural or archaeological resources. If the project involves construction that  
24                   would affect an archaeological site, then the certificate holder may need a permit from the  
25                   State Historic Preservation Office (SHPO) in addition to the site certificate. If previously  
26                   unidentified sites or archaeological objects are discovered during construction, site certificate  
27                   conditions typically require an immediate halt to site-disturbing activities until a qualified  
28                   archaeologist can examine the site to ensure significant historic, cultural or archaeological  
29                   resources are protected.

30  
31                   Under this standard Council is required to consider information about historic, cultural and  
32                   archaeological resources. Information concerning the location of archaeological sites or objects  
33                   may be exempt from public disclosure under ORS 192.345(11). The certificate holder must  
34                   submit such information separately, clearly marked as “confidential,” and shall request that the  
35                   Department and the Council keep the information confidential to the extent permitted by law.  
36                   The applicant must include information in Exhibit S or in confidential submissions providing  
37                   evidence to support a finding by the Council as required by OAR 345-022-0010(1)(s)(A)-(E).  
38                   Consistent with the analysis area for RFA 5, the project order, is the area within the site  
39                   boundary; and the area within and extending 1for RFA 6 is defined as the area that could be

1 temporarily disturbed during repowering.<sup>92</sup> No additional archaeological survey was requested  
2 by SHPO. At the request of SHPO, a historic properties inventory survey was conducted for  
3 RFA6. The reconnaissance-level historic properties inventory area included the analysis area  
4 and a one-mile from the site boundary for above-ground historic resources.<sup>93</sup>

5  
6 *Reviewing Agency Coordination*

7 Coordination with SHPO and CTUIR was initiated by the Department on August 12, 2021.

8 Written comments from CTUIR were received by the Department on pRFA6 on August 29, 2021.  
9 CTUIR comments included the observations that there were new, un-surveyed areas impacted  
10 by the proposed amendment, and the fact that the surveys and reports relied upon for cultural  
11 resources are over 10 years old and should not be relied upon for RFA6. Specifically, CTUIR  
12 identified cultural resources of significance to the CTUIR as identified in a confidential  
13 traditional use study completed by CTUIR for Stateline 3 in 2010.<sup>94</sup> As part of any ground  
14 disturbing work associated with RFA6, CTUIR requested a cultural resources monitor be on site  
15 to monitor the work.<sup>95</sup>

16  
17 The Department coordinated with SHPO on Thursday August 26, 2021 with written comments  
18 received on September 20, 2021. Based upon the SHPO request for completion of a built  
19 environment inventory for the Analysis area, the certificate holder completed the inventory and  
20 submitted a report for SHPO review on November 12, 2021. Follow up consultation with SHPO  
21 occurred on the findings of this report on November 19, 2021.<sup>96</sup> Final SHPO review and  
22 comment, dated December 13, 2021, agreed that none of the identified four historic era  
23 properties were eligible for NRHP listing under Criteria A, B or C and the one potentially-eligible  
24 under Criteria D, would not be affected by the changes proposed in RFA6.<sup>97</sup> Results of agency  
25 consultation are incorporated into the findings of fact below.

26  
27 *Description of Discovery Measures*

28 The certificate holder's discovery measures should be based on reviewing agency coordination,  
29 as described above. For RFA6, the certificate holder completed an updated desktop review via  
30 Oregon SHPO's Oregon Archaeological Records Remote Access (OARRA) and Historic Sites  
31 databases. No additional archaeological survey work was performed for RFA6. Additionally, as  
32 no prior historic resources inventory had been conducted for this facility, and at request of

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<sup>92</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Attachment 9: Historic Properties Inventory.

<sup>93</sup> Id.

<sup>94</sup> Steinmetz, Shawn. Traditional Use Study for Stateline 3 Wind Project. CTUIR 2010.

<sup>95</sup> SWPAMD6Doc19 CTUIR Comments 2021-08-26.

<sup>96</sup> Jason Allen, SHPO, Personal communication. 2021-11-19.

<sup>97</sup> SWPAMD6Doc11-2. SHPO Comment Letter. 2021-12-13.

1 SHPO, a historic resources reconnaissance level historic properties inventory was conducted for  
2 RFA6 for the analysis area (Rooke 2021)<sup>98</sup>.

3  
4 The purpose of this historic resources survey, conducted in November 2021, was two-fold. First  
5 to document the presence of historic properties within the analysis area and within the  
6 viewshed that was designated by the State Historic Preservation Office (SHPO) as a one-mile  
7 buffer surrounding the analysis area. Second, the survey was to identify any significant  
8 potential impacts to such resources that would result from the construction, operation, and  
9 retirement of the proposed amendment.<sup>99</sup>

10

11 *Results of Discovery Measures*

12 *Archaeological Resources*

13

14 No additional archaeological field survey was conducted for RFA6. During the desktop review  
15 for RFA6, two small areas of the potential disturbance area were found to extend beyond  
16 previously surveyed areas, as indicated in OARRA (see Map 4 in Confidential Attachment 7). The  
17 easternmost area is 0.12-acre and the westernmost is 0.5-acre. These areas are within existing  
18 and maintained access roads associated with the existing project. These areas were disturbed  
19 during construction of the previous projects and were monitored by CTUIR Professional  
20 Archaeologists for archaeological resources at that time (Steinmetz 2009). No other cultural  
21 resources were identified in these areas during construction monitoring. Areas of previous  
22 ground disturbance were monitored during construction and yielded no new archaeological  
23 resources.<sup>100</sup>

24

25 One previously identified archaeological site has been identified as a result of archaeological  
26 surveys and monitoring conducted for the previous Vansycle/Stateline projects: 35UM 00343.  
27 The site is a segment of a decommissioned, historic railroad grade, with portions incorporated  
28 into existing and surrounding agricultural fields and area roads. The portions of the railroad  
29 grade within the facility site boundary are currently used as an active, graded road. The site is  
30 unevaluated for NRHP-eligibility.

31

32 RFA6 also identified two additional archaeological resources within the analysis area: isolated  
33 find (archaeological object) 092312-08-I, a basalt projectile point fragment in an agricultural  
34 field, is 46.75 meters from a proposed new access road. Isolates are not eligible for the NRHP.  
35 Archaeological site 35UM 00435, historic refuse scatter in an agricultural field, is 743.35 feet

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<sup>98</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Attachment 9: Historic Properties Inventory.

<sup>99</sup> Id.

<sup>100</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.11.



1 from the disturbance footprint of a turbine pad.<sup>101</sup> This site is unevaluated for the NRHP. It is  
2 also entirely avoided during RFA6 activities.

3

4

#### *Historic Resources*

5 At the request of Oregon SHPO, the certificate holder completed a built environment/historic  
6 resources inventory for the Analysis area for RFA6 (Rooke 2021).<sup>102</sup> A Reconnaissance-Level  
7 Historic Properties Inventory was performed for the Analysis area and submitted to ODOE and  
8 Oregon SHPO. The nearest historic buildings are over 3 miles from the site boundary.<sup>103</sup>

9 At the request of Oregon SHPO, the certificate holder completed a built environment/historic  
10 resources inventory (Rooke 2021).<sup>104</sup> As part of the inventory, a desktop and Reconnaissance-  
11 Level Historic Properties Inventory were performed. During this review, four tax parcels within  
12 one mile of the analysis area were identified that contained historic buildings. Each of these  
13 parcels was surveyed from the public right-of-way to document the buildings and evaluate their  
14 significance and eligibility for listing on the NRHP.

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#### *Potential Impacts to Archeological Sites*

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Apart from the construction of up to two new turbines, replacement of four existing turbines,  
and the construction of the BESS, the ground disturbance footprint of repowering activities  
would be limited to previously disturbed, and monitored, areas.<sup>105</sup>

Potential impacts to the one identified archeological resource (35UM 000343) within the  
analysis area includes direct impacts. Direct impacts to the resource would include temporary  
disturbance associated with temporary road and laydown area construction. This resource and  
similar impacts from Stateline 3 (Vansycle II) construction have been previously evaluated by  
Council, where impacts associated with temporary construction were determined to be less  
than significant because the impacts were consistent with the current use of the resource at  
the time, a graded road. No new impacts to this resource were identified under RFA6 review

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<sup>101</sup> Id.

<sup>102</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Attachment 9: Historic Properties Inventory.

<sup>103</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.11.

<sup>104</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Attachment 9: Historic Properties Inventory.

<sup>105</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.11.

1 and as a result, impacts from RFA6 activities should be consistent with those previously  
2 approved by Council. Council previously required a cultural resources monitor for work in the  
3 vicinity of 35UM 000343. The historic site has been previously monitored for archaeological  
4 resources during construction, and while it remains unevaluated, historic materials were  
5 observed during past monitoring activities (Steinmetz 2009). This site is not being avoided as it  
6 is currently a road and is planned for use in RFA6 activities and remains unevaluated for NRHP  
7 eligibility.

8  
9 Site 35UM00435 and the archaeological isolate are both avoided by RFA6 activities by more  
10 than 30 meters (Site Certificate Condition 75) and as a result would not be impacted by RFA6  
11 activities.

### 12 *Potential Impacts to Historic Resources*

14 Based on the results of the discovery measures, the four newly-identified historic-era resources  
15 within the analysis area were all determined as likely not eligible historic properties under  
16 NRHP Criterion A, B or C. One of the four was documented to have potential under Criteria D,  
17 as an historic archaeological site but because it was on private property, outside the site  
18 boundary, and is being avoided during RFA6 activities it was not surveyed or evaluated for  
19 NRHP eligibility under Criteria D.<sup>106</sup> None of these properties will be directly impacted by RFA6  
20 activities and none of them were assessed to be likely eligible for NRHP listing as historic  
21 resources. Coordination with the Oregon SHPO to review the findings of the historic resources  
22 inventory occurred on November 19, 2021. SHPO accepted the findings of the historic  
23 resources inventory and agreed the properties were not eligible for NRHP listing<sup>107</sup>.

### 24 *Protection Measures to Avoid Impacts*

25  
26  
27 Previous construction activities in the vicinity of 35UM 000343 was monitored by the certificate  
28 holder for archaeological resources during use, and while unevaluated, historic materials were  
29 observed in the past use of this area. In RFA6, the certificate holder represents that the site  
30 would not be avoided as it is currently a road and is planned for use. For this reason, the  
31 Council imposes the following condition to require a cultural resources monitor for activities  
32 within the 30 meter buffer of 35UM 000343 during RFA6 construction activities, as presented  
33 below:

34  
35 **Condition 157: During ground-disturbance activities associated with the facility**  
36 **modifications approved in the Sixth Amended Site Certificate, located within 30 meters**  
37 **of site 35UM 000343, the certificate holder shall conduct monitoring by a qualified**

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<sup>106</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Attachment 9: Historic Properties Inventory.

<sup>107</sup> SWPAMD6Doc11-2. SHPO Comment Letter. 2021-12-13.

1 cultural resource expert, unless the site is concurred by SHPO to be not likely NRHP-  
2 eligible. If additional archeological resources are identified during ground disturbing  
3 activities within 30 meters of site 35UM 000343, the certificate holder shall conduct  
4 stop-work, reporting and response procedures in accordance with its Inadvertent  
5 Discovery Plan. [Amendment #6]  
6

7 Council previously imposed Condition 142 to require adherence to the requirements of the  
8 Inadvertent Discovery Plan, as presented below:  
9

10 **Condition 142:** During construction of Vansycle II facility modifications, as approved in the  
11 Sixth Amended Site Certificate, the certificate holder shall:

- 12 (a) Ensure all construction personnel receive environmental awareness training from a  
13 qualified professional on cultural resources and the inadvertent discovery protocols of  
14 the Inadvertent Discovery Plan.
- 15 (b) Implement and adhere to Inadvertent Discovery Plan measures previously approved in  
16 Condition 75 in the event previously unidentified cultural resources are encountered,  
17 as referenced in (i) – (iv) of this condition.
- 18 (i) The Inadvertent Discovery Plan shall establish that earth-disturbing activities be  
19 halted in the immediate vicinity of the find, in accordance with Oregon state law  
20 (ORS 97.745 and 358.920).
- 21 (ii) Within 24-hours of the find, the certificate holder shall notify the Department,  
22 SHPO and the Confederated Tribes of the Umatilla Indian Reservation (CTUIR).
- 23 (iii) The certificate holder shall have a qualified archaeologist evaluate the discovery  
24 and recommend subsequent courses of action in consultation with the CTUIR and  
25 the SHPO.
- 26 (iv) If human remains are discovered, the certificate holder shall halt all construction  
27 activities in the immediate area and shall notify the Department, SHPO, CTUIR, the  
28 County Medical Examiner and the State Police. [Amendment #5, #6]  
29

### 30 Conclusions of Law

31

32 Based on the foregoing analysis and subject to compliance with existing and new site certificate  
33 conditions, and in compliance with OAR 345-022-0110(2), the Council concludes that the  
34 facility, with proposed changes in RFA6, complies with the Historic, Cultural and Archaeological  
35 Resources standard.

### 36 **III.L. Recreation: OAR 345-022-0100**

37

38 *(1) Except for facilities described in section (2), to issue a site certificate, the Council must*  
39 *find that the design, construction and operation of a facility, taking into account*  
40 *mitigation, are not likely to result in a significant adverse impact to important*  
41 *recreational opportunities in the analysis area as described in the project order. The*

1            *Council shall consider the following factors in judging the importance of a recreational*  
2            *opportunity:*

- 3  
4            *(a) Any special designation or management of the location;*  
5            *(b) The degree of demand;*  
6            *(c) Outstanding or unusual qualities;*  
7            *(d) Availability or rareness;*  
8            *(e) Irreplaceability or irretrievability of the opportunity.*  
9            *\*\*\**

10  
11    **Findings of Fact**

12  
13    The Recreation standard requires the Council to find that the design, construction, and  
14    operation of a facility would not likely result in significant adverse impacts to “important”  
15    recreational opportunities. Therefore, the Council’s Recreation standard applies only to those  
16    recreation areas that the Council finds to be “important,” utilizing the factors listed in the sub-  
17    paragraphs of section (1) of the standard. The importance of recreational opportunities is  
18    assessed based on five factors outlined in the standard: special designation or management,  
19    degree of demand, outstanding or unusual qualities, availability or rareness, and irreplaceability  
20    or irretrievability of the recreational opportunity.

21  
22    In accordance with OAR 345-001-0010(59)(d) and consistent with the study area boundary, the  
23    analysis area for recreational opportunities is the area within and extending 5 miles from the  
24    site boundary.

25  
26    **Recreational Opportunities within the Analysis Area**

27  
28    The certificate holder conducted a literature review of the following online sources to confirm  
29    the presence of recreational opportunities within the 5-mile analysis area:<sup>108</sup>

- 30  
31        • Geographic Information System files and web maps documenting recreational resources  
32        obtained from key recreation provider agencies, including the Bureau of Land  
33        Management (BLM 2018), Oregon Parks and Recreation Department (OPRD; OPRD  
34        2018), and Oregon Department of Fish and Wildlife (ODFW 2016).  
35        • Comprehensive plans, park and recreation plans, and internet sites prepared by OPRD  
36        and by counties and municipal governments within the Analysis Area (ORBIC 2015;  
37        Umatilla County 2017; Walla Walla County 2009)  
38

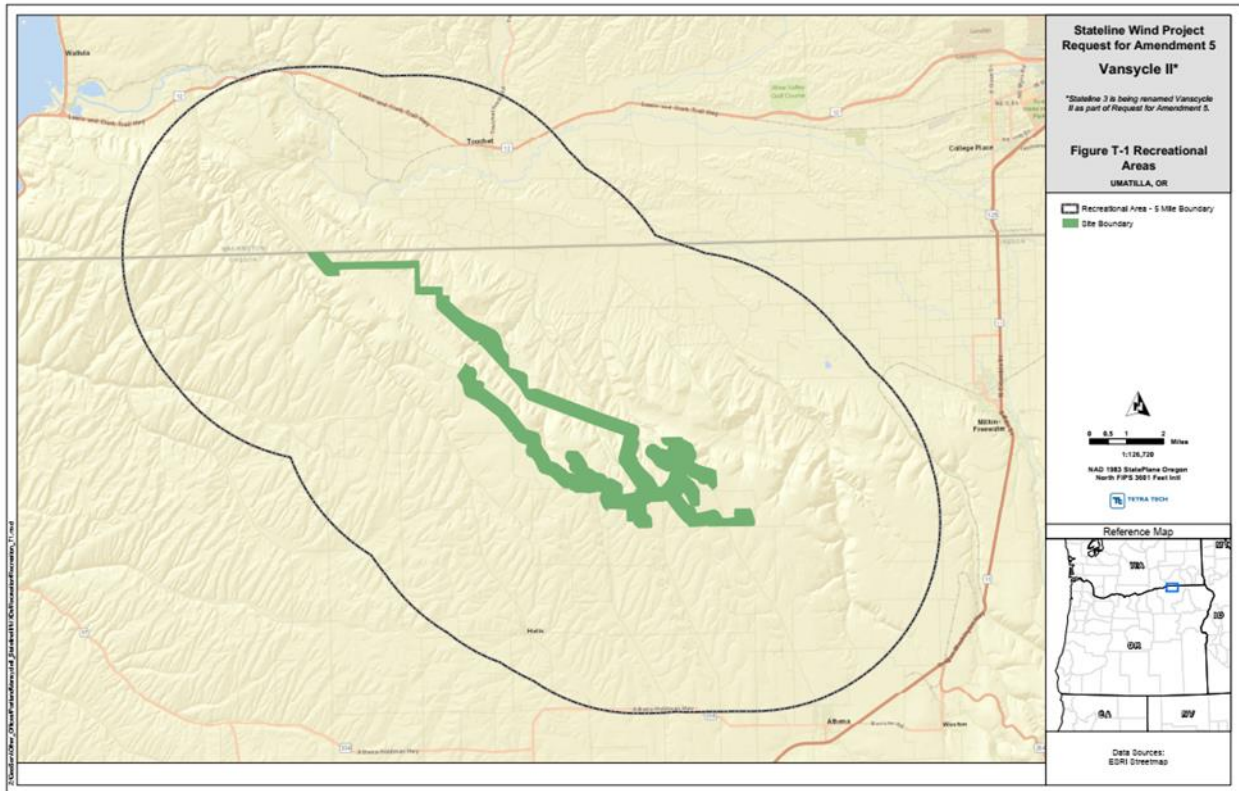
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<sup>108</sup> SWPAMD5 RFA5 Exhibit T. 2019-01-09.

1 RFA6 relies upon the analysis conducted for RFA5 for this standard. RFA5 Figure T-1 Exhibit T  
2 shows the location of the facility and the analysis area for recreational resources with no  
3 recreational areas identified.

4

5 **Figure 5: Recreational Areas in 5-mile Analysis Area**



6

7

8 Based on the certificate holder's literature review and Figure 5 above, because there are no  
9 recreational opportunities within the 5-mile analysis area, the Council finds that the proposed  
10 RFA6 facility modifications would not be likely to result in any impacts under the Recreation  
11 standard.

12

### 13 **Conclusions of Law**

14

15 Because there are no recreational opportunities within the analysis area, the Council finds that  
16 the proposed RFA6 facility modifications would continue to comply with the Council's  
17 Recreation standard.

18

### 19 **III.M. Public Services: OAR 345-022-0110**

20

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

7  
8           *(2) The Council may issue a site certificate for a facility that would produce power from*  
9           *wind, solar or geothermal energy without making the findings described in section (1).*  
10          *However, the Council may apply the requirements of section (1) to impose conditions on*  
11          *a site certificate issued for such a facility.*

12          \*\*\*

13          **Findings of Fact**

14  
15          The Public Services standard requires the Council to find that the facility, with proposed  
16          changes, is not likely to result in significant adverse impacts on the ability of public and private  
17          service providers to supply sewer and sewage treatment, water, stormwater drainage, solid  
18          waste management, housing, traffic safety, police and fire protection, health care, and schools.  
19          Pursuant to OAR 345-022-0110(2), the Council may issue a site certificate for a facility that  
20          would produce power from wind energy without making findings regarding the Public Services  
21          standard; however, the Council may impose site certificate conditions based upon the  
22          requirements of the standard.

23  
24          The analysis area for the Public Services standard includes the area within and extending 10  
25          miles from the site boundary.

26  
27          The analysis conducted in Exhibit U of RFA 5 was reviewed to assess relevant changes to the  
28          affected public and private services providers for the proposed RFA 6 Facility modifications. No  
29          changes were identified for the affected sewer and water services, stormwater drainage, solid  
30          waste management, police and fire protection, health care, and schools. Since Exhibit U was  
31          prepared in 2018, updated population and housing supply and availability data and new traffic  
32          count and pavement condition data have been published for the Analysis Area. Tables U-1 and  
33          U-2 in Attachment 11 provide updated population and housing supply and availability data from  
34          the 2020 census for the four-county area of influence as analyzed in Exhibit U of RFA 5 (Umatilla  
35          County in Oregon and Walla Walla, Benton, and Franklin Counties in Washington) (U.S. Census  
36          Bureau 2020). Traffic volumes and pavement conditions were also updated in Tables U-3 and U-  
37          4 in Attachment 11 (ODOT 2016, 2017, 2018, 2019, 2020a, 2020b, 2021). The population of the  
38          four-county area of influence increased by 13 percent between 2010 and 2020, compared to a  
39          statewide increase of 10.6 percent in Oregon and 14.6 percent in Washington.<sup>109</sup>

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<sup>109</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.13.

1  
2 *Important Assumptions Used to Evaluate Potential Impacts to Public/Private Providers of Public*  
3 *Services*

4  
5 Important assumptions relied upon by the certificate holder in RFA6, and RFA5 through  
6 incorporation by reference, for the evaluation of potential impacts to public/private providers  
7 of public services are as follows:

- 8  
9
- 10 • Construction duration would extend 10 months, approximately March through  
11 December
  - 12 • Peak number of construction workers would be 150
  - 13 • Workers would include a mix of locally-hired and workers within commutable distance  
14 (Morrow and southern Union County)
  - 15 • Temporary workers will likely settle in hotels, motels, campgrounds, recreational  
16 vehicle (RV) parks, and temporary rental housing, located within a commutable  
17 distance to the Facility.<sup>110</sup> Additional workers required for the maintenance of the BESS  
18 will be contractors from outside of the area.
  - 19 • Transportation routes would include east or westbound Interstate 84 (I-84), to State  
20 Route (SR) 11, north onto Havana-Helix Highway, which becomes Vansycle Canyon  
21 Road to the north of the town of Helix, then northeast on Butler Grade Road
  - 22 • Construction-related haul trips would include approximately 70 one-way trips per day
  - 23 • Construction-water demand is estimated at 55,000 gallons per day, and 3.5 million  
24 gallons total, likely provided by the City of Helix
  - 25 • Non-recyclable construction-related waste materials would be disposed at the Finley  
26 Butte Regional Landfill
  - 27 • Wind turbine blades, hubs and other removed wind turbine components would be  
28 reused or recycled to the maximum extent practicable (Condition 145)
  - 29 • Operational water use would not increase as a result of operations, beyond allowable  
30 limits of 5,000-gallon per day for permit exempt well (ORS 537.545(1)(f))

31 III.M.1. Sewer and Water Services

32  
33 The proposed RFA6 facility modifications would generate sewage during construction from  
34 construction workers.<sup>111</sup> Council previously imposed Condition 73 requiring that the certificate  
35 holder provide portable toilets for onsite sewage handling during construction and ensure that  
36 they are pumped and cleaned regularly by a licensed pumper who is qualified to pump and  
37 clean portable toilet facilities. Because construction-related sewage would be managed in

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<sup>110</sup> SWPAMD5 RFA5, Exhibit U, Section 3.4.1. 2019-01-09.

<sup>111</sup> SWPAMD5 RFA5, Exhibit U, Section 3.4.2. 2019-01-09.

1 accordance with Condition 73 and would not require interconnection to existing public or  
2 private sewage infrastructure, the Council finds that there would not likely be a significant  
3 impact to sewage service providers.

4  
5 The existing facility includes an O&M building equipped with a permitted onsite septic system.  
6 The proposed RFA6 facility modifications would not increase the existing number of permanent  
7 full-time employees at the site. Therefore, operation of the facility, with proposed changes,  
8 would not result in increased sewage generation or need for public or private sewage service  
9 providers. Because there would not be operational-related sewage, the Council finds that there  
10 would not likely be a significant impact to sewage service providers.

11  
12 The proposed RFA6 facility modifications would use water during construction for road and  
13 earthwork compaction and dust suppression. In RFA6, the certificate holder describes that  
14 water use would be the same as evaluated in RFA5. In RFA5, based on the certificate holder's  
15 technical personnel familiar with repowering wind facilities for the 2018 repower scenario  
16 (RFA5), the estimated daily and maximum water use is up to 55,000 gallons per day, and 3.5  
17 million gallons total. The certificate holder describes that the water source would likely be the  
18 City of Helix and provided the City of Helix's water right (G-11438) in RFA5 Exhibit O  
19 Attachment O-2, demonstrating the City of Helix's right to provide 0.67 cubic feet per second  
20 for municipal use within specific places of use. Municipal water use means use of water through  
21 the water service system of a municipal corporation for, among other uses, commercial water  
22 use and industrial water use.<sup>112</sup> "Industrial water use" is defined under OAR 690-300-0010(25)  
23 as the use of water associated with the processing or manufacture of a product, such as the  
24 construction, operation, and maintenance of an industrial site like a solar facility. Therefore, the  
25 Council finds that construction-related water use qualifies as a municipal use under OWRD rules  
26 and therefore is allowable within the City of Helix's water right.

27  
28 To ensure that water use from proposed RFA6 facility modifications would not impact the City  
29 of Helix's ability to provide water services, the Council imposes the following condition to  
30 ensure that the certificate holder, or its contractor, has an agreement with City of Helix, or  
31 other water service provider, demonstrating that the provider can meet the certificate holder's  
32 water demand while maintaining an adequate level of service:

33  
34 **Condition 158: Prior to construction of facility modifications approved in the Sixth**  
35 **Amended Site Certificate, the certificate holder shall provide to the Department a copy**  
36 **of an agreement or similar conveyance with a water service provider demonstrating**

---

<sup>112</sup> OAR 690-300-0010 (29) "Municipal Water Use" means the delivery and use of water through the water service system of a municipal corporation for all water uses usual and ordinary to such systems. Examples of these water uses shall include but are not limited to domestic water use, irrigation of lawns and gardens, commercial water use, industrial water use, fire protection, irrigation and other water uses in park and recreation facilities, and street washing. Such uses shall not include generation of hydroelectric power.



1 agreement of water usage and service at the site. Certificate holder shall provide  
2 documentation that the water provider has a valid water right which allows for  
3 municipal water use within the place of use of the facility. [Amendment #6]  
4

5 The proposed RFA6 facility modifications would use water during operations for blade washing  
6 at 500 gallons per turbine<sup>113</sup> and 350-gallon water buffaloes at the BESS (see Condition 34).  
7 Council previously imposed Condition 88 to address blade-washing during operations.  
8 Condition 88 limits blade-washing water use to 500 gallons of water per turbine, and  
9 establishes that the water may be trucked to the site by a contractor and purchased from a  
10 source with a valid water right.<sup>114</sup> In RFA6, the certificate holder represents that it would  
11 continue to comply with this condition. In RFA6, the certificate holder describes that  
12 operational water would continue to be provided by its on-site well (Condition 130). Based on  
13 compliance with previously imposed conditions and because the certificate holder has  
14 represented that operations of the proposed RFA6 facility modifications would not result in  
15 increased water demand of public/private service providers, the Council finds that the  
16 proposed RFA6 facility modifications would not likely result in significant impacts to any water  
17 service providers ability to provide service.

### 18 19 III.M.2. Stormwater Drainage

20  
21 The proposed RFA6 facility modifications would not require new or modified stormwater  
22 drainage facilities nor interconnect to existing private or public stormwater drainage  
23 infrastructure.<sup>115</sup> The existing facility utilizes its own stormwater management system. Based  
24 on these facts, the Council finds that the proposed RFA6 facility modifications would not likely  
25 result in significant impacts to public or private stormwater drainage service providers.

### 26 27 III.M.3. Solid Waste Management

28  
29 The proposed RFA6 facility modifications would generate solid waste including non-hazardous  
30 packaging associated with equipment, concrete waste, removed wind turbine blades, erosion  
31 control materials (i.e. straw bales and silt fencing), and assorted battery storage parts. Council  
32 previously imposed Condition 144 which requires that the certificate holder's third-party  
33 contractor reuse or recycle wind turbine blades, hubs, and other removed turbine components  
34 to the extent practicable. These quantities of wind turbine components to be recycled, reused,  
35 sold for scrap, and disposed of are required to be reported in the semiannual report.<sup>116</sup>  
36 Additionally, Council previously imposed Condition 71 requiring that the certificate holder

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<sup>113</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.13.

<sup>114</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.13.

<sup>115</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.13.

<sup>116</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, RAI2 Responses Table, RAI-17.

1 implement a Waste Management Plan during construction, ensuring that recyclable materials  
2 are recycled to the maximum extent possible.

3  
4 For non-recyclable, non-hazardous waste, the certificate holder would rely on the Finley Buttes  
5 Regional Landfill, near Pendleton, which is the closest waste management facility to the facility,  
6 and is owned by Waste Connections, Inc, and Arlington facility. In RFA6 Attachment 2, the  
7 certificate holder provides a 2017 brochure for the Arlington facility, which demonstrates that  
8 the facility has remaining capacity of 3.7 million cubic yards. While specific quantities of non-  
9 hazardous and hazardous waste have not been provided, based on compliance with previously  
10 imposed Conditions 71 and 145 and the documented capacity of the landfill, the Council finds  
11 that the proposed RFA6 facility modifications would not likely result in significant impacts to  
12 public or private solid waste management service providers.

13  
14 III.M.4. Housing

15  
16 There was a slight increase in the number of total housing units across the four-county area of  
17 influence from 2010 to 2020 as compared to the 2016 estimates. The largest localized area of  
18 population and housing growth occurred in the Tri-Cities area (Pasco, Richland, and Kennewick)  
19 of Washington. Across the four-county area of influence, housing vacancy rates in 2020 ranged  
20 from 2.8 percent in Pasco, Washington to 22.1 percent in the small community of Helix,  
21 Oregon. While populations increased more than was estimated in Exhibit U of RFA 5, the four-  
22 county average housing vacancy rate of 6.1 percent is only slightly lower than the previous  
23 2016 estimate of 7.2 percent.<sup>117</sup> The proposed RFA6 facility modifications would result in up to  
24 150 workers during the forecasted 10-month construction phase, which could impact housing  
25 availability within the analysis area. The certificate holder expects for temporary workers to  
26 either be local, live within a commutable distance, or be from other areas requiring temporary  
27 housing. The certificate holder assumes up to 100 workers would need temporary housing from  
28 either motel rooms, camping spaces, or rental units per month within Adams or Milton-  
29 Freewater, which based on 2016 housing data, have a 9 to 10 percent vacancy rate.<sup>118</sup>

30  
31 The previously evaluated peak number of workers needed during construction will continue to  
32 represent a worst-case scenario related to impacts to public services. Based on the housing  
33 information and vacancy rate (see RFA6, Attachment 11, Table U-2), there is an adequate  
34 supply of local housing and temporary accommodations in the four-county area of influence for  
35 the expected construction Facility demand.

36  

---

<sup>117</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.13.

<sup>118</sup> SWPAMD5, RFA5, Exhibit U, Section 3.4.5.1. 2019-01-09.

1 The proposed RFA6 facility modifications would not result in new, full-time employees and  
2 therefore no demand for new or temporary housing.<sup>119</sup> Council has previously determined that  
3 the facility could meet this standard without conditions. The Council finds that operation of the  
4 proposed RFA6 facility modifications would not likely result in significant impacts to public or  
5 private providers of housing services.

6  
7 III.M.5. Traffic and Transportation Safety  
8

9 The expected primary transport routes during proposed RFA6 facility modifications includes I-  
10 84 and SR 11. Construction related traffic from the proposed RFA6 facility modifications on  
11 these routes is expected to include up to 35 round-trip haul truck trips per day and up to 150  
12 round-trip passenger vehicle trips per day.<sup>120</sup>  
13

14 To evaluate whether construction related traffic would impact traffic service providers ability to  
15 provide service, the certificate holder obtained traffic volumes from 2017-2020 for each  
16 milepost segment of I-84 and SR 11 within the 10-mile analysis area from the Oregon  
17 Department of Transportation's (ODOT) traffic volume website. Based on RFA6 Appendix E  
18 Table U-4, traffic volumes on the portions of I-84 and SR 11 that could be used during  
19 construction of the proposed RFA6 facility modifications have decreased since 2016 to 2020  
20 from 0.7 to 8 percent.  
21

22 In RFA6, the certificate holder represents its review of an ODOT Pavement Condition report, to  
23 determine the pavement conditions of the portions of I-84 and SR 11 that could be used during  
24 proposed RFA6 facility modifications. RFA6 Appendix E Table U-4 shows pavement conditions  
25 for the roadways that could be used as a transport route, and are represented as ranging from  
26 fair to very good.<sup>121</sup>  
27

28 Council previously imposed conditions to reduce traffic impacts in Condition 61(I), limiting  
29 construction traffic to reduce erosion; Condition 77, requiring traffic controls during  
30 construction; Condition 45, requiring that the certificate holder's contractors enter into an  
31 agreement with Umatilla County for facility-related road use repairs; and Condition 81,  
32 requiring restoration of county roads to pre-project conditions. Condition 143 was added as  
33 part of AMD5 to further reduce potential traffic-related impacts:  
34

35 **Condition 143:**

36 During construction of the Vansycle II facility modifications, as approved in the Fifth  
37 Amended Site Certificate, the certificate holder shall:

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<sup>119</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.13.

<sup>120</sup> SWPAMD5, RFA5, Exhibit U, Section 3.4.6.1. 2019-01-09.

<sup>121</sup> Id.

- 1 (a) Provide notice to adjacent landowners when repowering takes place to help
- 2 minimize access disruptions;
- 3 (b) Provide proper road signs and warnings, including “Oversized Load,” “Truck Access,”
- 4 or “Road Crossings;”
- 5 (c) Implement traffic diversion equipment, such as advance signs and pilot cars
- 6 whenever possible when slow or oversized loads are being hauled;
- 7 (d) Encourage carpooling for the workforce to reduce traffic volume;
- 8 (e) Employ flag persons as necessary to direct traffic when large equipment is exiting or
- 9 entering public roads to minimize risk of accidents; and
- 10 (f) Maintain at least one travel lane so that roadways will not be closed to traffic
- 11 because of vehicles entering or exiting public roads.[Amendment #5]
- 12

13 Based on decreased traffic volumes of the primary haul routes, and the temporary, short-term  
14 nature of construction-related traffic impacts in combination of with compliance with the  
15 requirements of the above-referenced conditions, the Council finds that construction-related  
16 traffic impacts associated with the proposed RFA6 facility modifications would not be likely to  
17 result in significant impacts to public or private providers of transportation service providers.

18  
19 During operation of the proposed RFA6 facility modifications, potential impacts to traffic  
20 service providers would include additional risk/hazards from transportation of lithium-ion  
21 batteries. Transportation of lithium-ion batteries is subject to federal regulations under 49 Code  
22 of Federal Regulations 173.185 – Department of Transportation Pipeline and Hazardous  
23 Material Administration. Transport of lithium-ion batteries must be conducted by certified and  
24 qualified contractors according to manufacturer’s instructions (see Condition 149).

25  
26 Based on compliance with federal regulations, reflected in Condition 149, the Council finds that  
27 operational-related traffic impacts associated with the proposed RFA6 facility modifications  
28 would not be likely to result in significant impacts to public or private providers of  
29 transportation service.

30  
31 III.M.6. Police and Fire Protection

32  
33 Proposed RFA6 facility modifications would result in some increased demand for police and fire  
34 protection during construction and operation. During construction, there would be temporary  
35 increases in population and fire-risk related activities. During operations, there would be some  
36 additional risk from the proposed BESS that could result in increased fire and police protection  
37 demands.

38  
39 Local police service is provided by most of the incorporated communities in the analysis area.  
40 The certificate holder would seek assistance from the Umatilla County Sheriff’s Office in  
41 Pendleton for police service when required. Backup law enforcement service is available from

1 the Oregon State Police, through the Southern Command Center Dispatch that supports 15  
2 counties, including Umatilla County. Fire protection services for the analysis area would include,  
3 in order of nearest proximity: the Athena Volunteer Fire Department, the East Umatilla County  
4 Rural Fire Department in Weston, and the Milton-Freewater Rural Fire Department.<sup>122</sup> The  
5 Milton-Freewater rural fire department will provide fire protection for the facility, continuing a  
6 contract that is automatically renewed for the Facility upon annual payment (FPL Energy  
7 Vansycle LLC 2017).

8  
9 The addition of a BESS adds an additional aspect to the analysis for fire protection. Lithium-ion  
10 batteries have the potential to ignite and cause fires. Water has been shown to be the most  
11 effective fire suppressant for lithium-ion batteries due to its ability to both extinguish the fire  
12 and remove excess heat. Transportation of lithium-ion batteries is subject to 49 Code of Federal  
13 Regulations 173.185 – Department of Transportation Pipeline and Hazardous Material  
14 Administration. The regulations include requirements for prevention of fire, a dangerous  
15 evolution of heat, prevention of short circuits, prevention of damage to the terminals, and  
16 require that no battery come in contact with other batteries or conductive materials.

17  
18 NextEra has an ongoing contract with Milton-Freewater Fire and Rescue to provide fire and  
19 ambulance services in the Facility area. If required for an emergency, backup law enforcement  
20 would be available from the Pendleton Area Command Oregon State Police, and from local  
21 police in the surrounding jurisdictions (Milton-Freewater and Hermiston).

22  
23 Neither repowering nor operations, or the workforce associated with either, is expected to  
24 result in an increase in fires or in other needs for fire protection services beyond the ability of  
25 the local fire departments to provide those services. During the facility repowering, there could  
26 be some risk of accidental grass fires on the site. There is an increased potential of fire risk  
27 associated with the BESS. In addition to fire, the transport and storage of lithium-ion batteries  
28 carries risks of dangerous evolution of heat, short circuits, damage to the terminals, and risks  
29 associated with contact with other conductive materials. Transportation of lithium-ion batteries  
30 requires compliance with 49 Code of Federal Regulations 173.185 – Department of  
31 Transportation Pipeline and Hazardous Material Administration.<sup>123</sup>

32  
33 The proposed on-site fire protection measures are consistent with battery manufacturer  
34 recommendations and are consistent with fire codes. For example, for preconstruction  
35 compliance, the certificate holder provided ODOE a copy of the contract with the Milton-  
36 Freewater Rural Fire Department for fire protection services during construction and operation  
37 (per Condition 33). On-site employees would continue to receive annual fire prevention and

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<sup>122</sup> SWPAMD5 RFA5, Exhibit U, Section 3.4.6.1, 2019-01-09

<sup>123</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.13.

1 response training by a professional fire-safety training firm (per Condition 96). Additionally,  
2 Condition 103 requires turbine parts to consist of fire-retardant materials, requires turbines to  
3 have built in fire prevention measures, and prohibits the storage of combustible materials. See  
4 Section 6.2.1, *Public Health and Safety Standards* for further discussion of fire safety adherence.  
5 The lithium-ion battery storage system would be kept in a temperature-controlled facility with  
6 individual battery modules isolated to prevent the spread of fire if it were to occur. In addition,  
7 the following measures would be implemented for lithium-ion battery systems to minimize fire  
8 and safety risks:

- 9 • The battery systems would be stored in completely contained, leak-proof modules.
- 10 • O&M staff would conduct frequent (monthly) inspections of the battery systems  
11 according to the manufacturer’s recommendations.
- 12 • Battery storage and fire protection systems would comply with applicable standards  
13 specified by the Umatilla County building department through the permitting process  
14 which will include the 2014 Oregon Structural Specialty Code et. seq., as documented  
15 through the facility’s building permit application(s).
- 16 • The Emergency Action Plan<sup>124</sup> would be adhered to which includes response procedures  
17 in the event of an emergency, such as a fire (see Conditions 48 and 85).

18  
19 Based on compliance with above referenced and previously imposed conditions, the Council  
20 finds that construction and operation of the proposed RFA6 facility modifications would not be  
21 likely to result in significant impacts to public or private providers of police or fire service  
22 providers.

### 23 24 III.M.7. Health Care

25  
26 The proposed RFA6 facility modifications would result in up to 150 workers during the  
27 forecasted 10-month construction phase, which could impact health care service capacity  
28 within the analysis area.

29  
30 The hospital nearest to the facility is CHI St. Anthony Hospital (Level IV trauma facility) located  
31 in Pendleton, Oregon. There are also two Level III hospitals in Walla Walla, Washington, one  
32 Level III hospital in Hermiston, and two Level III hospitals in the Tri-Cities area (Oregon Health  
33 Authority 2018a). There are additional daytime clinics that provide non-urgent health care  
34 services in each of these areas. Emergency medical services for the facility will include, in order  
35 of nearest proximity: East Umatilla County Health District in Athena, Milton-Freewater  
36 Emergency Medical Service in Milton- Freewater, and Pendleton Fire and Ambulance in  
37 Pendleton. These agencies would provide ambulance service to the facility site.<sup>125</sup>

38  

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<sup>124</sup> SWPAMD5 RFA5, Exhibit H, Attachment H-3. 2019-01-09.

<sup>125</sup> SWPAMD5 RFA5, Exhibit U, Section 3.3.8. 2019-01-09.

1 Council previously imposed Condition 48 requiring that the certificate holder’s contractors  
2 conduct all work in accordance with an established health and safety plan; and Condition 46,  
3 requiring that the certificate holder select construction contractors based on a proven record of  
4 compliance with regulatory and other appropriate factors. Based on compliance with these  
5 previously approved conditions, the Council finds that the likelihood of a significant impact on  
6 the capacity of health care service providers from an unanticipated emergency would be low.  
7

8 The proposed RFA6 facility modifications would not result in new, full-time employees and  
9 therefore no demand for new or temporary health care services.<sup>126</sup> The Council finds that  
10 operation of the proposed RFA6 facility modifications would not likely result in significant  
11 impacts to public or private providers of health care services.  
12

### 13 III.M.8. Schools

14  
15 The proposed RFA6 facility modifications would result in up to 150 workers during the  
16 forecasted 10-month construction phase, which could impact school capacity within the  
17 analysis area, if any out-of-town workers were to bring school-aged children. The certificate  
18 holder assumes that the likelihood of out-of-town workers bringing their school-aged children  
19 for the duration of construction would be low, and therefore, not likely to result in significant  
20 demand on local school resources.  
21

22 The proposed RFA6 facility modifications would not result in new, full-time employees and  
23 therefore no demand for new or temporary school services.<sup>127</sup> The Council finds that operation  
24 of the proposed RFA6 facility modifications would not likely result in significant impacts to  
25 public or private providers of health care services.  
26

### 27 Conclusions of Law

28  
29 Based on the foregoing analysis, and in compliance with OAR 345-022-0110(2), the Council  
30 relies on existing and new site certificate conditions to address the Public Services standard.  
31

### 32 **III.N. Waste Minimization: OAR 345-022-0120**

33  
34 *(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the*  
35 *Council must find that, to the extent reasonably practicable:*  
36

37 *(a) The applicant’s solid waste and wastewater plans are likely to minimize*  
38 *generation of solid waste and wastewater in the construction and operation of the*

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<sup>126</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.13.

<sup>127</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.13.

