

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

**Second Amended Site Certificate
for
Shepherds Flat South**

ISSUANCE DATES

Site Certificate	July 25, 2008
First Amended Site Certificate	March 12, 2010
Second Amended Site Certificate	January 24, 2020

The Oregon Energy Facility Siting Council

SECOND AMENDED SITE CERTIFICATE FOR SHEPHERDS FLAT SOUTH

I. INTRODUCTION

1 The Oregon Energy Facility Siting Council (Council) issues this amended site certificate
2 for the Shepherds Flat South (the facility) in the manner authorized under ORS Chapter 469.
3 This amended site certificate is a binding agreement between the State of Oregon (State),
4 acting through the Council, and Horseshoe Bend Wind, LLC (certificate holder) authorizing the
5 certificate holder to construct and operate the facility in Gilliam County and Morrow County,
6 Oregon. [Amendment #1 for the Shepherds Flat Wind Farm (SFWF); Amendment #2]

7 The findings of fact, reasoning and conclusions of law underlying the terms and
8 conditions of this site certificate are set forth in the following documents, incorporated herein
9 by this reference: (a) the Council's *Final Order on the Application for the Shepherds Flat Wind*
10 *Farm* issued on July 25, 2008, (b) the *Final Order on Amendment #1 for the Shepherds Flat Wind*
11 *Farm*, (c) the *Final Order on Amendment #1 for Shepherds Flat South*, and (d) the *Final Order on*
12 *Amendment #2 for Shepherds Flat South*. In interpreting this amended site certificate, any
13 ambiguity will be clarified by reference to the following, in order of priority: (1) this Second
14 Amended Site Certificate, (2) the *Final Order on Amendment #2* (3) the *Final Order on*
15 *Amendment #1*, (4) the *Final Order on Amendment #1 for the Shepherds Flat Wind Farm*, (5) the
16 *Final Order on the Application for the Shepherds Flat Wind Farm* and (6) the record of the
17 proceedings that led to the Final Orders on the Application and Amendment #1 and #2 for the
18 Shepherds Flat and Shepherds Flat South Wind Farm. [Amendment #1 (SFWF); Amendment #1;
19 Amendment #2]

20 [Text added by Amendment #1 (SFWF) was removed by Amendment #1].

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

II. SITE CERTIFICATION

- 23 1. To the extent authorized by state law and subject to the conditions set forth herein, the
24 State authorizes the certificate holder to construct, operate and retire a wind energy
25 facility, together with certain related or supporting facilities, at the site in Gilliam County
26 and Morrow County, Oregon, as described in Section III of this site certificate. ORS
27 469.401(1).
- 28 2. This site certificate is effective until it is terminated under OAR 345-027-0110 or the rules in
29 effect on the date that termination is sought or until the site certificate is revoked under
30 ORS 469.440 and OAR 345-029-0100 or the statutes and rules in effect on the date that
31 revocation is ordered. ORS 469.401(1).
- 32 3. This site certificate does not address, and is not binding with respect to, matters that were
33 not addressed in the Council's Final Orders on the Application and Amendment #1 and
34 Amendment #2 for the Shepherds Flat and Shepherds Flat South Wind Farm and in the *Final*
35 *Order on Amendment #1, and Final Order on Amendment #2*. Such matters include, but are

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

III. DESCRIPTION

1. The Facility

(a) The Energy Facility

32 The energy facility is an electric power generating facility that produces power from
33 wind energy. The facility consists of not more than 116 wind turbines. The energy facility is
34 described further in the *Final Order on Amendment #1 for the Shepherds Flat Wind Farm*, in the
35 *Final Order on Amendment #1 for Shepherds Flat South* and in the *Final Order on Amendment*
36 *#2 for Shepherds Flat South*. [Amendment #1 (SFWF); Amendment #1; Amendment #2]

1 **Wind Turbine Repower**

2 Wind turbine repowering includes removal and replacement of wind turbine blades and
3 associated wind turbine components on existing turbine towers. Wind turbine repowering
4 requires trucks, small cranes or telehandlers, and a track mounted crane. Trucks deliver new
5 wind turbine components to wind turbine pad sites, and transport the old components offsite
6 for proper disposal or recycling at a licensed facility. Once the new wind turbines components
7 are delivered via truck to each pad site, smaller cranes or telehandlers unload and stage the
8 components. A track mounted crane then mobilizes to the turbine pad area, setting up on the
9 access road adjacent the turbine, and lowers the old rotor down to the pad site for
10 disassembly, followed by the old gearbox. Once disassembled, the old components are staged
11 for truck removal. The track mounted crane then lifts the new gearbox and rotor into place.
12 Once, complete, the track mounted crane advances to the next wind turbine, and the process is
13 repeated.

14
15 The facility repower activity results in approximately 125.2 acres of temporary disturbance from
16 temporary access roads, road improvements and laydown areas.
17

18 [Amendment #2]

(b) Related or Supporting Facilities

19 The facility includes the following related or supporting facilities described below and in
20 greater detail in the *Final Order on Amendment #1 for the Shepherds Flat Wind Farm* and in the
21 *Final Order on Amendment #1*:

- 22 • Power Collection System
- 23 • Collector Substation
- 24 • Meteorological towers
- 25 • Field workshop
- 26 • Control system
- 27 • Access roads
- 28 • Additional construction areas

29 [Amendment #1 (SFWF); Amendment #1]

30 **Power Collection System**

31 A power collection system operating at 34.5 kilovolts (kV) transports power from each
32 turbine to a collector substation. To the extent practicable, the collection system is installed
33 underground at a depth of at least three feet. Segments of the collector system are
34 aboveground. Aboveground segments are installed on single-pole, cross-arm structures.

35 [Amendment #1]

36 **Collector Substations and Interconnection**

37 The facility includes a collector substation. The facility includes a 230-kV transmission
38 line between the substation and the interconnection site. The interconnection site is located at
39 the Bonneville Power Administration Slatt Switching Station. [Amendment #1 (SFWF)]

1 **Meteorological Towers**

2 The facility includes two permanent meteorological (met) towers. [Amendment #1 (SFWF)]

3 **Field Workshop**

4 The facility includes a field workshop. Including fenced areas, the field workshop
5 occupies about 1.4 acres. [Amendment #1 (SFWF)]

6 **Control System**

7 A fiber optic communications network links the control panels within each wind turbine
8 to a host computer located in the field workshop. Supervisory, Control and Data Acquisition
9 (SCADA) systems at the field workshop collect operating and performance data from the
10 turbines and the facility’s met towers. [Amendment #1 (SFWF)]

11 **Access Roads**

12 The facility includes up to 27.5 miles of new roads that provide access to the turbine
13 strings. The access roads connect to graveled turbine turnouts at the base of each turbine.
14 [Amendment #1 (SFWF); Amendment #1]

15 **Temporary Construction Areas**

16 During construction, the facility includes temporary laydown areas used to stage
17 construction and store supplies and equipment. The facility includes construction crane paths
18 to move construction cranes between turbine strings.

2. Location of the Facility

19 The facility is located in Morrow County and Gilliam County south of Interstate Highway
20 84 and east of Arlington, Oregon, between State Highways 19 and 74. The facility is located
21 entirely on private land subject to long-term wind energy leases. [Amendment #1 (SFWF)]

IV. CONDITIONS REQUIRED BY COUNCIL RULES

22 This section lists conditions required by OAR 345-025-0006 (Mandatory Conditions in
23 Site Certificates), OAR 345-025-0010 (Site Specific Conditions), OAR 345-025-0016 (Monitoring
24 and Mitigation Conditions) and OAR Chapter 345, Division 26 (Construction and Operation
25 Rules for Facilities). These conditions should be read together with the specific facility
26 conditions listed in Section V to ensure compliance with the siting standards of OAR Chapter
27 345, Divisions 22 and 24, and to protect the public health and safety. In these conditions, the
28 definitions in OAR 345-001-0010 apply.

29 The obligation of the certificate holder to report information to the Department or the
30 Council under the conditions listed in this section and in Section V is subject to the provisions of
31 ORS 192.502 *et seq.* and ORS 469.560. To the extent permitted by law, the Department and the
32 Council will not publicly disclose information that may be exempt from public disclosure if the
33 certificate holder has clearly labeled such information and stated the basis for the exemption at
34 the time of submitting the information to the Department or the Council. If the Council or the
35 Department receives a request for the disclosure of the information, the Council or the
36 Department, as appropriate, will make a reasonable attempt to notify the certificate holder and

1 will refer the matter to the Attorney General for a determination of whether the exemption is
2 applicable, pursuant to ORS 192.450.

3 In addition to these conditions, the site certificate holder is subject to all conditions and
4 requirements contained in the rules of the Council and in local ordinances and state law in
5 effect on the date the certificate is executed. Under ORS 469.401(2), upon a clear showing of a
6 significant threat to the public health, safety or the environment that requires application of
7 later-adopted laws or rules, the Council may require compliance with such later-adopted laws
8 or rules.

9 The Council recognizes that many specific tasks related to the design, construction,
10 operation and retirement of the facility will be undertaken by the certificate holder's agents or
11 contractors. Nevertheless, the certificate holder is responsible for ensuring compliance with all
12 provisions of the site certificate.

