

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

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

ISSUANCE DATES

Site Certificate	July 25, 2008
First Amended Site Certificate	March 12, 2010
Second Amended Site Certificate	January 24, 2020
Third Amended Site Certificate	February 26, 2021

The Oregon Energy Facility Siting Council

THIRD AMENDED SITE CERTIFICATE FOR SHEPHERDS FLAT SOUTH

I. INTRODUCTION

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

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

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

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

II. SITE CERTIFICATION

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

1 Shepherds Flat Wind Farm; and the Final Orders on Amendment #1, #2 and #3 for
2 Shepherds Flat South. Such matters include, but are not limited to: building code
3 compliance, wage, hour and other labor regulations, local government fees and charges and
4 other design or operational issues that do not relate to siting the facility (ORS 469.401(4))
5 and permits issued under statutes and rules for which the decision on compliance has been
6 delegated by the federal government to a state agency other than the Council. 469.503(3).
7 [Amendment #1 (SFWF); Amendment #1; Amendment #2; Amendment #3]

- 8 4. Both the State and the certificate holder shall abide by local ordinances, state law and the
9 rules of the Council in effect on the date this site certificate is executed. ORS 469.401(2). In
10 addition, upon a clear showing of a significant threat to public health, safety or the
11 environment that requires application of later-adopted laws or rules, the Council may
12 require compliance with such later-adopted laws or rules. ORS 469.401(2).
- 13 5. For a permit, license or other approval addressed in and governed by this site certificate,
14 the certificate holder shall comply with applicable state and federal laws adopted in the
15 future to the extent that such compliance is required under the respective state agency
16 statutes and rules. ORS 469.401(2).
- 17 6. Subject to the conditions herein, this site certificate binds the State and all counties, cities
18 and political subdivisions in Oregon as to the approval of the site and the construction,
19 operation and retirement of the facility as to matters that are addressed in and governed by
20 this site certificate. ORS 469.401(3).
- 21 7. Each affected state agency, county, city and political subdivision in Oregon with authority to
22 issue a permit, license or other approval addressed in or governed by this site certificate
23 shall, upon submission of the proper application and payment of the proper fees, but
24 without hearings or other proceedings, issue such permit, license or other approval subject
25 only to conditions set forth in this site certificate. ORS 469.401(3).
- 26 8. After issuance of this site certificate, each state agency or local government agency that
27 issues a permit, license or other approval for the facility shall continue to exercise
28 enforcement authority over such permit, license or other approval. ORS 469.401(3).
- 29 9. After issuance of this site certificate, the Council shall have continuing authority over the
30 site and may inspect, or direct the Oregon Department of Energy (Department) to inspect,
31 or request another state agency or local government to inspect, the site at any time in order
32 to ensure that the facility is being operated consistently with the terms and conditions of
33 this site certificate. ORS 469.430.

III. DESCRIPTION

1. The Facility

(a) The Energy Facility

34 The energy facility is an electric power generating facility that produces power from
35 wind energy. The facility consists of not more than 116 wind turbines. The energy facility is
36 described further in the *Final Order on Amendment #1 for the Shepherds Flat Wind Farm*, in the

1 *Final Order on Amendment #1 for Shepherds Flat South and in the Final Order on Amendment*
2 *#2 for Shepherds Flat South.* [Amendment #1 (SFWF); Amendment #1; Amendment #2]

3 **Wind Turbine Repower**

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

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

19
20 [Amendment #2]

(b) Related or Supporting Facilities

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

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

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

32 **Power Collection System**

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

37 [Amendment #1]

1 **Collector Substations and Interconnection**

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

5 **Meteorological Towers**

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

7 **Field Workshop**

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

10 **Control System**

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

15 **Access Roads**

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

19 **Temporary Construction Areas**

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

2. Location of the Facility

23 The facility is located in Morrow County and Gilliam County south of Interstate Highway
24 84 and east of Arlington, Oregon, between State Highways 19 and 74. The facility is located
25 entirely on private land subject to long-term wind energy leases. [Amendment #1 (SFWF)]

IV. CONDITIONS REQUIRED BY COUNCIL RULES

26 This section lists conditions required by OAR 345-025-0006 (Mandatory Conditions in
27 Site Certificates), OAR 345-025-0010 (Site Specific Conditions), OAR 345-025-0016 (Monitoring
28 and Mitigation Conditions) and OAR Chapter 345, Division 26 (Construction and Operation
29 Rules for Facilities). These conditions should be read together with the specific facility
30 conditions listed in Section V to ensure compliance with the siting standards of OAR Chapter
31 345, Divisions 22 and 24, and to protect the public health and safety. In these conditions, the
32 definitions in OAR 345-001-0010 apply.

33 The obligation of the certificate holder to report information to the Department or the
34 Council under the conditions listed in this section and in Section V is subject to the provisions of
35 ORS 192.502 *et seq.* and ORS 469.560. To the extent permitted by law, the Department and the
36 Council will not publicly disclose information that may be exempt from public disclosure if the

1 certificate holder has clearly labeled such information and stated the basis for the exemption at
2 the time of submitting the information to the Department or the Council. If the Council or the
3 Department receives a request for the disclosure of the information, the Council or the
4 Department, as appropriate, will make a reasonable attempt to notify the certificate holder and
5 will refer the matter to the Attorney General for a determination of whether the exemption is
6 applicable, pursuant to ORS 192.450.

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

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

17 1 The Council shall not change the conditions of the site certificate except as provided for in
18 OAR Chapter 345, Division 27.

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

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

30 4 The certificate holder shall begin and complete construction of the facility by the dates
31 specified in the site certificate. *(See Conditions 24 and 25.)*

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

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

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

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

14 7 The certificate holder shall prevent the development of any conditions on the site that
15 would preclude restoration of the site to a useful, non-hazardous condition to the extent
16 that prevention of such site conditions is within the control of the certificate holder.

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

23 9 The certificate holder shall retire the facility if the certificate holder permanently ceases
24 construction or operation of the facility. The certificate holder shall retire the facility
25 according to a final retirement plan approved by the Council, as described in OAR 345-027-
26 0110. The certificate holder shall pay the actual cost to restore the site to a useful, non-
27 hazardous condition at the time of retirement, notwithstanding the Council's approval in
28 the site certificate of an estimated amount required to restore the site.

