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**Dept of Energy**

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

**Site Certificate  
for the  
Leaning Juniper II Wind Power Facility**

September 21, 2007

**The Oregon Energy Facility Siting Council**

**SITE CERTIFICATE FOR THE LEANING JUNIPER II WIND POWER FACILITY**

**I. INTRODUCTION**

1 The Oregon Energy Facility Siting Council (Council) issues this site certificate for the  
2 Leaning Juniper II Wind Power Facility (the facility) in the manner authorized under ORS  
3 Chapter 469. This site certificate is a binding agreement between the State of Oregon (State),  
4 acting through the Council, and Leaning Juniper Wind Power II LLC (certificate holder)  
5 authorizing the certificate holder to construct and operate the facility in Gilliam County, Oregon.

6 The findings of fact, reasoning and conclusions of law underlying the terms and  
7 conditions of this site certificate are set forth in the Council's Final Order on the Application for  
8 the facility issued on September 21, 2007, and incorporated herein by this reference. In  
9 interpreting this site certificate, any ambiguity will be clarified by reference to the following, in  
10 order of priority: (1) this Site Certificate, (2) the Final Order on the Application and (3) the  
11 record of the proceedings that led to the Final Order on the Application.

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

**II. SITE CERTIFICATION**

- 14 1. To the extent authorized by state law and subject to the conditions set forth herein, the State  
15 authorizes the certificate holder to construct, operate and retire a wind energy facility,  
16 together with certain related or supporting facilities, at the site in Gilliam County, Oregon, as  
17 described in Section III of this site certificate. ORS 469.401(1).
- 18 2. This site certificate is effective until it is terminated under OAR 345-027-0110 or the rules in  
19 effect on the date that termination is sought or until the site certificate is revoked under ORS  
20 469.440 and OAR 345-029-0100 or the statutes and rules in effect on the date that revocation  
21 is ordered. ORS 469.401(1).
- 22 3. This site certificate does not address, and is not binding with respect to, matters that were not  
23 addressed in the Council's Final Order on the Application for the facility. Such matters  
24 include, but are not limited to: building code compliance, wage, hour and other labor  
25 regulations, local government fees and charges and other design or operational issues that do  
26 not relate to siting the facility (ORS 469.401(4)) and permits issued under statutes and rules  
27 for which the decision on compliance has been delegated by the federal government to a state  
28 agency other than the Council. 469.503(3).
- 29 4. Both the State and the certificate holder shall abide by local ordinances, state law and the  
30 rules of the Council in effect on the date this site certificate is executed. ORS 469.401(2). In  
31 addition, upon a clear showing of a significant threat to public health, safety or the  
32 environment that requires application of later-adopted laws or rules, the Council may require  
33 compliance with such later-adopted laws or rules. ORS 469.401(2).
- 34 5. For a permit, license or other approval addressed in and governed by this site certificate, the  
35 certificate holder shall comply with applicable state and federal laws adopted in the future to

1 the extent that such compliance is required under the respective state agency statutes and  
2 rules. ORS 469.401(2).

- 3 6. Subject to the conditions herein, this site certificate binds the State and all counties, cities and  
4 political subdivisions in Oregon as to the approval of the site and the construction, operation  
5 and retirement of the facility as to matters that are addressed in and governed by this site  
6 certificate. ORS 469.401(3).
- 7 7. Each affected state agency, county, city and political subdivision in Oregon with authority to  
8 issue a permit, license or other approval addressed in or governed by this site certificate shall,  
9 upon submission of the proper application and payment of the proper fees, but without  
10 hearings or other proceedings, issue such permit, license or other approval subject only to  
11 conditions set forth in this site certificate. ORS 469.401(3).
- 12 8. After issuance of this site certificate, each state agency or local government agency that  
13 issues a permit, license or other approval for the facility shall continue to exercise  
14 enforcement authority over such permit, license or other approval. ORS 469.401(3).
- 15 9. After issuance of this site certificate, the Council shall have continuing authority over the site  
16 and may inspect, or direct the Oregon Department of Energy (Department) to inspect, or  
17 request another state agency or local government to inspect, the site at any time in order to  
18 ensure that the facility is being operated consistently with the terms and conditions of this  
19 site certificate. ORS 469.430.