13 1 The Council shall not change the conditions of the site certificate except as provided for in
14 OAR Chapter 345, Division 27.

15 2 The certificate holder shall submit a legal description of the site to the Department of
16 Energy within 90 days after beginning operation of the facility. The legal description
17 required by this rule means a description of metes and bounds or a description of the site
18 by reference to a map and geographic data that clearly and specifically identifies the outer
19 boundaries that contain all parts of the facility.

20 3 The certificate holder shall design, construct, operate and retire the facility:

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

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

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

26 4 The certificate holder shall begin and complete construction of the facility by the dates
27 specified in the site certificate. *(See Conditions 24 and 25.)*

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

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

1 (b) The certificate holder would construct and operate part of a wind energy facility on
2 that part of the site even if other parts of the facility were modified by amendment of the
3 site certificate or were not built. [Amendment #2]

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

10 7 The certificate holder shall prevent the development of any conditions on the site that
11 would preclude restoration of the site to a useful, non-hazardous condition to the extent
12 that prevention of such site conditions is within the control of the certificate holder.

13 8 Before beginning construction of the facility, the certificate holder shall submit to the
14 State of Oregon, through the Council, a bond or letter of credit, in a form and amount
15 satisfactory to the Council to restore the site to a useful, non-hazardous condition. The
16 certificate holder shall maintain a bond or letter of credit in effect at all times until the
17 facility has been retired. The Council may specify different amounts for the bond or letter
18 of credit during construction and during operation of the facility. *(See Condition 30.)*

19 9 The certificate holder shall retire the facility if the certificate holder permanently ceases
20 construction or operation of the facility. The certificate holder shall retire the facility
21 according to a final retirement plan approved by the Council, as described in OAR 345-027-
22 0110. The certificate holder shall pay the actual cost to restore the site to a useful, non-
23 hazardous condition at the time of retirement, notwithstanding the Council's approval in
24 the site certificate of an estimated amount required to restore the site.

25 10 The Council shall include as conditions in the site certificate all representations in the site
26 certificate application and supporting record the Council deems to be binding
27 commitments made by the applicant.

28 11 Upon completion of construction, the certificate holder shall restore vegetation to the
29 extent practicable and shall landscape all areas disturbed by construction in a manner
30 compatible with the surroundings and proposed use. Upon completion of construction,
31 the certificate holder shall remove all temporary structures not required for facility
32 operation and dispose of all timber, brush, refuse and flammable or combustible material
33 resulting from clearing of land and construction of the facility.

34 12 The certificate holder shall design, engineer and construct the facility to avoid dangers to
35 human safety and the environment presented by seismic hazards affecting the site that
36 are expected to result from all maximum probable seismic events. As used in this rule
37 "seismic hazard" includes ground shaking, ground failure, landslide, liquefaction triggering
38 and consequences (including flow failure, settlement buoyancy, and lateral spreading),
39 cyclic softening of clays and silts, fault rupture, directivity effects and soil-structure
40 interaction. [Amendment #2]

- 1 13 The certificate holder shall notify the Department, the State Building Codes Division and
2 the Department of Geology and Mineral Industries promptly if site investigations or
3 trenching reveal that conditions in the foundation rocks differ significantly from those
4 described in the application for a site certificate. After the Department receives the notice,
5 the Council may require the certificate holder to consult with the Department of Geology
6 and Mineral Industries and the Building Codes Division to propose and implement
7 corrective or mitigation actions. [Amendment #2]
- 8 14 The certificate holder shall notify the Department, the State Building Codes Division and
9 the Department of Geology and Mineral Industries promptly if shear zones, artesian
10 aquifers, deformations or clastic dikes are found at or in the vicinity of the site. After the
11 Department receives notice, the Council may require the certificate holder to consult with
12 the Department of Geology and Mineral Industries and the Building Codes Division to
13 propose and implement corrective or mitigation actions. [Amendment #2]
- 14 15 Before any transfer of ownership of the facility or ownership of the site certificate holder,
15 the certificate holder shall inform the Department of the proposed new owners. The
16 requirements of OAR 345-027-0100 apply to any transfer of ownership that requires a
17 transfer of the site certificate.
- 18 16 If the Council finds that the certificate holder has permanently ceased construction or
19 operation of the facility without retiring the facility according to a final retirement plan
20 approved by the Council, as described in OAR 345-027-0110, the Council shall notify the
21 certificate holder and request that the certificate holder submit a proposed final
22 retirement plan to the Office within a reasonable time not to exceed 90 days. If the
23 certificate holder does not submit a proposed final retirement plan by the specified date,
24 the Council may direct the Department to prepare a proposed final retirement plan for the
25 Council's approval. Upon the Council's approval of the final retirement plan, the Council
26 may draw on the bond or letter of credit described in OAR 345-027-0020(8) to restore the
27 site to a useful, non-hazardous condition according to the final retirement plan, in addition
28 to any penalties the Council may impose under OAR Chapter 345, Division 29. If the
29 amount of the bond or letter of credit is insufficient to pay the actual cost of retirement,
30 the certificate holder shall pay any additional cost necessary to restore the site to a useful,
31 non-hazardous condition. After completion of site restoration, the Council shall issue an
32 order to terminate the site certificate if the Council finds that the facility has been retired
33 according to the approved final retirement plan.
- 34 17 If the facility includes any transmission line under Council jurisdiction:
35 (a) The certificate holder shall design, construct and operate the transmission line in
36 accordance with the requirements of the National Electrical Safety Code (American
37 National Standards Institute, Section C2, 1997 Edition); and
38 (b) The certificate holder shall develop and implement a program that provides
39 reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or
40 structures of a permanent nature that could become inadvertently charged with electricity
41 are grounded or bonded throughout the life of the line.

1 18 If the proposed energy facility has, as a related or supporting facility, a transmission line,
2 the Council shall specify an approved corridor in the site certificate and shall allow the
3 certificate holder to construct the transmission line anywhere within the corridor, subject
4 to the conditions of the site certificate. If the applicant has analyzed more than one
5 corridor in its application for a site certificate, the Council may, subject to the Council's
6 standards, approve more than one corridor.

7 19 The following general monitoring conditions apply:

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

15 (b) The certificate holder shall implement the approved monitoring programs described
16 in OAR 345-027-0028(1) and monitoring programs required by permitting agencies and
17 local governments.

18 (c) For each monitoring program described in OAR 345-027-0028(1) and (2), the
19 certificate holder shall have quality assurance measures approved by the Department
20 before beginning construction or, as appropriate, before beginning commercial operation.

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

25 20 Following receipt of the site certificate or an amended site certificate, the certificate
26 holder shall implement a plan that verifies compliance with all site certificate terms and
27 conditions and applicable statutes and rules. As a part of the compliance plan, to verify
28 compliance with the requirement to begin construction by the date specified in the site
29 certificate, the certificate holder shall report promptly to the Department of Energy when
30 construction begins. Construction is defined in OAR 345-001-0010. In reporting the
31 beginning of construction, the certificate holder shall describe all work on the site
32 performed before beginning construction, including work performed before the Council
33 issued the site certificate, and shall state the cost of that work. For the purpose of this
34 exhibit, "work on the site" means any work within a site or corridor, other than surveying,
35 exploration or other activities to define or characterize the site or corridor. The certificate
36 holder shall document the compliance plan and maintain it for inspection by the
37 Department or the Council.

38 21 The certificate holder shall report according to the following requirements:

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

40 (i) Within six months after beginning construction, and every six months thereafter
41 during construction of the energy facility and related or supporting facilities, the
42 certificate holder shall submit a semiannual construction progress report to the
43 Department of Energy. In each construction progress report, the certificate holder shall

1 describe any significant changes to major milestones for construction. The certificate
2 holder shall include such information related to construction as specified in the site
3 certificate. When the reporting date coincides, the certificate holder may include the
4 construction progress report within the annual report described in OAR 345-026-0080.

5 (ii) By April 30 of each year after beginning construction, the certificate holder shall
6 submit an annual report to the Department addressing the subjects listed in OAR 345-026-
7 0080. The Council Secretary and the certificate holder may, by mutual agreement, change
8 the reporting date.

9 (iii) To the extent that information required by OAR 345-026-0080 is contained in
10 reports the certificate holder submits to other state, federal or local agencies, the
11 certificate holder may submit excerpts from such other reports to satisfy this rule. The
12 Council reserves the right to request full copies of such excerpted reports.

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

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

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

25 (A)

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

29 (iv) Monitoring Report: A list and description of all significant monitoring and
30 mitigation activities performed during the previous year in accordance with site certificate
31 terms and conditions, a summary of the results of those activities and a discussion of any
32 significant changes to any monitoring or mitigation program, including the reason for any
33 such changes.

34 (v) Compliance Report: A description of all instances of noncompliance with a site
35 certificate condition. For ease of review, the certificate holder shall, in this section of the
36 report, use numbered subparagraphs corresponding to the applicable sections of the site
37 certificate.

