BEFORE THE
ENERGY FACILITY SITING COUNCIL
OF THE STATE OF OREGON

In the Matter of Request for Amendment 3 to ) FINAL ORDER ON
Transfer Certificate Holder Ownership of the ) REQUEST FOR AMENDMENT 3
Shepherds Flat North Site Certificate )

Issued by

Oregon Department of Energy
550 Capitol Street NE
Salem, Oregon 97301-3742

February 2021
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ATTACHMENTS
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I. INTRODUCTION

The Energy Facility Siting Council (Council) issues this order in accordance with Oregon Revised Statute (ORS) 469.405 and Oregon Administrative Rule (OAR) 345-027-0400 for Request for Amendment 3 to Transfer Ownership of the Shepherds Flat North Certificate Holder (Request for Amendment to Transfer or RFA3). This order addresses a change in the certificate holder owner; the existing certificate holder, North Hurlburt Wind, LLC, would be maintained. Specifically, this order addresses a request to transfer certificate holder ownership from Caithness Northwestern Wind, LLC and Columbia Gorge Wind Acquisition Co, LLC (collectively referred to as Caithness as the certificate holder owner and parent company) to BEP SF Holdings, LLC (new owner).

Pursuant to OAR 345-027-0400(1), “A request for amendment to a site certificate to transfer the site certificate is required for a transaction that results in a change in the ownership, possession or control of the facility or the certificate holder. A “new owner” refers to the person or entity that will gain ownership, possession or control of the facility or the certificate holder.”

I.A. Name and Address of Certificate Holder

The certificate holder, certificate holder owner and contact names, as represented in the existing site certificate, are as follows:

Certificate Holder

North Hurlburt Wind, LLC
565 Fifth Avenue, 29th Floor
New York, NY 10017

Certificate Holder Owner

Vandana Gupta
North Hurlburt Wind, LLC
c/o Caithness Energy, LLC
565 Fifth Avenue, 29th Floor
New York, NY 10017
I.B. Name and Address of New Owner

The new owner and contact name is as follows:

Whitney Wilson, Vice President
BEP SF Holdings, LLC
c/o Brookfield Renewables U.S.
200 Liberty Street, 14th Floor
New York, NY 10281

I.C. Description of the Approved Facility and Location

Shepherds Flat North is a 265 megawatt (MW) operating wind energy facility with 106 wind turbines; wind turbine dimensions include a minimum aboveground blade tip clearance of 21.5 meters; rotor diameter and rotor swept area of 127 meters; and, maximum blade tip height of 150 meters. The facility includes a 34.5 kilovolt (kV) electrical collection system, a collector substation, a 230 kV interconnection transmission line, two meteorological towers, a field workshop, supervisory control and data acquisition system (SCADA), access roads, and temporary construction areas.

The facility is located within a site boundary of approximately 9,264 acres, south of Interstate Highway 84, east of Arlington, in Gilliam County, as presented in Figure 1: Regional Location of Facility Site Boundary.\(^1\) As presented in the figure, the facility is adjacent to Shepherds Flat Central, which is adjacent to Shepherds Flat South, two other EFSC-jurisdictional facilities owned by the same parent company as Shepherds Flat North.

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\(^1\) Site boundary means, “the perimeter of the site of a proposed energy facility, its related or supporting facilities, all temporary laydown and staging areas and all corridors and micrositing corridors proposed by the applicant.” (OAR 345-001-0010(54))
Figure 1: Regional Location of Facility Site Boundary
I.D. Site Certificate History

The Council approved a site certificate for the Shepherds Flat Wind Facility on July 25, 2008, authorizing construction and operation of a 909 MW wind energy generation facility. The Council issued the First Amended Site Certificate on March 12, 2010, authorizing an expansion of the site boundary to accommodate an alternative route for the transmission line, and also divide and transfer the Shepherds Flat Wind Facility into three independent facilities - Shepherds Flat North, Shepherds Flat Central, and Shepherds Flat South.

The Council issued its Final Order on Amendment 2 and granted a Second Amended Site Certificate on December 20, 2019, which authorized wind turbine repower through installation of longer turbine blades. Wind turbine repower is planned to occur in 2021-2022.

II. THE TRANSFER PROCESS

II.A. Description of the Transfer Request

In Request for Amendment 3 to Transfer Certificate Holder Ownership, the certificate holder and new owner request a site certificate transfer to reflect the change in certificate holder ownership from Caithness to BEP SF Holdings, LLC. Request for Amendment 3 represents the first request to transfer certificate holder ownership requested by the certificate holder.

II.B. Procedural History

On January 6, 2021, prior to receipt of Request for Amendment 3 to Transfer, the Department received notice of a potential sale and purchase of the Shepherds Flat North certificate holder from Caithness to BEP SF Holdings, LLC. On February 2, 2021, the Department received complete property owner information obtained from the most recent county tax assessor roll in Gilliam County from the certificate holder and new owner, along with Request for Amendment 3 to Transfer, seeking Council approval of a change in certificate holder ownership for the Shepherds Flat North Site Certificate.

On February 5, 2021, the Department issued Public Notice of Request for Amendment 3 to Transfer to all persons on the Council’s general mailing list, the special mailing list established for the facility, an updated list of property owners supplied by the new owner, and reviewing agencies as defined in OAR 345-001-0010(52). The notice initiated a comment period on the transfer request and provided a date and time of the Transfer Hearing, as required for site certificate transfers pursuant to OAR 345-027-0400(7). The notice provided an “anticipated” deadline for submission of comments and date of transfer hearing of February 26, 2021, which

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2 Site certificate Condition 15 requires that the certificate holder, prior to any transfer of ownership of the facility or ownership of the certificate holder, inform the Department of the proposed new owners.
Oregon Department of Energy

was later confirmed for the same date based on final agenda issued on February 16, 2021 for the February 26, 2021 Council meeting.

The comment period extended from February 5 through February 26, 2021. During the comment period, comments were received in oral testimony from the new owner at the February 26, 2021 Transfer Hearing. Following the Transfer Hearing, Council received a staff presentation on the details of the transfer request, including the Department’s recommendations as presented in a February 12, 2021 staff report (presented in the format of a draft order). At the February 26, 2021 meeting, following review of the transfer request and comments received, Council approved the Final Order on the Request for Transfer and granted issuance of a third amended site certificate.

II.C. Comments on the Transfer Request

On the record of the transfer request, on behalf of the new owner, legal Counsel Richard Allan of Marten Law LLP provided oral testimony at the transfer hearing. Specifically, Mr. Allan sought to clarify the ownership structure of the new owner and provided additional facts for Council consideration of the new owner’s ability to obtain a bond or letter of credit for facility decommissioning. The substance of these comments are incorporated into the findings of this order.

III. EVALUATION OF TRANSFER REQUEST AND APPLICABLE COUNCIL STANDARDS

Under OAR 345-027-0400(8), the Council may approve a transfer of the site certificate if the Council finds that:

(a) The new owner complies with the Council standards described in OAR 345-022-0010, 345-022-0050 and, if applicable, OAR 345-024-0710(1); and
(b) The new owner is or will be lawfully entitled to possession or control of the site or the facility described in the site certificate.

The evaluation of OAR 345-027-0400(8)(a) is presented in Section III.A. Organizational Expertise and III.B. Retirement and Financial Assurance of this order; OAR 345-024-0710(1), Monetary Path Payment Requirement is related to the Carbon Standard and does not apply to wind energy generation facilities and therefore is not evaluated in this order.

Possession or Control of the Site, Facility or Certificate Holder [OAR 345-027-0400(8)(b)]

To approve a transfer of the site certificate, the Council must find that the new owner is lawfully entitled to possession or control of the site or the facility described in the site certificate. To evaluate whether the new owner is lawfully entitled to possession or control of the site or facility, OAR 345-027-0400(5) states, “The Department may require the new owner to submit a written statement from the current certificate holder...verifying the new owner’s
right, subject to the provisions of ORS Chapter 469 and the rules of this chapter, to possession or control of the site or the facility.”

