

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

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

May 2019

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

Oregon Energy Facility Siting Council

FIFTH AMENDED SITE CERTIFICATE FOR THE STATELINE WIND PROJECT

I. INTRODUCTION

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

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”), and (f) the Council’s Final Order in the Matter of the Request for Amendment #5 (“Final Order on Amendment #5”). [Amendments #1, #2, 3, #4, #5]

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

In interpreting this site certificate, any ambiguity will be clarified by reference to the following, in order of priority: this 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, and #5. [Amendments #1, #2, #3, #4, and #5]

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; AMD5]
2. This site certificate is effective until it is terminated under OAR 345-027-0110 or the rules in effect on the date that termination is sought or until the site certificate is revoked under ORS 469.440 and OAR 345-029-0100 or the statutes and rules in effect on the date that revocation is ordered. ORS 469.401(1). [AMD5]

- 1 3. This site certificate does not address, and is not binding with respect to, matters that were not
2 addressed in the Council’s Final Orders on the Application and Amendments #1, #2, #3, #4
3 and #5. These matters include, but are not limited to: building code compliance, wage, hour
4 and other labor regulations, local government fees and charges and other design or
5 operational issues that do not relate to siting the facility (ORS 469.401(4)) and permits issued
6 under statutes and rules for which the decision on compliance has been delegated by the
7 federal government to a state agency other than the Council. ORS 469.503(3). [Amendments #1,
8 #2, #3, #4, and #5]
- 9 4. The State and the certificate holders shall abide by local ordinances, state law and the rules of
10 the Council in effect on the date this site certificate is executed. ORS 469.401(2). In addition,
11 upon a clear showing of a significant threat to public health, safety or the environment that
12 requires application of later-adopted laws or rules, the Council may require compliance with
13 such later-adopted laws or rules. ORS 469.401(2). [Amendment #4; AMD5]
- 14 5. For a permit, license or other approval addressed in and governed by this site certificate, the
15 certificate holders shall comply with applicable state and federal laws adopted in the future to
16 the extent that such compliance is required under the respective state agency statutes and
17 rules. ORS 469.401(2). [Amendment #4; AMD5]
- 18 6. Subject to the conditions herein, this site certificate binds the State and all counties, cities and
19 political subdivisions in Oregon as to the approval of the site and the construction, operation
20 and retirement of the facility as to matters that are addressed in and governed by this site
21 certificate. ORS 469.401(3). [AMD5]
- 22 7. Each affected state agency, county, city and political subdivision in Oregon with authority to
23 issue a permit, license or other approval addressed in or governed by this site certificate shall,
24 upon submission of the proper application and payment of the proper fees, but without
25 hearings or other proceedings, issue such permit, license or other approval subject only to
26 conditions set forth in this site certificate. ORS 469.401(3). [AMD5]
- 27 8. After issuance of this site certificate, each state agency or local government agency that
28 issues a permit, license or other approval for the facility shall continue to exercise
29 enforcement authority over such permit, license or other approval. ORS 469.401(3). [AMD5]
- 30 9. After issuance of this site certificate, the Council shall have continuing authority over the site
31 and may inspect, or direct the Oregon Department of Energy (“Department”) to inspect, or
32 request another state agency or local government to inspect, the site at any time in order to
33 assure that the facility is being operated consistently with the terms and conditions of this site
34 certificate. ORS 469.430. [AMD5]

35 **III. DESCRIPTIONS AND DIVIDED RESPONSIBILITY**

36 **1. Stateline 1&2**

37 (i) Major Structures

38 Stateline 1&2 consists of 186 Vestas V47-660-kilowatt (kW) wind turbines, each having
39 a peak generating capacity of 0.66 MW.¹ Each wind turbine is connected to a 34.5-kilovolt (kV)
40 collector system. The wind turbines are grouped in “strings” of turbines, each turbine spaced

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

1 approximately 250 feet from the next, generally slightly downwind of the crest of ridges. Major
2 facility structures are further as described in the Final Orders on the Application and
3 Amendments #1 and #2. [Amendments #1, #2 and #4]

4 (ii) Related or Supporting Facilities

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

- 7 ■ Access roads to reach each turbine for construction and maintenance
- 8 ■ Underground collector cables that transmit the electrical output of the wind
9 turbines to a substation in Washington [Amendment #2]
- 10 ■ [Text added by Amendment #2 was deleted by Amendment #4]
- 11 ■ [Text added by Amendment #2 was deleted by Amendment #4]
- 12 ■ Meteorological towers
- 13 ■ A satellite operations and maintenance building

14 Access Roads

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

22 Collector System

23 The wind turbines generate power at 690 volts. A transformer adjacent to each tower
24 transforms the power to 34.5 kV. From the turbines, power is transmitted via an underground
25 34.5-kV collector system. Overhead transmission lines, located entirely within Washington,
26 connect the Washington substation to a BPA 115-kV transmission line north of the Walla Walla
27 River and to a PacifiCorp substation just north of Highway 12. [Amendments #1, #2 and #4]

28 Meteorological Towers

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

31 Satellite O&M Building

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

35 **2. Vansycle II²**

36 (i) Major Structures

37 Stateline 3 consists 43 Siemens 2.3-MW wind turbines. Stateline 3 has a combined peak
38 generating capacity of up to 98.9 MW. Major facility structures are further as described in the
39 Final Order on Amendment #4. [Amendment #4; AMD5]

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

1
2 Wind Turbine Repower
3

4 Wind turbine repowering includes removal and replacement of wind turbine hub (blade and
5 rotor) and gearbox (nacelles). Haul trucks, boom trucks and cranes are used to support
6 repowering activities. A crane is mobilized and new gearboxes, blades and hub are delivered
7 onsite. A boom truck or telehandler is used to unload and assemble new turbine blades and hub
8 into a complete rotor. Gearboxes and assembled hubs are set up on the access road adjacent to
9 the wind turbine. The crane is used to lower rotors and gearbox, which is then be place next to
10 the crane; and, then used to pick up and set the new rotor. Either a boom truck or telehandler is
11 used to disassemble the replaced rotor (blade and hub); materials are then transported offsite for
12 proper disposal at a licensed disposal or recycling facility. [AMD5]
13

14 (ii) Related or Supporting Facilities

15 Stateline 3 includes the following related or supporting facilities described below and in
16 greater detail in the Final Order on Amendment #4:

- 17 ■ Access roads to reach each turbine for construction and maintenance
- 18 ■ Underground collector cables that transmit the electrical output of the wind
19 turbines to a substation
- 20 ■ A substation
- 21 ■ A 230-kV transmission line
- 22 ■ Meteorological towers
- 23 ■ An operations and maintenance building
- 24 ■ Temporary laydown areas and access roads

25 [Amendment #4; AMD5]

26 Access Roads

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

33 Collector System, Substation and Transmission Line

34 The wind turbines generate power at 690 volts. A transformer adjacent to each tower
35 transforms the power to 34.5 kV. From the turbines, power is transmitted via an underground
36 34.5-kV collector system to a substation located in Township 5 North, Range 34 East.
37 Approximately 16 miles of aboveground 230-kV transmission line (13 miles in Oregon) connects
38 the Stateline 3 substation to existing major transmission lines in Washington. [Amendment #4]

39 Meteorological Towers

40 Stateline 3 includes two permanent meteorological (met) towers. The met towers are
unguyed towers. [Amendment #4]

1 O&M Building

2 Stateline 3 includes an O&M building near the intersection of Wayland Road and
3 Gerking Flat Road north of Helix. [Amendment #4]

4 Temporary Laydown Areas and Access Roads

5
6 Temporary laydown or staging areas used during construction of facility modifications
7 approved in the Fifth Amended Site Certificate are located at each tower location (approximately
8 1.4 acres of temporary disturbance at up to 43 wind turbine locations, totaling approximately 60
9 acres), and an additional 20-acre staging area is used for temporary equipment storage and
10 parking.

11
12 Temporary access roads used during construction of facility modifications approved in the
13 Fifth Amended Site Certificate include approximately 15 miles of existing 16-foot access roads,
14 temporarily widened to 33 feet plus an additional 3 feet of should on each side (or 39 feet total
15 and approximately 42 acres total).

16
17 Temporary road widening uses the same design specifications (e.g., graded level to the
18 current road profile) as the existing road. Temporary widening of the access roads prior to
19 construction generally consists of clearing vegetation by mowing and minor grading of the
20 road.