1            *facility, and when solid waste or wastewater is generated, to result in recycling and*  
2            *reuse of such wastes;*

3  
4            *(b) The applicant’s plans to manage the accumulation, storage, disposal and*  
5            *transportation of waste generated by the construction and operation of the facility*  
6            *are likely to result in minimal adverse impact on surrounding and adjacent areas.*

7  
8            *(2) The Council may issue a site certificate for a facility that would produce power from*  
9            *wind, solar or geothermal energy without making the findings described in section (1).*  
10           *However, the Council may apply the requirements of section (1) to impose conditions on*  
11           *a site certificate issued for such a facility.*

12           \*\*\*

13  
14           **Findings of Fact**

15  
16           The Waste Minimization standard requires the Council to find that the certificate holder will  
17           minimize the generation of solid waste and wastewater, and that the waste generated would  
18           be managed to minimally impact surrounding and adjacent areas, to the extent reasonably  
19           practicable. Pursuant to OAR 345-022-0020(2), the Council may issue a site certificate for a  
20           wind facility without making findings regarding the Waste Minimization standard; however, the  
21           Council may impose site certificate conditions based upon the requirements of the standard.

22  
23           The proposed RFA6 facility modifications would generate solid waste including non-hazardous  
24           packaging associated with equipment, concrete waste, removed wind turbine blades, erosion  
25           control materials (i.e. straw bales and silt fencing), and assorted battery storage parts. The  
26           proposed RFA6 facility modifications could also generate up to 7,220 tons of wind turbine  
27           parts.<sup>128</sup> Council previously imposed Condition 144 which requires that the certificate holder’s  
28           third-party contractor reuse or recycle wind turbine blades, hubs, and other removed turbine  
29           components to the extent practicable. These quantities of wind turbine components to be  
30           recycled, reused, sold for scrap, and disposed of are required to be reported in the semiannual  
31           report.<sup>129</sup> In addition, Council previously imposed Condition 71 and 74 which would require that  
32           the certificate holder develop, implement and monitor the requirements of a Construction  
33           Waste Management Plan.

34  
35           To ensure that waste generated from the proposed RFA6 facility modifications is minimized, to  
36           the extent practicable, in accordance with the standard, the Council requires that, prior to  
37           construction, the certificate provide evidence of consideration and selection of a recycling  
38           facility capable of receiving decommissioned turbine parts; and, during construction,

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<sup>128</sup> SWPAMD6 Request for Amendment 5 Exhibit G.

<sup>129</sup> SWPAMD6Doc18 RAI Table\_Certificate Holder Response\_RAI\_1-4 COMPILED 2021-11-19, RAI-17.



1 demonstrate that recycled and waste materials are transported to a licensed facility, as  
2 presented below.<sup>130</sup>

3  
4  
5  
6  
7  
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9  
10  
11  
12  
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14  
15  
16  
17  
18

**Amended Condition 144: For facility modifications approved in the Sixth Amended Site Certificate, the certificate holder shall:**

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

19 For non-recyclable, non-hazardous waste, the certificate holder would rely on the Finley Buttes  
20 Regional Landfill, near Pendleton, which is the closest waste management facility to the facility,  
21 and is owned by Waste Connections, Inc, and Arlington facility. In RFA6 Attachment 2, the  
22 certificate holder provides a 2017 brochure for the Arlington facility, which demonstrates that  
23 the facility has remaining capacity of 3.7 million cubic yards. While specific quantities of non-  
24 hazardous and hazardous waste have not been provided, based on compliance with previously  
25 imposed Conditions 71 and 145 and documented capacity of the landfill, the Council finds that  
26 the proposed RFA6 facility modifications would not likely result in significant impacts to public  
27 or private solid waste management service providers.

28  
29 Operations under RFA6 facility modifications would not generate wastewater. Council  
30 previously imposed Conditions 32, 71, 72, 73, 74, 83 and 86 requiring that, during operation,  
31 the certificate holder implement a waste management plan; that the certificate holder train  
32 employees to minimize and recycle solid waste; segregate hazardous and non-hazardous waste;  
33 and utilize a licensed waste hauler for offsite removal and transport to a licensed waste  
34 management facility. The Council finds that compliance with the existing and amended

---

<sup>130</sup> In comments on the record of the DPO public hearing, the certificate holder, Irene Gilbert, the SAG and Richard Jolly of Blue Mountain Alliance collectively commented on minimization of waste associated with wind turbine repowering (i.e. decommissioned parts) and requested that Council ensure that any turbine parts disposed be handled by a licensed facility.

1 conditions would minimize potential operational solid waste and potential impacts from solid  
2 waste on surrounding lands.

3

4 **Conclusions of Law**

5

6 Based on the foregoing analysis, and subject to existing conditions, the Council finds that that  
7 the proposed RFA6 facility modifications would continue to comply with the Council’s Waste  
8 Minimization standard.

9

10 **III.O. Division 23 Standards**

11

12 The Division 23 standards apply only to “nongenerating facilities” as defined in ORS  
13 469.503(2)(e)(K), except nongenerating facilities that are related or supporting facilities. The  
14 facility, with proposed changes, would not be a nongenerating facility as defined in statute and  
15 therefore Division 23 is inapplicable to the facility, with proposed changes..

16

17 **III.P. Division 24 Standards**

18

19 The Council’s Division 24 standards include specific standards for the siting of energy facilities,  
20 including wind projects, underground gas storage reservoirs, transmission lines, and facilities  
21 that emit carbon dioxide.

22

23 **III.P.1. Public Health and Safety Standards for Wind Energy Facilities: OAR 345-024-0010**

24

25 *To issue a site certificate for a proposed wind energy facility, the Council must find that the*  
26 *applicant:*

27

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

30

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

35

36 **Findings of Fact**

37

38 OAR 345-024-0010 requires the Council to consider specific public health and safety standards  
39 related to wind energy facilities. Under this standard, the Council must evaluate a certificate  
40 holder’s proposed measures to exclude members of the public from proximity to the turbine  
41 blades and electrical equipment, and the certificate holder’s ability to design, construct and

1 operate the facility, with proposed changes, to prevent structural failure of the tower or blades  
2 and to provide sufficient safety devices to warn of failure.

3

4 *Potential Public Health and Safety Impacts from Proximity to Turbine Blades*

5

6 The Council has previously found that the facility complies with the Public Health and Safety  
7 Standards for Wind Energy Facilities. The proposed RFA6 facility modifications would increase  
8 maximum blade length from 177 feet to 213 feet, the tip height from 440 to 499 feet, and would  
9 lower the minimum above-ground blade-tip clearance from 85 to 59 feet.<sup>131</sup> The change in rotor  
10 diameter would be from the previously approved 354 feet to 426 feet. These proposed changes  
11 in wind turbine dimension could result in potential public health and safety impacts from  
12 increased proximity to turbine blades. However, the certificate holder describes that the access  
13 gates to the proposed repowered wind turbines would be locked, located entirely on private  
14 property, and that access roads to wind turbines would be gated or locked when not in use.  
15 Council previously imposed Conditions 35 and 38, which include various safety measures and  
16 access restrictions. The Council considers that the facility design, including restricted access from  
17 fences and locked gates, would be sufficient to minimize potential increases in public health and  
18 safety risks from proximity to the proposed larger wind turbine blades.

19

20 The proposed RFA6 facility modifications would be located within the previously approved site  
21 boundary. The repowering would occur to existing turbine structures, except for the  
22 replacement and addition of turbines. However, these new structures would be constructed on  
23 previously impacted construction areas and on previously approved alternate turbine locations.  
24 The battery storage system would be located on previously disturbed construction areas,  
25 collocated with the existing substation. All changes proposed in this amendment request would  
26 remain within rural eastern Oregon, located entirely on private property, which restricts public  
27 access to turbines and other facility component locations in compliance with existing Conditions  
28 35 and 38 of the Site Certificate. For example, fencing and access gates would be required  
29 around dangerous equipment or portions of the site as feasible, including battery storage. Both  
30 the battery storage and turbine modifications would be designed with several levels of built-in  
31 safety and comply with the codes set forth by the Occupational Safety and Health  
32 Administration and American National Standards Institute. In general, because of the limited  
33 population base, the facility is and would be after the addition of battery storage and proposed  
34 turbine modifications, operated to exclude members of the public from close proximity to the  
35 turbine blades and electrical equipment.<sup>132</sup>

36

37 Determinations of No Hazard to Air Navigation have been received from the Federal Aviation  
38 Administration (FAA) and Oregon Department of Aviation (ODA) for all previously constructed

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<sup>131</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 3.1. 2021-11-19.

<sup>132</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.2.1. 2021-11-19.

1 turbines at the facility. Because proposed RFA6 facility modifications include a new maximum  
2 blade tip height for up to 43 repowered wind turbines, up to 2 new wind turbines, and up to 4  
3 replacement wind turbines, the certificate holder submitted Notices of Proposed Alteration or  
4 Construction to the FAA on September 2, 2021, per previous Condition 145. ODOE and the ODA  
5 were also provided this documentation on September 9, 2021.<sup>133</sup> The Notices of Proposed  
6 Alteration or Construction included the proposed maximum blade tip height of 499 feet for the  
7 locations of the 43 existing wind turbines and 2 new wind turbines; data for the 4 replacement  
8 turbines is encompassed by the data for the 43 existing wind turbines because the location  
9 would be within 1 arc-per-second of the existing location, which would not trigger a separate  
10 FAA/ODA obstruction evaluation.<sup>134</sup>

11  
12 On September 29, 2021, ODA provided No Hazard Determinations applicable to the proposed 43  
13 wind turbines to be repowered and 2 proposed new wind turbine locations. The Council relies  
14 on this process and FAA hazard determination to find that potential hazards to navigable  
15 airspace would be minimized and/or avoided.

16  
17 The Council finds that compliance with the existing conditions would continue to satisfy the  
18 requirements of the standard and ensure that the proposed RFA6 facility modifications are  
19 designed, constructed, and operated to exclude members of the public from close proximity to  
20 the turbine blades.

21  
22 *Potential Impacts from Structural Failure of the Tower or Blades and Safety Devices and Testing*  
23 *Procedures to Warn of Impending Failure*

24  
25 The proposed changes in wind turbine dimensions could result in public health and safety risks  
26 from any potential increases in blade failure risks. The Council evaluated the sufficiency of  
27 previously imposed conditions related to safety devices and testing procedures to warn of  
28 impending failure and minimize potential increases in risk.

29  
30 The site certificate includes a number of existing conditions that were imposed to address  
31 sub(2) of the standard and which would continue to ensure that the certificate holder reduces  
32 the risk of potential impacts from structural failure of the wind turbine tower or blades.

- 33
- 34 • Condition 36 requires that the certificate holder notify the Department of any accidents  
35 or mechanical failures associated with operation of the facility that may result in public  
36 health and safety concerns.
  - 37 • Condition 95 requires that the certificate holder conduct routine inspections of turbine  
38 blades for signs of wear or potential failure.

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<sup>133</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.2.1. 2021-09-19.

<sup>134</sup> SWPAMD6Doc19 DPO Comments (ODA). 2021-12-16.

1  
2 In the Final Order on Amendment 5, Council added Conditions 140 and 141 to require that the  
3 certificate holder conduct routine inspections of the reinforced bar of the wind turbine  
4 foundations and of the anchor bolts. While the certificate holder seeks approval to amend  
5 these conditions, routine inspections and maintenance would continue to be required under  
6 the amended Condition 140.

7  
8 As described above, OAR 345-024-0010(2) requires the Council to find that the certificate  
9 holder can design, construct and operate the facility to preclude structural failure of the tower  
10 or blades that could endanger public safety. In other words, the Council must evaluate if the  
11 certificate holder has demonstrated that it has the ability to preclude a structural failure in the  
12 first place through design, construction and operation of the turbines. OAR 345-024-0010(2)  
13 does not require that a certificate holder demonstrate an *elimination* of all public health and  
14 safety risk [*Emphasis added*]. Instead, it requires that the certificate holder design, construct  
15 and operate the facility to avoid structural failure, to have adequate mechanisms in place to  
16 warn of an impending failure, and to minimize the consequences of such failure.

17  
18 As part of the analysis performed for RFA6, the certificate holder commits to completing an  
19 updated Foundation Assessment Report for the repower.<sup>135</sup> Based on the results of the  
20 foundation assessment, any identified necessary mitigation and remediation measures would  
21 be implemented prior to repowering, and/or operational inspection timing recommendations  
22 would be implemented once the repowering has been complete.

23  
24 The Council finds that compliance with the existing and amended conditions would continue to  
25 satisfy the requirements of the standard and ensure that the proposed RFA6 facility  
26 modifications are designed, constructed, and operated to preclude structural failure of the  
27 tower or blades that could endanger public safety, and that the proposed RFA6 facility  
28 modifications would have adequate safety devices and testing procedures to warn of  
29 impending failure and minimize consequences of such failure, should it occur.

30  
31 Council has previously imposed additional conditions that also help ensure compliance with this  
32 standard:

- 33
- 34 • Condition 16 requires that the certificate holder design, engineer and construct the  
35 facility to avoid dangers to human safety presented by seismic hazards affecting the site  
36 that are expected to result from all maximum probable seismic events. As used in this  
37 rule "seismic hazard" includes ground shaking, landslide, liquefaction, lateral spreading,  
38 tsunami inundation, fault displacement and subsidence. (OAR 345-027-0020(12))  
39

---

<sup>135</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Sec. 6.1.3.

- 1 • Condition 17 requires that the certificate holder notify the Department, the State  
2 Building Codes Division and the Department of Geology and Mineral Industries promptly  
3 if site investigations or trenching reveal that conditions in the foundation rocks differ  
4 significantly from those described in the application for a site certificate. After the  
5 Department receives the notice, the Council may require the certificate holder to  
6 consult with the Department of Geology and Mineral Industries and the Building Codes  
7 Division and to propose mitigation actions. (OAR 345-027-0020(13)) [Amendment #4]  
8
- 9 • Condition 18 requires that the certificate holder notify the Department, the State  
10 Building Codes Division and the Department of Geology and Mineral Industries promptly  
11 if shear zones, artesian aquifers, deformations or clastic dikes are found at or in the  
12 vicinity of the site. (OAR 345- 027-0020(14)) [Amendment #4]  
13
- 14 • Condition 49 requires that the certificate holder design the facility in accordance with  
15 seismic design provisions given in the Oregon Building Code. The certificate holder shall  
16 identify localized areas of SC and SD soil types and assure that any structures to be built  
17 in those areas are designed according to the code. The certificate holder shall design all  
18 components constructed after 2008 to meet the current Oregon Structural Specialty  
19 Code (OSSC 2007) and the 2006 International Building Code. [Amendment #4, #5]  
20
- 21 • Condition 95 requires that the certificate holder inspect turbine blades on a regular  
22 basis for signs of wear or potential failure. (App BB-1) [Amendment #5]  
23

#### 24 **Conclusions of Law**

25  
26 Based on the foregoing analysis, and subject to compliance with existing and new conditions  
27 (under Section III.C Structural Standard), the Council finds that the proposed RFA6 facility  
28 modifications would comply with the Council’s Public Health and Safety Standards for Wind  
29 Energy Facilities.  
30

#### 31 **III.P.2. Cumulative Effects Standard for Wind Energy Facilities OAR 345-024-0015**

32  
33 *To issue a site certificate for a proposed wind energy facility, the Council must find that the*  
34 *applicant can design and construct the facility to reduce cumulative adverse environmental*  
35 *effects in the vicinity by practicable measures including, but not limited to, the following:*  
36

- 37 (1) *Using existing roads to provide access to the facility site, or if new roads are needed,*  
38 *minimizing the amount of land used for new roads and locating them to reduce adverse*  
39 *environmental impacts.*
- 40 (2) *Using underground transmission lines and combining transmission routes.*

- 1       (3) *Connecting the facility to existing substations, or if new substations are needed,*
- 2       *minimizing the number of new substations.*
- 3       (4) *Designing the facility to reduce the risk of injury to raptors or other vulnerable wildlife in*
- 4       *areas near turbines or electrical equipment.*
- 5       (5) *Designing the components of the facility to minimize adverse visual features.*
- 6       (6) *Using the minimum lighting necessary for safety and security purposes and using*
- 7       *techniques to prevent casting glare from the site, except as otherwise required by the*
- 8       *Federal Aviation Administration or the Oregon Department of Aviation.*

9

10 **Findings of Fact**

11

12 This standard requires the use of practicable measures to reduce the cumulative adverse  
13 environmental effects by practicable measures.

14

15 *Access Roads*

16

17 OAR 345-024-0015(1) encourages the use of existing roads for facility site access, minimizing  
18 the amount of land used for new roads, and locating new roads in such a manner that reduces  
19 adverse environmental impacts. The certificate holder proposes to utilize existing access roads,  
20 to be temporarily widened to support construction activities. In addition, the proposed RFA6  
21 facility modifications include a 0.44-mile segment of new access road. <sup>136</sup>

22

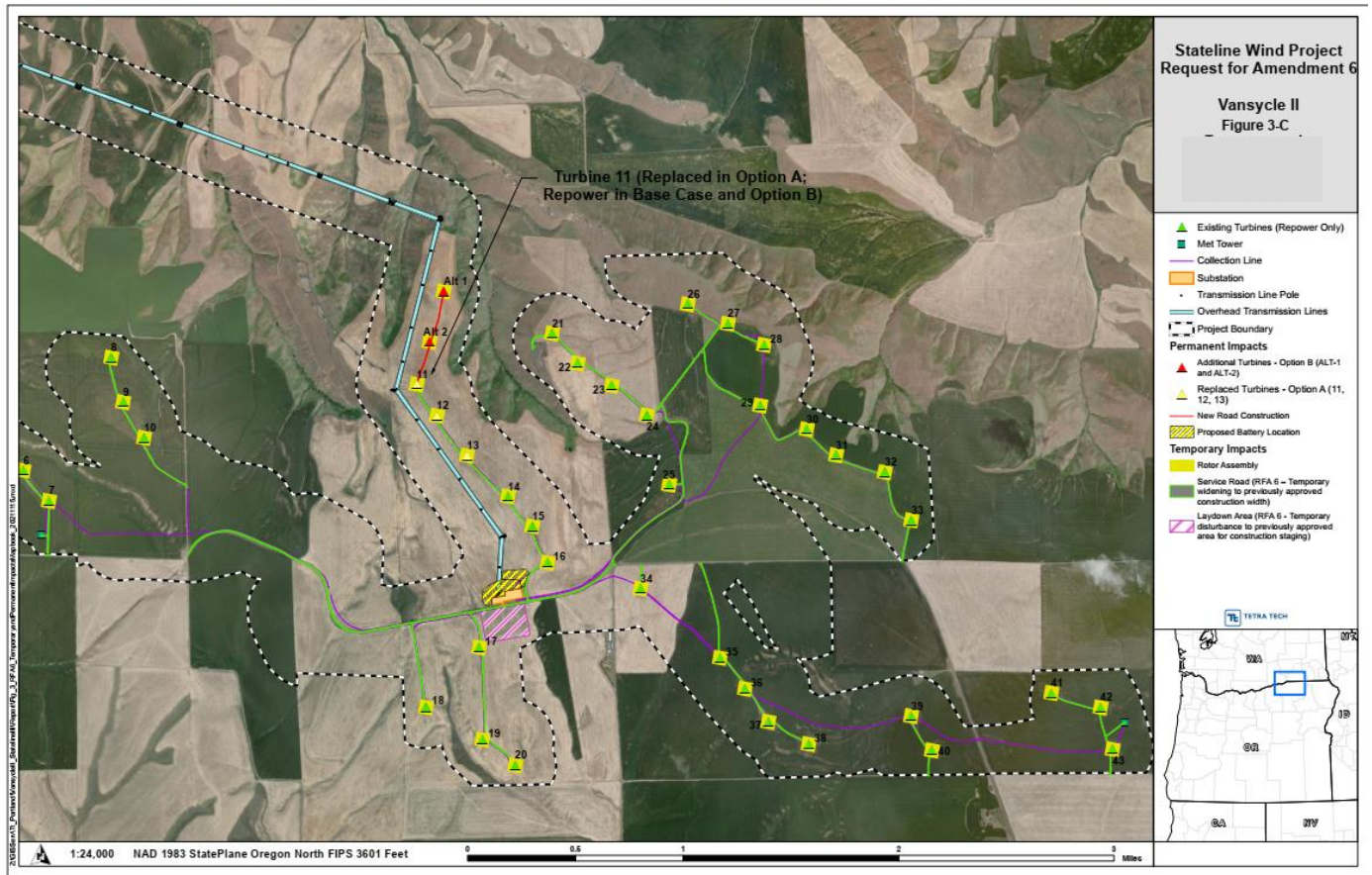
23 In RFA6, Table 3 identifies that the proposed 0.44-mile new road segment would be 16-feet in  
24 width. The proposed land area for the new road is the same width approved for existing, facility  
25 roads in the site certificate. RFA6 Figures 3-B and 3-C presents the location of the proposed  
26 0.44-mile new road segment and demonstrates that the road would provide access from an  
27 existing turbine string to the location of the proposed 2 new wind turbines, and would be  
28 located within the approved site boundary (RFA6 Figure 3-C represented in Figure 6 below, for  
29 reference to proposed new access road location and land area). Access to the proposed 2 new  
30 wind turbines would be necessary for both construction and operation.

31

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<sup>136</sup> In the DPO, the Department’s recommended findings of fact represented that RFA6 would not result in new access roads. On the record of the DPO hearing, certificate holder clarified that, as presented in RFA6, proposed changes include a 0.44-mile access road segment. The requested changes were incorporated into the proposed order. SWPAMD6 DPO Comments (NEER) 2021-12-13.

1 **Figure 6: Proposed New Access Road**



2 New conditions in Section III.D. *Soil Protection* of this order would require that, during  
 3 construction, the certificate holder implement erosion and sediment control measures outlined  
 4 in the NPDES 1200-C permit and ESCP to reduce adverse environmental impacts from proposed  
 5 new and modified facility roads.

6  
 7 Based on the above findings of fact and compliance with the referenced conditions, the Council  
 8 continues to find that the certificate holder demonstrates that it would use existing roads  
 9 where practicable to provide access to the site; and, temporary expansion of existing roads and  
 10 proposed 0.44 mile segment of new road would be constructed in a manner that would not  
 11 result in adverse environmental impacts and would minimize the amount of land used.

12  
 13 *Transmission Lines and Substations*

14  
 15 OAR 345-024-0015(2) and (3) encourage wind facilities to utilize underground transmission  
 16 lines, combine transmission routes and minimize the number of new substations.



1 RFA6 does not propose new transmission lines or substations, or changes to the previously  
2 approved site boundary. The facility is operational, with existing access roads that would be  
3 used for RFA6 related battery storage installation, repowering and operations (per Condition  
4 44). There would be no changes to the existing substation or transmission line nor to the  
5 previously approved site boundary. Therefore, the Council finds that RFA6 would not result in a  
6 significant adverse impact under OAR 345-024-0015(2) and (3) that was not addressed in a  
7 previous Council order and incorporate reasoning and analysis presented in *Final Order on*  
8 *Amendment 4* by reference.

9  
10 *Wildlife Protection*

11  
12 OAR 345-024-0015(4) encourages facility design that reduces the risk of injury to raptors or  
13 other vulnerable wildlife in areas near wind turbines or electrical equipment. Raptors and  
14 sensitive species have been considered as part of RFA6 as previously described in RFA5 Exhibits  
15 P and Q.

16  
17 The proposed wind turbine repowering would increase the maximum turbine blade tip height  
18 from 440 to 499 feet, and increase rotor-swept diameter from 354 to 426 feet. The proposed  
19 changes in wind turbine dimension could result in increased bird and bat fatality risk from wind  
20 turbine collision. As discussed in Section III.H, *Fish and Wildlife Habitat*, the certificate holder  
21 proposes to conduct 1-year of post construction fatality monitoring to determine whether the  
22 changes in wind turbine dimensions result in increased fatality risk and then whether additional  
23 mitigation is necessary. The post construction fatality monitoring would be implemented in  
24 accordance with the draft amended Wildlife Monitoring and Mitigation Plan (WMMP), provided  
25 as Attachment H to this order.

26  
27 Based on compliance with other existing site certificate conditions, the certificate holder would  
28 implement the following measures to further reduce and avoid wildlife impacts:

- 29
- 30 • Pre- and post-construction raptor nest monitoring, seasonal timing restrictions and
  - 31 avoidance requirements
  - 32 • Revegetation and monitoring
  - 33 • Weed control and monitoring
- 34

35 In addition, Council previously imposed Condition 70, which applied to facility design and  
36 required consideration of micrositing factors including selecting final wind turbine locations  
37 away from saddles in long ridges and on the top or slightly downwind of distinct ridges and  
38 setback from the upwind (or prevailing wind) side, which the certificate holder satisfied. Subject  
39 to compliance with existing site certificate conditions, the Council finds the certificate holder  
40 continues to demonstrate that it can reduce cumulative adverse environmental effects in the

1 vicinity by designing the proposed RFA6 facility modifications to reduce the risk of injury to  
2 raptors or other vulnerable wildlife in areas near wind turbines or electrical equipment.

3  
4 *Visual Features*

5  
6 OAR 345-024-0015(5) encourages the certificate holder to design a facility to minimize adverse  
7 visual features.

8  
9 The visual features of the proposed repowered wind turbines would be similar to those  
10 evaluated in the *Final Order on Amendment 4*. Additionally, AMD5 affirmed that based on  
11 compliance with existing site certificate conditions, the certificate holder would implement the  
12 following measures to reduce potential visual impacts from the proposed repowered wind  
13 turbines:

- 14  
15 • Lighting would be kept to a minimum necessary, and designed to prevent offsite glare  
16 • Temporary impact areas would be restored and revegetated as soon as practicable  
17 following completion of construction

18  
19 RFA6 does not seek to enlarge the existing site boundary and any physical component changes  
20 resulting from the proposed BESS and wind turbine repowering would be conducted within  
21 previously approved turbine locations and/or disturbed construction areas within the site  
22 boundary (as authorized in the ASC and subsequent amendments). RFA6 states that although  
23 the existing turbines would have an increased height, the changes to visual impact on protected  
24 areas or public viewing areas will not be significant (See RFA6 Figures 4.1-4.4). Based on the  
25 location within the existing site boundary, as presented Figure 2 above, the proposed BESS  
26 would be surrounded by repowered wind turbines, and at a height less than 10 feet, the  
27 Council finds that the visual impacts would be indiscernible, as represented by the certificate  
28 holder.<sup>137</sup>

29  
30 Based on the evidence in the record and subject to compliance with existing site certificate  
31 conditions, the Council relies on its previous reasoning and continue to find the certificate  
32 holder demonstrates that it can reduce cumulative adverse environmental effects in the vicinity  
33 by designing the proposed RFA6 facility modifications to minimize adverse visual features.

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<sup>137</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.2.2.

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*Lighting*

OAR 345-024-0015(6) requires the use of techniques to prevent casting glare from the site and the use of minimum lighting necessary for safety and security purposes, except as otherwise required by the FAA and ODA.

There are no changes to lighting proposed as part of RFA6, other than those that may be required by FAA (although changes are not anticipated).<sup>138</sup> Condition 37 requires wind turbines to be equipped with the minimum turbine tower lighting required by FAA. Based on compliance with this condition, the Council finds the certificate holder continues to demonstrate that it can reduce cumulative adverse environmental effects in the vicinity by designing the components of the facility, with proposed changes, to minimize the adverse impacts of lighting.

**Conclusions of Law**

Based on the findings of fact and conclusions, and subject to compliance with existing conditions, the Council finds that the proposed RFA6 facility modifications would comply with the Council’s Cumulative Effects Standards for Wind Energy Facilities.

**III.Q. Other Applicable Regulatory Requirements Under Council Jurisdiction**

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

**III.Q.1. Noise Control Regulations: OAR 340-035-0035**

*(1) Standards and Regulations:*

\*\*\*

*(b) New Noise Sources:*

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

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<sup>138</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.2.2.

- 1           (i) *No person owning or controlling a new industrial or commercial noise source*  
2           *located on a previously unused industrial or commercial site shall cause or*  
3           *permit the operation of that noise source if the noise levels generated or*  
4           *indirectly caused by that noise source increase the ambient statistical noise*  
5           *levels, L10 or L50, by more than 10 dBA in any one hour, or exceed the levels*  
6           *specified in Table 8, as measured at an appropriate measurement point, as*  
7           *specified in subsection (3)(b) of this rule, except as specified in subparagraph*  
8           *(1)(b)(B)(iii).*
- 9           (ii) *The ambient statistical noise level of a new industrial or commercial noise*  
10           *source on a previously unused industrial or commercial site shall include all*  
11           *noises generated or indirectly caused by or attributable to that source*  
12           *including all of its related activities. Sources exempted from the requirements*  
13           *of section (1) of this rule, which are identified in subsections (5)(b) - (f), (j),*  
14           *and (k) of this rule, shall not be excluded from this ambient measurement.*
- 15           (iii) *For noise levels generated or caused by a wind energy facility:*
- 16                   (i) *The increase in ambient statistical noise levels is based on an assumed*  
17                   *background L50 ambient noise level of 26 dBA or the actual ambient*  
18                   *background level. The person owning the wind energy facility may*  
19                   *conduct measurements to determine the actual ambient L10 and L50*  
20                   *background level.*
- 21                   (ii) *The "actual ambient background level" is the measured noise level at*  
22                   *the appropriate measurement point as specified in subsection (3)(b) of*  
23                   *this rule using generally accepted noise engineering measurement*  
24                   *practices. Background noise measurements shall be obtained at the*  
25                   *appropriate measurement point, synchronized with windspeed*  
26                   *measurements of hub height conditions at the nearest wind turbine*  
27                   *location. "Actual ambient background level" does not include noise*  
28                   *generated or caused by the wind energy facility.*
- 29                   (iii) *The noise levels from a wind energy facility may increase the ambient*  
30                   *statistical noise levels L10 and L50 by more than 10 dBA (but not*  
31                   *above the limits specified in Table 8), if the person who owns the noise*  
32                   *sensitive property executes a legally effective easement or real*  
33                   *covenant that benefits the property on which the wind energy facility*  
34                   *is located. The easement or covenant must authorize the wind energy*  
35                   *facility to increase the ambient statistical noise levels, L10 or L50 on*  
36                   *the sensitive property by more than 10 dBA at the appropriate*  
37                   *measurement point.*
- 38                   (iv) *For purposes of determining whether a proposed wind energy facility*  
39                   *would satisfy the ambient noise standard where a landowner has not*  
40                   *waived the standard, noise levels at the appropriate measurement*  
41                   *point are predicted assuming that all of the proposed wind facility's*

1            *turbines are operating between cut-in speed and the wind speed*  
2            *corresponding to the maximum sound power level established by IEC*  
3            *61400-11 (version 2002-12). These predictions must be compared to*  
4            *the highest of either the assumed ambient noise level of 26 dBA or to*  
5            *the actual ambient background L10 and L50 noise level, if measured.*  
6            *The facility complies with the noise ambient background standard if*  
7            *this comparison shows that the increase in noise is not more than 10*  
8            *dBA over this entire range of wind speeds.*

9            (v) *For purposes of determining whether an operating wind energy*  
10           *facility complies with the ambient noise standard where a landowner*  
11           *has not waived the standard, noise levels at the appropriate*  
12           *measurement point are measured when the facility's nearest wind*  
13           *turbine is operating over the entire range of wind speeds between cut-*  
14           *in speed and the windspeed corresponding to the maximum sound*  
15           *power level and no turbine that could contribute to the noise level is*  
16           *disabled. The facility complies with the noise ambient background*  
17           *standard if the increase in noise over either the assumed ambient*  
18           *noise level of 26 dBA or to the actual ambient background L10 and*  
19           *L50 noise level, if measured, is not more than 10 dBA over this entire*  
20           *range of wind speeds.*

21           (vi) *For purposes of determining whether a proposed wind energy facility*  
22           *would satisfy the Table 8 standards, noise levels at the appropriate*  
23           *measurement point are predicted by using the turbine's maximum*  
24           *sound power level following procedures established by IEC 61400-11*  
25           *(version 2002-12), and assuming that all of the proposed wind*  
26           *facility's turbines are operating at the maximum sound power level.*

27           (vii) *For purposes of determining whether an operating wind energy*  
28           *facility satisfies the Table 8 standards, noise generated by the energy*  
29           *facility is measured at the appropriate measurement point when the*  
30           *facility's nearest wind turbine is operating at the windspeed*  
31           *corresponding to the maximum sound power level and no turbine that*  
32           *could contribute to the noise level is disabled.*

33           \*\*\*

34           **Findings of Fact**

35  
36           The Department of Environmental Quality (DEQ) noise control regulations at OAR 340-035-0035  
37           have been adopted by Council as the compliance requirements for EFSC-jurisdiction energy  
38           facilities.

39  
40           The DEQ noise control regulations establish standards for source located on previously unused  
41           and previously used sites. While the Department assumes that because the facility is currently

1 in operation and has been in operation for more than 10 years, the site could be characterized  
 2 as previously used – and the standards that apply to a previously used site could be used.  
 3 However, the certificate holder elects to apply the standards for a previously unused site, which  
 4 are more conservative and therefore are applied to the proposed RFA6 facility modifications.  
 5

6 Noise generated by a wind energy facility located on a previously unused site must comply with  
 7 two tests: the “ambient noise degradation test” and the “maximum allowable noise test.”  
 8 Under the ambient noise degradation test, facility-generated noise must not increase the  
 9 ambient hourly L10 or L50 noise levels at any noise sensitive property by more than 10 dBA  
 10 when turbines are operating “between cut-in speed and the wind speed corresponding to the  
 11 maximum sound power level.” To show that a facility complies with this test, the certificate  
 12 holder may use an assumed ambient hourly L50 noise level of 26 dBA or measure the actual  
 13 ambient hourly noise levels at the receiver in accordance with the procedures specified in the  
 14 regulation. In this case, the certificate holder elected to use an assumed ambient hourly L50  
 15 noise level of 26 dBA.  
 16

17 To demonstrate compliance with the ambient noise degradation test, the noise generated  
 18 during facility operation must not cause the hourly L<sub>50</sub> noise level at any noise-sensitive  
 19 property to exceed 36 dBA. However, OAR 340-035-0035(1)(b)(B)(iii)(III) relieves the certificate  
 20 holder from having to show compliance with the ambient noise degradation test “if the person  
 21 who owns the noise sensitive property executes a legally effective easement or real covenant  
 22 that benefits the property on which the wind energy facility is located” (a “noise waiver”).  
 23

24 Under the maximum allowable noise test at OAR 340-035-0035(1)(b)(B)(i) a wind energy facility  
 25 may not exceed the noise levels specified in Table 8 of the noise rules, as represented in Table  
 26 8, *Statistical Noise Limits for Industrial and Commercial Noise Sources* below. Pursuant to OAR  
 27 340-035-0035(1)(b)(B)(iii)(III), it is not possible for a property owner to waive an exceedance  
 28 under the maximum allowable noise test.  
 29

**Table 8: Statistical Noise Limits for Industrial and Commercial Noise Sources**

Statistical Descriptor <sup>1</sup>	Maximum Permissible Hourly Statistical Noise Levels (dBA)	
	Daytime (7:00 AM - 10:00 PM)	Nighttime (10:00 PM - 7:00 AM)
L50	55	50
L10	60	55
L1	75	60
Notes: 1. The hourly L50, L10 and L1 noise levels are defined as the noise levels equaled or exceeded 50 percent, 10 percent, and 1 percent of the hour, respectively. Source: OAR 340-035-0035, Table 8		

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*Potential Noise Impacts*

Potential noise impacts from construction and operation of the proposed RFA6 facility modifications within the analysis area are presented below. The analysis area for the Noise Control Regulation is the area within and extending 1-mile from the site boundary.

*Construction*

OAR 340-035-0035(5)(g) specifically exempts noise caused by construction activities. In RFA6, the certificate holder describes that construction activities are anticipated to occur over 4 months and would include site equipment delivery, clearing, civil/foundation work and revegetation/restoration. Construction equipment noise levels range from 73 to 88 dBA at 50 feet, for a welder and dozer, respectively; and from 41 to 56 dBA at 2,000 feet for a welder and dozer.<sup>139</sup> In RFA6, the certificate holder provides acoustic emission levels for construction related activities based upon typical ranges of energy equivalent noise levels at construction sites, as documented by the United States Environmental Protection Agency (EPA) and the EPA’s “Construction Noise Control Technology Initiatives.” Using the noise levels, the certificate holder estimates that the composite (combined) noise level of construction-related equipment including 2 backhoes, 1 concrete truck, 1 crane, 1 excavator, 2 forklifts, 1 generator, 2 graders, 5 haul trucks, and 1 water truck would be 100 dBA at 50 feet, attenuated to 63 dBA at 2,000 feet.

Council previously imposed Condition 146, based on the certificate holder’s representation, which would require that the certificate holder provide notice to landowners within 1-mile of the site boundary to inform residents of the construction schedule, duration and anticipated noise levels; and, provide a phone number that complaints of excessive noise could be filed. The condition also requires that staging areas be selected based on a location with minimal impacts to residents.

*Operations*

In RFA6, the certificate holder provides a noise analysis for the proposed RFA6 facility modifications, based on the following sound power levels:

- 45 2.6 MW wind turbines at 110 dBA (includes 2 dBA k factor)
- 18 inverters, each at 91 dBA; 18 distribution transformers, each at 71 dBA; and, 18 heating, ventilation and air conditioning units, each at 74 dBA for the proposed BESS

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<sup>139</sup> SWPAMD5. Request for Amendment 5, Exhibit X, Table X-3, p.9.

1 The certificate holder utilized the above sound power levels and the Computer Aided Noise  
2 Abatement (CadnaA) acoustic modeling software to evaluate predicted noise levels for the  
3 proposed RFA6 facility modifications. The program includes sound propagation factors adopted  
4 from International Organization for Standardization’s (ISO) 9613-2 “Attenuation of Sound  
5 during Propagation Outdoors” to account for geometric divergence, atmospheric absorption,  
6 reflection from surfaces, screening by topography and obstacles, terrain complexity and ground  
7 effects, source directivity factors, seasonal foliage effects, and meteorological conditions.  
8 Topographical information was imported into the acoustic model using the official U.S.  
9 Geological Survey (USGS) digital elevation dataset to accurately represent terrain in three  
10 dimensions. Terrain conditions, vegetation type, ground cover, and the density and height of  
11 foliage can also influence the absorption that takes place when sound waves travel over land.  
12

13 As presented in RFA6 Appendix F Table 5, the certificate holder identifies 51 noise sensitive  
14 receptors (NSRs) within the 1-mile analysis area. Of the 51 NSRs, the noise modeling results  
15 show that there are 5 NSRs that would exceed the 10 dBA threshold above ambient or assumed  
16 ambient noise (assumed ambient baseline is 26 dBA, per OAR 340-035-0035(1)(b)(B)(iii)(I));  
17 however, as described in RFA6, 4 of the 5 NSRs are “participating property owners,” meaning  
18 those landowners have signed a noise waiver, and the remaining 1 NSR is a non-participating  
19 landowner and has not signed a noise waiver. The noise modeling results also show that the  
20 proposed RFA6 facility modifications, including existing noise sources, would not exceed the  
21 maximum allowable decibel threshold of 50 dBA at any noise sensitive receptor within the  
22 analysis area.  
23

24 Council previously imposed Condition 147 requiring that, prior to repowering activities, the  
25 certificate holder complete a final noise assessment based on final noise power levels of  
26 selected noise-generating equipment, and demonstrate compliance with the anti-ambient  
27 degradation standard or submit to the Department a copy of a signed and deed-recorded  
28 waiver from any NSRs with predicted exceedances.  
29

### 30 **Conclusions of Law**

31  
32 Based on the foregoing findings, the Council finds that the proposed RFA6 facility modifications  
33 would comply with the Noise Control Regulations in OAR 340-035-0035(1)(b)(B).  
34

### 35 **III.Q.2. Removal-Fill**

36  
37 The Oregon Removal-Fill Law (ORS 196.795 through 196.990) and Department of State Lands  
38 (DSL) regulations (OAR 141-085-0500 through 141-085-0785) require a removal-fill permit if 50  
39 cubic yards or more of material is removed, filled, or altered within any “waters of the state.”<sup>140</sup>

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<sup>140</sup> ORS 196.800(15) defines “Waters of this state.” The term includes wetlands and certain other waterbodies.



1 The Council, in consultation with DSL, must determine whether a removal-fill permit is needed  
2 and if so, whether a removal-fill permit should be issued.

3  
4 The analysis area for potential impacts to wetlands and other waters of the state, as defined in  
5 the project order, is the area within the site boundary. As previously discussed, the site  
6 boundary includes two geographic units distinguished by the certificate holder as Stateline 1  
7 and 2; and, Vansycle II. The evaluation of compliance with Removal-Fill Law requirements is  
8 based upon mapped waters of the state and potential impacts within the Vansycle II unit site  
9 boundary area.

10

11 **Findings of Fact**

12

13 The proposed RFA6 facility modifications would be located within previously approved site  
14 boundary area, on EFU-zoned land utilized for dryland wheat cultivation and cattle grazing.

15

16 To evaluate potential presence of waters of the state within the proposed RFA6 facility  
17 modification disturbance areas, the certificate holder's consultant, Tetra Tech, reviewed the  
18 2008 DSL-concurred delineation for the facility (expired as of 2013), as well as the National  
19 Wetlands Inventory (NWI), National Hydrology Dataset (NHD), Natural Resources Conservation  
20 Service (NRCS) soils data, and aerial photographs to identify potential wetlands and other  
21 waters. Tetra Tech prepared digital field maps with these data and uploaded these maps onto a  
22 data collection tablet to assist field staff in identifying the locations of wetlands and non-  
23 wetland waters within the survey areas. The certificate holder reviewed the following guidance  
24 documents and procedures to inform its survey methodology:

25

- 26 • Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West  
27 Region Version 2.0 (Arid West Supplement; USACE 2008).
- 28 • Wetlands Delineation Manual, Technical Report Y-87-1 (the Manual; USACE 1987);
- 29 • Streamflow Duration Assessment Method for the Pacific Northwest (Nadeau 2015);
- 30 • Classification of Wetlands and Deepwater Habitats of the United States (Cowardin et al.  
31 1979); and
- 32 • Oregon Administrative Rules (OAR) 141-090, Administrative Rules for Wetland  
33 Delineation Report Requirements and for Jurisdictional Determinations for the Purpose  
34 of Regulating Fill and Removal within Waters of the State.

35

36 Based on methods consistent with the above guidance, Tetra Tech conducted a survey on April  
37 14, 2021 for wetlands and other waters of the state within areas of potential temporary and  
38 permanent disturbance. The focus of the survey was four separate locations close to existing  
39 facility access roads, where the NHD had previously mapped three intermittent streams. Based  
40 on the certificate holder's review of the above-referenced sources, there were no mapped NWI  
41 features in the survey areas.

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As presented in RFA6 Attachment 12, Tetra Tech’s determination that NHD mapped intermittent streams were ephemeral streams is based on the following:

- Photo 003: Signs of infrequent flow; no hydrophytic vegetation present.
- Photo 004: Within a wheat field; no stream present, no defined drainage way.
- Photo 005, 006: Within a wheat field; no stream present; no bed, bank or evidence of a drainage way
- Photo 007: No stream present; no bed, bank or evidence of a drainage way

Waters of the state are defined in ORS 196.800(14), which includes intermittent streams. Intermittent streams are defined in ORS 196.800(6) as “any stream which flows during a portion of every year and which provides spawning, rearing or food-producing areas for food and game fish.” Based on the results of the April 14, 2021 survey, as summarized above, the Council finds that there is sufficient evidence to concur with the certificate holder that the NHD mapped intermittent streams do not meet the ORS 196.800(6) definition of an intermittent stream and should be considered ephemeral streams, which are not ORS 196.800 waters of the state.

