

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

**Third Amended Site Certificate  
for the  
Biglow Canyon Wind Farm**

October 31, 2008

**The Oregon Energy Facility Siting Council**  
**THIRD AMENDED SITE CERTIFICATE**  
**FOR THE BIGLOW CANYON WIND FARM**

**I. INTRODUCTION**

1 This site certificate for the Biglow Canyon Wind Farm (“Biglow” or the “facility”) is  
2 issued and executed in the manner provided by ORS Chapter 469, by and between the State of  
3 Oregon (“State”), acting by and through its Energy Facility Siting Council (the “Council”), and  
4 Portland General Electric Company (“certificate holder”). This site certificate is a binding  
5 agreement between the State, acting by and through the Council, and the certificate holder.  
6 [Amendment #1]

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 related to the facility,  
9 which are incorporated herein by this reference: (a) the Council’s Final Order in the Matter of the  
10 Application for a Site Certificate for the Biglow Canyon Wind Farm (the “Final Order on the  
11 Application”); (b) the Council’s Final Order on Amendment #1; (c) the Council’s Final Order on  
12 Amendment #2; and (d) the Council’s Final Order on Amendment #3. [Amendments #1, #2 and #3]

13 In interpreting this site certificate, any ambiguity shall be clarified by reference to the  
14 following, in order of priority: (1) this Third Amended Site Certificate; (2) the Final Order on  
15 Amendment #3; (3) the Final Order on Amendment #2; (4) the Final Order on Amendment #1;  
16 (5) the Final Order on the Application; and (6) the record of the proceedings that led to the Final  
17 Orders on the Application, Amendment #1, Amendment #2 and Amendment #3. [Amendments #1,  
18 #2 and #3]

19 The terms used in this site certificate shall have the same meaning as set forth in ORS  
20 469.300 and OAR 345-001-0010, except where otherwise stated or where the context clearly  
21 indicates otherwise.

**II. SITE CERTIFICATION**

- 22 A. To the extent authorized by state law and subject to the conditions set forth herein, the State  
23 authorizes the certificate holder to construct, operate and retire a wind energy facility,  
24 together with certain related or supporting facilities, at the site in Sherman County, Oregon,  
25 as described in Section III of this site certificate. ORS 469.401(1)
- 26 B. This site certificate is effective until it is terminated under OAR 345-027-0110 or the rules in  
27 effect on the date that termination is sought or until the site certificate is revoked under ORS  
28 469.440 and OAR 345-029-0100 or the statutes and rules in effect on the date that revocation  
29 is ordered. ORS 469.401(1)
- 30 C. This site certificate does not address, and is not binding with respect to, matters that were not  
31 addressed in the Council’s Final Orders on the Application, Amendment #1, Amendment #2  
32 and Amendment #3. These matters include, but are not limited to: building code compliance,  
33 wage, hour and other labor regulations, local government fees and charges, and other design  
34 or operational issues that do not relate to siting the facility (ORS 469.401(4)) and permits  
35 issued under statutes and rules for which the decision on compliance has been delegated by

1 the federal government to a state agency other than the Council. ORS 469.503(3).

2 [Amendments #1, #2 and #3]

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

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

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

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

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

24 I. After issuance of this site certificate, the Council shall have continuing authority over the site  
25 and may inspect, or direct the Department to inspect, or request another state agency or local  
26 government to inspect, the site at any time in order to ensure that the facility is being  
27 operated consistently with the terms and conditions of this site certificate. ORS 469.430

### III. DESCRIPTIONS

#### A. THE FACILITY

28 In the site certificate application, the certificate holder defined the range of possible  
29 turbine vendors, sizes and numbers. Subject to specific conditions, this site certificate allows the  
30 certificate holder to construct wind turbines within defined 500-foot wide turbine corridors and  
31 to select turbine vendor, turbine size, number of turbines to be installed and precise turbine  
32 layout before beginning construction. This site certificate allows the certificate holder to  
33 construct other facility components (collector lines, access roads, meteorological towers) within  
34 micrositing areas. The facility is described further in the Final Order on Amendment #2.

35 [Amendment #2]

36 1. Major Structures. The Biglow Canyon Wind Farm will consist of up to 225 wind turbines  
37 with an aggregate nominal nameplate generating capacity of up to 450 megawatts (MW)  
38 of electricity and an average electric generating capacity of up to 150 MW. Turbines will  
39 be mounted on tubular steel towers ranging in height from 265 to 280 feet at the hub with  
40 an overall height of from 400 to 445 feet including the turbine blades. The turbines will

1 be erected within up to 30 corridors and spaced to optimize the facility's output. The  
2 facility will be located on private farmland that the certificate holder has leased from the  
3 affected landowners. [Amendments #1 and #2]

4 2. Related or Supporting Facilities. The facility includes the following related or supporting  
5 facilities:

6 a. Power Collection System. Each wind turbine will generate power at about 600  
7 volts. The transformer sitting at the base of each wind turbine unit will increase  
8 the voltage to 34.5 kilovolts (kV). From the transformer, power will be  
9 transmitted to a central substation by means of electric cables. Most of the cables  
10 will be buried three feet or more below the surface in trenches about 3 feet wide.  
11 In areas where collector cables from several turbine strings follow the same  
12 alignment, e.g., on approach to the substation, multiple sets of cables may be  
13 installed within a single trench. If the facility is fully developed, there will be  
14 about 106 miles of 3-wire collector cables. Generally, these cables will be above,  
15 below or adjacent to the fiber optic cables comprising the supervisory control and  
16 data acquisition system. [Amendments #2 and #3]

17 In some locations, the collector cables may be constructed above ground on pole  
18 or tower structures. Aboveground structures would allow the collector cables to  
19 span terrain, such as canyons, native grasslands, wetlands, and intermittent  
20 streams, thereby reducing adverse environmental impacts, or to span cultivated  
21 areas, thereby reducing adverse impacts to farming operations. Poles or towers  
22 supporting aboveground segments of the power collection system will be about 23  
23 to 28 feet tall. Pending final site design, the certificate holder states that the length  
24 of the aboveground segments of the power collection system will be up to but not  
25 exceeding 15 miles.

26 b. Substations and Interconnection System. The substation site will be a graveled,  
27 fenced area of up to 6 acres with transformers, switching equipment and a parking  
28 area. Transformers will be non-polychlorinated biphenyl (PCB) oil-filled types.  
29 The facility will interconnect with a new Bonneville Power Administration (BPA)  
30 system transmission line adjacent to the facility substation. [Amendment #2].

31 c. Meteorological Towers. The certificate holder will place up to 10 meteorological  
32 towers throughout the facility site to collect wind resource data. The towers would  
33 be up to 279 feet tall.

34 d. Operations and Maintenance Building. The site of the operations and maintenance  
35 buildings will comprise about 5 acres adjacent to the substation on Herin Lane.  
36 The O&M buildings will occupy about 17,500 square feet and will include office  
37 and workshop areas, control room, kitchen, bathroom, shower, utility sink, and  
38 other typical facilities. Water for the bathroom, shower and kitchen will be  
39 obtained from an onsite well constructed by a licensed contractor in accordance  
40 with local and state requirements. Water use will not be expected to exceed 1,000  
41 gallons per day. Domestic wastewater generated at the O&M facility will drain  
42 into an onsite septic system. A graveled parking area for employees, visitors and  
43 equipment will be located adjacent to the O&M facility. [Amendments #2 and #3]

- 1
- 2 e. Control System. The certificate holder will install a supervisory control and data  
3 acquisition (SCADA) system to assist with the remote operation of the wind  
4 turbines, to collect data from each wind turbine, and to archive wind and  
5 performance data from various sources. The SCADA system will be linked by  
6 means of fiber optic cables or other means of communication to a central  
7 computer in the O&M facility.
- 8 f. Access Roads. The certificate holder will construct about 44 miles of new roads to  
9 provide access to the wind turbine strings, together with turnaround areas at the  
10 end of each wind turbine string. The roads will be about 16 feet wide (possibly up  
11 to 28 feet wide in some locations) and will be composed of crushed gravel with  
12 shoulders (without gravel) about 3 feet wide. In addition, the certificate holder  
13 will improve about 0.7 mile of existing roads by providing an all-weather surface  
14 and, in some cases, widening the roads to accommodate construction vehicles.  
15 [Amendments #2 and #3]
- 16 g. Temporary Laydown and Staging Areas. Depending on whether it proceeds with  
17 the 150-turbine or 225-turbine configuration, the certificate holder will use a total  
18 of 186 or 261 laydown and staging areas to stage construction and store supplies  
19 and equipment during construction of the facility. The certificate holder will  
20 develop one 18,500 square-foot laydown area at the site of each wind turbine, a  
21 one-acre laydown area for each wind turbine string, and six additional 5-acre  
22 laydown areas at various locations throughout the facility site. The laydown areas  
23 will have a crushed gravel surface and will be returned to their pre-construction  
24 condition following completion of construction of the facility.
- 25 h. Temporary Crane Paths. The certificate holder will develop temporary crane  
26 paths, totaling approximately 16 miles, in order to move construction cranes  
27 between turbine corridors. The temporary crane paths will be returned to their  
28 pre-construction condition following completion of construction of the facility.  
29 [Amendments #2 and #3]

## B. LOCATION OF THE FACILITY

30 The facility is located about 2.5 miles northeast of Wasco in Townships 1 and 2 North,  
31 Ranges 17 and 18 East, Willamette Meridian, Sherman County, Oregon.