21 [AMD5]

22 **3. Location of the Facility**

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

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

29 FPL Vansycle shall be individually responsible for compliance with all conditions
30 relating to Stateline 1&2, and FPL Stateline shall not be jointly responsible for such compliance.
31 FPL Stateline shall be individually responsible for compliance with all conditions relating to
32 Vansycle II and FPL Vansycle shall not be jointly responsible for such compliance. If the
33 Council or the Oregon Department of Energy (“Department”) determines that a violation of the
34 Site Certificate or any Council order pertaining to the facility may have occurred, the Council or
35 the Department may direct appropriate inquiries to the responsible entity. If the Council or the
36 Department is unable to determine which entity is responsible, the Council or the Department
37 may direct appropriate inquiries to both entities. [Amendment #4; AMD5]

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

39 This section lists conditions specifically required by OAR 345-027-0020 (Mandatory
40 Conditions in Site Certificates), OAR 345-027-0023 (Site Specific Conditions), OAR 345-027-
41 0028 (Monitoring Conditions) and in OAR Chapter 345, Division 26 (Construction and
42 Operation Rules for Facilities). These conditions should be read together with the additional

1 specific facility conditions in section V to ensure compliance with the siting standards of OAR
2 Chapter 345, Divisions 22 and 24 and to protect the public health and safety. [Amendments #1 and
3 #4]

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

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

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

1. General Conditions

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

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

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

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

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

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

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

25 See conditions (24), (97) and (106). [Amendment #4]

26 (4) The certificate holder shall prevent the development of any conditions on the site that
27 would preclude restoration of the site to a useful, non-hazardous condition to the extent that
28 prevention of such site conditions is within the control of the certificate holder. (345-027-
29 0020(7))

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

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

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

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

1 (b) The certificate holder shall develop and implement a program that provides
2 reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or
3 structures of a permanent nature that could become inadvertently charged with electricity
4 are grounded or bonded throughout the life of the line. (OAR 345-027-0023(6)) [Amendment
5 #4]

6 **(7)** The following general monitoring conditions apply:

7 (a) The certificate holder shall consult with affected state agencies, local governments
8 and tribes and shall develop specific monitoring programs for impacts to resources
9 protected by the standards of divisions 22 and 24 of OAR Chapter 345 and resources
10 addressed by applicable statutes, administrative rules and local ordinances. The certificate
11 holder must submit the monitoring programs to the Department of Energy and receive
12 Department approval before beginning construction or, as appropriate, operation of the
13 facility.

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

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

20 (d) If the certificate holder becomes aware of a significant environmental change or
21 impact attributable to the facility, the certificate holder shall, as soon as possible, submit a
22 written report to the Department describing the impact on the facility and any affected site
23 certificate conditions.

24 (OAR 345-027-0028) [Amendment #4]

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

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

27 (i) Within six months after beginning construction, and every six months thereafter
28 during construction of the energy facility and related or supporting facilities, the certificate
29 holder shall submit a semiannual construction progress report to the Department of Energy.
30 In each construction progress report, the certificate holder shall describe any significant
31 changes to major milestones for construction. The certificate holder shall include such
32 information related to construction as specified in the site certificate. When the reporting
33 date coincides, the certificate holder may include the construction progress report within the
34 annual report described in this rule;

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

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

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

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

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

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

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

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

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

21 (v) Monitoring Report: A list and description of all significant monitoring and
22 mitigation activities performed during the previous year in accordance with site certificate
23 terms and conditions, a summary of the results of those activities, and a discussion of any
24 significant changes to any monitoring or mitigation program, including the reason for any
25 such changes.

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

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

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

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

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

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

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

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

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

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

18 (OAR 345-027-0020(5)) [Amendment #4]

19 (12) Following receipt of a site certificate or an amended site certificate, the certificate holder
20 shall implement a plan that verifies compliance with all site certificate terms and conditions
21 and applicable statutes and rules. As a part of the compliance plan, to verify compliance
22 with the requirement to begin construction by the date specified in the site certificate, the
23 certificate holder shall report promptly to the Department of Energy when construction
24 begins. Construction is defined in OAR 345-001-0010. In reporting the beginning of
25 construction, the certificate holder shall describe all work on the site performed before
26 beginning construction, including work performed before the Council issued the site
27 certificate, and shall state the cost of that work. For the purpose of this exhibit, “work on
28 the site” means any work within a site or corridor, other than surveying, exploration or
29 other activities to define or characterize the site or corridor. The certificate holder shall
30 document the compliance plan and maintain it for inspection by the Department or the
31 Council. (OAR 345-026-0048) [Amendment #4]

32 (13) The certificate holder shall submit a legal description of the site to the Department of
33 Energy within 90 days after beginning operation of the facility. The legal description
34 required by this rule means a description of metes and bounds or a description of the site by
35 reference to a map and geographic data that clearly and specifically identifies the outer
36 boundaries that contain all parts of the facility. (OAR 345-027-0020(2)) [Amendment #4]

37 See Condition (84).

38 (14) If the Council requires mitigation based on an affirmative finding under any standards of
39 Division 22 or Division 24 of this chapter, the certificate holder shall consult with affected
40 state agencies and local governments designated by the Council and shall develop specific
41 mitigation plans consistent with Council findings under the relevant standards. The
42 certificate holder must submit the mitigation plans to the Office and receive Office approval
43 before beginning construction or, as appropriate, operation of the facility. (OAR 345-027-
44 0020(6))

1 (15) Before beginning construction of the facility, the certificate holder shall submit to the State
2 of Oregon, through the Council, a bond or letter of credit in a form and amount satisfactory
3 to the Council. The certificate holder shall maintain the bond or letter of credit in effect at
4 all times until the facility has been retired. The Council may specify different amounts for
5 the bond or letter of credit during construction and during operation of the facility. (OAR
6 345-027-0020(8))

7 See Conditions (80) and (109).

8 [Amendment #4]

9 3. Conditions That Apply During Construction

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

15 (17) The certificate holder shall notify the Department, the State Building Codes Division and
16 the Department of Geology and Mineral Industries promptly if site investigations or
17 trenching reveal that conditions in the foundation rocks differ significantly from those
18 described in the application for a site certificate. After the Department receives the notice,
19 the Council may require the certificate holder to consult with the Department of Geology
20 and Mineral Industries and the Building Codes Division and to propose mitigation actions.
21 (OAR 345-027-0020(13)) [Amendment #4]

22 (18) The certificate holder shall notify the Department, the State Building Codes Division and
23 the Department of Geology and Mineral Industries promptly if shear zones, artesian
24 aquifers, deformations or clastic dikes are found at or in the vicinity of the site. (OAR 345-
25 027-0020(14)) [Amendment #4]

26 4. Conditions That Must Be Met Before Operation Begins

27 (19) The certificate holder shall retire the facility if the certificate holder permanently ceases
28 construction or operation of the facility. The certificate holder shall retire the facility
29 according to a final retirement plan approved by the Council, as described in OAR 345-
30 027-0110. The certificate holder shall pay the actual cost to restore the site to a useful, non-
31 hazardous condition at the time of retirement, notwithstanding the Council's approval in the
32 site certificate of an estimated amount required to restore the site. (OAR 345-027-0020(9))
33 [Amendment #4]

34 (20) Upon completion of construction, the certificate holder shall restore vegetation to the extent
35 practicable and shall landscape portions of the site disturbed by construction in a manner
36 compatible with the surroundings and proposed use. Upon completion of construction, the
37 certificate holder shall remove all temporary structures not required for facility operation
38 and dispose of all timber, brush, refuse and flammable or combustible material resulting
39 from clearing of land and construction of the facility. (OAR 345-027-0020(11)) [Amendment
40 #4]

41 (21) If the proposed energy facility is a pipeline or a transmission line or has, as a related or
42 supporting facility, a pipeline or transmission line, the Council shall specify an approved

1 corridor in the site certificate and shall allow the certificate holder to construct the pipeline
2 or transmission line anywhere within the corridor, subject to the conditions of the site
3 certificate. If the applicant has analyzed more than one corridor in its application for a site
4 certificate, the Council may, subject to the Council’s standards, approve more than one
5 corridor. (OAR 345-027-0023(5)) [Amendment #4]