Based on the above facts and reasoning, the Council finds that the proposed RFA6 facility modifications would not impact waters of the state and therefore would not require a removal-fill permit.

**Conclusions of Law**

Based on the foregoing findings of fact, the Council finds that a removal-fill permit would not be needed for the proposed RFA6 facility modifications.

**III.Q.3. Water Rights**

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

1 **Findings of Fact**

2  
3 OAR 690 establishes the procedures and standards which shall be applied by the OWRD in the  
4 evaluation of applications for a permit to appropriate surface water, ground water, to construct  
5 a reservoir and store water, to use reserved water, or to use water stored in a reservoir.

6  
7 The proposed RFA6 facility modifications would use water during construction for road and  
8 earthwork compaction and dust suppression. In RFA6, the certificate holder describes that  
9 water use would be the same as evaluated in RFA5. In RFA5, based on the certificate holder's  
10 technical personnel familiar with repowering wind facilities for the 2018 repower scenario  
11 (RFA5), the estimated daily and maximum water use is up to 55,000 gallons per day, and 3.5  
12 million gallons total. The certificate holder describes that the water source would likely be the  
13 City of Helix and provided the City of Helix's water right (G-11438) in RFA5 Exhibit O  
14 Attachment O-2, demonstrating the City of Helix's right to provide 0.67 cubic feet per second  
15 for municipal use within specific places of use. Municipal water use means use of water through  
16 the water service system of a municipal corporation for, among other uses, commercial water  
17 use and industrial water use.<sup>141</sup> "Industrial water use" is defined under OAR 690-300-0010(25)  
18 as the use of water associated with the processing or manufacture of a product, such as the  
19 construction, operation, and maintenance of an industrial site like a solar facility. Therefore, the  
20 Council finds that construction-related water use qualifies as a municipal use under OWRD rules  
21 and therefore is allowable within the City of Helix's water right.

22  
23 To ensure that water use from proposed RFA6 facility modifications would not impact the City  
24 of Helix's ability to provide water services, the Council imposes Condition 154, as described in  
25 Section III.M.1 *Sewer and Water Services* of this order, to ensure that the certificate holder, or  
26 its contractor, has an agreement with City of Helix, or other water service provider to meet its  
27 construction water needs. For these reasons, the Council finds that construction of the  
28 proposed RFA6 facility modifications would not require a groundwater permit, surface water  
29 permit or water right transfer.

30  
31 The proposed RFA6 facility modifications would use water during operations for blade washing  
32 at 500 gallons per turbine<sup>142</sup> and 350-gallon water buffaloes at the BESS (see Condition 34).  
33 Council previously imposed Condition 88 to address blade-washing during operations.  
34 Condition 88 limits blade-washing water use to 500 gallons of water per turbine, and  
35 establishes that the water may be trucked to the site by a contractor and purchased from a

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<sup>141</sup> OAR 690-300-0010 (29) "Municipal Water Use" means the delivery and use of water through the water service system of a municipal corporation for all water uses usual and ordinary to such systems. Examples of these water uses shall include but are not limited to domestic water use, irrigation of lawns and gardens, commercial water use, industrial water use, fire protection, irrigation and other water uses in park and recreation facilities, and street washing. Such uses shall not include generation of hydroelectric power.

<sup>142</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.13.

1 source with a valid water right.<sup>143</sup> In RFA6, the certificate holder represents that it would  
2 continue to comply with this condition. In RFA6, the certificate holder describes that  
3 operational water would continue to be provided by its on-site well (Conditions 130). Based on  
4 compliance with previously imposed conditions and because the certificate holder has  
5 represented that operations of the proposed RFA6 facility modifications would not result in  
6 increased water demand of public/private service providers, the Council finds that operation of  
7 the proposed RFA6 facility modifications would not require a groundwater permit, surface  
8 water permit or water right transfer.

9

10 **Conclusions of Law**

11

12 Based on the foregoing findings of fact, the Council concludes that the proposed RFA6 facility  
13 modifications would not need a groundwater permit, surface water permit, or water right  
14 transfer.

15

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<sup>143</sup> SWPAMD6Doc11-1 Vansycle II Complete RFA6 2021-11-19, Section 6.1.13.

1 **IV. FINAL CONCLUSIONS AND ORDER**

2  
3 Based on the findings and conclusions included in this order, the Council makes the following  
4 findings:

- 5  
6 1. The facility, with proposed changes included in Request for Amendment 6 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 6 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 6 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 Council finds that the facility, with proposed changes included in Request for  
20 Amendment 6 of the Stateline Wind Project site certificate, complies with the General Standard  
21 of Review (OAR 345-022-0000). The Council finds, based on a preponderance of the evidence  
22 on the record, that the site certificate may be amended as requested.  
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1 **Final Order**

2

3 The Council approves Amendment 6 of the Stateline Wind Project site certificate, subject to the  
4 terms and conditions included in the amended site certificate (Attachment A of this final order).

5

6 **Issued this 28<sup>th</sup> day of January 2022**

7

8 **The ENERGY FACILITY SITING COUNCIL**

9

10

11

12

13 **By:**  Marcia L. Grail (Jan 31, 2022 12:04 PST)

14 **Marcia L. Grail, Chair**

15 **Oregon Energy Facility Siting Council**

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22 **ATTACHMENTS**

23

24 Attachment A: Amended Site Certificate

25 Attachment B: Reviewing Agency Comments on preliminary RFA6

26 Attachment C: Draft Proposed Order Comments

27 Attachment D: Emergency Action Plan

28 Attachment E: Draft Amended Revegetation Plan

29 Attachment F: Draft Amended Wildlife Monitoring and Mitigation Plan

### **Notice of the Right to Appeal**

The right to judicial review of this final order approving an amendment to the site certificate is governed by ORS 469.403 and OAR 345-027-0372(5). Pursuant to ORS 469.403(3), the Oregon Supreme Court has jurisdiction for review of the Council's approval of an application for an amended site certificate. To appeal you must file a petition for judicial review with the Supreme Court within 60 days from the day this final order approving an amendment to the site certificate was served.

If this order was e-mailed or mailed to you, the date of service is the date it was e-mailed or mailed, not the date you received it. The date of service for any persons to whom this final order was not e-mailed or mailed is the date it was posted to the Oregon Department of Energy Siting webpage. If you do not file a petition for judicial review within the applicable time period noted above, you lose your right to appeal.

**Attachment A: Amended Site Certificate**



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

---

**Sixth 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

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**Oregon Energy Facility Siting Council**

**SIXTH AMENDED SITE CERTIFICATE FOR THE STATELINE WIND PROJECT**

**I. INTRODUCTION**

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

The findings of fact, reasoning and conclusions of law underlying the terms and conditions of this site certificate are set forth in the following documents, incorporated herein by this reference: (a) the Council’s Final Order in the Matter of the Application for a Site Certificate for the Stateline Wind Project (“Final Order on the Application”), issued on September 14, 2001, (b) the Council’s Final Order in the Matter of the Request for Amendment #1 of the Site Certificate for the Stateline Wind Project (“Final Order on Amendment #1”), (c) the Council’s Final Order in the Matter of the Request for Amendment #2 of the Site Certificate for the Stateline Wind Project (“Final Order on Amendment #2”), (d) the Council’s Final Order in the Matter of the Request for Amendment #3 of the Site Certificate for the Stateline Wind Project (“Final Order on Amendment #3”), (e) the Council’s Final Order in the Matter of the Request for Amendment #4 of the Site Certificate for the Stateline Wind Project (“Final Order on Amendment #4”), (f) the Council’s Final Order in the Matter of the Request for Amendment #5 (“Final Order on Amendment #5), and (g) the Council’s Final Order in the Matter of the Request for Amendment #6 (“Final Order on Amendment #6). [Amendments #1, #2, 3, #4, #5, #6]

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

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

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

**II. SITE CERTIFICATION**

1. To the extent authorized by state law and subject to the conditions set forth herein, the State authorizes FPL Vansycle to construct, operate and retire Stateline 1&2 and authorizes FPL Stateline to construct, operate and retire Vansycle II as described in Section III of this site certificate. ORS 469.401(1). [Amendment #4, #5]
2. This site certificate is effective until it is terminated under OAR 345-027-0110 or the rules in effect on the date that termination is sought or until the site certificate is revoked under ORS 469.440 and

1 OAR 345-029-0100 or the statutes and rules in effect on the date that revocation is ordered. ORS  
2 469.401(1). [Amendment #5]

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

43

44 **III. DESCRIPTIONS AND DIVIDED RESPONSIBILITY**

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46 **1. Stateline 1&2**

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**(i) Major Structures**

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

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19  
**(ii) Related or Supporting Facilities**

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

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

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22  
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Access Roads

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

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37  
Collector System

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

38  
39  
40  
41  
42  
Meteorological Towers

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

---

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

1            Satellite O&M Building

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

6  
7            **2. Vansycle II<sup>2</sup>**

**(i) Major Structures**

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

11            Wind Turbine Repower

12  
13            Wind turbine repowering includes removal and replacement of wind turbine hub (blade and rotor) and  
14 gearbox (nacelles). Haul trucks, boom trucks and cranes are used to support repowering activities. A  
15 crane is mobilized and new gearboxes, blades and hub are delivered onsite. A boom truck or telehandler  
16 is used to unload and assemble new turbine blades and hub into a complete rotor. Gearboxes and  
17 assembled hubs are set up on the access road adjacent to the wind turbine. The crane is used to lower  
18 rotors and gearbox, which is then be place next to the crane; and, then used to pick up and set the new  
19 rotor. Either a boom truck or telehandler is used to disassemble the replaced rotor (blade and hub);  
20 materials are then transported offsite for proper disposal at a licensed disposal or recycling facility.  
21 Facility modifications approved in the Sixth Amended Site Certificate include repowering (replacing  
22 blades and nacelles) of 43 existing wind turbines, replacing up to 4 wind turbines and constructing up to  
23 2 new wind turbines, but any variation in these options would not result in more than 45 repowered,  
24 replaced and/or new wind turbines within the Vansycle II unit. The wind turbine changes would result in  
25 increased per turbine capacity, from 2.3 to 2.66 MW; increased maximum blade-tip height from 440 to  
26 499 feet, reduced minimum aboveground blade-tip clearance from 85 to 59 feet, and increased hub  
27 height from 262.5 to 295 feet. [Amendment #5, #6]

**(ii) Related or Supporting Facilities**

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

- 30  
31            ■ Access roads to reach each turbine for construction and maintenance  
32            ■ Underground collector cables that transmit the electrical output of the wind turbines to  
33            a substation  
34            ■ A substation  
35            ■ A 230-kV transmission line  
36            ■ Meteorological towers  
37            ■ An operations and maintenance building  
38            ■ Temporary laydown areas and access roads

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

- 50 MW battery energy storage system  
[Amendment #4, #5, #6]

#### Access Roads

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

#### Collector System, Substation and Transmission Line

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

#### Meteorological Towers

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

#### O&M Building

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

#### Temporary and Permanent Disturbance

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

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

#### Battery Energy Storage System (BESS)

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

- Batteries - Lithium-ion system would require regular change out of batteries as they degrade 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. [Amendments #1,  
7 #2, #4, and #6]  
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

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

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

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

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

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

41 **1. General Conditions**

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<sup>3</sup> 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 345-027-01100410. The  
11 certificate holder shall pay the actual cost to restore the site to a useful, non-hazardous condition  
12 at the time of retirement, notwithstanding the Council's approval in the site certificate of an  
13 estimated 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)** Within 72 hours of discovery of conditions or circumstances that may violate the terms or  
25 conditions of the site certificate, the certificate holder shall report the conditions or circumstances  
26 to the Department of Energy. (OAR 345-027-0020(3)) [Amendment #4]  
27

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

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

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

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

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

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



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- (32)** The certificate holder shall use hazardous materials in a manner that is protective of human health and the environment and shall comply with all applicable local, state, and federal environmental laws and regulations. The certificate holder shall make sure that accidental releases of hazardous materials will be prevented or minimized through the proper containment of these substances during transportation and use on the site. The certificate holder shall make sure that any oily waste, rags or dirty or hazardous solid waste will be collected in sealable drums and removed for recycling or disposal by a licensed contractor. The certificate holder shall have spill kits containing items such as absorbent pads on equipment and in storage facilities to respond to accidental spills. If an accidental hazardous materials spill or release occurs, the certificate holder shall clean up the spill or release and shall treat or dispose of contaminated soil or other materials according to applicable regulations. (App G-2, V-3) [Amendment #5]
- (33)** The certificate holder shall provide to the Department of Energy a copy of the contract with the Milton-Freewater Rural Fire Department for fire protection services during construction and operation of the facility before beginning construction. (App U-25) [Amendment #4, #5]
- (34)** During construction and operation of the facility, the certificate holder shall have water-carrying trailers (“water buffaloes”) at appropriate locations around the facility. The certificate holder shall bring a water buffalo to any job site where there is a substantial risk of fire. The certificate holder shall coordinate with the fire chiefs of the Helix and Milton-Freewater Rural Fire Departments as to the number, capacity and location of the water buffaloes. The certificate holder shall make sure that each water buffalo has a minimum capacity of 350 gallons with sufficient pump and hose equipment, as approved by the local fire chiefs. The certificate holder shall have service trucks and pickup trucks capable of towing water buffaloes available in sufficient numbers at all times during construction and operation of the facility. (App B-12) [Amendment #5]
- (35)** The certificate holder shall take steps to protect the facility and property from unauthorized access and to reduce the risk of accidental injury during construction and operations by (App U-25, 26) [Amendment #3, #5]:
- (a) Maintaining fencing and access gates around dangerous equipment or portions of the site as feasible. [Amendments #3, and #4]
  - (b) Posting warning signs near high-voltage equipment.
  - (c) Requiring construction contractors to provide specific job-related training to employees, including cardiopulmonary resuscitation, first aid, tower climbing, rescue techniques and safety equipment inspection.
  - (d) Requiring each worker to be familiar with site safety.
  - (e) Assigning safety officers to monitor construction activities and methods during each work shift.
  - (f) Ensuring that workers on each shift are certified in first aid.
  - (g) Ensuring a well-stocked first-aid supply kit is accessible on-site at all times and that each worker knows its location.
  - (h) Conducting periodic safety meetings for construction and maintenance staff.
- (36)** The certificate holder shall notify the Department of Energy and the Umatilla County Planning 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]<sup>4</sup>
- 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

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<sup>4</sup> 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  $30^\circ$ , 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):

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

19

20 **(64)** To avoid creating habitat for raptor prey near turbine towers, the certificate holder shall spread

21 gravel on all above ground portions of the turbine pads to reduce the potential for weed

22 infestation. (App BB-5)

23

24 **(65)** The certificate holder shall mitigate possible impacts to fish and wildlife habitat by measures

25 including but not limited to the following (App P-42 through 45, Q-10, 11):

- 26 (a) Avoiding vegetation removal wherever possible.
- 27 (b) Limiting construction activities to within public road right-of-ways where possible.
- 28 (c) Using best management practices to prevent erosion of soil into stream channels.
- 29 (d) Controlling invasive, weedy plant species during maintenance of project facilities.
- 30 (e) Restoring temporarily disturbed sites to pre-construction condition or better with native
- 31 seed mixes as described for temporarily disturbed areas in the *Revegetation Plan* included in
- 32 the Final Order on Amendment #4 as Attachment B and as revised from time to time.
- 33 [Amendments #1 and #4]
- 34 (f) Developing re-vegetation plant mixes and habitat enhancement locations in consultation
- 35 with ODFW and the Umatilla County weed control board.
- 36 (g) Monitoring re-vegetated areas to ensure successful establishment of new vegetation.
- 37 (h) Monitoring turbine strings, roads and other disturbed areas regularly to prevent the spread
- 38 of noxious weeds.
- 39 (i) Developing measures to reduce the potential spread of noxious weeds in consultation with
- 40 the weed control board of Umatilla County.
- 41 [Amendment #5]

42

43 **(66)** This condition applies to Stateline 1 only. To mitigate for the permanent elimination of one-half

44 acre of Category 2 habitat, the certificate holder shall control weeds and enhance habitat of one

45 acre of weed-infested upland habitat with native plants. The certificate holder shall carry out

46 enhancement activities as described for habitat enhancement areas in the *Revegetation Plan*

47 referenced in Condition 65. The certificate holder shall acquire the legal right to create and

48 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 (1<sup>st</sup> 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 (1<sup>st</sup> 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 1<sup>st</sup> 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 1<sup>st</sup> 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 Sixth Amended Site Certificate. Additional  
39 fatality monitoring studies and necessity of additional mitigation shall be determined based on the  
40 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<sub>10</sub> and L<sub>50</sub> 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 Sixth Amended Site  
5 Certificate, the certificate holder shall submit to the State of Oregon through the Council a bond or  
6 letter of credit in the amount described herein naming the State of Oregon, acting by and through  
7 the Council, as beneficiary or payee. The initial bond or letter of credit amount for Vansycle II, with  
8 modifications approved in the Final Order on Amendment 6, is \$6,906,000 million (in 4th Quarter  
9 2021 dollars) to be adjusted to the date of issuance and submitted within 60 days of execution of  
10 the Sixth Amended Site Certificate, and adjusted on an annual basis thereafter, as described in  
11 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, by applying the unit costs  
14 and general costs illustrated in Table 5 and Table 6 in the Final Order on Amendment 6 and  
15 calculating the financial assurance amount as described in that order, adjusted to the date  
16 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 4<sup>th</sup> 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 4<sup>th</sup> 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 4<sup>th</sup> 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 3<sup>5</sup> only. In applying  
42 the conditions in this section, “certificate holder” means FPL Stateline. In applying the conditions in this

---

<sup>5</sup> 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 AMENDMENT #5 AND #6 (Vansycle II)**  
17

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

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

25 **(137)** The certificate holder shall construct the Vansycle II facility modifications, as approved in the  
26 Sixth Amended Site Certificate, substantially as described in Request for Amendment 56 of the  
27 site certificate, subject to the following restrictions and compliance with other site certificate  
28 conditions. Before beginning construction, the certificate holder shall provide to the  
29 Department equipment specifications and a description of the wind turbine dimensions to  
30 demonstrate compliance with this condition.

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

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

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

36 [Amendment #5, #6]  
37

38 **(138)** The certificate holder shall begin construction of the Vansycle II facility modifications, as  
39 approved in the Sixth Amended Site Certificate, within three years after the effective date of the  
40 amended site certificate [January 28, 2022]. The certificate holder shall notify the Department  
41 when construction of the of the facility modifications, as approved in Request for Amendment 6,  
42 commences. Under OAR 345-015-0085(8), the amended site certificate is effective upon  
43 execution by the Council Chair and the certificate holder.

44 [Mandatory Condition OAR 345-025-0006(4); Amendment #5, #6]  
45

46 **(139)** The certificate holder shall complete construction of the Vansycle II facility modifications, as  
47 approved in the Sixth Amended Site Certificate, within three years following the date of

1 construction commencement. The certificate holder shall promptly notify the Department of the  
2 date of completion of construction of the Vansycle II facility modifications, as approved in the  
3 Final order on Amendment 6.

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

6 **(140)** For the facility modifications approved in the Sixth Amended Site Certificate, the certificate  
7 holder shall:

8 (a) Prior to construction, provide the Department with the turbine foundation suitability  
9 analysis, applicable to the 43 existing wind turbines, if repowered. An annual operational  
10 inspection schedule and the results of the foundation suitability analysis, including any  
11 necessary mitigation and/or remediation measures, shall be incorporated into an inspection  
12 and maintenance plan, to then be implemented as part of facility operations. The plan shall  
13 be provided to the Department for review and approval, in consultation with DOGAMI or a  
14 third-party consultant.

15 (b) During operation of repowered wind turbines, adhere to the remediation, inspection and  
16 monitoring requirements established in the approved plan per (a). Monitoring  
17 documentation shall be provided to the Department in the annual report per OAR 345-026-  
18 0080(1).

19 (c) If any mitigation or remediation is required per(a) of this condition, prior to the repower or  
20 during repowered operations, submit in amendment determination request to the  
21 Department per OAR 345-027-0357(2).

22 [Amendment #5, #6]  
23

24 **(141)** Prior to construction of facility modifications approved in the Sixth Amended Site, the certificate  
25 holder shall:

26 (a) Provide the Department maps and tabular data demonstrating that the final design of new,  
27 replacement and repowered wind turbines comply with the setback requirements to county  
28 road rights of way pursuant to UCDC Section 152.616(HHH)(6)(a)(4), or that the certificate  
29 holder has relocated or adjusted the county road right of way. Wind turbines not meeting the  
30 setback requirements from county road rights-of-way are precluded from increasing the  
31 maximum blade tip height from 440 to 499 feet through repower activities.

32 (b) If the certificate has relocated or adjusted a county road right of way, the certificate holder  
33 shall provide to the Department written verification from Umatilla County that confirms the  
34 county road rights of way have been adjusted.

35 [Amendment #5, #6]  
36

37 **(142)** During construction of Vansycle II facility modifications, as approved in the Sixth Amended Site  
38 Certificate, the certificate holder shall:

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

42 (b) Implement and adhere to Inadvertent Discovery Plan measures previously approved in  
43 Condition 75 in the event previously unidentified cultural resources are encountered, as  
44 referenced in (i) – (iv) of this condition.

45 (i) The Inadvertent Discovery Plan shall establish that earth-disturbing activities be halted in  
46 the immediate vicinity of the find, in accordance with Oregon state law (ORS 97.745 and  
47 358.920).

1 (ii) Within 24-hours of the find, the certificate holder shall notify the Department, SHPO and  
2 the Confederated Tribes of the Umatilla Indian Reservation (CTUIR).

3 (iii) The certificate holder shall have a qualified archaeologist evaluate the discovery and  
4 recommend subsequent courses of action in consultation with the CTUIR and the SHPO.  
5 If human remains are discovered, the certificate holder shall halt all construction  
6 activities in the immediate area and shall notify the Department, SHPO, CTUIR, the  
7 County Medical Examiner and the State Police.

8 [Amendment #5, #6]  
9

10 **(143)** During construction of the Vansycle II facility modifications, as approved in the Sixth Amended  
11 Site Certificate, the certificate holder shall:

12 (a) Provide notice to adjacent landowners when repowering takes place to help minimize  
13 access disruptions;

14 (b) Provide proper road signs and warnings, including “Oversized Load,” “Truck Access,” or  
15 “Road Crossings;”

16 (c) Implement traffic diversion equipment, such as advance signs and pilot cars whenever  
17 possible when slow or oversized loads are being hauled;

18 (d) Encourage carpooling for the workforce to reduce traffic volume;

19 (e) Employ flag persons as necessary to direct traffic when large equipment is exiting or  
20 entering public roads to minimize risk of accidents; and

21 (f) Maintain at least one travel lane so that roadways will not be closed to traffic because of  
22 vehicles entering or exiting public roads.

23 [Amendment #5, #6]  
24

25 **(144)** For facility modifications approved in the Sixth Amended Site Certificate, the certificate holder  
26 shall:

27 (a) Prior to construction, provide evidence/documentation to the Department of consideration  
28 and selection of a recycling facility capable and licensed to receive and process wind turbine  
29 parts. The evidence/documentation shall include the total quantity (in tons) of  
30 decommissioned wind turbine parts and the amount to be recycled based on contractual  
31 agreement with a third-party or recycling facility.

32 (b) During construction, the certificate holder shall ensure its third-party contractors reuse or  
33 recycle wind turbine blades, hubs and other removed wind turbine components to the  
34 extent practicable. The certificate holder shall demonstrate that the recycling or disposal  
35 facility selected to receive turbine parts is qualified and approved by an applicable  
36 regulatory agency. The certificate holder shall report in its semi-annual report to the  
37 Department the quantities of removed wind turbine components recycled, reused, sold for  
38 scrap, and disposed of in a landfill. [Amendment #5, #6]  
39

40 **(145)** Prior to construction of facility modifications approved in the Sixth Amended Site Certificate, the  
41 certificate holder shall submit a Notice of Proposed Construction or Alteration to the Federal  
42 Aviation Administration (FAA) and the Oregon Department of Aviation identifying the change in  
43 maximum blade tip height of the wind turbines to be repowered. Determination of No Hazards or  
44 other comments from FAA or Oregon Department of Aviation shall be provided to the  
45 Department.

46 [Amendment #5, #6]  
47

1 **(146)** For the Vansycle II facility modifications, as approved in the Sixth Amended Site Certificate, the  
2 certificate holder shall:  
3 (a) During design, select temporary staging areas based on a location with minimal noise impacts  
4 and proximity to noise sensitive receptors.  
5 (b) Prior to construction, provide notice to landowners within 1-mile of the site boundary to  
6 inform of the construction start date, duration and description of activities and noise levels.  
7 The notice shall include the name and phone number of the certificate holder's  
8 representative which can be contacted to record construction-related noise complaints.  
9 [Amendment #5, #6]

10  
11 **(147)** Prior to construction of Vansycle II facility modifications, as approved in the Sixth Amended Site  
12 Certificate, the certificate holder shall provide to the Department:  
13 (a) Information that identifies the as-built locations of all Vansycle II wind turbines.  
14 (b) The maximum sound power level for the existing Vansycle II substation transformers and the  
15 maximum sound power level and octave band data for the repowered Vansycle II wind based  
16 on manufacturers' warranties or confirmed by other means acceptable to the Department.  
17 (c) The results of noise analysis for the Vansycle II facility modifications, as approved in the Sixth  
18 Amended Site Certificate, performed in a manner consistent with the requirements of OAR  
19 340-035-0035(1)(b)(B)(iii)(IV) and (VI) demonstrating to the satisfaction of the Department  
20 that the total noise generated (including the noise from repowered wind turbines and  
21 existing substation transformers) would meet the ambient degradation test and maximum  
22 allowable test at the appropriate measurement point for all potentially-affected noise  
23 sensitive properties.  
24 (d) For each noise-sensitive property where the certificate holder relies on a noise waiver to  
25 demonstrate compliance in accordance with OAR 340-035-0035 (1)(b)(B)(iii)(III), a copy of a  
26 legally effective easement or real covenant pursuant to which the owner of the property  
27 authorizes the certificate holder's operation of the facility to increase ambient statistical  
28 noise levels  $L_{10}$  and  $L_{50}$  by more than 10 dBA at the appropriate measurement point. The  
29 legally-effective easement or real covenant must: include a legal description of the burdened  
30 property (the noise sensitive property); be recorded in the real property records of the  
31 county; expressly benefit the certificate holder; expressly run with the land and bind all  
32 future owners, lessees or holders of any interest in the burdened property; and not be  
33 subject to revocation without the certificate holder's written approval.  
34 [Amendment #5, #6]

35  
36 **(148)** During construction, operation, and retirement of the facility modifications approved in the Sixth  
37 Amended Site Certificate, the certificate holder shall contractually require its third-party  
38 contractor used to transport and dispose battery and battery waste to comply with all applicable  
39 federal regulations and manufacturer recommendations related to the transport and handling of  
40 battery related waste.  
41 [Amendment #6]

42  
43 **(149)** For the Vansycle II facility modifications, as approved in the Sixth Amended Site Certificate, the  
44 certificate holder shall:  
45 (a) Provide to the Department a list of federal, state and local permits, including any third-party  
46 permits related to facility siting; and a schedule for obtaining identified permits.



1 (b) Once obtained, provide copies of all permits, including third-party permits, required for  
2 facility siting to the Department.

3 [Amendment #6]  
4

5 **(150)** For the Vansycle II facility modifications approved in the Sixth Amended Site Certificate that  
6 would result in ground-disturbance, the certificate holder shall:

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

16 [Amendment #6]  
17

18 **(151)** Prior to construction of the Vansycle II facility modifications approved in the Sixth Amended Site  
19 Certificate, the certificate holder shall develop and submit a Soil Reclamation Plan specific to  
20 temporary disturbance areas, used to inform the final assessment of soil erosion and compaction  
21 impact potential, and reclamation measures. The Soil Reclamation Plan shall be incorporated and  
22 implemented as part of the Final Revegetation Plan (Condition 65).

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

37 [Amendment #6]  
38

39 **(152)** For facility components approved in the Sixth Amended Site Certificate, the certificate holder  
40 shall:

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

46 [Amendment #6]  
47

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

4 (a) Prior to and during construction of the facility modifications approved in the Sixth Amended  
5 Site Certificate, as applicable, the certificate holder shall notify and provide copies of the final  
6 health and safety plans and/or emergency response plans to be implemented during  
7 construction activities to the Umatilla County Planning Department and the Department.

8 (b) Prior to and during operation of the facility modifications approved in the Sixth Amended Site  
9 Certificate, as applicable, the certificate holder shall notify and provide copies of the final  
10 Emergency Action Plan to be implemented during operations to the Umatilla County Planning  
11 Department and the Department.

12 [Amendment #6]  
13

14 **(154)** Prior to construction of facility modifications approved in the Sixth Amended Site Certificate, the  
15 certificate holder shall provide to the Department and Umatilla County Planning Department  
16 final design/layout maps and GIS data demonstrating compliance of any new wind turbines with  
17 the 2-mile rural residential setback, based on the UCDC 152.616(a)(3) definition of rural  
18 residence. The certificate holder shall also provide in tabular format turbine identification  
19 numbers and distance from nearest rural residence for any new turbines, as applicable, based on  
20 final design.

21 [Amendment #6]  
22

23 **(155)** Prior to construction of the facility modifications approved in the Sixth Amended Site Certificate,  
24 the certificate holder shall provide to the Department evidence of landowner consultation for  
25 properties to be impacted by temporary and permanent disturbance. Consultation shall  
26 demonstrate that the certificate holder sought landowner input on extent and timing of  
27 disturbance and considered, to the maximum extent feasible from a technological and  
28 engineering perspective, methods to minimize unnecessary disturbance from construction and  
29 operation. The certificate holder shall provide a final design map of facility components approved  
30 in the Sixth Amended Site Certificate and shall promptly notify the Department of any changes in  
31 design that would impact any disturbance minimization measures identified after landowner  
32 consultation.

33 [Amendment #6]  
34

35 **(156)** For facility modifications approved in the Sixth Amended Site Certificate, the certificate holder  
36 shall:

37 (a) Prior to construction submit to the Department, a Noxious Weed Control Plan. The certificate  
38 holder shall submit the plan to the Department for review and approval, in consultation with  
39 the weed control board of Umatilla County. The Noxious Weed Control Plan shall include, as  
40 pertinent, but not be limited to, identification of county-listed weeds of economic concern,  
41 methods for evaluating weeds within impact area, results of weed assessment, and control  
42 methods specific to weed control and timing, agency consultation protocol, and process for  
43 evaluating success of weed control.

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

1 (c) During construction and operation, report on the results of implementation and monitoring  
2 of noxious weed control to the Department in the semi-annual and annual reports required  
3 per OAR 345-026-0080.  
4 [Amendment #6]  
5

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

15 **(158)** Prior to construction of facility modifications approved in the Sixth Amended Site Certificate, the  
16 certificate holder shall provide to the Department a copy of an agreement or similar conveyance  
17 with a water service provider demonstrating agreement of water usage and service at the site.  
18 Certificate holder shall provide documentation that the water provider has a valid water right  
19 which allows for municipal water use within the place of use of the facility.  
20 [Amendment #6]  
21

## 22 **XI. SUCCESSORS AND ASSIGNS**

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

## 25 **XII. SEVERABILITY AND CONSTRUCTION**

26  
27 If any provision of this agreement and certificate is declared by a court to be illegal or in conflict  
28 with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and  
29 obligations of the parties shall be construed and enforced as if the agreement and certificate did not  
30 contain the particular provision held to be invalid. In the event of a conflict between the conditions  
31 contained in the amended site certificate and the Council's final order or the Final Orders on  
32 Amendment #1, #2, #3, #4, #5, or #6, the conditions contained in this amended site certificate shall  
33 control. [Amendment #1, #5, #6]  
34

## 35 **XIII. GOVERNING LAW AND FORUM**

36  
37 This site certificate shall be governed by the laws of the State of Oregon. Any litigation or  
38 arbitration arising out of this agreement shall be conducted in an appropriate forum in Oregon.  
39  
40  
41  
42  
43  
44  
45  
46

1 **XIV. EXECUTION**

2  
3  
4  
5  
6  
7  
8  
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 II, Inc.

ENERGY FACILITY SITING COUNCIL

By:   
Marcia L. Grail (Apr 1, 2022 21:21 EDT)  
\_\_\_\_\_  
Marcia L. Grail, Chair  
Oregon Energy Facility Siting Council

Date: 01-Apr-2022

FPL ENERGY VANSYCLE LLC

By:   
\_\_\_\_\_  
Print: Matthew S. Handel

Date: March 25, 2022

FPL ENERGY STATELINE II, INC.

By:   
\_\_\_\_\_  
Print: Matthew S. Handel

Date: March 25, 2022

**Attachment B: Reviewing Agency Comments on preliminary RFA6**

**Attachment B – pRFA6 Reviewing Agency and Third-Party Consultant Comment Index**

<b>Commenter Name</b>	<b>Title/Entity/Organization</b>	<b>Date Received</b>
Bambi Rodriguez	Interim Manager, Cultural Resources Protection Program, Confederated Tribes of the Umatilla Indian Reservation	8/26/2021
Jason Allen	Historic Preservation Specialist, Oregon State Historic Preservation Office	9/20/2021
Seth Thompson	Aviation Planner, Oregon Department of Aviation	9/29/2021
Robert Waldher	Director, Umatilla County Department of Land Use Planning	10/04/2021
Peter Ryan	Aquatic Resource Specialist, Oregon Department of State Lands	10/14/2021



**Confederated Tribes** *of the*  
**Umatilla Indian Reservation**  
**Department of Natural Resources**

46411 Timine Way, Pendleton, Oregon 97801

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## MEMORANDUM

To: Chase McVeigh-Walker, Senior Siting Analyst  
Oregon Department of Energy  
Sent via email to: chase.mcveigh-walker@oregon.gov

From: Bambi Rodriguez, Interim Cultural Resources Protection Program Manager  
Confederated Tribes of the Umatilla Indian Reservation  
46411 Timine Way, Pendleton, OR 97801  
BambiRodriguez@ctuir.org  
541-276-3447

Date: August 26, 2021

RE: Confederated Tribes of the Umatilla Indian Reservation's Revised Comments on the  
Stateline Wind Project Request for Amendment 6

---

### General Comments:

Thank you for contacting the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) regarding the Stateline Wind Project's Request for Comments on the Request for Amendment 6. The CTUIR offers the following concerns with the project.

### Specific Comments:

After reviewing the details for the Stateline Wind Projects proposed developments sent to us by you on August 5, 2021, the CTUIR provides these comments. There is a small but new development that is not covered by previous archaeological survey. All of the previous surveys are over ten years old and Oregon SHPO recommends that archaeological survey data older than ten years should not be used to clear new projects. Relying on older surveys to clear this project go against Oregon SHPO standards. All areas to be newly impacted should be inventoried.

The CRPP conducted a Traditional Use Study associated with Stateline 3 Project (Steinmetz 2010:16). In this report it documents several archaeological sites that were recommended as eligible that could be impacted by this undertaking. These include 18 archaeological sites that have traditional cultural significance to the CTUIR. These sites have been recorded as 45WW164, 45WW165, 35UM340, 35UM346, 35UM347, 35UM348, 35UM349, 35UM350, 35UM351, 35UM352, 35UM353, 35UM354, 35UM355, 35UM356, 35UM411, 35UM432, 35UM433, and 35UM434. The undertaking could alter characteristics that make these properties eligible by altering the setting, feeling and association that contribute to their historic significance.

This location is part of a traditional CTUIR place name. In the book *Čaw Pawa Laakni, They Are Not Forgotten* (Hunn et al. 2015:124), the Stateline Wind Project area is located in a place known as **Walawála** [Sahaptin CR]. This means “many small streams” that flow into the Walla Walla River. This area was a food gathering area and a horse grazing location for the CTUIR.

A traditional root gathering location was identified in the northern portion of the project area (Steinmetz 2010:19).

The visual effects of this project should be considered and their potential to adversely effect the historic properties listed above should be analyzed. All project effects should be considered in consultation with the Cultural Resources Protection Program (CRPP).

In this area past new construction where ground disturbing activities have occurred there has been a cultural resource monitor present for cultural resource protection. If there will be ground disturbing activities associated with this work the CRPP request that a cultural resource monitor be present for that portion of the work.

Reference:

Hunn, Eugene S., E. Thomas Morning Owl, Philip E. Cash Cash, and Jennifer Karson Engum  
2015 *Čaw Pawá Láakni - They Are Not Forgotten: Sahaptian Place Names Atlas of the Cayuse, Umatilla, and Walla Walla*. Tamástslíkt Cultural Institute, Pendleton, Oregon.

Steinmetz, Shawn

2010 *Traditional Use Study for the Stateline 3 Wind Project, Umatilla County, Oregon and Walla Walla County, Washington*. Report on file at the Confederated Tribes of the Umatilla Indian Reservation Cultural Resources Protection Program, Mission, Oregon.





Oregon  
Kate Brown, Governor

Parks and Recreation Department  
State Historic Preservation Office  
725 Summer St NE Ste C  
Salem, OR 97301-1266  
Phone (503) 986-0690  
Fax (503) 986-0793  
www.oregonheritage.org



September 20, 2021

Ms. Kathleen Sloan  
Oregon Department of Energy  
550 Capitol St. NE  
Salem, OR 97391

RE: SHPO Case No. 10-1059  
Stateline Vansycle II Wind Proj  
Final monitoring report  
Multiple legals, Umatilla County

Dear Ms. Sloan:

We have reviewed the submitted materials for this project, and it appears that consideration of potentially historic, built resources has not been made as part of the environmental review. The documents we've received indicate that the project area does not include any properties that are listed in the National Register of Historic Places, which may be true, but is insufficient to determine whether historic properties (those which are listed in, or are eligible for listing in the National Register of Historic Places) may exist within the project area. Review of the maps provided indicates that buildings do exist within the project area, but no information appears to have been submitted for these.

We request information regarding built properties that exist within the project area, including evaluations and recommendations on their eligibility for listing in the National Register of Historic Places. Without this information, any effects that may result from the construction of this energy facility cannot be accurately understood or determined. We also request information regarding the actual impacts (visual or otherwise) that may be realized from the construction of the proposed facility.

If you have any questions, or wish to discuss the contents of this letter, please feel free to contact me directly.

Sincerely,

Jason Allen, M.A.  
Historic Preservation Specialist  
(503) 986-0579  
jason.allen@oregon.gov

cc: Erin King, Tetra Tech, Inc.





# Oregon

Kate Brown, Governor



09/29/2021

David Lawlor - NextEra Energy Resources  
700 Universe Blvd.  
Juno Beach, FL 33408

3040 25th Street, SE  
Salem, OR 97302-1125  
Phone: (503) 378-4880  
Toll Free: (800) 874-0102  
FAX: (503) 373-1688

**Subject: Oregon Department of Aviation comments regarding the construction or alteration of wind turbines at 499 feet in height located near Milton-Freewater, Oregon.**

**Aviation Reference: 2021-ODA-S-1121-1165-OE**

The Oregon Department of Aviation (ODA) has conducted an aeronautical study of this proposed construction and has determined that notice to the FAA is required. The structures exceed FAR Part 77.9 (a, b or c) and Obstruction Standards of OAR 738-70-0100.

This determination is based, in part, on the foregoing description which includes specific coordinates and heights. Any changes to the original application will void this determination. Any future construction or alteration to the original application will require a separate notice from ODA.

This determination will expire 18 months after its effective date, regardless of whether the proposed construction or alteration has been started, or on the date the proposed construction or alteration is abandoned, whichever is earlier.

**Mitigation Recommendation:**

- We do not object with conditions to the construction described in this proposal. This determination does not constitute ODA approval or disapproval of the physical development involved in the proposal. It is a determination with respect to the safe and efficient use of navigable airspace by aircraft and with respect to the safety of persons and property on the ground.
- Marking and lighting are recommended for aviation safety. We recommend it be installed and maintained in accordance with FAA Advisory Circular 70/7460-1M.
- When not in operation, the proposed obstruction should be lowered to a height that is no longer an obstruction to the airport primary and horizontal surface FAA FAR 77.
- The proposed obstruction should be relocated outside the airport primary and horizontal surface FAA FAR 77.

Sincerely,

Seth Thompson  
Aviation Planner

## SLOAN Kathleen \* ODOE

---

**From:** Robert Waldher <robert.waldher@umatillacounty.net>  
**Sent:** Monday, October 4, 2021 4:04 PM  
**To:** SLOAN Kathleen \* ODOE; MCVEIGH-WALKER Chase \* ODOE; ESTERSON Sarah \* ODOE  
**Subject:** Stateline Wind Amendment

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Good Afternoon - I wanted to let you know that I have a meeting scheduled with Commissioner Dorran tomorrow to discuss the pRFA for Stateline. I hope to see if he is interested in a presentation from ODOE staff. I will follow-up on this soon!

During our recent call ODOE staff asked for confirmation on what type of permit the county would require for adding the battery storage components. Our practice has been to require a conditional use permit (CUP), as this type of infrastructure would be related to the wind generation facility. Therefore, my recommendation would be to amend the existing CUP.

Please find the following link to the Umatilla County Development Code:  
[https://umatillacounty.net/fileadmin/user\\_upload/Planning/Umatilla\\_County\\_Development\\_Code.pdf](https://umatillacounty.net/fileadmin/user_upload/Planning/Umatilla_County_Development_Code.pdf)  
Page 360 relates to an amendment of a wind generation facility.

On our call we also talked about additional permits that would be required for the tower modifications. I believe I misspoke when I said a zoning permit would be required for each tower...Instead, a zoning permit will be required for **each tax lot** where development/upgrades occur. Sorry if there was any confusion.

Finally, Umatilla County's weed superintendent is Theodor Orr. Teddy can be contacted at 541-278-5462 or [theodore.orr@umatillacounty.net](mailto:theodore.orr@umatillacounty.net). He would be the individual responsible for reviewing weed management plans.

I hope this information helps. Please let me know if you have additional questions. Thank you!

Bob

--

**Bob Waldher**, RLA

*Director*

Umatilla County Department of Land Use Planning

216 SE 4th ST | Pendleton, OR 97801

Phone: [541-278-6251](tel:541-278-6251) | Fax: [541-278-5480](tel:541-278-5480)

<http://www.umatillacounty.net/planning> - Visit our website for copies of planning documents, permit applications and other helpful information.

*Please Be Aware* - Documents such as emails, letters, maps, reports, etc. sent from or received by the Umatilla County Department of Land Use Planning are subject to Oregon Public Records law and are NOT CONFIDENTIAL. All such documents are available to the public upon request; costs for copies may be collected. This includes materials that may contain sensitive data or other information, and Umatilla County will not be held liable for its distribution.

## TARDAEWETHER Kellen \* ODOE

---

**From:** RYAN Peter \* DSL  
**Sent:** Thursday, October 14, 2021 1:41 PM  
**To:** SLOAN Kathleen \* ODOE  
**Cc:** MCVEIGH-WALKER Chase \* ODOE  
**Subject:** RE: Request for DSL review and comment on Preliminary request for Amendment 6 - Stateline Wind Project

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Kathleen,

Sorry for the slow response. DOE recently contacted DSL to review and comment on a Request for Amendment #6 for the Stateline Wind Project, specifically Section 6.3.2 and accompanying Attachment 8: Wetlands and Waters Survey (as submitted by the certificate holder).

The attachment stated that a wetland delineation report (WD2008-0581) was prepared for the site in 2008 and approved by the DSL on 9/10/2009. However, as the attachment also stated, DSL jurisdictional determinations are valid for five years from the date approved; therefore, the determination for this project study area expired on 9/10/2014.