38 (vi) Facility Modification Report: A summary of changes to the facility that the
39 certificate holder has determined do not require a site certificate amendment in
40 accordance with OAR 345-027-0350.

41 (vii) [Amendment #2]

42 22 The certificate holder and the Department of Energy shall exchange copies of all
43 correspondence or summaries of correspondence related to compliance with statutes,

1 rules and local ordinances on which the Council determined compliance, except for
2 material withheld from public disclosure under state or federal law or under Council rules.
3 The certificate holder may submit abstracts of reports in place of full reports; however,
4 the certificate holder shall provide full copies of abstracted reports and any summarized
5 correspondence at the request of the Department.

- 6 **23** The certificate holder shall notify the Department of Energy within 72 hours of any
7 occurrence involving the facility if:
- 8 (a) There is an attempt by anyone to interfere with its safe operation;
 - 9 (b) A natural event such as an earthquake, flood, tsunami or tornado, or a human-
10 caused event such as a fire or explosion affects or threatens to affect the public health and
11 safety or the environment; or
 - 12 (c) There is any fatal injury at the facility.

V. SPECIFIC FACILITY CONDITIONS

13 The conditions listed in this section include conditions based on representations in the
14 site certificate application and supporting record. These conditions are required under OAR
15 345-025-0006(10). The certificate holder must comply with these conditions in addition to the
16 conditions listed in Section VI. This section includes other specific facility conditions the Council
17 finds necessary to ensure compliance with the siting standards of OAR Chapter 345, Divisions
18 22 and 24, and to protect the public health and safety. For conditions that require subsequent
19 review and approval of a future action, ORS 469.402 authorizes the Council to delegate the
20 future review and approval to the Department if, in the Council's discretion, the delegation is
21 warranted under the circumstances of the case.

1. Certificate Administration Conditions

- 22 **24** The certificate holder shall begin construction of the facility by July 25, 2011. The Council
23 may grant an extension of the deadline to begin construction in accordance with OAR 345-
24 027-0030 or any successor rule in effect at the time the request for extension is
25 submitted. [Amendment #1 (SFWF)]
- 26 **25** The certificate holder shall complete construction of the facility by July 25, 2014.
27 Construction is complete when: 1) the facility is substantially complete as defined by the
28 certificate holder's construction contract documents, 2) acceptance testing has been
29 satisfactorily completed and 3) the energy facility is ready to begin continuous operation
30 consistent with the site certificate. The certificate holder shall promptly notify the
31 Department of the date of completion of construction. The Council may grant an
32 extension of the deadline for completing construction in accordance with OAR 345-027-
33 0030 or any successor rule in effect at the time the request for extension is submitted.
34 [Amendment #1 (SFWF)]
- 35 **26** The certificate holder shall construct a facility substantially as described in the site
36 certificate and may select turbines of any type, subject to the following restrictions and
37 compliance with all other site certificate conditions. Before beginning construction, the

1 certificate holder shall provide to the Department a description of the turbine types
2 selected for the facility demonstrating compliance with this condition.

3 (a) The total number of turbines at the facility must not exceed 116 turbines.
4

5 (b) The turbine hub height must not exceed 105 meters and the maximum blade tip
6 height must not exceed 150 meters.

7 (c) The minimum blade tip clearance must be 25 meters above ground. Repowered
8 turbines that comply with the setback requirements of Condition 40 must have a
9 minimum blade tip clearance of 21.5 meters above ground.

10 (d) The maximum volume of concrete above three feet below grade in the turbine
11 foundations must not exceed 66 cubic yards.

12 (e) The maximum combined weight of metals in the tower (including ladders and
13 platforms) and nacelle must not exceed 393 U.S. tons per turbine.

14 (f) The certificate holder shall request an amendment of the site certificate to increase
15 the number of wind turbines to more than 116 wind turbines or to install wind turbines
16 with a hub height greater than 105 meters, a blade tip height greater than 150 meters or a
17 blade tip clearance less than 21.5 meters above ground.

18 [Amendment #1 (SFWF); Amendment #1; Amendment #2]

19 27 The certificate holder shall obtain all necessary federal, state and local permits or
20 approvals required for construction, operation and retirement of the facility or ensure that
21 its contractors obtain the necessary federal, state and local permits or approvals.

22 28 Before beginning construction, the certificate holder shall notify the Department in
23 advance of any work on the site that does not meet the definition of “construction” in ORS
24 469.300, excluding surveying, exploration or other activities to define or characterize the
25 site, and shall provide to the Department a description of the work and evidence that its
26 value is less than \$250,000.

27 29 Before beginning construction and after considering all micrositing factors, the certificate
28 holder shall provide to the Department, to the Oregon Department of Fish and Wildlife
29 (ODFW) and to the Planning Directors of Morrow County and Gilliam County detailed
30 maps of the facility site, showing the final locations where the certificate holder proposes
31 to build facility components, and a table showing the acres of temporary and permanent
32 habitat impact by habitat category and subtype, similar to Table 11 in the Final Order on
33 Amendment #1 for the Shepherds Flat Wind Farm. The detailed maps of the facility site
34 shall indicate the habitat categories of all areas that would be affected during construction
35 (similar to the maps labeled “ODFW-2” in the site certificate application for the Shepherds
36 Flat Wind Farm). In classifying the affected habitat into habitat categories, the certificate
37 holder shall consult with the ODFW. The certificate holder shall not begin ground
38 disturbance in an affected area until the habitat assessment has been approved by the
39 Department. The Department may employ a qualified contractor to confirm the habitat
40 assessment by on-site inspection. [Amendment #1 (SFWF)]

41 30 Before beginning construction, the certificate holder shall submit to the State of Oregon
42 through the Council a bond or letter of credit in the amount described herein naming the

1 State of Oregon, acting by and through the Council, as beneficiary or payee. The initial
2 bond or letter of credit amount is either \$9.108 million (1st Quarter 2010 dollars), to be
3 adjusted to the date of issuance as described in (b), or the amount determined as
4 described in (a). The certificate holder shall adjust the amount of the bond or letter of
5 credit on an annual basis thereafter as described in (b).

6 (a) The certificate holder may adjust the amount of the bond or letter of credit based on
7 the final design configuration of the facility and turbine types selected by applying the unit
8 costs and general costs illustrated in Table 3 in the Final Order on Amendment #1 for the
9 Shepherds Flat Wind Farm and calculating the financial assurance amount as described in
10 that order, adjusted to the date of issuance as described in (b) and subject to approval by
11 the Department.

12 (b) The certificate holder shall adjust the amount of the bond or letter of credit, using
13 the following calculation and subject to approval by the Department:

14 (i) Adjust the Subtotal component of the bond or letter of credit amount (expressed
15 in 3rd Quarter 2009 dollars) to present value, using the U.S. Gross Domestic Product
16 Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of
17 Administrative Services' "Oregon Economic and Revenue Forecast" or by any successor
18 agency (the "Index") and using the index value for 3rd Quarter 2009 dollars and the
19 quarterly index value for the date of issuance of the new bond or letter of credit. If at any
20 time the Index is no longer published, the Council shall select a comparable calculation to
21 adjust 3rd Quarter 2009 dollars to present value.

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

24 (iii) Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration
25 and project management costs and 10 percent of the adjusted Gross Cost (ii) for the
26 adjusted future developments contingency.

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

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

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

34 (e) The certificate holder shall describe the status of the bond or letter of credit in the
35 annual report submitted to the Council under Condition 21.

36 (f) The bond or letter of credit shall not be subject to revocation or reduction before
37 retirement of the facility site.

38 [Amendment #1 (SFWF); Amendment #1]

39 **31** If the certificate holder elects to use a bond to meet the requirements of Condition 30, the
40 certificate holder shall ensure that the surety is obligated to comply with the requirements
41 of applicable statutes, Council rules and this site certificate when the surety exercises any
42 legal or contractual right it may have to assume construction, operation or retirement of
43 the energy facility. The certificate holder shall also ensure that the surety is obligated to

1 notify the Council that it is exercising such rights and to obtain any Council approvals
2 required by applicable statutes, Council rules and this site certificate before the surety
3 commences any activity to complete construction, operate or retire the energy facility.

4 32 Before beginning construction, the certificate holder shall notify the Department of the
5 identity and qualifications of the major design, engineering and construction contractor(s)
6 for the facility. The certificate holder shall select contractors that have substantial
7 experience in the design, engineering and construction of similar facilities. The certificate
8 holder shall report to the Department any change of major contractors.

9 33 The certificate holder shall contractually require all construction contractors and
10 subcontractors involved in the construction of the facility to comply with all applicable
11 laws and regulations and with the terms and conditions of the site certificate. Such
12 contractual provisions shall not operate to relieve the certificate holder of responsibility
13 under the site certificate.

14 34 During construction, the certificate holder shall have a full-time, on-site assistant
15 construction manager who is qualified in environmental compliance to ensure compliance
16 with all site certificate conditions. The certificate holder shall notify the Department of the
17 name, telephone number and e-mail address of this person.

18 35 Within 72 hours after discovery of conditions or circumstances that may violate the terms
19 or conditions of the site certificate, the certificate holder shall report the conditions or
20 circumstances to the Department.