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

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

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

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

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

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

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

16 **V. SPECIFIC FACILITY CONDITIONS**

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

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

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

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

29 **1. General Conditions**

30 **(24)** This condition applies to Stateline 1 only. The certificate holder shall begin construction of
31 Stateline 1 within one year after the effective date of the site certificate. The certificate
32 holder shall complete construction of Stateline 1 on or before two years from the effective
33 date of the site certificate. Under OAR 345-015-0085(9), a site certificate is effective upon
34 execution by the Council Chair and the applicant. Completion of construction occurs upon
35 the date commercial operation of Stateline 1 begins. The Council may grant an extension of
36 the construction beginning or completion deadlines in accordance with OAR 345-027-0030
37 or any successor rule in effect at the time the request for extension is submitted. [Amendment
38 #4]

39 See condition (3).

- 1 (25) Within 72 hours of discovery of conditions or circumstances that may violate the terms or
2 conditions of the site certificate, the certificate holder shall report the conditions or
3 circumstances to the Department of Energy. (OAR 345-027-0020(3)) [Amendment #4]
- 4 (26) Notwithstanding OAR 345-027-0050(2), an amendment of the site certificate is required if
5 the proposed change would increase the electrical generation capacity of the facility and
6 would increase the number of wind turbines or the dimensions of existing wind turbines.
7 (OAR 345-027-0020(3))
- 8 (27) [Condition removed by Amendment #4]
- 9 (28) The certificate holder shall report promptly to the Department of Energy any change in its
10 corporate relationship with NextEra Energy Resources LLC. The certificate holder shall
11 report promptly to the Department any change in its access to the resources, expertise and
12 personnel of NextEra Energy Resources LLC. (App A-3, D-2, OAR 345-022-0010)
13 [Amendment #4; AMD5]
- 14 (29) The certificate holder shall inspect and maintain all roads, pads and trenched areas to
15 minimize erosion. (App B-11) [AMD5]
- 16 (30) The certificate holder shall carry out weed control and reseedling as necessary for the life of
17 the facility, in consultation with the weed control board of Umatilla County. (App B-11)
18 [AMD5]
- 19 (31) The certificate holder shall not store fuel or chemicals in Oregon. (App B-12)
- 20 (32) The certificate holder shall use hazardous materials in a manner that is protective of human
21 health and the environment and shall comply with all applicable local, state, and federal
22 environmental laws and regulations. The certificate holder shall make sure that accidental
23 releases of hazardous materials will be prevented or minimized through the proper
24 containment of these substances during transportation and use on the site. The certificate
25 holder shall make sure that any oily waste, rags or dirty or hazardous solid waste will be
26 collected in sealable drums and removed for recycling or disposal by a licensed contractor.
27 The certificate holder shall have spill kits containing items such as absorbent pads on
28 equipment and in storage facilities to respond to accidental spills. If an accidental hazardous
29 materials spill or release occurs, the certificate holder shall clean up the spill or release and
30 shall treat or dispose of contaminated soil or other materials according to applicable
31 regulations. (App G-2, V-3) [AMD5]
- 32 (33) The certificate holder shall provide to the Department of Energy a copy of the contract with
33 the Milton-Freewater Rural Fire Department for fire protection services during construction
34 and operation of the facility before beginning construction. (App U-25) [Amendment #4;
35 AMD5]
- 36 (34) During construction and operation of the facility, the certificate holder shall have water-
37 carrying trailers (“water buffaloes”) at appropriate locations around the facility. The
38 certificate holder shall bring a water buffalo to any job site where there is a substantial risk
39 of fire. The certificate holder shall coordinate with the fire chiefs of the Helix and Milton-
40 Freewater Rural Fire Departments as to the number, capacity and location of the water
41 buffaloes. The certificate holder shall make sure that each water buffalo has a minimum
42 capacity of 350 gallons with sufficient pump and hose equipment, as approved by the local
43 fire chiefs. The certificate holder shall have service trucks and pickup trucks capable of

1 towing water buffaloes available in sufficient numbers at all times during construction and
2 operation of the facility. (App B-12) [AMD5]

3 **(35)** The certificate holder shall take steps to protect the facility and property from unauthorized
4 access and to reduce the risk of accidental injury during construction and operations by
5 (App U-25, 26) [Amendment #3; AMD5]:

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

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

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

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

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

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

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

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

19 **(36)** The certificate holder shall notify the Department of Energy and the Umatilla County
20 Planning Department of any accidents including mechanical failures on the site associated
21 with the operation of the wind power facility that may result in public health and safety
22 concerns. (ORS 469.310) [Amendment #4; AMD5]

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

24 (a) Design, construct and operate a facility consisting of the major structures and related
25 or supporting facilities described in the Site Certificate. [Amendments #1, #2 and #4]

26 (b) Group the turbines in strings of 2 to 37. [Amendments #1, #2 and #4]

27 (c) Construct each turbine to be not more than 263 feet tall at the turbine hub and with a
28 total height of not more than 416 feet with the nacelle and blades mounted (App B-5)
29 [Amendment #4]⁴

30 (d) Mount nacelles on smooth, hollow steel towers. [Amendment #4]

31 (e) Paint all towers uniformly in a neutral light gray or white color. [Amendments #2 and #4]

32 (f) Not allow any advertising to be used on any part of the facility or on any signs posted
33 at the facility, except that the turbine manufacturer's logo may appear on turbine nacelles.

34 (App BB-2)

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

37 (i) The Stateline 1&2 satellite operations and maintenance building may have a small
38 amount of low-impact exterior lighting for security purposes (App BB-2).

39 (ii) Low-impact lighting may be used for occasional nighttime repairs, operations or
40 maintenance at the substation (at other times this lighting would be turned off).

41 (iii) Security lighting may be used at the Vansycle II O&M building and substation if
42 it is shielded or downward-directed to reduce glare.

43 [Amendments #2 and #4]

⁴ See also site certificate Condition 137.

1 (h) Use only those signs required for facility safety or required by law and comply with
2 Umatilla County design requirements for signs as described in UCDC Sections 152.545
3 through 152.548. (App BB-2) [Amendment #4]

4 (i) Design and construct the operation and maintenance building to be generally
5 consistent with the character of similar buildings used by commercial farmers or ranchers.
6 Upon retirement of the energy facility, the operations and maintenance building must be
7 removed or converted to farm use, in accordance with Condition 19. [Amendment #3 and #4]

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

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

14 See condition (55).

15 **(40)** In constructing and operating the facility, the certificate holder shall make reasonable
16 efforts not to disturb the farming and ranching activities on adjacent lands. (App K-6)
17 [AMD5]

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

27 See Condition (2).

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

29 **(42)** The certificate holder shall notify the Department of Energy in advance of any initial road
30 improvement work that does not meet the definition of “construction” in OAR 345-001-
31 0010(10) or ORS 469.300(6) and shall provide to the Department plans of the work and
32 evidence that its value is less than \$250,000. (App B-21) [Amendment #4; AMD5]

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

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

40 **(45)** The certificate holder shall videotape all Umatilla County roads used as access to the
41 facility and shall require construction contractors to enter into a written agreement with

1 Umatilla County stating that all roads used by the contractor will be restored to as good or
2 better condition than they were before construction. (App U-24)

3 **(46)** The certificate holder shall notify the Department of Energy of the identity and
4 qualifications of major construction contractors for the facility. The certificate holder shall
5 select major construction contractors based on a proven record of environmental
6 compliance and stewardship, a clean record in terms of other regulatory obligations and
7 other appropriate factors. (App D-3, 4) [Amendment #4; AMD5]

8 **(47)** The certificate holder shall contractually require all construction contractors and
9 subcontractors involved in the construction of the facility to comply with all applicable
10 laws and regulations and with the terms and conditions of the site certificate. Such
11 contractual provisions shall not operate to relieve the certificate holder of responsibility
12 under the site certificate.