If DSL approval is still needed or desired for this project study area, DSL recommends having the site re-evaluated by a qualified wetland professional, preparing a new wetland delineation report to document findings, and then submitting that report to DSL for review and approval.

Please let me know if you have questions.  
-Pete

Peter Ryan, SPWS  
Aquatic Resource Specialist  
Oregon Department of State Lands | 775 Summer Street, NE, Ste. 100, Salem, Oregon 97301-1279  
503.986.5232 Monday | 503.779.4159 Tuesday - Thursday  
**Work Days:** Monday-Thursday | **Out of Office:** Fridays

---

**From:** SLOAN Kathleen \* ODOE <Kathleen.SLOAN@energy.oregon.gov>  
**Sent:** Thursday, October 7, 2021 4:18 PM  
**To:** RYAN Peter \* DSL <Peter.RYAN@dsl.oregon.gov>  
**Cc:** MCVEIGH-WALKER Chase \* ODOE <Chase.MCVEIGH-WALKER@energy.oregon.gov>  
**Subject:** FW: Request for DSL review and comment on Preliminary request for Amendment 6 - Stateline Wind Project

Hi Peter,

I am following up on a request we sent (originally to Daniel Evans, who forwarded to you) for agency review and comment on the Stateline Wind Request for Amendment 6

<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/SWP.aspx>

ODOE would like to request DSL review and comment at this time on the pRFA6, specifically Section 6.3.2 and accompanying Attachment 8: Wetlands and Waters Survey (as submitted by the certificate holder)

As stated in the Attachment 8 (p:1), a wetlands and other waters delineation was performed within the Project Boundary in 2008, and Oregon Department of State Lands (ODSL) provided jurisdictional concurrence for the delineation report on September 10, 2009 (WD2008-0581); however, the ODSL concurrence is only considered valid for 5 years. ODOE would like to request DSL's review and comment on the methods and results of the survey for wetlands and other waters of the state conducted on April 14, 2021 within the existing operational Vansycle II Wind Project

ODOE is requesting DSL's review and comments on the pRFA6: Section 6.3.2 Removal-Fill Law and accompanying Attachment 8 (in attached pdf or available online via our link above), pursuant to Oregon Removal-Fill Law (ORS 196.795 through ORS 196.990) and Oregon Department of State Lands regulations (OAR 141-085-0500 through OAR 141-085-0785).

Would it be possible for you to review and provide comments (email is fine) by next Friday, October 22, 2021?

If you need any additional information from me to complete the review, please let me know.

Thank you for your time,



Kathleen Sloan  
Senior Siting Analyst  
550 Capitol St. NE | Salem, OR  
97301  
P: 971-701-4913



Stay connected!

---

**From:** SLOAN Kathleen \* ODOE  
**Sent:** Wednesday, August 11, 2021 4:57 PM  
**To:** EVANS Daniel \* DSL <[Daniel.Evans@dsl.state.or.us](mailto:Daniel.Evans@dsl.state.or.us)>  
**Cc:** ESTERSON Sarah \* ODOE <[Sarah.ESTERSON@energy.oregon.gov](mailto:Sarah.ESTERSON@energy.oregon.gov)>; MCVEIGH-WALKER Chase \* ODOE <[Chase.MCVEIGH-WALKER@energy.oregon.gov](mailto:Chase.MCVEIGH-WALKER@energy.oregon.gov)>; RYAN Peter \* DSL <[peter.ryan@dsl.state.or.us](mailto:peter.ryan@dsl.state.or.us)>  
**Subject:** RE: Request for DSL review and comment on Preliminary request for Amendment 6 - Stateline Wind Project

Thank you Daniel,

I appreciate the FWD and the contact info for Peter and will update our contact list accordingly.

Peter, please let me know if you need anything further from me to facilitate this review.

Thanks!

Kate

---

**From:** EVANS Daniel \* DSL <[Daniel.Evans@dsl.state.or.us](mailto:Daniel.Evans@dsl.state.or.us)>  
**Sent:** Wednesday, August 11, 2021 4:54 PM  
**To:** SLOAN Kathleen \* ODOE <[Kathleen.SLOAN@energy.oregon.gov](mailto:Kathleen.SLOAN@energy.oregon.gov)>  
**Cc:** ESTERSON Sarah \* ODOE <[Sarah.ESTERSON@energy.oregon.gov](mailto:Sarah.ESTERSON@energy.oregon.gov)>; MCVEIGH-WALKER Chase \* ODOE <[Chase.MCVEIGH-WALKER@energy.oregon.gov](mailto:Chase.MCVEIGH-WALKER@energy.oregon.gov)>; RYAN Peter \* DSL <[peter.ryan@dsl.state.or.us](mailto:peter.ryan@dsl.state.or.us)>  
**Subject:** RE: Request for DSL review and comment on Preliminary request for Amendment 6 - Stateline Wind Project

Hi Kathleen, Sarah, and Chase. I've forwarded this to the DSL front line point for initial ODOE inquires, Peter Ryan. Thanks for highlighting the relevant sections of interest Kathleen.

Regards,

**Daniel Evans, PWS**

Jurisdictional Coordinator

*Columbia, Clatsop, Marion, Polk, Tillamook, Yamhill,*

[Oregon Department of State Lands](#)

Desk: 503-986-5271 | Cell: 503-428-8188 | Fax: 503-378-4844

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**From:** SLOAN Kathleen \* ODOE <[Kathleen.SLOAN@energy.oregon.gov](mailto:Kathleen.SLOAN@energy.oregon.gov)>  
**Sent:** Wednesday, August 11, 2021 4:04 PM  
**To:** [Daniel.Evans@state.or.us](mailto:Daniel.Evans@state.or.us)  
**Cc:** ESTERSON Sarah \* ODOE <[Sarah.ESTERSON@energy.oregon.gov](mailto:Sarah.ESTERSON@energy.oregon.gov)>; MCVEIGH-WALKER Chase \* ODOE <[Chase.MCVEIGH-WALKER@energy.oregon.gov](mailto:Chase.MCVEIGH-WALKER@energy.oregon.gov)>  
**Subject:** Request for DSL review and comment on Preliminary request for Amendment 6 - Stateline Wind Project

Good Afternoon Daniel,

The Oregon Department of Energy received preliminary Request for Amendment 6 (pRFA6) for the Stateline Wind Project Site Certificate (link to project website provided below). Stateline Wind Project is a wind energy facility consisting of two units – Stateline 1 & 2 and Vansycle II. Stateline 1 & 2 is composed of 186 wind turbines and has a peak generating capacity of up to 123 megawatts. Vansycle II consists of 43 wind turbines with a peak generating capacity of 99 megawatts.

The pRFA6 requests Council approval to add 50 MW of battery storage, and increase the height and MW output of the wind turbines associated with the Vansycle II unit.

<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/SWP.aspx>

ODOE would like to request DSL review and comment at this time on the pRFA6, specifically Section 6.3.2 and accompanying Attachment 8: Wetlands and Waters Survey (as submitted by the certificate holder) by **September 12, 2021.**

As stated in the Attachment 8 (p:1), a wetlands and other waters delineation was performed within the Project Boundary in 2008, and Oregon Department of State Lands (ODSL) provided jurisdictional concurrence for the delineation report on September 10, 2009 (WD2008-0581); however, the ODSL concurrence is only considered valid for 5 years. ODOE would like to request DSL's review and comment on the methods and results of the survey for wetlands and other waters of the state conducted on April 14, 2021 within the existing operational Vansycle II Wind Project

ODOE is requesting DSL's review and comments on the pRFA6: Section 6.3.2 Removal-Fill Law and accompanying Attachment 8 (in attached pdf or available online via our link above), pursuant to Oregon Removal-Fill Law (ORS 196.795

through ORS 196.990) and Oregon Department of State Lands regulations (OAR 141-085-0500 through OAR 141-085-0785).

Thank you and please let me know if you require any additional information from our office to facilitate your review and response to this request,



Kathleen Sloan  
Senior Siting Analyst  
550 Capitol St. NE | Salem, OR  
97301  
P: 971-701-4913



Stay connected!



**Attachment C: Draft Proposed Order Comments**

**Attachment C: Draft Proposed Order Comments**

<b>Commenter Name</b>	<b>Title/Entity/Organization</b>	<b>Date Received</b>	<b>Comment Format (Written/Oral)</b>	<b>Comment Scope/Topic</b>
Charles Little	Public	12/06/21	Written	In support of RFA6
David Lawlor, Chris Powers, and Anneke Solsby	FPL Energy Stateline II, Inc.(Certificate Holder)	12/13/21; 12/16/21; 12/17/21	Written/oral	Type A determination; recommended Soil Protection and Land Use conditions; recommended new and amended retirement and financial assurance conditions
Jason Allen	Historic Preservation Specialist, Oregon State Historic Preservation Office (SHPO)	12/13/21	Written	Concurrence on certificate holder evaluation of above-ground historic resources
James Hayner, on behalf of Kirk and Gunder Terjeson	Attorney at law, representing landowners	12/15/21	Written	Opposition to road right of way relocation of Butler Grade
George Murdock	Umatilla County Board of Commissioners, Special Advisory Group	12/15/21	Written	Recommended Land Use conditions; Waste Minimization condition (blade recycling)
Irene Gilbert	Public	12/16/21	Oral	Blade recycling
Henry Davies/Richard Jolly	Blue Mountain Alliance	12/16/21	Written/oral	Legal disposal of waste generated from repowering
Seth Thompson	Aviation Planner, Oregon Department of Aviation	12/16/21	Written	Applicability of hazard/obstruction review for new and replacement wind turbines

December 3, 2021

Chase McVeigh-Walker  
Oregon Department of Energy  
550 Capitol St. NE  
Salem, Oregon 97301

Charles Little  
17 Westview Driver  
Hermiston, Oregon 97838

RE: Stateline Wind Project

Mr. McVeigh-Walker,

I would like to go on record of supporting the Stateline Wind Project request to add to additional two 2.6 MW wind turbines and replace up to four 2.6 MW existing wind turbines.

The amendment request to approval to construct and operate a 50 MW battery energy storage system. The additional 72 power transformers, bi-directional inverter and cooling unit; 18 inverters with step up transformers and interconnection facilities on the 11 acers within the site boundary.

The Department of Energy needs to allow changes to existing facilities to move forward so that renewable energy needs can be meet in a timely manner.

Thank you for your time in this matter.



Charles Little

**From:** [Solsby, Anneke](#)  
**Sent:** Friday, December 17, 2021 7:59 AM  
**To:** [MCVEIGH-WALKER Chase \\* ODOE](#)  
**Cc:** [Lawlor, David](#); [Powers, Christopher](#); [Curtiss, Sarah Stauffer](#); [ESTERSON Sarah \\* ODOE](#); [Konkol, Carrie](#)  
**Subject:** RE: VII RFA6 DPO Hearing Comments

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Thank you for forwarding along these comments. We have reviewed and believe the DPO as drafted, including the existing and proposed conditions, addresses the issues raised by ODA and the Blue Mountain Alliance. To emphasize the Certificate Holder's commitment to use qualified recycling and disposal facilities, we support the revision to Condition 144 proposed by Umatilla County.

**Anneke Van der Mast Solsby** | Environmental Services  
**NextEra** Energy Resources  
C: 503.860.9076  
[anneke.solsby@nexteraenergy.com](mailto:anneke.solsby@nexteraenergy.com)

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**From:** MCVEIGH-WALKER Chase \* ODOE <[Chase.MCVEIGH-WALKER@energy.oregon.gov](mailto:Chase.MCVEIGH-WALKER@energy.oregon.gov)>  
**Sent:** Thursday, December 16, 2021 6:30 PM  
**To:** Konkol, Carrie <[Carrie.Konkol@tetrattech.com](mailto:Carrie.Konkol@tetrattech.com)>  
**Cc:** Lawlor, David <[David.Lawlor@nexteraenergy.com](mailto:David.Lawlor@nexteraenergy.com)>; Powers, Christopher <[Christopher.Powers@nexteraenergy.com](mailto:Christopher.Powers@nexteraenergy.com)>; Curtiss, Sarah Stauffer <[SSCURTISS@stoel.com](mailto:SSCURTISS@stoel.com)>; Solsby, Anneke <[Anneke.Solsby@nexteraenergy.com](mailto:Anneke.Solsby@nexteraenergy.com)>; ESTERSON Sarah \* ODOE <[Sarah.ESTERSON@energy.oregon.gov](mailto:Sarah.ESTERSON@energy.oregon.gov)>  
**Subject:** RE: VII RFA6 DPO Hearing Comments

Carrie,

Attached, please find the two additional comments the Department received tonight, prior to the close of the DPO Hearing.

Regards,  
-Chase

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**From:** Konkol, Carrie <[Carrie.Konkol@tetrattech.com](mailto:Carrie.Konkol@tetrattech.com)>  
**Sent:** Thursday, December 16, 2021 6:27 PM  
**To:** MCVEIGH-WALKER Chase \* ODOE <[Chase.MCVEIGH-WALKER@energy.oregon.gov](mailto:Chase.MCVEIGH-WALKER@energy.oregon.gov)>  
**Cc:** Lawlor, David <[David.Lawlor@nexteraenergy.com](mailto:David.Lawlor@nexteraenergy.com)>; Powers, Christopher <[Christopher.Powers@nexteraenergy.com](mailto:Christopher.Powers@nexteraenergy.com)>; Curtiss, Sarah Stauffer <[SSCURTISS@stoel.com](mailto:SSCURTISS@stoel.com)>; Solsby, Anneke <[Anneke.Solsby@nexteraenergy.com](mailto:Anneke.Solsby@nexteraenergy.com)>  
**Subject:** VII RFA6 DPO Hearing Comments



December 10, 2021

Oregon Energy Facility Siting Council

c/o Mr. Todd Cornett, Council Secretary

550 Capital Street, NE, 1<sup>st</sup> Floor

Salem, OR 97301

Subject: Formal Objections to Department's October 19, 2021 Review Path  
Determination for Request for Amendment 6 of the Stateline Wind Project Site  
Certificate

Dear Chair Grail and Members of the Council:

On July 23, 2021, FPL Energy Stateline II, LLC (the "certificate holder") submitted its Preliminary Request for Amendment 6 ("pRFA 6") and Type B Amendment Determination Request ("ADR") for the Stateline Wind Project ("SWP") Site Certificate. The certificate holder requested that the Energy Facility Siting Council ("Council") review its Request for Amendment 6 ("RFA" or "RFA 6") pursuant to the Type B review process set forth in OAR 345-027-0351(3). On October 19, 2021, the Oregon Department of Energy ("Department") issued a review path determination ("Determination") concluding that Type B review is not appropriate for pRFA 6 based on the perceived complexity of the proposed modifications, the anticipated level of interest from the public and reviewing agencies, and the Department's potential interest in modifying mitigation requirements. On November 23, 2021, the Department issued its Draft Proposed Order ("DPO") affirming its determination that a Type B review is not appropriate and deciding to process RFA 6 pursuant to the Type A review process.

In the interest of securing a timely final decision on RFA 6, the certificate holder made the decision not to request review of the Determination by the Council. However, as outlined below, the proposed modifications are not complex, and the anticipated level of interest and potential changes to conditions simply do not warrant Type A review. The certificate holder is also concerned that the Department's determination creates unfavorable precedent that unnecessarily restricts the Department's and the Council's ability to use Type B review in the future. The Type B review path is a critical tool to process minor—but commercially essential—site certificate amendments as expeditiously as possible. Accordingly, the certificate holder writes to register its formal objections to the Department's review path decision in the hope that these comments will inform the Department and Council's consideration of review path for future requests for amendment. The

certificate holder urges the Council to protect the viability of Type B review for future amendment requests.

## **I. BACKGROUND**

SWP consists of three operational wind farm developments in Umatilla County: Stateline 1, Stateline 2, and Vansycle II. SWP is divided into two separate parts (Stateline 1 and 2 comprising one part and Vansycle II comprising the other part) with separate site boundaries.

In the certificate holder's previous Request for Amendment 5 ("RFA 5"), the Council approved dimensional changes to the approved turbine dimensions to allow for existing turbine towers be upgraded / repowered with current technology, by replacing the nacelles, hubs, rotors and turbine blades. However, since the Council approved RFA 5, wind power technology has further evolved, and the components that the certificate holder planned to use for the repower are no longer available. Therefore, the certificate holder has proposed RFA 6 to respond to the change in available turbine technology and allow for flexibility in its repower design.

RFA 6 includes repowering primarily by replacing existing nacelles, hubs and rotors, including blades for a new maximum blade tip height of approximately 499 feet (an addition of approximately 59 feet to the facility's currently permitted maximum height of 440 feet) on the existing turbine towers. The certificate holder also proposes to construct and operate a 50 MW Lithium-ion battery energy storage system within an 11-acre site adjacent to the existing substation in a previously impacted construction area. Additionally, the certificate holder proposes the flexibility to fully replace up to four existing turbines and add up to two turbines at previously approved locations, expanding the fleet from 43 to 45.

As set forth in the ADR, RFA 6 does not involve any changes to the facility site boundary and would not result in discernable visual impacts to any resources protected under Council standards (i.e., Recreation, Scenic Resources, Protected Areas, and Historic, Cultural and Archeological Resources Standards). It would also be similar in scope and scale to other RFAs for wind turbine tower/blade dimension changes previously approved by the Council. Simply stated, RFA 6 will allow the certificate holder to replace aging turbine components to take advantage of technological advances, optimizing wind harvesting efficiency as part of typical operational and maintenance ("O&M") activities for the facility.

## **II. ARGUMENT**

To determine whether a request for amendment justifies Type B review, the Department and the Council may consider factors "including, but not limited to":

- (a) The complexity of the proposed change;
- (b) The anticipated level of public interest in the proposed change;
- (c) The anticipated level of interest by reviewing agencies;
- (d) The likelihood of significant adverse impact; and
- (e) The type and amount of mitigation, if any.

OAR 345-027-0357(8). The purpose of this multi-factor analysis is to evaluate whether the scope of modifications proposed are so significant as to require a full Type A review. If the proposed modifications are not so significant, as is the case here, a streamlined Type B review is appropriate.

Throughout the Determination, the Department's analysis misapplies the individual factors at OAR 345-027-0357(8) based on speculation and vague assertions about potential impacts and what may occur during the review process. But moreover, the Department errs by apparently applying each factor as an end in itself, failing to account for the relative scale and intensity of the modifications as a whole. As a result, the Determination ignores that the modifications proposed in pRFA 6 are the very type of modifications for which Type B is appropriate. Collectively and individually, the factors at OAR 345-027-0357(8) weigh in favor of Type B review.

**A. The certificate holder has met its burden to demonstrate that the proposed changes are not complex, and the Department's assertions do not demonstrate otherwise.**

The Determination concludes that the proposed changes are "complex" for four reasons. This section addresses each of those reasons in turn.

First, in the Department's view, the certificate holder has not explained why the changes proposed in RFA 6 should be considered typical O&M activities and "has not previously described that O&M activities include th[e] level of activity" proposed in pRFA 6. Here, the certificate holder uses the term "O&M" in a broad sense, to capture routine repower activities that are necessary to maintain technologically current commercial power generation at the facility. As explained in pRFA 6, the proposed modifications to the existing turbines are far from complex, and in fact, are the sorts of technological modifications that are typical in an industry where the turbine fleet at existing projects is aging and wind turbine technology is advancing. The technology proposed here is not new or novel, and the Department and the Council have reviewed similar technology before.

The certificate holder acknowledges that the term "O&M" could be more precise. However, pRFA 6 details the specific changes proposed at length, and the Department's analysis of those details is scant. As set forth in pRFA 6, the substantial majority of the certificate holder's proposal involves replacing aging parts on existing turbines with newer, more efficient parts. While the certificate holder does propose to add 50 MW of new battery storage, this proposed modification is small in scale and will not create new impacts, because it will be collocated with the existing substation

upon previously impacted construction areas. Further, battery storage technology has now been reviewed by the Council at multiple jurisdictional facilities. Additionally, replacing four turbines and adding up to two turbines would occur within locations previously evaluated and approved by the Council. These proposed changes are minor within the context of the facility as a whole, and they do not alter the bases for the Council's previous findings on the site certificate. In short, the physical changes proposed for the facility are not complex.

Second, the Department concludes that the certificate holder has not provided "sufficient information ... to justify why changes within an existing site boundary should be considered non-complex." In the Department's view, certificate holders must provide additional detail to explain why repower activities that maintain an existing site boundary are not complex. It is not clear what other information is necessary to explain why the proposed modifications, all of which will occur within the existing site boundary, renders the RFA non-complex. That the RFA will maintain the existing site boundary is, in itself, an important fact in the path determination analysis, because it indicates that the RFA will not create external impacts beyond those that the Council has previously evaluated.

Third, the Department concludes that potential impacts to above-ground historic resources are "uncertain," because the Department has not yet completed its evaluation of those impacts, and RFA 6 will require further review under the Council's substantive standards. However, as the Determination acknowledges and as set forth at length in pRFA 6, the certificate holder's proposed changes will not alter the basis of the Council's previous findings under most of the Council's substantive standards. That the Department has not yet finished reviewing the proposed modifications under the Council's Historic, Cultural and Archeological standard—and is therefore "uncertain" about the potential for impacts to above-ground historic resources—does not render the RFA "complex." Rather, as detailed in the pRFA 6, the SWP has a long history of cultural resource surveying and monitoring, and existing conditions will adequately protect cultural resources in the event of that further analysis reveals any potential for impact.

Relatedly, the Determination relies on "the fact that pRFA 6 requires a substantive review under each Council standard" to conclude that the proposal is complex. However, as detailed in pRFA 6, the amendment is not expected to alter the Council's previous findings under any of the Council's substantive standards. The certificate holder submitted a complete burden of proof statement addressing each substantive standard, a professionally accepted best practice in proceedings before the Department and the Council. The Department's rationale now suggests that a Type B review is unavailable simply because the certificate holder submitted a thorough application that will require the Department's review and analysis. As a matter of procedural policy, this rationale does not support a finding that the proposal is complex.

Finally, the Department concludes that examples of previous RFAs processed under Type B review were necessarily less complex because, although they approved increases to wind turbine



dimensions similar to what the certificate holder proposes here, those facilities were not yet operational—whereas the SWP has been operational for many years.

As demonstrated in pRFA 6, the Council has previously reviewed wind turbine modifications that exceed what the certificate holder is proposing here. For example, the Golden Hills Project has a total facility height of 650 feet—161 feet more than the maximum height that the certificate holder proposes. Notably, in 2018, the Council concluded that the Type B process was appropriate for Wheatridge RFA3, which proposed to modify approved turbine specifications and increase the maximum blade tip height from 476 feet to 499.7 feet (an increase of 23.7 feet).

The Determination attempts to distinguish these precedential RFAs on the grounds that those projects had not yet been constructed at the time of the site certificate amendments. But it is unclear how this distinction is material. If anything, this distinction weighs even further in favor of the Type B pathway in this case because, as a practical matter, the vast majority of impacts from the SWP have already been evaluated, have already occurred, and are already being mitigated. The certificate holder acknowledges that, unlike those precedents, pRFA 6 would add 50 MW of battery storage and could potentially add up to two new turbines. However, those physical modifications are small when compared to the scale of the SWP as a whole and when compared to other wind projects previously approved by the Council. These small-scale physical modifications are necessary to maintain existing power generation at the SWP and are not so complex as to warrant Type A review.

### **B. The Department’s “conservative” assumption of public interest is speculative.**

In the Determination, the Department notes that it “conservatively assumes a moderate level of public interest in the changes proposed in RFA 6.” However, the Department’s rationale is based on the “reasons described under the ‘complexity’ factor,” and this analysis appears to conflate the two factors. The Department further asserts, without elaboration, that RFA 6 will result in construction impacts different from existing conditions that “may ... generate public interest in temporary impacts to roads, housing, hospital and emergency services, especially given the rural nature of the facility.” This rationale appears to be based not on the specific changes proposed in RFA 6 or on evidence that there has or will be public interest in the SWP, but on a view that rural communities often have moderate public interest in wind facilities and construction activities generally.

OAR 345-027-0051(3) provides that the Department and the Council may consider “the anticipated level of public interest in the proposed change,” not the general level of public interest in wind facilities. Although the certificate holder acknowledges that the level of interest in past proceedings may be an indication of interest in the proposed change, the Department’s speculative assertions do little to explain how the anticipated level of interest in the specific changes proposed justify Type A review.

Here, the modifications are proposed on a facility that has been in operation for more than a decade. As set forth in the pRFA, the proposed changes are primarily limited to replacing turbine blades and nacelles on existing turbines, modestly increasing the turbine dimensions, and adding a small battery storage unit next to an existing substation. At most, the RFA would authorize two additional turbines. There is no evidence to suggest that there would be significant public interest in these relatively small modifications to the facility, particularly given its location in a rural and unpopulated area. And, the certificate holder has engaged in early coordination with landowners precisely to proactively address any significant public concern.

Further, to the extent interest in past proceedings may be an indication of anticipated interest in the proposed change, historical public interest in this facility has been low. There were only two public (non-agency) comments on the amendments related to RFA 5 and one public comment on RFA 4. Even if the level of interest in past proceedings may be an indication of potential interest (and again, the plain language requires the Department to evaluate the anticipated level of public interest in the specific change proposed), the record demonstrates limited interest in this facility.

Finally, if the Department continues to opt for Type A review because of general public interest in wind facilities, it is difficult to imagine any proposed amendment for any facility that would fall under Type B. And while the certificate holder understands the Department's view that Type A is the "default," basing a review path determination on speculation about public interest is bad policy. Not only does such a practice unnecessarily add process and risk to small-scale maintenance projects like RFA 6, it opens the door for project opponents to force certificate holders into Type A processes for all future amendments by simply opposing a project during the initial siting process.

For these reasons, the Department's speculation about the possible level of public interest in the proposed change should not trigger Type A review.

**C. The interest in the proposed changes from reviewing agencies does not warrant application of the Type A review process.**

In the Determination, the Department notes that it coordinated with reviewing agencies and has already received comments representing a "moderate level of reviewing agency interest" in the proposed modifications. The Determination highlights its receipt of comments from Umatilla County, the Confederated Tribes of the Umatilla Indian Reservation, Oregon Department of State Lands, Oregon Department of Aviation, Oregon Department of Fish and Wildlife, and the State Historic Preservation Office ("SHPO"). The Determination states that SHPO's comment was "substantive." Based on these facts, the Department speculates that it will ultimately receive a "moderate to high level" of agency interest.

Of the agency comments received, the only comment evidencing more than a de minimis level of interest is the comment received from SHPO. SHPO requested additional information regarding

built properties within the project area, and the certificate holder responded to that request by providing a built environment/historic resources inventory for the analysis area. SHPO subsequently concluded, based on that report, that RFA 6 would result in no impacts to historic era properties eligible for listing on the National Register of Historic Places. The other agency comments received by the Department are non-specific and primarily address routine process considerations (e.g., the general need to analyze impacts to cultural resources or applicable local land use permits). It is unclear how benign comments from a handful of state agencies obligated to review and respond to the Department on RFA 6 should somehow contribute to the Department's conclusion that Type A review is appropriate. If this type of agency interest weighs in favor of Type A review, then no proposed amendments could possibly qualify under the Type B pathway.

As with the anticipated level of interest by members of the public, the anticipated level of interest by reviewing agencies should not trigger Type A review.

**D. Clerical changes to site certificate conditions are not equivalent to changes to the type and amount of mitigation warranting Type A review.**

In the Determination, the Department asserts that proposed changes to the site certificate conditions are equivalent to changes to the type and amount of mitigation, because “[c]onditions act as a form of mitigation.” The Department then identifies condition modifications proposed by the certificate holder that the Department concludes constitute changes to the mitigation. Those conditions include amendments to the facility description—e.g., adding battery storage to the description of the related or supporting facilities and modifying turbine specifications within the site certificate conditions—as well as purely clerical modifications—e.g., amending Condition 93 to refer to the Sixth Amended Site Certificate rather than the Fifth Amended Site Certificate.

The site certificate modifications identified by the Department in the Determination and those recommended by the Department in the DPO are administrative changes necessary to ensure that the Sixth Amended Site Certificate accurately represents the facility operations that the Council has approved. These types of changes are not changes to “mitigation,” which is an industry term of art widely understood to mean actions that respond to a facility's “impacts.” All requests for amendment result in changes to the site certificate. It cannot be the case that any change to the site certificate constitutes a change to the type and amount of facility mitigation. If it were, this factor would always weigh in favor of Type A review.

Moreover, OAR 345-027-0357(8)(e) directs the Department specifically to consider the “type and amount” of mitigation—indicating that this factor concerns substantive changes to mitigation and not simply any amended condition that relates to mitigation. For example, the DPO recommends that certificate holder submit a Noxious Weed Control Plan to address new ground disturbance from RFA 6, as part of the certificate holder's existing approved Revegetation Plan. This type of change to the site certificate is not a change to the “type and amount of mitigation.” It cannot be the

case that any change intended to extend existing mitigation obligations to new construction necessarily weighs in favor of Type A review. If it were, Type B review would never be available for an RFA proposing even modest new ground disturbance.

OAR 345-027-0357(8)(e) was intended to guide the Department in evaluating whether an RFA will fundamentally change the mitigation package that applies to a facility. Here, as set forth in the Department's proposed findings in the DPO, RFA 6 will not materially affect mitigation for this facility. Accordingly, neither the Department's findings nor rationale supports a conclusion that RFA 6 will result in changes to the type and amount of mitigation warranting Type A review.

### **III. CONCLUSION**

For the aforementioned reasons, we respectfully request that the Council take notice of these formal objections to the Department's Determination. Simply put, RFA 6 should have been subject to the Type B review process, and the certificate holder urges the Council to protect the Type B review process for future applications.

Thank you for your consideration.

Sincerely,



David Lawlor

Director of Development

NextEra Energy Resources



December 13, 2021

Ms. Sarah Esterson, Senior Policy Advisor

Oregon Department of Energy

550 Capitol St. NE, 1st Floor

Salem, OR 97301

Subject: Applicant Comments on Draft Proposed Order for Stateline Wind Project RFA6

Dear Ms. Esterson:

This letter provides comments by FPL Energy Stateline II, LLC (the "certificate holder") on the Draft Proposed Order on Request for Amendment 6 ("RFA6") for the Stateline Wind Project ("SWP") Site Certificate, dated November 23, 2021 ("DPO"). The certificate holder supports the Oregon Department of Energy ("ODOE") findings that the certificate holder can safely and responsibly construct the modifications proposed in RFA6 and continue to operate Vansycle II ("Facility"). The certificate holder provides the following comments and proposed revisions to the DPO for the reasons outlined below.

- **Page 114 - Access Roads**

One permanent access road between ALT-1 and ALT-2 is proposed in RFA6; 0.44 miles total, 0.9 acres of permanent impacts. Accordingly, the certificate holder requests minor modifications to the condition language to ensure consistency with the proposed modifications and suggests edits to the following paragraphs:

OAR 345-024-0015(1) encourages the use of existing roads for facility site access, minimizing the amount of land used for new roads, and locating new roads in such a manner that reduces adverse environmental impacts. The certificate holder proposes to utilize existing access roads, to be temporarily widened to support construction activities. ~~One~~ **No extent of** new permanent roads ~~would be constructed as part of RFA6, totaling 0.44 miles.~~ New conditions described in Section III.D. Soil Protection of this order would require that, during construction, the certificate holder implement erosion and sediment control measures outlined in the NPDES 1200-C permit and ESCP to reduce adverse environmental impacts from facility roads.

~~Because the proposed RFA6 facility modifications would not result in new permanent access roads,~~ The Department recommends the Council continue to find that the certificate holder demonstrates that it would use existing roads where practicable to provide access to the site and, through the temporary expansion of existing roads **and addition of a single 0.44**

~~mile road~~, would reduce adverse environmental impacts and constructed in a manner that minimizes the amount of land used.

- **Page 134 - Major Structures**

The combined peak generating capacity for the Facility should be up to 118.68 MW, not 98.9 MW. Accordingly, the certificate holder requests a minor modification to the Facility description language to reflect the accurate peak generating capacity. Suggested edits to the following paragraph:

~~Vansycle II Stateline 3~~ consists of up to ~~45-43 Siemens 2.3-MW~~ wind turbines.

~~Vansycle II Stateline 3~~ has a combined peak generating capacity of up to ~~118.68~~~~98.9~~ MW.

Major facility structures are further as described in the Final Order on Amendment #4.

[Amendment #4; AMD5; AMD6]

- **Recommended Condition 152 - Construction Ground Disturbing Related Activities**

The new, recommended condition 152 is repetitive to other conditions and requires several additional pre-construction and construction steps and agency reviews that are unnecessary for the limited repair and maintenance activities required to facilitate the proposed repower. As explained in the RFA, the proposed repower of the existing Facility will be a much smaller construction effort than for a new facility. Additionally,

- The majority of the proposed changes in RFA6 require ground-disturbing impacts to previously impacted areas - access road widening and turbine pad widening – and these areas of successfully been revegetated and reclaimed.
- Revegetation and reclamation will be conducted per the Revegetation Plan (Condition 65), and as previously completed post-construction of the existing project in coordination with the underlying landowner.
- Existing landowner agreements (commercial agreements outside of the EFSC process) are in place and establish crop and reclamation compensation, as necessary.
- Relationships with existing landowners are established and any project-related complaints have been addressed by certificate holder since operations began in 2010.
- The Revegetation Plan (Condition 65), Noxious Weed Control Plan (Recommended Condition 158), Erosion and Sediment and Control Plan, and National Pollutant Discharge Elimination System 1200-C Permit (Condition 60) requirements include best management plans and conditions that overlap and address reclamation of ground disturbing related activities.
- The forementioned plans have already been or will be reviewed by the appropriate agencies prior to construction.

Specifically, the certificate holder requests consideration of the following redlined changes to Recommended Condition 152:

**Recommended Condition 152:** Prior to construction of the Vansycle II facility modifications approved in the Sixth Amended Site Certificate, the certificate holder shall develop and submit a Soil Reclamation Plan section of the Revegetation Plan (Condition 65) that is specific to temporary disturbance areas, used to inform the final assessment of soil erosion and compaction impact potential, and reclamation measures. The Soil Reclamation Plan shall be incorporated into the Final Revegetation Plan (Condition 65), to be implemented as part of the Final Revegetation Plan.

~~(a) The Soil Reclamation Plan shall include updated soil classification maps with descriptions of soils impacted and may consider information including but not limited to: (1) key soil properties related to soil productivity such as bulk density, K-factor, the thickness and organic carbon of the A and B horizons, porosity, permeability, and water holding capacity of the soils within disturbance areas; (2) existing vegetation cover type/invasive dominated areas based on literature review and preconstruction field surveys; (3) historic and current land use; and (4) seasonal precipitation conditions.~~

~~(b) Based on the soil productivity information provided in (a), the certificate holder shall develop quantitative reclamation criteria that will be used to measure successful reclamation of disturbed soils.~~

~~(c) The Soil Reclamation Plan must be submitted to the Department and Umatilla Soil and Water Conservation District for review and Department approval in consultation with the Oregon Department of Agriculture, Natural Resource Conservation Service or a third-party consultant with expertise in soils.~~

~~[Amendment #6]~~

- **Recommended Condition 153 - Umatilla County Amended Conditional Use Permit**

As stated in Section 152.616(HHH)(10) of the Umatilla County Development Code (UCDC), an amendment to the conditional use permit shall be required if the proposed Facility changes include any of the below listed changes. (Note that in Umatilla County, all components of the Facility and its related or supporting facilities (including battery energy storage) qualify as a “wind power generation facility,” which is a type of “commercial utility facility for the purpose of generating power for public use by sale” allowed as a conditional use under UCDC 152.060(F).)

*(10) (a) Permit Amendments. The Wind Power Generation Facility requirements shall be facility specific, but can be amended as long as the Wind Power Generation Facility does not exceed the boundaries of the Umatilla County conditional use permit where the original Wind Power Generation Facility was constructed.*

*(b) An amendment to the conditional use permit shall be subject to the standards and procedures found in §152.611. Additionally, any of the following would require an amendment to the conditional use permit:*

- (1) Expansion of the established Wind Power Generation Facility boundaries;*
- (2) Increase the number of towers;*
- (3) Increase generator output by more than 25 percent relative to the generation capacity authorized by the initial permit due to the re-powering or upgrading of power generation capacity; or*
- (4) Changes to project private roads or access points to be established at or inside the project boundaries.*

*(c) In order to assure appropriate timely response by emergency service providers, Notification (by the Wind Power Generation Facility owner/operator) to the Umatilla County Planning Department of changes not requiring an amendment such as a change in the project owner/operator of record, a change in the emergency plan or change in the maintenance contact are required to be reported immediately. An amendment to a Site Certificate issued by EFSC will be governed by the rules for amendments established by ESC.*

Under RFA6, the proposed repower **could** require an amendment to its Conditional Use Permit for Umatilla County, but only certain components of the proposed repower would trigger the need for an amendment. The repowering activities will only meet these amendment thresholds if there is an increase the number of towers or changes to the Facility access roads. Note that per UCDC § 152.616(HHH)(10)(C), there will be no change to the Facility owner/operator of record, no change in the emergency plan, and no change in the maintenance contact as part of RFA 6. To ensure consistency with the County's development code, the certificate holder requests additional language in Recommended Condition 153 to clarify that a conditional use amendment will only be required if one or more of the amendment triggers are met, as indicated below.

**(153) Prior to construction of any new turbines or changes to the Facility's access road or access points as the facility modifications approved in the Sixth Amended Site Certificate, the certificate holder shall provide evidence to the Department that it has obtained an amended conditional use permit from the Umatilla County Planning Department.**

**[Amendment #6]**

- **Recommended Condition #155 - Umatilla County Turbine Setback Requirement**

In the DPO, the Department concludes that the 2-mile rural residential setback standard at UCDC 152.616(HHH)(6)(a)(3), which requires turbine towers to be set back 2 miles from rural residences, should apply to new **and replacement** turbines. Although the Department does not provide further analysis of the applicability of the provision to existing turbines locations, the Department's conclusion appears to be based in part on its determination that the turbine locations described in the RFA (both existing and new turbine locations) would meet the 2-mile setback.

While the certificate holder has provided evidence of compliance with the standard and anticipates that it may be able to maintain a 2-mile separation from rural residences from new and existing turbine locations during final design, Recommended Condition 155, as proposed, is impractical and inconsistent with state and local law. From a practical standpoint, if a neighboring landowner were



to build a residence within 2 miles of the Facility prior to the certificate holder's construction of the repower, Recommended Condition 155 could operate to prevent the certificate holder from replacing a turbine in the middle of the Facility.

Further, Recommended Condition 155 is inconsistent with the nonconforming use protections that are afforded to the facility under the Umatilla County Development Code ("UCDC") and Oregon land use law. A "non-conforming structure or use" is a "lawful existing structure or use at the time ... any amendment [to the UCDC] becomes effective, which does not conform to the requirements of the zone in which it is located." UCDC § 152.003. Here, the Facility was developed prior to the County's adoption of the 2-mile setback standard in 2011, so the Council does not have the authority to apply that standard to existing turbine locations. To the extent that any of the existing locations were within 2 miles of a rural residence, the County nonconforming use provisions would allow the certificate holder to maintain the location and repair/alter the turbine structure consistent with the County's nonconforming use provisions.

Under the UCDC and state statute, the Council may authorize "[a]lterations or repairs of a nonconforming use" in order "to continue the use in a reasonable manner." UCDC § 152.597(A); *see also* ORS 215.130(5). An allowable "alteration" of a non-conforming structure is "[a] change in the structure or physical improvements of no greater adverse impact to the neighborhood." UCDC § 152.597(C)(2); ORS 215.130(9)(b). The Council "shall not place conditions upon the continuation or alteration of a use ... when necessary ... to maintain in good repair the existing structures associated with the use." ORS 215.130(5) (emphasis added); *see also* UCDC § 152.600(F) (providing that county code authorizes conditions on a non-conforming use only "to the extent provided by ... Oregon State law").

The repower is necessary to maintain the existing turbines in good working condition and, therefore, if a particular turbine location were within 2 miles of a rural residence, the repower would be an authorized "repair" or "alteration" to a non-conforming structure under the UCDC. As set forth in RFA 6, the requested changes to the turbines are aimed at maintaining the viability of the existing facility by increasing its efficiency. With respect to the 2-mile rural residential setback, the Certificate Holder's repair activities at existing turbine locations necessarily will not cause greater adverse impacts to the neighborhood than the impacts that the Council has already evaluated and approved through the existing site certificate. For those reasons, the Certificate Holder requests that the Council find that the 2-mile rural residential setback does not apply to the 43 **existing** turbine locations and amend Recommended Condition 155 as follows:

**Recommended Condition 155: Prior to construction of facility modifications approved in the Sixth Amended Site Certificate, the certificate holder shall provide to the Department and Umatilla County Planning Department final layout maps demonstrating compliance of any new ~~and replacement wind turbines~~ turbine locations with the 2-mile rural residential setback, based on UCDC 152.616(a)(3) definition of rural residence. The certificate holder shall also provide in tabular format turbine identification numbers and distance from nearest rural residence for any new and replacement turbines, as applicable, based on final design.**

- **Recommended Condition #156 - Landowner Coordination**

The temporary impacts to repowering existing turbines would largely be limited to impacts along existing access roads. Repowering the Facility will involve substantially less construction activity than construction of a new facility. Disturbance areas will generally be immediately adjacent to the existing facility infrastructure in areas that were disturbed as part of facility construction and disturbance is anticipated to be more superficial i.e. there will be minimal grading. The areas proposed for disturbance were also successfully reclaimed and restored after the initial facility construction. Moreover, besides the Revegetation Plan, these temporary disturbance areas are subject to the requirements of the NPDES 1200-C a Noxious Weed Plan and other conditions that require landowner coordination (Condition 44). As stated in the DPO:... the Department recommends Council find that the Condition 44, which requires that the certificate holder coordinate with landowners on road improvements to minimize crop impacts, is also applicable for the purpose of minimizing impacts to productive soils from the proposed RFA6 facility modifications. Therefore, landowner coordination is already implicated in an existing condition to account for the temporary impacts from repowering existing turbines. For this reason, the certificate holder recommends modifying Recommended Condition 156 to only require additional evidence of landowner coordination if there would be a new permanent impact per the below:

**Recommended Condition 156:** Prior to construction of new facilities (new turbines (and associated collector lines and access roads extents) and battery storage) ~~the facility modifications~~ approved in the Sixth Amended Site Certificate, the certificate holder shall provide to the Department evidence of landowner consultation for properties to be impacted by temporary and permanent disturbance. Consultation shall demonstrate that the certificate holder sought landowner input on extent and timing of disturbance and considered, to the maximum extent feasible from a technological and engineering perspective, methods to minimize unnecessary disturbance from construction and operation. The certificate holder shall provide a final design map of facility components approved in the Sixth Amended Site Certificate and shall promptly notify the Department of any changes in design that would impact any disturbance minimization measures identified after landowner consultation.

[Amendment #6]

- **Recommended Condition 157 - Retirement Bond or Letter of Credit**

The proposed amended changes to Condition 109 removes the requirement for the existing bond to be updated annually. The certificate holder asserts that if the final design for the repower results in no new turbines or battery storage, that Condition 109 should be maintained as is and the existing bond continue to be updated annually including to account for the repower. The reason is that the cost of updating the existing turbines with blades and nacelles will decrease due to the decrease in weight of the blades and nacelles which are a factor in the cost estimate and there will be no changes to other facilities that factor into the cost estimate such as length of collector lines or access roads - i.e. the estimate will be within the range of the existing bond. Therefore, the certificate holder recommends that Recommended Condition 157 be adjusted accordingly:

**Recommend Condition 157:** Prior to construction of a repowering design with new turbines and/or construction of battery storage ~~facility modifications~~ approved in the Final Order on Amendment 6, the certificate holder shall submit to the State of Oregon through

the Council a bond or letter of credit in the amount described herein naming the State of Oregon, acting by and through the Council, as beneficiary or payee. The initial bond or letter of credit amount is either \$6,906,000 million (in 4th Quarter 2021 dollars), to be adjusted to the date of issuance as described in (b), or the amount determined as described in (a). The certificate holder shall adjust the amount of the bond or letter of credit on an annual basis thereafter as described in (b)....

