

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

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

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

June 24, 2022

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1 **I. INTRODUCTION**

2

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

7

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

14

15 RFA7 seeks Council approval to amend Condition 137 to authorize a change in wind turbine  
16 dimensions that would apply to Vansycle II wind turbines, if repowered.<sup>1</sup> The dimension  
17 changes include a lower above-ground blade tip clearance from 59 to 50 feet and higher hub  
18 height from 295 to 315 feet, which requires an amendment of site certificate condition 137.  
19 These proposed changes would not increase the maximum blade tip height of the turbines of  
20 499 feet.

21

22 Based upon its review of the amendment request, the Council finds that the facility, with  
23 proposed changes, complies with all applicable requirements and grant issuance of a seventh  
24 amended site certificate for the facility, subject to existing and amended site certificate  
25 conditions set forth in this final order.

26

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

28

29 FPL Energy Stateline II, Inc.  
30 700 Universe Blvd.  
31 Juno Beach, FL 33408

32

33 ***Parent Company of the Certificate Holder***

34

35 NextEra Energy Resources, LLC  
36 700 Universe Blvd.  
37 Juno Beach, FL 33408

38

39 ***Certificate Holder Contact***

40

---

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

1 Chris Powers, Senior Project Manager  
2 NextEra Energy Resources, LLC  
3 700 Universe Blvd  
4 Juno Beach, FL 33408

5  
6 David Lawlor, Director of Development  
7 NextEra Energy Resources, LLC  
8 700 Universe Blvd  
9 Juno Beach, FL 33408

10

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

12

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

20

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

- 22 • Access roads
- 23 • Underground collection system
- 24 • Six permanent meteorological towers
- 25 • O&M facility

26

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

28

- 29 • Access roads
- 30 • Vansycle II substation and underground collection system
- 31 • Approximately 16 miles of aboveground 230 kV transmission line (13 miles in Oregon)
- 32 • Two permanent meteorological towers
- 33 • O&M facility
- 34 • Temporary laydown areas and access roads
- 35 • 50 MW lithium-ion battery energy storage system (BESS) in a series of modular  
36 unoccupied containers (approved not constructed)

37

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

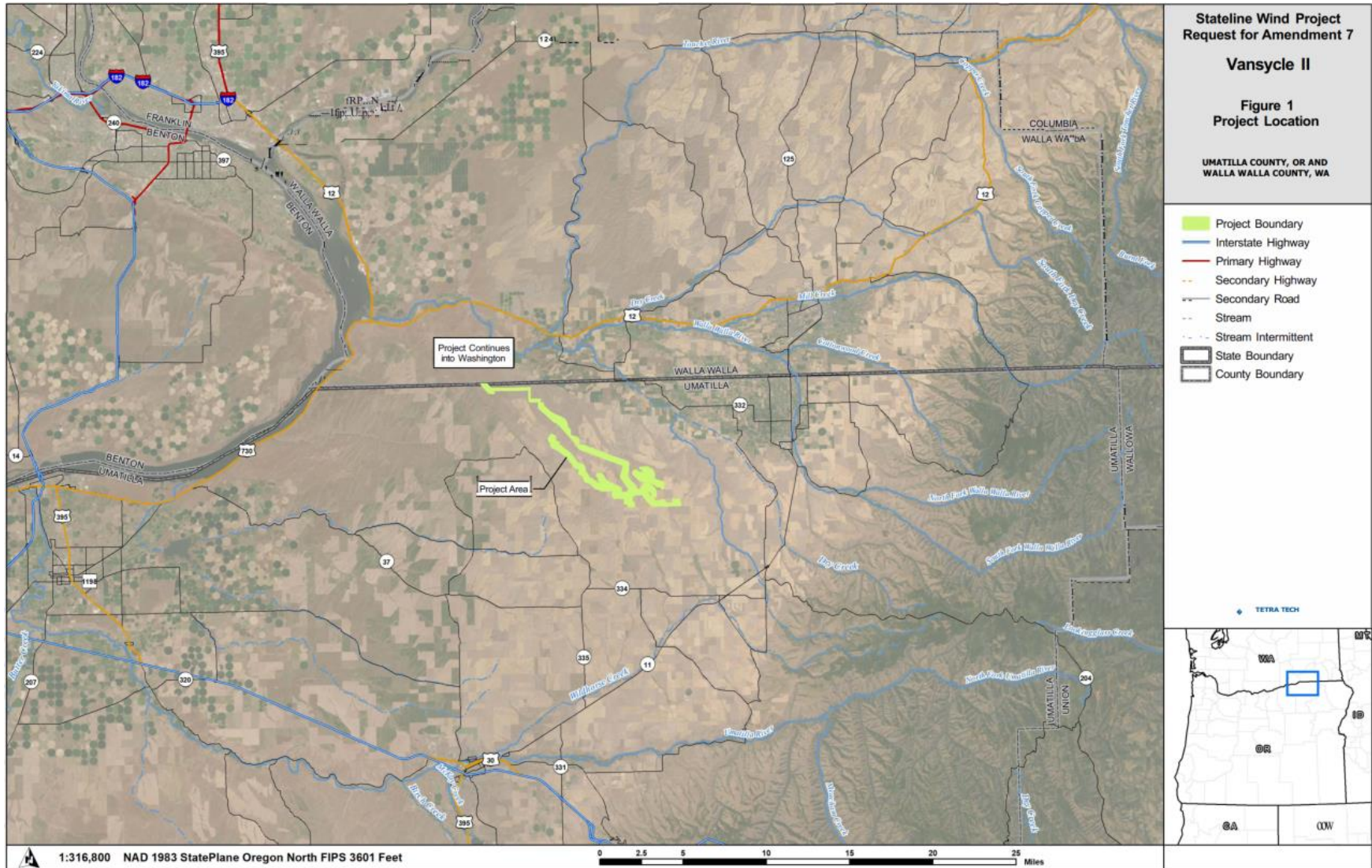
39

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

2

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

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



2

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

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

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

34 **II. AMENDMENT PROCESS**  
35

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

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

---

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



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

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

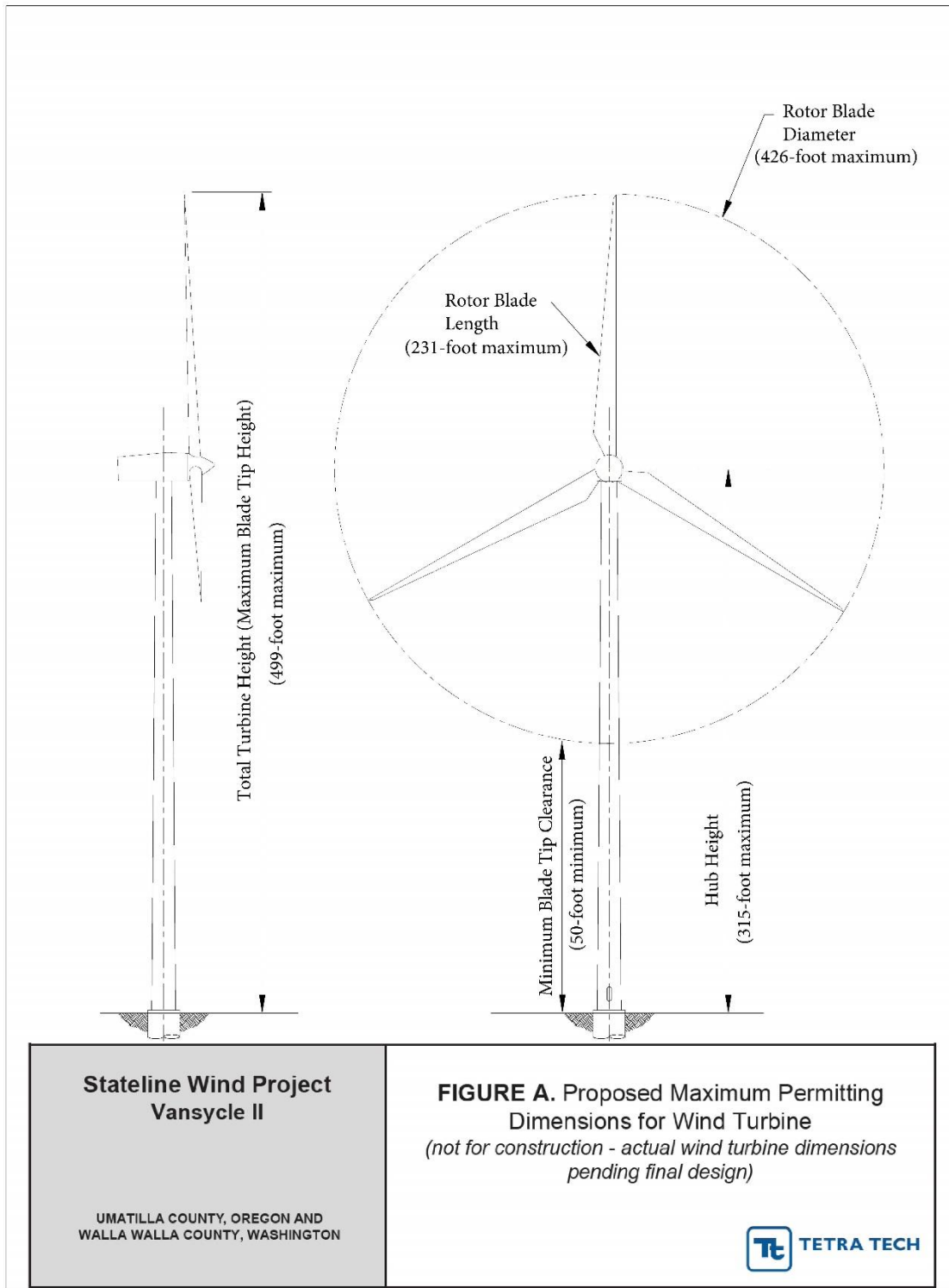
- 13 • American Society of Civil Engineers/American Wind Energy Association joint committee  
14 produced a recommended practice document for design of wind energy structures that  
15 provides an overall framework for the design of wind turbine support structures,  
16 directing the designer to other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

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

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

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

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



2

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

3 Council rules describe the differences in review processes for the Type A and Type B review  
4 paths at OAR 345-027-0351.<sup>3</sup> The Type A review is the standard or “default” amendment review  
5 process for changes that require an amendment. A key procedural difference between the Type  
6 A and Type B review process is that the Type A review requires a public hearing on the DPO,  
7 and provides an opportunity to request a contested case proceeding on the Department’s  
8 proposed order. Another difference between the Type A and Type B review process relates to  
9 the time afforded to the Department in its determination of completeness of the amendment  
10 and issuance of the DPO. It is important to note that Council rules authorize the Department to  
11 adjust the timelines for these specific procedural requirements, if necessary.  
12

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

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

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

---

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

<sup>4</sup> OAR 345-027-0360(2)(b)

<sup>5</sup> SWPAMD7Doc2 Public Notice 2022-04-27.

<sup>6</sup> SWPAMD7Doc6-1 ADR Evaluation and Response 2022-05-13.

<sup>7</sup> SWPAMD7Doc7 DPO and Complete RFA Public Notice 2022-05-13.

1 On May 3, 2022, the Department determined pRFA7 to be incomplete and requested additional  
2 information to complete its evaluation of pRFA7 and prepare the draft proposed order, in  
3 accordance with OAR 345-027-0363(2)(A) and (B). Response were received from the certificate  
4 holder on May 9, 2022.<sup>8</sup>

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

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

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

23  
24 On June 10, 2022, the Department issued the Proposed Order on RFA7 and Public Notice. The  
25 notice was distributed to all persons on the Council’s general mailing list, to the special mailing  
26 list established for the facility and property owners within and extending 500-feet from the  
27 property boundary in which the site boundary is located.<sup>11</sup> The proposed order recommended  
28 approval of the seventh amended site certificate.

29  
30 The Council reviewed the proposed order at the June 24, 2022 meeting. Following review, of  
31 the proposed order, the Council adopted the proposed order as the final order based on the  
32 considerations described in OAR 345-027-0375; and granted issuance of a Seventh Amended  
33 Site Certificate.<sup>12</sup> The Council’s final order is subject to judicial review by the Oregon Supreme  
34 Court as provided in ORS 469.403.

### 35 36 **II.D. Applicable Division 27 Rule Requirements**

37

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<sup>8</sup> SWPAMD7Doc3-2 Certificate holder responses to ODOE RAIs 2022-05-03.

<sup>9</sup> SWPAMD7Doc5 Request for Amendment 7 2022-05-12.

<sup>10</sup> SWPAMD7Doc6 Draft Proposed Order with Attachment 2022-05-13.

<sup>11</sup> SWPAMD7Doc9 Proposed Order Public Notice 2022-06-10.

<sup>12</sup> SWPAMD7Doc10 EFSC Proposed Order Review Staff Report, meeting transcript and recordings. 2022-06-24.

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

3  
4 **III. SCOPE OF REVIEW OF THE REQUESTED AMENDMENT**

5  
6 Under ORS 469.310, the Council is charged with ensuring that the “siting, construction and  
7 operation of energy facilities shall be accomplished in a manner consistent with protection of  
8 the public health and safety.” ORS 469.401(2) further provides that the Council must include in  
9 the amended site certificate “conditions for the protection of the public health and safety, for  
10 the time for completion of construction, and to ensure compliance with the standards, statutes  
11 and rules described in ORS 469.501 and ORS 469.503.”<sup>13</sup> The Council implements this statutory  
12 framework by adopting findings of fact, conclusions of law, and conditions of approval  
13 concerning compliance with EFSC standards set forth in OAR Chapter 345, Divisions 22 and 24  
14 as well as all other applicable statutes, rules and standards (including those of other state or  
15 local agencies).

16  
17 Under OAR 345-027-0375, in making a decision to grant or deny issuance of an amended site  
18 certificate, the Council must apply the applicable laws and Council standards and must  
19 determine that the preponderance of evidence on the record supports that the facility, with the  
20 proposed change, complies with the applicable laws or Council standards that protect a  
21 resource or interest that could be affected by the proposed change. The effective dates for the  
22 applicable laws or Council standards are the dates described in section OAR 345-027-0375(3),  
23 which for the applicable laws and Council standards is date the Council issues its final order on  
24 the request for amendment, and for the applicable substantive criteria under the Land Use  
25 standard (OAR 345-022-0030), is the date the request for amendment was submitted. For all  
26 requests for amendment, the Council must determine that the preponderance of evidence on  
27 the record supports the conclusion that the amount of the bond or letter of credit required  
28 under OAR 345-022-0050 is adequate.

29  
30 **III.A. Standards Potentially Impacted by Request for Amendment 7**

31  
32 As provided above, under OAR 345-027-0375, in making a decision to grant or deny issuance of  
33 an amended site certificate, the Council must determine that the preponderance of evidence  
34 on the record supports that the facility, with the proposed change, complies with the applicable  
35 laws or Council standards that protect a resource or interest that could be affected by the  
36 proposed change.