2. Land Use Conditions

21 36 The certificate holder shall consult with area landowners and lessees during construction
22 and operation of the facility and shall implement measures to reduce or avoid any adverse
23 impacts to farm practices on surrounding lands and to avoid any increase in farming costs.

24 37 The certificate holder shall design and construct the facility using the minimum land area
25 necessary for safe construction and operation. The certificate holder shall locate access
26 roads and temporary construction laydown and staging areas to minimize disturbance
27 with farming practices and, wherever feasible, shall place turbines and transmission
28 interconnection lines along the margins of cultivated areas to reduce the potential for
29 conflict with farm operations.

30 38 During construction and operation of the facility, the certificate holder shall implement a
31 plan to control the introduction and spread of noxious weeds. The certificate shall develop
32 the weed control plan consistent with the Gilliam County and Morrow County Weed
33 Control Programs.

34 39 Before beginning construction of the facility, the certificate holder shall record in the real
35 property records of Gilliam County a Covenant Not to Sue with regard to generally
36 accepted farming practices on adjacent farmland consistent with Gilliam County Zoning
37 Ordinance 7.020(T)(4)(a)(5).

1 **40** The certificate holder shall construct all facility components in compliance with the
2 following setback requirements:

3 (a) All facility components must be at least 3,520 feet from the property line of
4 properties zoned residential use or designated in the Gilliam County Comprehensive Plan
5 as residential.

6 (b) Where (a) does not apply, the certificate holder shall maintain a minimum distance
7 of 110-percent of maximum blade tip height, measured from the centerline of the turbine
8 tower to the nearest edge of any public road right-of-way. The certificate holder shall
9 assume a minimum right-of-way width of 60 feet.

10 (c) Where (a) does not apply, the certificate holder shall maintain a minimum distance
11 of 1,320 feet, measured from the centerline of the turbine tower to the center of the
12 nearest residence existing at the time of tower construction.

13 (d) Where (a) does not apply, the certificate holder shall maintain a minimum distance
14 of 110-percent of maximum blade tip height, measured from the centerline of the turbine
15 tower to the nearest boundary of the certificate holder's lease area.

16 **41** Within 90 days after beginning operation, the certificate holder shall provide to the
17 Department and to the Planning Directors of Gilliam County and Morrow County the
18 actual latitude and longitude location or Stateplane NAD 83(91) coordinates of each
19 turbine tower, connecting lines and transmission lines. In addition, the certificate holder
20 shall provide to the Department and to the Planning Directors of Gilliam County and
21 Morrow County, a summary of as-built changes in the facility compared to the original
22 plan, if any.

23 **42** The certificate holder shall install gates on all private facility access roads in Gilliam
24 County, in accordance with Gilliam County Zoning Ordinance Section 7.020(T)(4)(d)(6).

3. Cultural Resource Conditions

25 **43** Before beginning construction, the certificate holder shall provide to the Department a
26 map showing the final design locations of all components of the facility and areas that
27 would be temporarily disturbed during construction. In addition, the certificate holder
28 shall comply with the following requirements:

29 (a) The certificate holder shall avoid disturbance within a 30-meter buffer around the
30 historic-period archaeological sites within the facility boundary identified by AINW as
31 "possibly eligible" for listing in the National Register of Historic Places (NRHP) as described
32 in the Final Order on the Application for the Shepherds Flat Wind Farm.

33 (b) The certificate holder shall avoid disturbance of the stacked rock features within the
34 facility boundary identified by AINW as "possibly eligible" for listing in the NRHP as
35 described in the Final Order on the Application for the Shepherds Flat Wind Farm and
36 shall, to the extent practicable, maintain a 30-meter no-construction buffer around these
37 features. If a 30-meter buffer cannot be maintained, the certificate holder shall consult
38 with the State Historic Preservation Office (SHPO) and the Department to determine
39 appropriate action to preserve or document the feature.

40 (c) The certificate holder shall label "no entry" areas around all identified historic,
41 cultural or archaeological resource sites on construction maps and drawings, and if

1 construction activities will occur within 200 feet of an identified site, the certificate holder
2 shall flag a 30-meter buffer around the site.

3 (d) The certificate holder shall hire qualified personnel to conduct pre-construction field
4 investigation for historic, cultural or archaeological resources in any areas of potential
5 construction disturbance that AINW did not previously survey.

6 (e) The certificate holder shall provide written reports of the field investigation required
7 under (d) to the Department and to the SHPO. If any historic, cultural or archaeological
8 resources are found that the SHPO determines to be significant, the certificate holder shall
9 consult with the Department and the SHPO to develop plan to avoid disturbance of the
10 resources during construction and operation of the facility. The certificate holder shall
11 instruct all construction personnel to avoid areas where the resources were found and
12 shall implement other appropriate measures to protect the resources.

13 [Amendment #1 (SFWF)]

14 44 The certificate holder shall ensure that a qualified archeologist, as defined in OAR 736-
15 051-0070, instructs construction personnel in the identification of cultural materials and
16 avoidance of accidental damage to identified resource sites.

17 45 The certificate holder shall ensure that construction personnel cease all ground-disturbing
18 activities in the immediate area if any archaeological or cultural resources are found
19 during construction of the facility until a qualified archeologist can evaluate the
20 significance of the find. The certificate holder shall notify the Department and the State
21 Historic Preservation Office (SHPO) of the find. If the SHPO determines that the resource is
22 significant, the certificate holder shall make recommendations to the Council for
23 mitigation, including avoidance, field documentation and data recovery, in consultation
24 with the Department, SHPO, interested tribes and other appropriate parties. The
25 certificate holder shall not restart work in the affected area until the certificate holder has
26 demonstrated to the Department and the SHPO that it has complied with archaeological
27 resource protection regulations.

28 46 In reference to the presumed alignments of the Oregon Trail described in the Final Order
29 on the Application, the certificate holder shall comply with the following requirements:

30 (a) The certificate holder shall not locate facility components on visible remnants of the
31 Oregon Trail and shall avoid any construction disturbance to those remnants.

32 (b) The certificate holder shall not locate facility components on undeveloped land
33 where the trail alignment was marked by existing Oregon-California Trail Association
34 markers as described in the October 2007 Archaeological Investigations Northwest, Inc.
35 report (No. 2012) on the Oregon Trail.

36 (c) Before beginning construction, the certificate holder shall provide to the State
37 Historic Preservation Office (SHPO) and to the Department photographic documentation
38 of the presumed Oregon Trail alignments within the site boundary.

39 (d) The certificate holder shall ensure that construction personnel proceed carefully in
40 the vicinity of the presumed alignments of the Oregon Trail. If any intact physical evidence
41 of the trail is discovered, the certificate holder shall avoid any disturbance to the intact
42 segments, by redesign, re-engineering or restricting the area of construction activity. The

1 certificate holder shall promptly notify the SHPO and the Department of the discovery.
2 The certificate holder shall consult with the SHPO and the Department to determine
3 appropriate mitigation measures.

4. Geotechnical Conditions

4 47 Before beginning construction, the certificate holder shall conduct a site-specific
5 geotechnical investigation and shall report its findings to the Oregon Department of
6 Geology & Mineral Industries (DOGAMI) and the Department. The certificate holder shall
7 conduct the geotechnical investigation after consultation with DOGAMI and in general
8 accordance with DOGAMI open file report 00-04 "Guidelines for Engineering Geologic
9 Reports and Site-Specific Seismic Hazard Reports."

10 48 The certificate holder shall design and construct the facility in accordance with
11 requirements set forth by the State of Oregon's Building Code Division and any other
12 applicable codes and design procedures. The certificate holder shall design facility
13 structures to meet or exceed the minimum standards required by the 2003 International
14 Building Code.

15 49 The certificate holder shall design, engineer and construct the facility to avoid dangers to
16 human safety presented by non-seismic hazards. As used in this condition, "non-seismic
17 hazards" include settlement, landslides, flooding and erosion.

5. Hazardous Materials, Fire Protection & Public Safety Conditions

18 50 The certificate holder shall handle hazardous materials used on the site in a manner that
19 protects public health, safety and the environment and shall comply with all applicable
20 local, state and federal environmental laws and regulations. The certificate holder shall
21 not store diesel fuel or gasoline on the facility site.

22 51 If a spill or release of hazardous material occurs during construction or operation of the
23 facility, the certificate holder shall notify the Department within 72 hours and shall clean
24 up the spill or release and dispose of any contaminated soil or other materials according to
25 applicable regulations. The certificate holder shall make sure that spill kits containing
26 items such as absorbent pads are located on equipment and at the field workshop. The
27 certificate holder shall instruct employees about proper handling, storage and cleanup of
28 hazardous materials. [Amendment #1 (SFWF)]

29 52 During construction, the certificate holder shall ensure that construction personnel are
30 trained in fire prevention and response, that construction vehicles and equipment are
31 operated on graveled areas to the extent possible and that open flames, such as cutting
32 torches, are kept away from dry grass areas.