### III. DESCRIPTION

#### 1. The Facility

##### (a) The Energy Facility

20 The energy facility is an electric power generating plant with an average electric  
21 generating capacity of approximately 93 megawatts and a peak generating capacity of not more  
22 than 279 megawatts that produces power from wind energy. The facility consists of not more  
23 than 133 wind turbines. The maximum peak generating capacity of each turbine is not more than  
24 3.0 megawatts. The energy facility is described further in the Final Order on the Application on  
25 the facility.

##### (b) Related or Supporting Facilities

26 The facility includes the following related or supporting facilities described below and in  
27 greater detail in the Final Order on the Application on the facility:

- 28 • Power collection system
- 29 • Substations and interconnection system
- 30 • Meteorological towers
- 31 • Operations and maintenance facilities
- 32 • Control system
- 33 • Access roads
- 34 • Temporary construction areas

1        **Power Collection System**

2            A power collection system operating at 34.5 kilovolts (kV) transports power from each  
3 turbine to a collector substation. To the extent practicable, the collection system is installed  
4 underground at a depth of at least three feet. Not more than 30 percent of the collector system is  
5 installed aboveground.

6        **Substations and Interconnection System**

7            The facility includes a substation located adjacent to the Bonneville Power  
8 Administration (BPA) Jones Canyon Switching Station. An aboveground transmission line less  
9 than 400 feet in length carries the power from the substation to a BPA switching station and an  
10 interconnection with the regional transmission grid through BPA's McNary-Santiam 230-kV  
11 transmission line.

12       **Meteorological Towers**

13           The facility includes four permanent meteorological (met) towers. The met towers are  
14 non-guyed steel towers approximately 80 meters in height.

15       **Operations and Maintenance Facilities**

16           The facility includes one or two operations and maintenance (O&M) buildings with  
17 approximately 2.5 acres of fenced, graveled parking and storage area adjacent to each building.

18       **Control System**

19           A fiber optic communications network links the wind turbines to a central computer at  
20 the O&M buildings. A "supervisory, control and data acquisition" (SCADA) system collects  
21 operating and performance data from each wind turbine and from the project as a whole and  
22 allows remote operation of the wind turbines.

23       **Access Roads**

24           The facility includes access roads to provide access to the turbine strings.

25       **Temporary Construction Areas**

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

**2. Location of the Proposed Facility**

29           The facility is located southwest of Arlington, in Gilliam County, Oregon. The site is in  
30 Townships 2 and 3 North and Ranges 20 and 21 East. The facility is located on land subject to  
31 lease agreements with landowners.

**IV. CONDITIONS REQUIRED BY COUNCIL RULES**

32           This section lists conditions required by OAR 345-027-0020 (Mandatory Conditions in  
33 Site Certificates), OAR 345-027-0023 (Site Specific Conditions), OAR 345-027-0028  
34 (Monitoring Conditions) and OAR Chapter 345, Division 26 (Construction and Operation Rules  
35 for Facilities). These conditions should be read together with the specific facility conditions  
36 listed in Section V to ensure compliance with the siting standards of OAR Chapter 345,  
37 Divisions 22 and 24, and to protect the public health and safety. In these conditions, "Office of

1 Energy” means the Oregon Department of Energy, and the other definitions in OAR 345-001-  
2 0010 apply.

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

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

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

22 1 OAR 345-027-0020(1): The Council shall not change the conditions of the site certificate  
23 except as provided for in OAR Chapter 345, Division 27.

24 2 OAR 345-027-0020(2): The certificate holder shall submit a legal description of the site to  
25 the Department of Energy within 90 days after beginning operation of the facility. The legal  
26 description required by this rule means a description of metes and bounds or a description  
27 of the site by reference to a map and geographic data that clearly and specifically identifies  
28 the outer boundaries that contain all parts of the facility.