## IV. SPECIFIC FACILITY CONDITIONS

32 The conditions listed in this section include conditions based on representations in the  
33 site certificate application and supporting record. The Council deems these representations to be  
34 binding commitments made by the applicant. These conditions are required under OAR 345-027-  
35 0020(10).

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

**A. ORGANIZATIONAL EXPERTISE, OAR 345-022-0010**

- 1 (1) Before beginning construction of the facility, the certificate holder shall notify the  
2 Department of the identity and qualifications of the engineering, procurement and  
3 construction (EPC) contractor(s) for specific portions of the work. The certificate holder  
4 shall select EPC contractors that have substantial experience in the design and construction  
5 of similar facilities. The certificate holder shall report to the Department any change of  
6 major construction contractors.
- 7 (2) The certificate holder shall contractually require all construction contractors and  
8 subcontractors involved in the construction of the facility to comply with all applicable  
9 laws and regulations and with the terms and conditions of the site certificate. Such  
10 contractual provisions shall not operate to relieve the certificate holder of responsibility  
11 under the site certificate.
- 12 (3) During construction of the facility, the certificate holder shall have an on-site assistant  
13 construction manager who is qualified in environmental compliance to ensure compliance  
14 with all construction-related site certificate conditions. During operation, the certificate  
15 holder shall have a project manager who is qualified in environmental compliance to ensure  
16 compliance with all ongoing site certificate conditions. The certificate holder shall notify  
17 the Department of the name, telephone number, fax number and e-mail address of these  
18 managers and shall keep the Department informed of any change in this information.
- 19 (4) Within 72 hours after discovery of conditions or circumstances that may violate the terms  
20 or conditions of the site certificate, the certificate holder shall report the conditions or  
21 circumstances to the Department.

**B. RETIREMENT AND FINANCIAL ASSURANCE, OAR 345-022-0050**

- 22 (5) [Condition removed by Amendment #2]
- 23 (6) [Condition removed by Amendment #2]
- 24 (7) [Condition removed by Amendment #2]
- 25 (8) If the certificate holder elects to build the facility in more than one phase using any turbines  
26 other than the GE 1.5-MW turbines or GE 3.0-MW turbines, before beginning construction  
27 of any phase of the facility and after considering all micrositing factors, the certificate  
28 holder shall provide to the Department a detailed map of that phase of the facility showing  
29 the final locations where facility components are proposed to be built in relation to the  
30 features and micrositing corridors shown on Figures 2, 2a, 2b and 2c as identified in the  
31 Final Order on Amendment #3, shall identify on this map the facilities that would constitute  
32 that phase of construction, and shall provide documentation defining the quantities of each  
33 of the following components that would constitute that phase of construction: turbines, pad  
34 transformers, meteorological towers, substation, O&M facility, miles of aboveground 34.5-  
35 kV collector system, miles of access road, acres of turnarounds and access road  
36 intersections, acres of temporary laydown area and miles of temporary crane paths. For  
37 each turbine, the certificate shall define the turbine manufacturer, turbine capacity, weight  
38 of steel, height of tower, sweep of blade, and size of concrete foundation. [Amendments #2 and  
39 #3]

1 (9) In February 2007, in accordance with the terms and conditions of the First Amended Site  
2 Certificate, the certificate holder submitted to the State of Oregon through the Council a  
3 letter of credit in the amount of \$1.608 million before beginning construction of Phase 1 of  
4 the facility. The calculation of the amount of the letter of credit included a deduction from  
5 the estimated cost of site restoration for Phase 1 for the estimated value of scrap steel. In the  
6 Final Order on Amendment #2, the Council found that there should be no deduction of  
7 scrap or salvage value in calculating the amount of financial assurance required for site  
8 restoration.

9 In June 2007, in accordance with the terms and conditions of the Second Amended Site  
10 Certificate, the certificate holder submitted an amended letter of credit for Phase 1 in the  
11 amount of \$5.001 million (3<sup>rd</sup> Quarter 2007 dollars). In January 2008, in accordance with  
12 the terms and conditions of the Second Amended Site Certificate, the certificate holder  
13 submitted an amended letter of credit for Phase 1 in the amount of \$5.058 million (1<sup>st</sup>  
14 Quarter 2008 dollars).

15 Before beginning construction of any future phase of the facility, the certificate holder shall  
16 submit a bond or letter of credit for that phase in an amount approved by the Department  
17 and based on the costs shown in Table 1 of the Final Order on Amendment #3.

18 (a) The certificate holder shall adjust the amounts of all bonds or letters of credit  
19 submitted in compliance with this condition to present value as of the date of issuance,  
20 using the following calculation and subject to approval by the Department:

21 (i) Adjust the Subtotal (in 2005 dollars) to present value, using the U.S. Gross  
22 Domestic Product Implicit Price Deflator, Chain-Weight, as published in the Oregon  
23 Department of Administrative Services' *Oregon Economic and Revenue Forecast* or by any  
24 successor agency (the "Index"). If at any time the Index is no longer published, the Council  
25 shall select a comparable calculation to adjust 2005 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 and  
29 project management costs and 10 percent of the adjusted Gross Cost for the adjusted future  
30 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 amount.

33 (b) The certificate holder shall annually adjust all bonds or letters of credit submitted in  
34 compliance with this condition to present value as of the date of issuance as described in  
35 (a).

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

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

40 (e) The certificate holder shall describe the status of all bonds or letters of credit for the  
41 facility in the annual report submitted to the Council under Condition (122).

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

3 [Amendments #2 and #3]

4 (10) If the certificate holder elects to use a bond to meet the requirements of Condition (9), the  
5 certificate holder shall ensure that the surety is obligated to comply with the requirements  
6 of applicable statutes, Council rules and this site certificate when the surety exercises any  
7 legal or contractual right it may have to assume construction, operation or retirement of the  
8 facility. The certificate holder shall also ensure that the surety is obligated to notify the  
9 Council that it is exercising such rights and to obtain any Council approvals required by  
10 applicable statutes, Council rules and this site certificate before the surety commences any  
11 activity to complete construction, operate or retire the facility.

12 (11) The certificate holder shall begin construction of the facility by June 30, 2009. Under OAR  
13 345-015-0085(9), a site certificate is effective upon execution by the Council Chair and the  
14 applicant. The Council may grant an extension of the deadline to begin construction in  
15 accordance with OAR 345-027-0030 or any successor rule in effect at the time the request  
16 for extension is submitted. [Amendment #2]

17 (12) The certificate holder shall complete construction of the facility by June 30, 2011.  
18 Construction is complete when: (1) the facility is substantially complete as defined by the  
19 certificate holder's construction contract documents; (2) acceptance testing has been  
20 satisfactorily completed; and (3) the energy facility is ready to begin continuous operation  
21 consistent with the site certificate. The certificate holder shall promptly notify the  
22 Department of the date of completion of construction. The Council may grant an extension  
23 of the deadline for completing construction in accordance with OAR 345-027-0030 or any  
24 successor rule in effect at the time the request for extension is submitted. [Amendment #2]

25 (13) The certificate holder shall construct a facility substantially as described in the site  
26 certificate.

27 (14) Notwithstanding OAR 345-027-0050(2), an amendment of the site certificate is required if  
28 the proposed change would increase the electrical generation capacity of the facility and  
29 would increase the number of wind turbines or the dimensions of existing wind turbines.