33 53 During operation, the certificate holder shall ensure that all on-site employees receive
34 annual fire prevention and response training, including tower rescue training, by qualified
35 instructors or members of the local fire districts. The certificate holder shall ensure that all
36 employees are instructed to keep vehicles on roads and off dry grassland, except when
37 off-road operation is required for emergency purposes. The certificate holder shall

- 1 encourage employees to become volunteer members of local fire departments and shall
2 facilitate appropriate training.
- 3 54 During construction and operation of the facility, the certificate holder shall ensure that
4 the field workshop and all service vehicles are equipped with shovels and portable fire
5 extinguishers of a 4A50BC or equivalent rating. [Amendment #1 (SFWF)]
- 6 55 During construction and operation of the facility, the certificate holder shall develop and
7 implement fire safety plans in consultation with the local fire protection agencies (the
8 North Gilliam County Rural Fire Protection District and the Lone Rural Fire Protection
9 District) to minimize the risk of fire and to respond appropriately to any fires that occur on
10 the facility site. In developing the fire safety plans, the certificate holder shall take into
11 account the dry nature of the region and shall address risks on a seasonal basis. The
12 certificate holder shall meet annually with local fire protection agency personnel to
13 discuss emergency planning and shall invite local fire protection agency personnel to
14 observe any emergency drill or tower rescue training conducted at the facility.
- 15 56 Upon the beginning of operation of the facility, the certificate holder shall provide a site
16 plan to the local fire protection agencies (the North Gilliam County Rural Fire Protection
17 District and the Lone Rural Fire Protection District). The certificate holder shall indicate on
18 the site plan the identification number assigned to each turbine and the location of all
19 facility structures and shall provide an updated site plan if additional turbines or other
20 structures are later added to the facility. During operation, the certificate holder shall
21 ensure that appropriate fire protection agency personnel have an up-to-date list of the
22 names and telephone numbers of facility personnel available to respond on a 24-hour
23 basis in case of an emergency on the facility site.
- 24 57 Before beginning construction, the certificate holder shall submit a Notice of Proposed
25 Construction or Alteration to the Federal Aviation Administration (FAA) and the Oregon
26 Department of Aviation identifying the proposed final locations of turbine towers and
27 meteorological towers. The certificate holder shall promptly notify the Department of the
28 responses from the FAA and the Oregon Department of Aviation. [Amendment #1 (SFWF)]
- 29 58 The certificate holder shall construct turbines on concrete foundations and shall surround
30 the base of each tower with a ten-foot pad area of washed crushed rock on all sides. The
31 certificate holder shall cover turbine pad areas with non-erosive, non-flammable material
32 as soon as possible following exposure during construction and shall maintain the pad area
33 covering during operation of the facility.
- 34 59 The certificate holder shall follow manufacturers' recommended handling instructions and
35 procedures to prevent damage to turbine or turbine tower components that could lead to
36 failure.
- 37 60 The certificate holder shall install and maintain self-monitoring devices on each turbine,
38 connected to a fault annunciation panel or supervisory control and data acquisition
39 (SCADA) system at the field workshop to alert operators to potentially dangerous
40 conditions. The certificate holder shall maintain automatic equipment protection features

1 in each turbine that would shut down the turbine and reduce the chance of a mechanical
2 problem causing a fire. [Amendment #1 (SFWF)]

3 61 The certificate holder shall construct turbine towers with no exterior ladders or access to
4 the turbine blades and shall install locked tower access doors. The certificate holder shall
5 keep tower access doors locked at all times except when authorized personnel are
6 present.

7 62 The certificate holder shall have an operational safety-monitoring program and shall
8 inspect all turbine and turbine tower components on a regular basis. All turbine and
9 turbine tower components will be inspected within 6 months of being repowered.
10 Following the inspection, the certificate holder shall submit a written report to the
11 Department describing the results of the turbine tower component inspection. The
12 certificate holder shall maintain or repair turbine and turbine tower components as
13 necessary to protect public safety. [Amendment #2]

14 63 For turbine types having pad-mounted step-up transformers, the certificate holder shall
15 install the transformers at the base of each tower in locked cabinets designed to protect
16 the public from electrical hazards and to avoid creation of artificial habitat for raptor prey.

17 64 To protect the public from electrical hazards, the certificate holder shall enclose the
18 facility substation with appropriate fencing and locked gates. [Amendment #1 (SFWF)]

19 65 The certificate holder shall construct access roads with a finished width of approximately
20 16 feet, a compacted base of native soil and a gravel surface to a depth of four to ten
21 inches. [Amendment #1 (SFWF); Amendment #1]

22 66 During construction, the certificate holder shall implement measures to reduce traffic
23 impacts, including:

24 (a) Providing notice to the City of Arlington Road Department, the Gilliam County Road
25 Department and the Gilliam County Sheriff's Office in advance of deliveries that could
26 cause traffic disruption in Arlington.

27 (b) Providing notice to the residents of Arlington in advance of deliveries that could
28 cause traffic disruption.

29 (c) Requiring flaggers to be at appropriate locations at appropriate times during
30 construction to direct traffic.

31 67 The certificate holder shall cooperate with the Gilliam County Road Department and the
32 Morrow County Public Works Department to ensure that any unusual damage or wear to
33 county roads that is caused by construction of the facility is repaired by the certificate
34 holder. Submittal to the Department of an executed Road Use Agreement with Gilliam
35 County and Morrow County shall constitute evidence of compliance with this condition.
36 Upon completion of construction, the certificate holder shall restore county roads to pre-
37 construction condition or better, to the satisfaction of the applicable county departments.
38 If required by Morrow County or Gilliam County, the certificate holder shall post bonds to
39 ensure funds are available to repair and maintain roads affected by the proposed facility.
40 [Amendment #2]

- 1 68 During construction, the certificate holder shall require that all on-site construction
2 contractors develop and implement a site health and safety plan that informs workers and
3 others on-site what to do in case of an emergency and that includes the locations of fire
4 extinguishers and nearby hospitals, important telephone numbers and first aid techniques.
5 The certificate holder shall ensure that construction contractors have personnel on-site
6 who are trained and equipped for tower rescue and who are first aid and CPR certified.
- 7 69 During operation, the certificate holder shall develop and implement a site health and
8 safety plan that informs employees and others on-site what to do in case of an emergency
9 and that includes the locations of fire extinguishers and nearby hospitals, important
10 telephone numbers and first aid techniques.
- 11 70 During construction and operation of the facility, the certificate holder shall provide for
12 on-site security and shall establish good communications between on-site security
13 personnel and local law enforcement agencies (Gilliam County Sheriff and Morrow County
14 Sheriff). During operation, the certificate holder shall ensure that appropriate law
15 enforcement agency personnel have an up-to-date list of the names and telephone
16 numbers of facility personnel available to respond on a 24-hour basis in case of an
17 emergency on the facility site.
- 18 71 The certificate holder shall notify the Department and the Planning Directors of Gilliam
19 County and Morrow County within 72 hours of any accidents including mechanical failures
20 on the site associated with construction or operation of the facility that may result in
21 public health and safety concerns.

6. Water, Soils, Streams & Wetlands Conditions

- 22 72 The certificate holder shall not build any roads or construct transmission line support
23 poles within Eightmile Creek or within a 10-foot buffer from the ordinary high water line
24 of the creek.
- 25 73 The certificate holder shall conduct all construction work, including the repowering
26 activities associated with Amendment #2, in compliance with an Erosion and Sediment
27 Control Plan (ESCP) satisfactory to the Oregon Department of Environmental Quality and
28 as required under the National Pollutant Discharge Elimination System (NPDES) Storm
29 Water Discharge General Permit #1200-C. The certificate holder shall include in the ESCP
30 any procedures necessary to meet local erosion and sediment control requirements or
31 storm water management requirements. [Amendment #2]
- 32 74 During construction, the certificate holder shall limit truck traffic to designated existing
33 and improved road surfaces to avoid soil compaction, to the extent practicable.
- 34 75 During construction, including the repowering activities associated with RFA2, the
35 certificate holder shall implement best management practices to control any dust
36 generated by construction activities, such as applying water to roads and disturbed soil
37 areas. [Amendment #2]
- 38 76 During construction, the certificate holder shall reduce temporary disturbance impacts by
39 making use of previously disturbed areas, including roadways and tracks, and by

1 preserving vegetation rootstalks by crushing, rather than scraping, vegetation in areas of
2 temporary disturbance.

3 77 During facility operation, the certificate holder shall routinely inspect and maintain all
4 roads, pads and trenched areas and, as necessary, maintain or repair erosion and
5 sediment control measures. The certificate holder shall restore areas that are temporarily
6 disturbed during facility maintenance or repair activities to pre-disturbance condition or
7 better.