37  
38 Council does not have standards or rules that establish minimum or maximum dimensional  
39 standards for wind turbines. However, the Council’s Public Health and Safety Standards for  
40 Wind Energy Facilities require that the certificate holder has demonstrated an ability to design,  
41 construct and operate the facility to exclude members of the public from close proximity to the  
42 turbine blades and electrical equipment, prevent structural failure of wind towers or blades

---

<sup>13</sup> ORS 469.401(2).

1 that could endanger the public safety, and have adequate safety devices and testing procedures  
2 designed to warn of impending failure and to minimize the consequences of tower or blade  
3 failure. Under the Council’s Land Use standard, the local governments’ applicable substantive  
4 criteria including applicable zoning ordinances or developments codes are evaluated and could  
5 include specific criteria for dimensional standards for wind turbines. Therefore, based on  
6 review of RFA7, Council evaluated the following standards because they may protect a resource  
7 or interest that could be affected by the proposed change:

- 8  
9       General Standard of Review: OAR 345-022-0000  
10       Land Use: OAR 345-022-0030  
11       Public Health and Safety Standards for Wind Energy Facilities: OAR 345-024-0010

12  
13 Under OAR 345-027-0375, to issue an amended site certificate, the Council must determine  
14 that the preponderance of evidence on the record supports the conclusion that the facility,  
15 with the proposed change, complies with the applicable laws or Council standards that protect  
16 a resource or interest that could be affected by the proposed change.

17  
18 Section III.B., *Standards Not Likely to Be Impacted by Request for Amendment 7*, of this order  
19 describes why the proposed changes in RFA7 would not impact resources protected under  
20 other Council standards and applicable rules and how Council’s previous findings and site  
21 certificate conditions may be relied upon for compliance.

22  
23 III.A.1. General Standard of Review: OAR 345-022-0000

24  
25 *(1) To issue a site certificate for a proposed facility or to amend a site certificate, the*  
26 *Council shall determine that the preponderance of evidence on the record supports the*  
27 *following conclusions:*

28  
29 *(a) The facility complies with the requirements of the Oregon Energy Facility Siting*  
30 *statutes, ORS 469.300 to ORS 469.570 and 469.590 to 469.619, and the standards*  
31 *adopted by the Council pursuant to ORS 469.501 or the overall public benefits of the*  
32 *facility outweigh the damage to the resources protected by the standards the facility*  
33 *does not meet as described in section (2);*

34  
35 *(b) Except as provided in OAR 345-022-0030 for land use compliance and except for*  
36 *those statutes and rules for which the decision on compliance has been delegated by*  
37 *the federal government to a state agency other than the Council, the facility*  
38 *complies with all other Oregon statutes and administrative rules identified in the*  
39 *project order, as amended, as applicable to the issuance of a site certificate for the*  
40 *proposed facility. If the Council finds that applicable Oregon statutes and rules, other*  
41 *than those involving federally delegated programs, would impose conflicting*  
42 *requirements, the Council shall resolve the conflict consistent with the public interest.*  
43 *In resolving the conflict, the Council cannot waive any applicable state statute.*

44 \* \* \*

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

7  
8           **Findings of Fact**

9  
10          The evaluation of requirements of the General Standard of Review (findings based on a  
11          preponderance of evidence on the record) are addressed in the findings of facts and  
12          conclusions of law in the sections that follow. Upon consideration of the facts and evidence in  
13          the record for Request for Amendment 7, as well as the Final Orders on Amendment 5 and 6,  
14          which are incorporated herein by reference, the Council finds that the General Standard of  
15          Review has been satisfied.

16  
17          Council typically addresses mandatory and applicable site specific conditions, as established in  
18          OAR 345-025-0006 and OAR 345-025-0010, under the General Standard of Review. Mandatory  
19          conditions (OAR 345-025-0006) are established in rule and are required to be imposed in every  
20          EFSC-issued site certificate; therefore, findings of fact or conclusions of law are not needed. The  
21          mandatory condition established under OAR 345-025-0006(3)(a) requires that the certificate  
22          holder design, construct, operate, and retire the facility substantially as described in the site  
23          certificate – this mandatory condition is represented in the Stateline Wind Project site  
24          certificate as Condition 2.

25  
26          Council also imposed Condition 137 based on the dimensions represented and relied upon in  
27          Request for Amendment 6, as presented below.

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

- 36                 (a) Vansycle II wind turbine hub height must not exceed 295 feet and the maximum  
37                 blade tip height must not exceed 499 feet.  
38                 (b) Vansycle II wind turbine rotor diameter must not exceed 426 feet.  
39                 (c) Vansycle II wind turbine minimum blade tip clearance must not be lower than 59  
40                 feet above ground.

41                 [Amendment #5, #6]

42  
43          The certificate holder requests that Council approve an amendment to Condition 137, as  
44          presented below:

1  
2 **Certificate Holder’s Proposed Amended Condition 137:** The certificate holder shall  
3 construct the Vansycle II facility modifications, as approved in the Sixth Amended Site  
4 Certificate, substantially as described in Request for Amendment 6 of the site certificate,  
5 subject to the following restrictions and compliance with other site certificate  
6 conditions. Before beginning construction, the certificate holder shall provide to the  
7 Department equipment specifications and a description of the wind turbine dimensions  
8 to demonstrate compliance with this condition.

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

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

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

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

15  
16 Based upon review of the proposed wind turbine dimension changes, as presented in this  
17 order, the Council finds that establishing specific dimension requirements ignores the  
18 mandatory rule language in Condition 2 and OAR 345-025-0006(3)(a) that a certificate holder  
19 construct and operate the facility “substantially” as described in the site certificate and  
20 unnecessarily prohibits minor changes and automatically requires that the certificate holder  
21 obtain approval of a site certificate amendment without allowing review of whether an  
22 amendment is required based on the significance, or lack thereof, of the potential change.

23  
24 The wind turbine dimension specifications would be maintained in the site certificate as part of  
25 the facility description; and, the certificate holder would continue to be required to  
26 demonstrate that the facility, with proposed changes, is designed, constructed, operated and  
27 retired *substantially as described in the site certificate* under OAR 345-025-0006(3), Condition 2  
28 and Condition 137. These conditions prohibit major modifications in the facility design from the  
29 design reviewed by Council, but allows some level of modification and flexibility if certificate  
30 holder can otherwise demonstrate that an amendment would not be required.

31  
32 The Council finds that the certificate holder’s proposed amended Condition 137 may be  
33 approved; however, the Council adopts alternative language that would continue to require  
34 that the wind turbines be designed and constructed consistent with the dimensions currently  
35 under review, but relieve the automatic amendment in the future if there were to be minor  
36 dimensional changes during final engineering. The Council imposes the following amended  
37 condition, as presented below:

38  
39 **Amended Condition 137:** The certificate holder shall construct the Vansycle II facility  
40 modifications, as approved in the Final Orders on Amendment #5, #6, and #7 ~~Sixth~~  
41 ~~Amended Site Certificate, and~~ substantially as described in Section III.2.i of the amended  
42 ~~Request for Amendment 6 of the site certificate, subject to the following restrictions~~  
43 ~~and compliance with other site certificate conditions.~~ Before beginning construction, the  
44 certificate holder shall provide to the Department equipment specifications and a



1 description of the wind turbine dimensions to demonstrate compliance with this  
2 condition.

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

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

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

8 [Amendment #5, #6, #7]  
9

10 Additionally, as provided in Attachment A, the seventh amended site certificate, the Council  
11 adopts administrative changes to several conditions that reference facility modifications  
12 approved in the "Sixth Amended Site Certificate". The Council administratively updates the  
13 conditions to refer to the facility modifications approved in the "Final Order on Amendment #6  
14 and #7", as applicable, to more accurately reflect the document verifying approval and to be  
15 able to more clearly track the conditions over time.  
16

### 17 Conclusions of Law

18

19 Based on the foregoing findings of fact and conclusions of law, and subject to compliance with  
20 the amended condition, the Council finds that the certificate holder would satisfy the  
21 requirements of OAR 345-022-0000.  
22

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

24

25 *(1) To issue a site certificate, the Council must find that the proposed facility complies with*  
26 *the statewide planning goals adopted by the Land Conservation and Development*  
27 *Commission.*  
28

29 *(2) The Council shall find that a proposed facility complies with section (1) if:*  
30

31 *(a) The applicant elects to obtain local land use approvals under ORS 469.504(1)(a) and*  
32 *the Council finds that the facility has received local land use approval under the*  
33 *acknowledged comprehensive plan and land use regulations of the affected local*  
34 *government; or*  
35

36 *(b) The applicant elects to obtain a Council determination under ORS 469.504(1)(b) and*  
37 *the Council determines that:*  
38

39 *(A) The proposed facility complies with applicable substantive criteria as described in*  
40 *section (3) and the facility complies with any Land Conservation and*  
41 *Development Commission administrative rules and goals and any land use*  
42 *statutes directly applicable to the facility under ORS 197.646(3);*  
43

1 (B) For a proposed facility that does not comply with one or more of the applicable  
2 substantive criteria as described in section (3), the facility otherwise complies  
3 with the statewide planning goals or an exception to any applicable statewide  
4 planning goal is justified under section (4); or  
5

6 (C) For a proposed facility that the Council decides, under sections (3) or (6), to  
7 evaluate against the statewide planning goals, the proposed facility complies  
8 with the applicable statewide planning goals or that an exception to any  
9 applicable statewide planning goal is justified under section (4).  
10 \*\*\*

11  
12 The Land Use standard requires the Council to find that the facility, with proposed RFA7  
13 changes, would continue to comply with local applicable land use substantive criteria, as well as  
14 the statewide planning goals adopted by the Land Conservation and Development Commission  
15 (LCDC).<sup>14</sup> OAR 345-027-0375(3)(a) establishes that the applicable substantive criteria are those  
16 that are in place on the date the request for amendment was submitted, which was April 19,  
17 2022.

18  
19 The analysis area for land use is the area within and extending 0.5 miles from the site boundary.  
20

21 **Findings of Fact**

22  
23 The Umatilla County Board of Commissioners is designated as the Special Advisory Group (SAG)  
24 to assist Council in reviews for the facility.<sup>15</sup> The SAG confirmed that the Umatilla County  
25 Planning Director is authorized to provide comments on the facility on behalf of the SAG and  
26 identified applicable substantive criteria to be considered during the ASC phase and through  
27 subsequent amendment requests.  
28

29 During the review of the repower proposed in RFA6, in October 2021, the SAG provided  
30 comments indicating that no new applicable substantive criteria were identified and provided a  
31 link to the Umatilla County Development Code (UCDC) which was last updated in May 2021.  
32 The Council confirmed in its review of RFA7 that UCDC and the Umatilla Comprehensive Plan  
33 have not changed since Council’s Final Order on Amendment 6 (January 2022).  
34

35 Table 1: *Applicable Substantive Criteria – Umatilla County*, below, summarizes the applicable  
36 substantive criteria Council previously evaluated and determined the certificate holder could  
37 satisfy.  
38

**Table 1: Applicable Substantive Criteria – Umatilla County**

Umatilla County Development Code (UCDC)	
Section 152.025	Zoning Permit

<sup>14</sup> The Council must apply the Land Use standard in conformance with the requirements of ORS 469.504.

<sup>15</sup> Council appointed the Umatilla County Board of Commissions as the Special Advisory Group on July 28, 2000.

**Table 1: Applicable Substantive Criteria – Umatilla County**

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 Based upon review of the above referenced applicable substantive criteria, there are no  
 3 requirements that establish limits or that would apply to the proposed change in hub height  
 4 and minimum blade tip clearances for wind turbines. Therefore, the Council finds that the  
 5 facility, with proposed RFA7 changes, would not change Council’s previous evaluation for  
 6 compliance with local applicable substantive criteria designated by Umatilla County based on  
 7 the date of the submission of RFA7.

8  
 9 **Conclusions of Law**

10  
 11 Based on the foregoing findings, the Council finds that the facility, with proposed changes,  
 12 would continue to comply with the Land Use standard under OAR 345-022-0030, based on the  
 13 dates determined in OAR 345-027-0375(3)(a).

14  
 15 **III.A.3. Public Health and Safety Standards for Wind Energy Facilities: OAR 345-024-0010**

16  
 17 *To issue a site certificate for a proposed wind energy facility, the Council must find that the*  
 18 *applicant:*

19  
 20 *(1) Can design, construct and operate the facility to exclude members of the public from*  
 21 *close proximity to the turbine blades and electrical equipment.*

22  
 23 *(2) Can design, construct and operate the facility to preclude structural failure of the tower*  
 24 *or blades that could endanger the public safety and to have adequate safety devices and*

1        *testing procedures designed to warn of impending failure and to minimize the consequences*  
2        *of such failure.*

3  
4        OAR 345-024-0010 requires the Council to consider specific public health and safety standards  
5        related to wind energy facilities. Under this standard, the Council must evaluate a certificate  
6        holder’s proposed measures to exclude members of the public from proximity to the turbine  
7        blades and electrical equipment, and the certificate holder’s ability to design, construct and  
8        operate the facility, with proposed changes, to prevent structural failure of the tower or blades  
9        and to provide sufficient safety devices to warn of failure.

10  
11        **Findings of Fact**

12  
13        *Potential Impacts to Health and Safety of the Public from Proximity to Turbine Blades*

14  
15        The proposed RFA7 changes apply to Vansycle II existing, operational wind turbines, if  
16        repowered. Based on information included in RFA7 and the Council’s review of available online  
17        materials, there are no specific codes, requirements or industry standard within Oregon that  
18        apply to aboveground blade tip clearance or hub height.

19  
20        The lowering of the aboveground blade tip clearance from 59 to 50 feet would not be expected  
21        to result in increased public health and safety risks from proximity because 50 feet is reasonably  
22        higher than heights of members of the public and agricultural equipment (20 foot vertical  
23        clearance) that could be used by underlying land owners. Wind turbines, if repowered, with the  
24        changes proposed in RFA7, would be located at existing wind turbine tower sites, located  
25        entirely on gated, private property, with locked tower doors, which would not change or be  
26        impacted by the proposed RFA7 changes. Council previously imposed Conditions 35 and 38,  
27        which include various safety measures and access restrictions, which would continue to apply  
28        and would not be impacted by the changes proposed in RFA7.

29  
30        Increasing the hub height would not increase the maximum blade tip height of the turbines  
31        (approved at 499 feet); therefore, it is not anticipated that the facility, with proposed RFA7  
32        changes, would impact flight paths, aerial sprayers, or other air traffic within the vicinity of the  
33        facility. In addition, the certificate holder has obtained current Determination of No Hazards  
34        from the Federal Aviation Administration for the location and height of all wind turbines to be  
35        repowered.