Best regards,



Chris Powers

Environmental Manager

NextEra Energy Resources

Cc: Chase McVeigh-Walker, ODOE  
David Lawlor, NextEra Energy Resources  
Anneke Solsby, NextEra Energy Resources  
Sarah Curtiss Stauffer, Stoel Rives  
Carrie Konkol, Tetra Tech



Oregon  
Kate Brown, Governor

Parks and Recreation Department  
State Historic Preservation Office  
725 Summer St NE Ste C  
Salem, OR 97301-1266  
Phone (503) 986-0690  
Fax (503) 986-0793  
www.oregonheritage.org



December 13, 2021

Ms. Kathleen Sloan  
Oregon Department of Energy  
550 Capitol St. NE  
Salem, OR 97391

RE: SHPO Case No. 10-1059  
Stateline Vansycle II Wind Proj  
Final monitoring report  
Multiple legals, Umatilla County

Dear Ms. Sloan:

Thank you for submitting information for the undertaking referenced above. We concur with the determination that the four properties examined in the Historic Properties Inventory Report are all not eligible for listing in the National Register of Historic Places. We concur that there will be no historic properties affected for this undertaking.

This concludes consultation with our office for built-environment resources. If you have not already done so, be sure to consult with all appropriate Native American tribes and interested parties regarding the proposed undertaking.

If the undertaking design or effect changes or if additional historic properties are identified, further consultation with our office will be necessary before proceeding with the proposed undertaking. Additional consultation regarding this case must be sent through Go Digital. In order to help us track the undertaking accurately, reference the SHPO case number above in all correspondence.

Please contact our office if you have any questions, comments or need additional assistance.

This letter refers to built-environment resources only. Comments pursuant to a review for archaeological resources have been sent separately.

Sincerely,

Jason Allen, M.A.  
Historic Preservation Specialist  
(503) 986-0579  
jason.allen@oregon.gov

cc: Lara Rooke, Tetra Tech, Inc.





Minnick Hayner

attorneys at law

---

249 West Alder · P.O. Box 1757 · Walla Walla, WA 99362-0348  
(509) 527-3500 · Fax (509) 527-3506 · E-mail [info@minnickhayner.com](mailto:info@minnickhayner.com)

December 15, 2021

Chase McVeigh-Walker, Senior Siting Analyst  
Oregon Department of Energy  
550 Capitol St. NE  
Salem, OR 97301

VIA EMAIL: [Chase.MCVEIGH-WALKER@energy.oregon.gov](mailto:Chase.MCVEIGH-WALKER@energy.oregon.gov)

Re: Stateline Wind Project Comments on Amendment 6

Dear Mr. McVeigh-Walker:

Our law firm represents Kirk Terjeson and Gunder Terjeson who own Terjeson Ranches. Terjeson Ranches owns the land adjacent to the project area. The developer on the project and applicant, NextEra, has indicated a desire to expand or move the road at Butler Grade. The new road is proposed to be on land owned the Terjesons and Terjeson Ranches. Terjeson Ranches has not agreed to allow access to their property or an easement for access. The proposed road would severally impact the Terjeson Ranches farmland. Therefore, the Terjesons are in opposition to any Order of Amendment that would require use of a road across their land to provide access or equipment to the project site.

Very truly yours,

James K. Hayner  
[jim@minnickhayner.com](mailto:jim@minnickhayner.com)

JKH/sh

---

James K. Hayner · Steven C. Frol · Mona J. Geidl · Robert R. King · Peter D. Lucas-Roberts · Kathryn A. Unbehaun

H.H. Hayner (1916-2010) · W.L. Minnick (1913-1993)

*Minnick · Hayner is a Washington Professional Service Corporation*

# Umatilla County

## Board of County Commissioners

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**George L. Murdock**  
541-278-6202

**John M. Shafer**  
541-278-6203

**Daniel N. Dorran**  
541-278-6201

December 15, 2021

Oregon Department of Energy  
Attn: Mr. Chase McVeigh-Walker, Senior Siting Analyst  
550 Capital Street NE  
Salem, OR 97301

Subject: Stateline Wind Energy Facility (Amendment 6)  
Response to Draft Proposed Order

Dear Mr. McVeigh-Walker:

Umatilla County has completed a review of Stateline III Wind Energy Facility – Draft Proposed Order (DPO) – Amendment 6. A summary of comments from the review is included below:

In the DPO, recommended Condition 153 would require that the certificate holder obtain an amended conditional use permit per UCDC 152.616(10)(a). We request that the condition be amended to also specify that amended zoning permits, for each tax lot that would include modified or new structures, would be required, in accordance with UCDC 152.025. Recommendations provided below:

**Recommended Condition 153:** Prior to construction of the facility modifications approved in the Sixth Amended Site Certificate, the certificate holder shall provide evidence to the Department that it has obtained an amended conditional use permit and amended zoning permits per tax lot from the Umatilla County Planning Department.

For the certificate holder's benefit, please note that current fees for an amended conditional use permit are \$5,000, plus a \$1,000/wind turbine (totaling up to \$50,000 if the 45 wind turbine scenario is completed), plus \$200 per zoning permit.

In the DPO, recommended Condition 154 requires that the certificate holder notify and provide copies of construction and operational Emergency Response Plans to satisfy UCDC 152.616(10)(c). We request that the condition specify that the plans would be coordinated with emergency response providers and local fire districts; specify that mutual aid agreements may be necessary; and, that notification and copies of the plans be provided to both the Department of Energy and Umatilla County Planning Department to ensure adequate coordination and understanding of schedule and potential impacts to public services. Recommendations provided below:



**Recommended Condition 154:** The certificate holder shall develop emergency response plans per (a) and (b) in consultation with local emergency and fire service providers and shall establish whether mutual aid agreements are necessary to provide adequate services during construction and operation:

(a) Prior to and during construction of the facility modifications approved in the Sixth Amended Site Certificate, as applicable, the certificate holder shall notify and provide copies of the final health and safety plans and/or emergency response plans to the Department and Umatilla County Planning Department, to be implemented during construction activities.

(b) Prior to and during operation of the facility modifications approved in the Sixth Amended Site Certificate, as applicable, the certificate holder shall notify and provide copies of the final Emergency Action Plan to the Department and Umatilla County Planning Department, to be implemented during operations.

In the DPO, recommended Condition 158 would require that the certificate holder develop and submit a Noxious Weed Plan, to be reviewed and approved by the Department of Energy in consultation with the Umatilla County Road Department. We concur with this condition. Theodore Orr is the Weed Department Supervisor and should be the contact for the Department and certificate holder in the development of the plan. His phone number is (541) 278-5462 and email is [theodore.orr@umatillacounty.net](mailto:theodore.orr@umatillacounty.net).

In the DPO, recommended Condition 155 requires that the certificate holder provide maps and tabular data for demonstrate compliance with the 2-mile rural residential setback for wind turbines. We request that the condition require GIS data to enable the Department of Energy and county to more accurately evaluate compliance with UCDC 152.616(HHH)(a)(3). Recommendations provided below:

**Recommended Condition 155:** Prior to construction of facility modifications approved in the Sixth Amended Site Certificate, the certificate holder shall provide to the Department of Energy and Umatilla County Planning Department final layout maps and GIS data of final turbine locations demonstrating compliance of any new and replacement wind turbines with the 2-mile rural residential setback, based on the UCDC 152.616(a)(3) definition of rural residence. The certificate holder shall also provide in tabular format turbine identification numbers and distance from nearest rural residence for any new and replacement turbines, as applicable, based on final design.

In the DPO, recommended amended Condition 142 requires a compliance demonstration for wind turbine road setbacks. We request that the certificate holder provide an update to the county as soon as possible on the status of the right-of-way relocation or adjustment of Gerking Flat Road and Butler Grade Road, which we previously understood were necessary in order for 2 of the existing wind turbines to be repowered and maintain compliance with UCDC 152.616(HHH)(6)(a)(4).

We understand that Council previously imposed a condition requiring that turbine parts associated with the repower be recycled to the maximum extent feasible. We recommend that the condition specify that the certificate holder be required to demonstrate that the selected recycling or disposal site be a qualified and/or DEQ-approved facility. Recommendations provided below:

Condition 144: During construction of the Vansycle II facility modifications, as approved in the Sixth Amended Site Certificate, the certificate holder shall ensure its third-party contractors reuse or recycle wind turbine blades, hubs and other removed wind turbine components to the extent practicable. The certificate shall demonstrate that the recycling or disposal facility selected to receive turbine parts is qualified and approved by an applicable regulatory agency. The certificate holder shall report in its semi-annual report to the Department the quantities of removed wind turbine components recycled, reused, sold for scrap, and disposed of in a landfill. [Amendment #5, #6]

Thank you for the opportunity to comment on this DPO. Any additional questions may be directed to Robert Waldher, Planning Director, Umatilla County Planning, 216 S. E. 4<sup>th</sup> Street, Pendleton, Oregon 97801; phone (541) 278-6251 or e-mail at robert.waldher@umatillacounty.net.

Sincerely,



George Murdock,  
Chair  
Umatilla County Board of Commissioners

CC: Doug Olsen, Umatilla County Counsel  
Umatilla County Planning Commission  
Tom Fellows, Umatilla County Public Works Director  
Theodore Orr, Umatilla County Weed Supervisor  
Anne Debbaut, DLCD Regional Representative  
Hilary Foote, DLCD Farm and Forest Specialist



To the ENERGY FACILITY SITING COUNCIL of the STATE of OREGON.

In the Draft Proposed Order on Request for Amendment 6 of the Stateline Wind Project site Certificate of Nov. 23 2021, in sec 111.N Waste Minimization: OAR 345-022-0120, the council may impose site certificate conditions based upon the requirements of the standard. In the Findings of Fact ( pg 104 ) it talks about third party contractors and potential landfills for this site.

With the size and magnitude of this site and the potential for many others, the State and County should like to be certain that all waste ends up at the proper facility. As a condition for approval, the certificate holder shall: Prior to and during decommissioning of turbine parts, keep and turn over to the State and County the chain of custody for waste generated to end point.

In Umatilla County, turbine blades ended up in an improper landfill. The landfill was fined and is in the process of cleanup. This is something that just happened to be caught. Who knows where other waste has gone?

With the turbines lifespan of 20 to 30 years, there will be a lot more decommissioning. The state and counties should have assurances in place to know that all waste is ending up where it should be.

What happens when these projects are turned over to the property owner for decommissioning?

Submitted by Blue Mountain Alliance,

# Turbine blades stir up trouble for recycling business

By SHEILA HAGER  
*Walla Walla Union-Bulletin*

**MILTON-FREEWATER** — A longtime Milton-Freewater businesswoman has appealed a recent state environmental fine of \$57,282.

Sam Humbert was issued a fine for establishing a solid waste disposal site without a permit, Oregon Department of Environmental Quality officials said in a letter Sept. 1. Humbert appealed the finding Sept. 22.

The illegal dump is off Eastside Road and was started in 2019, DEQ spokesperson Laura Gleim said last week.

Humbert reported the operation to the U.S. Army Corp of Engineers that same year, and that agency shared the information with the DEQ. An investigation revealed discarded wind turbine blades — with an overall measurement of about 2,741 cubic yards — had been placed on the private property and were adjacent to wetlands.

Humbert had not been issued the necessary solid waste disposal site permit from the state for that purpose, according to legal documents.

The law was not broken on purpose, Cindy Granger said Wednesday, Dec. 1.

Granger is the daughter of Sam Humbert and was speaking on behalf of the windmill recycling operation on her father's land.

"There was a lot of miscommunication and misunderstanding with everyone involved," she said. The intention was to take the blades from decommissioned wind machines, of which a multitude march across the hills in Umatilla and many other Oregon counties.

Land-based wind turbines have been increasing in the last manufactured size in the last 20 years, to an average of 295 feet — about the height of the Statue of Liberty, according to the federal office of



Greg Lehman, Walla Walla Union-Bulletin, File  
An evening rainbow east of the wind turbines on the south side of the Walla Walla Valley in 2015. Milton-Freewater businessman Sam Humbert is appealing a state fine of more than \$57,000 for disposing of wind turbine blades.

iron part of the windmill blades, Gleim said.

That number can be recalculated once the property is cleaned and in compliance with state regulations.

Humbert's citation also includes having solid waste next to a natural spring on the property, but no financial consequence was attached to that, Gleim added.

Although more than \$57,000 seems hefty, some DEQ fines can reach more

than \$1 million, depending on the violation and if it is a repeated offense, she said.

Granger said it has been gratifying to work with the environmental regulatory agency, and the family expects to have the cleanup work accomplished by the end of January.

The Humbert family is done working with windmills, she added.

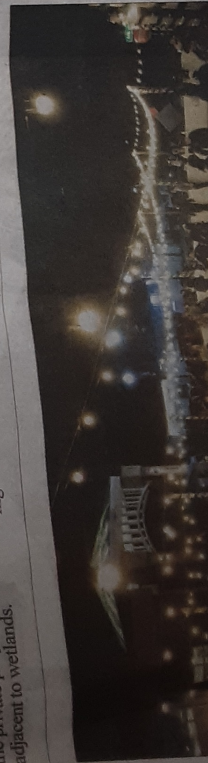
"This was a learning experience," she said.

They do expect to pay a fine, as the metal was put in a landfill without a permit, however unintentionally, Granger said.

The bigger question in the air is what will become of every enormous wind machine when they cease to function, Granger said.

"There's not a good answer for windmill disposal yet. They take up a lot of air space in a landfill, which is important ... once it's full, what are you going to do?"

## Community Vision Open House unveils Hermiston's future



of the public initially discussed the

seed indoor aquatic



# Oregon

Kate Brown, Governor

## Oregon Department of Aviation

3040 25<sup>th</sup> Street SE  
Salem, OR 97302-1125  
Office: 503-378-4880  
Fax: 503-373-1688



**TO:** Chase McVeigh-Walker, Senior Siting Analyst  
**CC:** Heather Peck, Planning & Projects Manager, ODA  
**FROM:** Seth Thompson, Aviation Planner, ODA  
**DATE:** December 16, 2021  
**SUBJECT:** Oregon Department of Aviation Comments on the Request for Amendment 6 and Draft Proposed Order for the Stateline Wind Project

---

The Stateline Wind Project consists of two operational units, with a combined peak generating capacity of 222 MW. Stateline 1 & 2 (Unit 1) is composed of 186 wind turbines and has a peak generating capacity of up to 123 MW. Vansycle II (Unit 2) consists of 43 wind turbines with a peak generating capacity of 99 MW.

The Request for Amendment 6 and Draft Proposed Order for the Stateline Wind Project seeks approval to replace blades and nacelles (repower) of 43 existing wind turbines; decommission and replace up to 4 existing wind turbines; construct and operate up to 2 wind turbines; total not to exceed 45 wind turbines; and, construct and operate 50 MW of battery energy storage. The Stateline Wind Project is located northeast of the Eastern Oregon Regional Airport and southwest of the Walla Walla Regional Airport. For these reasons, the proposal may require airspace review by the FAA and ODA subject to the standards in Code of Federal Regulations: Title 14. Aeronautics and Space: PART 77—Safe, Efficient Use, and Preservation of the Navigable Space.

All project elements are subject to compliance with FAA Part 77.9 Construction or alteration requiring notice (a-d), FAA Part 77.17 Obstruction standards (a-b) and Obstruction Standards of OAR 738-70-0100 if they exceed 200 feet in height or are:

- within 20,000 ft of a public use or military airport which exceeds a 100:1 surface from any point on the runway of each airport with at least one runway more than 3,200 ft.
- within 10,000 ft of a public use or military airport which exceeds a 50:1 surface from any point on the runway of each airport with its longest runway no more than 3,200 ft.
- within 5,000 ft of a public use heliport which exceeds a 25:1 surface

To make this determination, any new or replaced supporting facilities or structures more than 200 feet in height or within the distances provided above must undergo airspace review by the FAA and ODA through submittal of a completed FAA Form 7460-1, attached for reference.

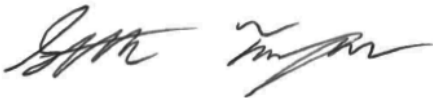
The ODA provides the following recommendations for this proposal:

1. If applicable, the applicant must file and receive a determination from the Oregon Department of Aviation as required by OAR 738-070-0060 on FAA Form 7460-1 Notice of Proposed Construction or Alteration to determine if any new or replaced supporting facilities or structures will pose an obstruction to aviation navigation. The actions below shall be completed in the following order:

- i. First, submit to and receive responses from the Oregon Department of Aviation (Aviation) of 7460-1 Notice of Proposed Construction or Alteration Forms for all new or replaced supporting facilities or structures that meet the above criteria. The applicant shall provide copies of Aviation responses to the Oregon Department of Energy (ODOE) and shall respond to Aviation marking and lighting recommendations, if applicable.
  - ii. Second, once Aviation responses are received, submit to and receive determinations from the FAA for all new or replaced supporting facilities or structures that meet the above criteria. The applicant shall also provide copies of FAA determinations to ODOE.
2. The height of any new or replaced supporting facilities or structures should not penetrate FAA Part 77 Imaginary Surfaces, as determined by the FAA and ODA.

Thank you for allowing the ODA to comment on this development proposal. Please feel free to contact me if you have any questions or need information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Seth Thompson', written in a cursive style.

Seth Thompson  
Aviation Planner

**Attachment D: Emergency Action Plan**

POWER GENERATION DIVISION	Process Category: Regulatory Process: Emergency Management	DOC #: PGD-WSL-PR-EMER- 1209251257		
	TITLE: Vansycle I-II & Stateline Emergency Action Plan WVS WSL	EFFECTIVE: 05/11/2018	REV #: 4.0	PAGE 1 of 42

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**1.0 DOCUMENT STORAGE AND INFORMATION**

1.1. This **Vansycle I-II & Stateline Emergency Action Plan WVS WSL** is stored in the OpModel under PGD-WSL-PR-EMER-1209251257.

**2.0 REVISION HISTORY**

Rev #	Revision Description	Approved By Position / Title	Effective Date
2	Modified plan to include items from the PGD Emergency Response Plan that were not included	Marc Barron  PGD Sr Production Assurance Specialist NEER	01/05/16
3	Modified plan to incorporate changes from the 2017-05 Quality Review	Michael Havens  Senior Wind Tech	06/12/2017
4	Modified plan to incorporate changes from the 2018 Quality Review Check Sheet and revised Appendix 2.	Michael Havens  Senior Wind Tech	5-11-2018

**3.0 PURPOSE AND SCOPE**

- 3.1. The purpose of this Emergency Action Plan is to establish the planned response actions that will be taken by personnel at the **Vansycle I-II & Stateline** in the event of an emergency situation. These actions are intended to minimize health risks to plant personnel and people in the surrounding community, as well as minimize adverse impacts to the environment.
- 3.2. This plan serves as guidance intended to be a "living" document such that revisions over time, based on experiences, will continue to increase the speed of identification of threats and decrease response time.
- 3.3. This procedure applies to all employees, contractors, vendors and visitors performing work at NextEra Energy Resources facilities in the United States.

**Note:** Each plant/site will maintain a sign in / sign out list for visitors and contractors. This is critical so that in the event of an emergency, the plant will be able to accurately determine if all personnel are accounted for. All employees, contractors and visitors should have a picture ID so in the event of an accident or illness, the identity of the injured can quickly be determined (Site management may elect to require names on hard hats in place of the picture ID).

**4.0 REFERENCES AND COMMITMENTS**

- 1. [OSHA 29 CFR 1910.38](#) (Emergency Action Plans)
- 2. [OSHA 29 CFR 1910.39](#) Fire prevention plans (Subpart E - Means of Egress)
- 3. SMS 222 – Fire Protection Plan Procedure
- 4. PGD Hurricane Management (“White Paper”)
- 5. SMS 209 – Health and Safety Inspections Procedure

- 6. [NEE-SAF-1610 Electric Shock – Required Medical Evaluation](#)
- 7. [SMS 247 - Severe Weather Guidelines](#)
- 8. [Corporate Security - Drones](#)

**5.0 DEFINITIONS / ACRONYMS**

- 5.1. AED – Automated External Defibrillator
- 5.2. CPR – Cardiopulmonary Resuscitation
- 5.3. EAP – Emergency Action Plan
- 5.4. FPDC – Fleet Performance and Diagnostic Center
- 5.5. O&M – Operations and Maintenance
- 5.6. OSHA – Occupational Safety and Healthy Adminsitration
- 5.7. PGD – Power Generation Division
- 5.8. PPE – Personal Protective Equipment
- 5.9. ROCC -Renewable Operations Control Center

**6.0 PREREQUISITES AND INITIAL CONDITIONS**

- 6.1. Power Generation Division requires the use of Personal Protective Equipment (PPE). SMS 214 provide a standardized method to define requirements for PPE. The requirements for PPE are dictated based upon the expected hazards of the work. During emergencies, prudent judgment is required as conditions that may pose a risk to safety may be amplified by the nature of the event. Teammates are expected to STOP and evaluate risks associated with the situation to ensure mitigation of safety hazard to self and others in the vicinity. PPE Hazard Assessment Forms should be used as part of emergency drills to help assess the need for additional special protection during emergency situations.

**7.0 RECORDS**


- 7.1. Paper copies of this Emergency Action Plan shall be maintained locally on site easily accessible to all at normally occupied locations, examples being:
  - 1. The Facility Maintenance Building
- 7.2. An electronic copy of this plan will also be accessible on the facility’s LAN and in the PGD OpModel.
- 7.3. This plan will be reviewed upon implementation, whenever revisions are made, and at least annually by the NextEra Emergency Coordinator.
  - a. Information included in this plan that is required by a regulatory entity must be reviewed by the site commercial Business Manager.



## 8.0 PROCEDURE

### 8.1 STATEMENT OF COMPLIANCE

1. It is noted that this Emergency Action Plan was prepared in **May/2018** by NextEra **Vansycle I-II & Stateline**.
2. Thus, I hereby state that the NextEra **Vansycle I-II & Stateline** has evaluated the requirements of all applicable State and Federal Laws and recognize that this Plan has been prepared in accordance with the requirements therein.

Name: \_\_\_\_\_ Michael Odman \_\_\_\_\_  
Signature: \_\_\_\_\_  \_\_\_\_\_  
Title: \_\_\_\_\_ Site/Plant Leader \_\_\_\_\_  
Date: \_\_\_\_\_ May 15, 2018 \_\_\_\_\_

### 8.2 DESIGNATION OF FACILITY EMERGENCY COORDINATORS

1. It will be site/plant policy that the Facility Representative (as formally designated to the **Vansycle I-II & Stateline** State Emergency Response Commission in the facility's 40 CFR 355.30(b) notification letter) will be known as the "Facility Emergency Coordinator" for the purposes of defining roles in this Emergency Action Plan.
2. Alternate personnel may serve as the Facility Emergency Coordinator when necessary.

Primary Facility Emergency Coordinator:

**Michael Odman** Site/Plant Leader

Alternate Facility Emergency Coordinator:

**Clay Horne** Site/Plant Leader

3. Personnel who may be contacted for further information or explanation of duties under this plan are as follows:

**Charles Thomsen** Site/ Plant Leader

**Brian O'Byrne** General Manager

### 8.3 TRAINING

1. All NextEra Energy Resources employees at the facility shall receive training on this Emergency Action Plan whenever it is modified or on at least an annual basis.
2. Employees will also be trained when this plan is initially implemented.
3. If the facility has an alarm system, each plant employee, visitor and contractor must understand the types of local plant alarms and what they are expected to do in the event of each alarm. The plant safety team must assure that the alarms are audible at all plant buildings and locations.

4. Contractors and visitors who will enter operating areas of the facility will be trained on plant alarms, mustering locations and evacuation procedures before they enter the facility for the first time, and at least annually thereafter.
  - a. A listing of contractors with current training on this plan will be maintained at the facility for reference purposes.

#### **8.4 FACILITY LOCATION INFORMATION FOR OUTSIDE EMERGENCY RESPONDERS**

1. The **Vansycle I-II & Stateline** is located at **365 Touchet-Gardena Rd, Touchet, WA 99360**.
2. Outside responders can gain access to the facility from **Touchet Gardena Road..**
3. The entrance road is a paved driveway.

#### **8.5 PLANT / SITE GENERAL EMERGENCY PROCEDURE**

1. This emergency plan was developed for the following plausible contingencies that could transpire at the facility:
  - a. Natural Disaster /Severe Weather Event (APPENDIX 1)
  - b. Fire Response Event (APPENDIX 2)
  - c. Physical Security Event (APPENDIX 3)
  - d. Cyber Secuirty Event (APPENDIX 4)
  - e. Capacity/Transmission Event (APPENDIX 5)
  - f. Environmental Event (APPENDIX 6)
  - g. Gas Pipeline Event (APPENDIX 7)
  - h. Oil Pipeline Event (APPENDIX 8)
  - i. Pandemic Event (APPENDIX 9)
  - j. Immediate Site Evacuation Procedure (APPENDIX 10)
  - k. Delayed Site Evacuation Procedure (APPENDIX 11)
  - l. Designated Egress Routes & Muster Areas For Evacuations (APPENDIX 12)
  - m. Personnel Injuries and Serious Health Conditions (APPENDIX 13)
2. It will be the responsibility of the Site/Plant Leader to assess a developing emergency situation and initiate the appropriate actions in this plan to protect personnel, the surrounding environment, and plant equipment from adverse damages.

3. In the event of an emergency where personnel should be protected, the following actions will be immediately performed:
  - a. Contact **911** immediately.
  - b. Ensure that the following are also contacted:

Title	Name	Office Phone	Cell Phone	Home Phone
Site Leader	Michael Odman	509-594-0163 Ext. 12	541-861-9136	541-861-9136
Emergency Coordinator	Michael Odman	509-394-0163 Ext. 12	541-861-9136	541-861-9136
ROCC	N/A	(561) 694-3636	N/A	N/A
Security Operations	N/A	(561) 694-5000	N/A	N/A

- c. Any work-related permits in effect shall be immediately voided, and personnel involved in such work shall cease all activities.
  - d. All sources of ignition, including hot work, burning cigarettes, portable tools and motor vehicles shall be immediately secured.
4. Based upon the type and extent of the emergency, the Site/Plant Leader should assess whether an evacuation should be initiated.
5. The following criteria should be considered in rendering a decision to conduct an evacuation of the facility:
  - a. The affected parts of the facility and severity of the emergency.
  - b. Restrictions in egress routes caused by the emergency.
  - c. Wind direction (if the emergency involves gases/vapors)
  - d. People currently located at the facility (day shift, night/weekend shift, visitors/contractors, etc.)
6. If the Site/Plant Leader determines that a facility evacuation is necessary, he/she must determine which type of evacuation to direct.
  - a. The following sections describe the types of evacuations that can be performed:

- 1.) Immediate Site Evacuation

- i. This type of evacuation would be used only in the event of an emergency grave enough to warrant immediate evacuation of all personnel.
- ii. In this type of evacuation, operating area personnel should evacuate without regard for shutdown of plant systems or for placing plant systems in the safest mode possible.
- iii. This type of evacuation should only be utilized if the safety of personnel in operating areas is in immediate and severe danger, such that any delay in evacuating could result in deaths or injuries to personnel.
- iv. The production leader will designate production technicians to assist with the evacuation of any employee, visitor or contractor who may have special needs that could limit their ability to evacuate safely.

## 2.) Delayed Site Evacuation

- i. This type of evacuation would be used in a serious emergency situation where non-essential personnel (those not involved in plant operations or emergency coordination) are immediately evacuated as a precaution, and essential personnel remain in operating areas to perform a controlled shutdown of the facility prior to evacuating.
  - ii. It is anticipated that this would be the primary type of evacuation used in response to serious emergencies at the facility.
  - iii. The Site/Plant Leader and/or Facility Emergency Coordinator must assess whether or not the prevailing circumstances warrant keeping essential personnel in plant operating areas to perform a controlled shutdown of the facility.
  - iv. If personnel will not be exposed to unnecessary danger to perform facility shutdown and/or place the facility into a safe condition, then this is the preferred type of evacuation, as opposed to an Immediate Site Evacuation.
- b. Although the Site/Plant Leader (or Facility Emergency Coordinator) may initially designate an evacuation to be a Delayed Site Evacuation, he/she should always keep in mind that conditions may change rapidly, and result in the need to call for an Immediate Site Evacuation.
7. If the Site/Plant Leader (or Facility Emergency Coordinator, as appropriate) determines that an evacuation is necessary, he/she shall ensure that a sounding of the plant alarm is initiated.
- a. In this case, an evacuation alarm should be sounded and all employees/visitors accounted for.
  - b. The Site/Plant Leader (or Facility Emergency Coordinator, as appropriate) will designate an employee(s) to assist with the evacuation of any employee, visitor or contractor who may have special needs that could limit their ability to evacuate safely.
8. If an evacuation has been directed, and following the sounding of the evacuation alarm, the Site/Plant Leader shall ensure that instructions for evacuation are communicated to personnel over the plant radio system. These instructions should include the following items at a minimum:

- a. The type of evacuation to be performed (Immediate Site Evacuation or Delayed Site Evacuation)
  - b. The nature of the emergency
  - c. The location(s) of the emergency
  - d. Any egress routes that should not be used by evacuating personnel (if known and applicable)
9. If an evacuation has been ordered, personnel shall follow one of the following evacuation procedures, as appropriate, based upon the direction of the Site/Plant Leader and/or Facility Emergency Coordinator:
- a. Immediate Site Evacuation Procedure (APPENDIX 10)
  - b. Delayed Site Evacuation Procedure (APPENDIX 11)
10. Perform the appropriate follow-up per the appendices listed on 8.5.1 above.

## **8.6 EMERGENCY ACTION PLAN ANNUAL DRILLS**

1. It is the responsibility of the Site Leader to ensure 4 Emergency Action Plan Drills are performed each year.
  - a. Emergency Action Plan Drills are to be held quarterly to ensure all site teammates have gone through at least one drill per year.
2. In addition to performing the drills, the Emergency Action Plan must be reviewed for accuracy.
  - a. Make updates as required and forward revised plan to the Plant / Site emergency coordinator.
  - b. Ensure site team has been trained on any changes.
3. Each drill's content will be determined by the site leader based on current needs.
4. The type of drill (table top, full functional drill, etc.) will be determined by the site leader based on current needs, but it must include a documented evacuation of the O&M / service building. Every site should have and practice an alternate emergency evacuation path.
5. The targeted drill response time is less than 4 minutes, monitor and record the response time to determine if all employees responded in a timely manner.
6. Each site shall contact the ROCC as part of the drill.
7. A roster of drill attendees and date of drill will be filed with sites' Emergency Action Plan documents.
8. Any gaps or action items that are a result of the drill will be identified, resolved, fully documented, and filed with the sites' Emergency Action Plan documents. Note that MAXIMO is to be used to document actual tasks to be completed to close gaps.

End of Procedure

**Note:** The following are examples of site emergency plans and may need to be edited to meet each location's specific requirements.

## APPENDIX 1 NATURAL DISASTER / SEVERE WEATHER EVENT

1. Natural emergencies considered in this procedure are associated with weather disturbances such as tornadoes, flooding, hurricanes, blizzards, high wind conditions, earthquakes, and severe thunderstorms. Flooding waters, lightning, high winds and heavy rains may be detrimental to the employees, the environment and/or equipment and structures at the facility. Warnings about developing weather emergencies are issued by local radio stations or tracked by onsite weather systems. These warnings should provide adequate information of the approach of weather-related emergency conditions. The Plant Leader at the facility has several means to monitor these weather-related emergencies. These include:
  - Internet access to weather-related web-sites;
  - AM/FM radio to monitor local news stations
  - PGDAPPS WeatherSentry Online
2. When information is received that a severe weather watch or warning has been issued for the facility area the following actions shall be taken:
  - a. The Plant Leader should notify the General Manager.
3. The General Manager shall make a determination about whether or not the plant should be shut down due to the weather situation.
4. Personnel should seek indoor shelter in the plant in a designated secure location, or other reinforced structure. Personnel should remain indoors if the severe weather is affecting the immediate area of the facility.
5. Severe Weather Preparatory Checklist  
Site Leader / Plant Leader or Other Person in Charge
  - a. In the event of a natural disaster / severe weather event, where advance warning is known, such as a hurricane, blizzard, etc. the plant / site personnel shall closely coordinate with the PGD Emergency Response Coordinator, during pre and post event activities.
  - b. In the event of a natural disaster / severe weather event event such as tornadoes, a severe thunderstorm, high wind conditions, earthquake, etc. where advance warning may not be known, the plant / site shall refer to the site specific operating plans to take the actions necessary to assure the safety of all employees and the public. Additionally, site personnel will take reasonable action to prepare for the event to address environmental exposure and the securing of equipment, consistent with the event conditions. However, under no circumstances are personnel to place themselves in harm's way.
6. The following list represents actions that should be taken at the site in order for it to be secured. The listing is not intended to be all inclusive and will vary in applicability pending advance warning of the on-set of the event.
  - Ensure all personnel evacuate towers if lightning is in the area or if there are other unsafe conditions that warrant climbing to be unsafe.
  - Ensure site personnel are safe and accounted for.

- Review staffing levels and arrange for additional staffing “Storm Riders” as applicable
- Secure plant equipment as necessary and as weather conditions permit, noting that personnel are not to be outdoors in wind conditions greater than 40 mph.
- Seek safe shelter. If in your vehicle in winter, ensure survival kit and enough gas is in place.
- Ensure all portable equipment is stored indoors.
- Ensure that switchgear, load center, and tower doors are closed and latched.
- Ensure that the building doors are closed and latched.
- Place all trashcans in locations not exposed to weather.
- Make a general housekeeping inspection and ensure that all loose objects and debris that could potentially become airborne are secured or inside.
- Ensure all radios are fully charged.
- Secure all CONEX Storage buildings.
- Monitor the weather conditions.
- Ensure that there is an ice plan in place for walkways
- Ensure all compartments accessory doors and closed and latched.
- Ensure all sump pumps are in good working condition.
- Ensure the proper condition and location of all mobile and gantry cranes, hoists, and booms.
- Test the DC emergency and other back-up systems.

**Note:** Use caution when using self locking CONEX boxes as teammates may get trapped from the inside. Self-locking CONEX boxes pose a risk of locking someone within it which may cause an unsafe condition.

7. The control room operator or other person appointed by the person in charge will:

- Monitor the weather radio, TV or other monitoring equipment, and report any changes in the situation that could affect site personnel and / or equipment to the Person in Charge.
- Sound plant alarm system if a tornado or other similar severe weather warning is issued.
- Follow instructions from the Person In Charge in the case of equipment shutdown is necessary.
- Notify the ROCC of the potential of a natural disaster / severe weather event .

8. Operations:

- Operate the plant consistent with instructions provided from the Transmission Operator (TOP). If, the instructions cannot be followed, i.e. safety, environmental, reliability, etc. immediately notify the Transmission Operator to discuss alternative operating actions. Document discussions in the Operators log.
- When conditions are “forecasted” such as high winds associated with a hurricane, or other related conditions such as floods and / or storm surge, considerations for equipment shutdown should be taken consistent with the sites operating practices/plans and as applicable, general recommendations described in the PGD Hurricane Management (“White Paper”).

**Note:** The decision to remove units from service will be discussed between Plant Management / Person in charge, the PGD Emergency Response Coordinator, appropriate VP of Operation in conjunction with the respective Transmission Operator, to produce the operation plan for the plant.



**Note: For Hurricane prone areas,** Power Generation Division has developed a detailed PGD Hurricane Management (“White Paper”) , including the required wind speed shutdown requirements of equipment at Florida sites. General recommendation may be reviewed and executed as applicable to other sites. This document is posted on the PGD SharePoint (link below) for Emergency Response.

[PGD SharePoint for Emergency Response](#)

## APPENDIX 2 FIRE RESPONSE EVENT

This appendix describes measures the site shall take to prevent, minimize the severity, and proactively prepare for a fire emergency. Refer to SOPR 222 Fire Prevention Plans and Life Safety.

In the event that a fire should occur, the safe and expedient response actions are essential to protect the health and safety of site personnel, the environment, and minimize damage equipment.

Sites shall maintain good housekeeping. Any accumulation of combustible materials shall be reported during the daily Inspection of Watch (IOW) or in the monthly site inspection (SOPR 209).

1. A person discovering a fire shall follow the **RACE** protocol as described below:

**R**escue anyone in danger (only if safe to attempt);

**A**larm, call (via plant cell or 2-way radio) Control Room to report the fire: Person In Charge (PIC) shall make the determination to call 911 and sound the alarm

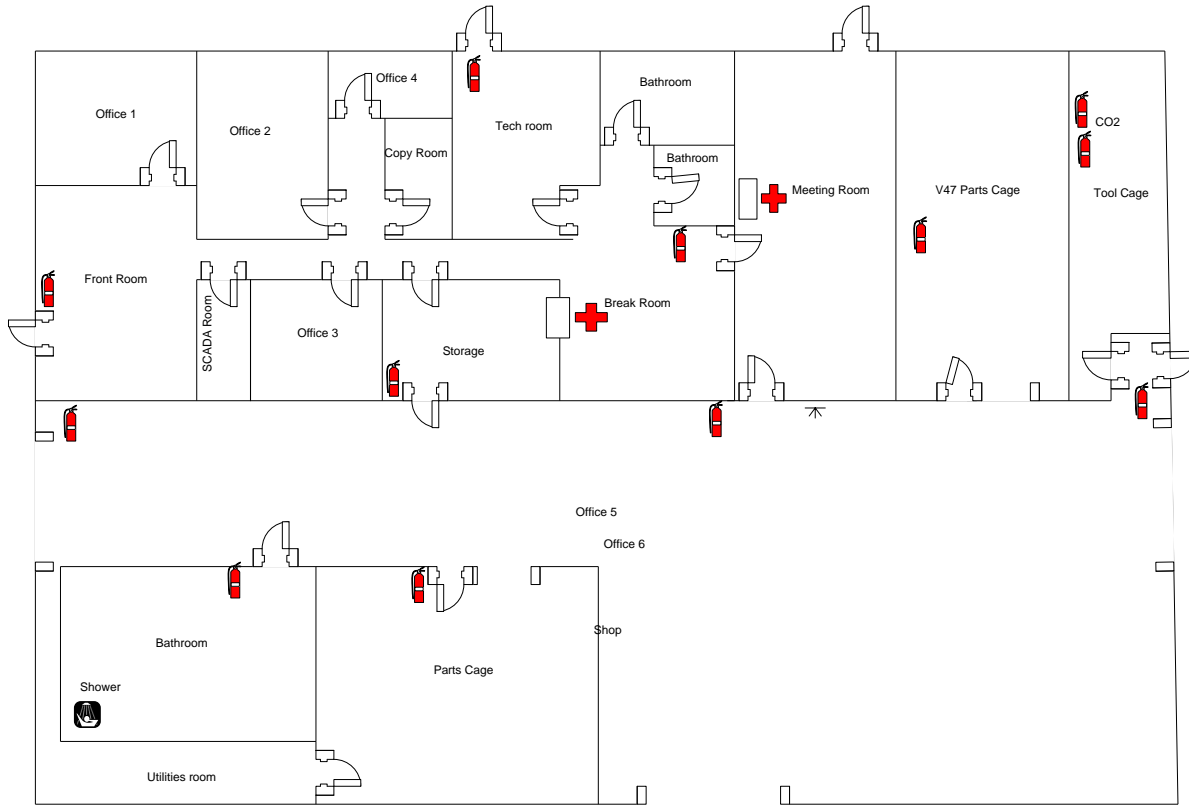
**C**ontain the fire (if practical)

**E**xtinguish the incipient stage fire (only if safe to do so)






**Note:** Fire-fighting efforts beyond incipient stage shall be performed by only Fire Rescue. A person discovering a fire in its incipient stage shall attempt to extinguish the incipient stage fire only if it meets two primary criteria:

1. Fire can be extinguished or controlled with 1 portable fire extinguisher, and
  2. Only if they perceive an adequate level of safety to extinguish the fire.
2. When reporting via 2-way radio, cell, or plant phone provide the following information to the Control Room who will replay it, as appropriate to 911 Dispatch:
- a. Fire has been discovered at \_\_\_\_\_ Location; cause if known.
  - b. \_\_\_\_\_ Injuries that have occurred
  - c. Actions taken to extinguish an incipient stage fire.
3. The PIC shall determine the following:
- a. Need to evacuate and personnel safety
  - b. Equipment or activities to be shut down and/or stopped or isolated.
  - c. Instruct Control Room to notify local Fire Rescue and EMS of need for additional assistance
  - d. Contact the ROCC, System Operations, PGM, VP, Marketing & Communications, Safety
  - e. For assistance contact Media Relations at: 561-694-4442
  - f. Designated site personnel shall escort emergency service to the fire location and provide specific information about equipment, chemicals, electrical sources, fuel storage, etc.
- All other personnel shall report to the designated muster stations and remain until "all clear" is issued.
4. Sites shall have a Fire Extinguisher List and Location map of deployed fire extinguishers.
  5. Personnel shall be provided with initial hands-on training on use of fire extinguishers.

### Fire Extinguisher Deployment Plot



### Legend

-  Dry Chemical Extinguisher
-  CO<sub>2</sub> Extinguisher
-  First Aid Kit
-  Eye Wash Station
-  Shower

**Note:** The fire extinguishers at the plant location are only to be used for small incipient fires. Only trained firefighters should attempt to mitigate a fire that is beyond the incipient stage. Portable fire extinguishers are classified according to their size and intended use on four classes of fires. The general operating instructions can be remembered by the letters P-A-S-S.

1. **P** Pull the pin at the top of the extinguisher that keeps the handle from being pressed.
2. **A** Aim the nozzle or outlet low toward the base of the fire.
3. **S** Squeeze the handle above the carrying handle to discharge the agent inside.
4. **S** Sweep the nozzle back and forth at the base of the flames to disperse the extinguishing agent.

### **Fire Classifications**

**Class A** -Fires involving ordinary combustible materials such as wood, cloth, paper, rubber, and many plastics. Water is used in a cooling or quenching effect to reduce the temperature of the burning material below its ignition temperature.

**Class B** -Fires involving flammable liquids, greases, and gases. The smothering or blanketing effect of oxygen exclusion is most effective. Other extinguishing methods include removal of fuel and temperature reduction.

**Class C** - Fires involving energized electrical equipment. This fire can sometimes be controlled by a non-conducting extinguishing agent. The safest procedure is always attempt to de-energize high voltage circuits and treat as a Class A or B fire depending upon the fuel involved.

**Class D** -Fires including combustible metals such as magnesium, titanium, zirconium, sodium, and potassium. The extremely high temperature of some burning metals makes water and other common extinguishing agents ineffective. There is no agent available that will effectively control fires in all combustible metals. Special extinguishing agents are available for control of fire in each of the metals and are marked specifically for that metal.

## Water Buffalos

### Stateline

WSB-52  
HGC-1  
9 MILE SUBSTATION  
HGS-13  
BGB-23  
O&M Building

### Vansycle I, II

Duroc sub  
A-20  
Campbell Substation  
WVS II-29  
WVS II-43

1. Water buffalo is to be primarily used in fire prevention and suppression. A water buffalo will be present at the work site if any welding, grinding, torch or any work that could cause a fire and manned during and 1 hour after work is completed (for fire watch).
2. After use of the water buffalo water tank must be full, gas full and oil checked.
3. WATER BUFFALO MUST BE PLACED BACK TO ITS PROPER LOCATION!!!