13 See condition (2). [AMD5]

14 **(48)** The certificate holder shall require that all on-site construction contractors prepare a site
15 health and safety plan before beginning construction activities. The certificate holder shall
16 ensure that the plan informs employees and others onsite what to do in case of emergencies
17 and includes the locations of fire extinguishers and nearby hospitals, important telephone
18 numbers and first aid techniques. (App U-25) [AMD5]

19 **(49)** The certificate holder shall design the facility in accordance with seismic design provisions
20 given in the Oregon Building Code. The certificate holder shall identify localized areas of
21 S_C and S_D soil types and assure that any structures to be built in those areas are designed
22 according to the code. The certificate holder shall design all components constructed after
23 2008 to meet the current Oregon Structural Specialty Code (OSSC 2007) and the 2006
24 International Building Code. [Amendment #4; AMD5]

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

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

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

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

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

3 [Amendment #4]

4 **(51)** In modifying slope angles for roads or other facilities, the certificate holder shall assure that
5 the foundation designer has achieved a factor of safety of 1.5 or greater for permanent
6 structures and a factor of safety of 1.3 or greater for temporary structures. (OAR 345-022-
7 0020)

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

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

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

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

14 **(53)** This condition does not apply to Stateline 2. The certificate holder shall survey the status of
15 known Swainson's hawk nests within the vicinity of proposed construction before the
16 projected date for construction to begin. If active nests are found, and construction is
17 scheduled to begin before the end of the sensitive nesting and breeding season (June 1 to
18 August 31), the certificate holder shall develop a no-construction buffer in consultation
19 with ODFW and shall not engage in construction activities within the buffer until the
20 sensitive season has ended. If construction continues into the sensitive nesting and breeding
21 season for the following year, the certificate holder shall not engage in construction
22 activities within the buffer around active nests until the sensitive season has ended.
23 [Amendments #2,#4; AMD5]

24 **(54)** This condition does not apply to Stateline 2. The certificate holder shall conduct appropriate
25 pre-construction nest surveys for burrowing owls if construction is scheduled to occur
26 during the sensitive period (March 15 to August 30). The certificate holder shall leave a no-
27 construction buffer, developed in consultation with ODFW, around any active nests during
28 the sensitive period. [Amendments #2,#4, AMD5]

29 **(55)** This condition does not apply to Stateline 2. The certificate holder shall conduct pre-
30 construction surveys for state-listed threatened, endangered or candidate plant species in all
31 areas not included in earlier botanical surveys of the analysis area. If any listed plants are
32 found, the certificate holder will notify the Department of Energy and consult with the
33 Oregon Department of Agriculture regarding appropriate measures to protect the species
34 and mitigate for impacts from construction, operation and retirement of the facility. (App
35 Q-7) [Amendment #4; AMD5]

36 **(56)** This condition does not apply to Stateline 2. The certificate holder shall conduct appropriate
37 pre-construction surveys for the presence of Washington ground squirrels in construction
38 zones that have suitable habitat. Construction zones include the areas of permanent and
39 temporary disturbance and a 175-foot surrounding buffer in which there may be incidental
40 construction impacts. If squirrel activity is found, the certificate holder shall notify the
41 Department of Energy and develop an appropriate no-construction buffer and other
42 appropriate mitigation measures in consultation with the Department and ODFW. In
43 addition, the certificate holder shall map and stake sensitive areas to be avoided during
44 construction as required by Condition (63). [Amendments #2,#4; AMD5]

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

2 **(57)** The certificate holder shall report to the Council any change of major construction
3 contractors.

4 See condition (8).

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

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

8 (b) Using diesel vehicles whenever possible to prevent potential ignition by catalytic
9 converters.

10 (c) Avoiding idling vehicles in grassy areas.

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

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

14 (f) Making sure that fire-fighting equipment is available at all active parts of the job site.
15 [AMD5]

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

20 **(60)** The certificate holder shall conduct all construction work in compliance with an Erosion
21 and Sediment Control Plan (ESCP) satisfactory to the Oregon Department of
22 Environmental Quality and as required under the facility's National Pollutant Discharge
23 Elimination System (NPDES) Construction Stormwater Permit. The certificate holder shall
24 include in the ESCP any procedures necessary to meet local erosion and sediment control
25 requirements or stormwater management requirements. (App B-7, 13, E-3, P-41) [AMD5]

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

28 (a) Maintaining vegetative buffer strips between the areas impacted by construction
29 activities and any receiving waters.

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

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

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

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

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

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

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

40 (i) Installing sediment fencing along the downslope side of construction equipment
41 staging areas.

42 (j) Seeding all areas that are impacted by construction and reseeding as necessary to
43 establish a healthy cover crop.

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

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

5 (m) Scarifying and reseeding compacted areas after construction is completed.

6 (n) Using appropriate erosion control methods to limit soil loss due to water and wind
7 action.

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

10 (p) Using water for dust suppression during construction. (App O-1)
11 [AMD5]

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

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

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

25 (b) Minimizing road construction and vehicle use where possible.

26 (c) Posting speed limit signs throughout the construction zone.

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

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

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

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

39 [AMD5]

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

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

45 (a) Avoiding vegetation removal wherever possible.

- 1 (b) Limiting construction activities to within public road right-of-ways where possible.
- 2 (c) Using best management practices to prevent erosion of soil into stream channels.
- 3 (d) Controlling invasive, weedy plant species during maintenance of project facilities.
- 4 (e) Restoring temporarily disturbed sites to pre-construction condition or better with
- 5 native seed mixes as described for temporarily disturbed areas in the *Revegetation Plan*
- 6 included in the Final Order on Amendment #4 as Attachment B and as revised from time to
- 7 time. [Amendments #1 and #4]
- 8 (f) Developing re-vegetation plant mixes and habitat enhancement locations in
- 9 consultation with ODFW and the Umatilla County weed control board.
- 10 (g) Monitoring re-vegetated areas to ensure successful establishment of new vegetation.
- 11 (h) Monitoring turbine strings, roads and other disturbed areas regularly to prevent the
- 12 spread of noxious weeds.
- 13 (i) Developing measures to reduce the potential spread of noxious weeds in consultation
- 14 with the weed control board of Umatilla County.
- 15 [AMD5]

16 **(66)** This condition applies to Stateline 1 only. To mitigate for the permanent elimination of one-

17 half acre of Category 2 habitat, the certificate holder shall control weeds and enhance

18 habitat of one acre of weed-infested upland habitat with native plants. The certificate holder

19 shall carry out enhancement activities as described for habitat enhancement areas in the

20 *Revegetation Plan* referenced in Condition 65. The certificate holder shall acquire the legal

21 right to create and maintain the enhancement area for the life of the facility by means of an

22 outright purchase, conservation easement or similar conveyance and shall provide a copy of

23 the documentation to the Department of Energy. The certificate holder shall determine the

24 location of this habitat enhancement area in consultation with ODFW and landowners.

25 (App P-44) [Amendments #1 and #4]

26 **(67)** This condition does not apply to Stateline 3. To mitigate for the permanent elimination of

27 approximately 48 acres of Category 3 habitat, the certificate holder shall control weeds and

28 enhance habitat on an equal area of weed-infested land in the project vicinity. The

29 certificate holder shall carry out enhancement activities as described for habitat

30 enhancement areas in the *Revegetation Plan* referenced in Condition 65. The certificate

31 holder shall acquire the legal right to create and maintain the enhancement area for the life

32 of the facility by means of an outright purchase, conservation easement or similar

33 conveyance and shall provide a copy of the documentation to the Department of Energy.

34 The certificate holder shall determine the location of this habitat enhancement area in

35 consultation with ODFW and landowners. (App P-44) [Amendments #1 and #4]

36 **(68)** To minimize impacts to temporarily disturbed Category 6 habitat areas, the certificate

37 holder shall use measures including but not limited to the following (App P-45):

- 38 (a) Replacing agricultural topsoil to its pre-construction condition.
- 39 (b) Using best management practices to prevent loss of topsoil during construction.
- 40 (c) Reseeding native habitats with a native seed mix that includes at least some seed
- 41 collected from the area as described for temporarily disturbed habitats in the *Revegetation*
- 42 *Plan* referenced in Condition 65. [Amendments #1 and #4]
- 43 (d) Controlling noxious weeds in areas disturbed by construction activities.
- 44 [AMD5]