29 10 The Council shall include as conditions in the site certificate all representations in the site
30 certificate application and supporting record the Council deems to be binding
31 commitments made by the applicant.

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

38 12 The certificate holder shall design, engineer and construct the facility to avoid dangers to
39 human safety and the environment presented by seismic hazards affecting the site that
40 are expected to result from all maximum probable seismic events. As used in this rule
41 "seismic hazard" includes ground shaking, ground failure, landslide, liquefaction triggering

1 and consequences (including flow failure, settlement buoyancy, and lateral spreading),
2 cyclic softening of clays and silts, fault rupture, directivity effects and soil-structure
3 interaction. [Amendment #2]

4 13 The certificate holder shall notify the Department, the State Building Codes Division and
5 the Department of Geology and Mineral Industries promptly if site investigations or
6 trenching reveal that conditions in the foundation rocks differ significantly from those
7 described in the application for a site certificate. After the Department receives the notice,
8 the Council may require the certificate holder to consult with the Department of Geology
9 and Mineral Industries and the Building Codes Division to propose and implement
10 corrective or mitigation actions. [Amendment #2]

11 14 The certificate holder shall notify the Department, the State Building Codes Division and
12 the Department of Geology and Mineral Industries promptly if shear zones, artesian
13 aquifers, deformations or clastic dikes are found at or in the vicinity of the site. After the
14 Department receives notice, the Council may require the certificate holder to consult with
15 the Department of Geology and Mineral Industries and the Building Codes Division to
16 propose and implement corrective or mitigation actions. [Amendment #2]

17 15 Before any transfer of ownership of the facility or ownership of the site certificate holder,
18 the certificate holder shall inform the Department of the proposed new owners. The
19 requirements of OAR 345-027-0100 apply to any transfer of ownership that requires a
20 transfer of the site certificate.

21 16 If the Council finds that the certificate holder has permanently ceased construction or
22 operation of the facility without retiring the facility according to a final retirement plan
23 approved by the Council, as described in OAR 345-027-0110, the Council shall notify the
24 certificate holder and request that the certificate holder submit a proposed final
25 retirement plan to the Office within a reasonable time not to exceed 90 days. If the
26 certificate holder does not submit a proposed final retirement plan by the specified date,
27 the Council may direct the Department to prepare a proposed final retirement plan for the
28 Council's approval. Upon the Council's approval of the final retirement plan, the Council
29 may draw on the bond or letter of credit described in OAR 345-027-0020(8) to restore the
30 site to a useful, non-hazardous condition according to the final retirement plan, in addition
31 to any penalties the Council may impose under OAR Chapter 345, Division 29. If the
32 amount of the bond or letter of credit is insufficient to pay the actual cost of retirement,
33 the certificate holder shall pay any additional cost necessary to restore the site to a useful,
34 non-hazardous condition. After completion of site restoration, the Council shall issue an
35 order to terminate the site certificate if the Council finds that the facility has been retired
36 according to the approved final retirement plan.

37 17 If the facility includes any transmission line under Council jurisdiction:
38 (a) The certificate holder shall design, construct and operate the transmission line in
39 accordance with the requirements of the National Electrical Safety Code (American
40 National Standards Institute, Section C2, 1997 Edition); and
41 (b) The certificate holder shall develop and implement a program that provides
42 reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or

1 structures of a permanent nature that could become inadvertently charged with electricity
2 are grounded or bonded throughout the life of the line.

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

9 19 The following general monitoring conditions apply:

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

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

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

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

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

40 21 The certificate holder shall report according to the following requirements:

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

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

9 (ii) By April 30 of each year after beginning construction, the certificate holder shall
10 submit an annual report to the Department addressing the subjects listed in OAR 345-026-
11 0080. The Council Secretary and the certificate holder may, by mutual agreement, change
12 the reporting date.

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

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

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

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

29 (A)

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

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

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

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

1 (vii) [Amendment #2]

2 22 The certificate holder and the Department of Energy shall exchange copies of all
3 correspondence or summaries of correspondence related to compliance with statutes,
4 rules and local ordinances on which the Council determined compliance, except for
5 material withheld from public disclosure under state or federal law or under Council rules.
6 The certificate holder may submit abstracts of reports in place of full reports; however,
7 the certificate holder shall provide full copies of abstracted reports and any summarized
8 correspondence at the request of the Department.

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

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

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

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

V. SPECIFIC FACILITY CONDITIONS

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

1. Certificate Administration Conditions

25 24 The certificate holder shall begin construction of the facility by July 25, 2011. The Council
26 may grant an extension of the deadline to begin construction in accordance with OAR 345-
27 027-0030 or any successor rule in effect at the time the request for extension is
28 submitted. [Amendment #1 (SFWF)]

29 25 The certificate holder shall complete construction of the facility by July 25, 2014.
30 Construction is complete when: 1) the facility is substantially complete as defined by the
31 certificate holder's construction contract documents, 2) acceptance testing has been
32 satisfactorily completed and 3) the energy facility is ready to begin continuous operation
33 consistent with the site certificate. The certificate holder shall promptly notify the
34 Department of the date of completion of construction. The Council may grant an
35 extension of the deadline for completing construction in accordance with OAR 345-027-
36 0030 or any successor rule in effect at the time the request for extension is submitted.
37 [Amendment #1 (SFWF)]

1 26 The certificate holder shall construct a facility substantially as described in the site
2 certificate and may select turbines of any type, subject to the following restrictions and
3 compliance with all other site certificate conditions. Before beginning construction, the
4 certificate holder shall provide to the Department a description of the turbine types
5 selected for the facility demonstrating compliance with this condition.

6 (a) The total number of turbines at the facility must not exceed 116 turbines.
7

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

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

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

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

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

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

22 27 The certificate holder shall obtain all necessary federal, state and local permits or
23 approvals required for construction, operation and retirement of the facility or ensure that
24 its contractors obtain the necessary federal, state and local permits or approvals.

25 28 Before beginning construction, the certificate holder shall notify the Department in
26 advance of any work on the site that does not meet the definition of “construction” in ORS
27 469.300, excluding surveying, exploration or other activities to define or characterize the
28 site, and shall provide to the Department a description of the work and evidence that its
29 value is less than \$250,000.