36  
37        Based on these facts, the Council finds that the facility, with proposed RFA7 changes, would be  
38        designed, constructed, and operated to exclude members of the public from close proximity to  
39        the turbine blades.

40  
41        *Potential Impacts from Structural Failure of the Tower or Blades and Safety Devices and Testing*  
42        *Procedures to Warn of Impending Failure*

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

10  
11 Council previously imposed Condition 140 requiring that the certificate holder complete a  
12 foundation analysis to confirm all foundation loads meet design criteria for all repowered  
13 turbines as required per Condition 140.<sup>16</sup> The site suitability analysis includes an evaluation of  
14 the final wind turbine specifications, topography, soil types, and the safety and engineering  
15 standards applicable to the wind turbines. These inputs inform the mechanical load analysis  
16 and foundation analysis, which ensure that the dimensions and specifications of the repowered  
17 wind turbines would not impact global stability, bearing capacity and stiffness of the  
18 foundation, tower/foundation connection, reinforced concrete ultimate and fatigue strength.  
19 This information would be incorporated in the wind turbine foundation suitability analysis  
20 which would be submitted prior to repowering activities in compliance with Condition 140, as  
21 discussed below.

22  
23 Condition 140 requires the certificate holder conduct a wind turbine foundation suitability  
24 analysis for the repowered wind turbines and an annual operational inspection schedule which  
25 includes the results of the foundation suitability analysis, including any necessary mitigation  
26 and/or remediation measures that would be implemented. In compliance with this condition,  
27 the wind turbine foundation suitability analysis would evaluate any changes in load/fatigue that  
28 result from the proposed RFA7 changes. Therefore, the Council finds that the hub height  
29 increase and lowering of the blade tip clearance proposed in RFA7, in compliance with existing  
30 site certificate conditions, would not impact the certificate holder's ability to design, engineer  
31 and construct the facility to avoid dangers to human safety and the environment.

32  
33 Additionally, Council previously imposed other conditions that also help ensure compliance  
34 with this standard:

- 35
- 36 • Condition 16 requires that the certificate holder design, engineer and construct the  
37 facility to avoid dangers to human safety presented by seismic hazards affecting the site  
38 that are expected to result from all maximum probable seismic events. As used in this  
39 rule "seismic hazard" includes ground shaking, landslide, liquefaction, lateral spreading,  
40 tsunami inundation, fault displacement and subsidence. (OAR 345-027-0020(12))
- 41

---

<sup>16</sup> SWPAMD7 Request for Amendment 7 Section 6.1.3. 2022-05-12.

- 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 The Council finds that compliance with the existing conditions would continue to satisfy the  
25 requirements of the standard and ensure that the facility, with proposed RFA7 changes, is  
26 designed, constructed, and operated to preclude structural failure of the tower or blades that  
27 could endanger public safety, and that the proposed RFA7 design changes would have  
28 adequate safety devices and testing procedures to warn of impending failure and minimize  
29 consequences of such failure, should it occur.

30  
31 **Conclusions of Law**

32  
33 Based on the foregoing analysis, and subject to compliance with existing conditions, the Council  
34 finds that the certificate holder has demonstrated an ability to continue to comply with the  
35 Council’s Public Health and Safety Standards for Wind Energy Facilities.

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

2  
 3 As described throughout this order, RFA7 solely requests minor wind turbine dimension modifications. Based on the minimal scope  
 4 of the amendment request, with the exception of the evaluation provided in Section III.A. *Standards Potentially Impacted by Request*  
 5 *for Amendment 7* of this order, the Council finds that the standards listed below are not likely to be impacted by RFA7 and therefore  
 6 are not further evaluated in this order. The Council relies on its findings and conclusions for these standards as presented in the Final  
 7 Order on Amendment 6 (January 2022), incorporated herein by reference.

8  
**Table 2: Summary of Council Standards Not Likely Impacted by RFA7**

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

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

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



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

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

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

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

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

10  
11 (1) *To issue a site certificate, the Council must find that the applicant has the organizational*  
12 *expertise to construct, operate and retire the proposed facility in compliance with*  
13 *Council standards and conditions of the site certificate. To conclude that the applicant*  
14 *has this expertise, the Council must find that the applicant has demonstrated the ability*  
15 *to design, construct and operate the proposed facility in compliance with site certificate*  
16 *conditions and in a manner that protects public health and safety and has demonstrated*  
17 *the ability to restore the site to a useful, non-hazardous condition. The Council may*  
18 *consider the applicant’s experience, the applicant’s access to technical expertise and the*  
19 *applicant’s past performance in constructing, operating and retiring other facilities,*  
20 *including, but not limited to, the number and severity of regulatory citations issued to*  
21 *the applicant.*

22  
23 (2) *The Council may base its findings under section (1) on a rebuttable presumption that an*  
24 *applicant has organizational, managerial and technical expertise, if the applicant has an*  
25 *ISO 9000 or ISO 14000 certified program and proposes to design, construct and operate*  
26 *the facility according to that program.*

27  
28 (3) *If the applicant does not itself obtain a state or local government permit or approval for*  
29 *which the Council would ordinarily determine compliance but instead relies on a permit*  
30 *or approval issued to a third party, the Council, to issue a site certificate, must find that*  
31 *the third party has, or has a reasonable likelihood of obtaining, the necessary permit or*  
32 *approval, and that the applicant has, or has a reasonable likelihood of entering into, a*  
33 *contractual or other arrangement with the third party for access to the resource or*  
34 *service secured by that permit or approval.*

35  
36 (4) *If the applicant relies on a permit or approval issued to a third party and the third party*  
37 *does not have the necessary permit or approval at the time the Council issues the site*  
38 *certificate, the Council may issue the site certificate subject to the condition that the*  
39 *applicant shall not commence construction or operation as appropriate until the third*  
40 *party has obtained the necessary permit or approval and the applicant has a contract or*  
41 *other arrangement for access to the resource or service secured by that permit or*  
42 *approval.*

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

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

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

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

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

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

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

27  
28        *(3) The Council may not impose the Structural Standard in section (1) to deny an*  
29        *application for a special criteria facility under OAR 345-015-0310. However, the*  
30        *Council may, to the extent it determines appropriate, apply the requirements of*  
31        *section (1) to impose conditions on a site certificate issued for such a facility.*  
32

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*\*\*\**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13          \*\*\*

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

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

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

25               (b) *The degree of demand;*

26               (c) *Outstanding or unusual qualities;*

27               (d) *Availability or rareness;*

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

29          \*\*\*

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

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

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

44          \*\*\*

1  
2 III.B.12. Waste Minimization: OAR 345-022-0120

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

6  
7 *(a) The applicant’s solid waste and wastewater plans are likely to minimize*  
8 *generation of solid waste and wastewater in the construction and operation of the*  
9 *facility, and when solid waste or wastewater is generated, to result in recycling and*  
10 *reuse of such wastes;*

11  
12 *(b) The applicant’s plans to manage the accumulation, storage, disposal and*  
13 *transportation of waste generated by the construction and operation of the facility*  
14 *are likely to result in minimal adverse impact on surrounding and adjacent areas.*

15  
16 *(2) The Council may issue a site certificate for a facility that would produce power from*  
17 *wind, solar or geothermal energy without making the findings described in section (1).*  
18 *However, the Council may apply the requirements of section (1) to impose conditions on*  
19 *a site certificate issued for such a facility.*

20 \*\*\*

21  
22 III.B.13. Division 23 Standards

23  
24 The Division 23 standards apply only to “nongenerating facilities” as defined in ORS  
25 469.503(2)(e)(K), except nongenerating facilities that are related or supporting facilities. The  
26 facility, with proposed changes, would not be a nongenerating facility as defined in statute and  
27 therefore Division 23 is inapplicable to the facility, with proposed changes.

28  
29 III.B.14. Cumulative Effects Standard for Wind Energy Facilities OAR 345-024-0015

30  
31 *To issue a site certificate for a proposed wind energy facility, the Council must find that the*  
32 *applicant can design and construct the facility to reduce cumulative adverse environmental*  
33 *effects in the vicinity by practicable measures including, but not limited to, the following:*

34  
35 *(1) Using existing roads to provide access to the facility site, or if new roads are needed,*  
36 *minimizing the amount of land used for new roads and locating them to reduce adverse*  
37 *environmental impacts.*

38 *(2) Using underground transmission lines and combining transmission routes.*

39 *(3) Connecting the facility to existing substations, or if new substations are needed,*  
40 *minimizing the number of new substations.*

41 *(4) Designing the facility to reduce the risk of injury to raptors or other vulnerable wildlife in*  
42 *areas near turbines or electrical equipment.*

43 *(5) Designing the components of the facility to minimize adverse visual features.*



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

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

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

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

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

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

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

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

29  
30       (1) *Standards and Regulations:*

31       \*\*\*

32       (b) *New Noise Sources:*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34  

---

<sup>17</sup> ORS 196.800(15) defines “Waters of this state.” The term includes wetlands and certain other waterbodies.

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

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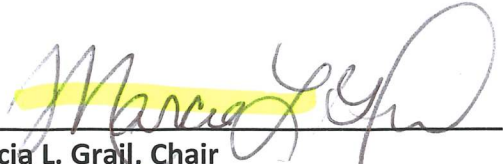
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**Final Order**

The Council approves Amendment 7 of the Stateline Wind Project site certificate, subject to the terms and conditions included in the amended site certificate (Attachment A of this final order).

**Issued this 24<sup>th</sup> day of June, 2022**

**The ENERGY FACILITY SITING COUNCIL**

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

**Attachments:**  
Attachment A: Amended Site Certificate

### **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**

---

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

ISSUANCE DATES

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



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Oregon Energy Facility Siting Council

SEVENTH AMENDED SITE CERTIFICATE FOR THE STATELINE WIND PROJECT

**I. INTRODUCTION**

The Energy Facility Siting Council (“Council”) issues this amended 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), (g) the Council’s Final Order in the Matter of the Request for Amendment #6 (“Final Order on Amendment #6), and (h) the Council’s Final Order in the Matter of the Request for Amendment #7 (“Final Order on Amendment #7). [Amendments #1, #2, 3, #4, #5, #6, and #7]

In interpreting this site certificate, any ambiguity will be clarified by reference to the following, in order of priority: this Seventh Amended Site Certificate, Final Order on Amendment #7, 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, #6, and #7. [Amendments #1, #2, #3, #4, #5, #6, #7]

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, #6, #7]
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, #6, #7]

- 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, #6,  
6 and #7. These matters include, but are not limited to: building code compliance, wage, hour and  
7 other labor regulations, local government fees and charges and other design or operational issues  
8 that do not relate to siting the facility (ORS 469.401(4)) and permits issued under statutes and rules  
9 for which the decision on compliance has been delegated by the federal government to a state  
10 agency other than the Council. ORS 469.503(3). [Amendments #1, #2, #3, #4, #5, #6, #7]
- 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, #6, #7]
- 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, #6, #7]
- 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, #6, #7]
- 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, #6, #7]
- 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, #6, #7]
- 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, #6, #7]

43  
44 **III. DESCRIPTIONS AND DIVIDED RESPONSIBILITY**

45  
46 **1. Stateline 1&2**

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3  
4  
5  
6  
7  
**(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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13  
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15  
16  
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**(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]
- Meteorological towers
- A satellite operations and maintenance building

18  
19  
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]

27  
28  
29  
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]

35  
36  
37  
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]

40  
41  
42  
Satellite O&M Building

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

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

## 5 **2. Vansycle II<sup>2</sup>**

### **(i) Major Structures**

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

#### Wind Turbine Repower

10  
11 Wind turbine repowering includes removal and replacement of wind turbine hub (blade and rotor) and  
12 gearbox (nacelles). Haul trucks, boom trucks and cranes are used to support repowering activities. A  
13 crane is mobilized and new gearboxes, blades and hub are delivered onsite. A boom truck or telehandler  
14 is used to unload and assemble new turbine blades and hub into a complete rotor. Gearboxes and  
15 assembled hubs are set up on the access road adjacent to the wind turbine. The crane is used to lower  
16 rotors and gearbox, which is then be place next to the crane; and, then used to pick up and set the new  
17 rotor. Either a boom truck or telehandler is used to disassemble the replaced rotor (blade and hub);  
18 materials are then transported offsite for proper disposal at a licensed disposal or recycling facility.  
19 Facility modifications approved in the Sixth Amended Site Certificate include repowering (replacing  
20 blades and nacelles) of 43 existing wind turbines, replacing up to 4 wind turbines and constructing up to  
21 2 new wind turbines, but any variation in these options would not result in more than 45 repowered,  
22 replaced and/or new wind turbines within the Vansycle II unit. The wind turbine changes would result in  
23 increased per turbine capacity, from 2.3 to 2.66 MW; increased maximum blade-tip height from 440 to  
24 499 feet, reduced minimum aboveground blade-tip clearance from 59 to 50 feet, and increased hub  
25 height from 295 to 315 feet. [Amendment #5, #6, #7]

### **(ii) Related or Supporting Facilities**

26 Vansycle II includes the following related or supporting facilities described below and in greater  
27 detail in the Final Order on Amendment #4, and Final Order on Amendment #6:  
28

- 29       ▪ Access roads to reach each turbine for construction and maintenance
  - 30       ▪ Underground collector cables that transmit the electrical output of the wind turbines to  
31       a substation
  - 32       ▪ A substation
  - 33       ▪ A 230-kV transmission line
  - 34       ▪ Meteorological towers
  - 35       ▪ An operations and maintenance building
  - 36       ▪ Temporary laydown areas and access roads
  - 37       ▪ 50 MW battery energy storage system
- 38 [Amendment #4, #5, #6]  
39

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

1           Access Roads

2  
3           County roads that extend south from Highway 12 in Washington (e.g., Hatch Grade Road and  
4 Butler Grade Road) and north from Oregon Highway 11 (e.g., Vansycle Canyon Road and Butler Grade  
5 Road) are the primary routes of access to the facility site. From the county roads, a web of private farm  
6 roads provides access to most of the ridges upon which the facility is located. Additional access roads  
7 are located along the length of each turbine string and connecting each turbine string to the next.  
8 [Amendment #4]

9  
10           Collector System, Substation and Transmission Line

11  
12           The wind turbines generate power at 690 volts. A transformer adjacent to each tower  
13 transforms the power to 34.5 kV. From the turbines, power is transmitted via an underground 34.5-kV  
14 collector system to a substation located in Township 5 North, Range 34 East. Approximately 16 miles of  
15 aboveground 230-kV transmission line (13 miles in Oregon) connects the Vansycle II substation to  
16 existing major transmission lines in Washington. [Amendment #4]

17  
18           Meteorological Towers

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

21  
22           O&M Building

23  
24           Vansycle II includes an O&M building near the intersection of Wayland Road and Gerking Flat  
25 Road north of Helix. [Amendment #4]

26  
27           Temporary and Permanent Disturbance

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

33  
34           The total permanent disturbance is estimated at 12 acres, including 0.08 acres for 2 new wind  
35 turbine foundations; 0.09 acres for new access roads; and 11 acres for the BESS.