- 1 (69) The certificate holder shall not place any part of the facility within any Washington ground
2 squirrel (WGS) colony or on potential Washington ground squirrel burrows. The certificate
3 holder shall have an on-site wildlife monitor who will flag habitat required for WGS
4 survival (Category 1), conduct pre-construction surveys to determine the distribution of
5 WGS in the area and ensure that construction personnel do not enter the area. The monitor
6 shall conduct post construction monitoring to document distribution of the WGS in the area.
7 [Amendments #2,#4; AMD5]
- 8 (70) To reduce potential injury or fatality of migratory birds, the certificate holder shall (App Q-
9 10):
10 (a) Locate turbines away from saddles in long ridges.
11 (b) Locate turbines on the top or slightly downwind side of distinct ridges and set back
12 from the upwind (prevailing) side.
13 (c) Use monopole design for all turbine and meteorological towers.
- 14 (71) The certificate holder shall implement a waste management plan during construction that
15 includes but is not limited to the following measures (App V-2):
16 (a) Collecting steel scrap and transporting it to a recycling facility.
17 (b) Recycling wood waste to the greatest extent feasible, depending on size and quantity
18 of scrap or leftover materials.
19 (c) Using concrete waste as fill on-site or at another site or, if no reuse option is available,
20 transporting it to a local landfill.
21 (d) Recycling packaging wastes (such as paper and cardboard).
22 (e) Collecting non-recyclable waste and transporting it to a local landfill.
- 23 (72) The certificate holder shall require that disposal of waste concrete on-site is conducted in
24 accordance with OAR 340-093-0080, other applicable regulations and this condition. The
25 construction contractor may bury waste concrete on-site with the permission of the
26 landowner in the following manner: by placing the waste concrete in an excavated hole,
27 covering it with at least three feet of topsoil and grading the area to match existing contours
28 so that all buried concrete is at least three feet below grade. (App V-3, 4).
- 29 (73) The certificate holder shall provide portable toilets for onsite sewage handling during
30 construction and make sure that they are pumped and cleaned regularly by a licensed
31 pumper who is qualified to pump and clean portable toilet facilities. The certificate holder
32 shall minimize the generation of wastes from construction through detailed estimating of
33 materials needs and through efficient construction practices. The certificate holder shall
34 recycle any wastes generated during construction as much as feasible and shall collect any
35 non-recyclable wastes and transport such wastes to a local landfill. (App B-13, G-3, V-2)
36 [AMD5]
- 37 (74) The certificate holder shall have a full-time on-site assistant construction manager, qualified
38 in environmental compliance and familiar with all site certificate conditions, to observe
39 contractor waste management practices and to assure compliance with applicable
40 regulations and construction site policy. (App V-4) [AMD5]
- 41 (75) The certificate holder shall post high-visibility no-entry barriers around recorded cultural
42 and archaeological sites and shall to ensure that construction workers stay away from the
43 vicinity of the sites. The certificate holder shall locate barriers to create a buffer with a
44 minimum width of 30 meters between the sites and construction activities. The certificate

1 holder shall have a qualified cultural resource expert to monitor the avoidance of the no-
2 entry areas by construction workers and to monitor ground disturbing activities. The
3 certificate holder shall select a cultural resource expert chosen by the Confederated Tribes
4 of the Umatilla Indian Reservation, if available, or shall select a qualified cultural resource
5 expert, subject to Department approval, to conduct the monitoring. [Amendment #4]

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

16 **(77)** The certificate holder shall include traffic control procedures in contract specifications for
17 construction of the facility. The certificate holder shall require flaggers to be at appropriate
18 locations at appropriate times during construction to direct traffic and to ensure minimal
19 conflicts between harvest and construction vehicles. (App U-24) [AMD5]

20 **(78)** The certificate holder shall confine the noisiest construction activities to the daylight hours.
21 (App X-8) [AMD5]

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

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

29 **(80)** This condition applies to Stateline 1&2 only. Within 90 days after the effective date of the
30 Fourth Amended Site Certificate, the certificate holder shall submit to the State of Oregon
31 through the Council a bond or letter of credit in the amount of \$6.160 million (1st Quarter
32 2009 dollars), to be adjusted to the date of issuance as described in (a), naming the State of
33 Oregon, acting by and through the Council, as beneficiary or payee.
34

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

3 (i) Adjust the Subtotal (1st Quarter 2009 dollars) shown in Table 1 of the Final Order
4 on Amendment #4 to present value, using the U.S. Gross Domestic Product Implicit Price
5 Deflator, Chain-Weight, as published in the Oregon Department of Administrative
6 Services' "Oregon Economic and Revenue Forecast," or by any successor agency (the
7 "Index"), and using the index value for 1st Quarter 2009 dollars and the quarterly index
8 value for the date of issuance of the new bond or letter of credit. If at any time the Index is
9 no longer published, the Council shall select a comparable calculation to adjust 1st Quarter
10 2009 dollars to present value.

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

13 (iii) Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration and
14 project management costs and 10 percent of the adjusted Gross Cost (ii) for the adjusted
15 future developments contingency.

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

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

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

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

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

27 See Conditions (19) and (41).

28 [Amendment #4]

29 **(81)** After construction is complete, the certificate holder shall restore the county roads to at
30 least their pre-project condition, to the satisfaction of the county public works department.
31 (App B-6, 9) [AMD5]

32 **(82)** The certificate holder shall grade and reseed laydown areas to wheat or native grasses as
33 necessary to restore those areas to their pre-construction condition (App B-10). [AMD5]
34

1 (83) For any materials disposed of as fill on site, the certificate holder shall conduct such
2 disposal with the approval of the landowner and in accordance with OAR 340-093-0080
3 and other applicable regulations. (App G-3, V-3) [AMD5]

4 (84) For the purposes of this site certificate, wind turbine tower locations are analogous to
5 location of permanent rights-of-way for pipelines or transmission lines as described in OAR
6 345-027-0023(5). The Council approves the corridor described in the final order for
7 construction of turbine strings. As required under OAR 345-027-0020(2) and Condition 13,
8 the certificate holder shall submit to the Department of Energy a legal description of the
9 location where the certificate holder has built turbine towers and other parts of the facility.
10 Within 90 days after beginning operation of any turbines that are added to the facility by
11 amendment of the site certificate, the certificate holder shall submit to the Department a
12 legal description of the location of any additional turbine towers and related or supporting
13 facilities allowed by the amendment. The site of the facility is the area identified by the
14 legal descriptions required by this condition. Within 90 days after beginning facility
15 operation, the certificate holder shall provide to the Department and the Umatilla County
16 Planning Department the actual latitude and longitude location or Stateplane NAD 83(91)
17 coordinates of each turbine tower, connecting lines and transmission lines and a summary
18 of as built changes in the facility from the original plan. (OAR 345-027-0020(2) and (3))
19 [Amendments #1 and #4]

20 See Condition (13).

21 5. Conditions That Must Be Met During Operation

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

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

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

34 (88) If the turbine blades need to be washed, the certificate holder shall use no more than 500
35 gallons of water per turbine, trucked to the site by a contractor and purchased from a source
36 with a valid water right. The certificate holder shall use high-pressure cold water only and
37 shall not use chemicals or additives in the wash water. (App O-2) [Amendment #1]

38 (89) If any new nesting or denning sites for wildlife species of concern are located, the
39 certificate holder shall prepare maps indicating off-limit areas. In addition, the certificate
40 holder shall minimize road construction and vehicle use where possible. (P-42)

41 (90) The certificate holder shall mitigate possible impacts to wildlife by measures including but
42 not limited to the following (App P-43, Q-10):

1 (a) Instructing all personnel on sensitive wildlife of the area and on required precautions
2 to avoid injuring or destroying wildlife.

3 (b) Instructing all personnel to watch out for wildlife while driving through the project
4 area, to maintain reasonable driving speeds so as not to harass or accidentally strike wildlife
5 and to be particularly cautious and drive at slower speeds in a period from one hour before
6 sunset to one hour after sunrise when some wildlife species are the most active.

7 (c) Requiring all personnel to report any injured or dead wildlife detected at the facility
8 site.

9 **(91)** The certificate holder shall mitigate possible impacts to fish and wildlife habitat by
10 measures including but not limited to the following (App P-43, Q-10):

11 (a) Using best management practices to prevent erosion of soil into stream channels.

12 (b) Controlling invasive, weedy plant species during maintenance of project facilities.

13 (c) Monitoring re-vegetated areas to ensure successful establishment of new vegetation.

14 **(92)** The certificate holder shall mitigate potential adverse impacts to soils from erosion by
15 measures including but not limited to the following (App I-3 through 5):

16 (a) Using drainage collection procedures to capture surface water that collects on, and
17 drains from, gravel surfaces or structures as a result of precipitation and routing the water to
18 drainage ditches lined with quarry stone or other similar materials.

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

21 (c) If areas of erosion are observed during operation, implementing mitigation and
22 reclamation measures.

23 **(93)** The certificate holder shall conduct wildlife monitoring as described in the *Wildlife*
24 *Monitoring and Mitigation Plan (WMMP)*, included in the Final Order on Amendment #5
25 as Attachment G and as revised from time to time. Subject to approval by the Department
26 of Energy as to professional qualifications, the certificate holder shall hire qualified wildlife
27 consultants to carry out the monitoring.

28 The certificate holder shall conduct 1-year of post-construction fatality monitoring in
29 accordance with the protocol included in the WMMP following completion of construction
30 activities for the Vansycle II facility modifications, as approved in the Fifth Amended Site
31 Certificate. Additional fatality monitoring studies and necessity of additional mitigation
32 shall be determined based on the results of the 1-year post construction fatality monitoring
33 study.