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

1 Department. The Department may employ a qualified contractor to confirm the habitat
2 assessment by on-site inspection. [Amendment #1 (SFWF)]

3 **30** Before beginning construction, the certificate holder shall submit to the State of Oregon
4 through the Council a bond or letter of credit in the amount described herein naming the
5 State of Oregon, acting by and through the Council, as beneficiary or payee. The initial
6 bond or letter of credit amount is either \$9.108 million (1st Quarter 2010 dollars), to be
7 adjusted to the date of issuance as described in (b), or the amount determined as
8 described in (a). The certificate holder shall adjust the amount of the bond or letter of
9 credit on an annual basis thereafter as described in (b).

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

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

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

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

28 (iii) Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration
29 and project management costs and 10 percent of the adjusted Gross Cost (ii) for the
30 adjusted future developments contingency.

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

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

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

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

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

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

- 1 31 If the certificate holder elects to use a bond to meet the requirements of Condition 30, the
2 certificate holder shall ensure that the surety is obligated to comply with the requirements
3 of applicable statutes, Council rules and this site certificate when the surety exercises any
4 legal or contractual right it may have to assume construction, operation or retirement of
5 the energy facility. The certificate holder shall also ensure that the surety is obligated to
6 notify the Council that it is exercising such rights and to obtain any Council approvals
7 required by applicable statutes, Council rules and this site certificate before the surety
8 commences any activity to complete construction, operate or retire the energy facility.
- 9 32 Before beginning construction, the certificate holder shall notify the Department of the
10 identity and qualifications of the major design, engineering and construction contractor(s)
11 for the facility. The certificate holder shall select contractors that have substantial
12 experience in the design, engineering and construction of similar facilities. The certificate
13 holder shall report to the Department any change of major contractors.
- 14 33 The certificate holder shall contractually require all construction contractors and
15 subcontractors involved in the construction of the facility to comply with all applicable
16 laws and regulations and with the terms and conditions of the site certificate. Such
17 contractual provisions shall not operate to relieve the certificate holder of responsibility
18 under the site certificate.
- 19 34 During construction, the certificate holder shall have a full-time, on-site assistant
20 construction manager who is qualified in environmental compliance to ensure compliance
21 with all site certificate conditions. The certificate holder shall notify the Department of the
22 name, telephone number and e-mail address of this person.
- 23 35 Within 72 hours after discovery of conditions or circumstances that may violate the terms
24 or conditions of the site certificate, the certificate holder shall report the conditions or
25 circumstances to the Department.

2. Land Use Conditions

- 26 36 The certificate holder shall consult with area landowners and lessees during construction
27 and operation of the facility and shall implement measures to reduce or avoid any adverse
28 impacts to farm practices on surrounding lands and to avoid any increase in farming costs.
- 29 37 The certificate holder shall design and construct the facility using the minimum land area
30 necessary for safe construction and operation. The certificate holder shall locate access
31 roads and temporary construction laydown and staging areas to minimize disturbance
32 with farming practices and, wherever feasible, shall place turbines and transmission
33 interconnection lines along the margins of cultivated areas to reduce the potential for
34 conflict with farm operations.
- 35 38 During construction and operation of the facility, the certificate holder shall implement a
36 plan to control the introduction and spread of noxious weeds. The certificate shall develop
37 the weed control plan consistent with the Gilliam County and Morrow County Weed
38 Control Programs.

- 1 39 Before beginning construction of the facility, the certificate holder shall record in the real
2 property records of Gilliam County a Covenant Not to Sue with regard to generally
3 accepted farming practices on adjacent farmland consistent with Gilliam County Zoning
4 Ordinance 7.020(T)(4)(a)(5).
- 5 40 The certificate holder shall construct all facility components in compliance with the
6 following setback requirements:
7 (a) All facility components must be at least 3,520 feet from the property line of
8 properties zoned residential use or designated in the Gilliam County Comprehensive Plan
9 as residential.
10 (b) Where (a) does not apply, the certificate holder shall maintain a minimum distance
11 of 110-percent of maximum blade tip height, measured from the centerline of the turbine
12 tower to the nearest edge of any public road right-of-way. The certificate holder shall
13 assume a minimum right-of-way width of 60 feet.
14 (c) Where (a) does not apply, the certificate holder shall maintain a minimum distance
15 of 1,320 feet, measured from the centerline of the turbine tower to the center of the
16 nearest residence existing at the time of tower construction.
17 (d) Where (a) does not apply, the certificate holder shall maintain a minimum distance
18 of 110-percent of maximum blade tip height, measured from the centerline of the turbine
19 tower to the nearest boundary of the certificate holder's lease area.
- 20 41 Within 90 days after beginning operation, the certificate holder shall provide to the
21 Department and to the Planning Directors of Gilliam County and Morrow County the
22 actual latitude and longitude location or Stateplane NAD 83(91) coordinates of each
23 turbine tower, connecting lines and transmission lines. In addition, the certificate holder
24 shall provide to the Department and to the Planning Directors of Gilliam County and
25 Morrow County, a summary of as-built changes in the facility compared to the original
26 plan, if any.
- 27 42 The certificate holder shall install gates on all private facility access roads in Gilliam
28 County, in accordance with Gilliam County Zoning Ordinance Section 7.020(T)(4)(d)(6).

3. Cultural Resource Conditions

- 29 43 Before beginning construction, the certificate holder shall provide to the Department a
30 map showing the final design locations of all components of the facility and areas that
31 would be temporarily disturbed during construction. In addition, the certificate holder
32 shall comply with the following requirements:
33 (a) The certificate holder shall avoid disturbance within a 30-meter buffer around the
34 historic-period archaeological sites within the facility boundary identified by AINW as
35 "possibly eligible" for listing in the National Register of Historic Places (NRHP) as described
36 in the Final Order on the Application for the Shepherds Flat Wind Farm.
37 (b) The certificate holder shall avoid disturbance of the stacked rock features within the
38 facility boundary identified by AINW as "possibly eligible" for listing in the NRHP as
39 described in the Final Order on the Application for the Shepherds Flat Wind Farm and
40 shall, to the extent practicable, maintain a 30-meter no-construction buffer around these

1 features. If a 30-meter buffer cannot be maintained, the certificate holder shall consult
2 with the State Historic Preservation Office (SHPO) and the Department to determine
3 appropriate action to preserve or document the feature.