## APPENDIX 3 PHYSICAL SECURITY EVENT

The purpose of this document is to describe the roles, responsibilities, and the associated actions in response to PHYSICAL SECURITY incidents, which includes but is not limited to INTRUSION, DRONES, BOMB THREATS, SABOTAGE, VANDALISM, TERRORISM or OTHER similar security events at a PGD facility.

### RECOGNIZING ACTS OF TERRORISM, HOSTILE INTRUDER & SIGNS OF POTENTIAL VIOLENCE

If a Hostile Intruder enters the **Vansycle I-II & Stateline**, each person shall quickly determine the most reasonable way to protect his/her own life. Visitors and contractors are likely to follow the lead of employees and managers during a hostile intruder situation.

During such an event, each person shall take the following actions, accordingly:

1. EVACUATE
  - Have an escape route and plan in mind
  - Leave your belongings behind
  - Keep hands visible
2. HIDE OUT
  - Hide in area out of intruder's view
  - Block entry to your hiding place and lock the doors
  - Mute or turn off your cell phone
- 3 TAKE ACTION (As last resort and only when your life is in imminent danger)
  - Attempt to incapacitate the intruder
  - Act with physical aggression and throw items at the intruder
- 4 Call 911 when it is safe to do so.

For additional information refer to Corporate Security Policy, [Procedure #NEE-SEC-1720. Hostile Intruder Response Procedure.](#)

An active shooter may be a current or former employee, or an outsider. Call Corporate Security at 561 694- 5000 or 888 694-6444 or your Human Resources Department if you believe an employee exhibits potentially violent behavior.

For employees, indicators of potentially violent behavior may include one of the following:

- Increased use of alcohol and/or illegal drugs
- Unexplained increase in absenteeism, and/or vague physical complaints
- Depression/Withdrawal; Increased talk of problems at home
- Increased severe mood swings, noticeably unstable or emotional responses
- Increase in unsolicited comments about violence, firearms, other dangerous weapons and crimes

For additional information refer to Corporate Security Safe and Secure Workplace Policies, [Procedure #NEE-SEC-1756.](#)

In the event that the site receives threatening correspondence either by phone or by other means of communications, the following actions should be performed immediately:

1. Actions by the person receiving the threat:
  - a. Gather as much information as possible from the person making the threat.
    - 1.) If the threat is via written correspondence, place the correspondence in a location in which it will not be touched or otherwise disturbed until police can be contacted.
    - 2.) If the threat is being made verbally (phone, or other), communicate and obtain information from the individual making the threat for as long as possible. For phone threats note the time of the call, do not interrupt the caller and describe the tone of voice as well as any background sounds.
  - b. Inform the Site/Plant Leader and/or General Manager of the situation.
  - c. Contact Security Operations at 561-691-5000
  - d. Contact the Renewable Operations Control Center (ROCC) at 561-694-3636
    - Wind 561-694-3636 or Solar 561-694-3600
  - e. Contact local law enforcement, as applicable (e.g. 911)
  - f. Communicate the Physical Security Event to all on-site personnel.
  - g. Document / update the event in the Service Request application in Maximo.
  - h. Refer to the PGD Sabotage Reporting procedure at the following link:  
[http://eweb.fpl.com/global/policies/Security%20\(SEC\)/6.shtml?company=nee](http://eweb.fpl.com/global/policies/Security%20(SEC)/6.shtml?company=nee)  
  
eWeb>>Policy/Procedure>> Florida Power & Light & FPL Energy Services>>NextEra Energy, Inc>>Security (SEC)>> NEE-SEC-1764 - Security Notifications and Event Reporting
    - 1.) This document should be consulted in order to assure adherence to the latest definitions and reporting instructions for sabotage and vandalism.
  1. Refer to the following procedure: [PGD NERC Event Reporting EOP-004-2 Operating Plan \(DOC #: PGD-JB-FPDC-ON-1315181201\)](#)
2. During the report describe what you have discovered/witnessed and the location of the affected facilities to include the items outlined below, as available:
  - The date and time of the incident
  - Description of the incident
  - Likely target
  - Number of people involved
  - Suspect and/or vehicle information
  - Type of equipment or material used for the activity

- Generation capacity affected in Megawatts
- Was there an actual or suspected physical attack that could cause a major impact to the Bulk Electrical System (e.g. generator, transformer, fuel supply)?
- Was there any destruction of any security systems (cameras, badge readers, security barriers, locks) or any of its components?
- Was there any actual or suspected cyber or communication attack that could impact the Bulk Electrical System adequacy or vulnerability? (See the Cyber Security Response section for more details regarding Cyber Security events)
- Are there mitigation measures in place to correct the event?
- The name and contact number for the point of contact

3. The Plant Leader and/or General Manager may consider any or all of the following actions to take in response to the threat situation, depending upon the circumstances of the threat:

- Order an evacuation of the facility
- Call **911** for Police or Fire Assistance if they have not already been notified
- Arrange for additional security personnel for the facility.
- Direct plant personnel to commence a controlled shutdown of the facility.
- Direct searches to be performed on vehicles entering the facility.

**Note:** The latest version of the corporate boomb threat report may be found through the following link: <http://eweb.fpl.com/bunit/corpservices/security/ReportIncidents/FormBombThreat.shtml>

In case of an evacuation due to a boomb threat, please refer to the information below to maintain safe distance.

**BOMB THREAT EVACUATION DISTANCES**

THREAT	THREAT DESCRIPTION	EXPLOSIVES CAPACITY <sup>1</sup> (TNT EQUIVALENT)	BUILDING EVACUATION DISTANCE <sup>2</sup>	OUTDOOR EVACUATION DISTANCE <sup>3</sup>
	PIPE BOMB	5 LBS/ 2.3 KG	70 FT/ 21 M	850 FT/ 259 M
	BRIEFCASE/ SUITCASE BOMB	50 LBS/ 23 KG	150 FT/ 46 M	1,850 FT/ 564 M
	COMPACT SEDAN	500 LBS/ 227 KG	320 FT/ 98 M	1,500 FT/ 457 M
	SEDAN	1,000 LBS/ 454 KG	400 FT/ 122 M	1,750 FT/ 534 M
	PASSENGER/ CARGO VAN	4,000 LBS/ 1,814 KG	640 FT/ 195 M	2,750 FT/ 838 M
	SMALL MOVING VAN/DELIVERY TRUCK	10,000 LBS/ 4,536 KG	860 FT/ 263 M	3,750 FT/ 1,143 M
	MOVING VAN/ WATER TRUCK	30,000 LBS/ 13,608 KG	1,240 FT/ 375M	6,500 FT/ 1,982 M
	SEMI-TRAILER	60,000 LBS/ 27,216 KG	1,570 FT/ 475 M	7,000 FT/ 2,134 M

**All personnel must either seek shelter inside a building (with some risk) away from windows and exterior walls, or move beyond the Outdoor Evacuation Distance.**

**Preferred area (beyond this line) for evacuation of people in buildings and mandatory for people outdoors.**

<sup>1</sup> Based on maximum volume or weight of explosive (TNT equivalent) that could reasonably fit in a suitcase or vehicle.  
<sup>2</sup> Governed by the ability of an unstrengthened building to withstand severe damage or collapse.  
<sup>3</sup> Governed by the greater of fragment throw distance or glass breakage/falling glass hazard distance. Note that pipe and briefcase bombs assume cased charges which throw fragments farther than vehicle bombs.

**Note:** Never use radios or cell phones near a suspected bomb.



**Note:** At the first sign of a potential intruder trespassing into a wind turbine, immediately proceed to back off, observe from a safe distance and call Corporate Security as well as the Local Law Enforcement. Law enforcement responders are trained to protect and serve their communities. Emergency responders from the local law enforcement department may require a quick training/briefing to safely enter and climb the tower (if applicable) as well as fall protection equipment. After they provide a verbal command to the potential intruder(s), they may need access to the tower. To the extent possible, facilitate their ability to enter without interfering with their efforts.

## APPENDIX 4 CYBER SECURITY EVENT

### Detection:

#### Site Instructions:

1. Site personnel may become aware of a cyber incident or the potential for a cyber incident from any of the following sources:
  - A system page/email alert to an administrator/operator.
  - An employee or Business Unit (BU) that first recognizes a potential incident that needs to be reported to Corporate Security or the IMSC.
  - A Business Unit designated to be contacted by an outside agency such as NERC, FERC, SERC or other outside source to the First Responder.
  - A business partner
  - A manager
  - An outside source
  - Notification may come as part of NEE's Security Notifications and Event Reporting Policy (NEE-SEC-1764 - Security Notifications and Event Reporting to Corporate Security or System Operator).
  - The First Responder should be prepared to describe the incident in detail to the IMSC or Corporate Security. The First Responder is not required to investigate and determine if the event is an actual cyber security incident.
  - The First Responder will notify their Immediate Supervisor and the ROCC.
  - First Responder may reference the PGD Cyber Security Incident Response Plan – First Responder – Diagram (Flow Chart) to guide you through the detection, response and reporting steps.

[Link to Corporate First Responder](#)

**Note:** PGD-CIP-008-DIA-001 [PGD Cyber Security Incident response Plan – First Responder – Diagram](#)

2. Site verifies the condition (Fleet Team, Vendors, Information Security, etc. may be required to help determine if event is cyber related).

### Response:

#### Site Instructions:

1. Site makes the unit safe or stabilizes the unit as needed, plans the recovery if appropriate.
2. Site communicates to the appropriate parties:
  - a. Immediate Supervisor
  - b. Corporate Security or the IMSC
  - c. Plant General Manager

## d. ROCC

- ROCC will release awareness notification
- ROCC follows PGD-JB-FPDC-ON 1315181201, PGD NERC Security & Event Reporting procedure from ROCC for cyber-attack reporting purposes.

e. Local Emergency Services, if appropriate

f. System Operator, if appropriate

g. Transmission Operator, if appropriate

h. Establishes the appropriate Incident Command structure

i. Executes Incident Command

**Recover:****Site Instructions:**

1. The team restores the cyber assets affected by the incident to normal operations. This may require reloading data from backup tapes, or reinstalling cyber assets from their original distribution media
2. Once the affected cyber assets have been restored, they are tested to make sure they are no longer vulnerable to the vulnerability that caused the incident
3. The impacted system(s) are tested to ensure they will function correctly when placed back in production

## APPENDIX 5 CAPACITY / TRANSMISSION EVENT

### Plant Site Roles and Responsibilities

1. Site Control Room Operator, ROCC Operator or Person receiving CAPACITY SHORTFALL
  - a. If the communication of a Capacity Short-Fall is for informational purposes and no Operator action is required the individual receiving the communication shall notify the ROCC, Site Leader / Plant Leader or other person in charge providing the information outlined below as available.
  - b. If the communication of a Capacity Short-Fall requires Operator Action the Site Control Room Operator, ROCC Operator or Person receiving a CAPACITY SHORTFALL notification from the respective Transmission Operator or other Reliability Entity e.g. Balancing Authority, Reliability Coordinator, shall immediately comply with directive / operating instructions received from the Transmission Operator or provide an explanation as to why the directive / operation instruction cannot be performed i.e. safety, environmental, reliability, regulatory etc.
  - c. Three part communication with the Reliability Entity shall be used and the communication shall be logged. The ROCC, Site Leader / Plant Leader or other person in charge shall be contacted and provided the information outlined below as available.
    - 1.) Content of communication from the Reliability Entity
    - 2.) Name of individual who called
    - 3.) Time of call
    - 4.) The general communication received or the directive / operating instruction received.
2. Site leader/Plant Leader or other Person in Charge
  - a. In response to receiving a CAPACITY SHORTFALL communication, the Site leader/Plant Leader or other Person in Charge will:
    - 1.) Validate the notification with Transmission Operator if appropriate
    - 2.) Validate the notification with the Control Room Operator
    - 3.) Once validated, direct the CRO to follow the notification instructions
    - 4.) Communicate the notification to site management
      - a. If site management is not available, communicate directly with the Operations VP.

b. For a NEER facility also contact project business management and ensure that other facility agreements are not violated. It is recommended that the potential for Transmission Operator requests should be vetted and documented before commercial operation of the facility.

5.) Communicate notification to the ROCC

6.) Prepare and review procedures for maximizing output and energy conservation

7.) Advise site personnel not to perform any discretionary maintenance, testing or evolutions (with the exception of approved thermal performance testing) which could present a risk to generation

3. All other site personnel not directly involved with responding

a. All other personnel that are not directly involved with responding to the CAPACITY SHORTFALL shall not perform any maintenance or activities that would put MW's at risk.

**APPENDIX 6 ENVIRONMENTAL EVENT**Site Spill Kit Locations**Stateline**

O&M Building  
9 MILE SUB  
BGB-23  
PB-73  
WSB-52  
HGC-01  
HGJ-13  
HGS-13

**Vansycle I, II**

A-04  
A-28  
B-06  
Campbell Substation  
Duroc Substation

1. All spill kits must be restocked within 24hrs
2. Work orders must be completed on the spill and items used
3. Spill and used items must be reported to the Environmental Coordinator

The spill or release of any chemical /oil or Heat Transfer Fluid is a potentially serious event, and appropriate response actions must be taken to minimize health hazards to personnel, as well as potential impacts to the environment. It is the policy of the facility that plant personnel will not respond to spills/releases, but will instead call for trained outside responders to perform this function. For the purpose of clarification to plant personnel, the term “respond” in this context refers to actions taken to perform cleanup operations of spilled substances, and in some cases may even take the meaning of actually stopping the source of a spill. Taking basic response actions to a spill such as setting up barricades, placing containment media and stopping spills in situations such as the Step 1 Example below should not be construed to be acting in the role of a “responder”, as it is defined in OSHA HAZWOPER regulations.

The basic actions to be taken in response to a chemical or oil / HTF spill or release are the following:

1. If the spill or release is the direct result of an operational action performed on the system from which the release has originated, the person who performed the action should attempt to stop the release (if possible) if it can be stopped without incurring additional personal exposure to the substance.

**Example:** A person opens the drain valve on a line that results in an unexpected release. If the person can immediately stop the release by closing the valve, this action should be taken if no additional exposure to the chemical will occur by doing so.

2. The person discovering a spill/release should immediately move to a location that is a safe distance from the affected area,
  - a. If it is safe to do so under prevailing conditions, remain within observation distance.

- b. If safe conditions are in doubt, do not risk exposure – leave the area immediately.
- 3. The person discovering the spill should look for other personnel in the area, and warn them by any means available of the event that has occurred. The Site/Plant Leader should be notified immediately over the radio. Information provided should include all of the following that are known:
  - a. What type of chemical has been spilled/released?
  - b. The location(s) of the spill/release.
  - c. If the source of the spill/release has been stopped
  - d. If any injuries or chemical exposure has occurred to personnel.
  - e. Boundaries describing the area of the spill.
  - f. Whether or not the spill is contained.
  - g. Quantity released (if it can be estimated).
  - h. Environmental impacts (water bodies, streams, ground, roadways)
- 4. Based upon the report from the person discovering the spill, the Site/Plant Leader shall evaluate whether the circumstances pose a threat to the surrounding community or the environment.
  - a. If a threat is imposed to the community or environment, **911** should be notified immediately. The Site/Plant Leader shall also contact at least one of the following specialized emergency responders:

Organization	Expected Response Time	Contact Number
<b>Clean Harbors</b>	<b>24 hrs</b>	<b>800-645-8265</b>

- 5. The Plant Environmental Lead shall make a determination as to whether the spill/release is of a quantity that must be reported to agencies, and if so, which agencies to notify. To perform this step, the Site/Plant Leader shall use the Spill Prevention Control and Countermeasure Plan (SPCC). The Plant Environmental Leader shall ensure that all required notifications are made.
- 6. The Site/Plant Leader or the Plant Environmental Leader shall make notification to the ROCC as soon as possible so the ROCC can issue a “deviation” to a pre-determined distribution list. If the Environmental Event is significant where outside organizations may request information the distribution may be expanded to include employees from Corporate Security, Media Relations, and the Corporate Emergency Preparedness Group. The PGD Emergency Response Coordinator will be made aware of the situation via the ROCC notification, or by the Operating Fleet VP, or by a direct call from the site depending on the magnitude of the incident.
- 7. If applicable, the Site/Plant Leader or the Plant Environmental Leader shall closely coordinate with the PGD Emergency Response Coordinator, during pre and post event activities.

8. While remaining at a safe distance from the spill/release, the person discovering the spill should locate and place temporary containment around the outer boundaries of the spill, and place absorbent mats over any plant drains that are near the location of the spill.

**Note:** This should be performed only if it is safe to do so without risking chemical exposure.

9. The person discovering the spill should attempt to barricade, restrict access or otherwise mark off safe boundaries around the spill to prevent others from inadvertently approaching the spill area.

**Note:** This should be performed only if it is safe to do so without risking chemical exposure.

10. The person discovering the spill should remain at a safe distance from the source of the spill/release until additional assistance or instructions are received.

11. Unless the person discovering the spill has reported unsafe conditions for approach of the area, the Plant Environmental Leader shall immediately proceed to the spill area to evaluate the severity of the incident.

**Note:** If any personnel are discovered to be unconscious or otherwise incapacitated upon approach to the spill scene, all personnel must immediately move away to a safe distance from the unknown threat.

12. The Plant Leader shall evaluate the adequacy of containment, barricades, and any other efforts that have been taken to prevent the spill from migrating to any additional areas or systems, and direct additional actions to be performed (unless it is deemed that any additional actions are unsafe to perform).

- a. The adequacy or need for PPE should also be assessed. Upon completing this assessment, the Site/Plant Leader shall notify/inform the Facility Emergency Coordinator of the status of the emergency.

13. Once the Plant Leader (or Emergency Coordinator, as appropriate) has determined that adequate containment and barricading of the spill area exists, he/she shall ensure that an adequately trained observer remains positioned a safe distance from the scene to observe the status of the spill and arrange for proper cleanup/mitigation actions.



## **APPENDIX 7 GAS PIPELINE EVENT**

Not Applicable for Wind / Solar Sites

**APPENDIX 8 OIL PIPELINE EVENT**

Not Applicable for Wind / Solar Sites

## APPENDIX 9 PANDEMIC EVENT

Refer to the PGD (Power Generation Division) Pandemic Plan. [Link to Corporate Pandemic Plan on SharePoint](#)

## APPENDIX 10 IMMEDIATE SITE EVACUATION PROCEDURE

1. Personnel present in the Administrative Building or control room shall immediately take the following actions:
  - a. Locate and obtain the visitor/contractor sign-in sheet.
  - b. Locate and obtain all immediately accessible hand-held radios.
  - c. Determine the safest muster area to proceed to, depending upon the known circumstances of the emergency (as indicated in Appendix 3).
  - d. Assign designated plant employees to assist any employees or visitors with special needs that would restrict their ability to get safely and expediently to the muster area.

**Note:** The *primary* muster area must be a predetermined location; alternate muster areas are to be selected only when egress routes to the primary muster area are unsafe to proceed along.

- e. Pass the following information over the plant radio system:
  - 1.) The muster area the employees will be proceeding to.
  - 2.) Visitors/contractors known to be in the operating areas (as indicated by the visitor/contractor sign-in sheet).
- f. Once emergency personnel have completed the preceding steps, they shall immediately proceed to their designated muster area.
- g. Personnel in the Administrative Building should not delay in evacuating, or wait on other personnel that they anticipate may arrive.
- h. Upon arriving at the designated muster area(s), the group shall designate a Person-in-Charge and take a head count of all personnel who are at the muster area, including contractors and visitors.
  - 1.) After a roll call of all personnel present at the muster area is taken, the Person-in-Charge shall identify which operating area personnel are not accounted for.
  - 2.) The Person-in-Charge will query by radio or cell phone for personnel who are unaccounted for.
  - 3.) The Person-in-Charge shall establish radio communication with the Emergency Coordinator (if applicable) and relay information on personnel who are unaccounted for.
- i. All personnel at the muster location shall remain at the muster location until an "ALL CLEAR" signal is sounded, or if directed by the Emergency Coordinator (if applicable) to leave the muster location.
  - 1.) The "ALL CLEAR" signal will be communicated by Radio or cellular telephone.

- j. The Person-in-Charge shall continuously monitor the plant radio system when at the muster location.
2. Personnel present in the facility operating area (other than Administrative Building) shall immediately perform the following actions:
    - a. If not monitoring the plant radio system, immediately turn on hand-held radios.
    - b. Proceed to the designated muster area, unless the egress route to the muster area is not safe for travel. In such a case, proceed to an alternate muster area.
    - c. Instruct any personnel (including visitors and contractors) who are seen along the way to proceed to the designated muster area.
    - d. Upon reaching the appropriate muster area, report to the Person-in-Charge and continue to monitor the plant radio system.
      - 1.) If no other personnel are present at the muster area upon arrival, communicate this to the Site/Plant Leader.
  3. Personnel not in the operating areas of the plant (to include the administration building and inside parking areas) shall immediately perform the following actions:
    - a. Locate and obtain all immediately accessible hand-held radios.
    - b. Proceed to the designated muster area.
      - 1.) A Person-in-Charge shall be designated for the muster area. In many cases, this will be the Emergency Coordinator.
        - i. In the event that the Emergency Coordinator is in plant operating areas or has proceeded to an alternate muster area, he/she may elect to designate the muster area Person-in-Charge to act in the capacity of Emergency Coordinator during the emergency.
        - ii. If the Emergency Coordinator is not present at the muster area, the Person-in-Charge at the muster area will coordinate outside responding agency activities until the Emergency Coordinator arrives.
        - iii. The Person-in-Charge shall establish radio communications with operating area personnel and compare roll call lists to determine if any personnel are unaccounted for in the facility.

**APPENDIX 11 DELAYED SITE EVACUATION PROCEDURE**

1. Personnel present in the Administrative Building shall immediately perform the following actions:
  - a. Take necessary operating actions to place the facility in the most stable condition, based upon the type of emergency.
    - 1.) Communicate names of visitors/contractors currently in the operating areas to outside operating personnel.
    - 2.) Instruct outside operating personnel to locate and direct all visitors/contractors to proceed to the Administrative Building for egress instructions.
  - b. When all visitors, contractors and non-essential operating personnel have been accounted for and are present in the Administrative Building, the Site/Plant Leader (or Emergency Coordinator, as appropriate) shall designate a trained person to escort all non-essential personnel to the designated muster area along the safest egress route.
  - c. Locate and obtain the visitor/contractor sign-in sheet
  - d. Notify the Emergency Coordinator and Production Staff of the current facility status, and evacuation details.
  - e. Perform a controlled shutdown in accordance with appropriate procedures and directions from the Emergency Coordinator.
  - f. Once the shutdown has been completed, all essential personnel shall gather in the Administrative Building and take roll call.
  - g. When all essential operating personnel are present and accounted for, evacuation to the designated muster area shall be performed, unless the egress route is not safe for travel.
    - 1.) If evacuation route to the designated muster area is not safe for travel, proceed to the alternate muster area.
2. Personnel present in the facility operating areas (other than Administrative Building) shall immediately perform the following actions:
  - a. Continuously monitor the radio system for information and instructions.
  - b. Perform immediate response actions, as appropriate, to place the facility in the most stable condition, based upon the type of emergency.
  - c. Locate and direct non-essential personnel to proceed to the Administrative Building immediately.
  - d. Perform facility shutdown instructions as directed by the Site/Plant Leader.
  - e. Upon completion of shutdown, or upon direction by the Emergency Coordinator, proceed to the Administrative Building for instructions.

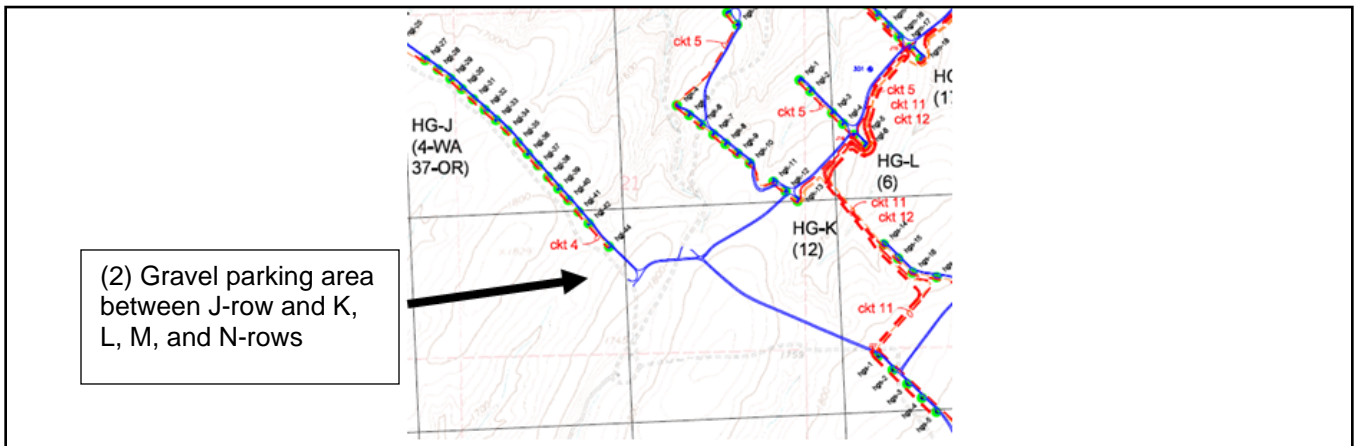
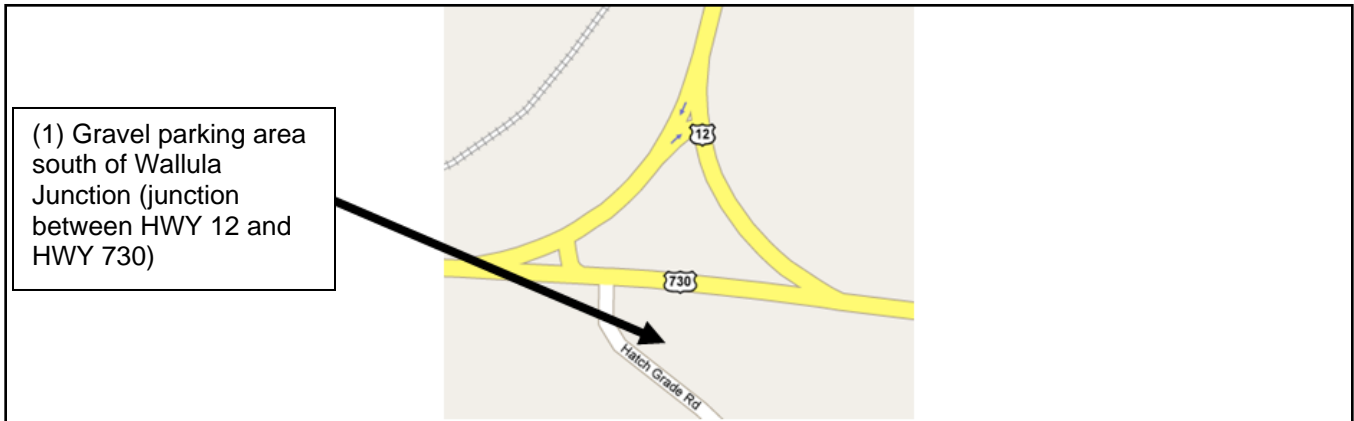
3. Personnel not in the operating areas of the facility (to include the administration building and parking areas) shall immediately perform the following actions:
  - a. Locate and obtain all immediately accessible hand-held radios.
  - b. Proceed to the designated muster area (see Appendix12).
  - c. A Person-in-Charge shall be designated for the muster area.
    - 1.) The Person-in-Charge shall establish radio communications with operating area personnel and compare roll call lists to determine if any personnel are unaccounted for in the facility.
    - 2.) The Person-in-Charge at the designated muster area will coordinate outside responding agency activities and provide assistance (to include personnel, resources, and administrative functions) to the Administrative Building as directed by the Emergency Coordinator and/or Site/Plant Leader.
4. The Emergency Coordinator shall immediately perform the following actions:
  - a. Proceed to the Administrative Building, or to the location on the facility most appropriate for directing response actions for the emergency.
  - b. Coordinate actions related to the emergency and provide directions to muster area Persons-in-Charge.
  - c. In the event that the emergency escalates in severity or immediate danger to personnel, direct immediate evacuation of all essential operating personnel involved in plant shutdown activities.

### APPENDIX 12 DESIGNATED EGRESS ROUTES & MUSTER AREAS FOR EVACUATIONS

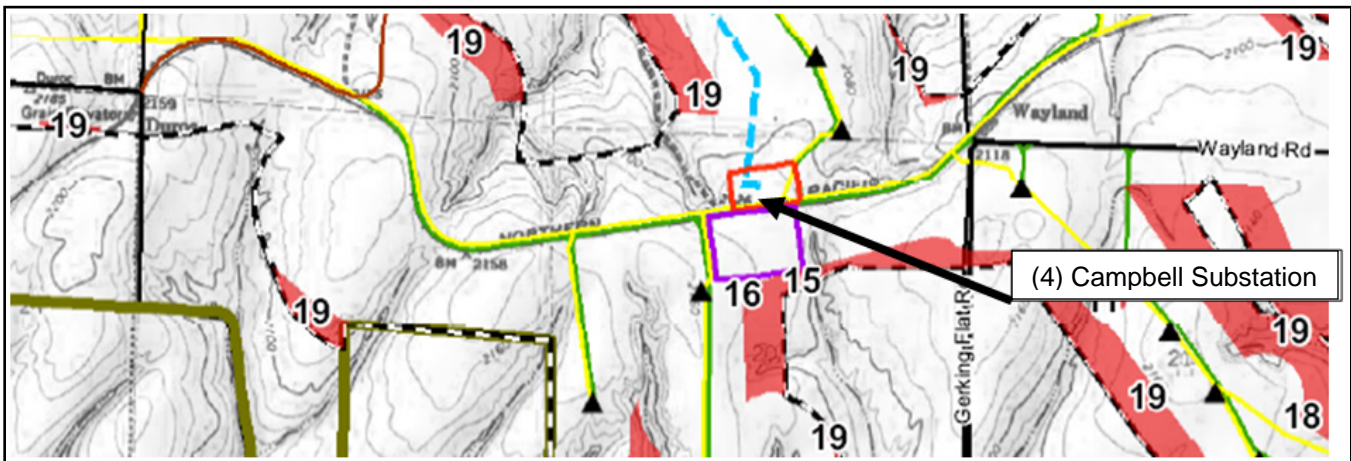
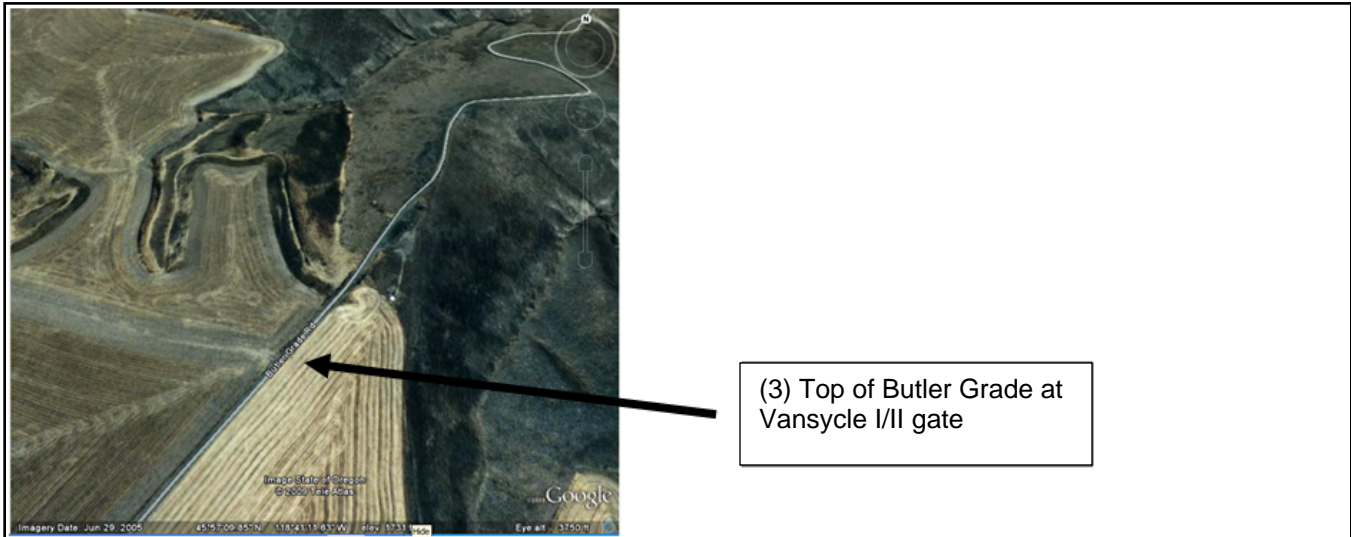
#### Primary Muster Area:



#### Alternate Muster Areas:







**Note:** Each plant will assign emergency muster points. These are the locations that all employees, visitors and contractors are to report to in the event of an emergency, or a drill. Muster points should be identified with proper signage and the site manager should have means of communication. In the event of an emergency the site manager or designee should bring the plant sign in book to the muster point or designate someone to provide the information from the sign in book so that the site manager can account for all employees and visitors. The location of the muster points will be shown to all contractors and visitors as a part of the initial plant orientation. Exit routes will be kept clear of clutter, and easily identified.

The Primary Muster Area is located: **Administrative Building / O&M Building: outside the fence on the Northwest corner fo the shop yard.**

The Alternate Muster Areas are located:

**(1) Wallula Junction: gravel parking area on the South side of the junction between HWY 12 and HWY 730.**

**(2) Gravel parking area Southeast of J-row and Southwest of K, L, M, and N-rows where the farm equipment is stored.**

**(3) Butler Grade: top of Butler Grade Road at Vansycle I/II gate—stay clear of the road and gate.**

**(4) Campbell Substation: stay clear of the road and park out of the way.**

The Primary Muster Area is the preferred gathering point for personnel, and should be used during evacuations unless the emergency has rendered egress routes to the Primary Muster Area unsafe for travel. The Alternate Muster Area is the alternate gathering point for such circumstances.

## **APPENDIX 13 PERSONNEL INJURIES AND SERIOUS HEALTH CONDITIONS**

The following sections provide basic guidelines for response actions to be taken in the event of emergencies related to personnel health.

Although facility personnel should take the most aggressive response actions that are prudent in an emergency situation, the first and foremost action will be to call **911** to initiate the response of trained outside medical responders.

To prepare facility personnel for such contingencies, it will be the facility policy that all operating personnel and as many other personnel as possible should be trained in CPR (Cardiopulmonary Resuscitation), Blood Borne Pathogens and in the use of an AED (Automated External Defibrillator) if one is available.

Each site will maintain at least one well stocked first aid kit at the control room or O&M building and one in each site vehicle. These will be inspected at least monthly. Each plant will determine the locations of their nearest non-emergency Worker's Compensation approved medical facility as well as the Corporate Nurse and post the name, address and phone number. In the event of an emergency, the 911 responders will determine the best location for emergency care.

If present on site, the AED will be maintained at the facility at a designated location known and accessible to all staff.

### **Automated External Defibrillators (AED) – NextEra sites with AEDs will perform the following:**

- Notify the local EMS of the existence, location, and type of AED (California requirement only)
- Test the AED every 6 months and after each use, per the manufacture's requirements
- Inspect all AEDs at least every 90 days and document the inspection; including verification the batteries and pads have not expired.
- Maintain records of maintenance and testing.
- Annually notify employees of location(s) of AEDs.
- Provide information on how to take CPR or AED training.
- Annually demonstrate how to use an AED.
- Post instructions (14-point font) next to the unit on how to use the AED.

### **SPEC PAKS**

The Patient Extraction System (Spec Pak) combines back board and cervical collar with rescue harness. It restricts spinal movement, enhances rescue in tight spaces, and can be used to guide an injured teammate over obstacles without getting caught on them.

### **Spec Paks are located in the O&M Building and the Campbell Substation.**

## 1. Basic First Response Actions

- a. Check for responsiveness. Responsiveness is when the person is able to respond when you call their name or touch them.
- b. If the person is unresponsive, immediately call **911** for outside medical assistance and ask other personnel to bring the AED (if present) to the scene.
  - 1.) Other personnel should assist with **911** notifications and expediting the delivery of the AED to the scene.
- c. Check to see if the victim is breathing normally.
  - 1.) If no signs of breathing are observed, the responder should check for visible signs of airway blockage.
    - i. If obvious signs of airway blockage are noticed, attempt to remove the blockage
  - 2.) Initiate two rescue breaths into the victim.
  - 3.) After the rescue breaths, a pulse should be checked for on neck.
    - i. If a pulse is present, continue with recovery breathing, but do not initiate chest compressions.
    - ii. If no pulse is observed, commence CPR with assisted breathing.
- d. If CPR is being performed and the AED arrives to the scene, direct an assistant to begin setting up the AED for operation on the victim.
  - 1.) CPR should be continued during the time that the AED is being set up.
  - 2.) If the AED is placed into operation, remain near the victim and follow all AED instructions to ensure safety and proper victim monitoring. Maintain the victim with AED monitoring until trained medical responders arrive at the scene.
- e. If the victim is responsive, but shows signs of shock or has an obvious severe injury, call **911** immediately and take additional actions as described in the sections below.
- f. If the victim has obvious broken bones or is bleeding profusely or may have neck or spine injuries, do not attempt to move the victim unless their immediate safety would be jeopardized by leaving them in that particular location. Make the victim as comfortable as possible, and apply pressure to mitigate areas of profuse bleeding until trained medical personnel arrive at the scene.
- g. Immobilize all injured parts of the victim.
- h. Prepare victim for transportation if the victim can be safely moved.

## 2. Physical Shock

- a. Symptoms

- 1.) Pallid face.
- 2.) Cool and moist skin.
- 3.) Shallow and irregular breathing.
- 4.) Perspiration appearing on the victim's upper lip and forehead.
- 5.) Increased, but faint pulse rate.
- 6.) Nausea.
- 7.) Detached semi conscious attitude towards what is occurring around him/her.

b. Treatment

- 1.) Request professional medical aid immediately.
- 2.) Remain with and attempt to calm the victim.

**3. Electric Shock <50 volts (For ≥50 volts, refer to NEE-SAF-1610 Electric Shock – Required Medical Evaluation)**

a. Symptoms

- 1.) Pale bluish skin that is clammy and mottled in appearance.
- 2.) Unconsciousness. No indications that the victim is breathing.

b. Treatment

- 1.) Turn off electricity if possible.
- 2.) Call for professional medical assistance and an ambulance immediately.
- 3.) Remove electric contact from victim with non conducting material.
- 4.) Perform CPR and call for the AED, if required.

**4. Burns**

a. Symptoms

- 1.) Deep red color; or
- 2.) Blisters; or
- 3.) Exposed flesh.

b. Treatment

- 1.) Cooled immediately if at all possible, and

- 2.) Free of any jewelry or metal if it is safe to remove it.
- 3.) Do not pull away clothing from burned skin tissue.
- 4.) Do not apply any ointment to burn area.
- 5.) Seek professional medical assistance as soon as possible.

## **5. Heat Stroke**

### a. Symptoms

- 1.) Face will be red
- 2.) Face will be dry to the touch.
- 3.) The pulse will be extremely strong and fast.

### b. Treatment

- 1.) Rapidly cooled or death can occur.
- 2.) Sponged with water.
- 3.) Fanned to allow evaporation to occur.
- 4.) Moved into a cool environment.

## **6. Heat Exhaustion**

### a. Symptoms

- 1.) Increased heart rate
- 2.) Exhaustion can follow.
- 3.) An impaired ability to think can exist.
- 4.) A lack of coordination may be present.
- 5.) Body temperature may be normal.
- 6.) Skin can be clammy.
- 7.) Weakness and dizziness may result.

### b. Treatment

- 1.) Remove from the hot environment.
- 2.) Lay victim on their back with feet slightly elevated.

## **APPENDIX 13 PERSONNEL INJURIES AND SERIOUS HEALTH CONDITIONS (SUPPLEMENTAL INFORMATION FOR WIND ONLY)**

Note: For NEER Wind Fleet only, reference site specific Code Blue Books for additional relevant information regarding injury and health conditions. These books shall be reviewed annually by site personnel during one of the quarterly drills.

This FACILITY NAME Code Blue Book is stored in the OpModel under ENTER OPMODEL FILE PATH HERE.

### **WIND CODE BLUE PACKETS**

Each wind site shall fill out and maintain an emergency quick reference guide “Code Blue” packet. The sites will supply each truck or crew with 2 code blue packets. One shall be kept in the work truck and the second in the emergency up-tower kit. Central maintenance shall also be supplied with 2 code blue packet per truck, at each site they work at.

Each site shall review their code blue annually to ensure the information is current. A new PM shall be created in MAXIMO to ensure this is completed.

New wind sites Download the NextEra Wind Code Blue - Template from the OpModel under PGD >> Safety >> Safety Procedures >> Next Era Safety Procedures [SMS] >> Forms. Fill it out and then send the file to wind representative for proofreading.

### **Updating code blue packets**

[Enter Here the current instructions for updating the code blue packets.](#)

### **Ordering code blue packets**

[Enter Here the current instructions for ordering the code blue packets.](#)

**Attachment E: Draft Amended Revegetation Plan**



**Stateline Wind Project: Draft Amended Revegetation Plan**  
[Amended January 28, 2022]

1 **1. Introduction**

2 The certificate holders are operating a wind power project in Oregon known as the  
3 Stateline Wind Project (SWP). This Revegetation Plan addresses only the parts of the project that  
4 are located in Oregon, although there are associated wind energy facilities in Washington that are  
5 part of the overall Stateline project.<sup>1</sup> The turbine strings are spread out along several ridgecrests  
6 located approximately six miles southwest of the town of Touchet, Washington. In addition to the  
7 turbine strings, additional facilities such as access roads, underground and overhead transmission  
8 lines and a substation are part of the project.

9 In the site certificate, the certificate holder agrees to mitigate impacts associated with the  
10 loss of grassland and shrub-steppe habitats and Conservation Reserve Program (CRP) lands. The  
11 areas of temporary construction disturbance include cultivated or otherwise developed  
12 agricultural land (cropland) as well as areas of grassland, and shrub-steppe habitat. This  
13 Revegetation Plan addresses both the revegetation of areas temporarily disturbed by SWP  
14 construction and mitigation for permanent habitat impacts of the first two phases of the SWP  
15 (Stateline 1&2). The goal for temporarily disturbed areas (such as road shoulders, underground  
16 electric cable trenches and the temporarily disturbed area around tower sites) is to return the  
17 disturbed habitat to pre-construction conditions or better.

18 In addition to areas temporarily disturbed during construction of the project, certain areas  
19 are permanently affected by the placement of project facilities for the life of the project. These  
20 permanently disturbed areas include the location of new or widened roads, the turbine pad areas  
21 and the substation area. Some of these areas are located in areas cultivated for winter wheat or  
22 other grain crops. No mitigation is proposed for the long-term loss of these agricultural areas  
23 (although the landowner is compensated through wind lease payments).

24 The SWP consists of two parts:

- 25 • Stateline 1&2: 186 Vestas V47-660-kilowatt (kW) wind turbines, six permanent  
26 meteorological towers, access roads and other related or supporting facilities.
- 27 • Vansycle II (Stateline 3): Up to 45 wind turbines (43 Siemens 2.66-MW wind  
28 turbines, and 2 GE 2.3-MW wind Turbines), 50 MW of battery energy storage,  
29 access roads, a 230-kV transmission line, a substation, an operations and  
30 maintenance building and other related or supporting facilities.