30 (15) The certificate holder shall obtain all necessary state and local permits or approvals  
31 required for construction, operation and retirement of the facility or ensure that its  
32 contractors obtain necessary state and local permits or approvals.

33 (16) Before beginning construction, the certificate holder shall notify the Department in advance  
34 of any work on the site that does not meet the definition of "construction" in OAR 345-001-  
35 0010 or ORS 469.300 and shall provide to the Department a description of the work and  
36 evidence that its value is less than \$250,000.

### C. LAND USE, OAR 345-022-0030

37 (17) The certificate holder shall construct the public road improvements described in the site  
38 certificate application to meet or exceed road standards for the road classifications in the  
39 County's Transportation System Plan and Zoning Ordinance because roads will require a  
40 more substantial section to bear the weight of the vehicles and turbine components than  
41 would usually be constructed by the County.

- 1 (18) The certificate holder shall ensure that no equipment or machinery is parked or stored on  
2 any county road except while in use.
- 3 (19) The site certificate holder shall design and construct private access roads to minimize the  
4 division of existing farm units.
- 5 (20) The certificate holder shall not locate any aboveground facility structure (including wind  
6 turbines, O&M buildings, substations, and meteorological towers, but not including  
7 aboveground transmission and collector lines and junction boxes) within 30 feet from any  
8 property line or within 50 feet from the right-of-way of any arterial or major collector road  
9 or street and shall not allow any architectural feature, as described in Sherman County  
10 Zoning Ordinance Section 4.2, to project into these required setbacks by more than 2 feet.  
11 [Amendment #3]
- 12 (21) The certificate holder shall locate access roads and temporary construction laydown and  
13 staging areas to minimize disturbance with farming practices and, wherever feasible, shall  
14 place turbines and transmission interconnection lines along the margins of cultivated areas  
15 to reduce the potential for conflict with farm operations. The certificate holder shall place  
16 aboveground collector lines and junction boxes along property lines and public road rights-  
17 of-way to the extent practicable. [Amendment #2]
- 18 (22) During operation of the facility, the certificate holder, in cooperation with landowners, shall  
19 avoid impact on cultivated land to the extent reasonably possible when performing facility  
20 repair and maintenance activities.
- 21 (23) Where necessary and feasible, the certificate holder shall provide access across construction  
22 trenches to fields within the facility site and otherwise provide adequate and timely access  
23 to properties during critical periods in the farming cycle, such as harvest.
- 24 (24) Before beginning construction of the facility, the certificate holder shall record a Farm  
25 Management Easement covering the properties on which the certificate holder locates wind  
26 power generation facilities. The certificate holder shall record the easements in the real  
27 property records of Sherman County and shall file a copy of the recorded easement with the  
28 Sherman County Planning Director.
- 29 (25) The certificate holder shall remove from Special Farm Assessment the portions of parcels  
30 on which facilities are located and shall pay all property taxes due and payable after the  
31 Special Farm Assessment is removed from such properties.

#### **D. SOIL PROTECTION, OAR 345-022-0022**

- 32 (26) The certificate holder shall conduct all construction work in compliance with an Erosion  
33 and Sediment Control Plan (ESCP) satisfactory to the Oregon Department of  
34 Environmental Quality and as required under the National Pollutant Discharge Elimination  
35 System (NPDES) Storm Water Discharge General Permit #1200-C. The certificate holder  
36 shall include in the ESCP any procedures necessary to meet local erosion and sediment  
37 control requirements and storm water management requirements.
- 38 (27) During construction of the facility, the certificate holder shall limit truck traffic to  
39 designated existing and improved road surfaces to avoid soil compaction, to the extent  
40 possible.

- 1 (28) The certificate holder shall cover turbine pad areas with gravel or other non-erosive  
2 material immediately following exposure during construction and shall maintain the pad  
3 area covering during operation of the facility.
- 4 (29) During construction of the facility, the certificate holder shall restore areas that are  
5 temporarily disturbed in accordance with the methods, monitoring procedures and success  
6 criteria described in the Revegetation Plan that is incorporated in this order as Attachment  
7 B and as that Revegetation Plan may be amended from time to time. During operation of  
8 the facility, the certificate holder shall restore areas that are temporarily disturbed during  
9 facility maintenance or repairs according to the same methods and monitoring procedures.
- 10 (30) During operation of the facility, the certificate holder shall routinely inspect and maintain  
11 all roads, pads and trenched areas and, as necessary, maintain or repair erosion control  
12 measures.
- 13 (31) During construction of the underground collector system, the certificate holder shall open  
14 the smallest necessary sections of trench during each day of construction and backfill the  
15 trenches as soon as is practical after power lines have been set in the trenches.
- 16 (32) During construction of the facility, the certificate holder shall strip and stockpile soil from  
17 laydown areas only during the time of year when rainfall is lowest, minimizing erosion  
18 from precipitation.
- 19 (33) During construction of the facility, the certificate holder shall use straw bales or similar  
20 containment features to protect soil stockpiles from erosion, as needed.
- 21 (34) During construction of the facility, the certificate holder shall keep wind-borne erosion to a  
22 minimum by using water trucks for dust suppression, as necessary.
- 23 (35) During construction of the facility, the certificate holder shall restore staging locations by  
24 bringing them back to their original contours, covering them with topsoil, and revegetating  
25 or preparing them for planting of wheat or barley or use as range land.

**E. PROTECTED AREAS, OAR 345-022-0040**

- 26 (36) Without Department approval, the certificate holder shall not move any turbines within its  
27 micrositing corridors such that a worst-case visual impact beyond that stated in the ASC  
28 and ASC Supplement would occur for the John Day Wildlife Refuge, the John Day Federal  
29 Wild and Scenic River, or the John Day State Scenic Waterway (Parrish Creek to  
30 Tumwater Falls). Before constructing any turbines in the northward extension of Corridor 3  
31 shown on Figure 2a of the Request for Amendment #3, the certificate holder shall provide a  
32 visual impact analysis that includes the proposed turbines and demonstrates to the  
33 satisfaction of the Department that the requirements of this condition are met. [Amendment  
34 #3]

**F. SCENIC AND AESTHETIC VALUES, OAR 345-022-0080**

35 [No conditions]

**G. RECREATION, OAR 345-022-0100**

36 [No conditions]

## H. PUBLIC HEALTH AND SAFETY STANDARDS FOR WIND ENERGY FACILITIES, OAR 345-024-0010

- 1 (37) During construction, operation or retirement of the facility, the certificate holder shall  
2 notify the Department within 72 hours of any accidents that may result in public health and  
3 safety concerns, including mechanical failures on the site associated with construction or  
4 operation of the facility.
- 5 (38) Before beginning construction of any phase of the facility, the certificate holder shall  
6 submit a Notice of Proposed Construction or Alteration to the Federal Aviation  
7 Administration (FAA) identifying the proposed final locations of the turbines and related or  
8 supporting facilities for that phase of the facility. The certificate holder shall notify the  
9 Department of the FAA's response as soon as it has been received.
- 10 (39) The certificate holder shall enclose the facility substation with appropriate fencing and  
11 locked gates to protect the public from electrical hazards.
- 12 (40) The certificate holder shall not locate turbine towers within 450 feet of any residence. The  
13 certificate holder shall not locate turbine towers within 450 feet of any public road, unless  
14 the certificate holder demonstrates to the Department's satisfaction that a lesser setback is  
15 consistent with the protection of public health and safety.
- 16 (41) The certificate holder shall construct turbine towers that are smooth steel structures with no  
17 exterior ladders or access to the turbine blades and shall install locked access doors  
18 accessible only to authorized personnel.
- 19 (42) During construction of the facility, the certificate holder shall follow manufacturers'  
20 recommended handling instructions and procedures to prevent damage to towers or blades  
21 that could lead to failure.
- 22 (43) During operation of the facility, the certificate holder shall have an operational safety-  
23 monitoring program and shall inspect turbine blades on a regular basis for signs of wear.  
24 The certificate holder shall repair turbine blades as necessary to protect public safety.
- 25 (44) During operation of the facility, the certificate holder shall install and maintain self-  
26 monitoring devices on each turbine, connected to a fault annunciation panel or supervisory  
27 control and data acquisition (SCADA) system at the O&M facility, to alert operators to  
28 potential dangerous conditions, and the certificate holder shall remedy any dangerous  
29 conditions immediately.
- 30 (45) During construction of the facility, the certificate holder shall install generator step-up  
31 transformers at the base of each turbine tower in locked cabinets designed to protect the  
32 public from electrical hazards and to avoid creation of artificial habitat for raptor prey.
- 33 (46) During construction of the facility, the certificate holder shall require that all on-site  
34 construction contractors develop and implement a site health and safety plan that informs  
35 on-site workers and others what to do in case of an emergency and that includes the  
36 locations of fire extinguishers and nearby hospitals, important telephone numbers, and first  
37 aid techniques.
- 38 (47) During operation of the facility, the certificate holder shall develop and implement a site  
39 health and safety plan that informs on-site employees and others what to do in case of an

1 emergency and that includes the locations of fire extinguishers and nearby hospitals,  
2 important telephone numbers, and first aid techniques.