4 (c) The certificate holder shall label “no entry” areas around all identified historic,
5 cultural or archaeological resource sites on construction maps and drawings, and if
6 construction activities will occur within 200 feet of an identified site, the certificate holder
7 shall flag a 30-meter buffer around the site.

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

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

18 [Amendment #1 (SFWF)]

19 44 The certificate holder shall ensure that a qualified archeologist, as defined in OAR 736-
20 051-0070, instructs construction personnel in the identification of cultural materials and
21 avoidance of accidental damage to identified resource sites.

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

33 46 In reference to the presumed alignments of the Oregon Trail described in the Final Order
34 on the Application, the certificate holder shall comply with the following requirements:

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

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

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

4 (d) The certificate holder shall ensure that construction personnel proceed carefully in
5 the vicinity of the presumed alignments of the Oregon Trail. If any intact physical evidence
6 of the trail is discovered, the certificate holder shall avoid any disturbance to the intact
7 segments, by redesign, re-engineering or restricting the area of construction activity. The
8 certificate holder shall promptly notify the SHPO and the Department of the discovery.
9 The certificate holder shall consult with the SHPO and the Department to determine
10 appropriate mitigation measures.

4. Geotechnical Conditions

11 47 Before beginning construction, the certificate holder shall conduct a site-specific
12 geotechnical investigation and shall report its findings to the Oregon Department of
13 Geology & Mineral Industries (DOGAMI) and the Department. The certificate holder shall
14 conduct the geotechnical investigation after consultation with DOGAMI and in general
15 accordance with DOGAMI open file report 00-04 "Guidelines for Engineering Geologic
16 Reports and Site-Specific Seismic Hazard Reports."

17 48 The certificate holder shall design and construct the facility in accordance with
18 requirements set forth by the State of Oregon's Building Code Division and any other
19 applicable codes and design procedures. The certificate holder shall design facility
20 structures to meet or exceed the minimum standards required by the 2003 International
21 Building Code.

22 49 The certificate holder shall design, engineer and construct the facility to avoid dangers to
23 human safety presented by non-seismic hazards. As used in this condition, "non-seismic
24 hazards" include settlement, landslides, flooding and erosion.

5. Hazardous Materials, Fire Protection & Public Safety Conditions

25 50 The certificate holder shall handle hazardous materials used on the site in a manner that
26 protects public health, safety and the environment and shall comply with all applicable
27 local, state and federal environmental laws and regulations. The certificate holder shall
28 not store diesel fuel or gasoline on the facility site.

29 51 If a spill or release of hazardous material occurs during construction or operation of the
30 facility, the certificate holder shall notify the Department within 72 hours and shall clean
31 up the spill or release and dispose of any contaminated soil or other materials according to
32 applicable regulations. The certificate holder shall make sure that spill kits containing
33 items such as absorbent pads are located on equipment and at the field workshop. The
34 certificate holder shall instruct employees about proper handling, storage and cleanup of
35 hazardous materials. [Amendment #1 (SFWF)]

36 52 During construction, the certificate holder shall ensure that construction personnel are
37 trained in fire prevention and response, that construction vehicles and equipment are

1 operated on graveled areas to the extent possible and that open flames, such as cutting
2 torches, are kept away from dry grass areas.

3 53 During operation, the certificate holder shall ensure that all on-site employees receive
4 annual fire prevention and response training, including tower rescue training, by qualified
5 instructors or members of the local fire districts. The certificate holder shall ensure that all
6 employees are instructed to keep vehicles on roads and off dry grassland, except when
7 off-road operation is required for emergency purposes. The certificate holder shall
8 encourage employees to become volunteer members of local fire departments and shall
9 facilitate appropriate training.

10 54 During construction and operation of the facility, the certificate holder shall ensure that
11 the field workshop and all service vehicles are equipped with shovels and portable fire
12 extinguishers of a 4A50BC or equivalent rating. [Amendment #1 (SFWF)]

13 55 During construction and operation of the facility, the certificate holder shall develop and
14 implement fire safety plans in consultation with the local fire protection agencies (the
15 North Gilliam County Rural Fire Protection District and the Lone Rural Fire Protection
16 District) to minimize the risk of fire and to respond appropriately to any fires that occur on
17 the facility site. In developing the fire safety plans, the certificate holder shall take into
18 account the dry nature of the region and shall address risks on a seasonal basis. The
19 certificate holder shall meet annually with local fire protection agency personnel to
20 discuss emergency planning and shall invite local fire protection agency personnel to
21 observe any emergency drill or tower rescue training conducted at the facility.

22 56 Upon the beginning of operation of the facility, the certificate holder shall provide a site
23 plan to the local fire protection agencies (the North Gilliam County Rural Fire Protection
24 District and the Lone Rural Fire Protection District). The certificate holder shall indicate on
25 the site plan the identification number assigned to each turbine and the location of all
26 facility structures and shall provide an updated site plan if additional turbines or other
27 structures are later added to the facility. During operation, the certificate holder shall
28 ensure that appropriate fire protection agency personnel have an up-to-date list of the
29 names and telephone numbers of facility personnel available to respond on a 24-hour
30 basis in case of an emergency on the facility site.

31 57 Before beginning construction, the certificate holder shall submit a Notice of Proposed
32 Construction or Alteration to the Federal Aviation Administration (FAA) and the Oregon
33 Department of Aviation identifying the proposed final locations of turbine towers and
34 meteorological towers. The certificate holder shall promptly notify the Department of the
35 responses from the FAA and the Oregon Department of Aviation. [Amendment #1 (SFWF)]

36 58 The certificate holder shall construct turbines on concrete foundations and shall surround
37 the base of each tower with a ten-foot pad area of washed crushed rock on all sides. The
38 certificate holder shall cover turbine pad areas with non-erosive, non-flammable material
39 as soon as possible following exposure during construction and shall maintain the pad area
40 covering during operation of the facility.