36  
37           Battery Energy Storage System (BESS)

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

- 40           • Batteries - Lithium-ion system would require regular change out of batteries as they degrade  
41           over time at a rate depending on usage. It is conservatively assumed the battery would need  
42           to be replaced every 15-20 years, or 1-2 times over the operational life of the repowered  
43           facility, which is assumed to be approximately 30 years.
- 44           • Approximately 72 steel containers, each approximately 20 feet in length by 9 feet in width.

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

21  
22 The total area of the battery storage site would be approximately 11 acres, and would include  
23 approximately 3,000 linear feet of fence.

24  
25 *Spill and fire prevention measures of the BESS*

26  
27 The BESS would include the following design features to minimize fire and safety risks:

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

44  
45 **3. Location of the Facility**



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

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

8

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

#### 19 **IV. CONDITIONS REQUIRED BY COUNCIL RULES**

20

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

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

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

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

#### 40 **1. General Conditions**

41 **(1)** The Council may not change the conditions of the site certificate except as provided for in OAR  
42 Chapter 345, Division 27. (OAR 345-025-0006(1)) [Amendment #6]

---

<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  
2 **(2)** The certificate holder shall design, construct, operate and retire the facility:  
3 (a) Substantially as described in the site certificate;  
4 (b) In compliance with the requirements of ORS Chapter 469, applicable Council rules, and  
5 applicable state and local laws, rules and ordinances in effect at the time the site certificate  
6 is issued; and  
7 (c) In compliance with all applicable permit requirements of other state agencies.  
8 (OAR 345-025-0006(3)) [Amendment #6]  
9  
10 **(3)** The certificate holder shall begin and complete construction of the facility by the dates specified in  
11 the site certificate. (345-025-0006(4)) See conditions (24), (97) and (106). [Amendment #4, #6]  
12  
13 **(4)** The certificate holder shall prevent the development of any conditions on the site that would  
14 preclude restoration of the site to a useful, non-hazardous condition to the extent that prevention  
15 of such site conditions is within the control of the certificate holder. (345-025-0006(7))  
16 [Amendment #6]  
17  
18 **(5)** The Council shall include as conditions in the site certificate all representations in the site  
19 certificate application and supporting record the Council deems to be binding commitments made  
20 by the applicant. (OAR 345-025-0006(10)) [Amendment #6]  
21  
22 **(6)** For the related or supporting transmission lines:  
23 (a) The certificate holder shall design, construct and operate the transmission line in accordance  
24 with the requirements of the National Electrical Safety Code (American National Standards  
25 Institute, Section C2, 1997 Edition); and  
26 (b) The certificate holder shall develop and implement a program that provides reasonable  
27 assurance that all fences, gates, cattle guards, trailers, or other objects or structures of a  
28 permanent nature that could become inadvertently charged with electricity are grounded or  
29 bonded throughout the life of the line. (OAR 345-025-0010(4)) [Amendment #4, #6]  
30  
31 **(7)** The following general monitoring conditions apply:  
32 (a) The certificate holder shall consult with affected state agencies, local governments and tribes  
33 and shall develop specific monitoring programs for impacts to resources protected by the  
34 standards of divisions 22 and 24 of OAR Chapter 345 and resources addressed by applicable  
35 statutes, administrative rules and local ordinances. The certificate holder must submit the  
36 monitoring programs to the Department of Energy and receive Department approval before  
37 beginning construction or, as appropriate, operation of the facility.  
38 (b) The certificate holder shall implement the approved monitoring programs described in  
39 section (a) and monitoring programs required by permitting agencies and local  
40 governments.  
41 (c) For each monitoring program described in sections (a) and (b), the certificate holder shall  
42 have quality assurance measures approved by the Department before beginning  
43 construction or, as appropriate, before beginning commercial operation.  
44 (d) If the certificate holder becomes aware of a significant environmental change or impact  
45 attributable to the facility, the certificate holder shall, as soon as possible, submit a written  
46 report to the Department describing the impact on the facility and any affected site  
47 certificate conditions.

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

- (a) General reporting obligation for energy facilities under construction or operating:
  - (i) Within six months after beginning construction, and every six months thereafter during construction of the energy facility and related or supporting facilities, the certificate holder shall submit a semiannual construction progress report to the Department of Energy. In each construction progress report, the certificate holder shall describe any significant changes to major milestones for construction. The certificate holder shall include such information related to construction as specified in the site certificate. When the reporting date coincides, the certificate holder may include the construction progress report within the annual report described in this rule;
  - (ii) By April 30 of each year after beginning construction, the certificate holder shall submit an annual report to the Department addressing the subjects listed in this rule. The Council Secretary and the certificate holder may, by mutual agreement, change the reporting date.
  - (iii) To the extent that information required by this rule is contained in reports the certificate holder submits to other state, federal or local agencies, the certificate holder may submit excerpts from such other reports to satisfy this rule. The Council reserves the right to request full copies of such excerpted reports.
- (b) In the annual report, the certificate holder shall include the following information for the calendar year preceding the date of the report:
  - (i) Facility Status: An overview of site conditions, the status of facilities under construction and a summary of the operating experience of facilities that are in operation. In this section of the annual report, the certificate holder shall describe any unusual events, such as earthquakes, extraordinary windstorms, major accidents or the like that occurred during the year and that had a significant adverse impact on the facility.
  - (ii) Reliability and Efficiency of Power Production: For electric power plants, the plant availability and capacity factors for the reporting year. The certificate holder shall describe any equipment failures or plant breakdowns that had a significant impact on those factors and shall describe any actions taken to prevent the recurrence of such problems.
  - (iii) Fuel Use: For thermal power plants:
    - (A) The efficiency with which the power plant converts fuel into electric energy. If the fuel chargeable to power heat rate was evaluated when the facility was sited, the certificate holder shall calculate efficiency using the same formula and assumptions, but using actual data; and
    - (B) The facility's annual hours of operation by fuel type and, every five years after beginning operation, a summary of the annual hours of operation by fuel type as described in OAR 345-024-0590(5).
  - (iv) Status of Surety Information: Documentation demonstrating that the bonds or letters of credit as described in the site certificate are in full force and effect and will remain in full force and effect for the term of the next reporting period.
  - (v) Monitoring Report: A list and description of all significant monitoring and mitigation activities performed during the previous year in accordance with site certificate terms and conditions, a summary of the results of those activities, and a discussion of any significant changes to any monitoring or mitigation program, including the reason for any such changes.

- (vi) Compliance Report: A description of all instances of noncompliance with a site certificate condition. For ease of review, the certificate holder shall, in this section of the report, use numbered subparagraphs corresponding to the applicable sections of the site certificate.
- (vii) Facility Modification Report: A summary of changes to the facility that the certificate holder has determined do not require a site certificate amendment in accordance with OAR 345-027-0050.
- (viii) Nongenerating Facility Carbon Dioxide Emissions: For nongenerating facilities that emit carbon dioxide, a report of the annual fuel use by fuel type and annual hours of operation of the carbon dioxide emitting equipment as described in OAR 345-024-0630(4).  
(OAR 345-026-0080) [Amendment #4]

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

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

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

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

- (a) The certificate holder would construct and operate part of the facility on that part of the site even if a change in the planned route of the transmission line or pipeline occurs during the certificate holder's negotiations to acquire construction rights on another part of the site; or
- (b) The certificate holder would construct and operate part of a wind facility on that part of the site even if other parts of the facility were modified by amendment of the site certificate or were not built.

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

**(12)** Following receipt of a site certificate or an amended site certificate, the certificate holder shall implement a plan that verifies compliance with all site certificate terms and conditions and applicable statutes and rules. As a part of the compliance plan, to verify compliance with the requirement to begin construction by the date specified in the site certificate, the certificate holder shall report promptly to the Department of Energy when construction begins. Construction

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

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

15 **(14)** If the Council requires mitigation based on an affirmative finding under any standards of Division  
16 22 or Division 24 of this chapter, the certificate holder shall consult with affected state agencies  
17 and local governments designated by the Council and shall develop specific mitigation plans  
18 consistent with Council findings under the relevant standards. The certificate holder must submit  
19 the mitigation plans to the Office and receive Office approval before beginning construction or, as  
20 appropriate, operation of the facility. (OAR 345-027-0020(6))  
21

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

### 29 **3. Conditions That Apply During Construction**

30  
31 **(16)** The certificate holder shall design, engineer and construct the facility to avoid dangers to human  
32 safety presented by seismic hazards affecting the site that are expected to result from all  
33 maximum probable seismic events. As used in this rule "seismic hazard" includes ground shaking,  
34 landslide, liquefaction, lateral spreading, tsunami inundation, fault displacement and subsidence.  
35 (OAR 345-025-0006(12)) [Amendment #6]  
36

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

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

1 deformations or clastic dikes are found at or in the vicinity of the site. (OAR 345-025-0006(14))  
2 [Amendment #4, #6]  
3

4 **4. Conditions That Must Be Met Before Operation Begins**  
5

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

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

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

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

29 **(22)** [Condition removed by Amendment #4]  
30

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

- 33 (a) There is an attempt by anyone to interfere with its safe operation;
- 34 (b) A natural event such as an earthquake, flood, tsunami or tornado, or a human-caused event  
35 such as a fire or explosion affects or threatens to affect the public health and safety or the  
36 environment; or
- 37 (c) There is any fatal injury at the facility.

38 (OAR 345-026-0170) [Amendment #4]  
39

40 **V. SPECIFIC FACILITY CONDITIONS**  
41

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

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

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

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

## 12 **1. General Conditions**

13  
14 **(24)** This condition applies to Stateline 1 only. The certificate holder shall begin construction of  
15 Stateline 1 within one year after the effective date of the site certificate. The certificate holder  
16 shall complete construction of Stateline 1 on or before two years from the effective date of the  
17 site certificate. Under OAR 345-015-0085(9), a site certificate is effective upon execution by the  
18 Council Chair and the applicant. Completion of construction occurs upon the date commercial  
19 operation of Stateline 1 begins. The Council may grant an extension of the construction beginning  
20 or completion deadlines in accordance with OAR 345-027-0030 or any successor rule in effect at  
21 the time the request for extension is submitted. [Amendment #4]  
22 See condition (3).  
23

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 reseeding 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)

- 1  
2 **(32)** The certificate holder shall use hazardous materials in a manner that is protective of human health  
3 and the environment and shall comply with all applicable local, state, and federal environmental  
4 laws and regulations. The certificate holder shall make sure that accidental releases of hazardous  
5 materials will be prevented or minimized through the proper containment of these substances  
6 during transportation and use on the site. The certificate holder shall make sure that any oily  
7 waste, rags or dirty or hazardous solid waste will be collected in sealable drums and removed for  
8 recycling or disposal by a licensed contractor. The certificate holder shall have spill kits containing  
9 items such as absorbent pads on equipment and in storage facilities to respond to accidental spills.  
10 If an accidental hazardous materials spill or release occurs, the certificate holder shall clean up the  
11 spill or release and shall treat or dispose of contaminated soil or other materials according to  
12 applicable regulations. (App G-2, V-3) [Amendment #5]  
13
- 14 **(33)** The certificate holder shall provide to the Department of Energy a copy of the contract with the  
15 Milton-Freewater Rural Fire Department for fire protection services during construction and  
16 operation of the facility before beginning construction. (App U-25) [Amendment #4, #5]  
17
- 18 **(34)** During construction and operation of the facility, the certificate holder shall have water-carrying  
19 trailers (“water buffaloes”) at appropriate locations around the facility. The certificate holder shall  
20 bring a water buffalo to any job site where there is a substantial risk of fire. The certificate holder  
21 shall coordinate with the fire chiefs of the Helix and Milton-Freewater Rural Fire Departments as to  
22 the number, capacity and location of the water buffaloes. The certificate holder shall make sure  
23 that each water buffalo has a minimum capacity of 350 gallons with sufficient pump and hose  
24 equipment, as approved by the local fire chiefs. The certificate holder shall have service trucks and  
25 pickup trucks capable of towing water buffaloes available in sufficient numbers at all times during  
26 construction and operation of the facility. (App B-12) [Amendment #5]  
27
- 28 **(35)** The certificate holder shall take steps to protect the facility and property from unauthorized access  
29 and to reduce the risk of accidental injury during construction and operations by (App U-25, 26)  
30 [Amendment #3, #5]:  
31 (a) Maintaining fencing and access gates around dangerous equipment or portions of the site as  
32 feasible. [Amendments #3, and #4]  
33 (b) Posting warning signs near high-voltage equipment.  
34 (c) Requiring construction contractors to provide specific job-related training to employees,  
35 including cardiopulmonary resuscitation, first aid, tower climbing, rescue techniques and  
36 safety equipment inspection.  
37 (d) Requiring each worker to be familiar with site safety.  
38 (e) Assigning safety officers to monitor construction activities and methods during each work  
39 shift.  
40 (f) Ensuring that workers on each shift are certified in first aid.  
41 (g) Ensuring a well-stocked first-aid supply kit is accessible on-site at all times and that each  
42 worker knows its location.  
43 (h) Conducting periodic safety meetings for construction and maintenance staff.  
44
- 45 **(36)** The certificate holder shall notify the Department of Energy and the Umatilla County Planning  
46 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) [Amendment #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. [Amendment #1, #2, #4]
- 7 (b) Group the turbines in strings of 2 to 37. [Amendment #1, #2, #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. [Amendment #2, #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 [Amendment #2, #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. [Amendment #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. [Amendment #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

26 **(45)** The certificate holder shall videotape all Umatilla County roads used as access to the facility and  
27 shall require construction contractors to enter into a written agreement with Umatilla County  
28 stating that all roads used by the contractor will be restored to as good or better condition than  
29 they were before construction. (App U-24)  
30

31 **(46)** The certificate holder shall notify the Department of Energy of the identity and qualifications of  
32 major construction contractors for the facility. The certificate holder shall select major  
33 construction contractors based on a proven record of environmental compliance and stewardship,  
34 a clean record in terms of other regulatory obligations and other appropriate factors. (App D-3, 4)  
35 [Amendment #4, #5]  
36

37 **(47)** The certificate holder shall contractually require all construction contractors and subcontractors  
38 involved in the construction of the facility to comply with all applicable laws and regulations and  
39 with the terms and conditions of the site certificate. Such contractual provisions shall not operate  
40 to relieve the certificate holder of responsibility under the site certificate.  
41 See condition (2). [Amendment #5]  
42