31 For Stateline 1&2, the certificate holders shall mitigate for the permanent impacts on  
32 approximately 50 acres of grassland, grassland-steppe and CRP habitat, as shown in the  
33 following table:  
34  
35  
36

---

<sup>1</sup> This plan is incorporated by reference in the site certificate for the Stateline Wind Project and must be understood in that context. It is not a “stand-alone” document. This plan does not contain all mitigation required of the certificate holders.

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<b>Stateline 1</b>		
<b>Category</b>	<b>Vegetation Types</b>	<b>Acres of permanent impact</b>
2	Grassland Steppe	0.5
3	Grassland Steppe; CRP	47.8
	Total Stateline 1	48.3
<b>Stateline 2</b>		
<b>Category</b>	<b>Vegetation Types</b>	<b>Acres of permanent impact</b>
3	Grassland Steppe; CRP	<1
4	Grassland	<1
	Total Stateline 2	>1

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For Vansycle II, the certificate holder shall mitigate for the permanent habitat impacts as described in the Habitat Mitigation Plan, as included as Attachment F to the Final Order on Request for Amendment 5 to the Site Certificate.

Section 4 below describes habitat improvement procedures for degraded habitat that the certificate holder shall revegetate to mitigate the permanent impacts of Stateline 1&2. Section 3 below describes revegetation procedures for restoring areas of temporary disturbance resulting from construction of all phases of the SWP.

In order to achieve these habitat mitigation objectives, this plan has been prepared to guide the revegetation efforts. Seed mixes, planting methods and weed control techniques have been developed specifically for the project area through consultations with the Oregon Department of Fish and Wildlife (ODFW), reviews of current literature and site visits by revegetation specialists. The plan also specifies monitoring procedures to evaluate the success of the revegetation efforts, including recommended remediative action should initial revegetation efforts prove unsuccessful in certain areas.

**2. Project Area**

**2.1. Project Description**

The facility is approved and constructed wind energy generation facility consisting of two units; Stateline 1 & 2 is composed of 186 turbines and has a peak generating capacity of up to 123 megawatts; Vansycle II consists of up to 45 wind turbines with a peak generating capacity of 119 megawatts. The turbines are linked by access roads and underground 34.5-kV transmission lines. In addition, Stateline 3 includes a 230-kV substation, 50-MW battery storage, and a 16-mile 230-kV transmission line (approximately 12.9 miles of the transmission line are in Oregon and 3.1 miles of transmission line are in Washington). Access roads are needed in several areas to transport equipment and personnel to the facilities. In many cases, existing roads are adequate to provide access, but some new roads and expansion of some existing roads are needed.

During construction, there are areas of temporary disturbance, which the certificate holders must restore in accordance with this plan. Laydown areas and equipment work areas at

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1 the tower sites are needed to construct the turbines. Construction of access roads also requires the  
2 temporary disturbance of habitat in addition to permanent disturbance of the roadbed. In addition,  
3 construction of powerlines, both above and below ground, temporarily affects habitat.

4  
5 In RFA5 and RFA6, the certificate holder requested to re-power the Vansycle II facility , which was  
6 approved by Council in 2022. For the underground lines, temporary impacts are similar to pipeline  
7 installation, while for the overhead lines, disturbance is primarily limited to the tower bases.  
8 Additionally, miscellaneous areas such as crane paths, staging areas, parking lots and turnouts are  
9 temporarily disturbed during construction.

10  
11 **2.2. Physiography, Geology, and Soils**

12 The turbine string sites are located on ridgetops that generally run along northwest-  
13 southeast lines. Slopes along the strings themselves are gentle, typically ranging from 0° to 10°.  
14 Slopes down from the ridgetops are variable, generally ranging from 5° to 30°.

15 Elevations of the turbines strings range from 1,100 feet to 2,100 feet. Elevations for the  
16 access roads and proposed transmission line range from 850 feet to 1,100 feet.

17 Soils in the lower elevations of the site range from very deep, well-drained silt loams to  
18 shallow, stony silt loams formed in colluvium (rocky accumulations at the base of slopes). The  
19 deeper silt loams across the site have been cultivated for small grain production. The shallow,  
20 stony soils support grazed native shrub-steppe and grassland.

21  
22 **2.3. Climate**

23 The project area averages 10 to 15 inches of precipitation annually, most of which falls  
24 from October through March. The average annual air temperature is 50° to 53° Fahrenheit, and  
25 the average frost-free period is 135 to 170 days. Strong winds are often present along the  
26 ridgetops.

27  
28 **2.4. General Vegetation**

29 Potential vegetation communities in the project vicinity are primarily bunchgrass and  
30 shrub-steppe associations. On the deeper-soiled habitats, *Agropyron spicatum* (bluebunch  
31 wheatgrass) and *Festuca idahoensis* (Idaho fescue) are the dominant climax native grasses, and  
32 *Artemisia tridentata* (big sagebrush) is the climax shrub associate. Along some of the ridgetops  
33 shallow-soiled lithosol communities are present, dominated by *Poa secunda* (Sandberg’s  
34 bluegrass) and various forb species such as *Eriogonum compositum* (northern buckwheat) and  
35 *Phlox hoodii* (Hood’s phlox).

36 Actual vegetation in the general vicinity, however, is heavily disturbed and modified in  
37 many places. Much of the area has been cultivated with monoculture crops of wheat and other  
38 small grains. Most of the remaining habitat is maintained at an early seral stage due to a number  
39 of disturbance factors. Weedy species are prevalent throughout, and extensive habitat  
40 modification has taken place. *Bromus tectorum* (cheatgrass) and other annual grasses are the  
41 dominant species on many of the deeper-soiled habitats. *Chrysothamnus* spp. (rabbitbrushes) are

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1 the dominant shrubs in many of the shrub-steppe habitats. The shallow-soiled communities have  
2 also been heavily modified over the years.

3  
4 **2.5. Land Use**

5 The project area is privately owned by several agricultural operators. Much of the area is  
6 used for cattle grazing and agricultural activities. The cultivated land is used for production of  
7 small grain crops such as wheat or barley. The grazed land is either native shrub-steppe or land  
8 previously set aside in the federal Conservation Reserve Program. Some of the native habitats on  
9 shallow soils receive little or no grazing.

10  
11 **2.6. Environmental Conditions**

12 A variety of environmental conditions within the project area make the establishment of  
13 desirable plant species difficult. Low precipitation and sandy soils provide very little available  
14 moisture for germinating seeds. In addition, extensive past and present disturbance to the  
15 vegetative communities has created many areas dominated by non-native, weedy species. These  
16 species could spread to areas disturbed by construction activities and compete with planted  
17 species for the limited resources. The noxious weed *Centaurea solstitialis* (star thistle) is  
18 particularly abundant in the project area. Finally, high winds in the area further complicate  
19 efforts to establish desirable vegetation.

20  
21 **3. Revegetation Procedures (Temporarily Disturbed Areas, Stateline 1&2 and Vansycle II)**

22 The following methods are recommended for all areas of temporary disturbance  
23 throughout the project area for Stateline 1&2 and Vansycle II. The certificate holders shall begin  
24 restoration of disturbed areas as soon as possible after completion of construction activity in the  
25 area to be restored. Seeding or planting should be done at the appropriate time of year to  
26 facilitate seed germination and root establishment, based on weather conditions.

27  
28 **3.1. Preconstruction Requirements – Applicable to Facility Modifications Approved in**  
29 **the Sixth Amended Site Certificate**

30 Preconstruction requirements applicable to facility modifications approved in the Sixth  
31 Amended Site certificate are as follows:

- 32
- 33 • Consult with the Oregon Department of Energy (Department) and the Oregon Department of  
34 Fish and Wildlife (ODFW) prior to ground disturbing activities within grassland habitat on  
35 an appropriate vegetation survey protocol.
  - 36 • Complete a preconstruction vegetation assessment, based on the above referenced protocol,  
37 and prepare vegetation mapping with sufficient data to evaluate long-term success of the  
38 established success criteria in Section 5.2 of this plan (i.e. pre-disturbance desirable  
39 vegetation stem density).
  - 40 • Provide to the Department and ODFW a copy of the vegetation maps/report and selected  
41 monitoring and reference sites to be used by the certificate holder, the Department and

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1 ODFW for evaluating long-term revegetation success compared to the established success  
2 criteria.

3  
4 **3.2. Seed Mixture (Temporarily Disturbed Areas)**

5 In consultation with ODFW, one seed mixture was developed for use in revegetating all temporarily  
6 disturbed upland habitats within the project area (Table 1). Because the project area takes in a  
7 variety of different habitats (e.g. deep-soiled habitats, shallow-soiled lithosol communities) it was  
8 necessary to use several different species groups, each adapted to a different soil type. The  
9 development of a separate species mix for each habitat was considered, but rejected as being  
10 impractical in the project area due to the close intermingling of habitat types within the facilities  
11 corridors. In order to re-establish plant communities of most value to wildlife, only native species  
12 are used. Species were selected based on their tolerance to xeric (low-moisture) conditions, the  
13 availability of their seed, and a variety of other factors.

14  
15 **3.3. Seed Planting Methods**

16 The choice of methods should be based on site-specific factors such as slope, erosion  
17 potential and the size of the area in need of revegetation. Planting should be done at the  
18 appropriate time of year based on weather conditions and timing of the disturbance. Disturbed,  
19 unseeded ground may require chemical or mechanical weed control before weeds have a chance  
20 to go to seed.

21  
22 **3.3.1 Broadcast Method**

- 23 1. Obtain the seed from a reputable source to avoid contamination.
- 24 2. Broadcast the seed mixture at the given rate.
- 25 3. Apply locally obtained, weed free straw at a rate of 2 tons per acre immediately after  
26 broadcasting the seed.
- 27 4. Crimp straw into the ground using a tractor-mounted straw crimper.

28 **3.3.2 Hydroseed Method**

- 29 1. Obtain the seed from a reputable source to avoid contamination.
- 30 2. Broadcast the seed mixture at the given rate.
- 31 3. Apply wood cellulose fiber mulch (mixed with a tackifier) at a rate of 1 ton per acre  
32 immediately after broadcasting the seed.

33  
34 **3.3.3 Drill Method**

- 35 1. Obtain the seed from a reputable source to avoid contamination.
- 36 2. Plant seed mixture at ½ the rate given in Table 1 using a seed drill.
- 37 3. Apply locally obtained, weed free straw at a rate of 2 tons per acre immediately after  
38 broadcasting the seed.

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1 4. Crimp straw into the ground using a tractor-mounted straw crimper.

2  
3 **4. Habitat Improvement Procedures (Stateline 1&2 Habitat Enhancement Area)**

4 **4.1. Introduction**

5 To mitigate for permanent loss of habitat due to placement of Stateline 1&2 facilities (*e.g.*  
6 turbines, access roads), the certificate holder shall rehabilitate habitat on a like number of acres  
7 located in the vicinity of the project. The total amount of non-agricultural land estimated to be  
8 permanently disturbed by the project, and for which mitigation is needed, is approximately 50  
9 acres. For Stateline 1&2, the certificate holder has acquired the legal right to create and maintain  
10 an enhancement area of 50 acres for the life of the facility.<sup>2</sup> The habitat enhancement area was  
11 chosen based on a number of factors including:

- 12 • the condition of the plant communities (the heavily disturbed habitats are preferred  
13 due to the greater potential for improvement);
- 14 • accessibility and slope;
- 15 • soil type (deeper soils are preferred to aid establishment of desirable grass species);
- 16 • distance from the proposed turbine strings (the enhancement areas must be located  
17 away from turbine strings to avoid attracting additional avian species to the turbine  
18 areas);
- 19 • proximity to other functioning wildlife habitat such as the slopes of Vansycle  
20 Canyon, native grassland or shrub habitat, CRP grassland; and
- 21 • willingness of the landowner to participate in the mitigation activity.

22 **4.2. Habitat Improvement Procedures**

23 The certificate holder shall implement the following measures within the designated  
24 Stateline 1&2 enhancement area. The certificate holder has the ultimate responsibility for  
25 implementation and maintenance of these mitigation measures, although other parties may  
26 be subcontracted to carry out the procedures.

27  
28 **4.2.1 Fencing**

29 The enhancement area will be fenced prior to treatment to exclude cattle and other  
30 domestic ungulates, if the adjacent land use includes grazing. No domestic grazing will take place  
31 within the enhancement area for the first five years while native vegetation is being established.  
32 Once the inspector certifies that all success criteria have been met and predominantly native  
33 vegetation is established (see Section 5.2 below), limited domestic grazing may occur. This  
34 grazing will be kept to levels that do not significantly degrade the native habitat. It is expected  
35 that regular maintenance will be required to keep the fences functioning. Gates will be installed at  
36 regular intervals along the perimeter to allow for the regulation of grazing activities. No livestock  
37 supporting facilities (such as watering and mineral sites, corrals, etc.) will be allowed in the

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<sup>2</sup> See site certificate conditions (66), (67) and (104).

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1 enhancement areas.

2  
3 **4.2.2 Preparation of Habitat**

4 The recommended preparation procedure is to chemically treat the enhancement areas in  
5 March or April of the first year to suppress or eliminate weedy species as needed prior to seed set.  
6 The goal is to remove competing non-native vegetation from the parcel to assist in the later  
7 establishment of desirable species. Depending on seedbed conditions, tilling may be necessary in  
8 the fall prior to the spring spraying.

9  
10 **4.2.3 Revegetation**

11 The entire parcel will be seeded using the seed mixture given in Table 2. The  
12 recommended procedure is to plant the mixture in October or November at the rate given in  
13 Table 2 using a no-till seed drill (five to ten inch row spacing, 1/2 inch planting depth).

14  
15 **4.2.4 Shrub Plantings**

16 The recommended seed mixture contains big sagebrush seeds. However, shrub  
17 establishment from seed is often unsuccessful in xeric conditions, such as those found within the  
18 project area. Should revegetation monitoring determine that shrub re-establishment within all or  
19 part of the habitat improvement parcel has been unsuccessful, shrubs will be planted in those  
20 areas.

21 The certificate holder or designated contractor will obtain containerized (10 cubic inch)  
22 big sagebrush from a regional source. The seedlings will be planted within 1 week of delivery,  
23 and the unplanted seedlings will be stored in a shaded area and watered as needed. Ten percent  
24 of the acres within the parcel will be randomly selected for shrub planting. The seedlings will be  
25 planted in clumps of three, with the clumps approximately 20 feet apart (100 clumps per acre).  
26 Depending on seasonal moisture during the following spring, irrigation may be necessary to  
27 achieve satisfactory establishment. This may be accomplished by watering each clump to  
28 saturation once in late May and again in late June.

29  
30 **4.2.5 Maintenance**

31 Because these improvements are mitigation for permanent habitat loss, it is necessary to  
32 maintain the fences and seedings over the life of the project (currently anticipated to be 30  
33 years). This may include such maintenance activities as fence repair, periodic chemical or  
34 mechanical weed control, monitoring of improvement success and re-seeding (in areas where  
35 native species establishment falls below the percentages specified in the success criteria  
36 described below).

37  
38 **5. Monitoring**

39 **5.1. Monitoring Procedures (Temporarily Disturbed Areas, Stateline 1&2 and Vansycle**  
40 **II)**

41 In the fall of the year following each seeding and continuing annually for five years, a

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1 qualified independent botanist or revegetation specialist will examine all reseeded riparian areas  
2 and a representative cross-section of the revegetated upland sites and report to the Oregon  
3 Department of Energy (Department). Care will be taken to survey areas in all the major habitat  
4 types and throughout the geographic extent of the project area. At least 20% of the revegetated  
5 acreage will be examined.

6 In consultation with the ODFW, the certificate holders shall choose reference sites near  
7 the revegetated areas to represent the target conditions for the revegetation effort. For each  
8 revegetated area, the certificate holders shall choose a reference site in the immediate vicinity that  
9 represents the realistically attainable vegetative conditions for that area. The certificate holders  
10 shall choose these reference sites based on factors including land use patterns in the area, soil  
11 type, aspect and noxious weed densities. The goal in choosing these reference sites is to identify  
12 areas that provide a realistically attainable goal that will determine the success threshold level for  
13 a particular revegetated area. It is anticipated that it will be necessary to choose several reference  
14 sites to adequately represent all the various habitat conditions within the project area.

15 The certificate holders shall choose the reference sites during or after field visits by the  
16 revegetation monitoring specialist and ODFW personnel. Once the reference sites are chosen,  
17 they will be used for comparison during all subsequent monitoring visits, unless some event  
18 (such as wildfire) significantly changes habitat conditions so that a particular reference site no  
19 longer represents a realistically attainable habitat goal for the associated revegetated area. In that  
20 case, the certificate holders shall choose a new reference site.

21 At each monitoring location, the investigator shall evaluate the following parameters  
22 (both within the revegetated area and within the reference site):

- 23 • Degree of erosion due to construction activities (high, moderate or low).
- 24 • Average stems of desirable vegetation per square foot.

25 The investigator shall evaluate the revegetated area and the reference site separately to  
26 allow for later determination of revegetation success.

**5.2. Monitoring Procedures (Stateline 1&2 Habitat Enhancement Area)**

29 In the fall of the year following the seedings, a qualified independent botanist or  
30 revegetation specialist will examine a representative cross-section of plots within the revegetated  
31 parcel. These visits will occur yearly for the first five years and then take place every five years  
32 for the life of the project (although additional monitoring visits may be performed as noted  
33 below). Care will be taken to survey areas in all the major habitat types and throughout the  
34 geographic extent of the revegetated parcel. At least 10% of the revegetated acreage will be  
35 examined. After each survey, the qualified independent botanist or revegetation specialist will  
36 report to the Department.

37 At each plot, the investigator shall evaluate the following parameters:

- 38 • Percent survival of the shrub plantings (if applicable).
- 39 • Average stems of desirable vegetation per square foot.



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1 In addition to the regular monitoring schedule (every year for the first five years, and then  
2 once every five years after that), a qualified investigator shall conduct additional monitoring visits  
3 in the habitat enhancement areas if grazing levels are changed significantly. In particular, if  
4 domestic grazing is introduced in the parcel or if the grazing regime is changed significantly, the  
5 investigator shall monitor the parcel every fall for two years following the grazing change. This is  
6 intended to make sure that domestic grazing activities do not significantly degrade habitat quality  
7 such that the parcel fails to meet the success criteria defined below.  
8

9 **5.3. Success Criteria (Temporarily Disturbed Areas, Stateline 1&2 and Vansycle II)**

10 A temporarily disturbed area is successfully revegetated when the average desirable  
11 vegetation stem density within the revegetated area is greater than, or equal to, that observed in  
12 the comparable reference site.

13 If success criteria are not met for a site at the time of a monitoring inspection, the  
14 investigator may recommend reseeding. In small areas (less than 0.2 acres) where weed  
15 encroachment may make native seed establishment impossible, additional reseedings may be  
16 optional if erosion from construction activities is moderate or low and total vegetative cover (of  
17 native and non-native species together) exceeds 30%.  
18

19 **5.4. Success Criteria (Stateline 1&2 Habitat Enhancement Area)**

20 The Stateline 1&2 habitat enhancement area will be considered successfully revegetated  
21 when the average stem densities of desirable species are greater than 0.5 stems per square foot.  
22 Shrub plantings will be considered successful when at least 25% of the sagebrush seedlings have  
23 survived. If success criteria are not met for a site at the time of a monitoring inspection, the  
24 investigator may recommend reseeding or replanting.

25 After predominantly native vegetation has been established in a habitat enhancement area,  
26 the investigator will verify, during subsequent visits, that the plant communities within the parcel  
27 continue to meet the success criteria described above. In particular, if domestic grazing is allowed  
28 within the enhancement area, the investigator shall determine whether stocking levels or length of  
29 the grazing season are significantly degrading the native habitat. If all or part of the habitat within  
30 the parcel has fallen below the success levels described above, the investigator shall recommend  
31 remediative measures, which may include replanting selected areas, lowering stocking levels or  
32 restricting grazing in the enhancement area.  
33

34 **6. Amendment of the Plan**

35 This Revegetation Plan may be amended from time to time by agreement of the  
36 certificate holder and the Council. Such amendments may be made without amendment of the  
37 site certificate. The Council authorizes the Department to agree to amendments to this plan. The  
38 Department shall notify the Council of all amendments, and the Council retains the authority to  
39 approve, reject or modify any amendment of this plan agreed to by the Department.  
40

41 **Table 1: Revegetation Seed Mixture (Temporarily Disturbed Areas, Stateline 1&2 and**

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1 **Stateline 3)**  
 2

<b>Common Name</b>	<b>Scientific Name</b>	<b>lbs/acre PLS*</b>
Secar Bluebunch Wheatgrass	<i>Pseudoroegneria spicata</i> ssp. <i>Spicata</i>	12
Sherman Big Bluegrass	<i>Poa ampla</i> ( <i>secunda</i> )	6
Critana Thickspike Wheatgrass	<i>Elymus lanceolatus</i>	6
Sandberg's Bluegrass	<i>Poa sandbergii</i> ( <i>secunda</i> )	0.4
Basin Big Sagebrush	<i>Artemisia tridentata</i>	0.4
<b>Total</b>		<b>24.8</b>

3 Notes: \*PLS (Pure Live Seed)

4 (The above seed mixture is for use in revegetating all upland areas of temporary ground  
 5 disturbance within the SWP site boundary.)

6  
 7 **Table 2: Revegetation Seed Mixture (Stateline 1 &2 Habitat Enhancement Area)**  
 8

<b>Common Name</b>	<b>Scientific Name</b>	<b>lbs/acre PLS*</b>
Secar Bluebunch Wheatgrass	<i>Pseudoroegneria spicata</i> ssp. <i>Spicata</i>	3
Sherman Big Bluegrass	<i>Poa ampla</i> ( <i>secunda</i> )	3
Critana Thickspike Wheatgrass	<i>Elymus lanceolatus</i>	3
Whitmar Beardless Wheatgrass	<i>Pseudoroegneria spicata</i> ssp. <i>Inermis</i>	3
Appar Lewis Blue Flax**	<i>Linum perrene</i>	0.5
Basin Big Sagebrush	<i>Artemisia tridentata</i>	0.5
<b>Total</b>		<b>13</b>

9 Notes: \*PLS (Pure Live Seed) \*\*Optional in areas where ongoing or expected application of broad-leafed  
 10 herbicides to control weedy species would limit the establishment of blue flax

11 (The above mixture is for use in seeding habitat within the specific habitat enhancement area set  
 12 aside as mitigation for permanent Stateline 1&2 ground disturbance. This mix should not be  
 13 used to revegetate areas temporarily disturbed by project construction.)

**Attachment F: Draft Amended Wildlife Monitoring and Mitigation Plan**

# Stateline Wind Project: Draft Amended Wildlife Monitoring and Mitigation Plan [Amended January 28, 2022]

1 This plan describes wildlife monitoring the certificate holders shall conduct during  
2 operation<sup>1</sup> of the Stateline Wind Project (SWP) facility in Oregon. The monitoring objectives are  
3 to determine whether the facility causes significant fatalities of birds and bats and to determine  
4 whether the facility results in a loss of habitat quality. This plan addresses the facility as  
5 permitted under the Oregon site certificate, as amended and includes updated information for the  
6 future years of the raptor artificial nest structures (ANS) requirement as of November 30, 2016.

7 The SWP facility<sup>2</sup> consists of two geographic units:

- 8 • Stateline 1&2: 186 Vestas V47-660-kilowatt (kW) wind turbines, six permanent  
9 meteorological (met) towers, access roads and other related or supporting  
10 facilities.<sup>3</sup>
- 11 • Vansycle II (Stateline 3): Up to 45 wind turbines (43 Siemens 2.66-MW wind  
12 turbines, and 2 GE 2.3-MW wind Turbines), 50 MW of battery energy storage,  
13 access roads, a 230-kV transmission line, a substation, an operations and  
14 maintenance building and other related or supporting facilities.

15 Wildlife monitoring is necessary to determine whether operation of the facility results in  
16 a net loss of habitat quality. For raptors, this will require that the certificate holders obtain a  
17 reasonable estimate of the effect of the project on raptors in the context of local raptor  
18 populations.

19 The certificate holders shall use properly trained personnel to conduct this monitoring,  
20 subject to approval by the Oregon Department of Energy (Department) as to professional  
21 qualifications. For all monitoring except FPL's Wildlife Response and Reporting System  
22 (described below), the certificate holders shall hire independent third party investigators (not  
23 employees of the certificate holder) to perform monitoring tasks.

24 The Wildlife Monitoring and Mitigation Plan for the SWP includes the following  
25 components:

26 1) Fatality monitoring program involving:

- 27 a) Removal trials
- 28 b) Searcher efficiency trials
- 29 c) Fatality search protocol
- 30 d) Statistical analysis

31 2) Established monitoring transect searches

---

<sup>1</sup> This plan does not address pre-construction wildlife surveys that FPL Energy carried out in support of its application for a site certificate for the Stateline project.

<sup>2</sup> As used herein, "SWP facility" includes Stateline 1, 2 and Vansycle II.

<sup>3</sup> The Final Order on the Application authorized construction of 127 Stateline 1 turbines. However, only 126 were actually built. The Final Order described the four Stateline 1 permanent met towers as "guyed masts set in concrete foundations" (Final Order page 12). However, the certificate holder has built unguyed, concrete met towers for both Stateline 1 and 2. Nevertheless, if any permanent guyed met towers are used in the future, the certificate holder shall comply with the provisions in this plan that address guyed met towers.

# Stateline Wind Project: Draft Amended Wildlife Monitoring and Mitigation Plan [Amended January 28, 2022]

- 1           3) Raptor nesting surveys
- 2           4) Burrowing owl surveys
- 3           5) Avian use surveys
- 4           6) FPL’s “Stateline Wind Project Wildlife Response and Reporting System”

5 Following is a discussion of the components of the monitoring plan, statistical analysis methods  
6 for fatality data and data reporting.

7  
8       **Stateline 1 &2**  
9

10   **1.     Definitions and Methods**

11       Seasons

12 This plan uses the following dates for defining seasons:  
13

Season	Dates
Spring Migration	March 16 to May 15
Summer/Breeding	May 16 to August 15
Fall Migration	August 16 to October 31
Winter	November 1 to March 15

14       Search Plot Selection

15       **Stateline 1&2**

16       Certificate holder FPL Energy Vansycle LLC (FPL Vansycle) is responsible for  
17 implementing this plan as it applies to Stateline 1&2. The certificate holder shall conduct  
18 standardized carcass searches within search plots. The certificate holder, in consultation with the  
19 Oregon Department of Fish and Wildlife (ODFW), shall select search plots based on a systematic  
20 sampling design (in general, every other plot is sampled in a monitoring year). Turbine strings  
21 will be broken into rectangular search plots that contain two to four turbines each. The edge of  
22 plots will be no closer than 63 meters from the nearest turbine or, if guyed meteorological (met)  
23 towers are used, no closer than 63 meters from the nearest guyed met tower. The certificate  
24 holder shall provide maps of the search plots to the Department of Energy before beginning  
25 fatality monitoring at the facility. The certificate holder shall use the same search plots for each  
26 search conducted during a monitoring year.

27       Scheduling and Sampling Frequency

28       Certificate holder FPL Vansycle began standardized fatality monitoring in Oregon upon  
29 the beginning of operation of the facility. For Stateline 1, the first “monitoring year” commenced  
30 January 1, 2002. For Stateline 2, the first monitoring year commenced January 1, 2003. FPL  
31 Vansycle completed standardized fatality monitoring for Stateline 1&2 in 2006. For Vansycle II,  
32 the first monitoring year will commence in the first calendar month following completion of  
33 construction.

34       Within each monitoring year for Stateline 1 and 2, FPL Vansycle conducted standardized

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1 carcass searches at the rates of frequency shown below. Over the course of each monitoring year,  
2 FPL Vansycle conducted 16 searches. The total number of searches per season is based on  
3 applying the rate to the number of months in the season (as defined above).  
4

Season	Frequency
Spring Migration	2 searches per month (4 searches)
Summer/Breeding	1 search per month (3 searches)
Fall Migration	2 searches per month (5 searches)
Winter	1 search per month (4 searches)

5 For Vansycle II, the certificate holder shall conduct one full year of fatality monitoring  
6 (16 searches), beginning in the first calendar month following completion of construction.

### 7 Sample Size for Standardized Carcass Searches

8 For the standardized carcass searches described below, the sample size is the number of  
9 turbines searched per monitoring year. Because the number of turbines per search plot varies (as  
10 described above), the number of search plots will be less than the sample size (total number of  
11 turbines searched per year).

12 The determination of the sample size is based primarily on the expected precision in the  
13 fatality estimates for all Stateline wind turbines in Oregon and Washington.

14 Stateline 1 sample size: FPL Vansycle searched 64 Stateline 1 turbines during the first  
15 monitoring year (plus 60 turbines in Washington) and 63 Stateline 1 during the second  
16 monitoring year (plus 60 turbines in Washington). Over the first two monitoring years, all 126  
17 Stateline 1 turbines were searched for at least 12 months. Stateline 1 does not include any guyed  
18 met towers.

19 Stateline 2 sample size: FPL Vansycle searched 30 Stateline 2 turbines in 2003 and 16  
20 Stateline 2 turbines in 2006 (plus 23 turbines in Washington). Stateline 2 does not include any  
21 guyed met towers.

### 22 Duration of Fatality Monitoring

23 Stateline 1&2: FPL Vansycle completed standardized fatality monitoring for Stateline  
24 1&2 in 2006.  
25

## 26 **2. Removal Trials**

27 The objective of the removal trials is to estimate the length of time avian and bat  
28 carcasses remain in the search area. Carcass removal studies will be conducted during each  
29 season in the vicinity of the search plots. Estimates of carcass removal will be used to adjust  
30 carcass counts for removal bias. “Carcass removal” is the disappearance of a carcass from the  
31 search area due to predation, scavenging or other means such as farming activity.

32 FPL Vansycle conducted carcass removal trials within each of the seasons defined above  
33 for Stateline 1 and 2 during the years in which fatality monitoring was done.<sup>4</sup> Instead, removal  
34 data from Stateline 1 and 2 will be used to adjust carcass counts for removal bias.  
35

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<sup>4</sup> Except that removal trials were not required in 2006 for Stateline 2.

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## 3. Searcher Efficiency Trials

The objective of searcher efficiency trials is to estimate the percentage of bird and bat fatalities that searchers are able to find.

The certificate holder shall conduct searcher efficiency trials in the same area in which carcass searches occur in both grassland/shrub-steppe and cultivated agriculture habitat types. FPL Vansycle conducted searcher efficiency trials in each season for Stateline 1 and 2 in those years in which fatality monitoring was done.<sup>5</sup>

Personnel conducting searches will not know when trials are conducted; nor will they know the location of the trial carcasses. If suitable trial carcasses are available, trials during the fall season will include several small brown birds to simulate bat carcasses. Legally obtained bat carcasses will be used if available.

On the day of a standardized carcass search (described below) but before the beginning of the search, efficiency trial carcasses will be placed at random locations within areas to be searched. If scavengers appear attracted by placement of carcasses, the carcasses will be distributed before dawn.

Efficiency trials will be spread over the entire season to incorporate effects of varying weather and vegetation growth. Carcasses will be placed in a variety of postures to simulate a range of conditions. For example, birds will be: 1) placed in an exposed posture (thrown over the left shoulder), 2) hidden to simulate a crippled bird, and 3) partially hidden. Each carcass will be discreetly secured at its location to discourage removal by scavengers.

Each non-domestic carcass will be discreetly marked so that it can be identified as an efficiency trial carcass after it is found. The number and location of the efficiency trial carcasses found during the carcass search will be recorded. The number of efficiency trial carcasses available for detection during each trial will be determined immediately after the trial by the person responsible for distributing the carcasses.

If new searchers are brought into the search team, additional detection trials will be conducted to insure that detection rates incorporate searcher differences.

## 4. Standardized Carcass Searches

The objective of the standardized carcass searches (“fatality monitoring”) is to estimate the number of bird and bat fatalities that are attributable to facility operation. The goal of bird and bat fatality monitoring is to obtain a precise estimate of the fatality rate and associated variances.

The certificate holder shall estimate the number of avian and bat fatalities attributable to operation of the facility based on the number of avian and bat fatalities found at the facility site whose death appears related to facility operation. All carcasses located within areas surveyed, regardless of species, will be recorded and, if possible, a cause of death determined based on blind necropsy results. The total number of avian and bat carcasses will be estimated by adjusting

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<sup>5</sup> Except that searcher efficiency trials were not required in 2006 for Stateline 2.

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1 for removal and searcher efficiency bias. If the cause of death is not apparent, the mortality will  
2 be attributed to facility operation.

3 FPL Vansycle conducted two years of fatality monitoring for the Stateline 1 area and two  
4 years of fatality monitoring for the Stateline 2 area. For Vansycle II, FPL Stateline shall conduct  
5 one full year of fatality monitoring. If analysis of the fatality data indicates that a significant  
6 impact on wildlife and wildlife habitat has occurred, the certificate holder shall implement  
7 appropriate mitigation, subject to the approval of the Department. Mitigation is discussed in  
8 Section 12 below.

9 Personnel trained in proper search techniques (“the searchers”) will conduct the carcass  
10 searches by walking parallel transects. The searchers will search rectangular search plots with the  
11 long axis of the plot centered on the turbine string. All area within a minimum of 63 meters from  
12 turbines or permanent guyed met towers will be searched. Transects will be initially set at 6  
13 meters apart in the area to be searched. A searcher will walk at a rate of approximately 45 to 60  
14 meters per minute along each transect searching both sides out to three meters for casualties.  
15 Search area and speed may be adjusted by habitat type after evaluation of the first searcher  
16 efficiency trial. It should take approximately 45 to 90 minutes to search each turbine (each search  
17 plot contains multiple turbines), depending on the habitat type.

18 The searchers will record the condition of each carcass found, using the following  
19 condition categories:

- 20 ▪ Intact – a carcass that is completely intact, is not badly decomposed and shows no  
21 sign of being fed upon by a predator or scavenger
- 22 ▪ Scavenged – an entire carcass that shows signs of being fed upon by a predator or  
23 scavenger, or portions of a carcass in one location (e.g., wings, skeletal remains, legs,  
24 pieces of skin, etc.)
- 25 ▪ Feather Spot – 10 or more feathers at one location indicating predation or scavenging

26 All carcasses (avian and bat) found during the standardized carcass searches will be  
27 photographed, recorded and labeled with a unique number. Each carcass will be bagged and  
28 frozen for future reference and possible necropsy. A copy of the data sheet for each carcass will  
29 be kept with the carcass at all times. For each carcass found, searchers will record species, sex  
30 and age when possible, date and time collected, location, condition (e.g., intact, scavenged,  
31 feather spot) and any comments that may indicate cause of death. Searchers will photograph each  
32 carcass as found and will map the find on a detailed map of the search area showing the location  
33 of the wind turbines and associated facilities. The certificate holder shall coordinate collection of  
34 state endangered, threatened or protected species with the ODFW. The certificate holder shall  
35 coordinate collection of federal endangered, threatened or protected species with the U.S. Fish  
36 and Wildlife Service (USFWS). The certificate holder shall obtain appropriate collection permits  
37 from ODFW and USFWS.

38 The searchers might discover carcasses incidental to formal carcass searches (e.g., while  
39 driving within the project area). If the incidentally discovered carcasses are found at turbines that  
40 are not part of the formal search sample, the searchers will identify, photograph and collect the  
41 carcasses as is done for carcasses within the formal search sample during scheduled searches. If  
42 the incidentally discovered carcasses are within the formal search plots, the searchers will leave



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1 the carcasses undisturbed, unless the carcass is a state or federally threatened or endangered  
2 species. The certificate holder shall coordinate collection of state endangered, threatened or  
3 protected species with ODFW. The certificate holder shall coordinate collection of federal  
4 endangered, threatened or protected species with the USFWS. The searchers will record the  
5 location of all incidentally discovered carcasses or injured birds on a detailed map of the study  
6 area showing the location of wind turbines and associated facilities such as power lines and met  
7 towers. Any injured native birds found will be carefully captured by a trained Project Biologist  
8 or technician and transported to Blue Mountain Wildlife Center in Pendleton in a timely fashion.  
9 The certificate holder shall follow a protocol for handling injured birds that has been developed  
10 with Lynn Thompkins of Blue Mountain Wildlife.  
11

## 12 **5. Established Monitoring Transect Surveys**

13 Surveys of grassland transects were conducted for Stateline 1 only. The objective of  
14 surveys of established monitoring transects is to determine whether the operation of the facility  
15 results in a loss of habitat quality. A reduction in use by grassland/steppe avian species near the  
16 facility would indicate a loss of habitat quality.

17 Stateline 1 transects: FPL Vansycle established 20 transects perpendicular to the turbine  
18 strings in non-agricultural grassland steppe and CRP habitats.<sup>6</sup> The survey protocol for Stateline  
19 1 was described in earlier versions of this plan.<sup>7</sup>

20 Stateline 2 transects: No additional transects could be established because the turbine  
21 strings were located in cultivated land.

### 22 **Vansycle II**

23  
24  
25 The objective of fatality monitoring is to estimate the number of bird and bat fatalities  
26 that are attributable to Facility operation. The Certificate Holder will employ qualified and  
27 properly trained personnel (investigators) to perform fatality monitoring. The program will  
28 include standardized carcass searches to detect fatalities, methods to adjust for sources of bias  
29 inherent in fatality detection, and the estimation of annual fatality rates attributable to facility  
30 operation based on these data. Sources of bias will be measured through (1) carcass  
31 persistence trials to estimate the mean length of time that a carcass persists and is therefore  
32 available for detection; (2) searcher efficiency trials to estimate the proportion of carcasses  
33 detected by investigators; and (3) estimation of the portion of the carcass fall distribution  
34 searched. Methods and results of all components of the fatality monitoring program will be  
35 reported to ODOE on an annual basis. If an investigator determines that a carcass found at the  
36 Facility (during searches or incidentally) is a state or federally threatened or endangered  
37 species, reporting timelines specified in Section 7.0 will be followed.  
38

## 39 **Standardized Carcass Searches**

---

<sup>6</sup> The original Oregon Wildlife Monitoring Plan (9/14/01) required the certificate holder to survey 24 transects that had been established before construction of Stateline 1. However, due to changes in project layout between the initial monitoring plan and the final layout as shown in the site certificate and changes in habitat due to landowner uses, the number of suitable transects for this survey was reduced to 20.

<sup>7</sup> See the Oregon Wildlife Monitoring Plan (Revised January 20, 2006).

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1  
2 The objective of standardized carcass searches is to systematically search Facility  
3 turbines for bird and bat fatalities that occur in proximity to Facility infrastructure.  
4

## 5 Search Plot Size and Configuration 6

7 This mortality monitoring effort focuses on three size classes of fatalities: bats, small  
8 birds, and large birds. Turbine-related fatalities are distributed non-uniformly around a  
9 turbine (fall distribution). As a result, carcass density is not the same at all distances from a  
10 turbine, but typically rises over a short distance and eventually decreases to zero (Huso et al.  
11 2016; Dalthorp 2020). The fall distribution depends on a number of factors including species'  
12 size and body mass (e.g., larger, heavier carcasses tend to land farther from turbines than  
13 lighter carcasses; Hull and Muir 2010; Huso et al. 2016; Choi et al. 2020), the maximum  
14 blade tip height of a turbine and operational speed of the turbine. Therefore, search plot size  
15 and configuration selected for standardized carcass searches is intended to minimize bias in  
16 fatality estimation by maximizing (1) the spatial coverage of Facility turbines, (2) the  
17 visibility of smaller carcasses (Good et al. 2012; Maurer 2017), and (3) the proportion of the  
18 fall distribution searched for large birds (Hull and Muir 2010; Hallingstad et al. 2018). Two  
19 types of search plots and corresponding search methods will be utilized at each turbine, one  
20 that minimizes detection bias for small carcasses and one that does so for large bird  
21 carcasses.  
22

23 The first search plot, "road and pad plots," will focus on detecting bats and small birds;  
24 large birds will also be recorded within the road and pad plot if found. The road and pad plot  
25 includes the gravel pad surrounding the turbine, portions of all access roads that are within  
26 100 meters of the turbine, and edges of the vegetation along the roadside. Ninety-nine percent  
27 of fatalities of small birds and bats are predicted to occur within 100 meters from the base of  
28 Facility turbines (based on modeling for large turbines by Hull and Muir [2010]).  
29

30 The second search plot, "large bird plots," will include a circular plot centered on the  
31 turbine with a radius of 120 meters extending from the turbine. Approximately 85 percent of  
32 fatalities of large birds are predicted to occur within 120 meters from the base of Facility  
33 turbines (based on modeling for large turbines by Hull and Muir [2010]).  
34

35 To ensure a statistically robust sampling design that is representative of the  
36 various habitat conditions and turbine types at the Facility, 100 percent of Facility  
37 turbines will be searched utilizing both types of search plots.  
38

## 39 Search Schedule and Interval 40

41 Fatality monitoring will begin just prior to the start of the first full season following  
42 commencement of commercial operation of the Facility. Fatality monitoring will commence  
43 with a "clearance search." The clearance search serves to identify fatalities that occurred prior  
44 to the initiation of the fatality monitoring program and for which the time period of  
45 occurrence cannot be assigned (see Section 3.4). After the initial clearance search,  
46 standardized carcass searches will begin the first week of the first full season following the

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1 commencement of commercial operation.

2  
3 Standardized carcass searches will be conducted biweekly (every 14 days) in both  
4 search plot types during the spring, summer and fall seasons to capture migration and breeding  
5 seasons of birds and bats. The frequency of standardized carcass searches will be reduced to  
6 monthly (once every 28 days) in both plot types during winter. Over the course of one  
7 monitoring year, the investigators will conduct 22 standardized carcass searches (excluding  
8 the clearance search) in road and pad plots and 22 standardized carcass searches (excluding the  
9 clearance search) in large bird plots. Seasonal timeframes and frequency of searches by  
10 season and search plot type are shown in Table 1.  
11

12 **Table 1. Post-Construction Fatality Monitoring Standardized Carcass Search Parameters**

Season	Dates <sup>1</sup>	Search Interval <sup>2</sup>	Search Plot Parameters	Target Size Class	Search Strategy	Number of Survey Periods per Season
Spring	March 16 to May 31	14 Days	Road and pad plot out to 100 meters	Bats/small birds and large birds	Walk	6
		14 Days	120-meter radius centered on turbine	Large birds	Binocular Scans from turbine base	6
Summer	June 1 to August 15	14 Days	Road and pads plot out to 100 meters	Bats/small birds and large birds	Walk	5
		14 Days	120-meter radius centered on turbine	Large birds	Binocular Scans from turbine base	5
Fall	August 16 to November 15	14 Days	Road and pad plot out to 100 meters	Bats/small birds and large birds	Walk	7
		14 Days	120-meter radius centered on turbine	Large birds	Binocular Scans from turbine base	7
Winter	November 16 to March 15	28 Days	Road and pad plot out to 100 meters	Bats/small birds and large birds	Walk	4
		28 Days	120-meter radius centered on turbine	Large birds	Binocular Scans from turbine base	4

1. Seasonal demarcation dates may be shifted slightly to accommodate a full search interval in any given season.  
2. Search interval for 28 days based on carcass persistence data for the Northern Rockies avifauna biome (in which the project is located) (AWWI 2019).

14  
15  
16 The Certificate Holder, in consultation with the Oregon Department of Fish and  
17 Wildlife (ODFW) and ODOE, may adjust the frequency of these searches to reflect

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1 considerations for specific species of concern and conditions at the Facility (e.g., probability  
2 of a carcass persisting from one search to the next).