29 3 OAR 345-027-0020(3): The certificate holder shall design, construct, operate and retire the  
30 facility:

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

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

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

36 4 OAR 345-027-0020(4): The certificate holder shall begin and complete construction of the  
37 facility by the dates specified in the site certificate. (*See conditions 25 and 26.*)

38 5 OAR 345-027-0020(5): Except as necessary for the initial survey or as otherwise allowed  
39 for wind energy facilities, transmission lines or pipelines under this section, the certificate  
40 holder shall not begin construction, as defined in OAR 345-001-0010, or create a clearing  
41 on any part of the site until the certificate holder has construction rights on all parts of the  
42 site. For the purpose of this rule, “construction rights” means the legal right to engage in  
43 construction activities. For wind energy facilities, transmission lines or pipelines, if the

1 certificate holder does not have construction rights on all parts of the site, the certificate  
2 holder may nevertheless begin construction, as defined in OAR 345-001-0010, or create a  
3 clearing on a part of the site if the certificate holder has construction rights on that part of  
4 the site and:

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

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

12 6 OAR 345-027-0020(6): If the Council requires mitigation based on an affirmative finding  
13 under any standards of Division 22 or Division 24 of this chapter, the certificate holder  
14 shall consult with affected state agencies and local governments designated by the Council  
15 and shall develop specific mitigation plans consistent with Council findings under the  
16 relevant standards. The certificate holder must submit the mitigation plans to the Office and  
17 receive Office approval before beginning construction or, as appropriate, operation of the  
18 facility.

19 7 OAR 345-027-0020(7): The certificate holder shall prevent the development of any  
20 conditions on the site that would preclude restoration of the site to a useful, non-hazardous  
21 condition to the extent that prevention of such site conditions is within the control of the  
22 certificate holder.

23 8 OAR 345-027-0020(8): Before beginning construction of the facility, the certificate holder  
24 shall submit to the State of Oregon, through the Council, a bond or letter of credit in a form  
25 and amount satisfactory to the Council to restore the site to a useful, non-hazardous  
26 condition. The certificate holder shall maintain a bond or letter of credit in effect at all  
27 times until the facility has been retired. The Council may specify different amounts for the  
28 bond or letter of credit during construction and during operation of the facility. (*See*  
29 *Condition 30.*)

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

36 10 OAR 345-027-0020(10): The Council shall include as conditions in the site certificate all  
37 representations in the site certificate application and supporting record the Council deems to  
38 be binding commitments made by the applicant.

39 11 OAR 345-027-0020(11): Upon completion of construction, the certificate holder shall  
40 restore vegetation to the extent practicable and shall landscape all areas disturbed by  
41 construction in a manner compatible with the surroundings and proposed use. Upon  
42 completion of construction, the certificate holder shall remove all temporary structures not  
43 required for facility operation and dispose of all timber, brush, refuse and flammable or  
44 combustible material resulting from clearing of land and construction of the facility.