Request for Amendment 3, Attachment 1 ("Letter from Certificate Holder, January 6, 2021") from Vandana Gupta, authorized representative as Vice President and Business Management of North Hurlburt Wind, LLC and Caithness confirms that, “Caithness is under contract to sell the Shepherds Flat North wind facility to BEP SF Holdings, LLC.” Request for Amendment 3, Attachment M-1 includes a legal opinion letter from King & Spalding which confirms that the Purchase and Sale Agreement entered into as of December 31, 2020 by Caithness and BEP SF Holdings, LLC stipulates that BEP SF Holdings, LLC is the buyer guarantor and will become the 100 percent indirect owner of North Hurlburt Wind, LLC, and that based upon review of BEP SF Holdings, LLC Certificate of Formation (RFA3 Attachment A-1), BEP SF Holdings, LLC has the “legal authority to construct and operate” the facility without violating its Certificate of Formation or certificate holder’s Certificate of Formation. Based on review of the letter from Certificate Holder, Legal Opinion letter and information in RFA3 regarding BEP SF Holdings, LLC indirect ownership of North Hurlburt Wind, LLC, the Council finds that the new owner is lawfully entitled to possession or control of the site and Shepherds Flat North facility.

Certification [OAR 345-027-0400(4)]

To request an amendment to transfer a site certificate, the new owner must provide a certification that it agrees to abide by all the terms and conditions of the site certificate to be transferred. Request for Amendment 3 Section 2 includes a statement that the new owner, “certifies that it agrees to abide by all the terms and conditions of the Site Certificate currently in effect and all terms and conditions, if any, that will result from this Transfer Request.”

III.A. Organizational Expertise [OAR 345-022-0010]

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

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

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

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

Findings of Fact

Subsections (1) and (2) of the Council’s Organizational Expertise standard require that, for a transfer request, the certificate holder owner demonstrate its ability to design, construct, operate and retire the facility in compliance with Council standards and all site certificate conditions, in a manner that protects public health and safety, as well as its ability to restore the site to a useful, non-hazardous condition. Subsections (3) and (4) address third party permits. Because the facility is in operation, the need for new third-party permits is not anticipated.

The certificate holder, North Hurlburt Wind, LLC, is a project-specific limited liability company (LLC), originally incorporated on April 30, 2008 in the State of Delaware, and has historically relied upon the organizational expertise of its owner or family of owner companies (parent company) to satisfy the requirements of the standard. The new owner, BEP SF Holdings, LLC is also a Delaware limited liability company. As explained in RFA3, BEP SF Holdings, LLC is owned directly or indirectly by SF Aggregator, LLC, which is owned by (i) indirect subsidiaries of Brookfield Renewable Corporation (BEPC) and (ii) investment vehicles of Brookfield Infrastructure Fund IV (a private equity fund), each of which is ultimately managed and controlled by affiliates of Brookfield Asset Management Inc. (BAM). BEPC is ultimately managed and controlled by Brookfield Renewable Partners L.P. (BEP), which is managed and controlled by BAM. BEP is based in Toronto, Canada, with U.S. headquarters in New York City, and is represented in RFA3 as one of the world’s largest publicly traded renewable power platforms.
For purposes of this review, the certificate holder and new owner rely upon the experience and expertise of BEP and its affiliates.³

Relevant Experience in Wind Facility Construction and Operation

As described above, the certificate holder and new owner represent and rely on experience of BEP, BEP’s affiliates, BEP personnel and those of its affiliates, rather than specific experience of BEP SF Holdings, LLC to satisfy the standard. Council has historically evaluated experience of the certificate holder or certificate holder owner as an entity or organization, rather than individual personnel. The Council considers personnel experience relevant to the evaluation of whether the certificate holder and new owner have the ability to identify and hire qualified individuals for the construction, operation and retirement of an energy facility. However, due to potential for staff turnover and subsequent lack of security in personnel retention, the Council relies on the experience of entity or parent company in combination with individual personnel experience in its evaluation of compliance with the standard.

In RFA3, the experience of BEP and its affiliates is described as including over 120 years of development, operation and management of approximately 7,300 MWs of hydropower, wind, solar and storage facilities across 34 states. To demonstrate its specific experience in wind facility design, construction and operation, RFA3 Table D-1 presents over 20 wind facilities up to 200 MWs where BEP and its affiliates maintain 100 percent or partial ownership. Additionally, the new owner confirms that the facility is currently operated and maintained under a long-term, full service agreement with General Electric International, which would be maintained in effect through the transfer.

In RFA3, the experience and qualifications of 5 personnel of BEP or its affiliates are provided, which is summarized below:

- Ms. Whitney Wilson is the Vice President of Asset Management in Wind Operations of Brookfield Renewable U.S. with over 16 years of wind energy facility development experience, including turbine selection, siting and completing energy assessments on more than 100 wind facilities. Ms. Wilson holds a Bachelor’s in Physics from Fort Hays State University and completed Master’s studies in Electrical Engineering with a Power System Emphasis at Kansas State University.
- Dr. Neha Marathe is a Senior Director of Wind Optimization and Asset Management at Brookfield Renewable U.S. with 10 years of wind energy experience. Dr. Marathe

³ On the record of the Transfer Hearing, legal Counsel for the new owner, Richard Allan of Marten Law LLP requested to correct the record to confirm that the new owner is indirectly owned by Brookfield Renewable Corporation (BEP) and investment vehicles of Brookfield Infrastructure Fund IV (a private equity investment vehicle), and that the new owner’s organizational expertise would rely upon that of BEP and its affiliates, which represents a universe of companies. 2021-02-26 EFSC Meeting Audio.
holds a MS in Mechanical Engineering and a PhD in Wind Science and Engineering, both from Texas Tech University.

- Mr. Miguel Rosales is the Regional Operations & Asset Manager for the Western Region contracted wind projects in Brookfield Renewable U.S., with over 20 years of relevant experience in wind energy development.
- Ms. Lily Henning is a Senior Manager of Environmental Affairs and Permitting for Brookfield Renewable U.S., with 10 years of experience in development permitting and operational environmental compliance related to energy and manufacturing, including roles with the U.S. Department of Defense, the Pacific Northwest National Laboratory, General Electric and E.On. Ms. Henning holds a Bachelors in History from Pennsylvania State University and a Juris Doctor with an environmental law certificate from the Elizabeth Haub School of Law at Pace University.
- Mr. Llorente is Sr. Director of Technical Services for Brookfield Renewable U.S., with over 20 years of experience in the energy industry, especially focused in renewables. Mr. Llorente earned a M. Sc. In Electrical Engineering from the Universidad Pontificia Comillas, Spain.
- Mr. Berk Gursoy is VP Project Development at Brookfield Renewable U.S., with over twenty-five years of experience in the energy sector focusing on operation and development of renewable and transmission facilities. Mr. Gursoy holds an M. Sc. In Electrical & Electronics Engineering from the Middle East Technical University in Ankara, Turkey.

The Council finds that reliance on the experience and expertise of the new owner’s parent companies is consistent with previous Council decisions for the facility and other facilities where the certificate holder and owner are project or investment-specific LLCs. The Council finds that the professional experience of individuals currently employed at BEP or its affiliates in combination with the experience of BEP and its affiliates demonstrate an ability to design, construct and operate wind facilities.

Council previously found that compliance with Conditions 32 through 35 of the site certificate would ensure that the facility is designed, constructed, and operated in a manner that protects public health and safety, as referenced below. Because facility construction is complete, of relevance in this review is Condition 35. Previously imposed conditions are presented in Attachment 1 (Amended Site Certificate) of this order.

**Condition 32:** Before beginning construction, the certificate holder shall notify the Department of the identity and qualifications of the major design, engineering and construction contractor(s) for the facility. The certificate holder shall select contractors that have substantial experience in the design, engineering and construction of similar facilities. The certificate holder shall report to the Department any change of major contractors.
**Condition 33:** The certificate holder shall contractually require all construction contractors and subcontractors involved in the construction of the facility to comply with all applicable laws and regulations and with the terms and conditions of the site certificate. Such contractual provisions shall not operate to relieve the certificate holder of responsibility under the site certificate.

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

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

To evaluate whether transfer of the site certificate would impact the new owner’s ability to comply with Council standards and site certificate conditions, the Council evaluates whether the new owner has received any regulatory citations for its facilities and the outcome of such citations. In RFA3, the certificate holder and new owner describe 8 compliance issues from the last 10-years associated with all Brookfield Renewable U.S. assets. The compliance issues range from regulator site visits to enforcement action/fines for issues related to eagle mortality, stormwater management, blade failure and sulfur hexafluoride reporting.