8 78 During facility operation, the certificate holder shall obtain water for on-site uses from a
9 well at the field workshop, subject to compliance with applicable permit requirements.
10 The certificate holder shall not use more than 5,000 gallons of water per day from the
11 facility's on-site well. [Amendment #1 (SFWF)]

7. Transmission Line & EMF Conditions

12 79 The certificate holder shall install the 34.5-kV collector system underground to the extent
13 practicable. The certificate holder shall install underground lines at a minimum depth of
14 three feet. Based on geotechnical conditions or other engineering considerations, the
15 certificate holder may install segments of the collector system aboveground on single-
16 pole, cross-arm structures, but the total length of aboveground double-circuit segments
17 installed on single-pole structures must not exceed 3.2 miles. [Amendment #1 (SFWF);
18 Amendment #1]

19 80 The certificate holder shall ground appropriate sections of fencing that parallel
20 transmission lines to reduce the risk of shock from induced voltage. In particular, the
21 certificate holder shall ground appropriate sections of fencing located in the northern
22 project area on the west side of Eightmile Canyon if the certificate holder builds a parallel
23 transmission line in that location that could induce a voltage on the fence.

24 81 The certificate holder shall take reasonable steps to reduce or manage human exposure to
25 electromagnetic fields, including but not limited to:

26 (a) Constructing all aboveground transmission lines at least 200 feet from any residence
27 or other occupied structure, measured from the centerline of the transmission line.

28 (b) Constructing all aboveground 34.5-kV transmission lines with a minimum clearance
29 of 20 feet from the ground.

30 (c) Constructing all aboveground 230-kV transmission lines with a minimum clearance of
31 24 feet from the ground.

32 (d) Fencing the areas near the facility substation to ensure that substation equipment is
33 not accessible to the public.

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

36 (f) Designing and maintaining all transmission lines so that alternating current electric
37 fields do not exceed 9 kV per meter at one meter above the ground surface in areas
38 accessible to the public.

39 [Amendment #1 (SFWF)]

1 82 In advance of, and during, preparation of detailed design drawings and specifications for
2 230-kV and 34.5-kV transmission lines, the certificate holder shall consult with the Utility
3 Safety and Reliability Section of the Oregon Public Utility Commission to ensure that the
4 designs and specifications are consistent with applicable codes and standards.

8. Plants, Wildlife & Habitat Protection Conditions

5 83 The certificate holder shall conduct wildlife monitoring as described in the *Wildlife*
6 *Monitoring and Mitigation Plan* that is incorporated in the *Final Order on Amendment #1*
7 as Attachment A and as amended from time to time. [Amendment #1 (SFWF); Amendment #1]

8 84 The certificate holder shall restore areas disturbed by facility construction but not
9 occupied by permanent facility structures according to the methods and monitoring
10 procedures described in the *Revegetation Plan* that is incorporated in the *Final Order on*
11 *Amendment #1 for the Shepherds Flat Wind Farm* as Attachment SFS-B and as amended
12 from time to time. [Amendment #1 (SFWF)]

13 85 The certificate holder shall acquire the legal right to create, enhance, maintain and protect
14 a habitat mitigation area as long as the site certificate is in effect by means of an outright
15 purchase, conservation easement or similar conveyance and shall provide a copy of the
16 documentation to the Department. Within the habitat mitigation area, the certificate
17 holder shall improve the habitat quality as described in the *Habitat Mitigation Plan* that is
18 incorporated in the *Final Order on Amendment #1* as Attachment C and as amended from
19 time to time. [Amendment #1 (SFWF); Amendment #1]

20 86 The certificate holder shall avoid permanent and temporary disturbance to the areas
21 described in (a) through (g) and, during the times indicated, shall avoid construction
22 disturbance in the areas described in (h) through (k). The certificate holder shall flag these
23 areas for the duration of construction activities nearby and shall ensure that construction
24 personnel avoid disturbance of the areas. The avoidance areas are:

25 (a) All Category 1 and those areas of Category 2 habitat shown on the “ODFW-2” Figures
26 1 through 12 in the Shepherds Flat Wind Farm Application. [Amendment #1 (SFWF)]

27 (b) Eight small areas of Category 3 shrub-steppe habitat as described in the Final Order
28 on Amendment #1 for the Shepherds Flat Wind Farm, Section IV.4.(b)A. [Amendment #1
29 (SFWF)]

30 (c) All seeps, riparian areas and vernal pools.

31 (d) All water sources for wildlife, including perennial and intermittent streams, stock
32 ponds and watering stations.

33 (e) All faces of bluffs or rock outcroppings.

34 (f) All trees or other structures that contain active raptor nests.

35 (g) For the facility substation and field workshop, all Category 3 habitat. [Amendment #1
36 (SFWF)]

37 (h) [Text was removed by Amendment #1]

38 (i) The area within 0.5 miles of Category 3 curlew nesting habitat and the area within 0.5
39 miles the BLM Horn Butte Wildlife Area during the nesting season (March 8 through June
40 15). Before beginning construction, the certificate holder shall provide to the Department
41 a map showing these avoidance areas relative to areas of potential construction

1 disturbance. The certificate holder may engage in construction activities in these areas at
2 times other than the nesting season.

3 (j) The area within 1,000 feet of any essential, limited and irreplaceable Washington
4 ground squirrel (WGS) habitat within the new areas added to the site by Amendment #1
5 (excluding the areas within the site boundaries of Shepherds Flat North, Shepherds Flat
6 Central and Shepherds Flat South as approved on September 11, 2009) during the period
7 in which the squirrels are active. The certificate holder shall hire a qualified independent
8 professional biologist to conduct pre-construction surveys for State-listed threatened,
9 endangered or sensitive wildlife species in these new areas within 1,000 feet of any area
10 potentially disturbed by facility construction. To determine whether WGS habitat exists
11 and to determine whether WGS are active, the biologist shall search for WGS in suitable
12 habitat using a two-survey protocol approved by the Oregon Department of Fish and
13 Wildlife (ODFW). The certificate holder shall submit the results of the survey to ODFW and
14 to the Department. If signs of WGS activity are observed, the certificate holder shall flag
15 the avoidance area and ensure that construction personnel avoid disturbance of the area
16 until the biologist has determined that the WGS are no longer active.

17 (k) Areas within a suitable buffer around confirmed populations of Laurent's milk-vetch
18 or any other State-listed threatened or endangered plant species within the new areas
19 added to the site by Amendment #1 (excluding the area within the site boundaries of
20 Shepherds Flat North, Shepherds Flat Central and Shepherds Flat South as approved on
21 September 11, 2009). The certificate holder shall not install facility components or cause
22 temporary disturbance within these areas. The certificate holder shall hire a qualified
23 independent professional biologist to conduct pre-construction surveys for State-listed
24 threatened or endangered plant species in these new areas within 1,000 feet of any area
25 potentially disturbed by facility construction. The certificate holder shall submit the results
26 of the survey to the Department.

27 [Amendment #1]

28 **87** The certificate holder shall microsite the facility in conformance with the industry's best
29 practices. The certificate holder shall follow the recommendations of a qualified wildlife
30 biologist to avoid building turbine towers in the following locations:

31 (a) Areas of increased risk to avian species due to constricted flight paths, such as
32 narrow ridge saddles and gaps between hilltops.

33 (b) Areas on slopes greater than 20 percent.

34 (c) [text removed by Amendment #1 (SFWF)]

35 (d) [text removed by Amendment #1 (SFWF)]

36 **88** During construction, the certificate holder shall avoid construction activities in areas
37 around active nests of the following species during the sensitive period, as provided in this
38 condition:

<u>Species</u>	<u>Sensitive Period</u>	<u>Early Release Date</u>
Swainson’s hawk	April 1 to August 15	May 31
Ferruginous hawk	March 15 to August 15	May 31
Burrowing owl	April 1 to August 15	July 15

1 The certificate holder shall conduct pre-construction surveys, using a protocol approved
 2 by the Oregon Department of Fish and Wildlife (ODFW) to determine whether there are
 3 any active nests of these species within 0.5 miles of any areas that would be disturbed
 4 during construction. The certificate holder shall search the scheduled construction areas
 5 and all areas within 0.5 miles of the construction areas. If a nest is occupied by any of
 6 these species after the beginning of the sensitive period, the certificate holder will flag the
 7 boundaries of a 0.5-mile buffer area around the nest and shall instruct construction
 8 personnel to avoid disturbance of the area. The certificate holder shall hire a qualified
 9 independent professional biologist to observe the active nest sites during the sensitive
 10 period for signs of disturbance and to notify the Department of any non-compliance with
 11 this condition. If the biologist observes nest site abandonment or other adverse impact to
 12 nesting activity, the certificate holder shall implement appropriate mitigation, in
 13 consultation with ODFW and subject to the approval of the Department, unless the
 14 adverse impact is clearly shown to have a cause other than construction activity. The
 15 certificate holder may begin or resume construction activities within a buffer area before
 16 the ending day of the sensitive period if any known nest site is not occupied by the early
 17 release date. If a nest site is occupied, then the certificate holder may begin or resume
 18 construction before the ending day of the sensitive period with the approval of ODFW,
 19 after the young are fledged. The certificate holder shall use a protocol approved by ODFW
 20 to determine when the young are fledged (the young are independent of the core nest
 21 site).

22 89 The certificate holder shall not remove any trees that are greater than three feet in height.

23 90 The certificate holder shall design all aboveground transmission line support structures
 24 following the most current suggested practices for avian protection on power lines
 25 published by the Avian Power Line Interaction Committee.

26 91 The certificate holder shall reduce the risk of injuries to avian species by:

27 (a) Installing turbine towers that are smooth steel structures that lack features that
 28 would allow avian perching.