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

1  
2 **(49)** The certificate holder shall design the facility in accordance with seismic design provisions given in  
3 the Oregon Building Code. The certificate holder shall identify localized areas of  $S_c$  and  $S_D$  soil types  
4 and assure that any structures to be built in those areas are designed according to the code. The  
5 certificate holder shall design all components constructed after 2008 to meet the current Oregon  
6 Structural Specialty Code (OSSC 2007) and the 2006 International Building Code. [Amendment #4,  
7 #5]  
8

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

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

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

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

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

30 [Amendment #4]  
31

32 **(51)** In modifying slope angles for roads or other facilities, the certificate holder shall assure that the  
33 foundation designer has achieved a factor of safety of 1.5 or greater for permanent structures and  
34 a factor of safety of 1.3 or greater for temporary structures. (OAR 345-022-0020)  
35

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

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

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

41 (c) Avoiding the use of overhead collector lines. [Amendment #2, #4]  
42

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

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

6 **(54)** This condition does not apply to Stateline 2. The certificate holder shall conduct appropriate pre-  
7 construction nest surveys for burrowing owls if construction is scheduled to occur during the  
8 sensitive period (March 15 to August 30). The certificate holder shall leave a no-construction  
9 buffer, developed in consultation with ODFW, around any active nests during the sensitive period.  
10 [Amendments #2, #4, #5]  
11

12 **(55)** This condition does not apply to Stateline 2. The certificate holder shall conduct pre-construction  
13 surveys for state-listed threatened, endangered or candidate plant species in all areas not included  
14 in earlier botanical surveys of the analysis area. If any listed plants are found, the certificate holder  
15 will notify the Department of Energy and consult with the Oregon Department of Agriculture  
16 regarding appropriate measures to protect the species and mitigate for impacts from construction,  
17 operation and retirement of the facility. (App Q-7) [Amendment #4, #5]  
18

19 **(56)** This condition does not apply to Stateline 2. The certificate holder shall conduct appropriate pre-  
20 construction surveys for the presence of Washington ground squirrels in construction zones that  
21 have suitable habitat. Construction zones include the areas of permanent and temporary  
22 disturbance and a 175-foot surrounding buffer in which there may be incidental construction  
23 impacts. If squirrel activity is found, the certificate holder shall notify the Department of Energy  
24 and develop an appropriate no-construction buffer and other appropriate mitigation measures in  
25 consultation with the Department and ODFW. In addition, the certificate holder shall map and  
26 stake sensitive areas to be avoided during construction as required by Condition (63).  
27 [Amendments #2, #4, #5]  
28

### 29 **3. Conditions That Apply During Construction**

30  
31 **(57)** The certificate holder shall report to the Council any change of major construction contractors.  
32 See condition (8).  
33

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

- 36 (a) Establishing roads before accessing the site to allow vehicles to stay away from grass.
- 37 (b) Using diesel vehicles whenever possible to prevent potential ignition by catalytic converters.
- 38 (c) Avoiding idling vehicles in grassy areas.
- 39 (d) Keeping cutting torches and similar equipment away from grass.
- 40 (e) Making sure that all construction personnel receive appropriate fire-safety instruction from  
41 qualified local fire departments or qualified fire-fighting trainers on the job site.
- 42 (f) Making sure that fire-fighting equipment is available at all active parts of the job site.

43 [Amendment #5]  
44

45 **(59)** The certificate holder shall require the foundation designer to inspect excavations during  
46 construction of foundations for the turbines and other facilities to confirm that geologic conditions

1 are appropriate for supporting the turbines during gravity, seismic and wind loading. (OAR 345-  
2 022-0020)  
3

4 **(60)** The certificate holder shall conduct all construction work in compliance with an Erosion and  
5 Sediment Control Plan (ESCP) satisfactory to the Oregon Department of Environmental Quality and  
6 as required under the facility's National Pollutant Discharge Elimination System (NPDES)  
7 Construction Stormwater Permit. The certificate holder shall include in the ESCP any procedures  
8 necessary to meet local erosion and sediment control requirements or stormwater management  
9 requirements. (App B-7, 13, E-3, P-41) [Amendment #5]  
10

11 **(61)** The certificate holder shall mitigate potential adverse impacts to soils from erosion and  
12 compaction by measures including but not limited to the following (App H-17, I-4, 5):  
13 (a) Maintaining vegetative buffer strips between the areas impacted by construction activities  
14 and any receiving waters.  
15 (b) Installing sediment fence/straw bale barriers at locations shown on the plans.  
16 (c) Wherever feasible, constructing roadways so that surface drainage continues along natural  
17 drainage patterns with minimal diversions through ditches and culverts.  
18 (d) Working with the Umatilla County Public Works Department and the local Natural Resources  
19 Conservation Service office to design water bars and other management practices to slow  
20 the flow of water on newly constructed repaired roads.  
21 (e) Straw mulching and disking at locations adjacent to the road that have been impacted.  
22 (f) Providing temporary sediment traps downstream of intermittent stream crossings.  
23 (g) Providing sediment type mats downstream of perennial stream crossings.  
24 (h) Planting designated seed mixes at impacted areas adjacent to the roads.  
25 (i) Installing sediment fencing along the downslope side of construction equipment staging  
26 areas.  
27 (j) Seeding all areas that are impacted by construction and reseeding as necessary to establish a  
28 healthy cover crop.  
29 (k) Leaving sediment fencing, check dams and other erosion control measures in place until the  
30 impacted areas are well vegetated and the risk of erosion has been eliminated.  
31 (l) Limiting truck and heavy equipment traffic, to the extent possible, to improved road surfaces,  
32 and thereby limiting soil compaction and disturbances.  
33 (m) Scarifying and reseeding compacted areas after construction is completed.  
34 (n) Using appropriate erosion control methods to limit soil loss due to water and wind action.  
35 (o) Covering roads and turbine pads with gravel immediately following exposures, thereby  
36 limiting the time for wind or water erosion. (App I-2, 3)  
37 (p) Using water for dust suppression during construction. (App O-1)  
38 [Amendment #5]  
39

40 **(62)** The certificate holder shall place underground electrical and communications cables at a minimum  
41 depth of three feet below grade in trenches along the length of each turbine string corridor and in  
42 some cases in trenches from the end of one turbine string to the end of an adjacent turbine string.  
43 The certificate holder shall excavate trenches and segregate the topsoil from subsoil. After  
44 installing the electrical or communications cables and within two weeks of trenching, the  
45 certificate holder shall backfill the trenches and replace topsoil on top. The certificate holder shall  
46 reseed the area with native grasses or other plants appropriate to the location. (App B-8, I-2, W-2)  
47

- 1 **(63)** The certificate holder shall mitigate possible impacts to wildlife by measures including but not  
2 limited to the following (App P-42 through 45, Q-10, 11):  
3 (a) Preparing maps to show sensitive areas that are off-limits during the construction phase,  
4 distributing the maps to construction staff and having a biologist flag sensitive areas as  
5 needed.  
6 (b) Minimizing road construction and vehicle use where possible.  
7 (c) Posting speed limit signs throughout the construction zone.  
8 (d) Instructing construction personnel (including all construction contractors and their  
9 personnel) on sensitive wildlife of the area and on required precautions to avoid injuring or  
10 destroying wildlife.  
11 (e) Instructing construction personnel (including all construction contractors and their  
12 personnel) to watch out for wildlife while driving through the project area, to maintain  
13 reasonable driving speeds so as not to harass or accidentally strike wildlife and to be  
14 particularly cautious and drive at slower speeds in a period from one hour before sunset to  
15 one hour after sunrise when some wildlife species are the most active.  
16 (f) Requiring all construction personnel to report any injured or dead wildlife detected at the  
17 facility site.  
18 (g) Requiring all construction personnel to respect all staked wildlife areas and associated no-  
19 construction buffer areas.

20 [Amendment #5]  
21

- 22 **(64)** To avoid creating habitat for raptor prey near turbine towers, the certificate holder shall spread  
23 gravel on all above ground portions of the turbine pads to reduce the potential for weed  
24 infestation. (App BB-5)  
25

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

35 [Amendments #1 and #4]

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

43 [Amendment #5]  
44

- 45 **(66)** This condition applies to Stateline 1 only. To mitigate for the permanent elimination of one-half  
46 acre of Category 2 habitat, the certificate holder shall control weeds and enhance habitat of one  
47 acre of weed-infested upland habitat with native plants. The certificate holder shall carry out

1 enhancement activities as described for habitat enhancement areas in the *Revegetation Plan*  
2 referenced in Condition 65. The certificate holder shall acquire the legal right to create and  
3 maintain the enhancement area for the life of the facility by means of an outright purchase,  
4 conservation easement or similar conveyance and shall provide a copy of the documentation to  
5 the Department of Energy. The certificate holder shall determine the location of this habitat  
6 enhancement area in consultation with ODFW and landowners. (App P-44) [Amendment #1, #4]  
7

8 **(67)** This condition does not apply to Vansycle II. To mitigate for the permanent elimination of  
9 approximately 48 acres of Category 3 habitat, the certificate holder shall control weeds and  
10 enhance habitat on an equal area of weed-infested land in the project vicinity. The certificate  
11 holder shall carry out enhancement activities as described for habitat enhancement areas in the  
12 *Revegetation Plan* referenced in Condition 65. The certificate holder shall acquire the legal right to  
13 create and maintain the enhancement area for the life of the facility by means of an outright  
14 purchase, conservation easement or similar conveyance and shall provide a copy of the  
15 documentation to the Department of Energy. The certificate holder shall determine the location of  
16 this habitat enhancement area in consultation with ODFW and landowners. (App P-44)  
17 [Amendment #1, #4, #6]  
18

19 **(68)** To minimize impacts to temporarily disturbed Category 6 habitat areas, the certificate holder shall  
20 use measures including but not limited to the following (App P-45):  
21 (a) Replacing agricultural topsoil to its pre-construction condition.  
22 (b) Using best management practices to prevent loss of topsoil during construction.  
23 (c) Reseeding native habitats with a native seed mix that includes at least some seed collected  
24 from the area as described for temporarily disturbed habitats in the *Revegetation Plan*  
25 referenced in Condition 65. [Amendments #1 and #4]  
26 (d) Controlling noxious weeds in areas disturbed by construction activities.  
27 [Amendment #5]  
28

29 **(69)** The certificate holder shall not place any part of the facility within any Washington ground squirrel  
30 (WGS) colony or on potential Washington ground squirrel burrows. The certificate holder shall  
31 have an on-site wildlife monitor who will flag habitat required for WGS survival (Category 1),  
32 conduct pre-construction surveys to determine the distribution of WGS in the area and ensure that  
33 construction personnel do not enter the area. The monitor shall conduct post construction  
34 monitoring to document distribution of the WGS in the area. [Amendment #2, #4, #5]  
35

36 **(70)** To reduce potential injury or fatality of migratory birds, the certificate holder shall (App Q-10):  
37 (a) Locate turbines away from saddles in long ridges.  
38 (b) Locate turbines on the top or slightly downwind side of distinct ridges and set back from the  
39 upwind (prevailing) side.  
40 (c) Use monopole design for all turbine and meteorological towers.  
41

42 **(71)** The certificate holder shall implement a waste management plan during construction that includes  
43 but is not limited to the following measures (App V-2):  
44 (a) Collecting steel scrap and transporting it to a recycling facility.  
45 (b) Recycling wood waste to the greatest extent feasible, depending on size and quantity of  
46 scrap or leftover materials.

- (c) Using concrete waste as fill on-site or at another site or, if no reuse option is available, transporting it to a local landfill.
- (d) Recycling packaging wastes (such as paper and cardboard).
- (e) Collecting non-recyclable waste and transporting it to a local landfill.

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

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

**(74)** 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 and to assure compliance with applicable regulations and construction site policy. (App V-4) [Amendment #5]

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

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

**(77)** The certificate holder shall include traffic control procedures in contract specifications for construction of the facility. The certificate holder shall require flaggers to be at appropriate



1 locations at appropriate times during construction to direct traffic and to ensure minimal conflicts  
2 between harvest and construction vehicles. (App U-24) [Amendment #5]  
3

4 **(78)** The certificate holder shall confine the noisiest construction activities to the daylight hours. (App  
5 X-8) [Amendment #5]  
6

7 **(79)** This condition does not apply to Vansycle II. The certificate holder shall construct the cable crossing  
8 of Vansycle Canyon at a time when the stream is dry. The certificate holder shall remove no more  
9 than approximately 7.5 cubic yards of material from the streambed crossing and shall replace a like  
10 amount of fill material after the cable has been laid, restoring the area similar to the original  
11 contours of the streambed. (Linehan, July 23 letter, 3) [Amendment #4, #7<sup>5</sup>]  
12

#### 13 **4. Conditions That Must Be Met Before Operation Begins** 14

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

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

22 (i) Adjust the Subtotal (1<sup>st</sup> Quarter 2009 dollars) shown in Table 1 of the Final Order on  
23 Amendment #4 to present value, using the U.S. Gross Domestic Product Implicit Price  
24 Deflator, Chain-Weight, as published in the Oregon Department of Administrative  
25 Services' "Oregon Economic and Revenue Forecast," or by any successor agency (the  
26 "Index"), and using the index value for 1<sup>st</sup> Quarter 2009 dollars and the quarterly index  
27 value for the date of issuance of the new bond or letter of credit. If at any time the  
28 Index is no longer published, the Council shall select a comparable calculation to adjust  
29 1<sup>st</sup> Quarter 2009 dollars to present value.

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

32 (iii) Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration and  
33 project management costs and 10 percent of the adjusted Gross Cost (ii) for the  
34 adjusted future developments contingency.

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

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

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

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

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<sup>5</sup> Note that the Final Order on Amendment #5 to the Stateline Wind Project Site Certificate changed the name of "Stateline 3" to "Vansycle II". Any remaining reference in this Site Certificate (including condition references) of "Stateline 3" were changed to "Vansycle II" in the Seventh Amended Site Certificate.

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

3 See Conditions (19) and (41).

4 [Amendment #4]

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

9  
10 **(82)** The certificate holder shall grade and reseed laydown areas to wheat or native grasses as  
11 necessary to restore those areas to their pre-construction condition (App B-10). [Amendment #5]

12  
13 **(83)** For any materials disposed of as fill on site, the certificate holder shall conduct such disposal with  
14 the approval of the landowner and in accordance with OAR 340-093-0080 and other applicable  
15 regulations. (App G-3, V-3) [Amendment #5]

16  
17 **(84)** For the purposes of this site certificate, wind turbine tower locations are analogous to location of  
18 permanent rights-of-way for pipelines or transmission lines as described in OAR 345-027-0023(5).  
19 The Council approves the corridor described in the final order for construction of turbine strings.  
20 As required under OAR 345-027-0020(2) and Condition 13, the certificate holder shall submit to  
21 the Department of Energy a legal description of the location where the certificate holder has built  
22 turbine towers and other parts of the facility. Within 90 days after beginning operation of any  
23 turbines that are added to the facility by amendment of the site certificate, the certificate holder  
24 shall submit to the Department a legal description of the location of any additional turbine towers  
25 and related or supporting facilities allowed by the amendment. The site of the facility is the area  
26 identified by the legal descriptions required by this condition. Within 90 days after beginning  
27 facility operation, the certificate holder shall provide to the Department and the Umatilla County  
28 Planning Department the actual latitude and longitude location or Stateplane NAD 83(91)  
29 coordinates of each turbine tower, connecting lines and transmission lines and a summary of as  
30 built changes in the facility from the original plan. (OAR 345-027-0020(2) and (3)) [Amendment #1,  
31 #4] See Condition (13).