The purpose of evaluating a new owner’s compliance history is to determine whether corrective actions were appropriately implemented in response to the issue, and whether compliance issues represent a continuous failure of the ability of a new owner to comply with applicable requirements. Given that the new owner’s compliance history is limited to 8 issues in ten years for over 7,300 MW of energy facilities, all of which are represented as having been resolved, the Council finds that the compliance history supports a finding that the new owner has the ability to comply with and/or to expediently resolve any potential compliance issues with terms and conditions of the site certificate.

ISO 9000 or ISO 14000 Certified Program

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

Third-Party Permits

OAR 345-022-0010(3) addresses the requirements for potential third-party permits. The certificate holder has not identified any third-party permits necessary for ongoing facility operation.
Relevant Experience in Habitat Mitigation

Under the standard, the Council evaluates the new owner’s experience with mitigation projects and the qualifications and experience of personnel upon whom new owner would rely on for implementation, to the extent that the identities of such persons are known at the time of transfer request, to determine whether the new owner can successfully complete mitigation necessary to satisfy site certificate requirements.

In RFA3 to Transfer, the new owner provides a summary of its experience in long-term mitigation for three projects where mitigation requirements included extensive relocation of an endangered plant species, Bakersfield cactus, at a solar project in California; planting of over 5,600 tree seedlings for a project in New Hampshire, and bird and bat mitigation for a project in Hawaii. The Council notes that the existing site certificate includes requirements to comply with long-term mitigation associated with habitat enhancement and monitoring, revegetation and weed control, which the existing certificate holder has been implementing and currently maintains compliance. Based on Brookfield Renewable U.S.’ represented experience in mitigation, the Council finds that the new owner has the experience and qualifications necessary to continue to satisfy the requirements under the standard for mitigation.

Ability to Restore the Facility Site to a Useful, Non-hazardous Condition

The new owners’ ability to retire the facility to a useful, non-hazardous condition is evaluated in Section III.B., Retirement and Financial Assurance of this order, in which the Council finds the new owner would comply with the Retirement and Financial Assurance standard.

Conclusions of Law

Based on the foregoing findings of fact, and based upon compliance with existing site certificate conditions, the Council finds that the transfer of ownership of the certificate owner from Caithness to BEP SF Holdings, LLC continues to satisfy the requirements of the Council’s Organizational Expertise standard.

III.B. Retirement and Financial Assurance [OAR 345-022-0050]

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

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

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

The Retirement and Financial Assurance standard requires a finding that the facility site, taking into account mitigation, can be restored to a useful, non-hazardous condition at the end of the facility’s useful life, should either the new owner stop construction or should the facility cease to operate. In addition, it requires a demonstration that the new owner can obtain a bond or letter of credit to restore the site to a useful, non-hazardous condition.

Restoration of the Site Following Cessation of Construction or Operation

OAR 345-022-0050(1) requires the Council to find that the facility site can be restored to a useful non-hazardous condition at the end of the facility’s useful life. The facility is located entirely on exclusive farm use (EFU) zoned land in Gilliam County, Oregon. Therefore, to satisfy this standard, the new owner must show that the site can be restored to a non-hazardous condition suitable for EFU-zoned lands. In the ASC, the facility’s useful life was represented as 50 years.

In Request for Amendment 3 to Transfer, there are no changes to the methods, tasks or actions previously evaluated by Council for facility decommissioning. Therefore, the initial discussion of facility decommissioning is provided for reference, based upon Council’s review and approval in the Final Order on the ASC (July 2008). Restoring the site to a useful, non-hazardous condition upon cessation of construction or operations (or upon retirement) would involve removal of all turbine components, meteorological towers, aboveground electrical components, transformers and other substation equipment. In the ASC, the certificate holder stated that O&M buildings would be demolished and disposed of at an appropriate facility, or converted to agricultural buildings for use by the landowners. As explained in ASC Exhibit W, concrete foundations would be removed to a minimum depth of three feet below grade. Underground cables that are at least three feet below grade would be left in place. Gravel surfacing material would be removed, the impacted area would be decompacted as needed, the area regraded to appropriate contours and topsoil replaced, and the area would be revegetated unless the landowner indicates a desire to leave the new or expanded roads in place.

In the Final Order on the ASC (July 2008) and subsequent orders, the Council found that, pursuant to OAR 345-022-0050(1), the current certificate holder could restore the site to a useful, non-hazardous condition. To ensure the certificate holder met its obligations, the Council adopted Conditions 7-9, 30 and 31 in the site certificate. These conditions require the certificate holder to prevent the development of any condition on-site that would preclude restoration of the site to a useful, non-hazardous condition (Condition 7) and require the certificate holder to submit a final retirement plan that describes the activities necessary to restore the site to a useful, non-hazardous condition for Council approval (Condition 9).

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4 OAR 345-022-0050(1).
5 Final Order on the Application at 88
In the Final Order on the ASC (July 2008) and subsequent orders, the Council also found that, pursuant to OAR 345-022-0050(2), the current certificate holder had a reasonable likelihood of obtaining a bond or letter of credit, in a form and amount satisfactory to the Council, to restore the site to a useful, non-hazardous condition. In the Final Order on Amendment 1, Council found that the value of the financial assurance bond or letter of credit for restoring the site was $7.443 million (in 1st quarter 2010 dollars). To ensure the certificate holder met its obligations, the Council adopted Conditions 30 and 31 in the site certificate. Condition 30 requires the certificate holder to maintain a bond or letter of credit in the amount of $7.443 million, to be adjusted for inflation to the date of issuance and final design configuration, which ensures funds are available to the Council to restore the site if the certificate holder does not retire the facility as required by Conditions 7 through 9.

In RFA3 to Transfer, the new owner refers to the fact that the existing certificate holder was issued, as the account holder, an active letter of credit of $10.45 million (3rd Qtr 2020 dollars), effective August 25, 2020, issued by Landesbank Hessen-Thuringen, which has been submitted to and is maintained by the Department. Landesbank Hessen-Thuringen (Helaba) is a financial institution listed on the Council’s 2020 pre-approved list. The new owner describes that the existing letter of credit will remain in place following the transfer of certificate holder ownership and would not be affected by the transfer, or terms of the Purchase and Sale Agreement. In addition, as represented by the new owner, the facility is a United States Department of Energy (US DOE) loan guarantee facility, where the new owner assumes that the benefits of the loan guarantee would apply until October 2027 and provide a reasonable level of assurance of its ability to obtain and maintain a bond or letter of credit in the approved amount.6 Lastly, the new owner provides a comfort letter dated February 21, 2021 from MUFG Bank, Ltd.’s (MUFG) Managing Director Takaki Sakai affirming that based on the ongoing relationship between the financial institution and the new owners’ parent company, Brookfield Renewable Partners, L.P., there is a “reasonable likelihood that MUFG would provide letters of credit” for $8.6 million to the new owner or its parent company for the facility’s decommissioning obligation under the site certificate.

Council reviewed the comfort letter, which included an evaluation of the financial institution and signatory to the letter. Based upon review, Council confirms that MUFG is large-scale bank with the ability to issue letters of credit and Takaki Sakai is a Managing Director. Based on the extent of Brookfield Renewable U.S.’ financial assets identified in RFA3 Table D-1, the assurance provided in the MUFG comfort letter and having access to a US DOE loan guarantee facility, and the fact that the Department’s maintains an existing letter of credit for facility decommissioning, the Council finds that the certificate holder, under new ownership, continues to demonstrate a reasonable likelihood of obtaining a bond or letter of credit in the amount specified for restoration costs.

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Conclusions of Law

Based on the foregoing findings of fact, and subject to the existing site certificate conditions, the Council finds that the certificate holder and new owner continue to comply with the Council’s Retirement and Financial Assurance standard.

IV. GENERAL CONCLUSIONS

The Council finds that the request to transfer ownership of the certificate holder owner from Caithness to BEP SF Holdings, LLC is consistent with current Council rules and the terms and conditions of the site certificate.
V. FINAL ORDER

Based on the above findings of fact, reasoning, and conclusions of law, the Council approves Request for Amendment 3 to Transfer the Shepherds Flat North Site Certificate, transferring ownership of the certificate holder from Caithness to BEPSF Holdings, LLC. The Council Chair executes the Site Certificate amendment in the form of the “Third Amended Site Certificate for Shepherds Flat North.”