29 (b) Installing meteorological towers that are non-guyed structures to eliminate the risk
 30 of avian collision with guy-wires.

31 (c) Avoiding installation of aboveground transmission lines across narrow saddles,
 32 ravines and similar features and, where such crossings cannot be avoided, installing line-
 33 markers to make the lines more visible to avian species.

34 92 The certificate holder shall impose and enforce construction and operation speed limits of
 35 5 miles per hour on roads within 1,000 feet of Category 1 or Category 2 WGS habitat and
 36 20 miles per hour on all other facility roads and shall ensure that all construction and
 37 operations personnel are instructed on the importance of cautious driving practices while
 38 on facility roads. [Amendment #1]

9. Visual Effects Conditions

- 1 93 To reduce the visual impact of the facility, the certificate holder shall:
- 2 (a) Mount nacelles on smooth, steel structures, painted uniformly in a matte-finish,
3 neutral white color.
- 4 (b) Paint substation structures in a neutral color to blend with the surrounding
5 landscape.
- 6 (c) Not allow any advertising to be used on any part of the facility.
- 7 (d) Use only those signs required for facility safety, required by law or otherwise
8 required by this site certificate, except that the certificate holder may erect a sign to
9 identify the facility near the field workshop, may paint turbine numbers on each tower
10 and may allow unobtrusive manufacturers' logos on turbine nacelles.
- 11 (e) Not locate any facility signs along Highway 74.
- 12 (f) Design signs in accordance with Gilliam County Zoning Ordinance Section 8.030 and
13 Morrow County Zoning Ordinance Section 4.070, as applicable.
- 14 (g) Maintain any signs allowed under this condition in good repair.

15 [Amendment #1 (SFWF)]

- 16 94 The certificate holder shall design and construct the field workshop to be generally
17 consistent with the character of similar buildings used by commercial farmers or ranchers
18 in the area and shall paint the building in a neutral color to blend with the surrounding
19 landscape. [Amendment #1 (SFWF)]

- 20 95 The certificate holder shall not use exterior nighttime lighting except:
- 21 (a) The minimum turbine tower lighting required or recommended by the Federal
22 Aviation Administration.
- 23 (b) Security lighting at the field workshop and substation, provided that such lighting is
24 shielded or downward-directed to reduce glare.
- 25 (c) Minimum lighting necessary for repairs or emergencies.
- 26 (d) Minimum lighting necessary for nighttime construction. The certificate holder may
27 use lighting only at the work location and only directed downward to illuminate the work
28 area at the turbine base or upward from the base to illuminate the turbine tower;
29 construction lighting shall not be directed outward. The certificate holder shall use
30 nighttime lighting only with the approval of the owner of the property on which the work
31 is conducted and shall provide notice of nighttime construction to occupants of all
32 residences within one-half mile of the construction site.

33 [Amendment #1 (SFWF)]

10. Noise Control Conditions

- 34 96 To reduce noise impacts at nearby residences, the certificate holder shall:
- 35 (a) Confine the noisiest operation of heavy construction equipment to the daylight
36 hours.
- 37 (b) Require contractors to install and maintain exhaust mufflers on all combustion
38 engine-powered equipment; and

1 (c) Establish a complaint response system at the construction manager's office to
2 address noise complaints.

3 97 Before beginning construction, the certificate holder shall provide to the Department:

4 (a) Information that identifies the final design locations of all turbines to be built at the
5 facility.

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

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

15 (d) For each noise-sensitive property where the certificate holder relies on a noise
16 waiver to demonstrate compliance in accordance with OAR 340-035-0035 (1)(b)(B)(iii)(III),
17 a copy of the a legally effective easement or real covenant pursuant to which the owner of
18 the property authorizes the certificate holder's operation of the facility to increase
19 ambient statistical noise levels L₁₀ and L₅₀ by more than 10 dBA at the appropriate
20 measurement point. The legally-effective easement or real covenant must: include a legal
21 description of the burdened property (the noise sensitive property); be recorded in the
22 real property records of the county; expressly benefit the certificate holder; expressly run
23 with the land and bind all future owners, lessees or holders of any interest in the
24 burdened property; and not be subject to revocation without the certificate holder's
25 written approval.

26 98 During operation, the certificate holder shall maintain a complaint response system to
27 address noise complaints. The certificate holder shall promptly notify the Department of
28 any complaints received regarding facility noise and of any actions taken by the certificate
29 holder to address those complaints. In response to a complaint from the owner of a noise
30 sensitive property regarding noise levels during operation of the facility, the Council may
31 require the certificate holder to monitor and record the statistical noise levels to verify
32 that the certificate holder is operating the facility in compliance with the noise control
33 regulations. [Amendment #1 (SFWF)]

11. Waste Management Conditions

34 99 The certificate holder shall provide portable toilets for on-site sewage handling during
35 construction and shall ensure that they are pumped and cleaned regularly by a licensed
36 contractor who is qualified to pump and clean portable toilet facilities.

37 100 During operation, the certificate holder shall discharge sanitary wastewater generated at
38 the field workshop to a licensed on-site septic system in compliance with county permit
39 requirements. The certificate holder shall design the septic system for a discharge capacity
40 of less than 2,500 gallons per day. [Amendment #1 (SFWF)]

- 1 101 The certificate holder shall implement a waste management plan during construction that
2 includes but is not limited to the following measures:
- 3 (a) Recycling steel and other metal scrap.
 - 4 (b) Recycling wood waste.
 - 5 (c) Recycling packaging wastes such as paper and cardboard.
 - 6 (d) Collecting non-recyclable waste for transport to a local landfill by a licensed waste
7 hauler or by using facility equipment and personnel to haul the waste.
 - 8 (e) Segregating all hazardous wastes such as used oil, oily rags and oil-absorbent
9 materials, mercury-containing lights and lead-acid and nickel-cadmium batteries for
10 disposal by a licensed firm specializing in the proper recycling or disposal of hazardous
11 wastes.
 - 12 (f) Discharging all concrete truck rinse water into foundation holes and completing truck
13 wash-down off-site.
- 14 102 The certificate holder shall implement a waste management plan during operation that
15 includes but is not limited to the following measures:
- 16 (a) Training employees to minimize and recycle solid waste.
 - 17 (b) Recycling paper products, metals, glass and plastics.
 - 18 (c) Recycling used oil and hydraulic fluid.
 - 19 (d) Collecting non-recyclable waste for transport to a local landfill by a licensed waste
20 hauler or by using facility equipment and personnel to haul the waste.
 - 21 (e) Segregating all hazardous, non-recyclable wastes such as used oil, oily rags and oil-
22 absorbent materials, mercury-containing lights and lead-acid and nickel-cadmium
23 batteries for disposal by a licensed firm specializing in the proper recycling or disposal of
24 hazardous wastes.
- 25 103 Before beginning construction, the certificate holder shall determine whether any
26 construction disturbance would occur in locations not previously investigated for potential
27 jurisdictional waters as described in the *Final Order on Amendment #1*. The certificate
28 holder shall conduct pre-construction investigations in these new areas within 1,000 feet
29 of any area potentially disturbed by facility construction to determine whether any State-
30 jurisdictional waters exist in those locations. The certificate holder shall submit a written
31 report on the pre-construction investigation to the Department of Energy and to the
32 Department of State Lands for approval before beginning construction and shall ensure
33 that construction would have no impact on any jurisdictional water identified in the
34 report. [Amendment #1]

12. New Conditions Applicable to Amendment 2 Facility Repower

- 35 104 The certificate holder shall begin construction of the Shepherds Flat South facility
36 modifications, as approved in the Second Amended Site Certificate, within three years
37 after the effective date of the amended site certificate [TBD]. The certificate holder shall
38 notify the Department, the Morrow County Planning Department, and the Gilliam County
39 Planning Department when construction of the facility modifications, as approved in
40 Request for Amendment 2, commences. Under OAR 345-015-0085(8), the amended site
41 certificate is effective upon execution by the Council Chair and the certificate holder.

1 [Amendment #2]

2 105 The certificate holder shall complete construction of the Shepherds Flat South facility
3 modifications, as approved in the Second Amended Site Certificate, within three years
4 following the date of construction commencement [TBD]. The certificate holder shall
5 promptly notify the Department , the Morrow County Planning Department, and the
6 Gilliam County Planning Department of the date of completion of construction of the
7 facility modifications, as approved in Request for Amendment 2.

8 [Amendment #2]

9 106 Prior to Amendment #2 facility repower activities, the certificate holder shall provide the
10 Department with the foundation uprate analysis on facility turbines. If the analysis results
11 identify necessary mitigation and remediation measures, or operational timing
12 recommendations, the certificate holder shall implement the identified measures and
13 recommendations prior to beginning the repowering activities unless otherwise approved
14 by the Department. [Amendment #2]

15 107 Prior to Amendment #2 facility repower activities, the certificate holder shall coordinate
16 with the Gilliam County Weed Department and the Morrow County Weed Control
17 Department, and submit to the Department, a Roadway Weed Control Plan. The
18 Department shall review and approve the plan, in consultation with the Gilliam County
19 Weed Department and the Morrow County Weed Control Department. The Roadway
20 Weed Control Plan shall include, as pertinent, but not be limited to, identification of
21 county-listed weeds of economic concern, methods for evaluating weeds within impact
22 area, results of weed assessment, control methods specific to roadway weed control and
23 timing, agency consultation protocol, and process for evaluating success of weed control.