- 1     12    OAR 345-027-0020(12): The certificate holder shall design, engineer and construct the  
2     facility to avoid dangers to human safety presented by seismic hazards affecting the site that  
3     are expected to result from all maximum probable seismic events. As used in this rule  
4     “seismic hazard” includes ground shaking, landslide, liquefaction, lateral spreading,  
5     tsunami inundation, fault displacement and subsidence.
- 6     13    OAR 345-027-0020(13): The certificate holder shall notify the Department, the State  
7     Building Codes Division and the Department of Geology and Mineral Industries promptly  
8     if site investigations or trenching reveal that conditions in the foundation rocks differ  
9     significantly from those described in the application for a site certificate. After the  
10    Department receives the notice, the Council may require the certificate holder to consult  
11    with the Department of Geology and Mineral Industries and the Building Codes Division  
12    and to propose mitigation actions.
- 13    14    OAR 345-027-0020(14): The certificate holder shall notify the Department, the State  
14    Building Codes Division and the Department of Geology and Mineral Industries promptly  
15    if shear zones, artesian aquifers, deformations or elastic dikes are found at or in the vicinity  
16    of the site.
- 17    15    OAR 345-027-0020(15): Before any transfer of ownership of the facility or ownership of  
18    the site certificate holder, the certificate holder shall inform the Department of the proposed  
19    new owners. The requirements of OAR 345-027-0100 apply to any transfer of ownership  
20    that requires a transfer of the site certificate
- 21    16    OAR 345-027-0020(16): If the Council finds that the certificate holder has permanently  
22    ceased construction or operation of the facility without retiring the facility according to a  
23    final retirement plan approved by the Council, as described in OAR 345-027-0110, the  
24    Council shall notify the certificate holder and request that the certificate holder submit a  
25    proposed final retirement plan to the Office within a reasonable time not to exceed 90 days.  
26    If the certificate holder does not submit a proposed final retirement plan by the specified  
27    date, the Council may direct the Department to prepare a proposed a final retirement plan  
28    for the Council’s approval. Upon the Council’s approval of the final retirement plan, the  
29    Council may draw on the bond or letter of credit described in section (8) to restore the site  
30    to a useful, non-hazardous condition according to the final retirement plan, in addition to  
31    any penalties the Council may impose under OAR Chapter 345, Division 29. If the amount  
32    of the bond or letter of credit is insufficient to pay the actual cost of retirement, the  
33    certificate holder shall pay any additional cost necessary to restore the site to a useful, non-  
34    hazardous condition. After completion of site restoration, the Council shall issue an order to  
35    terminate the site certificate if the Council finds that the facility has been retired according  
36    to the approved final retirement plan.
- 37    17    OAR 345-027-0023(4): If the facility includes any transmission line under Council  
38    jurisdiction:  
39        (a) The certificate holder shall design, construct and operate the transmission line in  
40        accordance with the requirements of the National Electrical Safety Code (American  
41        National Standards Institute, Section C2, 1997 Edition); and  
42        (b) The certificate holder shall develop and implement a program that provides  
43        reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or

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

3 18 OAR 345-027-0023(5): If the proposed energy facility is a pipeline or a transmission line or  
4 has, as a related or supporting facility, a pipeline or transmission line, the Council shall  
5 specify an approved corridor in the site certificate and shall allow the certificate holder to  
6 construct the pipeline or transmission line anywhere within the corridor, subject to the  
7 conditions of the site certificate. If the applicant has analyzed more than one corridor in its  
8 application for a site certificate, the Council may, subject to the Council's standards,  
9 approve more than one corridor.

10 19 OAR 345-027-0028: The following general monitoring conditions apply:

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

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

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

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

27 20 OAR 345-026-0048: Following receipt of a site certificate or an amended site certificate,  
28 the certificate holder shall implement a plan that verifies compliance with all site certificate  
29 terms and conditions and applicable statutes and rules. As a part of the compliance plan, to  
30 verify compliance with the requirement to begin construction by the date specified in the  
31 site certificate, the certificate holder shall report promptly to the Department of Energy  
32 when construction begins. Construction is defined in OAR 345-001-0010. In reporting the  
33 beginning of construction, the certificate holder shall describe all work on the site  
34 performed before beginning construction, including work performed before the Council  
35 issued the site certificate, and shall state the cost of that work. For the purpose of this  
36 exhibit, "work on the site" means any work within a site or corridor, other than surveying,  
37 exploration or other activities to define or characterize the site or corridor. The certificate  
38 holder shall document the compliance plan and maintain it for inspection by the  
39 Department or the Council.

40 21 OAR 345-026-0080: The certificate holder shall report according to the following  
41 requirements:

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

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

1 In each construction progress report, the certificate holder shall describe any significant  
2 changes to major milestones for construction. The certificate holder shall include such  
3 information related to construction as specified in the site certificate. When the reporting  
4 date coincides, the certificate holder may include the construction progress report within the  
5 annual report described in this rule.

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

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

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

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

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

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

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

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

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

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

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

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

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

7 22 OAR 345-026-0105: The certificate holder and the Department of Energy shall exchange  
8 copies of all correspondence or summaries of correspondence related to compliance with  
9 statutes, rules and local ordinances on which the Council determined compliance, except for  
10 material withheld from public disclosure under state or federal law or under Council rules.  
11 The certificate holder may submit abstracts of reports in place of full reports; however, the  
12 certificate holder shall provide full copies of abstracted reports and any summarized  
13 correspondence at the request of the Department.