Issued this 26th day of February 2021

The OREGON ENERGY FACILITY SITING COUNCIL

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

ATTACHMENTS
Attachment A: Third Amended Site Certificate
ENERGY FACILITY SITING COUNCIL
OF THE
STATE OF OREGON

Third Amended Site Certificate
for
Shepherds Flat North

ISSUANCE DATES
Site Certificate                July 25, 2008
First Amended Site Certificate March 12, 2010
Second Amended Site Certificate December 20, 2019
Third Amended Site Certificate  February 26, 2021
The Oregon Energy Facility Siting Council

THIRD AMENDED SITE CERTIFICATE FOR SHEPHERDS FLAT NORTH

I. INTRODUCTION

The Oregon Energy Facility Siting Council (Council) issues this amended site certificate for Shepherds Flat North (the facility) in the manner authorized under ORS Chapter 469. This amended site certificate is a binding agreement between the State of Oregon (State), acting through the Council, and North Hurlburt Wind, LLC (certificate holder) authorizing the certificate holder to construct and operate the facility in Gilliam County, Oregon.

The findings of fact, reasoning and conclusions of law underlying the terms and conditions of this site certificate are set forth in the following documents, incorporated herein by this reference: (a) the Council’s Final Order on the Application for the Shepherds Flat Wind Farm issued on July 25, 2008, (b) the Final Order on Amendment #1 for the Shepherds Flat Wind Farm, (c) the Final Order on Amendment #1 for Shepherds Flat North (d) the Final Order on Amendment #2 for Shepherds Flat North, and (e) the Final Order on Amendment #3 for Shepherds Flat North.

In interpreting this amended site certificate, any ambiguity will be clarified by reference to the following, in order of priority: (1) this Third Amended Site Certificate (2) the Final Order on Amendment #3 for Shepherds Flat North, (3) the Final Order on Amendment #2 for Shepherds Flat North, (4) the Final Order on Amendment #1 for Shepherds Flat North, (5) the Final Order on Amendment #1 for the Shepherds Flat Wind Farm, (6) the Final Order on the Application for the Shepherds Flat Wind Farm and (7) the record of the proceedings that led to the Final Order on Amendment #3, #2 and #1 on Shepherds Flat North and to the Final Orders on Amendment #1 and the Application for the Shepherds Flat Wind Farm. [Amendment #1 (SFWF); Amendment #1, #2, #3]

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

II. SITE CERTIFICATION

1. To the extent authorized by state law and subject to the conditions set forth herein, the State authorizes the certificate holder to construct, operate and retire a wind energy facility, together with certain related or supporting facilities, at the site in Gilliam County, Oregon, as described in Section III of this site certificate. ORS 469.401(1). [Amendment #1 (SFWF)]

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

3. This site certificate does not address, and is not binding with respect to, matters that were not addressed in the Council’s Final Orders on the Application and Amendment #1 for the Shepherds Flat Wind Farm and in the Final Orders on Amendment #1, #2 and #3, for

SHEPHERDS FLAT NORTH
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Shepherds Flat North. Such matters include, but are not limited to: building code compliance, wage, hour and other labor regulations, local government fees and charges and other design or operational issues that do not relate to siting the facility (ORS 469.401(4)) and permits issued under statutes and rules for which the decision on compliance has been delegated by the federal government to a state agency other than the Council. 469.503(3).

[Amendment #1 (SFWF); Amendment #1, #2, #3]

4. Both the State and the certificate holder shall abide by local ordinances, state law and the rules of the Council in effect on the date this site certificate is executed. ORS 469.401(2). In addition, upon a clear showing of a significant threat to public health, safety or the environment that requires application of later-adopted laws or rules, the Council may require compliance with such later-adopted laws or rules. ORS 469.401(2).

5. For a permit, license or other approval addressed in and governed by this site certificate, the certificate holder shall comply with applicable state and federal laws adopted in the future to the extent that such compliance is required under the respective state agency statutes and rules. ORS 469.401(2).

6. Subject to the conditions herein, this site certificate binds the State and all counties, cities and political subdivisions in Oregon as to the approval of the site and the construction, operation and retirement of the facility as to matters that are addressed in and governed by this site certificate. ORS 469.401(3).

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

8. After issuance of this site certificate, each state agency or local government agency that issues a permit, license or other approval for the facility shall continue to exercise enforcement authority over such permit, license or other approval. ORS 469.401(3).

9. After issuance of this site certificate, the Council shall have continuing authority over the site and may inspect, or direct the Oregon Department of Energy (Department) to inspect, or request another state agency or local government to inspect, the site at any time in order to ensure that the facility is being operated consistently with the terms and conditions of this site certificate. ORS 469.430.
III. DESCRIPTION

1. The Facility

(a) The Energy Facility

The energy facility is an electric power generating facility that produces power from wind energy. The facility consists of not more than 106 wind turbines. The energy facility is described further in the Final Order on Amendment #1 for the Shepherds Flat Wind Farm and in the Final Orders on Amendment #1, #2 and #3, for Shepherds Flat North. [Amendment #1 (SFWF); Amendment #1, #2, #3]

Wind Turbine Repower

Wind turbine repowering includes removal and replacement of wind turbine blades and associated wind turbine components on up to 106 existing turbine towers. Wind turbine repowering requires trucks, small cranes or telehandlers, and a track mounted crane. Trucks deliver new wind turbine components to wind turbine pad sites, and transport the old components offsite for proper disposal or recycling at a licensed facility. Once the new wind turbines components are delivered via truck to each pad site, smaller cranes or telehandlers unload and stage the components. A track mounted crane then mobilizes to the turbine pad area, setting up on the access road adjacent the turbine, and lowers the old rotor down to the pad site for disassembly, followed by the old gearbox. Once disassembled, the old components are staged for truck removal. The track mounted crane then lifts the new gearbox and rotor into place. Once, complete, the track mounted crane advances to the next wind turbine, and the process is repeated.

The facility repower activity results in approximately 109 acres of temporary disturbance from temporary access roads, road improvements and laydown areas. [Amendment #2]

(b) Related or Supporting Facilities

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

- Power Collection System
- Collector Substation
- Meteorological towers
- Field workshop
- Control system
- Access roads
- Additional construction areas

[Amendment #1 (SFWF); Amendment #1]
**Power Collection System**

A power collection system operating at 34.5 kilovolts (kV) transports power from each turbine to a collector substation. The collection system is installed underground at a depth of at least three feet. [Amendment #1]

**Collector Substations and Interconnection**

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

**Meteorological Towers**

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

**Field Workshop**

The facility includes a field workshop. Including fenced areas, the field workshop occupies about 1.6 acres. [Amendment #1 (SFWF)]

**Control System**

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

**Access Roads**

The facility includes up to 31 miles of new roads that provide access to the turbine strings. The access roads connect to graveled turbine turnouts at the base of each turbine. [Amendment #1 (SFWF)]

**Temporary Construction Areas**

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

2. **Location of the Facility**

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

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

The obligation of the certificate holder to report information to the Department or the Council under the conditions listed in this section and in Section V is subject to the provisions of ORS 192.502 et seq. and ORS 469.560. To the extent permitted by law, the Department and the Council will not publicly disclose information that may be exempt from public disclosure if the certificate holder has clearly labeled such information and stated the basis for the exemption at the time of submitting the information to the Department or the Council. If the Council or the Department receives a request for the disclosure of the information, the Council or the Department, as appropriate, will make a reasonable attempt to notify the certificate holder and will refer the matter to the Attorney General for a determination of whether the exemption is applicable, pursuant to ORS 192.450.

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

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

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

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

3. The certificate holder shall design, construct, operate and retire the facility:
   (a) Substantially as described in the site certificate;
   (b) In compliance with the requirements of ORS Chapter 469, applicable Council rules, and applicable state and local laws, rules and ordinances in effect at the time the site certificate is issued; and
   (c) In compliance with all applicable permit requirements of other state agencies.
The certificate holder shall begin and complete construction of the facility by the dates specified in the site certificate. *(See Conditions 24 and 25.)*

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

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

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

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

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

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

The certificate holder shall retire the facility if the certificate holder permanently ceases construction or operation of the facility. The certificate holder shall retire the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110. The certificate holder shall pay the actual cost to restore the site to a useful, non-hazardous condition at the time of retirement, notwithstanding the Council’s approval in the site certificate of an estimated amount required to restore the site.
10 The Council shall include as conditions in the site certificate all representations in the site certificate application and supporting record the Council deems to be binding commitments made by the applicant.