- 1 59 The certificate holder shall follow manufacturers' recommended handling instructions and
2 procedures to prevent damage to turbine or turbine tower components that could lead to
3 failure.
- 4 60 The certificate holder shall install and maintain self-monitoring devices on each turbine,
5 connected to a fault annunciation panel or supervisory control and data acquisition
6 (SCADA) system at the field workshop to alert operators to potentially dangerous
7 conditions. The certificate holder shall maintain automatic equipment protection features
8 in each turbine that would shut down the turbine and reduce the chance of a mechanical
9 problem causing a fire. [Amendment #1 (SFWF)]
- 10 61 The certificate holder shall construct turbine towers with no exterior ladders or access to
11 the turbine blades and shall install locked tower access doors. The certificate holder shall
12 keep tower access doors locked at all times except when authorized personnel are
13 present.
- 14 62 The certificate holder shall have an operational safety-monitoring program and shall
15 inspect all turbine and turbine tower components on a regular basis. All turbine and
16 turbine tower components will be inspected within 6 months of being repowered.
17 Following the inspection, the certificate holder shall submit a written report to the
18 Department describing the results of the turbine tower component inspection. The
19 certificate holder shall maintain or repair turbine and turbine tower components as
20 necessary to protect public safety. [Amendment #2]
- 21 63 For turbine types having pad-mounted step-up transformers, the certificate holder shall
22 install the transformers at the base of each tower in locked cabinets designed to protect
23 the public from electrical hazards and to avoid creation of artificial habitat for raptor prey.
- 24 64 To protect the public from electrical hazards, the certificate holder shall enclose the
25 facility substation with appropriate fencing and locked gates. [Amendment #1 (SFWF)]
- 26 65 The certificate holder shall construct access roads with a finished width of approximately
27 16 feet, a compacted base of native soil and a gravel surface to a depth of four to ten
28 inches. [Amendment #1 (SFWF); Amendment #1]
- 29 66 During construction, the certificate holder shall implement measures to reduce traffic
30 impacts, including:
31 (a) Providing notice to the City of Arlington Road Department, the Gilliam County Road
32 Department and the Gilliam County Sheriff's Office in advance of deliveries that could
33 cause traffic disruption in Arlington.
34 (b) Providing notice to the residents of Arlington in advance of deliveries that could
35 cause traffic disruption.
36 (c) Requiring flaggers to be at appropriate locations at appropriate times during
37 construction to direct traffic.
- 38 67 The certificate holder shall cooperate with the Gilliam County Road Department and the
39 Morrow County Public Works Department to ensure that any unusual damage or wear to
40 county roads that is caused by construction of the facility is repaired by the certificate

1 holder. Submittal to the Department of an executed Road Use Agreement with Gilliam
2 County and Morrow County shall constitute evidence of compliance with this condition.
3 Upon completion of construction, the certificate holder shall restore county roads to pre-
4 construction condition or better, to the satisfaction of the applicable county departments.
5 If required by Morrow County or Gilliam County, the certificate holder shall post bonds to
6 ensure funds are available to repair and maintain roads affected by the proposed facility.
7 [Amendment #2]

8 **68** During construction, the certificate holder shall require that all on-site construction
9 contractors develop and implement a site health and safety plan that informs workers and
10 others on-site what to do in case of an emergency and that includes the locations of fire
11 extinguishers and nearby hospitals, important telephone numbers and first aid techniques.
12 The certificate holder shall ensure that construction contractors have personnel on-site
13 who are trained and equipped for tower rescue and who are first aid and CPR certified.

14 **69** During operation, the certificate holder shall develop and implement a site health and
15 safety plan that informs employees and others on-site what to do in case of an emergency
16 and that includes the locations of fire extinguishers and nearby hospitals, important
17 telephone numbers and first aid techniques.

18 **70** During construction and operation of the facility, the certificate holder shall provide for
19 on-site security and shall establish good communications between on-site security
20 personnel and local law enforcement agencies (Gilliam County Sheriff and Morrow County
21 Sheriff). During operation, the certificate holder shall ensure that appropriate law
22 enforcement agency personnel have an up-to-date list of the names and telephone
23 numbers of facility personnel available to respond on a 24-hour basis in case of an
24 emergency on the facility site.

25 **71** The certificate holder shall notify the Department and the Planning Directors of Gilliam
26 County and Morrow County within 72 hours of any accidents including mechanical failures
27 on the site associated with construction or operation of the facility that may result in
28 public health and safety concerns.

6. Water, Soils, Streams & Wetlands Conditions

29 **72** The certificate holder shall not build any roads or construct transmission line support
30 poles within Eightmile Creek or within a 10-foot buffer from the ordinary high water line
31 of the creek.

32 **73** The certificate holder shall conduct all construction work, including the repowering
33 activities associated with Amendment #2, in compliance with an Erosion and Sediment
34 Control Plan (ESCP) satisfactory to the Oregon Department of Environmental Quality and
35 as required under the National Pollutant Discharge Elimination System (NPDES) Storm
36 Water Discharge General Permit #1200-C. The certificate holder shall include in the ESCP
37 any procedures necessary to meet local erosion and sediment control requirements or
38 storm water management requirements. [Amendment #2]

- 1 74 During construction, the certificate holder shall limit truck traffic to designated existing
2 and improved road surfaces to avoid soil compaction, to the extent practicable.
- 3 75 During construction, including the repowering activities associated with RFA2, the
4 certificate holder shall implement best management practices to control any dust
5 generated by construction activities, such as applying water to roads and disturbed soil
6 areas. [Amendment #2]
- 7 76 During construction, the certificate holder shall reduce temporary disturbance impacts by
8 making use of previously disturbed areas, including roadways and tracks, and by
9 preserving vegetation rootstalks by crushing, rather than scraping, vegetation in areas of
10 temporary disturbance.
- 11 77 During facility operation, the certificate holder shall routinely inspect and maintain all
12 roads, pads and trenched areas and, as necessary, maintain or repair erosion and
13 sediment control measures. The certificate holder shall restore areas that are temporarily
14 disturbed during facility maintenance or repair activities to pre-disturbance condition or
15 better.
- 16 78 During facility operation, the certificate holder shall obtain water for on-site uses from a
17 well at the field workshop, subject to compliance with applicable permit requirements.
18 The certificate holder shall not use more than 5,000 gallons of water per day from the
19 facility's on-site well. [Amendment #1 (SFWF)]