32  
33 **5. Conditions That Must Be Met During Operation**

34  
35 **(85)** The certificate holder shall prepare and maintain a site health and safety plan that informs  
36 employees and others onsite what to do in case of emergencies and includes the locations of fire  
37 extinguishers and nearby hospitals, important telephone numbers and first aid techniques. (App U-  
38 25)

39  
40 **(86)** The certificate holder shall recycle solid waste generated during operation of the facility as much  
41 as feasible and shall collect non-recyclable waste and transport it to a local landfill. (App V-2)

42  
43 **(87)** This condition applies to Stateline 1&2 only. The certificate holder shall provide portable toilets for  
44 use at the satellite O&M building and shall make sure that they are pumped and cleaned regularly  
45 by a licensed pumper who is qualified to pump and clean portable toilet facilities. The certificate  
46 holder must contact the Oregon Department of Environmental Quality if the on-site septic system  
47 is to be used. (App O-2) [Amendment #4]

- 1  
2 **(88)** If the turbine blades need to be washed, the certificate holder shall use no more than 500 gallons  
3 of water per turbine, trucked to the site by a contractor and purchased from a source with a valid  
4 water right. The certificate holder shall use high-pressure cold water only and shall not use  
5 chemicals or additives in the wash water. (App O-2) [Amendment #1]  
6  
7 **(89)** If any new nesting or denning sites for wildlife species of concern are located, the certificate  
8 holder shall prepare maps indicating off-limit areas. In addition, the certificate holder shall  
9 minimize road construction and vehicle use where possible. (P-42)  
10  
11 **(90)** The certificate holder shall mitigate possible impacts to wildlife by measures including but not  
12 limited to the following (App P-43, Q-10):  
13 (a) Instructing all personnel on sensitive wildlife of the area and on required precautions to  
14 avoid injuring or destroying wildlife.  
15 (b) Instructing all personnel to watch out for wildlife while driving through the project area, to  
16 maintain reasonable driving speeds so as not to harass or accidentally strike wildlife and to  
17 be particularly cautious and drive at slower speeds in a period from one hour before sunset  
18 to one hour after sunrise when some wildlife species are the most active.  
19 (c) Requiring all personnel to report any injured or dead wildlife detected at the facility site.  
20  
21 **(91)** The certificate holder shall mitigate possible impacts to fish and wildlife habitat by measures  
22 including but not limited to the following (App P-43, Q-10):  
23 (a) Using best management practices to prevent erosion of soil into stream channels.  
24 (b) Controlling invasive, weedy plant species during maintenance of project facilities.  
25 (c) Monitoring re-vegetated areas to ensure successful establishment of new vegetation.  
26  
27 **(92)** The certificate holder shall mitigate potential adverse impacts to soils from erosion by measures  
28 including but not limited to the following (App I-3 through 5):  
29 (a) Using drainage collection procedures to capture surface water that collects on, and drains  
30 from, gravel surfaces or structures as a result of precipitation and routing the water to  
31 drainage ditches lined with quarry stone or other similar materials.  
32 (b) Using sand bags, straw bales and silt fences as needed to reduce erosion from precipitation  
33 during repair of underground cables or other soil-disturbing repairs.  
34 (c) If areas of erosion are observed during operation, implementing mitigation and reclamation  
35 measures.  
36  
37 **(93)** The certificate holder shall conduct wildlife monitoring as described in the *Wildlife Monitoring and*  
38 *Mitigation Plan (WMMP)*, included in the Final Order on Amendment #6 as Attachment F and as  
39 revised from time to time. Subject to approval by the Department of Energy as to professional  
40 qualifications, the certificate holder shall hire qualified wildlife consultants to carry out the  
41 monitoring.  
42 The certificate holder shall conduct 1-year of post-construction fatality monitoring in accordance  
43 with the protocol included in the WMMP following completion of construction activities for the  
44 Vansycle II facility modifications, as approved in the Final Order on Amendment #6. Additional  
45 fatality monitoring studies and necessity of additional mitigation shall be determined based on the  
46 results of the 1-year post construction fatality monitoring study.  
47 (OAR 345-022-0060) [Amendment #1, #4, #5, #6]

1  
2 **(94)** If analysis of monitoring data indicates impacts to wildlife or wildlife habitat that the certificate  
3 holder has not adequately addressed by mitigation and if these impacts result in a loss of habitat  
4 quantity or quality, the certificate holder shall mitigate for the loss of habitat quality by measures  
5 approved by the Oregon Department of Energy. (OAR 345-022-0060) [Amendment #4, #5]  
6

7 **(95)** The certificate holder shall inspect turbine blades on a regular basis for signs of wear or potential  
8 failure. (App BB-1) [Amendment #5]  
9

10 **(96)** The certificate holder shall make sure that all on-site employees receive annual fire prevention and  
11 response training by a professional fire-safety training firm. The certificate holder shall prohibit  
12 employees from smoking outside of company vehicles during dry summer months and shall  
13 require employees to keep vehicles on roads and off dry grassland during the dry months unless  
14 necessary for work purposes. The certificate holder shall not engage in welding, cutting, grinding  
15 or other flame or spark-producing operations near the turbines. The certificate holder shall equip  
16 each company vehicle on site with a fire extinguisher, water spray can, shovel, Emergency  
17 Response procedures book and a two-way radio for immediate communications with the O&M  
18 facility. The certificate holder shall have staff in the local area on call at all times to respond in case  
19 of fire or other emergency. The certificate holder shall supply all local fire departments with maps  
20 of and gate keys to the facility. (App B-12) [Amendment #5]  
21

## 22 **VI. CONDITIONS ADDED BY AMENDMENT #1** [Amendment #1, #4] 23

24 The conditions listed in this section include conditions based on representations in the request  
25 for Amendment #1 and supporting record. The Council deems these representations to be binding  
26 commitments made by the applicant. These conditions are required under OAR 345-027-0020(10).  
27 [Amendment #4]  
28

29 Except as specifically noted, these conditions apply to all phases of the Stateline Wind Project. In  
30 applying the conditions in this section, “certificate holder” means FPL Vansycle with regard to Stateline  
31 1&2 and FPL Stateline with regard to Vansycle II. [Amendment #4, #7]  
32

### 33 **1. General Conditions** 34

35 **(97)** This condition applies to Stateline 2 only. The certificate holder shall begin construction of  
36 Stateline 2 within six months after the effective date of the First Amended Site Certificate. The  
37 certificate holder shall complete construction of Stateline 2 before March 1, 2005. Under OAR 345-  
38 027-0070, an amended site certificate is effective upon execution by the Council Chair and the  
39 applicant. Completion of construction occurs upon the date commercial operation of Stateline 2  
40 begins. The Council may grant an extension of the construction beginning or completion deadlines  
41 in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for  
42 extension is submitted. [Amendments #2, #4]  
43

44 **(98)** [Condition removed by Amendment #4]  
45

46 **(99)** Before any transfer of ownership of the facility or ownership of the site certificate holder, the  
47 certificate holder shall inform the Department of the proposed new owners. The requirements of

OAR 345-027-0100 apply to any transfer of ownership that requires a transfer of the site certificate. (OAR 345-027-0020(15) [Amendment #4]

**(100)** If the Council finds that the certificate holder has permanently ceased construction or operation of the facility without retiring the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110, the Council shall notify the certificate holder and request that the certificate holder submit a proposed final retirement plan to the Department of Energy within a reasonable time not to exceed 90 days. If the certificate holder does not submit a proposed final retirement plan by the specified date, the Council may direct the Department to prepare a proposed a final retirement plan for the Council’s approval. Upon the Council’s approval of the final retirement plan, the Council may draw on the bond or letter of credit described in OAR 345-027-0020(8) to restore the site to a useful, non-hazardous condition according to the final retirement plan, in addition to any penalties the Council may impose under OAR Chapter 345, Division 29. If the amount of the bond or letter of credit is insufficient to pay the actual cost of retirement, the certificate holder shall pay any additional cost necessary to restore the site to a useful, non-hazardous condition. After completion of site restoration, the Council shall issue an order to terminate the site certificate if the Council finds that the facility has been retired according to the approved final retirement plan. (OAR 345-027-0020(16) [Amendment #4]

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

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

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

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

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

- (a) Construct turbines, towers and pads of fire retardant materials.
- (b) Bury electrical cables.
- (c) Use enclosed, locked pad-mounted transformer structures.
- (d) Include built-in fire prevention measures in turbines.
- (e) Not store combustible materials at the Stateline site.

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

5 **4. Conditions That Must Be Met During Operation**  
6

7 **(105)** This condition applies to Stateline 2 only. The certificate holder shall enter into an agreement  
8 with the landowner of a property identified as 84301 Stockman Road, Helix, Oregon, requiring that  
9 the structure remain uninhabited during construction. The certificate holder shall continue the no-  
10 occupation agreement until retirement of the facility unless the certificate holder demonstrates to  
11 the satisfaction of the Department that the facility complies with the applicable noise control  
12 regulations under OAR 340-035-0035. The certificate holder may demonstrate compliance with  
13 the regulations as to the increase in ambient statistical noise levels by entering into a legally  
14 effective easement or real covenant with the owner of the property identified as 84301 Stockman  
15 Road, Helix, Oregon, pursuant to which the owner authorizes the certificate holder's operation of  
16 the facility to increase ambient statistical noise levels L<sub>10</sub> and L<sub>50</sub> by more than 10 dBA at the  
17 appropriate measurement point. A legally effective easement or real covenant shall: include a legal  
18 description of the burdened property (the noise sensitive property); be recorded in the real  
19 property records of the county; expressly benefit the certificate holder; expressly run with the land  
20 and bind all future owners, lessees or holders of any interest in the burdened property; and not be  
21 subject to revocation without the certificate holder's written approval. If such easement or real  
22 covenant is not in effect, then the certificate holder shall demonstrate to the satisfaction of the  
23 Department, based on modeling or measurements performed in compliance with OAR 340-035-  
24 0035, that an easement or real covenant is not necessary to comply with those regulations.  
25 [Amendment #3, #4].  
26

27 **VII. CONDITIONS ADDED BY AMENDMENT #2** [Amendment #2, #4]  
28

29 The conditions listed in this section include conditions based on representations in the request  
30 for Amendment #2 and supporting record. The Council deems these representations to be binding  
31 commitments made by the applicant. These conditions are required under OAR 345-027-0020(10).  
32 These conditions apply to Vansycle II only. In applying the conditions in this section, "certificate holder"  
33 means FPL Stateline. [Amendment #4, #7]  
34

35 **1. General Conditions**  
36

37 **(106)** The certificate holder shall begin construction of Vansycle II by October 1, 2009. The certificate  
38 holder shall complete construction of Vansycle II before December 31, 2010. Under OAR 345-027-  
39 0070, an amended site certificate is effective upon execution by the Council Chair and the  
40 applicant. Completion of construction occurs upon the date commercial operation of Vansycle II  
41 begins. The Council may grant an extension of the construction beginning or completion deadlines  
42 in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for  
43 extension is submitted. [Amendment #3, #4, #7]  
44

45 **(107)** [Condition removed by Amendment #4]  
46

- 1 **(108)** The certificate holder shall take reasonable steps to reduce or manage human exposure to  
2 electromagnetic fields, including but not limited to:  
3 (a) Designing and operating the transmission lines so that maximum current (amps per  
4 conductor) would not exceed the following levels: For 34.5-kV underground lines, 560 amps  
5 and for 230-kV transmission lines, 753 amps. [Amendment #4]  
6 (b) Providing to landowners a map of underground and overhead transmission lines on their  
7 property and advising landowners of possible health risks.  
8

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

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

- 19 (a) The certificate holder may adjust the amount of the bond or letter of credit for Vansycle II,  
20 with modifications approved in the Final Order on Amendment #6 and #7, by applying the  
21 unit costs and general costs illustrated in Table 5 and Table 6 in the Final Order on  
22 Amendment #6 and calculating the financial assurance amount as described in that order,  
23 adjusted to the date of issuance as described in (b), subject to approval by the Department.  
24 (b) Subject to approval by the Department, the certificate holder shall adjust the amount of the  
25 bond or letter of credit on an annual basis using the following calculation:  
26 (i) Adjust the Subtotal component of the initial bond or letter of credit amount (expressed in  
27 4<sup>th</sup> Quarter 2021 dollars) to present value, using the U.S. Gross Domestic Product  
28 Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of  
29 Administrative Services' "Oregon Economic and Revenue Forecast," or by any successor  
30 agency (the "Index") and using the index value for 4<sup>th</sup> Quarter 2021 dollars and the  
31 quarterly index value for the date of issuance of the new bond or letter of credit. If at  
32 any time the Index is no longer published, the Council shall select a comparable  
33 calculation to adjust 4<sup>th</sup> Quarter 2021 dollars to present value.  
34 (ii) Add 1 percent of the adjusted Subtotal (i) for the adjusted performance bond amount to  
35 determine the adjusted Gross Cost.  
36 (iii) Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration and  
37 project management costs, and 10 percent of the adjusted Gross Cost (ii) for the  
38 adjusted future developments contingency, and 20 percent of the adjusted Gross Cost  
39 (ii) for the adjusted future developments contingency for the battery storage system, if  
40 constructed.  
41 (iv) Add the adjusted Gross Cost (ii) to the sum of the percentages (iii) to determine the  
42 adjusted Full Cost, and round the resulting total to the nearest \$1,000 to determine the  
43 adjusted financial assurance amount.  
44 (c) The certificate holder shall use a form of bond or letter of credit approved by the Council.  
45 (d) The certificate holder shall use an issuer of the bond or letter of credit approved by the  
46 Council.  
47 (e) The certificate holder shall describe the status of the bond or letter of credit in the annual  
48 report submitted to the Council, as required by Condition 8.