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

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

13 The certificate holder shall notify the Department, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if site investigations or trenching reveal that conditions in the foundation rocks differ significantly from those described in the application for a site certificate. After the Department receives the notice, the Council may require the certificate holder to consult with the Department of Geology and Mineral Industries and the Building Codes Division to propose and implement corrective or mitigation actions.

14 The certificate holder shall notify the Department, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if shear zones, artesian aquifers, deformations or clastic dikes are found at or in the vicinity of the site. After the Department receives notice, the Council may require the certificate holder to consult with the Department of Geology and Mineral Industries and the Building Codes Division to propose and implement corrective or mitigation actions.

15 Before any transfer of ownership of the facility or ownership of the site certificate holder, the certificate holder shall inform the Department of the proposed new owners. The requirements of OAR 345-027-0100 apply to any transfer of ownership that requires a transfer of the site certificate.

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

If the facility includes any transmission line under Council jurisdiction:

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

(b) The certificate holder shall develop and implement a program that provides reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or structures of a permanent nature that could become inadvertently charged with electricity are grounded or bonded throughout the life of the line.

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

The following general monitoring conditions apply:

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

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

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

(d) If the certificate holder becomes aware of a significant environmental change or impact attributable to the facility, the certificate holder shall, as soon as possible, submit a written report to the Department describing the impact on the facility and any affected site certificate conditions.
Following receipt of the site certificate or an amended site certificate, the certificate holder shall implement a plan that verifies compliance with all site certificate terms and conditions and applicable statutes and rules. As a part of the compliance plan, to verify compliance with the requirement to begin construction by the date specified in the site certificate, the certificate holder shall report promptly to the Department of Energy when construction begins. Construction is defined in OAR 345-001-0010. In reporting the beginning of construction, the certificate holder shall describe all work on the site performed before beginning construction, including work performed before the Council issued the site certificate, and shall state the cost of that work. For the purpose of this exhibit, “work on the site” means any work within a site or corridor, other than surveying, exploration or other activities to define or characterize the site or corridor. The certificate holder shall document the compliance plan and maintain it for inspection by the Department or the Council.

The certificate holder shall report according to the following requirements:

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

(i) Within six months after beginning construction, and every six months thereafter during construction of the energy facility and related or supporting facilities, the certificate holder shall submit a semiannual construction progress report to the Department of Energy. In each construction progress report, the certificate holder shall describe any significant changes to major milestones for construction. The certificate holder shall include such information related to construction as specified in the site certificate. When the reporting date coincides, the certificate holder may include the construction progress report within the annual report described in OAR 345-026-0080.

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

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

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

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

(ii) Reliability and Efficiency of Power Production: For electric power plants, the plant availability and capacity factors for the reporting year. The certificate holder shall describe any equipment failures or plant breakdowns that had a significant impact on those factors and shall describe any actions taken to prevent the recurrence of such problems.
(iii) Status of Surety Information: Documentation demonstrating that bonds or letters of credit as described in the site certificate are in full force and effect and will remain in full force and effect for the term of the next reporting period.

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

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

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

The certificate holder and the Department of Energy shall exchange copies of all correspondence or summaries of correspondence related to compliance with statutes, rules and local ordinances on which the Council determined compliance, except for material withheld from public disclosure under state or federal law or under Council rules. The certificate holder may submit abstracts of reports in place of full reports; however, the certificate holder shall provide full copies of abstracted reports and any summarized correspondence at the request of the Department.

The certificate holder shall notify the Department of Energy within 72 hours of any occurrence involving the facility if:

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

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

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

V. SPECIFIC FACILITY CONDITIONS

The conditions listed in this section include conditions based on representations in the site certificate application and supporting record. These conditions are required under OAR 345-027-0020(10). The certificate holder must comply with these conditions in addition to the conditions listed in Section VI. This section includes other specific facility conditions the Council finds necessary to ensure compliance with the siting standards of OAR Chapter 345, Divisions 22 and 24, and to protect the public health and safety. For conditions that require subsequent review and approval of a future action, ORS 469.402 authorizes the Council to delegate the future review and approval to the Department if, in the Council’s discretion, the delegation is warranted under the circumstances of the case.
1. Certificate Administration Conditions

24 The certificate holder shall begin construction of the facility by July 25, 2011. The Council may grant an extension of the deadline to begin construction in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted. [Amendment #1 (SFWF)]

25 The certificate holder shall complete construction of the facility by July 25, 2014. Construction is complete when: 1) the facility is substantially complete as defined by the certificate holder’s construction contract documents, 2) acceptance testing has been satisfactorily completed and 3) the energy facility is ready to begin continuous operation consistent with the site certificate. The certificate holder shall promptly notify the Department of the date of completion of construction. The Council may grant an extension of the deadline for completing construction in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted. [Amendment #1 (SFWF)]

26 The certificate holder shall construct a facility substantially as described in the site certificate and may select turbines of any type, subject to the following restrictions and compliance with all other site certificate conditions. Before beginning construction, the certificate holder shall provide to the Department a description of the turbine types selected for the facility demonstrating compliance with this condition.

(a) The total number of turbines at the facility must not exceed 106 turbines.
(b) The turbine hub height must not exceed 105 meters and the maximum blade tip height must not exceed 150 meters.
(c) The minimum blade tip clearance must be 25 meters above ground. Repowered turbines that comply with the setback requirements of Condition 110, must have a minimum blade tip clearance of 21.5 meters above ground.
(d) The maximum volume of concrete above three feet below grade in the turbine foundations must not exceed 66 cubic yards.
(e) The maximum combined weight of metals in the tower (including ladders and platforms) and nacelle must not exceed 393 U.S. tons per turbine.
(f) The certificate holder shall request an amendment of the site certificate to increase the number of wind turbines to more than 106 wind turbines or to install wind turbines with a hub height greater than 105 meters, a blade tip height greater than 150 meters or a blade tip clearance less than 21.5 meters above ground.

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

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

28 Before beginning construction, the certificate holder shall notify the Department in advance of any work on the site that does not meet the definition of “construction” in ORS 469.300, excluding surveying, exploration or other activities to define or characterize the site, and shall provide to the Department a description of the work and evidence that its value is less than $250,000.
Before beginning construction and after considering all micrositing factors, the certificate holder shall provide to the Department, to the Oregon Department of Fish and Wildlife (ODFW) and to the Planning Director of Gilliam County detailed maps of the facility site, showing the final locations where the certificate holder proposes to build facility components, and a table showing the acres of temporary and permanent habitat impact by habitat category and subtype, similar to Table 7 in the Final Order on Amendment #1 for the Shepherds Flat Wind Farm. The detailed maps of the facility site shall indicate the habitat categories of all areas that would be affected during construction (similar to the maps labeled “ODFW-2” in the site certificate application for the Shepherds Flat Wind Farm). In classifying the affected habitat into habitat categories, the certificate holder shall consult with the ODFW. The certificate holder shall not begin ground disturbance in an affected area until the habitat assessment has been approved by the Department. The Department may employ a qualified contractor to confirm the habitat assessment by on-site inspection. [Amendment #1 [SFWF]]

Before beginning construction, the certificate holder shall submit to the State of Oregon through the Council a bond or letter of credit in the amount described herein naming the State of Oregon, acting by and through the Council, as beneficiary or payee. The initial bond or letter of credit amount is either $7.443 million (1st Quarter 2010 dollars), to be adjusted to the date of issuance as described in (b), or the amount determined as described in (a). The certificate holder shall adjust the amount of the bond or letter of credit on an annual basis thereafter as described in (b).

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

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

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

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

(iii) Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration and project management costs and 10 percent of the adjusted Gross Cost (ii) for the adjusted future developments contingency.
(iv) Add the adjusted Gross Cost (ii) to the sum of the percentages (iii) and round the resulting total to the nearest $1,000 to determine the adjusted financial assurance amount.

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

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

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

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

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

31 If the certificate holder elects to use a bond to meet the requirements of Condition 30, the certificate holder shall ensure that the surety is obligated to comply with the requirements of applicable statutes, Council rules and this site certificate when the surety exercises any legal or contractual right it may have to assume construction, operation or retirement of the energy facility. The certificate holder shall also ensure that the surety is obligated to notify the Council that it is exercising such rights and to obtain any Council approvals required by applicable statutes, Council rules and this site certificate before the surety commences any activity to complete construction, operate or retire the energy facility.