14 23 OAR 345-026-0170: The certificate holder shall notify the Department of Energy within 72  
15 hours of any occurrence involving the facility if:

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

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

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

## V. SPECIFIC FACILITY CONDITIONS

21 The conditions listed in this section include conditions based on representations in the  
22 site certificate application and supporting record. The Council deems these representations to be  
23 binding commitments made by the applicant. These conditions are required under OAR 345-027-  
24 0020(10). The certificate holder must comply with these conditions in addition to the conditions  
25 listed in Section IV. This section includes other specific facility conditions the Council finds  
26 necessary to ensure compliance with the siting standards of OAR Chapter 345, Divisions 22 and  
27 24, and to protect public health and safety. For conditions that require subsequent review and  
28 approval of a future action, ORS 469.402 authorizes the Council to delegate the future review  
29 and approval to the Department if, in the Council's discretion, the delegation is warranted under  
30 the circumstances of the case.

### 1. Certificate Administration Conditions

31 24 The certificate holder shall request an amendment of the site certificate if the LJ-North  
32 components are built or operated as part of the Pebble Springs Wind Project under the  
33 authority of a Gilliam County Conditional Use Permit.

34 25 The certificate holder shall begin construction of the facility within three years after the  
35 effective date of the site certificate. Under OAR 345-015-0085(9), a site certificate is  
36 effective upon execution by the Council Chair and the applicant. The Council may grant an  
37 extension of the deadline to begin construction in accordance with OAR 345-027-0030 or  
38 any successor rule in effect at the time the request for extension is submitted.

39 26 The certificate holder shall complete construction of the facility within four years after the  
40 effective date of the site certificate. Construction is complete when: 1) the facility is

1 substantially complete as defined by the certificate holder's construction contract  
2 documents, 2) acceptance testing has been satisfactorily completed and 3) the energy  
3 facility is ready to begin continuous operation consistent with the site certificate. The  
4 certificate holder shall promptly notify the Department of the date of completion of  
5 construction. The Council may grant an extension of the deadline for completing  
6 construction in accordance with OAR 345-027-0030 or any successor rule in effect at the  
7 time the request for extension is submitted.

8 27 The certificate holder shall construct a facility substantially as described in the site  
9 certificate and may select turbines of any type, subject to the following restrictions:

10 (a) The total number of turbines at the facility must not exceed 133 turbines.

11 (b) The peak generating capacity of each turbine must not exceed 3.0 megawatts.

12 (c) The combined peak generating capacity of the facility must not exceed 279  
13 megawatts.

14 (d) The turbine hub height must not exceed 100 meters, and the turbine blade tip height  
15 must not exceed 150 meters.

16 (e) The minimum blade tip clearance must be 30 meters above ground.

17 (f) The certificate holder shall request an amendment of the site certificate to increase the  
18 combined peak generating capacity of the facility or to increase the number of wind  
19 turbines or the dimensions of wind turbines at the facility.

20 28 The certificate holder shall obtain all necessary federal, state and local permits or approvals  
21 required for construction, operation and retirement of the facility or ensure that its  
22 contractors obtain the necessary federal, state and local permits or approvals.

23 29 Before beginning construction, the certificate holder shall notify the Department in advance  
24 of any work on the site that does not meet the definition of "construction" in OAR 345-001-  
25 0010 or ORS 469.300 and shall provide to the Department a description of the work and  
26 evidence that its value is less than \$250,000.

27 30 Before beginning construction, the certificate holder shall submit to the State of Oregon  
28 through the Council a bond or letter of credit in the amount described herein naming the  
29 State of Oregon, acting by and through the Council, as beneficiary or payee. The initial  
30 bond or letter of credit amount is \$8.847 million (in 2006 dollars), adjusted to the date of  
31 issuance as described in (b), or the amount determined as described in (a). The certificate  
32 holder shall adjust the amount of the bond or letter of credit on an annual basis thereafter as  
33 described in (b).