#### I. SITING STANDARDS FOR WIND ENERGY FACILITIES, OAR 345-024-0015

3 (48) The certificate holder shall construct turbines on concrete foundations and shall cover the  
4 ground within a minimum 10-foot radius with non-flammable material. The certificate  
5 holder shall maintain the non-flammable pad area covering throughout operation of the  
6 facility.

7 (49) During construction and operation of the facility, the certificate holder shall implement a  
8 plan to control the introduction and spread of noxious weeds. The certificate holder shall  
9 develop the weed control plan in consultation with the Sherman County Weed Control  
10 District and the Department.

11 (50) During construction of the facility, to reduce the visual impact of the facility, the certificate  
12 holder shall:

13 (a) Paint turbine towers, nacelles, rotors, meteorological towers, and cabinets containing  
14 pad-mounted equipment with a low-reflectivity, neutral gray, white, off-white or earth tone  
15 finish to reduce contrast with the surrounding background.

16 (b) Apply a low-reflectivity finish to the exterior of the O&M buildings and substation  
17 equipment to control their visual integration into the surrounding background.

18 (c) With the exception of the turbine manufacturer's logo that may appear on turbine  
19 nacelles, not allow any advertising to be used on any part of the facility or on any signs  
20 posted at the facility. In addition, the certificate holder may place its logo on the nacelles of  
21 not more than 20 percent of the wind turbines.

22 (d) Use only those signs required by law or for facility safety or security, except that the  
23 certificate holder may erect a sign near the O&M facility or substation to identify the wind  
24 energy facility.

25 [Amendments #2 and #3]

26 (51) The certificate holder shall design and construct the O&M buildings to be generally  
27 consistent with the character of similar buildings used by commercial farmers or ranchers in  
28 the area and shall paint the building in a neutral color to blend with the surrounding  
29 background. [Amendment #3]

30 (52) The certificate holder shall not use exterior nighttime lighting except:

31 (a) The minimum turbine tower lighting required by the Federal Aviation Administration.

32 (b) Security lighting at the O&M buildings and substation, provided that such lighting is  
33 shielded or directed downward to reduce glare.

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

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

42 [Amendment #3]

**J. SITING STANDARDS FOR TRANSMISSION LINES, OAR 345-024-0090**

- 1 (53) The certificate holder shall design the transmission lines so that alternating current electric  
2 fields shall not exceed 9 kV per meter at one meter above the ground surface in areas  
3 accessible to the public.
- 4 (54) The certificate holder shall design the transmission lines so that induced voltages resulting  
5 from the transmission lines are as low as reasonably achievable.

**K. THREATENED AND ENDANGERED SPECIES, OAR 345-022-0070**

- 6 (55) Before beginning construction of the facility, the certificate holder shall deliver to the  
7 Department surveys for threatened and endangered plant and wildlife species in newly  
8 affected areas as identified in the ASC Supplement.
- 9 (56) If construction of the facility begins after 2006, the certificate holder shall review the  
10 ONHIC and USFWS databases and consult with an expert designated by ODFW on an  
11 annual basis before beginning construction to determine whether nesting bald eagles or  
12 peregrine falcons have been documented to occur within two miles of the facility. The  
13 certificate holder shall report the results of the database review and consultation to the  
14 Department and to ODFW and, if there have been new documentations of nesting bald  
15 eagles or peregrine falcons within two miles of the facility, the certificate holder shall  
16 implement appropriate measures to protect the species from adverse impact, as approved by  
17 the Department and ODFW.
- 18 (57) The certificate holder shall implement measures to mitigate impacts to sensitive wildlife  
19 habitat during construction including, but not limited to, the following:  
20 (a) Preparing maps to show sensitive areas, such as nesting or denning areas for sensitive  
21 wildlife species, that are off limits to construction personnel.  
22 (b) Ensuring that a qualified person instructs construction personnel to be aware of  
23 wildlife in the area and to take precautions to avoid injuring or destroying wildlife or  
24 significant wildlife habitat.  
25 (c) Avoiding unnecessary road construction, temporary disturbance and vehicle use.

**L. FISH AND WILDLIFE HABITAT, OAR 345-022-0060**

- 26 (58) The certificate holder shall design and construct all aboveground transmission line support  
27 structures following the practices suggested by the Avian Powerline Interaction Committee  
28 (APLIC 1996, referenced in the site certificate application, p. P-33) and shall install anti-  
29 perching devices on transmission pole tops and cross arms where the poles are located  
30 within one-half mile of any wind turbine.
- 31 (59) The certificate holder may construct turbines and other facility components within the 500-  
32 foot turbine corridors shown on Figures P-1 through P-10 of the site certificate application  
33 and March 2006 supplement and within the "Permitted Areas" and "Amendment III Areas"  
34 as shown on Figures 2, 2a, 2b and 2c of the Request for Amendment #3, subject to the  
35 following requirements addressing potential habitat impact:  
36 (a) The certificate holder shall not construct any facility components within areas of  
37 Category 1 or Category 2 habitat and shall avoid temporary disturbance of Category 1 or  
38 Category 2 habitat.

1 (b) The certificate holder shall design and construct facility components that are the  
2 minimum size needed for safe operation of the energy facility.

3 (c) Prior to constructing any turbines or permanent related or supporting facilities within  
4 the northward extension of Corridor 3 shown on Figure 2a of the Request for Amendment  
5 #3, the certificate holder shall provide the Department with maps and calculations  
6 documenting the additional permanent impacts, if any, to Category 3 and Category 4 habitat  
7 predicted to result from construction. If the construction would result in additional  
8 permanent impacts, the certificate holder shall increase the area of mitigation for permanent  
9 loss of Category 3 and Category 4 habitat as described in the Habitat Mitigation Plan  
10 incorporated herein by Condition 63.

11 [Amendment #3]

12 (60) During construction, the certificate holder shall protect the area within a 1300-foot buffer  
13 around any active nests of the following species during the sensitive period, as provided in  
14 this condition:

Species	Sensitive Period	Early Release Date
Swainson's hawk	April 1 to August 15	May 31
Golden eagle	February 1 to August 31	May 31
Ferruginous hawk	March 15 to August 15	May 31
Burrowing owl	April 1 to August 15	July 15

15 The 1300-foot buffer may be reduced, with Department approval, if there is an adequate  
16 physical barrier between the nest site and the construction impacts such that a 1300-foot  
17 buffer proves to be excessive.

18 During the year in which construction of any phase occurs, the certificate holder shall use a  
19 protocol approved by the Oregon Department of Fish and Wildlife (ODFW) to determine  
20 whether there are any active nests of these species within a half-mile of any areas that  
21 would be disturbed during construction. If a nest is occupied by any of these species after  
22 the beginning of the sensitive period, the certificate holder shall not engage in high-impact  
23 construction activities (activities that involve blasting, grading or other major ground  
24 disturbance) or allow high levels of construction traffic within 1300 feet of the nest site, or  
25 such lesser distance as may be approved by the Department in the event there is an adequate  
26 physical barrier between the nest site and the construction impacts.