## 3 4 Search Strategy and Fatality Documentation

5  
6 Searching road and pad plots involves walking the turbine and the gravel area around  
7 the turbine base and walking along the extent of access roads that occurs within 100 meters  
8 of the turbine.

9  
10 Investigators will search for fatalities by walking along one side of all access roads  
11 within 100 meters of the turbine, searching the road and bare ground to the vegetation line,  
12 walking toward the turbine, searching around the turbine pad, and returning to the starting  
13 location on the opposite side of the access road (Good et al. 2012; Maurer et al. 2017). This  
14 search strategy covers a portion of the carcass fall distribution around the turbine; a correction  
15 factor is applied during fatality estimation to account for the unsearched area (Section 3.5).

16  
17 Searches in large bird plots will involve binocular scans made from the turbine base  
18 and one to three topographical high points within the search plot. From the turbine base, the  
19 investigators will scan 90 degrees from each of the four cardinal directions out to the extent  
20 of the 120-meter circular search plot. Additionally, to address any portions of the large bird  
21 plot that are not visible from the base of the turbine due to topographical or other features,  
22 investigators will walk out to points in the plot where those areas become visible. Areas  
23 within the search plot that cannot be searched will be mapped as unsearchable areas  
24 (Hallingstad et al. 2018). Examples of unsearchable areas may include a wetland, cliff face,  
25 high fence, private property boundary, or any area that precludes visibility through the  
26 binocular scan method. Searchable areas and time spent scanning may be adjusted for habitat  
27 types and search methods after evaluation of the first searcher efficiency trial (see Section  
28 3.3).

29  
30 Investigators will flag all bird and bat carcasses discovered. Carcasses are defined as a  
31 complete carcass or body part, three or more primary flight feathers, five or more tail  
32 feathers, or 10 or more feathers of any type concentrated together in an area 3 meters square  
33 or smaller. When parts of carcasses and feathers from the same species are found within a  
34 search plot, investigators will make note of the relative positions and assess whether these are  
35 from the same fatality.

36  
37 All carcasses (bird and bat) found during the standardized carcass searches will be  
38 photographed, recorded, and labeled with a unique number. Investigators will record the  
39 location of the carcass using a global positioning system (GPS)-enabled device. Data  
40 collected per carcass found will include the date; the turbine number; the distance from and  
41 bearing from the nearest turbine; the species, age, and sex of the carcass when possible; the  
42 extent to which the carcass is intact; the estimated time since death; the habitat in which the  
43 carcass was found; whether the carcass was collected or left in place; and whether the carcass  
44 was found during a standardized carcass search or incidentally. Additional measurements  
45 may be required to identify the species of bat carcasses. Investigators will describe all  
46 evidence that might assist in determination of cause of death, such as evidence of

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1 electrocution, vehicular strike, wire strike, predation, or disease. If the necessary collection  
2 permits are not acquired by the Certificate Holder, all carcasses will be discreetly marked so  
3 as to avoid double counting and will be left in place.

## 4 5 Duration

6  
7 The investigators will perform one full year of fatality monitoring starting in the first  
8 year of facility operation (Year 1). When Year 1 of monitoring at the Facility has been  
9 completed, the raw data will be compiled by the investigators and the Certificate Holder in a  
10 comprehensive report, which will include fatality estimates (see Section 7.0). The results will  
11 be compared with other wind energy facilities in the region. If fatality rates for the first year  
12 of monitoring at the Facility exceed any of the thresholds of concern (see Section 3.6) or the  
13 range of fatality rates found at other wind power facilities in the region (as available), the  
14 Certificate Holder will consult with ODOE and ODFW regarding potential mitigation. If  
15 mitigation is deemed appropriate, the Certificate Holder will propose appropriate mitigation  
16 for ODOE and ODFW review within 6 months after reporting the fatality rates to the ODOE.  
17 Alternatively, the Certificate Holder may opt to conduct a second year of fatality monitoring  
18 consecutive to the first year if the Certificate Holder believes that the results of Year 1  
19 monitoring were anomalous. The investigators will perform an additional year of monitoring  
20 in the fifth year of operations (Year 5) regardless of the results of the Year 1 study.

## 21 22 Carcass Persistence Trials

23  
24 Carcass persistence is defined as probability that a carcass will persist in the study  
25 area for a given amount of time (e.g., until the next survey), and accounts for carcass  
26 removal bias. Carcasses may be removed from the survey plot due to scavenging or other  
27 means (e.g., decomposition, farming practices). Carcass persistence is measured by the  
28 number of days a carcass remains within the search plot before it is no longer detectable by  
29 an investigator within a given search interval. It is assumed that carcass removal occurs at a  
30 constant rate and does not depend on the time since death of the organism. The objective of  
31 carcass persistence trials is to estimate the length of time bird and bat carcasses remain  
32 within the search area and available to be detected by investigators. Estimates of carcass  
33 persistence will be used to adjust raw carcass counts for removal bias.

34  
35 The investigators will conduct a carcass persistence trial within each season defined in  
36 Table 1 during a fatality monitoring year. A minimum of 10 each of large bird, small bird,  
37 and bat surrogate trial carcasses will be placed each season. The investigators will select  
38 species with the same coloration and size attributes as species expected to occur at or near  
39 the Facility, if possible. Trial carcass species may include legally obtained domestic species  
40 (e.g., ring-necked pheasants, juvenile Japanese quail), unprotected species (e.g. European  
41 starling, house sparrows) and dark mice as a surrogate for bats.

42  
43 Trial carcasses will be marked discreetly for recognition by investigators and other  
44 personnel. Carcasses will be placed at randomly generated locations within the search plots.  
45 Small birds and bat surrogates will be placed within the road and pad plots and large bird  
46 carcasses will be placed within the large bird plots on day 0 of the trial. Trial carcasses will

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1 be left in place until the end of the carcass persistence trial. An approximate schedule for  
2 assessing removal status is once daily for the first 4 days, and on days 7, 10, 14, 21, 28, and  
3 35. This check schedule may be extended to include the possibility of longer persistence  
4 times after initial placement (e.g., 60 or 90 days) to capture potentially longer large bird  
5 persistence times. This check schedule may also be adjusted depending on actual carcass  
6 persistence rates, weather conditions, and coordination with the other survey work. The  
7 condition of scavenged carcasses will be documented during each assessment, and at the end  
8 of the trial all traces of the carcasses will be removed from the site. Scavenger or other  
9 activity could result in complete removal of all traces of a carcass in a location or distribution  
10 of feathers and carcass parts to several locations. This feather distribution will not constitute  
11 complete carcass removal if evidence of the carcass remains within an area similar in size to  
12 a search plot and if the evidence would be detectable to a searcher during a normal survey.

## 13 Searcher Efficiency Trials

14  
15  
16 Searcher efficiency is defined as the probability that investigators will find a carcass  
17 that is available to be found within the search plot. Several factors influence searcher  
18 efficiency, including investigator experience, vegetation conditions within a search plot, and  
19 characteristics of individual carcasses (e.g., size, color). The objective of searcher efficiency  
20 trials is to estimate the percentage of bird and bat fatalities that investigators are able to find.

21  
22 A trained Searcher Efficiency Proctor will conduct searcher efficiency trials within  
23 each of the seasons defined in Table 1 during the years in which the fatality monitoring  
24 occurs. A minimum of 12 each of large bird, small bird, and bat surrogate trial carcasses will  
25 be placed in the spring, summer, and fall seasons within the road and pad plots, while a  
26 minimum of an additional 12 large birds will be placed just in the large bird plots in the  
27 spring, summer, and fall seasons. In winter, when bat fatalities are not anticipated, a  
28 minimum of 12 each of large bird and small bird carcasses will be placed in road and pad  
29 plots, while a minimum of 12 large birds will be placed in large bird plots. Investigators will  
30 not be notified of carcass placement or test dates. The Searcher Efficiency Proctor will vary  
31 the number of trials per season to capture seasonal variation in site conditions that may  
32 affect the ability to detect fatalities, and the number of carcasses per trial so that the  
33 investigators will not know the total number of trial carcasses being used in any trial. Similar  
34 to carcass persistence trials, searcher efficiency trial carcass species may include legally  
35 obtained domestic species (e.g., ring-necked pheasants, juvenile Japanese quail), unprotected  
36 species (e.g. European starling, house sparrows), and dark mice as a surrogate for bats.

37  
38 The Searcher Efficiency Proctor will mark the trial carcasses to differentiate them from  
39 other carcasses that might be found within the search plot and in a manner that does not  
40 increase carcass visibility. On the day of a standardized carcass search before the beginning  
41 of the search, the Searcher Efficiency Proctor will place trial carcasses at randomly generated  
42 locations within search plots (one to three trial carcasses per search plot). The number and  
43 location of trial carcasses found during the standardized carcass search will be recorded. The  
44 number of efficiency trial carcasses available for detection during each trial will be  
45 determined immediately after the trial by the Searcher Efficiency Proctor. Following the  
46 standardized carcass search, all traces of searcher efficiency trial carcasses will be removed

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1 from the site. If new investigators are brought into the search team, additional searcher  
2 efficiency trials will be conducted to ensure that detection rates incorporate investigator  
3 differences. The Certificate Holder will include a discussion of any changes in investigators  
4 and any additional detection trials in the reporting required under Section 7.0 of this plan.  
5

6 Before beginning searcher efficiency trials for any subsequent year of fatality  
7 monitoring, the Certificate Holder will report the results of the first-year searcher efficiency  
8 trials to ODOE and ODFW. In the report, the Certificate Holder will analyze whether the  
9 searcher efficiency trials as described above provide sufficient data to accurately estimate  
10 adjustment factors for searcher efficiency. The number of searcher efficiency trials for any  
11 subsequent year of fatality monitoring may be adjusted up, subject to the approval of ODOE.  
12

## 13 **6. Raptor Nest Surveys**

14 The objectives of raptor nest surveys are to estimate the size of the local breeding  
15 populations of tree-nesting raptor species in the vicinity of the facility and to determine whether  
16 operation of the facility results in a reduction of nesting activity or nesting success in the local  
17 populations of “target raptor species”: Swainson’s hawk and ferruginous hawk. Certificate holder  
18 FPL Vansycle is responsible for implementing this plan as it applies to Stateline 1&2. Certificate  
19 holder FPL Stateline is responsible for implementing this plan as it applies to Vansycle II.

20 Aerial and ground surveys will be used to gather nest success statistics on active nests,  
21 nests with young and young fledged. The certificate holder will share the data with state and  
22 federal biologists.

23 During each survey year, the certificate holder shall conduct at least one helicopter survey  
24 and additional surveys as described in this section. All nests will be given identification numbers,  
25 and nest locations will be recorded on U.S. Geological Survey 7.5-minute quadrangle maps.  
26 Global positioning system coordinates will be recorded for each nest. Locations of inactive nests  
27 will also be recorded as they may become occupied during future years. All new nests not  
28 previously mapped, whether active or inactive, will be given an identification number and their  
29 locations (coordinates) will be recorded. Ground surveys are subject to access.

30 For Stateline 1, FPL Vansycle conducted aerial surveys between May 5 and 17, 2002, and  
31 between June 8 and 28, 2002. Surveys were conducted within a 5-mile buffer of the Stateline 1  
32 turbines. In addition, active ferruginous hawk and Swainson’s hawk nests within two miles of  
33 Stateline 1 turbines were surveyed from the ground to determine nesting success.

34 In 2003, FPL Vansycle conducted an aerial survey within a 2-mile buffer of Stateline 1  
35 and 2 turbines to determine nest occupancy. In addition, FPL Vansycle conducted ground  
36 surveys to determine species, number of young and nesting success. “Nesting success” means  
37 that the young have successfully fledged (the young are independent of the core nest site). In the  
38 ground survey, FPL Vansycle targeted Swainson’s hawk and ferruginous hawk nests and any  
39 nests of the target raptor species not observed during the aerial survey.

40 In 2006, FPL Vansycle conducted an aerial survey to determine nest occupancy and a  
41 ground survey to determine species, number of young and nesting success. The survey area was  
42 the area within a 2-mile buffer around Stateline 2 turbines. In the ground survey, FPL Vansycle  
43 targeted Swainson’s hawk and ferruginous hawk nests and any nests of the target raptor species

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1 not observed during the aerial survey.

2 For Vansycle II, FPL Stateline shall conduct an aerial survey within a 1-mile buffer of  
3 Stateline 3 turbines to determine nest occupancy by Swainson's hawks and ferruginous hawks. In  
4 addition, one known ferruginous hawk nest located more than one mile from Vansycle II turbines  
5 will be surveyed. The certificate holder shall conduct a minimum of one ground survey of  
6 Swainson's and ferruginous hawk nests to determine number of young and nesting success.

7 Given the very low buteo nesting densities in the area, statistical power to detect a  
8 relationship between distance from a wind turbine and nesting parameters (e.g., number of  
9 fledglings per reproductive pair) will be very low. Therefore, impacts may have to be judged  
10 based on trends in the data, results from other wind energy facility monitoring studies and  
11 literature on what is known regarding the populations in the region.

12 If analysis of the raptor nesting data indicates any reduction in nesting success by the  
13 target raptor species within the survey areas, the certificate holder shall implement appropriate  
14 mitigation, subject to the approval of the Department. At a minimum, if the surveys reveal that a  
15 target raptor species has abandoned a nest or territory within ½ mile of the facility, or has not  
16 fledged any young over any two survey years, the certificate holder shall assume the  
17 abandonment or unsuccessful fledging is the result of the project unless another cause can be  
18 demonstrated conclusively. Based on that assumption, the certificate holder shall implement  
19 appropriate mitigation. In addition, if the data indicate clear evidence of displacement or  
20 disturbance of target raptor nesting species between beyond ½ mile from the facility, the  
21 certificate holder shall implement appropriate mitigation.

22 For ferruginous hawks, appropriate mitigation may include creation, maintenance and  
23 monitoring of nesting platforms; specifically, eight nesting platforms would be created a  
24 minimum of 2 miles away from turbines for every ferruginous hawk nest assumed or shown to  
25 be affected.

26 Due to the difficulty in replacing nesting habitat for Swainson's hawks, appropriate  
27 mitigation may include determining the status of the tree structures currently supporting  
28 Swainson's hawks within three miles of the turbines and, with landowner approval,  
29 implementing protection measures to retain those structures and to protect existing nest trees.  
30 This may include fencing to protect existing trees or spraying black locust trees for insect  
31 infestation. It may be appropriate to recruit native tree species.

## 32 33 **7. Burrowing Owl Surveys**

34 The objectives of owl surveys are to estimate the size of the local breeding population of  
35 burrowing owls in the vicinity of the facility and to determine whether operation of the facility  
36 results in a reduction of nesting activity or nesting success in the local burrowing owl population.

37 Given the expected small sample size of active burrowing owl nests within 1,000 feet of  
38 the facility, impacts may have to be judged based on trends in the data, results from other wind  
39 energy facility monitoring studies and literature on what is known regarding the populations in  
40 the region. No burrowing owls were observed within 1,000 feet of the proposed Stateline 1  
41 turbines during the 2001 spring pre-construction surveys. Therefore, there is no ability to make  
42 any statistical or descriptive inferences on burrowing owl displacement or disturbance impacts to  
43 burrowing owls in Oregon.



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1 For Stateline 1 and 2 facilities, FPL Vansycle conducted burrowing owl surveys during  
2 the breeding season within suitable grassland habitat in association with the fatality monitoring  
3 described above in Section 4. For each monitoring year, FPL Vansycle conducted a minimum of  
4 two surveys for burrowing owls to obtain estimates of burrowing owl nest density near the  
5 turbines. For these surveys, FPL Vansycle followed a protocol developed in consultation with  
6 ODFW. Taped burrowing owl vocalizations were played to enhance the ability to detect  
7 burrowing owls. Two historic nest sites within the Oregon project area were checked for use. The  
8 burrow and an adjacent 100 meters were surveyed for sign of activity and alternate nest sites.  
9 During the burrowing owl surveys, observers recorded and documented detections of  
10 Washington ground squirrels (scat, holes and live detections).

11 For Vansycle II facilities, FPL Stateline shall conduct a burrowing owl survey in 2010 for  
12 known active or historic burrowing owl nests and any newly discovered nests within 1,000 feet  
13 of the Stateline 3 wind turbines. In addition to checking all known historic burrowing owl sites,  
14 the certificate holder will search a buffer of 1,000 feet around each site to look for auxiliary  
15 burrows, new burrows or other signs of activity. Two burrowing owl nests were found within the  
16 project boundary during pre-construction in 2008 and will be checked for activity during the  
17 construction monitoring in 2009.

## 18 19 **8. Avian Use Surveys**

20 During each standardized carcass search, as described in Section 4 above, observers will  
21 record birds detected in a ten-minute period at approximately one-third of the turbines within the  
22 carcass search plots (e.g., one point count station per carcass search plot which may consist of two to  
23 four turbines) using standard variable circular plot point count survey methods. Additional  
24 observations of species of concern (State and federally listed threatened and endangered species and  
25 State Sensitive Species listed under OAR 635-100-0040) will be recorded if observed during the  
26 carcass searches, but collecting this information is secondary to the actual searching for carcasses so  
27 the searchers are not distracted from their main task of finding carcasses.

28 For Vansycle II, while on site during carcass searches (including during travel between  
29 search plots), observers shall record observations of special status birds and mammals within the  
30 facility site. Observers shall record observations of birds perching on aboveground transmission line  
31 conductors and support structures in the vicinity of the turbines being searched. Observers shall  
32 report any fatalities observed below or near transmission lines.

## 33 34 **9. FPL's Stateline Wind Project Wildlife Response and Reporting System**

35 FPL's "Stateline Wind Project Wildlife Response and Reporting System" is a monitoring  
36 program set up for searching for and handling avian and bat casualties found by maintenance  
37 personnel. A description of this system and associated data forms used for the Vansycle Ridge  
38 Wind Project are found in FPL's application for a site certificate (Attachment P-6, Appendices B  
39 and C).

40 Construction and maintenance personnel will be trained in the methods. This monitoring  
41 program includes both reporting of carcasses discovered incidental to construction and  
42 maintenance operations ("incidental finds") and reporting of carcasses discovered under a  
43 standardized search protocol for an area within approximately 50 meters of the turbines,  
44 measured from the base of the tower ("protocol searches").

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1 For Stateline 1, a sample of approximately 45 turbines not included in the standardized  
2 carcass searches was chosen to be included in protocol searches in each Stateline 1 monitoring  
3 year. FPL Vansycle selected this sample from the overall Stateline Wind Project in Oregon and  
4 Washington, with at least 13 of the sampled turbines located in Oregon.

5 For Stateline 2, FPL Vansycle selected a sample of seven Stateline 2 turbines not  
6 included in the standardized carcass searches to include in protocol searches in each Stateline 2  
7 monitoring year.

8 For Vansycle II, FPL Stateline shall select a sample of approximately 15 percent of the  
9 Stateline 3 turbines that are not included in the standardized carcass searches.

10 All carcasses discovered by maintenance personnel will be photographed and recorded. If  
11 maintenance personnel find carcasses within the search plots for protocol searches, they will  
12 notify a project biologist who will collect the carcasses. If maintenance personnel discover  
13 incidental finds at turbines that are not within search plots for the standardized carcass searches  
14 described in Section 4, they will notify a project biologist who will collect the carcasses. If  
15 maintenance personnel discover carcasses within search plots for the standardized carcass  
16 searches described in Section 4, they will leave the carcasses undisturbed, unless the carcass is a  
17 state or federally threatened or endangered or otherwise protected species. The certificate holder  
18 shall coordinate collection of state endangered, threatened or protected species with ODFW. The  
19 certificate holder shall coordinate collection of federal endangered, threatened or protected  
20 species with the USFWS.

## 21 **10. Statistical Analysis Methods for Fatality Data**

23 The certificate holder shall calculate fatality rates using the statistical methods described  
24 below, except that the certificate holder may use different notation and methods that are  
25 mathematically equivalent with prior approval of the Department.

- 26 (1) Observed number of carcasses found during standardized carcass searches for which  
27 the cause of death is either unknown or is attributed to the facility.
- 28 (2) Searcher efficiency expressed as the proportion of planted carcasses found by  
29 searchers
- 30 (3) Non-removal rates expressed as the length of time a carcass is expected to remain in  
31 the study area and be available for detection by the searchers

### 32 Definition of Variables

33 The following variables are used in the equations below:

- 34  $c_i$  the number of carcasses detected at plot  $i$  for the study period of interest for which  
35 the cause of death is either unknown or is attributed to the facility
- 36  $n$  the number of search plots
- 37  $k$  the number of turbines searched (includes the turbines centered within each search  
38 plot and a proportion of the number of turbines adjacent to search plots to account  
39 for the effect of adjacent turbines on the search plot buffer area)
- 40  $\bar{c}$  the average number of carcasses observed per turbine per year

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- 1             $s$             the number of carcasses used in removal trials
- 2             $s_c$             the number of carcasses in removal trials that remain in the study area after 40
- 3                            days
- 4             $se$             standard error (square of the sample variance of the mean)
- 5             $t_i$             the time (days) a carcass remains in the study area before it is removed
- 6             $\bar{t}$             the average time (days) a carcass remains in the study area before it is removed
- 7             $d$             the total number of carcasses placed in searcher efficiency trials
- 8             $p$             the estimated proportion of detectable carcasses found by searchers
- 9             $I$             the interval between searches in days
- 10            $\hat{\pi}_i$            the estimated probability that a carcass is both available to be found during a search and is
- 11                            found ( $i = 1$  and  $2$ ; two estimators)
- 12            $m_i$            the estimated annual average number of fatalities per turbine per year, adjusted for
- 13                            removal and observer detection bias ( $i = 1$  and  $2$ ; two estimators)

14            Observed Number of Carcasses

15            The estimated average number of carcasses ( $\bar{c}$ ) observed per turbine (or guyed met tower)

16            is:

$$\bar{c} = \frac{\sum_{i=1}^n c_i}{k}$$

17

18            The final estimate of  $\bar{c}$  and its standard error are to be calculated using bootstrapping

19            (Manly *et al.* 1997<sup>8</sup>). Bootstrapping is a computer simulation technique that is useful for

20            calculating point estimates, variances and confidence intervals for complicated test statistics. The

21            certificate holder shall calculate the mean of at least 5000 bootstrap estimates. The standard

22            deviation of the bootstrap estimates of  $\bar{c}$  is the estimated standard error of  $\bar{c}$  (that is,  $se(\bar{c})$ ).

23            Estimation of Carcass Removal

24            Estimates of carcass removal are used to adjust carcass counts for removal bias. Mean

25            carcass removal time ( $\bar{t}$ ) is the average length of time a carcass remains at the site before it is

26            removed:

$$\bar{t} = \frac{\sum_{i=1}^s t_i}{s - s_c}$$

27

28            This estimator is the maximum likelihood estimator assuming that the removal times

29            follow an exponential distribution and that there is right-censoring of data. Any trial carcasses

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<sup>8</sup> Manly, B.F.J., *Randomization, Bootstrap and Monte Carlo Methods in Biology* (2<sup>nd</sup> edition), Chapman and Hall, New York (1997).

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1 still remaining at 40 days are collected, yielding censored observations at 40 days. If all trial  
2 carcasses are removed before the end of the trial, then  $s_c$  is 0, and  $\bar{t}$  is just the arithmetic average  
3 of the removal times.

4 The certificate holder shall use bootstrapping to calculate the final estimate of  $\bar{t}$ , the  
5 estimated standard error and 90% confidence limits. At least 5000 bootstrap iterations will be  
6 used. The standard deviation of the bootstrap estimates of  $\bar{t}$  is the estimated standard error of  $\bar{t}$   
7 (that is,  $se(\bar{t})$ ). Removal rates will be estimated by major habitat, carcass size (large and small)  
8 and season.

## 9 Estimation of Searcher Efficiency

10 Searcher efficiency rates (that is, the rate of observer detection) are expressed as  $p$ , the  
11 proportion of trial carcasses that are detected by searchers. The standard error (square of variance  
12 of mean) and 90% confidence limits will be calculated by bootstrapping. At least 5000 bootstrap  
13 iterations will be used. Observer detection rates will be estimated by major habitat, carcass size  
14 and season.

## 15 Estimation of Total Number of Facility-Related Fatalities

16 The certificate holder shall provide two estimators for the mean number of fatalities per  
17 turbine per year. Both estimators adjust the observed number of fatalities by dividing the number  
18 of observed carcasses by an estimate of the probability that a carcass is available to be picked up  
19 during a fatality search (i.e., the probability the carcass is not removed by a scavenger) and is  
20 observed (the probability of detection). The first estimator of total number of annual facility-  
21 related fatalities ( $m_1$ ) is calculated by:

$$22 \quad m_1 = \frac{\bar{c}}{\hat{\pi}_1}$$

23 where

$$24 \quad \hat{\pi}_1 = \begin{cases} \bar{t} * p & \text{if } I > \bar{t} \\ I & \\ p & \text{if } I \leq \bar{t} \end{cases}$$

25

26

27 This first estimator appears to provide an underestimate of true mortality when the interval  
28 between searches is similar to the mean carcass removal time. For this reason, the certificate  
29 holder shall calculate the mean number of fatalities per turbine per year using a second estimator,  
30 as follows:

$$31 \quad m_2 = \frac{\bar{c}}{\hat{\pi}_2} \text{ where } \hat{\pi}_2$$

32

33

34 Where  $\hat{\pi}_2$  includes adjustment for both detection and scavenging bias and assuming that the  
35 carcass removal times  $t_i$  follow an exponential distribution.

36 This second estimator does not underestimate true mortality when the mean removal time  
37 is similar to or larger than the interval between searches. This estimator will be used when  
38 comparisons are made to determine if mitigation should be implemented as described in Section  
39 12.

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1 For Stateline 3, the certificate holder shall calculate and report fatality rates (per turbine  
2 and per megawatt) for each of eight categories: (1) all birds, (2) small birds, (3) large birds, (4)  
3 raptors, (5) bats, (6) grassland birds, (7) nocturnal migrants, and (8) State and federally listed  
4 threatened and endangered species and State Sensitive Species listed under OAR 635-100-0040.<sup>9</sup>  
5 The certificate holder shall calculate the “all birds” estimate and the “small birds” estimate for all  
6 species and, separately, for only those species protected by law. Modifications to these estimates  
7 will be made to incorporate the varying search efforts by season (monthly in winter and summer,  
8 twice monthly in fall and spring). In addition, the certificate holder shall estimate the number of  
9 facility-related fatalities separately for turbines that are located on land that does not support  
10 grassland steppe or low shrub/shrub steppe habitat and for turbines that are located on land that  
11 does support grassland steppe or low shrub/shrub steppe habitat. Additional modifications may be  
12 made, subject to approval by the Department.

13 The variance of  $m$  is difficult to estimate due to the products and ratios of random  
14 variables in the equation above. The certificate holder may estimate the variance and confidence  
15 intervals using the computer intensive technique of bootstrapping (Manly 1997, Barnard 2000).  
16

## 17 **11. Data Reporting**

18 The certificate holder will report the monitoring data and analysis to the Council. This  
19 report may be included in the annual report required under OAR 345-026-0080 or may be  
20 submitted as a separate document at the same time the annual report is submitted. In addition, the  
21 certificate holder shall provide to the Council any data or record generated in carrying out this  
22 monitoring plan upon request by the Council.

23 The certificate holder shall notify USFWS and ODFW immediately in the event that any  
24 federal or state endangered or threatened species are taken.

25 The public will have an opportunity to receive information about monitoring results and to  
26 offer comment. Within 30 days after receiving the final annual report of monitoring results, the  
27 Department will give reasonable public notice via the Internet and make the report available to  
28 the public. The notice will specify a time in which the public may submit comments to the  
29 Department. The Technical Advisory Committee established under the Walla Walla County  
30 conditional use permit may offer comments about the results of monitoring programs in Oregon.  
31

## 32 **12. Mitigation**

33 The selection of the mitigation actions that the certificate holder may be required to  
34 implement under this plan should allow for flexibility in creating appropriate responses to  
35 monitoring results that cannot be known in advance. If mitigation is needed, the certificate holder  
36 shall propose appropriate mitigation actions to the Department and shall carry out mitigation  
37 actions approved by the Department. In addition to mitigation described above, possible  
38 mitigation actions include but are not limited to the measures discussed in this section. The

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<sup>9</sup> Grassland nesting species include grasshopper sparrow, savannah sparrow, vesper sparrow, short-eared owl, burrowing owl, northern harrier, horned lark, western meadowlark, long-billed curlew, ring-necked pheasant, Hungarian partridge, chukar partridge, California quail and any other resident grassland nesting bird species that is found in the area.

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1 Department and the certificate holder shall review this plan and assess whether modification of  
2 the required mitigation is appropriate.

## 3 Grassland Nesting Species

4 Grassland nesting species include all native bird species that rely on grassland habitat and  
5 that are either resident species occurring year round or species that nest in the area, excluding  
6 horned lark, burrowing owl and northern harrier. The certificate holder shall determine  
7 significant impact to grassland nesting species based on the fatality monitoring program  
8 discussed above. For Stateline 1&2, if the average annual fatality rate is greater than 1.25  
9 fatalities per turbine or guyed met tower per year for all species combined or if the average  
10 annual fatality rate is greater than 0.5 fatalities per turbine or guyed met tower per year for a  
11 single grassland nesting bird species, then the certificate holder shall assume that a significant  
12 impact on habitat has occurred and shall implement appropriate mitigation. For Vansycle II, if  
13 the average annual fatality rate is greater than the threshold of concern (0.59 fatalities per  
14 megawatt) for grassland species as a group, then the certificate holder shall assume that a  
15 significant impact on habitat has occurred and shall implement appropriate mitigation.<sup>10</sup> The  
16 certificate holder shall include in this estimate any grassland nesting species fatality that is  
17 observed, even if it is observed during the non-nesting period. The certificate holder shall include  
18 in the estimate all carcasses unidentified as to species and for which there is no evidence to rule  
19 out the carcass as one of the grassland species listed above.

20 If the analysis of turbine fatality data indicates that mitigation for grassland nesting  
21 species is required, the certificate holder shall enhance sufficient habitat to support the number of  
22 grassland nesting birds affected. For Vansycle II, the number of birds affected includes the  
23 number of fatalities above the threshold of concern. The certificate holder shall protect that  
24 enhanced habitat for the life of the facility. The certificate holder shall propose the amount of  
25 habitat enhancement based on expected densities and habitat requirements of these species as  
26 described in the literature and studies of the Stateline facility and other wind energy facilities in  
27 the Northwest.

28 For Vansycle II, if the average annual fatality rate for a State Sensitive avian species  
29 listed under OAR 635-100-0040 is greater than the threshold of concern (0.2 fatalities per  
30 megawatt), the Department may require the certificate holder to implement mitigation for that  
31 species.

32 FPL Vansycle reported the average annual fatality rates for grassland bird species in  
33 *Stateline Wind Project Wildlife Monitoring Final Report: July 2001 - December 2003*. This  
34 report analyzed two years of monitoring data collected between January 1, 2002, and December  
35 31, 2003. Based on the data, the average annual fatality rate for all grassland bird species as a

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<sup>10</sup> The Council adopted “thresholds of concern” for raptors, grassland species and state sensitive avian species in the Final Order on the Application for the Klondike III Wind Project (June 30, 2006) and for bats in the Final Order on the Application for the Biglow Canyon Wind Farm (June 30, 2006). As explained in the Klondike III order: “Although the threshold numbers provide a rough measure for deciding whether the Council should be concerned about observed fatality rates, the thresholds have a very limited scientific basis. The exceeding of a threshold, by itself, would not be a scientific indicator that operation of the facility would result in range-wide population level declines of any of the species affected. The thresholds are provided in the WMMP to guide consideration of additional mitigation based on two years of monitoring data.”

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1 group was 1.28 fatalities per turbine. The average annual fatality rate for horned larks was 0.89  
2 fatalities per turbine, and no other single grassland species had an annual fatality rate greater than  
3 0.13 fatalities per turbine per year. The reported fatality rates exceeded the “all species”  
4 mitigation threshold for Stateline 1&2 of 1.25 fatalities per turbine per year and the “single  
5 species” threshold of 0.5 fatalities per turbine per year.

6 As of January 20, 2006, the Council determined that additional mitigation for facility  
7 impacts to grassland species was not required pending analysis of additional data from future  
8 monitoring. The basis for this determination was that the reported fatality rates were very close to  
9 target levels and the most common species affected was horned lark, a species that is abundant in  
10 the area and whose survival is not at risk.

11 In 2006, FPL Vansycle conducted fatality monitoring for 16 turbines in the Stateline 2  
12 area and reported the results in *Stateline Wind Project Wildlife Monitoring Annual Report:  
13 January - December 2006*. The average annual fatality rate for all grassland bird species as a  
14 group was 0.45 fatalities per turbine.<sup>11</sup> Single-species fatality rates were not reported.<sup>12</sup>  
15 Accordingly, additional mitigation for impacts to grassland species is not warranted as of the date  
16 of this plan.

## 17 Raptors

18 For Stateline 1&2, the certificate holder shall determine significant impact to raptors  
19 (excluding burrowing owls, short-eared owls and northern harriers, which are considered under  
20 grassland nesting species) based on the fatality monitoring program data and any other raptor  
21 fatalities found. If more than an average of two raptor fatalities are found per year, then the  
22 certificate holder shall assume that a significant impact on raptor habitat has occurred and shall  
23 implement appropriate mitigation.

24 For Vansycle II, the certificate holder shall determine significant impact to raptors (all  
25 eagles, hawks, falcons and owls, including burrowing owls) based on the fatality monitoring  
26 program data and any other raptor fatalities found. If the average annual fatality rate for raptors is  
27 greater than the threshold of concern (0.09 fatalities per megawatt) or the average annual fatality  
28 rate for raptor species of special concern is greater than the threshold of concern (0.06 fatalities  
29 per megawatt), then the certificate holder shall assume that a significant impact on raptor habitat  
30 has occurred and shall implement appropriate mitigation.<sup>13</sup>

31 FPL Vansycle reported the number of raptor fatalities in *Stateline Wind Project Wildlife  
32 Monitoring Final Report: July 2001 - December 2003*. This report analyzed two years of  
33 monitoring data collected between January 1, 2002, and December 31, 2003. Seven raptor  
34 fatalities were discovered during standardized fatality searches in Oregon and one additional  
35 raptor fatality was found in Oregon under the WRRS monitoring program in the two-year period.

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<sup>11</sup> *Stateline Wind Project Wildlife Monitoring Annual Report: January - December 2006* (September 4, 2007), Table 5.

<sup>12</sup> Horned lark fatalities accounted for 50-percent of fatalities found in the Oregon survey area in 2006. The “all-birds” fatality rate was 0.81 fatalities per turbine. Thus, the single-species threshold of 0.5 fatalities/turbine/year was not exceeded.

<sup>13</sup> Raptor species of special concern include Swainson’s hawk, ferruginous hawk, peregrine falcon, golden eagle, bald eagle, burrowing owl and any federal threatened or endangered raptor species.

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1 Therefore, the annual average was four raptor fatalities found per year.

2 On January 20, 2006, the Council determined that additional mitigation was appropriate.  
3 To mitigate the effects of the facility on raptors, the certificate holder shall implement the  
4 following:

5 (a) Artificial nest structures (ANS) for ferruginous hawks: FPL Vansycle provided  
6 funding for the construction, monitoring and maintenance of not less than three ANS.  
7 FPL Vansycle, in consultation with ODFW and the Department, determined suitable  
8 locations for the ANS and obtained landowner permission to construct the ANS. Suitable  
9 locations are locations within the Columbia Basin Physiographic Province in proximity to  
10 the Stateline project and on land that is expected to remain in stable ownership for the life  
11 of the Stateline facility. Suitable locations are locations that have adequate prey base for  
12 ferruginous hawks and that are remote from human activity. If the site chosen for an ANS  
13 is on public land or land managed by The Nature Conservancy, FPL Vansycle shall work  
14 out an appropriate agreement with the land management entity for the maintenance and  
15 monitoring of the site.

16 FPL Vansycle completed construction of the three ANS, using a design appropriate to  
17 attract ferruginous hawks, in early 2007. If an ANS is vandalized or destroyed (by fire or  
18 other cause) during the first five years after construction, FPL Vansycle shall pay the full  
19 cost of replacement. The Department shall determine the need for ongoing maintenance  
20 of the ANS beyond the first five years based on the monitoring data on the success of the  
21 ANS in attracting raptor use.

22 FPL Vansycle shall monitor the ANS and report annually to the Department regarding the  
23 actual use of the ANS by raptor species. Annual monitoring of all ANS shall continue for  
24 at least 10 years after construction of the ANS in 2006. If there has been no use of an ANS  
25 by raptors during the first five years, the Department may require FPL Vansycle to  
26 relocate the ANS or construct an ANS at an alternative suitable site.

27 In November 2016 FPL Vansycle and the Department (with input from ODFW) agreed on  
28 an amendment of this mitigation measure, due to historic low use of the three ANS, from  
29 2007 through 2015.<sup>14</sup> By March 1, 2017 FPL Vansycle will establish three new ANS in  
30 locations of suitable habitat within the approved parcels. Two of the three original ANS  
31 (ANS1 and ANS3) will be maintained. Due to the lack of suitable foraging habitat in the  
32 general area of ANS2, ANS2 will be removed and no longer be part of this mitigation  
33 measure. The new sites (ANS 4, 5, 6) are located in Umatilla County on private land with  
34 willing landowners and habitat highly likely to remain suitable, at a minimum for the  
35 period 2017–2021. Persistence of suitable habitat is likely to continue due to the extensive  
36 grasslands onsite that are enrolled in the federal Conservation Reserve Program (CRP).  
37 ANS1 and ANS3 will be inspected for maintenance needs and refreshed with sticks prior  
38 to the 2017 ferruginous hawk nesting period. These five ANS locations (ANS1, ANS3,  
39 ANS4, ANS5, ANS6) will be monitored annually for the first five years and then every

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<sup>14</sup> The certificate holder submitted a draft proposal identifying the proposed new ANS locations, siting selection methodology and criteria, monitoring, and maintenance activities on October 3, 2016 and a final proposal, as approved by ODOE in consultation with ODFW, on October 28, 2016.



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1 five years for the life of the Stateline 1&2 facility. During the first five-year period, all  
2 five ANS will be refreshed with sticks on an as-needed basis and when the nest is not  
3 occupied by avian species. Annual reporting will be the same as described in lines 29 and  
4 30 above. No additional mitigation will be required for the raptor mitigation requirement.

5 (b) Riparian and upland habitat fencing: FPL Vansycle contributed \$9,000 to the Birch  
6 Creek Project for fencing of riparian and upland habitat. The Birch Creek project is a  
7 partnership between a private landowner and other interested organizations to improve  
8 upland and riparian wildlife habitat at a site that is within the Columbia Basin  
9 Physiographic Province about 30 miles south of the Stateline facility. The project site is  
10 near an area of historic nesting sites for ferruginous hawks, and it is likely that improved  
11 range conditions may enhance foraging habitat quality for the species, especially during  
12 the nesting and juvenile dispersal period. It is expected that other raptor species will  
13 benefit as well, including red-tailed hawks and American kestrels that may nest in  
14 deciduous or coniferous trees and forage in the uplands. FPL Vansycle shall provide  
15 periodic reports to the Department on the progress of the Birch Creek project. At a  
16 minimum, the certificate holder shall report on the project in the annual reports on the  
17 Stateline facility.

18 The Birch Creek project enclosed about 5,000 acres of Columbia Basin grassland and  
19 riparian and upper Birch Creek conifer/grassland. Approximately 15 miles of new high-  
20 tensile, wildlife-friendly fencing were built. The goal is to exclude cattle from riparian  
21 zones and upland habitats so the areas can recover from past grazing pressure. The  
22 fencing encloses uplands for raptor foraging and deciduous trees and shrubs for potential  
23 raptor nesting, perching and roosting.

24 (c) Contributions to the Blue Mountain Wildlife Rehabilitation Center: The Blue  
25 Mountain Wildlife Rehabilitation Center near Pendleton is a non-profit organization that  
26 provides treatment and care to orphaned, injured or sick native wildlife to enable their  
27 return to their natural habitat. To support the work of the Center in the rehabilitation of  
28 raptors, FPL Vansycle contributed \$3,000 to the Center in 2006 and \$1,500 in 2007 and  
29 2008. The certificate holders shall make annual contributions of \$1,500 each in 2009 and  
30 2010. The certificate holders shall request that the funds be dedicated to paying for food  
31 and other supplies necessary for raptor rehabilitation. FPL Vansycle and the Department  
32 shall assess ongoing mitigation activities no later than December 31, 2010, and shall  
33 determine the amount of further contributions to the Center.

34 FPL Vansycle reported four raptor fatalities in Oregon in 2006.<sup>15</sup> This result matched the  
35 annual average of four raptor fatalities per year, based on the data for 2002 and 2003. If Stateline  
36 3 turbines are built, the certificate holder will conduct standardized searches for one year in the  
37 Stateline 3 area. The Wildlife Response and Reporting System will be in place for the life of the  
38 facility and will include reporting of any incidental raptor fatalities found by maintenance  
39 personnel. If the threshold of concern is not exceeded but fatalities of a sensitive raptor species,  
40 such as ferruginous hawk or Swainson's hawk are at a level of concern, the Department may

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<sup>15</sup>Stateline Wind Project Wildlife Monitoring Annual Report: January - December 2006 (September 4, 2007), Table 2.

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1 require the certificate holder to implement mitigation for that species.

## 2 Other Bird Species and Bats

3 Mitigation measures for grassland nesting birds and for raptors, if implemented, would  
4 also benefit other bird species and bats. For Stateline 1&2, there was no mitigation threshold for  
5 these species. For Stateline 3, the threshold of concern for bats as a group is 2.5 fatalities per  
6 megawatt. If fatalities to these species exceed the threshold of concern or are higher than  
7 expected and are at a level of biological concern, the Department may require the certificate  
8 holder to implement mitigation for these species.

9 The monitoring data presented in *Stateline Wind Project Wildlife Monitoring Final*  
10 *Report: July 2001 - December 2003* show that fatality rates for other bird species and bats were  
11 not higher than expected. The overall bat fatality rate was 1.7 fatalities per megawatt, which is  
12 below the U.S. average rate of 2.1 fatalities per megawatt.<sup>16</sup> The data collected in 2006 on  
13 turbines in the Stateline 2 area resulted in lower fatality rates for both birds and bats, compared to  
14 the larger Stateline sample studied in 2002 and 2003.<sup>17</sup> Pending analysis of additional data from  
15 future monitoring, the Council determined that additional mitigation for facility impacts to other  
16 bird species and bats was not required as of January 20, 2006.

17

## 18 **13. Amendment of the Plan**

19 This Wildlife Monitoring and Mitigation Plan may be amended from time to time by  
20 agreement of the certificate holders and the Council. Such amendments may be made without  
21 amendment of the site certificate. The Council authorizes the Department to agree to  
22 amendments to this plan and to mitigation actions that may be required under this plan. The  
23 Department shall notify the Council of all amendments and mitigation actions, and the Council  
24 retains the authority to approve, reject or modify any amendment of this plan or mitigation action  
25 agreed to by the Department.

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<sup>16</sup>The overall bird fatality rate of 2.9 fatalities per megawatt was “slightly below the average for new generation wind projects in the U.S.” (3.05 fatalities per megawatt). *Stateline Wind Project Wildlife Monitoring Final Report: July 2001 - December 2003* (December 2004), p. 26.

<sup>17</sup> *Stateline Wind Project Wildlife Monitoring Annual Report: January - December 2006* (September 4, 2007), Table 5.