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

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

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

35 Within 72 hours after discovery of conditions or circumstances that may violate the terms or conditions of the site certificate, the certificate holder shall report the conditions or circumstances to the Department.
2. Land Use Conditions

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

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

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

[Amendment #1 (SFWF)]

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

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

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

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

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

(d) Where (a) does not apply, the certificate holder shall maintain a minimum distance of 110-percent of maximum blade tip height, measured from the centerline of the turbine tower to the nearest boundary of the certificate holder’s lease area, except as provided in (e).

(e) The turbine tower setback distance described in (d) does not apply to one isolated area excluded from the certificate holder’s lease with the landowner identified as “Area A” in the Final Order on Amendment #1.

[Amendment #1]
41 Within 90 days after beginning operation, the certificate holder shall provide to the Department and to the Planning Director of Gilliam County the actual latitude and longitude location or Stateplane NAD 83(91) coordinates of each turbine tower, connecting lines and transmission lines. In addition, the certificate holder shall provide to the Department and to the Planning Director of Gilliam County, a summary of as-built changes in the facility compared to the original plan, if any. [Amendment #1 (SFWF)]

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

3. Cultural Resource Conditions

43 Before beginning construction, the certificate holder shall provide to the Department a map showing the final design locations of all components of the facility and areas that would be temporarily disturbed during construction. In addition, the certificate holder shall comply with the following requirements:
   (a) The certificate holder shall avoid disturbance within a 30-meter buffer around the historic-period archaeological sites within the facility boundary identified by AINW as “possibly eligible” for listing in the National Register of Historic Places (NRHP) as described in the Final Order on the Application for the Shepherds Flat Wind Farm.
   (b) The certificate holder shall avoid disturbance of the stacked rock features within the facility boundary identified by AINW as “possibly eligible” for listing in the NRHP as described in the Final Order on the Application for the Shepherds Flat Wind Farm and shall, to the extent practicable, maintain a 30-meter no-construction buffer around these features. If a 30-meter buffer cannot be maintained, the certificate holder shall consult with the State Historic Preservation Office (SHPO) and the Department to determine appropriate action to preserve or document the feature.
   (c) The certificate holder shall label “no entry” areas around all identified historic, cultural or archaeological resource sites on construction maps and drawings, and if construction activities will occur within 200 feet of an identified site, the certificate holder shall flag a 30-meter buffer around the site.
   (d) The certificate holder shall hire qualified personnel to conduct pre-construction field investigation for historic, cultural or archaeological resources in any areas of potential construction disturbance that AINW did not previously survey.
   (e) The certificate holder shall provide written reports of the field investigation required under (d) to the Department and to the SHPO. If any historic, cultural or archaeological resources are found that the SHPO determines to be significant, the certificate holder shall consult with the Department and the SHPO to develop plans to avoid disturbance of the resources during construction and operation of the facility. The certificate holder shall instruct all construction personnel to avoid areas where the resources were found and shall implement other appropriate measures to protect the resources.

[Amendment #1 (SFWF)]
The certificate holder shall ensure that a qualified archeologist, as defined in OAR 736-051-0070, instructs construction personnel in the identification of cultural materials and avoidance of accidental damage to identified resource sites.

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

[Condition removed by Amendment #1 (SFWF)]

4. Geotechnical Conditions

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

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

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


The certificate holder shall handle hazardous materials used on the site in a manner that protects public health, safety and the environment and shall comply with all applicable local, state and federal environmental laws and regulations. The certificate holder shall not store diesel fuel or gasoline on the facility site.
If a spill or release of hazardous material occurs during construction or operation of the facility, the certificate holder shall notify the Department within 72 hours and shall clean up the spill or release and dispose of any contaminated soil or other materials according to applicable regulations. The certificate holder shall make sure that spill kits containing items such as absorbent pads are located on equipment and at the field workshop. The certificate holder shall instruct employees about proper handling, storage and cleanup of hazardous materials. [Amendment #1 (SFWF)]

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

During operation, the certificate holder shall ensure that all on-site employees receive annual fire prevention and response training, including tower rescue training, by qualified instructors or members of the local fire district. The certificate holder shall ensure that all employees are instructed to keep vehicles on roads and off dry grassland, except when off-road operation is required for emergency purposes. The certificate holder shall encourage employees to become volunteer members of local fire departments and shall facilitate appropriate training. [Amendment #1 (SFWF)]

During construction and operation of the facility, the certificate holder shall ensure that the field workshop and all service vehicles are equipped with shovels and portable fire extinguishers of a 4A5OBC or equivalent rating. [Amendment #1 (SFWF)]

During construction and operation of the facility, the certificate holder shall develop and implement fire safety plans in consultation with the North Gilliam County Rural Fire Protection District to minimize the risk of fire and to respond appropriately to any fires that occur on the facility site. In developing the fire safety plans, the certificate holder shall take into account the dry nature of the region and shall address risks on a seasonal basis. The certificate holder shall meet annually with local fire protection agency personnel to discuss emergency planning and shall invite local fire protection agency personnel to observe any emergency drill or tower rescue training conducted at the facility. [Amendment #1 (SFWF)]

Upon the beginning of operation of the facility, the certificate holder shall provide a site plan to the North Gilliam County Rural Fire Protection District. The certificate holder shall indicate on the site plan the identification number assigned to each turbine and the location of all facility structures and shall provide an updated site plan if additional turbines or other structures are later added to the facility. During operation, the certificate holder shall ensure that appropriate fire protection agency personnel have an up-to-date list of the names and telephone numbers of facility personnel available to respond on a 24-hour basis in case of an emergency on the facility site. [Amendment #1 (SFWF)]
Before beginning construction, the certificate holder shall submit a Notice of Proposed Construction or Alteration to the Federal Aviation Administration (FAA) and the Oregon Department of Aviation identifying the proposed final locations of turbine towers and meteorological towers. The certificate holder shall promptly notify the Department of the responses from the FAA and the Oregon Department of Aviation. [Amendment #1 (SFWF)]

The certificate holder shall construct turbines on concrete foundations and shall surround the base of each tower with a ten-foot pad area of washed crushed rock on all sides. The certificate holder shall cover turbine pad areas with non-erosive, non-flammable material as soon as possible following exposure during construction and shall maintain the pad area covering during operation of the facility.

The certificate holder shall follow manufacturers’ recommended handling instructions and procedures to prevent damage to turbine or turbine tower components that could lead to failure.

The certificate holder shall install and maintain self-monitoring devices on each turbine, connected to a fault annunciation panel or supervisory control and data acquisition (SCADA) system at the field workshop to alert operators to potentially dangerous conditions. The certificate holder shall maintain automatic equipment protection features in each turbine that would shut down the turbine and reduce the chance of a mechanical problem causing a fire. [Amendment #1 (SFWF)]

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

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

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

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

The certificate holder shall construct access roads with a finished width of approximately 16 feet, a compacted base of native soil and a gravel surface to a depth of four to ten inches. [Amendment #1 (SFWF); Amendment #1]
During construction, the certificate holder shall implement measures to reduce traffic impacts, including:

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

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

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

The certificate holder shall cooperate with the Gilliam County Road Department to ensure that any unusual damage or wear to county roads that is caused by construction of the facility is repaired by the certificate holder. Submittal to the Department of an executed Road Use Agreement with Gilliam County shall constitute evidence of compliance with this condition. Upon completion of construction, the certificate holder shall restore county roads to pre-construction condition or better, to the satisfaction of the county Road Department. If required by Gilliam County, the certificate holder shall post bonds to ensure funds are available to repair and maintain roads affected by the proposed facility.

The certificate holder shall also coordinate with the Morrow County Road Department regarding implementation of a similar Road Use agreement. The certificate holder must submit evidence of compliance prior to construction of facility repowering as authorized by site certificate Amendment #2. [Amendment #1 (SFWF); Amendment #2]

During construction, the certificate holder shall require that all on-site construction contractors develop and implement a site health and safety plan that informs workers and others on-site what to do in case of an emergency and that includes the locations of fire extinguishers and nearby hospitals, important telephone numbers and first aid techniques. The certificate holder shall ensure that construction contractors have personnel on-site who are trained and equipped for tower rescue and who are first aid and CPR certified.

During operation, the certificate holder shall develop and implement a site health and safety plan that informs employees and others on-site what to do in case of an emergency and that includes the locations of fire extinguishers and nearby hospitals, important telephone numbers and first aid techniques.