27 In addition, the certificate holder shall flag the boundaries of the 1300-foot buffer area, or  
28 such lesser distance as may be approved by the Department in the event there is an adequate  
29 physical barrier between the nest site and the construction impacts, and shall instruct  
30 construction personnel to avoid any unnecessary activity within the buffer area. The  
31 certificate holder shall direct a qualified biologist, approved by the Department, to observe  
32 the active nest sites during the sensitive period for signs of disturbance and to notify the  
33 Department of any non-compliance with this condition. The Department has approved the  
34 qualifications of the four biologists identified in the Final Order on Amendment #2. The  
35 certificate holder may select other qualified biologists to observe the nest sites, subject to  
36 Department approval. If the biologist observes nest site abandonment or other adverse  
37 impact to nesting activity, the certificate holder shall implement appropriate mitigation, in  
38 consultation with ODFW and subject to the approval of the Department, unless the adverse  
39 impact is clearly shown to have a cause other than construction activity. The certificate  
40 holder may begin or resume high impact construction activities before the ending day of the

1 sensitive period if any known nest site is not occupied by the early release date. If a nest  
2 site is occupied, then the certificate holder may begin or resume high-impact construction  
3 before the ending day of the sensitive period with the approval of ODFW, after the young  
4 are fledged. The certificate holder shall use a protocol approved by ODFW to determine  
5 when the young are fledged (the young are independent of the core nest site). [Amendment #2]

6 (61) The certificate holder shall conduct wildlife monitoring and mitigation in accordance with  
7 the Wildlife Monitoring and Mitigation Plan that is incorporated in the Final Order on  
8 Amendment #2 as Attachment A and as may be amended from time to time. [Amendment #2]

9 (62) The certificate holder shall restore areas that are temporarily disturbed during construction  
10 in accordance with the methods, monitoring procedures and success criteria set forth in the  
11 Revegetation Plan that is incorporated in the Final Order on Amendment #2 as Attachment  
12 B and as may be amended from time to time. [Amendment #2]

13 (63) Before beginning construction of the facility, the certificate holder shall acquire the legal  
14 right to create, maintain and protect a habitat mitigation area for the life of the facility by  
15 means of an outright purchase, conservation easement or similar conveyance and shall  
16 provide a copy of the documentation to the Department. Within the habitat mitigation area,  
17 the certificate holder shall improve the habitat quality in accordance with the Habitat  
18 Mitigation Plan that is incorporated in the Final Order on Amendment #3 as Attachment C  
19 and as may be amended from time to time. [Amendments #2 and #3]

20 (64) For the life of the project, the certificate holder shall provide to the appropriate staff of the  
21 Confederated Tribes of the Warm Springs Reservation of Oregon the same annual  
22 mitigation and monitoring reports it submits to the Department.

23 (65) For the life of the project, the certificate holder shall consult annually with the appropriate  
24 staff of the Confederated Tribes of the Warm Springs Reservation of Oregon to discuss  
25 noxious weed or other issues that may arise from the close proximity of the facility site and  
26 tribal lands. The certificate holder shall provide a summary of that consultation in the  
27 annual report it provides to the Department.

#### **M. STRUCTURAL STANDARD, OAR 345-022-0020**

28 (66) Before beginning construction of the facility, the certificate holder shall conduct a site-  
29 specific geotechnical investigation and shall report its findings to the Oregon Department of  
30 Geology & Mineral Industries (DOGAMI). The certificate holder shall conduct the  
31 geotechnical investigation after consultation with DOGAMI and in accordance with the  
32 Oregon Board of Geologists Examiners guidelines entitled: Guidelines for Engineering  
33 Geology Reports and Site-Specific Seismic Hazard Report.

34 (67) The certificate holder shall design and construct the facility in accordance with  
35 requirements set forth by the State of Oregon's Building Code Division and any other  
36 applicable codes and design procedures.

37 (68) The certificate holder shall design, engineer and construct the facility to avoid dangers to  
38 human safety presented by non-seismic hazards. As used in this condition, "non-seismic  
39 hazards" include settlement, landslides, flooding and erosion.

**N. HISTORIC, CULTURAL AND ARCHAEOLOGICAL RESOURCES, OAR 345-022-0090**

- 1 (69) Before beginning construction of any phase of the facility, the certificate holder shall  
2 provide to the Department a map showing the final design locations of all components of  
3 that phase of the facility and areas that would be temporarily disturbed during construction  
4 and also showing the areas surveyed by CH2M Hill and Archaeological Investigations  
5 Northwest, Inc. (AINW) in preparing the Cultural Resources Surveys for Biglow Canyon  
6 Wind Farm included in the site certificate application as Attachment S-1 and in Request for  
7 Amendment #2 as Attachment 15. The certificate holder shall hire qualified personnel to  
8 conduct field investigation of all areas of permanent or temporary disturbance that CH2M  
9 Hill and AINW did not previously survey and shall provide to the Department a written  
10 report of the field investigation. If any significant historic, cultural or archaeological  
11 resources are found during the field investigation, the certificate holder shall ensure that  
12 construction and operation of the facility will have no impact on the resources. The  
13 certificate holder shall instruct all construction personnel to avoid areas where the resources  
14 were found and shall implement other appropriate measures to protect the resources.  
15 [Amendment #2]
- 16 (70) The certificate holder shall ensure that a qualified person instructs construction personnel in  
17 the identification of cultural resources.
- 18 (71) The certificate holder shall ensure that a qualified archaeologist is present on site during  
19 any ground-disturbing activities, including grading and graveling; or, the certificate holder  
20 shall implement an alternate monitoring procedure, including a testing strategy, as agreed to  
21 in consultation with the Department, SHPO, and the tribes.
- 22 (72) 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 during  
24 construction of the facility until a qualified archaeologist can evaluate the significance of  
25 the find. The certificate holder shall notify the Department and the State Historic  
26 Preservation Office (SHPO) of the find. If the archaeologist determines that the resource is  
27 significant, the certificate holder shall make recommendations to the Council for mitigation,  
28 including avoidance or data recovery, in consultation with the Department, SHPO, and  
29 other appropriate parties. The certificate holder shall not restart work in the affected area  
30 until the certificate holder has demonstrated to the Department that it has complied with the  
31 archaeological permit requirements administered by SHPO.
- 32 (73) The certificate holder shall ensure that construction personnel proceed carefully in the  
33 vicinity of the mapped alignment of the Oregon Trail. If any intact physical evidence of the  
34 trail is discovered, the certificate holder shall avoid any disturbance to the intact segments,  
35 by redesign, re-engineering or restricting the area of construction activity. The certificate  
36 holder shall promptly notify the Department and SHPO of the discovery. The certificate  
37 holder shall consult with the Department and with SHPO to determine appropriate  
38 mitigation measures.

**O. PUBLIC SERVICES, OAR 345-022-0110**

- 39 (74) During construction of the facility, the certificate holder and its contractors shall obtain all  
40 water required for construction activities from off-site sources previously permitted for  
41 such uses.

- 1 (75) Before beginning operation of the facility, the certificate holder shall have in operation a  
2 well suitable for delivering water, not exceeding 5,000 gallons per day, for domestic use at  
3 the facility's O&M buildings and, provided the rate of extraction would not exceed 5,000  
4 gallons per day, blade-washing activities. The certificate holder shall not change the source  
5 of water for the facility's domestic use without prior Council approval. [Amendment #3]
- 6 (76) During operation of the facility, the certificate holder and its contractors shall obtain all  
7 water required for blade-washing activities from off-site sources previously permitted for  
8 such uses or from the on-site well, provided such use of well water would not cause the rate  
9 of extraction to exceed 5,000 gallons in any one-day period.
- 10 (77) Before beginning construction of the facility, the certificate holder shall develop a system  
11 for monitoring state highways and local roads that would serve as transporter routes for  
12 delivering equipment to the facility site for degradation, *e.g.*, major potholes, so that safe  
13 travel paths may be maintained. The monitoring system shall include site inspection and  
14 photographic cataloguing of existing road conditions so that pre-construction conditions can  
15 be compared with conditions after construction has been completed. The certificate holder  
16 shall coordinate monitoring methods and preferred mitigation efforts with Sherman County  
17 Public Works and the Oregon Department of Transportation. [Amendment #1]
- 18 (78) After completing construction of the facility, the certificate holder shall restore state  
19 highways and county roads affected by facility construction activities to at least their pre-  
20 construction conditions, to the satisfaction of Sherman County Public Works and the  
21 Oregon Department of Transportation.
- 22 (79) During construction of the facility, the certificate holder shall implement the following  
23 measures to reduce traffic delays on county roads serving as transporter routes for delivery  
24 of equipment to the facility site:  
25 (a) Provide notice to adjacent landowners when construction takes place to help minimize  
26 access disruptions;  
27 (b) Provide proper road signage and warnings of "Equipment on Road," "Truck Access,"  
28 or "Road Crossings;"  
29 (c) Implement traffic diversion equipment, such as advance signage and pilot cars,  
30 whenever possible when slow or oversized loads are being hauled;  
31 (d) Encourage carpooling for the construction workforce to reduce traffic volume;  
32 (e) Employ flaggers, as necessary, to direct traffic when large equipment is entering or  
33 exiting public roads to minimize risk of accidents; and  
34 (f) Maintain at least one travel lane at all times so that roadways will not be closed to  
35 traffic as a result of construction vehicles entering or exiting public roads.