34 (OAR 345-022-0060) [Amendments #1, #4; AMD5]

35 **(94)** If analysis of monitoring data indicates impacts to wildlife or wildlife habitat that the
36 certificate holder has not adequately addressed by mitigation and if these impacts result in a
37 loss of habitat quantity or quality, the certificate holder shall mitigate for the loss of habitat
38 quality by measures approved by the Oregon Department of Energy. (OAR 345-022-0060)
39 [Amendment #4; AMD5]

40 **(95)** The certificate holder shall inspect turbine blades on a regular basis for signs of wear or
41 potential failure. (App BB-1) [AMD5]

42 **(96)** The certificate holder shall make sure that all on-site employees receive annual fire
43 prevention and response training by a professional fire-safety training firm. The certificate

1 holder shall prohibit employees from smoking outside of company vehicles during dry
2 summer months and shall require employees to keep vehicles on roads and off dry
3 grassland during the dry months unless necessary for work purposes. The certificate holder
4 shall not engage in welding, cutting, grinding or other flame or spark-producing operations
5 near the turbines. The certificate holder shall equip each company vehicle on site with a fire
6 extinguisher, water spray can, shovel, Emergency Response procedures book and a two-
7 way radio for immediate communications with the O&M facility. The certificate holder
8 shall have staff in the local area on call at all times to respond in case of fire or other
9 emergency. The certificate holder shall supply all local fire departments with maps of and
10 gate keys to the facility. (App B-12) [AMD5]

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

12 The conditions listed in this section include conditions based on representations in the
13 request for Amendment #1 and supporting record. The Council deems these representations to be
14 binding commitments made by the applicant. These conditions are required under OAR 345-027-
15 0020(10). [Amendment #4]

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

19 **1. General Conditions**

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

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

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

34 **(100)** If the Council finds that the certificate holder has permanently ceased construction or
35 operation of the facility without retiring the facility according to a final retirement plan
36 approved by the Council, as described in OAR 345-027-0110, the Council shall notify the
37 certificate holder and request that the certificate holder submit a proposed final retirement
38 plan to the Department of Energy within a reasonable time not to exceed 90 days. If the
39 certificate holder does not submit a proposed final retirement plan by the specified date, the
40 Council may direct the Department to prepare a proposed a final retirement plan for the
41 Council’s approval. Upon the Council’s approval of the final retirement plan, the Council
42 may draw on the bond or letter of credit described in OAR 345-027-0020(8) to restore the

1 site to a useful, non-hazardous condition according to the final retirement plan, in addition
2 to any penalties the Council may impose under OAR Chapter 345, Division 29. If the
3 amount of the bond or letter of credit is insufficient to pay the actual cost of retirement, the
4 certificate holder shall pay any additional cost necessary to restore the site to a useful, non-
5 hazardous condition. After completion of site restoration, the Council shall issue an order to
6 terminate the site certificate if the Council finds that the facility has been retired according
7 to the approved final retirement plan. (OAR 345-027-0020(16) [Amendment #4]

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

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

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

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

26 **(103)** To minimize the risk of fire, the certificate holder shall:
27 (a) Construct turbines, towers and pads of fire retardant materials.
28 (b) Bury electrical cables.
29 (c) Use enclosed, locked pad-mounted transformer structures.
30 (d) Include built-in fire prevention measures in turbines.
31 (e) Not store combustible materials at the Stateline site.

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

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

36 **(105)** This condition applies to Stateline 2 only. The certificate holder shall enter into an
37 agreement with the landowner of a property identified as 84301 Stockman Road, Helix,
38 Oregon, requiring that the structure remain uninhabited during construction. The certificate
39 holder shall continue the no-occupation agreement until retirement of the facility unless the
40 certificate holder demonstrates to the satisfaction of the Department that the facility
41 complies with the applicable noise control regulations under OAR 340-035-0035. The
42 certificate holder may demonstrate compliance with the regulations as to the increase in

1 ambient statistical noise levels by entering into a legally effective easement or real covenant
2 with the owner of the property identified as 84301 Stockman Road, Helix, Oregon, pursuant
3 to which the owner authorizes the certificate holder’s operation of the facility to increase
4 ambient statistical noise levels L₁₀ and L₅₀ by more than 10 dBA at the appropriate
5 measurement point. A legally effective easement or real covenant shall: include a legal
6 description of the burdened property (the noise sensitive property); be recorded in the real
7 property records of the county; expressly benefit the certificate holder; expressly run with
8 the land and bind all future owners, lessees or holders of any interest in the burdened
9 property; and not be subject to revocation without the certificate holder’s written approval.
10 If such easement or real covenant is not in effect, then the certificate holder shall
11 demonstrate to the satisfaction of the Department, based on modeling or measurements
12 performed in compliance with OAR 340-035-0035, that an easement or real covenant is not
13 necessary to comply with those regulations. [Amendments #3 and #4].

14 **VII. CONDITIONS ADDED BY AMENDMENT #2** [Amendments #2 and #4]

15 The conditions listed in this section include conditions based on representations in the
16 request for Amendment #2 and supporting record. The Council deems these representations to be
17 binding commitments made by the applicant. These conditions are required under OAR 345-027-
18 0020(10). These conditions apply to Stateline 3 only. In applying the conditions in this section,
19 “certificate holder” means FPL Stateline. [Amendment #4]

20 **1. General Conditions**

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

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

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

32 (a) Designing and operating the transmission lines so that maximum current (amps per
33 conductor) would not exceed the following levels: For 34.5-kV underground lines, 560
34 amps and for 230-kV transmission lines, 753 amps. [Amendment #4]

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

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

38 **(109)** Before beginning construction of Stateline 3, the certificate holder shall submit to the
39 State of Oregon through the Council a bond or letter of credit in the amount described
40 herein naming the State of Oregon, acting by and through the Council, as beneficiary or
41 payee. The initial bond or letter of credit amount is either \$5.911 million (in 1st Quarter
42 2009 dollars), to be adjusted to the date of issuance as described in (b), or the amount

1 determined as described in (a). The certificate holder shall adjust the amount of the bond or
2 letter of credit on an annual basis thereafter as described in (b).
3

1 (a) The certificate holder may adjust the amount of the bond or letter of credit based on
2 the final design configuration of Stateline 3 by applying the unit costs and general costs
3 illustrated in Table 3 in the Final Order on Amendment #4 and calculating the financial
4 assurance amount as described in that order, adjusted to the date of issuance as described in
5 (b) and subject to approval by the Department.

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

8 (i) Adjust the Subtotal component of the initial bond or letter of credit amount
9 (expressed in 1st Quarter 2009 dollars) to present value, using the U.S. Gross Domestic
10 Product Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of
11 Administrative Services' "Oregon Economic and Revenue Forecast," or by any successor
12 agency (the "Index") and using the index value for 1st Quarter 2009 dollars and the
13 quarterly index value for the date of issuance of the new bond or letter of credit. If at any
14 time the Index is no longer published, the Council shall select a comparable calculation to
15 adjust 1st Quarter 2009 dollars to present value.

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

18 (iii) Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration and
19 project management costs and 10 percent of the adjusted Gross Cost (ii) for the adjusted
20 future developments contingency.

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

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

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

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

30 (f) The bond or letter of credit shall not be subject to revocation or reduction before
31 retirement of the Stateline 3 site.