34 (a) The certificate holder may adjust the amount of the bond or letter of credit based on  
35 the final design configuration of the facility by applying the unit costs and general costs  
36 illustrated in Table 2 and Table 3 of the Final Order on the Application to the final design  
37 and calculating the financial assurance amount as described in that order, adjusted to the  
38 date of issuance as described in (b) and subject to approval by the Department.

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

41 (i) Adjust the gross cost component of the bond or letter of credit amount (expressed  
42 in 2006 dollars) to present value, using the U.S. Gross Domestic Product Implicit Price  
43 Deflator, Chain-Weight, as published in the Oregon Department of Administrative  
44 Services' "Oregon Economic and Revenue Forecast" or by any successor agency (the  
45 "Index") and using the annual average index value for 2006 dollars and the quarterly index

1 value for the date of issuance of the new bond or letter of credit. If at any time the Index is  
2 no longer published, the Council shall select a comparable calculation to adjust 2006 dollars  
3 to present value.

4 (ii) Add 1 percent of the adjusted gross cost (i) for the adjusted performance bond  
5 amount, 10 percent of the adjusted gross cost for the adjusted administration and project  
6 management costs and 10 percent of the adjusted gross cost for the adjusted future  
7 developments contingency.

8 (iii) Add the adjusted gross cost (i) to the sum of the percentages (ii) and round the  
9 resulting total to the nearest \$1,000 to determine the adjusted financial assurance amount.

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

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

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

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

18 31 If the certificate holder elects to use a bond to meet the requirements of Condition 30, the  
19 certificate holder shall ensure that the surety is obligated to comply with the requirements  
20 of applicable statutes, Council rules and this site certificate when the surety exercises any  
21 legal or contractual right it may have to assume construction, operation or retirement of the  
22 energy facility. The certificate holder shall also ensure that the surety is obligated to notify  
23 the Council that it is exercising such rights and to obtain any Council approvals required by  
24 applicable statutes, Council rules and this site certificate before the surety commences any  
25 activity to complete construction, operate or retire the energy facility.

26 32 Before beginning construction, the certificate holder shall notify the Department of the  
27 identity and qualifications of major construction contractor(s) for specific portions of the  
28 work. The certificate holder shall select contractors that have substantial experience in the  
29 design and construction of similar facilities. The certificate holder shall report to the  
30 Department any change of major construction contractors.

31 33 The certificate holder shall contractually require all construction contractors and  
32 subcontractors involved in the construction of the facility to comply with all applicable  
33 laws and regulations and with the terms and conditions of the site certificate. Such  
34 contractual provisions shall not operate to relieve the certificate holder of responsibility  
35 under the site certificate.

36 34 During construction, the certificate holder shall have an on-site assistant construction  
37 manager who is qualified in environmental compliance to ensure compliance with all  
38 construction-related site certificate conditions. During operation, the certificate holder shall  
39 have a project manager who is qualified in environmental compliance to ensure compliance  
40 with all ongoing site certificate conditions. The certificate holder shall notify the  
41 Department of the name, telephone number, fax number and e-mail address of these  
42 managers and shall keep the Department informed of any change in this information.

1 35 Within 72 hours after discovery of conditions or circumstances that may violate the terms  
2 or conditions of the site certificate, the certificate holder shall report the conditions or  
3 circumstances to the Department.

## 2. Land Use Conditions

4 36 The certificate holder shall cooperate with the Gilliam County Road Department to ensure  
5 that any unusual damage or wear to county roads that is caused by construction of the  
6 facility is repaired by the certificate holder. Upon completion of construction, the certificate  
7 holder shall restore county roads to pre-construction condition or better, to the satisfaction  
8 of the County Road Department.

9 37 During construction, the certificate holder shall implement measures to reduce traffic  
10 impacts, including:

11 (a) Providing notice to adjacent landowners when heavy construction traffic is  
12 anticipated.

13 (b) Providing appropriate traffic safety signage and warnings.

14 (c) Requiring flaggers to be at appropriate locations at appropriate times during  
15 construction to direct traffic reduce accident risks.

16 (d) Using traffic diversion equipment (such as advanced signage and pilot cars) when  
17 slow or oversize construction loads are anticipated.