1 (f) The bond or letter of credit shall not be subject to revocation or reduction before retirement  
2 of Vansycle II.  
3 [Amendment #4, #6, #7]  
4

5 **(110)** At least 30 days before beginning preparation of detailed design and specifications for the  
6 electrical transmission lines, the certificate holder shall consult with the Oregon Public Utility  
7 Commission staff to ensure that its designs and specifications are consistent with applicable codes  
8 and standards.  
9

10 **(111)** [Condition removed by Amendment #4]  
11

### 12 **3. Conditions That Apply During Construction** 13

14 **(112)** Before beginning construction and after considering all micro-siting factors, the certificate holder  
15 shall provide to the Department and to the Oregon Department of Fish and Wildlife (ODFW)  
16 detailed maps of the facility site, showing the final design locations where the certificate holder  
17 proposes to build facility components and the habitat categories of all areas that would be  
18 affected during construction. In addition, the certificate holder shall provide a table showing the  
19 acres of temporary and permanent habitat impact by habitat category and subtype, similar to  
20 Table 8 in the Final Order on Amendment #4. In classifying the affected habitat into habitat  
21 categories, the certificate holder shall consult with the ODFW. The certificate holder shall not  
22 begin ground disturbance in an affected area until the habitat assessment has been approved by  
23 the Department. The Department may employ a qualified contractor to confirm the habitat  
24 assessment by on-site inspection. Based on the approved habitat assessment, the certificate  
25 holder shall calculate the mitigation area requirement and shall carry out enhancement activities  
26 as described in the *Vansycle II Habitat Mitigation Plan* included in the Final Order on Amendment  
27 #4 as Attachment C and as revised from time to time. The certificate holder shall acquire the legal  
28 right to create and maintain the enhancement area for the life of the facility by means of an  
29 outright purchase, conservation easement or similar conveyance and shall provide a copy of the  
30 documentation to the Department of Energy. The certificate holder shall determine the location of  
31 this habitat enhancement area in consultation with ODFW and landowners. [Amendment #4, #7]  
32

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

- 35 (a) Enclose the substation with a seven-foot-tall chain link fence with barbed wire at the top  
36 pointing out at a 45-degree angle.
- 37 (b) Attach the 230-kV aboveground transmission lines to H-frame structures that consist of two  
38 wooden poles connected by cross-members with a typical overall height of 61 feet and a  
39 minimum design ground clearance of 25 feet to the lowest conductor as described in the  
40 Request for Amendment #4.
- 41 (c) Design and construct the transmission lines so that:
  - 42 (i) Alternating current electric fields during operation do not exceed 9 kV per meter at one  
43 meter above the ground surface in areas accessible to the public, and
  - 44 (ii) Induced voltages during operation are as low as reasonably achievable.

45 [Amendment #4]  
46



1 (114) To deter raptors from perching on transmission support structures near the wind turbines, the  
2 certificate holder shall install anti-perching devices on all proposed support structures within one-  
3 half mile of any turbine, unless the top of the support structure is below the base of the turbine  
4 tower due to topography. Wherever feasible, the certificate holder shall use “spike-type” devices  
5 instead of “triangle-type” devices. [Amendment #4]  
6

7 (115) To protect raptors, the certificate holder shall design structures for 230-kV transmission lines to  
8 conform to the guidelines of the Avian Power Line Interaction Committee so that electrical  
9 conductors are spaced far enough apart to reduce the risk of bird electrocution. [Amendment #4]  
10

11 (116) [Condition removed by Amendment #4]  
12

13 (117) The certificate holder shall not engage in construction activities for Vansycle II facilities, including  
14 the movement of heavy trucks and equipment, within a ¼-mile buffer around known ferruginous  
15 hawk nests during the sensitive period of the nesting season from (March 20 to August 15), except  
16 as provided in this condition. The certificate holder shall use a protocol approved by the Oregon  
17 Department of Fish and Wildlife (ODFW) to determine whether the nest is occupied. The  
18 certificate holder may begin construction activities before August 15, if the nest is not occupied. If  
19 the nest is occupied, the certificate holder shall use a protocol approved by ODFW to determine  
20 when the young are fledged (independent of the core nest site). With the approval of ODFW, the  
21 certificate holder may begin construction before August 15, if the young are fledged. [Amendment  
22 #7]  
23

24 (118) The certificate holder shall construct stream crossings substantially as described in the Final  
25 Order on Amendment #4. In particular, the certificate holder shall not remove material from  
26 waters of the state or add new fill material to waters of the state such that the total volume of  
27 removal and fill exceeds 50 cubic yards for the project as a whole. [Amendment #4]  
28

#### 29 4. Conditions That Must Be Met During Operation 30

31 (119) The certificate holder shall perform frequent maintenance to keep the substation transformer in  
32 good repair and in reliable operating condition.  
33

34 (120) The certificate holder shall verify that the actual sound power level output of the wind turbines  
35 constructed for Vansycle II meets the manufacturer’s warranty. This verification may consist of  
36 field measurement or other means of verification satisfactory to the Department of Energy. The  
37 certificate holder shall include the verification in the first annual report following construction of  
38 any Vansycle II turbines. [Amendment #4, #7]  
39

#### 40 VIII. CONDITIONS ADDED BY AMENDMENT #3 41

42 (121) [Condition removed by Amendment #4]  
43

44 (122) [Condition removed by Amendment #4]  
45

#### 46 IX. CONDITIONS ADDED BY AMENDMENT #4 47

1 Except as specifically noted, the conditions in this section apply to Vansycle II only. In applying  
2 the conditions in this section, “certificate holder” means FPL Stateline. In applying the conditions in this  
3 section, “certificate holder” means FPL Vansycle with regard to Stateline 1&2 and FPL Stateline with  
4 regard to Vansycle II. [Amendment #4, #7]  
5

6 **(123)** The certificate holder shall design and construct Vansycle II in compliance with the County design  
7 requirements as described in Umatilla County Development Code Sections 152.010, 152.011,  
8 152.015, 152.018, 152.063(E) and 152.616(HHH)(5)(F) in effect as of October 24, 2008.  
9 [Amendment #4, #7]  
10

11 **(124)** The certificate holder shall ensure that construction contractors use a transportation route  
12 reviewed and approved by the Umatilla County Public Works Director for all oversized and heavy  
13 load transport vehicles. [Amendment #4]  
14

15 **(125)** The certificate holder shall record a Covenant Not to Sue with regard to generally accepted  
16 farming practices as required by Umatilla County Development Code Section 152.616(HHH)(2)(E).  
17 [Amendment #4]  
18

19 **(126)** The certificate holder shall construct all Vansycle II components in compliance with the following  
20 setback requirements:  
21 (a) All facility components must be at least 3,520 feet from the property line of properties zoned  
22 residential use or designated in the Umatilla County Comprehensive Plan as residential.  
23 (b) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-  
24 percent of maximum blade tip height, measured from the centerline of the turbine tower to  
25 the nearest edge of any public road right-of-way. The certificate holder shall assume a  
26 minimum right-of-way width of 60 feet.  
27 (c) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 1,320  
28 feet, measured from the centerline of the turbine tower to the center of the nearest  
29 residence existing at the time of tower construction.  
30 (d) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-  
31 percent of maximum blade tip height, measured from the centerline of the turbine tower to  
32 the nearest boundary of the certificate holder’s lease area.  
33 (e) The certificate holder shall not locate equipment associated with the temporary batch plant  
34 within 50 feet of a public road, county road or utility right of way.  
35 [Amendment #4, #7]  
36

37 **(127)** The certificate holder shall deliver a copy of the annual report required under Condition 8 to the  
38 Umatilla County Planning Commission on an annual basis unless specifically discontinued by the  
39 County. [Amendment #4]  
40

41 **(128)** During construction, the certificate holder shall position a 3,000-gallon water truck on-site while  
42 personnel are present and actively working. [Amendment #4]  
43

44 **(129)** During operation, the certificate holder shall discharge sanitary wastewater generated at the  
45 Vansycle II O&M building to a licensed on-site septic system in compliance with county permit  
46 requirements. The certificate holder shall locate the septic system more than 100 feet from any

1 streams, lakes or wetlands. The certificate holder shall design the septic system for a discharge  
2 capacity of less than 2,500 gallons per day. [Amendment #4, #7]  
3

4 **(130)** During operation, the certificate holder shall obtain water for on-site uses from a wells located at  
5 the Vansycle II O&M building, subject to compliance with applicable permit requirements. The  
6 certificate holder shall not use more than 5,000 gallons of water per day from the on-site well.  
7 [Amendment #4]  
8

9 **(131)** The certificate holder shall avoid permanent and temporary disturbance to all Category 1 and  
10 Category 2 habitat within the Vansycle II site boundary. [Amendment #4, #7]  
11

12 **(132)** Before beginning construction, the certificate holder shall conduct a site-specific geotechnical  
13 investigation and shall report its findings to the Oregon Department of Geology & Mineral  
14 Industries (DOGAMI) and the Department. The certificate holder shall conduct the geotechnical  
15 investigation after consultation with DOGAMI and in general accordance with DOGAMI open file  
16 report 00-04 "Guidelines for Engineering Geologic Reports and Site-Specific Seismic Hazard  
17 Reports." [Amendment #4, #7]  
18

19 **(133)** Before beginning construction, the certificate holder shall provide to the Department:

20 (a) Information that identifies the final design locations of all Vansycle II wind turbines to be  
21 built.

22 (b) The maximum sound power level for the Vansycle II substation transformers and the  
23 maximum sound power level and octave band data for the turbines selected for the  
24 Vansycle II based on manufacturers' warranties or confirmed by other means acceptable to  
25 the Department.

26 (c) The results of noise analysis of the facility, including the Vansycle II components to be built  
27 according to the final design, performed in a manner consistent with the requirements of  
28 OAR 340-035-0035(1)(b)(B)(iii)(IV) and (VI) demonstrating to the satisfaction of the  
29 Department that the total noise generated by the facility (including the noise from turbines  
30 and substation transformers) would meet the ambient degradation test and maximum  
31 allowable test at the appropriate measurement point for all potentially-affected noise  
32 sensitive properties.

33 (d) For each noise-sensitive property where the certificate holder relies on a noise waiver to  
34 demonstrate compliance in accordance with OAR 340-035-0035 (1)(b)(B)(iii)(III), a copy of a  
35 legally effective easement or real covenant pursuant to which the owner of the property  
36 authorizes the certificate holder's operation of the facility to increase ambient statistical  
37 noise levels  $L_{10}$  and  $L_{50}$  by more than 10 dBA at the appropriate measurement point. The  
38 legally-effective easement or real covenant must: include a legal description of the  
39 burdened property (the noise sensitive property); be recorded in the real property records  
40 of the county; expressly benefit the certificate holder; expressly run with the land and bind  
41 all future owners, lessees or holders of any interest in the burdened property; and not be  
42 subject to revocation without the certificate holder's written approval.

43 [Amendment #4]  
44

45 **(134)** During operation, the certificate holder shall maintain a complaint response system to address  
46 noise complaints. The certificate holder shall promptly notify the Department of any complaints  
47 received regarding facility noise and of any actions taken by the certificate holder to address those

1 complaints. In response to a complaint from the owner of a noise sensitive property regarding  
2 noise levels during operation of the facility, the Council may require the certificate holder to  
3 monitor and record the statistical noise levels to verify that the certificate holder is operating the  
4 facility in compliance with the noise control regulations. [Amendment #4, #5]  
5

6 **(135)** During construction, the certificate holder shall not install any transmission line support  
7 structures within 800 feet of any active Swainson’s hawk nest identified in 2008 or later.  
8 [Amendment #4]  
9

10 **(136)** This condition applies to all phases of the Stateline Wind Project. When any third-party lien or  
11 security interest in the facility’s wind turbines or turbine towers is created, the certificate holder  
12 shall notify such third party in writing that the wind turbines and towers are components an  
13 energy facility that is subject to the terms and conditions of a Site Certificate and subject to the  
14 rules of the Oregon Energy Facility Siting Council. The certificate holder shall provide to the  
15 Department a copy of each written notification required under this condition and the name and  
16 contact information for each third party so notified. [Amendment #4]  
17

18 **X. CONDITIONS APPLICABLE TO CHANGES APPROVED IN AMENDMENT #5, #6 AND #7 (Vansycle II)**  
19

20 In accordance with ORS 469.300(6), preconstruction and construction conditions identified as  
21 applicable to the facility modifications approved in the Final Order on Amendment #6 and #7 may be  
22 satisfied, based on final design and configuration, of any given phase or facility component.  
23

24 The conditions listed in this section are specific to the facility modifications approved in the Final  
25 Order on Amendment #6 [Amendment #6] and Final Order on Amendment #7 [Amendment #7] solely  
26 referred to as Vansycle II.  
27

28 **(137)** The certificate holder shall construct the Vansycle II facility modifications, as approved in the  
29 Final Orders on Amendment #6 and #7 and substantially as described in the amended site  
30 certificate. Before beginning construction, the certificate holder shall provide to the Department  
31 equipment specifications and a description of the wind turbine dimensions to demonstrate  
32 compliance with this condition.  
33 [Amendment #5, #6, #7]  
34

35 **(138)** The certificate holder shall begin construction of the Vansycle II facility modifications, as  
36 approved in the Final Order on Amendment #6 and #7, within three years after the effective  
37 date of the amended site certificate [January 28, 2022]. The certificate holder shall notify the  
38 Department when construction of the of the facility modifications, as approved in Request for  
39 Amendment 6, commences. Under OAR 345-015-0085(8), the amended site certificate is  
40 effective upon execution by the Council Chair and the certificate holder.  
41 [Mandatory Condition OAR 345-025-0006(4); Amendment #5, #6, #7]  
42

43 **(139)** The certificate holder shall complete construction of the Vansycle II facility modifications, as  
44 approved in the Final Order on Amendment #6 and #7, within three years following the date of  
45 construction commencement. The certificate holder shall promptly notify the Department of the  
46 date of completion of construction of the Vansycle II facility modifications, as approved in the  
47 Final Order on Amendment #6 and #7.