**P. WASTE MINIMIZATION, OAR 345-022-0120**

- 36 (80) The certificate holder shall use hazardous materials in a manner that protects public health,  
37 safety and the environment and shall comply with applicable local, state and federal  
38 environmental laws and regulations.
- 39 (81) If a spill or release of hazardous materials occurs during construction or operation of the  
40 facility, the certificate holder shall notify the Department within 72 hours and shall clean up  
41 the spill or release and dispose of any contaminated soil or other materials according to  
42 applicable regulations. The certificate holder shall ensure that spill kits containing items

1 such as absorbent pads are located on equipment and storage facilities to respond to  
2 accidental spills and shall instruct employees handling hazardous materials in the proper  
3 handling, storage and cleanup of these materials.

4 (82) During construction of the facility, the certificate holder shall provide portable toilets for  
5 on-site sewage handling and shall ensure that the portable toilets are pumped and cleaned  
6 regularly by a licensed contractor that is qualified to pump and clean portable toilet  
7 facilities.

8 (83) During operation of the facility, the certificate holder shall discharge sanitary wastewater  
9 generated at the O&M buildings to a licensed on-site septic system in compliance with  
10 county permit requirements. The certificate holder shall design the septic system with a  
11 capacity that is less than 2,500 gallons per day. [Amendment #3]

12 (84) During construction of the facility, the certificate holder shall implement a waste  
13 management plan that includes but is not limited to the following measures:

14 (a) Training employees to minimize and recycle solid waste;

15 (b) Minimizing the generation of wastes from construction through detailed estimating of  
16 materials needs and through efficient construction practices;

17 (c) Recycling steel and other metal scrap;

18 (d) Recycling wood waste;

19 (e) Recycling packaging wastes, such as paper and cardboard;

20 (f) Collecting non-recyclable waste for transport to a landfill by a licensed waste hauler;  
21 and

22 (g) Segregating all hazardous wastes, such as used oil, oily rags and oil-absorbent  
23 materials, mercury-containing lights and lead-acid and nickel-cadmium batteries for  
24 disposal by a licensed firm specializing in the proper recycling or disposal of hazardous  
25 wastes.

26 (85) The certificate holder may dispose of waste concrete on site with the permission of the  
27 landowner and in accordance with OAR 340-093-0080 and other applicable regulations.  
28 The certificate holder shall dispose of waste concrete on site by placing the material in an  
29 excavated hole, covering the concrete with at least 3 feet of topsoil, and grading the area to  
30 match existing contours. If the waste concrete is not disposed of on site, the certificate  
31 holder shall arrange for proper disposal in a licensed landfill.

32 (86) During construction of the facility, the certificate holder shall ensure that the wash down of  
33 concrete trucks occurs only at a contractor-owned batch plant or at tower foundation  
34 locations. If such wash down occurs at tower foundation locations, then the certificate  
35 holder shall ensure that wash down wastewater does not run off the construction site into  
36 otherwise undisturbed areas and that the wastewater is disposed of on backfill piles and  
37 buried underground with the backfill over the tower foundation.

38 (87) During operation of the facility, the certificate holder shall implement a waste management  
39 plan that includes but is not limited to the following measures:

40 (a) Training employees to minimize and recycle solid waste;

41 (b) Recycling paper products, metals, glass and plastics;

42 (c) Collecting non-recyclable waste for transport to a landfill by a licensed waste hauler;  
43 and

1 (d) Segregating all hazardous wastes, such as used oil, oily rags and oil-absorbent  
2 materials, mercury-containing lights and lead-acid and nickel-cadmium batteries for  
3 disposal by a licensed firm specializing in the proper recycling or disposal of hazardous  
4 wastes.

- 5 (88) During operation of the facility, the certificate holder may engage in blade-washing  
6 activities but shall ensure that these activities do not cause runoff of washwater from the  
7 site or discharges to surface waters, storm sewers or dry wells. The certificate holder shall  
8 not use acids, bases or metal brighteners with the wash water. The certificate may use  
9 biodegradable, phosphate-free cleaners sparingly. [Amendment #2]

#### Q. NOISE CONTROL REGULATIONS, OAR 340-035-0035

- 10 (89) To reduce noise impacts at nearby residential areas, the certificate holder shall:  
11 (a) Confine the noisiest operation of heavy construction equipment to the daylight hours;  
12 (b) Require contractors to install and maintain exhaust mufflers on all combustion  
13 engine-powered equipment; and  
14 (c) Establish a complaint response system at the construction manager's office to address  
15 noise complaints.

- 16 (90) If the GE 1.5-MW turbines (for which the certificate holder states the maximum sound  
17 power level warranted by the manufacturer is 104 dBA) or the GE 3.0-MW turbines  
18 (provided the certificate holder is able to demonstrate, by means of the manufacturer's  
19 warranty or other means acceptable to the Department, that the maximum sound power  
20 level of the GE 3.0-MW turbine is 106 dBA) will be used at the facility, before beginning  
21 construction, the certificate holder shall present information demonstrating to the  
22 satisfaction of the Department that the following requirements have been met at the 24  
23 identified noise sensitive properties. The identified noise sensitive properties are the  
24 properties listed in Table 12 of the Final Order on the Application and further identified in  
25 the Final Order on Amendment #2, except for property R14:

26 (a) For any identified noise sensitive property where the previously-predicted maximum  
27 hourly  $L_{50}$  noise level caused by the facility would equal or exceed 50 dBA, the certificate  
28 holder shall identify the final design locations of all turbines to be built and perform a noise  
29 analysis demonstrating, in accordance with OAR 340-035-0035(1)(b)(B)(iii)(IV), that the  
30 total hourly  $L_{50}$  noise level generated by the facility would not exceed 50 dBA at the  
31 appropriate measurement point. The certificate holder shall perform the noise analysis using  
32 the noise model, CADNA/A by DataKustik GmbH of Munich, Germany, and shall assume  
33 the following input parameters:

- 34 • The maximum sound power level of turbines and substation transformers based on  
35 the manufacturers' warranty or confirmed by other means acceptable to the  
36 Department
- 37 • The exact locations of the proposed turbines
- 38 • The environmental factors included in the original noise analysis, *i.e.*, the  
39 temperature, relative humidity, barrier effects and ground effects used in the original  
40 analysis. If the certificate holder has cause to believe the environmental factors  
41 included in the original noise analysis are no longer valid for a particular receiver, the  
42 certificate holder shall perform the noise analysis for that receiver using both the

1 environmental factors included in the original noise analysis and the environmental  
2 factors the certificate holder now believes to be applicable to that receiver.

3 (b) Where the previously-predicted hourly L<sub>50</sub> noise levels caused by the facility would  
4 exceed 36 dBA but not exceed 50 dBA at any identified noise sensitive property, the  
5 certificate holder has obtained a legally effective easement or real covenant pursuant to  
6 which the owner of the property authorizes the certificate holder's operation of the facility  
7 to increase ambient statistical noise levels L<sub>10</sub> and L<sub>50</sub> by more than 10 dBA at the  
8 appropriate measurement point. A legally effective easement or real covenant shall: (i)  
9 include a legal description of the burdened property (the noise sensitive property); (ii) be  
10 recorded in the real property records of the county; (iii) expressly benefit the certificate  
11 holder; (iv) expressly run with the land and bind all future owners, lessees or holders of any  
12 interest in the burdened property; and (v) not be subject to revocation without the certificate  
13 holder's written approval.