7. Transmission Line & EMF Conditions

- 20 79 The certificate holder shall install the 34.5-kV collector system underground to the extent
21 practicable. The certificate holder shall install underground lines at a minimum depth of
22 three feet. Based on geotechnical conditions or other engineering considerations, the
23 certificate holder may install segments of the collector system aboveground on single-
24 pole, cross-arm structures, but the total length of aboveground double-circuit segments
25 installed on single-pole structures must not exceed 3.2 miles. [Amendment #1 (SFWF);
26 Amendment #1]
- 27 80 The certificate holder shall ground appropriate sections of fencing that parallel
28 transmission lines to reduce the risk of shock from induced voltage. In particular, the
29 certificate holder shall ground appropriate sections of fencing located in the northern
30 project area on the west side of Eightmile Canyon if the certificate holder builds a parallel
31 transmission line in that location that could induce a voltage on the fence.
- 32 81 The certificate holder shall take reasonable steps to reduce or manage human exposure to
33 electromagnetic fields, including but not limited to:
- 34 (a) Constructing all aboveground transmission lines at least 200 feet from any residence
35 or other occupied structure, measured from the centerline of the transmission line.
- 36 (b) Constructing all aboveground 34.5-kV transmission lines with a minimum clearance
37 of 20 feet from the ground.
- 38 (c) Constructing all aboveground 230-kV transmission lines with a minimum clearance of
39 24 feet from the ground.

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

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

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

8 [Amendment #1 (SFWF)]

9 **82** In advance of, and during, preparation of detailed design drawings and specifications for
10 230-kV and 34.5-kV transmission lines, the certificate holder shall consult with the Utility
11 Safety and Reliability Section of the Oregon Public Utility Commission to ensure that the
12 designs and specifications are consistent with applicable codes and standards.

8. Plants, Wildlife & Habitat Protection Conditions

13 **83** The certificate holder shall conduct wildlife monitoring as described in the *Wildlife*
14 *Monitoring and Mitigation Plan* that is incorporated in the *Final Order on Amendment #1*
15 as Attachment A and as amended from time to time. [Amendment #1 (SFWF); Amendment #1]

16 **84** The certificate holder shall restore areas disturbed by facility construction but not
17 occupied by permanent facility structures according to the methods and monitoring
18 procedures described in the *Revegetation Plan* that is incorporated in the *Final Order on*
19 *Amendment #1 for the Shepherds Flat Wind Farm* as Attachment SFS-B and as amended
20 from time to time. [Amendment #1 (SFWF)]

21 **85** The certificate holder shall acquire the legal right to create, enhance, maintain and protect
22 a habitat mitigation area as long as the site certificate is in effect by means of an outright
23 purchase, conservation easement or similar conveyance and shall provide a copy of the
24 documentation to the Department. Within the habitat mitigation area, the certificate
25 holder shall improve the habitat quality as described in the *Habitat Mitigation Plan* that is
26 incorporated in the *Final Order on Amendment #1* as Attachment C and as amended from
27 time to time. [Amendment #1 (SFWF); Amendment #1]

28 **86** The certificate holder shall avoid permanent and temporary disturbance to the areas
29 described in (a) through (g) and, during the times indicated, shall avoid construction
30 disturbance in the areas described in (h) through (k). The certificate holder shall flag these
31 areas for the duration of construction activities nearby and shall ensure that construction
32 personnel avoid disturbance of the areas. The avoidance areas are:

33 (a) All Category 1 and those areas of Category 2 habitat shown on the “ODFW-2” Figures
34 1 through 12 in the Shepherds Flat Wind Farm Application. [Amendment #1 (SFWF)]

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

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

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

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

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

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

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

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

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

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

36 [Amendment #1]

37 87 The certificate holder shall microsite the facility in conformance with the industry's best
38 practices. The certificate holder shall follow the recommendations of a qualified wildlife
39 biologist to avoid building turbine towers in the following locations:

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

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

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

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

2 **88** During construction, the certificate holder shall avoid construction activities in areas
 3 around active nests of the following species during the sensitive period, as provided in this
 4 condition:

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

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

26 **89** The certificate holder shall not remove any trees that are greater than three feet in height.

27 **90** The certificate holder shall design all aboveground transmission line support structures
 28 following the most current suggested practices for avian protection on power lines
 29 published by the Avian Power Line Interaction Committee.

30 **91** The certificate holder shall reduce the risk of injuries to avian species by:

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

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

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

1 92 The certificate holder shall impose and enforce construction and operation speed limits of
2 5 miles per hour on roads within 1,000 feet of Category 1 or Category 2 WGS habitat and
3 20 miles per hour on all other facility roads and shall ensure that all construction and
4 operations personnel are instructed on the importance of cautious driving practices while
5 on facility roads. [Amendment #1]

9. Visual Effects Conditions

6 93 To reduce the visual impact of the facility, the certificate holder shall:

7 (a) Mount nacelles on smooth, steel structures, painted uniformly in a matte-finish,
8 neutral white color.

9 (b) Paint substation structures in a neutral color to blend with the surrounding
10 landscape.

11 (c) Not allow any advertising to be used on any part of the facility.

12 (d) Use only those signs required for facility safety, required by law or otherwise
13 required by this site certificate, except that the certificate holder may erect a sign to
14 identify the facility near the field workshop, may paint turbine numbers on each tower
15 and may allow unobtrusive manufacturers' logos on turbine nacelles.

16 (e) Not locate any facility signs along Highway 74.

17 (f) Design signs in accordance with Gilliam County Zoning Ordinance Section 8.030 and
18 Morrow County Zoning Ordinance Section 4.070, as applicable.

19 (g) Maintain any signs allowed under this condition in good repair.

20 [Amendment #1 (SFWF)]

21 94 The certificate holder shall design and construct the field workshop to be generally
22 consistent with the character of similar buildings used by commercial farmers or ranchers
23 in the area and shall paint the building in a neutral color to blend with the surrounding
24 landscape. [Amendment #1 (SFWF)]

25 95 The certificate holder shall not use exterior nighttime lighting except:

26 (a) The minimum turbine tower lighting required or recommended by the Federal
27 Aviation Administration.

28 (b) Security lighting at the field workshop and substation, provided that such lighting is
29 shielded or downward-directed to reduce glare.

30 (c) Minimum lighting necessary for repairs or emergencies.

31 (d) Minimum lighting necessary for nighttime construction. The certificate holder may
32 use lighting only at the work location and only directed downward to illuminate the work
33 area at the turbine base or upward from the base to illuminate the turbine tower;
34 construction lighting shall not be directed outward. The certificate holder shall use
35 nighttime lighting only with the approval of the owner of the property on which the work
36 is conducted and shall provide notice of nighttime construction to occupants of all
37 residences within one-half mile of the construction site.