18 (e) Maintaining at least one travel lane at all times so that roads will not be closed to  
19 traffic because of construction vehicles.

20 (f) Encouraging carpooling for the construction workforce.

21 (g) Including traffic control procedures in contract specifications for construction of the  
22 facility.

23 (h) Keeping the access from Highway 19 free of gravel that tracks out onto the highway.

24 38 The certificate holder shall ensure that no equipment or machinery is parked or stored on  
25 any county road except while in use.

26 39 The certificate holder shall construct all facility components in compliance with the  
27 following setback requirements:

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

31 (b) The distance from any turbine to the nearest residence or public road (except  
32 Rattlesnake Road and Stone Lane) must be no less than the maximum blade tip height of  
33 the turbine plus 50 feet.

34 (c) Except where (a) or (b) apply, turbines and meteorological towers must be at least 250  
35 feet from any public road right-of-way, railroad right-of-way, exterior lot line or electrical  
36 substation.

37 (d) Except where (a) applies, any facility building or substation must be at least 50 feet  
38 any public road right-of-way, railroad right-of-way or exterior lot line.

39 40 The certificate holder shall consult with area landowners and lessees during construction  
40 and operation of the facility and shall implement measures to reduce or avoid any adverse  
41 impacts to farm practices on surrounding lands and to avoid any increase in farming costs.

- 1 41 The certificate holder shall locate access roads and temporary construction laydown and  
2 staging areas to minimize disturbance with farming practices and, wherever feasible, shall  
3 place turbines and transmission interconnection lines along the margins of cultivated areas  
4 to reduce the potential for conflict with farm operations.
- 5 42 Before beginning construction of the facility, the certificate holder shall record in the real  
6 property records of Gilliam County a Covenant Not to Sue with regard to generally  
7 accepted farming practices on adjacent farmland consistent with Gilliam County Zoning  
8 Ordinance 7.020(T)(4)(a)(5).
- 9 43 The certificate holder shall install lockable gates at the substation and on private access  
10 roads.
- 11 44 Within 90 days after beginning operation, the certificate holder shall provide to the  
12 Department and to the Gilliam County Planning Director the actual latitude and longitude  
13 location or Stateplane NAD 83(91) coordinates of each turbine tower, connecting lines and  
14 transmission lines. In addition, the certificate holder shall provide to the Department and to  
15 the Gilliam County Planning Director, a summary of as-built changes in the facility  
16 compared to the original plan, if any.

### 3. Cultural Resource Conditions

- 17 45 Before beginning construction, the certificate holder shall provide to the Department a map  
18 showing the final design locations of all components of the facility and areas that would be  
19 disturbed during construction and also showing the areas that were surveyed in 2004, 2005  
20 and 2006 as described in the site certificate application. If areas to be disturbed during  
21 construction lie outside of the surveyed areas, the certificate holder shall hire qualified  
22 personnel to conduct field investigation of those areas. The certificate holder shall provide a  
23 written report of the field investigation to the Department and to the State Historic  
24 Preservation Office (SHPO). If any historic, cultural or archaeological resources are found  
25 during the field investigation, the certificate holder shall ensure that construction and  
26 operation of the facility will have no impact on the resources. The certificate holder shall  
27 instruct all construction personnel to avoid the areas where resources identified in the 2004-  
28 2006 surveys or found during pre-construction investigations and shall implement other  
29 appropriate measures to protect the resources.
- 30 46 The certificate holder shall ensure that a qualified person instructs construction personnel in  
31 the identification of cultural materials and avoidance of accidental damage to identified  
32 resource sites.
- 33 47 The certificate holder shall ensure that construction personnel cease all ground-disturbing  
34 activities in the immediate area if any archaeological or cultural resources are found during  
35 construction of the facility until a qualified archaeologist can evaluate the significance of  
36 the find. The certificate holder shall notify the Department and the State Historic  
37 Preservation Office (SHPO) of the find. If the archaeologist determines that the resource is  
38 significant, the certificate holder shall make recommendations to the Council for mitigation,  
39 including avoidance or data recovery, in consultation with the Department, SHPO and other  
40 appropriate parties. The certificate holder shall not restart work in the affected area until the  
41 certificate holder has demonstrated to the Department that it has complied with the  
42 archaeological permit requirements administered by SHPO.