During construction and operation of the facility, the certificate holder shall provide for on-site security and shall establish good communications between on-site security personnel and the Gilliam County Sheriff’s Office. During operation, the certificate holder shall ensure that appropriate law enforcement agency personnel have an up-to-date list of the names and telephone numbers of facility personnel available to respond on a 24-hour basis in case of an emergency on the facility site. [Amendment #1 (SFWF)]

The certificate holder shall notify the Department and the Gilliam County Planning Director within 72 hours of any accidents including mechanical failures on the site associated with construction or operation of the facility that may result in public health and safety concerns. [Amendment #1 (SFWF)]
6. Water, Soils, Streams & Wetlands Conditions

72 [Condition removed by Amendment #1 (SFWF)]
73 The certificate holder shall conduct all construction work, including the repowering activities associated with RFA2, in compliance with an Erosion and Sediment Control Plan (ESCP) satisfactory to the Oregon Department of Environmental Quality and as required under the National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge General Permit #1200-C. The certificate holder shall include in the ESCP any procedures necessary to meet local erosion and sediment control requirements or storm water management requirements. [Amendment #2]

74 During construction, the certificate holder shall limit truck traffic to designated existing and improved road surfaces to avoid soil compaction, to the extent practicable.

75 During construction, the certificate holder shall implement best management practices to control any dust generated by construction activities, such as applying water to roads and disturbed soil areas. [Amendment #2]

76 During construction, the certificate holder shall reduce temporary disturbance impacts by making use of previously disturbed areas, including roadways and tracks, and by preserving vegetation rootstalks by crushing, rather than scraping, vegetation in areas of temporary disturbance. [Amendment #2]

77 During facility operation, the certificate holder shall routinely inspect and maintain all roads, pads and trenched areas and, as necessary, maintain or repair erosion and sediment control measures. The certificate holder shall restore areas that are temporarily disturbed during facility maintenance or repair activities to pre-disturbance condition or better. [Amendment #2]

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

7. Transmission Line & EMF Conditions

79 The certificate holder shall install the 34.5-kV collector system underground. The certificate holder shall install underground lines at a minimum depth of three feet. [Amendment #1 (SFWF); Amendment #1]

80 The certificate holder shall ground appropriate sections of fencing that parallel transmission lines to reduce the risk of shock from induced voltage. [Amendment #1 (SFWF)]
The certificate holder shall take reasonable steps to reduce or manage human exposure to electromagnetic fields, including but not limited to:

(a) Constructing all aboveground transmission lines at least 200 feet from any residence or other occupied structure, measured from the centerline of the transmission line.
(b) [Text removed by Amendment #1]
(c) Constructing all aboveground 230-kV transmission lines with a minimum clearance of 24 feet from the ground.
(d) Fencing the areas near the facility substation to ensure that substation equipment is not accessible to the public.
(e) Providing to landowners a map of underground and overhead transmission lines on their property and advising landowners of possible health risks.
(f) Designing and maintaining all transmission lines so that alternating current electric fields do not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the public.

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

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

8. Plants, Wildlife & Habitat Protection Conditions

The certificate holder shall conduct wildlife monitoring as described in the Wildlife Monitoring and Mitigation Plan that is incorporated in the Final Order on Amendment #1 for the Shepherds Flat Wind Farm as Attachment SFN-A and as amended from time to time. [Amendment #1 (SFWF)]

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

The certificate holder shall acquire the legal right to create, enhance, maintain and protect a habitat mitigation area as long as the site certificate is in effect by means of an outright purchase, conservation easement or similar conveyance and shall provide a copy of the documentation to the Department. Within the habitat mitigation area, the certificate holder shall improve the habitat quality as described in the Habitat Mitigation Plan that is incorporated in the Final Order on Amendment #1 for the Shepherds Flat Wind Farm as Attachment SFN-C and as amended from time to time. [Amendment #1 (SFWF)]
The certificate holder shall avoid permanent and temporary disturbance to the areas described in (a) through (g) and, during the times indicated, shall avoid construction disturbance in the areas described in (h) through (k). The certificate holder shall flag these areas for the duration of construction activities nearby and shall ensure that construction personnel avoid disturbance of the areas. The avoidance areas are:

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

(b) [text removed by Amendment #1 (SFWF)]

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

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

(e) All faces of bluffs or rock outcroppings.

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

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

(h) [text removed by Amendment #1 (SFWF)]

(i) The area within 0.5 miles of Category 3 curlew nesting habitat and the area within 0.5 miles the BLM Horn Butte Wildlife Area during the nesting season (March 8 through June 15). Before beginning construction, the certificate holder shall provide to the Department a map showing these avoidance areas relative to areas of potential construction disturbance. The certificate holder may engage in construction activities in these areas at times other than the nesting season.

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

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

[Amendment #1]

The certificate holder shall microsite the facility in conformance with the industry’s best
practices. The certificate holder shall follow the recommendations of a qualified wildlife
biologist to avoid building turbine towers in the following locations:
(a) Areas of increased risk to avian species due to constricted flight paths, such as
narrow ridge saddles and gaps between hilltops.
(b) Areas on slopes greater than 20 percent.
(c) Areas within a 250-foot setback from the bluff edge along the north site boundary.
(d) Areas within a 250-foot setback from bluff edges along the eastern site boundary
above the Willow Creek Valley.

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

<table>
<thead>
<tr>
<th>Species</th>
<th>Sensitive Period</th>
<th>Early Release Date</th>
</tr>
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<tbody>
<tr>
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<tr>
<td>Burrowing owl</td>
<td>April 1 to August 15</td>
<td>July 15</td>
</tr>
</tbody>
</table>

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

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

91 The certificate holder shall reduce the risk of injuries to avian species by:
   (a) Installing turbine towers that are smooth steel structures that lack features that would allow avian perching.
   (b) Installing meteorological towers that are non-guyed structures to eliminate the risk of avian collision with guy-wires.
   (c) Avoiding installation of aboveground transmission lines across narrow saddles, ravines and similar features and, where such crossings cannot be avoided, installing line-markers to make the lines more visible to avian species.

92 The certificate holder shall impose and enforce construction and operation speed limits of 5 miles per hour on roads within 1,000 feet of Category 1 or Category 2 Washington ground squirrel habitat identified in the preconstruction survey required under Condition 86 and 20 miles per hour on all other facility roads and shall ensure that all construction and operations personnel are instructed on the importance of cautious driving practices while on facility roads. [Amendment #1 (SFWF); Amendment #1]

9. Visual Effects Conditions

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

[Amendment #1 (SFWF)]

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

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

[Amendment #1 (SFWF)]

10. Noise Control Conditions

To reduce noise impacts at nearby residences, the certificate holder shall:

(a) Confine the noisiest operation of heavy construction equipment to the daylight
hours.
(b) Require contractors to install and maintain exhaust mufflers on all combustion
engine-powered equipment; and
(c) Establish a complaint response system at the construction manager’s office to
address noise complaints.

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

(a) Information that identifies the final design locations of all turbines to be built at the
facility.
(b) The maximum sound power level for the substation transformers and the maximum
sound power level and octave band data for the turbines selected for the facility
based on manufacturers’ warranties or confirmed by other means acceptable to the
Department.
(c) The results of noise analysis of the facility to be built according to the final design
performed in a manner consistent with the requirements of OAR 340-035-0035
(1)(b)(B)(iii)(IV) and (VI) demonstrating to the satisfaction of the Department that
the total noise generated by the facility (including the noise from turbines and
substation transformers) would meet the ambient degradation test and maximum
allowable test at the appropriate measurement point for all potentially-affected
noise sensitive properties.
(d) For each noise-sensitive property where the certificate holder relies on a noise
waiver to demonstrate compliance in accordance with OAR 340-035-0035
(1)(b)(B)(iii)(III), a copy of the a legally effective easement or real covenant pursuant
to which the owner of the property authorizes the certificate holder’s operation of
the facility to increase ambient statistical noise levels L10 and L50 by more than 10
dBA at the appropriate measurement point. The legally-effective easement or real
covenant must: include a legal description of the burdened property (the noise
sensitive property); be recorded in the real property records of the county; expressly
benefit the certificate holder; expressly run with the land and bind all future owners,
lessees or holders of any interest in the burdened property; and not be subject to revocation without the certificate holder’s written approval.