24 [Amendment #2]

25 108 The certificate holder shall:

26 (a) Prior to RFA2 facility repower activities:

27 (i) Provide an updated habitat assessment of areas of disturbance, based on a
28 protocol approved by the Department in consultation with ODFW.

29 (ii) Identify monitoring and reference sites, including sites within each habitat
30 category and subtype impacted, and the methodology utilized for selecting the
31 number of monitoring and reference sites should be included.

32 (iii) Consult with the Department, ODFW and Gilliam County Weed Control
33 Department and Morrow County Weed Control Department on timing and methods
34 for revegetation and weed control.

35 (b) Following completion of RFA2 facility repower activities:

36 (i) Restore areas temporarily disturbed by RFA2 facility repower activities according
37 to the methods and monitoring procedures described in the Revegetation Plan that
38 is incorporated in the Final Order on Amendment 2 for Shepherds Flat South as
39 Attachment D and as amended from time to time.

1 (ii) Consult annually with the Department, ODFW. Gilliam and Morrow County Weed
 2 Control Departments on timing and methods for revegetation and weed control. If
 3 mutually agreed upon by the Department, ODFW, Gilliam and Morrow County Weed
 4 Control Departments, the annual consultation may be discontinued after 5 years.
 5 This provision does not relieve the certificate holder from complying with its weed
 6 control obligations as described in Condition 107 and 38, and any other provisions of
 7 applicable state or local requirements for weed control.

8 [Amendment #2]

9 **109** The certificate holder shall:

10 (a) Prior to RFA2 facility repower activities, the certificate holder shall conduct a pre-
 11 construction raptor nest survey, using a protocol approved by the Oregon Department
 12 of Fish and Wildlife (ODFW) to determine whether there are any active nests of state
 13 sensitive species within 0.5 miles of any areas that would be disturbed.

14 (b) During RFA2 repower activities, if active raptor nests were identified within 0.5-mile
 15 of RFA2 repower activities per (a) of this condition or become active during the sensitive
 16 season, per (c) below, the certificate holder shall avoid construction activities within
 17 0.25 mile buffer in areas around active nests of the following species during the
 18 sensitive period, as provided in this condition:

<u>Species</u>	<u>Sensitive Period</u>	<u>Early Release Date</u>
<u>Swainson’s hawk</u>	<u>April 1 to August 15</u>	<u>May 31</u>
<u>Ferruginous hawk</u>	<u>March 15 to August 15</u>	<u>May 31</u>
<u>Burrowing owl</u>	<u>April 1 to August 15</u>	<u>July 15</u>

19 (c) During RFA2 repower activities, if a nest becomes occupied by any of these species
 20 after the beginning of the sensitive period, the certificate holder will flag the boundaries
 21 of a 0.25-mile buffer area around the nest and shall instruct construction personnel to
 22 avoid disturbance of the area.

23 (d) During RFA2 repower activities, if active nest sites are observed per (b) or (c) of this
 24 condition, the certificate holder shall hire a qualified independent professional biologist
 25 to observe the active nest sites during the sensitive period for signs of disturbance and
 26 to notify the Department of any non-compliance with this condition. If the biologist
 27 observes nest site abandonment or other adverse impact to nesting activity, the
 28 certificate holder shall implement appropriate mitigation, in consultation with ODFW
 29 and subject to the approval of the Department, unless the adverse impact is clearly
 30 shown to have a cause other than construction activity. The certificate holder may begin
 31 or resume construction activities within a buffer area before the ending day of the
 32 sensitive period if any known nest site is not occupied by the early release date. If a nest
 33 site is occupied, then the certificate holder may begin or resume construction before
 34 the ending day of the sensitive period with the approval of ODFW, after the young are
 35 fledged. The certificate holder shall use a protocol approved by ODFW to determine
 36 when the young are fledged (the young are independent of the core nest site).

1 [Amendment #2]

2 **110** Following completion of Amendment #2 facility repower activities, the certificate holder
3 shall conduct two years of avian and bat fatality monitoring, as described in the Wildlife
4 Monitoring and Mitigation Plan, or based on protocol otherwise approved by the
5 Department in consultation with ODFW, provided as Attachment E of the Final Order on
6 Amendment 2. [Amendment #2]

7 **111** During Amendment #2 facility repower activities, the certificate holder shall, or ensure its
8 third-party contractors, reuse or recycle wind turbine blades, hubs and other removed
9 wind turbine components to the extent practicable and in accordance with the Morrow
10 County Solid Waste Management Plan. The certificate holder shall report in its semi-
11 annual report to the Department the quantities of removed wind turbine components
12 recycled, reused, sold for scrap, and disposed of in a landfill, to the extent practicable.
13 [Amendment #2]

14 **112** Prior to Amendment #2 facility repower activities, the certificate holder shall submit a
15 Notice of Proposed Construction or Alteration to the Federal Aviation Administration
16 (FAA) and the Oregon Department of Aviation identifying the new maximum blade tip
17 height of 150 meters. The certificate holder shall promptly notify the Department of the
18 responses from the FAA and the Oregon Department of Aviation. [Amendment #2]

19 **113** Prior to Amendment #2 facility repower activities, the certificate holder shall provide to
20 the Department:

21 (a) The maximum sound power level and octave band for the modified wind turbines
22 based on manufacturer's warranties or confirmed by other means acceptable to the
23 Department.

24 (b) If the information provided to the Department in (a) shows that the modified
25 (repowered) wind turbines would produce a higher maximum sound power level and
26 octave band than the currently installed wind turbines, the certificate holder must
27 conduct a noise analysis of the modified (repowered) turbines. If required, the
28 certificate holder must provide to the Department results of the noise analysis for the
29 Amendment #2 facility repower, performed in a manner consistent with the
30 requirements of OAR 340-035-0035(1)(b)(B)(iii)(IV) and (VI) demonstrating to the
31 satisfaction of the Department that the total noise generated (including the noise from
32 repowered wind turbines and existing substation transformers) would meet the
33 ambient degradation test and maximum allowable test at the appropriate measurement
34 point for all potentially-affected noise sensitive properties.

35 (c) If the information provided to the Department in (a) shows that the modified
36 (repowered) wind turbines would produce a higher maximum sound power level and
37 octave band than the currently installed wind turbines, the certificate holder must
38 provide to the Department, for each noise-sensitive property where the certificate
39 holder relies on a noise waiver to demonstrate compliance in accordance with OAR 340-
40 035-0035 (1)(b)(B)(iii)(III) related to site certificate Amendment #2 activities, a copy of
41 the a legally effective easement or real covenant pursuant to which the owner of the

1 property authorizes the certificate holder's operation of the facility to increase ambient
2 statistical noise levels L10 and L50 by more than 10 dBA at the appropriate
3 measurement point. The easement must only be provided to the Department if the
4 modified wind turbines would produce a higher maximum sound power level and
5 octave band than the currently installed wind turbines and the current noise-easements
6 do not allow ambient statistical noise levels L10 and L50 by more than the statistical
7 noise levels anticipated to occur from the repowered turbines at the appropriate
8 measurement point. The legally-effective easement or real covenant must: include a
9 legal description of the burdened property (the noise sensitive property); be recorded in
10 the real property records of the county; expressly benefit the certificate holder;
11 expressly run with the land and bind all future owners, lessees or holders of any interest
12 in the burdened property; and not be subject to revocation without the certificate
13 holder's written approval. [Amendment #2]

14

VI. SUCCESSORS AND ASSIGNS

1 To transfer this site certificate or any portion thereof or to assign or dispose of it in any
2 other manner, directly or indirectly, the certificate holder shall comply with OAR 345-027-0400.

VII. SEVERABILITY AND CONSTRUCTION

3 If any provision of this agreement and certificate is declared by a court to be illegal or in
4 conflict with any law, the validity of the remaining terms and conditions shall not be affected,
5 and the rights and obligations of the parties shall be construed and enforced as if the
6 agreement and certificate did not contain the particular provision held to be invalid.

VIII. GOVERNING LAW AND FORUM

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

IX. EXECUTION AND EFFECTIVE DATE


10 This site certificate may be executed in counterparts and will become effective upon
11 signature by the Chair of the Energy Facility Siting Council and the authorized representative of
12 the certificate holder. [Amendment #1 (SFWF); Amendment #1; Amendment #2]

13 **IN WITNESS WHEREOF**, this site certificate has been executed by the State of Oregon, acting by
14 and through its Energy Facility Siting Council, and by Horseshoe Bend Wind, LLC.

ENERGY FACILITY SITING COUNCIL

HORSESHOE BEND WIND, LLC

By: 
Hanley Jenkins II, Chair
Oregon Energy Facility Siting Council

By: 
Print: Vandana Gupta

Date: 1-24-2020

Date: 1-29-2020