38 [Amendment #1 (SFWF)]

10. Noise Control Conditions

- 1 96 To reduce noise impacts at nearby residences, the certificate holder shall:
- 2 (a) Confine the noisiest operation of heavy construction equipment to the daylight
- 3 hours.
- 4 (b) Require contractors to install and maintain exhaust mufflers on all combustion
- 5 engine-powered equipment; and
- 6 (c) Establish a complaint response system at the construction manager's office to
- 7 address noise complaints.
- 8 97 Before beginning construction, the certificate holder shall provide to the Department:
- 9 (a) Information that identifies the final design locations of all turbines to be built at the
- 10 facility.
- 11 (b) The maximum sound power level for the substation transformers and the maximum
- 12 sound power level and octave band data for the turbines selected for the facility based on
- 13 manufacturers' warranties or confirmed by other means acceptable to the Department.
- 14 (c) The results of noise analysis of the facility to be built according to the final design
- 15 performed in a manner consistent with the requirements of OAR 340-035-0035
- 16 (1)(b)(B)(iii)(IV) and (VI) demonstrating to the satisfaction of the Department that the total
- 17 noise generated by the facility (including the noise from turbines and substation
- 18 transformers) would meet the ambient degradation test and maximum allowable test at
- 19 the appropriate measurement point for all potentially-affected noise sensitive properties.
- 20 (d) For each noise-sensitive property where the certificate holder relies on a noise
- 21 waiver to demonstrate compliance in accordance with OAR 340-035-0035 (1)(b)(B)(iii)(III),
- 22 a copy of the a legally effective easement or real covenant pursuant to which the owner of
- 23 the property authorizes the certificate holder's operation of the facility to increase
- 24 ambient statistical noise levels L_{10} and L_{50} by more than 10 dBA at the appropriate
- 25 measurement point. The legally-effective easement or real covenant must: include a legal
- 26 description of the burdened property (the noise sensitive property); be recorded in the
- 27 real property records of the county; expressly benefit the certificate holder; expressly run
- 28 with the land and bind all future owners, lessees or holders of any interest in the
- 29 burdened property; and not be subject to revocation without the certificate holder's
- 30 written approval.
- 31 98 During operation, the certificate holder shall maintain a complaint response system to
- 32 address noise complaints. The certificate holder shall promptly notify the Department of
- 33 any complaints received regarding facility noise and of any actions taken by the certificate
- 34 holder to address those complaints. In response to a complaint from the owner of a noise
- 35 sensitive property regarding noise levels during operation of the facility, the Council may
- 36 require the certificate holder to monitor and record the statistical noise levels to verify
- 37 that the certificate holder is operating the facility in compliance with the noise control
- 38 regulations. [Amendment #1 (SFWF)]

11. Waste Management Conditions

- 1 99 The certificate holder shall provide portable toilets for on-site sewage handling during
2 construction and shall ensure that they are pumped and cleaned regularly by a licensed
3 contractor who is qualified to pump and clean portable toilet facilities.
- 4 100 During operation, the certificate holder shall discharge sanitary wastewater generated at
5 the field workshop to a licensed on-site septic system in compliance with county permit
6 requirements. The certificate holder shall design the septic system for a discharge capacity
7 of less than 2,500 gallons per day. [Amendment #1 (SFWF)]
- 8 101 The certificate holder shall implement a waste management plan during construction that
9 includes but is not limited to the following measures:
10 (a) Recycling steel and other metal scrap.
11 (b) Recycling wood waste.
12 (c) Recycling packaging wastes such as paper and cardboard.
13 (d) Collecting non-recyclable waste for transport to a local landfill by a licensed waste
14 hauler or by using facility equipment and personnel to haul the waste.
15 (e) Segregating all hazardous wastes such as used oil, oily rags and oil-absorbent
16 materials, mercury-containing lights and lead-acid and nickel-cadmium batteries for
17 disposal by a licensed firm specializing in the proper recycling or disposal of hazardous
18 wastes.
19 (f) Discharging all concrete truck rinse water into foundation holes and completing truck
20 wash-down off-site.
- 21 102 The certificate holder shall implement a waste management plan during operation that
22 includes but is not limited to the following measures:
23 (a) Training employees to minimize and recycle solid waste.
24 (b) Recycling paper products, metals, glass and plastics.
25 (c) Recycling used oil and hydraulic fluid.
26 (d) Collecting non-recyclable waste for transport to a local landfill by a licensed waste
27 hauler or by using facility equipment and personnel to haul the waste.
28 (e) Segregating all hazardous, non-recyclable wastes such as used oil, oily rags and oil-
29 absorbent materials, mercury-containing lights and lead-acid and nickel-cadmium
30 batteries for disposal by a licensed firm specializing in the proper recycling or disposal of
31 hazardous wastes.
- 32 103 Before beginning construction, the certificate holder shall determine whether any
33 construction disturbance would occur in locations not previously investigated for potential
34 jurisdictional waters as described in the *Final Order on Amendment #1*. The certificate
35 holder shall conduct pre-construction investigations in these new areas within 1,000 feet
36 of any area potentially disturbed by facility construction to determine whether any State-
37 jurisdictional waters exist in those locations. The certificate holder shall submit a written
38 report on the pre-construction investigation to the Department of Energy and to the
39 Department of State Lands for approval before beginning construction and shall ensure
40 that construction would have no impact on any jurisdictional water identified in the
41 report. [Amendment #1]

12. New Conditions Applicable to Amendment 2 Facility Repower

1 104 The certificate holder shall begin construction of the Shepherds Flat South facility
2 modifications, as approved in the Second Amended Site Certificate, within three years
3 after the effective date of the amended site certificate [January 24, 2023]. The certificate
4 holder shall notify the Department, the Morrow County Planning Department, and the
5 Gilliam County Planning Department when construction of the facility modifications, as
6 approved in Request for Amendment 2, commences. Under OAR 345-015-0085(8), the
7 amended site certificate is effective upon execution by the Council Chair and the
8 certificate holder.