32 [Amendment #4]

33 **(110)** At least 30 days before beginning preparation of detailed design and specifications for the
34 electrical transmission lines, the certificate holder shall consult with the Oregon Public
35 Utility Commission staff to ensure that its designs and specifications are consistent with
36 applicable codes and standards.
37

1 (111) [Condition removed by Amendment #4]

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

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

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

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

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

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

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

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

35 [Amendment #4]

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

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

1 (116) [Condition removed by Amendment #4]

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

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

17 4. Conditions That Must Be Met During Operation

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

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

25 VIII. CONDITIONS ADDED BY AMENDMENT #3

26 (121) [Condition removed by Amendment #4]

27 (122) [Condition removed by Amendment #4]

28 IX. CONDITIONS ADDED BY AMENDMENT #4

29 Except as specifically noted, the conditions in this section apply to Stateline 3⁵ only. In
30 applying the conditions in this section, “certificate holder” means FPL Stateline. In applying the
31 conditions in this section, “certificate holder” means FPL Vansycle with regard to Stateline 1&2
32 and FPL Stateline with regard to Stateline 3. [Amendment #4]

33 (123) The certificate holder shall design and construct Stateline 3 in compliance with the County
34 design requirements as described in Umatilla County Development Code Sections 152.010,
35 152.011, 152.015, 152.018, 152.063(E) and 152.616(HHH)(5)(F) in effect as of October 24,
36 2008. [Amendment #4]

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

- 1 (124) The certificate holder shall ensure that construction contractors use a transportation route
2 reviewed and approved by the Umatilla County Public Works Director for all oversized and
3 heavy load transport vehicles. [Amendment #4]
- 4 (125) The certificate holder shall record a Covenant Not to Sue with regard to generally
5 accepted farming practices as required by Umatilla County Development Code Section
6 152.616(HHH)(2)(E). [Amendment #4]
- 7 (126) The certificate holder shall construct all Stateline 3 components in compliance with the
8 following setback requirements:
9 (a) All facility components must be at least 3,520 feet from the property line of properties
10 zoned residential use or designated in the Umatilla County Comprehensive Plan as
11 residential.
12 (b) Where (a) does not apply, the certificate holder shall maintain a minimum distance of
13 110-percent of maximum blade tip height, measured from the centerline of the turbine
14 tower to the nearest edge of any public road right-of-way. The certificate holder shall
15 assume a minimum right-of-way width of 60 feet.
16 (c) Where (a) does not apply, the certificate holder shall maintain a minimum distance of
17 1,320 feet, measured from the centerline of the turbine tower to the center of the nearest
18 residence existing at the time of tower construction.
19 (d) Where (a) does not apply, the certificate holder shall maintain a minimum distance of
20 110-percent of maximum blade tip height, measured from the centerline of the turbine
21 tower to the nearest boundary of the certificate holder's lease area.
22 (e) The certificate holder shall not locate equipment associated with the temporary batch
23 plant within 50 feet of a public road, county road or utility right of way.
24 [Amendment #4]
- 25 (127) The certificate holder shall deliver a copy of the annual report required under Condition 8
26 to the Umatilla County Planning Commission on an annual basis unless specifically
27 discontinued by the County. [Amendment #4]
- 28 (128) During construction, the certificate holder shall position a 3,000-gallon water truck on-site
29 while personnel are present and actively working. [Amendment #4]
- 30 (129) During operation, the certificate holder shall discharge sanitary wastewater generated at
31 the Stateline 3 O&M building to a licensed on-site septic system in compliance with county
32 permit requirements. The certificate holder shall locate the septic system more than 100 feet
33 from any streams, lakes or wetlands. The certificate holder shall design the septic system
34 for a discharge capacity of less than 2,500 gallons per day. [Amendment #4]
- 35 (130) During operation, the certificate holder shall obtain water for on-site uses from a wells
36 located at the Stateline 3 O&M building, subject to compliance with applicable permit
37 requirements. The certificate holder shall not use more than 5,000 gallons of water per day
38 from the on-site well. [Amendment #4]
- 39 (131) The certificate holder shall avoid permanent and temporary disturbance to all Category 1
40 and Category 2 habitat within the Stateline 3 site boundary. [Amendment #4]
- 41 (132) Before beginning construction, the certificate holder shall conduct a site-specific
42 geotechnical investigation and shall report its findings to the Oregon Department of
43 Geology & Mineral Industries (DOGAMI) and the Department. The certificate holder shall

1 conduct the geotechnical investigation after consultation with DOGAMI and in general
2 accordance with DOGAMI open file report 00-04 “Guidelines for Engineering Geologic
3 Reports and Site-Specific Seismic Hazard Reports.” [Amendment #4]

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

5 (a) Information that identifies the final design locations of all Stateline 3 wind turbines to
6 be built.

7 (b) The maximum sound power level for the Stateline 3 substation transformers and the
8 maximum sound power level and octave band data for the turbines selected for the Stateline
9 3 based on manufacturers’ warranties or confirmed by other means acceptable to the
10 Department.

11 (c) The results of noise analysis of the facility, including the Stateline 3 components to be
12 built according to the final design, performed in a manner consistent with the requirements
13 of OAR 340-035-0035(1)(b)(B)(iii)(IV) and (VI) demonstrating to the satisfaction of the
14 Department that the total noise generated by the facility (including the noise from turbines
15 and substation transformers) would meet the ambient degradation test and maximum
16 allowable test at the appropriate measurement point for all potentially-affected noise
17 sensitive properties.

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

28 [Amendment #4]

29 **(134)** During operation, the certificate holder shall maintain a complaint response system to
30 address noise complaints. The certificate holder shall promptly notify the Department of
31 any complaints received regarding facility noise and of any actions taken by the certificate
32 holder to address those complaints. In response to a complaint from the owner of a noise
33 sensitive property regarding noise levels during operation of the facility, the Council may
34 require the certificate holder to monitor and record the statistical noise levels to verify that
35 the certificate holder is operating the facility in compliance with the noise control
36 regulations. [Amendment #4; AMD5]

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

40 **(136)** This condition applies to all phases of the Stateline Wind Project. When any third-party
41 lien or security interest in the facility’s wind turbines or turbine towers is created, the
42 certificate holder shall notify such third party in writing that the wind turbines and towers
43 are components an energy facility that is subject to the terms and conditions of a Site
44 Certificate and subject to the rules of the Oregon Energy Facility Siting Council. The
45 certificate holder shall provide to the Department a copy of each written notification

1 required under this condition and the name and contact information for each third party so
2 notified. [Amendment #4]

3 **X. CONDITIONS ADDED BY AMENDMENT #5 (Vansycle II)**
4

5 The conditions listed in this section are specific to the facility modifications approved in
6 the Fifth Amended Site Certificate re-named and solely referred to as Vansycle II.
7

8 **(137)** The certificate holder shall construct the Vansycle II facility modifications, as approved
9 in the Fifth Amended Site Certificate, substantially as described in Request for Amendment
10 5 of the site certificate, subject to the following restrictions and compliance with other site
11 certificate conditions. Before beginning construction, the certificate holder shall provide to
12 the Department equipment specifications and a description of the wind turbine dimensions
13 to demonstrate compliance with this condition.

- 14 a) Vansycle II wind turbine hub height must not exceed 262.5 feet and the maximum
15 blade tip height must not exceed 440 feet.
- 16 b) Vansycle II wind turbine rotor diameter must not exceed 354 feet.
- 17 c) Vansycle II wind turbine minimum blade tip clearance must not be lower than 85
18 feet above ground.

19 [AMD5]
20

21 **(138)** The certificate holder shall begin construction of the Vansycle II facility modifications,
22 as approved in the Fifth Amended Site Certificate, within three years after the effective date
23 of the amended site certificate [June 12, 2022]. The certificate holder shall notify the
24 Department when construction of the of the facility modifications, as approved in Request
25 for Amendment 5, commences. Under OAR 345-015-0085(8), the amended site certificate
26 is effective upon execution by the Council Chair and the certificate holder.

27 [Mandatory Condition OAR 345-025-0006(4); AMD5]
28

29 **(139)** The certificate holder shall complete construction of the Vansycle II facility
30 modifications, as approved in the Fifth Amended Site Certificate, within three years
31 following the date of construction commencement [June 12, 2025]. The certificate holder
32 shall promptly notify the Department of the date of completion of construction of the
33 Vansycle II facility modifications, as approved in Request for Amendment 5.

34 [Mandatory Condition OAR 345-025-0006(4); AMD5]
35

36 **(140)** During operation of Vansycle II repowered wind turbines, as approved in the Fifth
37 Amended Site Certificate, the certificate holder shall:

- 38 (a) Perform inspections of the Vansycle II wind turbine foundations as part of its
39 maintenance program in order to identify changes in the foundation conditions.
40 Inspections will be performed in accordance with the procedures described in
41 document titled: Tower Anchor Bolt Testing/Tensioning and Foundation
42 Grout/Concrete Inspection, Document Number PGD-00-PM-WX-9360100, Power
43 Generation Division, Revision Number 1.5, Revision Date: 1/18/2018.
- 44 (b) In Year 1 of operation of Vansycle II repowered wind turbines, inspections conducted
45 in accordance with sub(a) will be completed for each of the 43 wind turbines. In Years

1 2 and 3, the certificate holder may reduce the number of inspections to 10 percent, or 5
2 wind turbines. If all inspections in Years 1, 2 and 3 pass the acceptance criteria,
3 inspections of a 10 percent sample size, or 5 wind turbines, may occur every 5 years
4 for the life of the facility.