1 [Mandatory Condition OAR 345-025-0006(4); Amendment #5, #6, #7]  
2

3 **(140)** For the facility modifications approved in the Final Order on Amendment #6 and #7, the  
4 certificate holder shall:

- 5 (a) Prior to construction, provide the Department with the turbine foundation suitability  
6 analysis, applicable to the 43 existing wind turbines, if repowered. An annual operational  
7 inspection schedule and the results of the foundation suitability analysis, including any  
8 necessary mitigation and/or remediation measures, shall be incorporated into an inspection  
9 and maintenance plan, to then be implemented as part of facility operations. The plan shall  
10 be provided to the Department for review and approval, in consultation with DOGAMI or a  
11 third-party consultant.  
12 (b) During operation of repowered wind turbines, adhere to the remediation, inspection and  
13 monitoring requirements established in the approved plan per (a). Monitoring  
14 documentation shall be provided to the Department in the annual report per OAR 345-026-  
15 0080(1).  
16 (c) If any mitigation or remediation is required per(a) of this condition, prior to the repower or  
17 during repowered operations, submit in amendment determination request to the  
18 Department per OAR 345-027-0357(2).  
19 [Amendment #5, #6, #7]  
20

21 **(141)** Prior to construction of facility modifications approved in the Final Order on Amendment #6 and  
22 #7, the certificate holder shall:

- 23 (a) Provide the Department maps and tabular data demonstrating that the final design of new,  
24 replacement and repowered wind turbines comply with the setback requirements to county  
25 road rights of way pursuant to UCDC Section 152.616(HHH)(6)(a)(4), or that the certificate  
26 holder has relocated or adjusted the county road right of way. Wind turbines not meeting the  
27 setback requirements from county road rights-of-way are precluded from increasing the  
28 maximum blade tip height from 440 to 499 feet through repower activities.  
29 (b) If the certificate has relocated or adjusted a county road right of way, the certificate holder  
30 shall provide to the Department written verification from Umatilla County that confirms the  
31 county road rights of way have been adjusted.  
32 [Amendment #5, #6, #7]  
33

34 **(142)** During construction of Vansycle II facility modifications, as approved in the Final Order on  
35 Amendment #6 and #7, the certificate holder shall:

- 36 (a) Ensure all construction personnel receive environmental awareness training from a qualified  
37 professional on cultural resources and the inadvertent discovery protocols of the Inadvertent  
38 Discovery Plan.  
39 (b) Implement and adhere to Inadvertent Discovery Plan measures previously approved in  
40 Condition 75 in the event previously unidentified cultural resources are encountered, as  
41 referenced in (i) – (iv) of this condition.  
42 (i) The Inadvertent Discovery Plan shall establish that earth-disturbing activities be halted in  
43 the immediate vicinity of the find, in accordance with Oregon state law (ORS 97.745 and  
44 358.920).  
45 (ii) Within 24-hours of the find, the certificate holder shall notify the Department, SHPO and  
46 the Confederated Tribes of the Umatilla Indian Reservation (CTUIR).  
47 (iii) The certificate holder shall have a qualified archaeologist evaluate the discovery and  
48 recommend subsequent courses of action in consultation with the CTUIR and the SHPO.

1 If human remains are discovered, the certificate holder shall halt all construction  
2 activities in the immediate area and shall notify the Department, SHPO, CTUIR, the  
3 County Medical Examiner and the State Police.

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

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

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

19 [Amendment #5, #6, #7]  
20

21 **(144)** For facility modifications approved in the Final Order on Amendment #6 and #7, the certificate  
22 holder shall:

- 23 (a) Prior to construction, provide evidence/documentation to the Department of consideration  
24 and selection of a recycling facility capable and licensed to receive and process wind turbine  
25 parts. The evidence/documentation shall include the total quantity (in tons) of  
26 decommissioned wind turbine parts and the amount to be recycled based on contractual  
27 agreement with a third-party or recycling facility.
- 28 (b) During construction, the certificate holder shall ensure its third-party contractors reuse or  
29 recycle wind turbine blades, hubs and other removed wind turbine components to the  
30 extent practicable. The certificate holder shall demonstrate that the recycling or disposal  
31 facility selected to receive turbine parts is qualified and approved by an applicable  
32 regulatory agency. The certificate holder shall report in its semi-annual report to the  
33 Department the quantities of removed wind turbine components recycled, reused, sold for  
34 scrap, and disposed of in a landfill. [Amendment #5, #6, #7]  
35

36 **(145)** Prior to construction of facility modifications approved in the Final Order on Amendment #6 and  
37 #7, the certificate holder shall submit a Notice of Proposed Construction or Alteration to the  
38 Federal Aviation Administration (FAA) and the Oregon Department of Aviation identifying the  
39 change in maximum blade tip height of the wind turbines to be repowered. Determination of No  
40 Hazards or other comments from FAA or Oregon Department of Aviation shall be provided to the  
41 Department.

42 [Amendment #5, #6, #7]  
43

44 **(146)** For the Vansycle II facility modifications, as approved in Final Order on Amendment #6 and #7,  
45 the certificate holder shall:

- 46 (a) During design, select temporary staging areas based on a location with minimal noise impacts  
47 and proximity to noise sensitive receptors.

1 (b) Prior to construction, provide notice to landowners within 1-mile of the site boundary to  
2 inform of the construction start date, duration and description of activities and noise levels.  
3 The notice shall include the name and phone number of the certificate holder's  
4 representative which can be contacted to record construction-related noise complaints.  
5 [Amendment #5, #6, #7]  
6

7 **(147)** Prior to construction of Vansycle II facility modifications, as approved in the Final Order on  
8 Amendment #6 and #7, the certificate holder shall provide to the Department:

- 9 (a) Information that identifies the as-built locations of all Vansycle II wind turbines.  
10 (b) The maximum sound power level for the existing Vansycle II substation transformers and the  
11 maximum sound power level and octave band data for the repowered Vansycle II wind based  
12 on manufacturers' warranties or confirmed by other means acceptable to the Department.  
13 (c) The results of noise analysis for the Vansycle II facility modifications, as approved in the Final  
14 Order on Amendment #6, performed in a manner consistent with the requirements of OAR  
15 340-035-0035(1)(b)(B)(iii)(IV) and (VI) demonstrating to the satisfaction of the Department  
16 that the total noise generated (including the noise from repowered wind turbines and  
17 existing substation transformers) would meet the ambient degradation test and maximum  
18 allowable test at the appropriate measurement point for all potentially-affected noise  
19 sensitive properties.  
20 (d) For each noise-sensitive property where the certificate holder relies on a noise waiver to  
21 demonstrate compliance in accordance with OAR 340-035-0035 (1)(b)(B)(iii)(III), a copy of a  
22 legally effective easement or real covenant pursuant to which the owner of the property  
23 authorizes the certificate holder's operation of the facility to increase ambient statistical  
24 noise levels  $L_{10}$  and  $L_{50}$  by more than 10 dBA at the appropriate measurement point. The  
25 legally-effective easement or real covenant must: include a legal description of the burdened  
26 property (the noise sensitive property); be recorded in the real property records of the  
27 county; expressly benefit the certificate holder; expressly run with the land and bind all  
28 future owners, lessees or holders of any interest in the burdened property; and not be  
29 subject to revocation without the certificate holder's written approval.

30 [Amendment #5, #6, #7]  
31

32 **(148)** During construction, operation, and retirement of the facility modifications approved in the Final  
33 Order on Amendment #6, the certificate holder shall contractually require its third-party  
34 contractor used to transport and dispose battery and battery waste to comply with all applicable  
35 federal regulations and manufacturer recommendations related to the transport and handling of  
36 battery related waste.

37 [Amendment #6, #7]  
38

39 **(149)** For the Vansycle II facility modifications, as approved in the Final Order on Amendment #6 and  
40 #7, the certificate holder shall:

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

45 [Amendment #6, #7]  
46

- 1 **(150)** For the Vansycle II facility modifications approved in the Final Order on Amendment #6 and  
2 #7 that would result in ground-disturbance, the certificate holder shall:  
3 (a) Prior to construction, provide a schedule to the Department that demonstrates ground-  
4 disturbing activities are scheduled to avoid the rainy season (Spring), to the extent feasible.  
5 (b) Prior to construction, ensure its contractors have contractually agreed to routinely check and  
6 maintain tire pressure for all equipment used during construction activities.  
7 (c) During construction, ensure contractors are regularly checking and maintaining tire pressure  
8 of construction equipment prior to use.  
9 (d) During construction, ensure contractors are minimizing compaction by limiting daily trips,  
10 using established tracks and disturbance areas, and taking measures to limit unnecessary  
11 trips and disturbance.

12 [Amendment #6, #7]  
13

- 14 **(151)** Prior to construction of the Vansycle II facility modifications approved in the Final Order on  
15 Amendment #6 and #7, the certificate holder shall develop and submit a Soil Reclamation Plan  
16 specific to temporary disturbance areas, used to inform the final assessment of soil erosion and  
17 compaction impact potential, and reclamation measures. The Soil Reclamation Plan shall be  
18 incorporated and implemented as part of the Final Revegetation Plan (Condition 65).  
19 (a) The Soil Reclamation Plan shall include updated soil classification maps with descriptions of  
20 soils impacted and may consider information including but not limited to: (1) key soil  
21 properties related to soil productivity such as bulk density, K-factor, the thickness and  
22 organic carbon of the A and B horizons, porosity, permeability, and water-holding capacity of  
23 the soils within disturbance areas; (2) existing vegetation cover type/invasive dominated  
24 areas based on literature review and preconstruction field surveys; (3) historic and current  
25 land use; and (4) seasonal precipitation conditions.  
26 (b) Based on the soil productivity information provided in (a), the certificate holder shall develop  
27 quantitative reclamation criteria that will be used to measure successful reclamation of  
28 disturbed soils.  
29 (c) The Soil Reclamation Plan must be submitted to the Department for review and approval, in  
30 consultation with Umatilla Soil and Water Conservation District Oregon Department of  
31 Agriculture, Natural Resource Conservation Service or a third-party consultant with expertise  
32 in soils.

33 [Amendment #6, #7]  
34

- 35 **(152)** For facility components approved in the Final Order on Amendment #6 and #7, the certificate  
36 holder shall:  
37 (a) Provide evidence to the Department of receipt of an amended conditional use permit from  
38 the Umatilla County Planning Department for new wind turbines, changes to access roads  
39 and/or access points, if constructed.  
40 (b) Obtain a zoning permit, per affected tax lot, for any new or modified structure in accordance  
41 with UCDC 152.025.

42 [Amendment #6, #7]  
43

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



- 1 (a) Prior to and during construction of the facility modifications approved in the Final Order on  
2 Amendment #6 and #7, as applicable, the certificate holder shall notify and provide copies of  
3 the final health and safety plans and/or emergency response plans to be implemented during  
4 construction activities to the Umatilla County Planning Department and the Department.  
5 (b) Prior to and during operation of the facility modifications approved in the Final Order on  
6 Amendment #6 and #7, as applicable, the certificate holder shall notify and provide copies of  
7 the final Emergency Action Plan to be implemented during operations to the Umatilla County  
8 Planning Department and the Department.  
9 [Amendment #6, #7]

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

19  
20 **(155)** Prior to construction of the facility modifications approved in the Final Order on Amendment #6  
21 and #7, the certificate holder shall provide to the Department evidence of landowner  
22 consultation for properties to be impacted by temporary and permanent disturbance.  
23 Consultation shall demonstrate that the certificate holder sought landowner input on extent and  
24 timing of disturbance and considered, to the maximum extent feasible from a technological and  
25 engineering perspective, methods to minimize unnecessary disturbance from construction and  
26 operation. The certificate holder shall provide a final design map of facility components approved  
27 in the Final Order on Amendment #6 and #7 and shall promptly notify the Department of any  
28 changes in design that would impact any disturbance minimization measures identified after  
29 landowner consultation.  
30 [Amendment #6, #7]

31  
32 **(156)** For facility modifications approved in the Final Order on Amendment #6, the certificate holder  
33 shall:  
34 (a) Prior to construction submit to the Department, a Noxious Weed Control Plan. The certificate  
35 holder shall submit the plan to the Department for review and approval, in consultation with  
36 the weed control board of Umatilla County. The Noxious Weed Control Plan shall include, as  
37 pertinent, but not be limited to, identification of county-listed weeds of economic concern,  
38 methods for evaluating weeds within impact area, results of weed assessment, and control  
39 methods specific to weed control and timing, agency consultation protocol, and process for  
40 evaluating success of weed control.  
41 (b) During both construction and operation, adhere to the requirements of the Noxious Weed  
42 Control Plan approved per (a).  
43 (c) During construction and operation, report on the results of implementation and monitoring  
44 of noxious weed control to the Department in the semi-annual and annual reports required  
45 per OAR 345-026-0080.  
46 [Amendment #6, #7]

1 **(157)** During ground-disturbance activities associated with the facility modifications approved in the  
2 Final Order on Amendment #6 and #7, located within 30 meters of site 35UM 000343, the  
3 certificate holder shall conduct monitoring by a qualified cultural resource expert, unless the site  
4 is concurred by SHPO to be not likely NRHP-eligible. If additional archeological resources are  
5 identified during ground disturbing activities within 30 meters of site 35UM 000343, the  
6 certificate holder shall conduct stop-work, reporting and response procedures in accordance with  
7 its Inadvertent Discovery Plan.  
8 [Amendment #6, #7]  
9

10 **(158)** Prior to construction of facility modifications approved in the Final Order on Amendment #6 and  
11 #7, the certificate holder shall provide to the Department a copy of an agreement or similar  
12 conveyance with a water service provider demonstrating agreement of water usage and service  
13 at the site. Certificate holder shall provide documentation that the water provider has a valid  
14 water right which allows for municipal water use within the place of use of the facility.  
15 [Amendment #6, #7]  
16

17 **XI. SUCCESSORS AND ASSIGNS**

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

20 **XII. SEVERABILITY AND CONSTRUCTION**

21  
22 If any provision of this agreement and certificate is declared by a court to be illegal or in conflict  
23 with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and  
24 obligations of the parties shall be construed and enforced as if the agreement and certificate did not  
25 contain the particular provision held to be invalid. In the event of a conflict between the conditions  
26 contained in the amended site certificate and the Council’s Final Order on the Application, or the Final  
27 Orders on Amendment #1, #2, #3, #4, #5, #6, or #7 the conditions contained in this amended site  
28 certificate shall control. [Amendment #1, #5, #6, #7]  
29

30 **XIII. GOVERNING LAW AND FORUM**

31  
32 This site certificate shall be governed by the laws of the State of Oregon. Any litigation or  
33 arbitration arising out of this agreement shall be conducted in an appropriate forum in Oregon.

DI

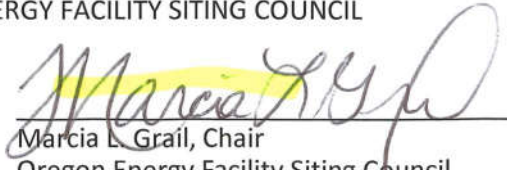
1 **XIV. EXECUTION**

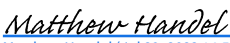
2  
3 This site certificate may be executed in counterparts and will become effective upon signature  
4 by the Chair of the Energy Facility Siting Council and the authorized representatives of the certificate  
5 holders. [Amendment #1]  
6

7 **IN WITNESS WHEREOF**, this site certificate has been executed by the State of Oregon, acting by and  
8 through its Energy Facility Siting Council, by FPL Energy Vansycle LLC and by FPL Energy Stateline II, Inc.  
9

ENERGY FACILITY SITING COUNCIL

FPL ENERGY VANSYCLE LLC

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

By:   
Matthew Handel (Jul 29, 2022 14:59 EDT)

Print: Matthew Handel

Date: 6-24-2022

Date: 29-Jul-2022

FPL ENERGY STATELINE II, INC.

By:   
Matthew Handel (Jul 29, 2022 14:59 EDT)

Print: Matthew Handel

Date: 29-Jul-2022