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

**11. Waste Management Conditions**

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

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

The certificate holder shall implement a waste management plan during construction that includes but is not limited to the following measures:

(a) Recycling steel and other metal scrap.
(b) Recycling wood waste.
(c) Recycling packaging wastes such as paper and cardboard.
(d) Collecting non-recyclable waste for transport to a local landfill by a licensed waste hauler or by using facility equipment and personnel to haul the waste.
(e) Segregating all hazardous wastes such as used oil, oily rags and oil-absorbent materials, mercury-containing lights and lead-acid and nickel-cadmium batteries for disposal by a licensed firm specializing in the proper recycling or disposal of hazardous wastes.
(f) Discharging all concrete truck rinse water into foundation holes and completing truck wash-down off-site.

The certificate holder shall implement a waste management plan during operation that includes but is not limited to the following measures:

(a) Training employees to minimize and recycle solid waste.
(b) Recycling paper products, metals, glass and plastics.
(c) Recycling used oil and hydraulic fluid.
(d) Collecting non-recyclable waste for transport to a local landfill by a licensed waste hauler or by using facility equipment and personnel to haul the waste.
(e) Segregating all hazardous, non-recyclable wastes such as used oil, oily rags and oil-absorbent materials, mercury-containing lights and lead-acid and nickel-cadmium...
103 Before beginning construction, the certificate holder shall determine whether any construction disturbance would occur in locations not previously investigated for potential jurisdictional waters as described in the Final Order on Amendment #1. The certificate holder shall conduct pre-construction investigations in these new areas within 1,000 feet of any area potentially disturbed by facility construction to determine whether any State-jurisdictional waters exist in those locations. The certificate holder shall submit a written report on the pre-construction investigation to the Department of Energy and to the Department of State Lands for approval before beginning construction and shall ensure that construction would have no impact on any jurisdictional water identified in the report. [Amendment #1]

12. New Conditions applicable to RFA2 facility repower

104 The certificate holder shall begin construction of the Shepherds Flat North facility modifications, as approved in the Second Amended Site Certificate, within three years after the effective date of the amended site certificate [December 20, 2022]. The certificate holder shall notify the Department when construction of the of the facility modifications, as approved in Request for Amendment 2, commences. Under OAR 345-015-0085(8), the amended site certificate is effective upon execution by the Council Chair and the certificate holder. [Amendment #2]

105 The certificate holder shall complete construction of the Shepherds Flat North facility modifications, as approved in the Second Amended Site Certificate, within three years following the date of construction commencement. The certificate holder shall promptly notify the Department of the date of completion of construction of the Shepherds Flat North facility modifications, as approved in Request for Amendment 2. [Amendment #2]

106 Prior to RFA2 facility repower activities, the certificate holder shall provide the Department with the foundation uprate analysis on facility turbines. If the analysis results identify necessary mitigation and remediation measures, or operational timing recommendations, the certificate holder shall implement the identified measures and recommendations prior to beginning the repowering activities unless otherwise approved by the Department. [Amendment #2]

107 Prior to RFA2 facility repower activities, the certificate holder shall coordinate with the Gilliam County Weed Department and submit to the Department a Roadway Weed Control Plan. The Department shall review and approve the plan, in consultation with the Gilliam County Weed Department. The Roadway Weed Control Plan shall include, as pertinent, but not be limited to, identification of county-listed weeds of economic concern, methods for evaluating weeds within impact area, results of weed assessment, control methods specific to roadway weed control and timing, agency consultation protocol, and process for evaluating success of weed control.
[Amendment #2]

The certificate holder shall:

(a) Prior to RFA2 facility repower activities:
   i. Provide an updated habitat assessment of areas of disturbance, based on a
      protocol approved by the Department in consultation with ODFW.
   ii. Identify monitoring and reference sites, including sites within each habitat
      category and subtype impacted, and the methodology utilized for selecting the
      number of monitoring and reference sites should be included.
   iii. Consult with the Department, ODFW and Gilliam County Weed Control
        Department on timing and methods for revegetation and weed control.

(b) Following completion of RFA2 facility repower activities:
   i. Restore areas temporarily disturbed by RFA2 facility repower activities according
      to the methods and monitoring procedures described in the Revegetation Plan
      that is incorporated in the Final Order on Amendment 2 for Shepherds Flat North
      as Attachment D and as amended from time to time.
   ii. Consult with the Department, ODFW and Gilliam County Weed Control
        Department on timing and methods for revegetation and weed control.

[Amendment #2]

The certificate holder shall:

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

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

<table>
<thead>
<tr>
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</tbody>
</table>

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

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

[Amendment 2]

Following completion of RFA2 facility repower activities, the certificate holder shall conduct two years of fatality monitoring, as described in the Wildlife Monitoring and Mitigation Plan, or based on protocol otherwise approved by the Department in consultation with ODFW, that is incorporated in the Final Order on Amendment #2 as Attachment E as amended from time to time. [Amendment #2]

During RFA2 facility repower activities, the certificate holder shall, or ensure its third-party contractors, reuse or recycle wind turbine blades, hubs and other removed wind turbine components to the extent practicable. The certificate holder shall report in its semi-annual report to the Department the quantities of removed wind turbine components recycled, reused, sold for scrap, and disposed of in a landfill, to the extent practicable. [Amendment 2]

Prior to the RFA2 facility repower activities, the certificate holder shall submit a Notice of Proposed Construction or Alteration to the Federal Aviation Administration (FAA) and the Oregon Department of Aviation identifying the new maximum blade tip height of 150 meters. The certificate holder shall promptly notify the Department of the responses from the FAA and the Oregon Department of Aviation. [Amendment #2]

Prior to RFA2 facility repower activities, the certificate holder shall provide to the Department:

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

b) If the information provided to the Department in (a) shows that the modified (repowered) wind turbines would produce a higher maximum sound power level and octave band than the currently installed wind turbines, the certificate holder must conduct a noise analysis of the modified (repowered) turbines. If required, the certificate holder must provide to the Department results of the noise analysis for the proposed RFA2 facility repower, as approved in the Second Amended Site.
Certificate, performed in a manner consistent with the requirements of OAR 340-035-0035(1)(b)(B)(iii)(IV) and (VI) demonstrating to the satisfaction of the Department that the total noise generated (including the noise from repowered wind turbines and existing substation transformers) would meet the ambient degradation test and maximum allowable test at the appropriate measurement point for all potentially-affected noise sensitive properties.

c) If the information provided to the Department in (a) shows that the modified (repowered) wind turbines would produce a higher maximum sound power level and octave band than the currently installed wind turbines, the certificate holder must provide to the Department, for each noise-sensitive property where the certificate holder relies on a noise waiver to demonstrate compliance in accordance with OAR 340-035-0035 (1)(b)(B)(iii)(III) related to site certificate Amendment #2 activities, a copy of the a legally effective easement or real covenant pursuant to which the owner of the property authorizes the certificate holder’s operation of the facility to increase ambient statistical noise levels L10 and L50 by more than 10 dBA at the appropriate measurement point. The easement must only be provided to the Department if the modified wind turbines would produce a higher maximum sound power level and octave band than the currently installed wind turbines and the current noise-easements do not allow ambient statistical noise levels L10 and L50 by more than the statistical noise levels anticipated to occur from the repowered turbines at the appropriate measurement point. The legally-effective easement or real covenant must: include a legal description of the burdened property (the noise sensitive property); be recorded in the real property records of the county; expressly benefit the certificate holder; expressly run with the land and bind all future owners, lessees or holders of any interest in the burdened property; and not be subject to revocation without the certificate holder’s written approval.

[Amendment #2]

VI. SUCCESSORS AND ASSIGNS

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

VII. SEVERABILITY AND CONSTRUCTION

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

VIII. GOVERNING LAW AND FORUM

This site certificate shall be governed by the laws of the State of Oregon. Any litigation or arbitration arising out of this agreement shall be conducted in an appropriate forum in Oregon.
IX. EXECUTION AND EFFECTIVE DATE

This site certificate may be executed in counterparts and will become effective upon signature by the Chair of the Energy Facility Siting Council and the authorized representative of the certificate holder.

IN WITNESS WHEREOF, this site certificate has been executed by the State of Oregon, acting by and through its Energy Facility Siting Council, and by North Hurlburt Wind, LLC.

ENERGY FACILITY SITING COUNCIL

By: Marcia L. Grail, Chair
Oregon Energy Facility Siting Council
Date: Mar 3, 2021

NORTH HURLBURT WIND, LLC

By: Caithness Shepherds Flat, LLC, its Manager
By: BEP SF Holdings, LLC, its Managing Member

Print: F. Mitchell Davidson
Date: March 24, 2021