14 (c) If, for any identified noise sensitive property where the previously-predicted hourly  
15 L<sub>50</sub> noise levels caused by the facility would exceed 36 dBA but not exceed 50 dBA, the  
16 certificate holder has not obtained a legally effective easement or real covenant as described  
17 in (b) above, the certificate holder shall identify the final design locations of all turbines to  
18 be built and perform a noise analysis demonstrating, in accordance with OAR 340-035-  
19 0035(1)(b)(B)(iii)(IV), that the total noise generated by the facility (including the noise  
20 from turbines and substation transformers) would meet the ambient noise degradation test at  
21 the appropriate measurement point on those noise sensitive properties. The certificate  
22 holder shall perform the noise analysis using the noise model, CADNA/A by DataKustik  
23 GmbH of Munich, Germany, and shall assume the following input parameters:

- 24 • The maximum sound power level of turbines and substation transformers based on  
25 the manufacturers' warranty or confirmed by other means acceptable to the  
26 Department
- 27 • The exact locations of the proposed turbines
- 28 • The environmental factors included in the original noise analysis, *i.e.*, the  
29 temperature, relative humidity, barrier effects and ground effects used in the original  
30 analysis. If the certificate holder has cause to believe the environmental factors  
31 included in the original noise analysis are no longer valid for a particular receiver, the  
32 certificate holder shall perform the noise analysis for that receiver using both the  
33 environmental factors included in the original noise analysis and the environmental  
34 factors the certificate holder now believes to be applicable to that receiver.

35 [Amendment #2]

36 (91) Before beginning construction using turbines other than GE 1.5-MW or GE 3.0-MW  
37 turbines, the certificate holder shall:

38 (a) Identify the final design locations of all turbines to be built, perform a noise analysis  
39 for all turbines and substation transformers, and generate a new table listing each noise  
40 sensitive property, as defined in OAR 340-035-0015(38), and the predicted maximum  
41 hourly L<sub>50</sub> noise level at each noise sensitive property. The certificate holder shall perform  
42 the noise analysis using the noise model, CADNA/A by DataKustik GmbH of Munich,  
43 Germany, and shall assume the following input parameters:

- 44 • The maximum sound power level of turbines and substation transformers based on  
45 the manufacturers' warranty or confirmed by other means acceptable to the  
46 Department

- 1 • The exact locations of the proposed turbines
- 2 • The environmental factors included in the original noise analysis, i.e., the
- 3 temperature, relative humidity, barrier effects and ground effects used in the original
- 4 analysis. If the certificate holder has cause to believe the environmental factors
- 5 included in the original noise analysis are no longer valid for a particular receiver, the
- 6 certificate holder shall perform the noise analysis for that receiver using both the
- 7 environmental factors included in the original noise analysis and the environmental
- 8 factors the certificate holder now believes to be applicable to that receiver.

9 (b) Demonstrate to the satisfaction of the Department that the requirements of paragraphs  
10 (a), (b) and (c) of Conditions (90) have been met for each noise sensitive property listed on  
11 the new table generated under paragraph (a) of this condition, except for any new  
12 development of noise sensitive property that occurs after the effective date of the Second  
13 Amended Site Certificate.

14 [Amendment #2]

#### **R. REMOVAL-FILL LAW**

15 [No conditions]

#### **S. GROUND WATER ACT**

16 [No conditions]

#### **T. PUBLIC HEALTH AND SAFETY**

17 (92) During operation of the facility, the certificate holder shall maintain built-in fire prevention  
18 measures in each turbine that would shut down the turbine automatically before mechanical  
19 problems create excess heat or sparks.

20 (93) During construction and operation of the facility, the certificate holder shall develop and  
21 implement fire management plans in consultation with local fire control authorities to  
22 minimize the risk of fire and to respond appropriately to any fires that occur on the facility  
23 site. In developing the fire management plans, the certificate holder should take into  
24 account the dry nature of the region and should address risks on a seasonal basis.

25 (94) During construction and operation of the facility, the certificate holder shall ensure that  
26 each on-site company vehicle contains a fire extinguisher, water spray can, shovel,  
27 emergency response procedures book, and two-way radio for immediate communication  
28 with the O&M facility.

29 (95) During construction of the facility, the certificate holder shall clear vegetation from a  
30 laydown area adjacent to each wind turbine where welding, cutting, grinding, or other  
31 flame- or spark-producing operations are likely to occur.

32 (96) Upon beginning operation of the facility, the certificate holder shall provide to all local fire  
33 departments maps of the facility site. During operation of the facility, the certificate holder  
34 shall provide to all local fire departments the names and telephone numbers of facility  
35 personnel available to respond on a 24-hour basis in case of an emergency on the facility  
36 site.

- 1 (97) During operation of the facility, the certificate holder shall ensure that all on-site employees  
2 receive annual fire prevention and response training by qualified instructors or members of  
3 the local fire department and that all employees are instructed to keep vehicles on roads and  
4 off dry grassland, except when off-road operation is required for emergency purposes.
- 5 (98) During operation of the facility, the certificate holder shall comply with the written fire  
6 protection recommendations of the Fire Chief of the applicable Rural Fire Protection  
7 District and shall promptly provide to the Department any correspondence from the Fire  
8 Chief regarding those recommendations. [Amendment #3]
- 9 (99) The certificate holder shall take reasonable steps to reduce or manage exposure to  
10 electromagnetic fields (EMF), consistent with Council findings presented in the "Report of  
11 EMF Committee to the Energy Facility Siting Council," March 30, 1993, and subsequent  
12 findings. Effective on the date of this site certificate, the certificate holder shall provide  
13 information to the public, upon request, about EMF levels associated with the energy  
14 facility and related transmission lines.
- 15 (100) At least 30 days before beginning preparation of detailed design and specifications for the  
16 electrical transmission lines, the certificate holder shall consult with the Oregon Public  
17 Utility Commission staff to ensure that its designs and specifications are consistent with  
18 applicable codes and standards.

#### V. CONDITIONS REQUIRED BY COUNCIL RULES

19 This section lists conditions specifically required by OAR 345-027-0020 (Mandatory  
20 Conditions in Site Certificates), OAR 345-027-0028 (Monitoring Conditions), and OAR Chapter  
21 345, Division 26 (Construction and Operation Rules for Facilities). All references to the Office  
22 of Energy or Office shall be construed to refer to the Department of Energy. These conditions  
23 should be read together with the specific facility conditions included in Sections IV, VI and VII  
24 to ensure compliance with the siting standards of OAR Chapter 345, Divisions 22 and 24, and to  
25 protect the public health and safety. The certificate holder shall comply with all site certificate  
26 conditions. [Amendment #3]

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

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

33 (102) OAR 345-027-0020(2): The certificate holder shall submit a legal description of the site  
34 to the Department of Energy within 90 days after beginning operation of the facility. The  
35 legal description required by this rule means a description of metes and bounds or a  
36 description of the site by reference to a map and geographic data that clearly and  
37 specifically identifies the outer boundaries that contain all parts of the facility. [Amendment  
38 #3]

39 (103) OAR 345-027-0020(3): The certificate holder shall design, construct, operate and retire  
40 the facility:

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

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

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

5 (104) OAR 345-027-0020(4): The certificate holder shall begin and complete construction of  
6 the facility by the dates specified in the site certificate.

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

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

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

24 [Amendment #3]

25 (106) OAR 345-027-0020(6): If the Council requires mitigation based on an affirmative finding  
26 under any standards of Division 22 or Division 24 of OAR Chapter 345, the certificate  
27 holder shall consult with affected state agencies and local governments designated by the  
28 Council and shall develop specific mitigation plans consistent with Council findings under  
29 the relevant standards. The certificate holder must submit the mitigation plans to the Office  
30 and receive Office approval before beginning construction or, as appropriate, operation of  
31 the facility. [Amendment #3]

32 (107) OAR 345-027-0020(7): The certificate holder shall prevent the development of any  
33 conditions on the site that would preclude restoration of the site to a useful, non-hazardous  
34 condition to the extent that prevention of such site conditions is within the control of the  
35 certificate holder.

36 (108) OAR 345-027-0020(8): Before beginning construction of the facility, the certificate  
37 holder shall submit to the State of Oregon, through the Council, a bond or letter of credit in  
38 a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous  
39 condition. The certificate holder shall maintain a bond or letter of credit in effect at all  
40 times until the facility has been retired. The Council may specify different amounts for the  
41 bond or letter of credit during construction and during operation of the facility. [Amendment  
42 #3]

43 (109) OAR 345-027-0020(9): The certificate holder shall retire the facility if the certificate  
44 holder permanently ceases construction or operation of the facility. The certificate holder

1 shall retire the facility according to a final retirement plan approved by the Council, as  
2 described in OAR 345-027-0110. The certificate holder shall pay the actual cost to restore  
3 the site to a useful, non-hazardous condition at the time of retirement, notwithstanding the  
4 Council's approval in the site certificate of an estimated amount required to restore the site.