9 [Amendment #2]

10 105 The certificate holder shall complete construction of the Shepherds Flat South facility
11 modifications, as approved in the Second Amended Site Certificate, within three years
12 following the date of construction commencement. The certificate holder shall promptly
13 notify the Department, the Morrow County Planning Department, and the Gilliam County
14 Planning Department of the date of completion of construction of the facility
15 modifications, as approved in Request for Amendment 2.

16 [Amendment #2]

17 106 Prior to Amendment #2 facility repower activities, the certificate holder shall provide the
18 Department with the foundation uprate analysis on facility turbines. If the analysis results
19 identify necessary mitigation and remediation measures, or operational timing
20 recommendations, the certificate holder shall implement the identified measures and
21 recommendations prior to beginning the repowering activities unless otherwise approved
22 by the Department. [Amendment #2]

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

32 [Amendment #2]

33 108 The certificate holder shall:

34 (a) Prior to RFA2 facility repower activities:

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

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

1 (iii) Consult with the Department, ODFW and Gilliam County Weed Control
2 Department and Morrow County Weed Control Department on timing and methods
3 for revegetation and weed control.

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

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

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

16 [Amendment #2]

17 109 The certificate holder shall:

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

22 (b) During RFA2 repower activities, if active raptor nests were identified within 0.5-mile
23 of RFA2 repower activities per (a) of this condition or become active during the sensitive
24 season, per (c) below, the certificate holder shall avoid construction activities within
25 0.25 mile buffer in areas around active nests of the following species during the
26 sensitive period, as provided in this condition:

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

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

31 (d) During RFA2 repower activities, if active nest sites are observed per (b) or (c) of this
32 condition, the certificate holder shall hire a qualified independent professional biologist
33 to observe the active nest sites during the sensitive period for signs of disturbance and
34 to notify the Department of any non-compliance with this condition. If the biologist
35 observes nest site abandonment or other adverse impact to nesting activity, the

1 certificate holder shall implement appropriate mitigation, in consultation with ODFW
2 and subject to the approval of the Department, unless the adverse impact is clearly
3 shown to have a cause other than construction activity. The certificate holder may begin
4 or resume construction activities within a buffer area before the ending day of the
5 sensitive period if any known nest site is not occupied by the early release date. If a nest
6 site is occupied, then the certificate holder may begin or resume construction before
7 the ending day of the sensitive period with the approval of ODFW, after the young are
8 fledged. The certificate holder shall use a protocol approved by ODFW to determine
9 when the young are fledged (the young are independent of the core nest site).

10 [Amendment #2]

11 **110** Following completion of Amendment #2 facility repower activities, the certificate holder
12 shall conduct two years of avian and bat fatality monitoring, as described in the Wildlife
13 Monitoring and Mitigation Plan, or based on protocol otherwise approved by the
14 Department in consultation with ODFW, provided as Attachment E of the Final Order on
15 Amendment 2. [Amendment #2]

16 **111** During Amendment #2 facility repower activities, the certificate holder shall, or ensure its
17 third-party contractors, reuse or recycle wind turbine blades, hubs and other removed
18 wind turbine components to the extent practicable and in accordance with the Morrow
19 County Solid Waste Management Plan. The certificate holder shall report in its semi-
20 annual report to the Department the quantities of removed wind turbine components
21 recycled, reused, sold for scrap, and disposed of in a landfill, to the extent practicable.
22 [Amendment #2]

23 **112** Prior to Amendment #2 facility repower activities, the certificate holder shall submit a
24 Notice of Proposed Construction or Alteration to the Federal Aviation Administration
25 (FAA) and the Oregon Department of Aviation identifying the new maximum blade tip
26 height of 150 meters. The certificate holder shall promptly notify the Department of the
27 responses from the FAA and the Oregon Department of Aviation. [Amendment #2]

28 **113** Prior to Amendment #2 facility repower activities, the certificate holder shall provide to
29 the Department:

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

33 (b) If the information provided to the Department in (a) shows that the modified
34 (repowered) wind turbines would produce a higher maximum sound power level and
35 octave band than the currently installed wind turbines, the certificate holder must
36 conduct a noise analysis of the modified (repowered) turbines. If required, the
37 certificate holder must provide to the Department results of the noise analysis for the
38 Amendment #2 facility repower, performed in a manner consistent with the
39 requirements of OAR 340-035-0035(1)(b)(B)(iii)(IV) and (VI) demonstrating to the
40 satisfaction of the Department that the total noise generated (including the noise from
41 repowered wind turbines and existing substation transformers) would meet the

1 ambient degradation test and maximum allowable test at the appropriate measurement
2 point for all potentially-affected noise sensitive properties.

3 (c) If the information provided to the Department in (a) shows that the modified
4 (repowered) wind turbines would produce a higher maximum sound power level and
5 octave band than the currently installed wind turbines, the certificate holder must
6 provide to the Department, for each noise-sensitive property where the certificate
7 holder relies on a noise waiver to demonstrate compliance in accordance with OAR 340-
8 035-0035 (1)(b)(B)(iii)(III) related to site certificate Amendment #2 activities, a copy of
9 the a legally effective easement or real covenant pursuant to which the owner of the
10 property authorizes the certificate holder’s operation of the facility to increase ambient
11 statistical noise levels L10 and L50 by more than 10 dBA at the appropriate
12 measurement point. The easement must only be provided to the Department if the
13 modified wind turbines would produce a higher maximum sound power level and
14 octave band than the currently installed wind turbines and the current noise-easements
15 do not allow ambient statistical noise levels L10 and L50 by more than the statistical
16 noise levels anticipated to occur from the repowered turbines at the appropriate
17 measurement point. The legally-effective easement or real covenant must: include a
18 legal description of the burdened property (the noise sensitive property); be recorded in
19 the real property records of the county; expressly benefit the certificate holder;
20 expressly run with the land and bind all future owners, lessees or holders of any interest
21 in the burdened property; and not be subject to revocation without the certificate
22 holder’s written approval. [Amendment #2]

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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

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

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

ENERGY FACILITY SITING COUNCIL

HORSESHOE BEND WIND, LLC

By: Caithness Shepherds Flat, LLC, its Manager

By: BEP SF Holdings, LLC, its Managing Member

By: 
Marcia L. Grail (Mar 3, 2021 19:31 PST)

By: 

Marcia L. Grail, Chair
Oregon Energy Facility Siting Council

Print: F. Mitchell Davidson

Date: Mar 3, 2021

Date: March 24, 2021