5 (c) Results of foundation inspections will be provided to the Department and DOGAMI in
6 accordance with inspection schedule identified in Document Number PGD-00-PM-
7 WX-9360100 and in the annual report. If signs of distress (noticeable degradation) are
8 observed in the Vansycle II wind turbine foundations during the inspections and it is
9 determined by the facility's Power Generation Division engineers and management
10 that repairs are needed, the certificate holder will provide a remedial action plan to be
11 reviewed by the Department and DOGAMI as soon as practicable.

12 (d) Any alteration of the inspection procedures and schedule described in Document
13 Number PGD-00-PM-WX-9360100 will require notification to and consultation with
14 the Department and DOGAMI.

15 [AMD5]

16
17 **(141)** During operation of the repowered Vansycle II wind turbines, as approved in the Fifth
18 Amended Site Certificate, the certificate holder shall:

19 (a) Perform wind turbine anchor bolt tension inspections in accordance with the technical
20 manual titled: Tower Anchor Bolt Testing/Tensioning and Foundation Grout/Concrete
21 Inspection, Document Number PGD-00-PM-WX-9360100, Power Generation Division,
22 Revision Number 1.5, Revision Date 1/18/2018.

23 (b) In Year 1 of operation of Vansycle II repowered wind turbines, inspections conducted
24 in accordance with sub(a) will be completed for each of the 43 wind turbines. In Years
25 2 and 3, the certificate holder may reduce the number of inspections to 10 percent, or 5
26 wind turbines. If all inspections in Years 1, 2 and 3 pass the acceptance criteria,
27 inspections of a 10 percent sample size, or 5 wind turbines, may occur every 5 years for
28 the life of the facility.

29 (c) Any alteration of the inspection schedule and tensioning procedures described in
30 Document Number PGD-00-PM-WX-9360100 will require notification to and
31 consultation with the Department and DOGAMI.

32 [AMD5]

33
34 **(142)** Prior to construction associated with repowering of Vansycle II wind turbines number 1
35 and 21, the certificate holder shall:

36 (a) Provide documentation demonstrating that the county road right of way adjacent to: 1)
37 Gerking Flat Road and, 2) Butler Grade Road have been relocated or adjusted such that
38 wind turbines 1 and 21 satisfy the setback requirements to county road rights of way
39 pursuant to UCDC Section 152.616(HHH)(6)(a)(4). Wind turbines not meeting the
40 setback requirements from county road rights-of-way are precluded from increasing the
41 maximum blade tip height from 416 to 440 feet through repower activities.

42 (b) The documentation shall include written verification from Umatilla County that
43 confirms the county road rights of way have been adjusted.

44 [AMD5]

- 1 **(143)** During construction of Vansycle II facility modifications, as approved in the Fifth
2 Amended Site Certificate, the certificate holder shall:
3 (a) Ensure all construction personnel receive environmental awareness training from a
4 qualified professional on cultural resources and the inadvertent discovery protocols of
5 the Inadvertent Discovery Plan.
6 (b) Implement and adhere to Inadvertent Discovery Plan measures previously approved in
7 Condition 75 in the event previously unidentified cultural resources are encountered, as
8 referenced in (i) – (iv) of this condition.
9 (i) The Inadvertent Discovery Plan shall establish that earth-disturbing activities be
10 halted in the immediate vicinity of the find, in accordance with Oregon state law
11 (ORS 97.745 and 358.920).
12 (ii) Within 24-hours of the find, the certificate holder shall notify the Department,
13 SHPO and the Confederated Tribes of the Umatilla Indian Reservation (CTUIR).
14 (iii) The certificate holder shall have a qualified archaeologist evaluate the discovery
15 and recommend subsequent courses of action in consultation with the CTUIR and
16 the SHPO.
17 (iv) If human remains are discovered, the certificate holder shall halt all construction
18 activities in the immediate area and shall notify the Department, SHPO, CTUIR,
19 the County Medical Examiner and the State Police.
20 [RFA5]

- 21
22 **(144)** During construction of the Vansycle II facility modifications, as approved in the Fifth
23 Amended Site Certificate, the certificate holder shall:
24 (a) Provide notice to adjacent landowners when repowering takes place to help minimize
25 access disruptions;
26 (b) Provide proper road signs and warnings, including “Oversized Load,” “Truck
27 Access,” or “Road Crossings;”
28 (c) Implement traffic diversion equipment, such as advance signs and pilot cars
29 whenever possible when slow or oversized loads are being hauled;
30 (d) Encourage carpooling for the workforce to reduce traffic volume;
31 (e) Employ flag persons as necessary to direct traffic when large equipment is exiting
32 or entering public roads to minimize risk of accidents; and
33 (f) Maintain at least one travel lane so that roadways will not be closed to traffic because
34 of vehicles entering or exiting public roads.

35 [AMD5]

- 36 **(145)** During construction of the Vansycle II facility modifications, as approved in the Fifth
37 Amended Site Certificate, the certificate holder shall ensure its third-party contractors reuse
38 or recycle wind turbine blades, hubs and other removed wind turbine components to the
39 extent practicable. The certificate holder shall report in its semi-annual report to the
40 Department the quantities of removed wind turbine components recycled, reused, sold for
41 scrap, and disposed of in a landfill. [AMD5]

- 42
43 **(146)** Prior to construction of Vansycle II wind turbine repower, as approved in the Fifth
44 Amended Site Certificate, the certificate holder shall submit a Notice of Proposed
45 Construction or Alteration to the Federal Aviation Administration (FAA) and the Oregon

1 Department of Aviation identifying the change in maximum blade tip height of the wind
2 turbines to be repowered. Determination of No Hazards or other comments from FAA or
3 Oregon Department of Aviation shall be provided to the Department.

4 [AMD5]

5
6 **(147)** For the Vansycle II facility modifications, as approved in the Fifth Amended Site
7 Certificate, the certificate holder shall:

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

10 (b) Prior to construction, provide notice to landowners within 1-mile of the site boundary
11 to inform of the construction start date, duration and description of activities and
12 noise levels. The notice shall include the name and phone number of the certificate
13 holder's representative which can be contacted to record construction-related noise
14 complaints.

15 [AMD5]

16
17 **(148)** Prior to construction of Vansycle II facility modifications, as approved in the Fifth
18 Amended Site Certificate, the certificate holder shall provide to the Department:

19 (a) Information that identifies the as-built locations of all Vansycle II wind turbines.

20 (b) The maximum sound power level for the existing Vansycle II substation transformers
21 and the maximum sound power level and octave band data for the repowered Vansycle
22 II wind based on manufacturers' warranties or confirmed by other means acceptable to
23 the Department.

24 (c) The results of noise analysis for the Vansycle II facility modifications, as approved in
25 the Fifth Amended Site Certificate, performed in a manner consistent with the
26 requirements of OAR 340-035-0035(1)(b)(B)(iii)(IV) and (VI) demonstrating to the
27 satisfaction of the Department that the total noise generated (including the noise from
28 repowered wind turbines and existing substation transformers) would meet the ambient
29 degradation test and maximum allowable test at the appropriate measurement point for
30 all potentially-affected noise sensitive properties.

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

42 [AMD5]

1 **XI. SUCCESSORS AND ASSIGNS**

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

4 **XII. SEVERABILITY AND CONSTRUCTION**

5 If any provision of this agreement and certificate is declared by a court to be illegal or in
6 conflict with any law, the validity of the remaining terms and conditions shall not be affected,
7 and the rights and obligations of the parties shall be construed and enforced as if the agreement
8 and certificate did not contain the particular provision held to be invalid. In the event of a
9 conflict between the conditions contained in the amended site certificate and the Council's final
10 order or the Final Orders on Amendment #1, #2, #3, #4, or #5, the conditions contained in this
11 amended site certificate shall control. [Amendment #1; Amendment #5]

12 **XIII. GOVERNING LAW AND FORUM**

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

15 **XIV. EXECUTION**

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

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

ENERGY FACILITY SITING COUNCIL

By: 
Barry Beyeler, Chair
Oregon Energy Facility Siting Council


Date: MAY 17, 2019

FPL ENERGY VANSYCLE LLC

By: 
Print: Terrell K. Crews II
Vice President

Date: 6-12-19

FPL ENERGY STATELINE II, INC.

By: 
Print: Terrell K. Crews II
Vice President

Date: 6-12-19