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

8 (111) OAR 345-027-0020(11): Upon completion of construction, the certificate holder shall  
9 restore vegetation to the extent practicable and shall landscape all areas disturbed by  
10 construction in a manner compatible with the surroundings and proposed use. Upon  
11 completion of construction, the certificate holder shall remove all temporary structures not  
12 required for facility operation and dispose of all timber, brush, refuse and flammable or  
13 combustible material resulting from clearing of land and construction of the facility.  
14 [Amendment #3]

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

20 (113) OAR 345-027-0020(13): The certificate holder shall notify the Department, the State  
21 Building Codes Division and the Department of Geology and Mineral Industries promptly  
22 if site investigations or trenching reveal that conditions in the foundation rocks differ  
23 significantly from those described in the application for a site certificate. After the  
24 Department receives the notice, the Council may require the certificate holder to consult  
25 with the Department of Geology and Mineral Industries and the Building Codes Division  
26 and to propose mitigation actions. [Amendment #3]

27 (114) OAR 345-027-0020(14): The certificate holder shall notify the Department, the State  
28 Building Codes Division and the Department of Geology and Mineral Industries promptly  
29 if shear zones, artesian aquifers, deformations or clastic dikes are found at or in the vicinity  
30 of the site. [Amendment #3]

31 (115) OAR 345-027-0020(15): Before any transfer of ownership of the facility or ownership of  
32 the site certificate holder, the certificate holder shall inform the Department of the proposed  
33 new owners. The requirements of OAR 345-027-0100 apply to any transfer of ownership  
34 that requires a transfer of the site certificate. [Amendment #3]

35 (116) OAR 345-027-0020(16): If the Council finds that the certificate holder has permanently  
36 ceased construction or operation of the facility without retiring the facility according to a  
37 final retirement plan approved by the Council, as described in OAR 345-027-0110, the  
38 Council shall notify the certificate holder and request that the certificate holder submit a  
39 proposed final retirement plan to the Office within a reasonable time not to exceed 90 days.  
40 If the certificate holder does not submit a proposed final retirement plan by the specified  
41 date, the Council may direct the Department to prepare a proposed a final retirement plan  
42 for the Council's approval. Upon the Council's approval of the final retirement plan, the  
43 Council may draw on the bond or letter of credit described in OAR 345-027-0020(8) to  
44 restore the site to a useful, non-hazardous condition according to the final retirement plan,

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

7 (117) [Condition removed by Amendment #3]

8 (118) OAR 345-027-0023(4): If the facility includes any transmission line under Council  
9 jurisdiction:

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

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

17 [Amendment #3]

18 (119) OAR 345-027-0023(5): If the proposed energy facility is a pipeline or a transmission line  
19 or has, as a related or supporting facility, a pipeline or transmission line, the Council shall  
20 specify an approved corridor in the site certificate and shall allow the certificate holder to  
21 construct the pipeline or transmission line anywhere within the corridor, subject to the  
22 conditions of the site certificate. If the applicant has analyzed more than one corridor in its  
23 application for a site certificate, the Council may, subject to the Council's standards,  
24 approve more than one corridor. [Amendment #3]

25 (120) OAR 345-027-0028: The following general monitoring conditions apply:

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

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

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

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

43 [Amendment #3]

1 (121) OAR 345-026-0048: Following receipt of the site certificate or an amended site  
2 certificate, the certificate holder shall implement a plan that verifies compliance with all site  
3 certificate terms and conditions and applicable statutes and rules. As a part of the  
4 compliance plan, to verify compliance with the requirement to begin construction by the  
5 date specified in the site certificate, the certificate holder shall report promptly to the  
6 Department of Energy when construction begins. Construction is defined in OAR 345-001-  
7 0010. In reporting the beginning of construction, the certificate holder shall describe all  
8 work on the site performed before beginning construction, including work performed before  
9 the Council issued the site certificate, and shall state the cost of that work. For the purpose  
10 of this exhibit, "work on the site" means any work within a site or corridor, other than  
11 surveying, exploration or other activities to define or characterize the site or corridor. The  
12 certificate holder shall document the compliance plan and maintain it for inspection by the  
13 Department or the Council. [Amendment #3]

14 (122) OAR 345-026-0080: The certificate holder shall report according to the following  
15 requirements:

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

17 (i) Within six months after beginning construction, and every six months thereafter  
18 during construction of the energy facility and related or supporting facilities, the certificate  
19 holder shall submit a semiannual construction progress report to the Department of Energy.  
20 In each construction progress report, the certificate holder shall describe any significant  
21 changes to major milestones for construction. The certificate holder shall include such  
22 information related to construction as specified in the site certificate. When the reporting  
23 date coincides, the certificate holder may include the construction progress report within the  
24 annual report described in this Condition.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 [Amendment #3]

27 (123) [Condition removed by Amendment #3]

28 (124) OAR 345-026-0105: The certificate holder and the Department of Energy shall exchange  
29 copies of all correspondence or summaries of correspondence related to compliance with  
30 statutes, rules and local ordinances on which the Council determined compliance, except for  
31 material withheld from public disclosure under state or federal law or under Council rules.  
32 The certificate holder may submit abstracts of reports in place of full reports; however, the  
33 certificate holder shall provide full copies of abstracted reports and any summarized  
34 correspondence at the request of the Department. [Amendment #3]

35 (125) OAR 345-026-0170: The certificate holder shall notify the Department of Energy within  
36 72 hours of any occurrence involving the facility if:

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

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

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

42 [Amendment #3]

## **VI. CONDITIONS RELATING TO AMENDMENT #2**

- 1 (126) Prior to any disturbance in the areas of the site added in the Final Order for Amendment  
2 #2, the certificate holder shall deliver to the Department the results of a spring survey of  
3 Crossing G, conducted during the appropriate bloom time for Northern wormwood and  
4 Henderson's ricegrass. If Northern wormwood or any other protected rare plant species are  
5 observed during the spring survey, the certificate holder shall ensure that construction and  
6 operation of the facility will have no impact on the rare plant habitat. [Amendment #2]
- 7 (127) The certificate holder shall avoid any disturbance, including the placement of poles for  
8 the collector line, within 25 feet of the stream channel in the area identified as Crossing G  
9 in the Request for Amendment #2 and within a wetland area identified as "POWHX" on  
10 Figure J-1 of the site certificate application. [Amendment #2]

## **VII. CONDITIONS RELATING TO AMENDMENT #3**

- 11 (128) With respect to any turbine constructed within a micrositing corridor approved by the  
12 Council after November 21, 2007, the certificate holder shall not locate such turbine within  
13 the setback prescribed by Section 4 of the Sherman County Wind Power Set Back  
14 Ordinance (Ordinance No. 39-2007) unless the Council has approved a variance to such  
15 setback for the turbine or the certificate holder has negotiated a setback agreement with the  
16 affected adjacent property owner and wind project developer. [Amendment #3]
- 17 (129) The certificate holder shall avoid any disturbance within 25 feet of the stream channel in  
18 the area identified as "Stream Crossing H" in the Request for Amendment #3 and shall  
19 install any collector line through the area by tunneling or drilling beneath the stream  
20 channel. [Amendment #3]

## **VIII. SUCCESSORS AND ASSIGNS**

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

## **IX. SEVERABILITY AND CONSTRUCTION**

23 If any provision of this agreement and certificate is declared by a court to be illegal or in  
24 conflict with any law, the validity of the remaining terms and conditions shall not be affected,  
25 and the rights and obligations of the parties shall be construed and enforced as if the agreement  
26 and certificate did not contain the particular provision held to be invalid. In the event of a  
27 conflict between the conditions contained in this site certificate and the Council's final order, the  
28 conditions contained in this site certificate shall control.

## **X. GOVERNING LAW AND FORUM**

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

## **XI. EXECUTION**

31 This site certificate may be executed in counterparts and will become effective upon  
32 signature by the Chair of the Energy Facility Siting Council and the authorized representative of  
33 the certificate holder. [Amendment #1]

1 **IN WITNESS WHEREOF**, this site certificate has been executed by the State of Oregon, acting  
2 by and through its Energy Facility Siting Council, and by Portland General Electric Company.  
3 [Amendment #1]

ENERGY FACILITY SITING COUNCIL

PORTLAND GENERAL ELECTRIC  
COMPANY

By: Robert Shiprack  
Robert Shiprack, Chair  
Oregon Energy Facility Siting Council

By: Bill Nicholson *js*  
Print: BILL NICHOLSON

Date: 10/31/08

Date: 10/31/08