1 48 During construction of the facility, the certificate holder shall label all identified historic,  
2 cultural or archaeological resource sites on construction maps and drawings as “no entry”  
3 areas, and if construction activities will occur within 200 feet of an identified site, the  
4 certificate holder shall flag a 50-foot buffer around the site.

#### 4. Geotechnical Conditions

5 49 Before beginning construction, the certificate holder shall conduct site-specific geotechnical  
6 investigation and shall report its findings to the Oregon Department of Geology & Mineral  
7 Industries (DOGAMI). The certificate holder shall conduct the geotechnical investigation  
8 after consultation with DOGAMI and in general accordance with DOGAMI open file report  
9 00-04 “Guidelines for Engineering Geologic Reports and Site-Specific Seismic Hazard  
10 Reports.”

11 50 The certificate holder shall design and construct the facility in accordance with  
12 requirements set forth by the State of Oregon’s Building Code Division and any other  
13 applicable codes and design procedures. The certificate holder shall design all components  
14 of the facility to meet or exceed the minimum standards required by the 2003 International  
15 Building Code.

16 51 The certificate holder shall design, engineer and construct the facility to avoid dangers to  
17 human safety presented by non-seismic hazards. As used in this condition, “non-seismic  
18 hazards” include settlement, landslides, flooding and erosion.

#### 5. Hazardous Materials, Fire Protection & Public Safety Conditions

19 52 The certificate holder shall notify the Department within 72 hours of any accidents  
20 including mechanical failures on the site associated with construction or operation of the  
21 facility that may result in public health and safety concerns.

22 53 Before beginning construction, the certificate holder shall submit a Notice of Proposed  
23 Construction or Alteration to the Federal Aviation Administration (FAA) identifying the  
24 proposed final locations of the turbines and related or supporting facilities. The certificate  
25 holder shall notify the Department of the FAA’s response as soon as it has been received.

26 54 To protect the public from electrical hazards, the certificate holder shall enclose the facility  
27 substations with appropriate fencing and locked gates.

28 55 The certificate holder shall construct turbine towers that are smooth steel structures with no  
29 exterior ladders or access to the turbine blades and shall install locked access doors  
30 accessible only to authorized personnel.

31 56 The certificate holder shall follow manufacturers’ recommended handling instructions and  
32 procedures to prevent damage to towers or blades that could lead to failure.

33 57 The certificate holder shall have an operational safety monitoring program and shall inspect  
34 turbine blades on a regular basis for signs of wear. The certificate holder shall repair turbine  
35 blades as necessary to protect public safety.

36 58 The certificate holder shall install and maintain self-monitoring devices on each turbine,  
37 linked to sensors at the operations and maintenance building, to alert operators to  
38 potentially dangerous conditions, and the certificate holder shall immediately remedy any

- 1 dangerous conditions. The certificate holder shall maintain automatic equipment protection  
2 features in each turbine that would shut down the turbine and reduce the chance of a  
3 mechanical problem causing a fire.
- 4 59 The certificate holder shall install generator step-up transformers at the base of each tower  
5 in locked cabinets designed to protect the public from electrical hazards and shall design the  
6 cabinets to avoid creation of artificial habitat for raptor prey.
- 7 60 The certificate holder shall construct turbines on concrete pads with a minimum of 10 feet  
8 of non-flammable and non-erosive ground cover on all sides. The certificate holder shall  
9 cover turbine pad areas with non-erosive material immediately following exposure during  
10 construction and shall maintain the pad area covering during operation of the facility.
- 11 61 During construction and operation of the facility, the certificate holder shall develop and  
12 implement fire safety plans in consultation with the North Gilliam County Rural Fire  
13 Protection District and the Arlington Fire Department to minimize the risk of fire and to  
14 respond appropriately to any fires that occur on the facility site. In developing the fire  
15 safety plans, the certificate holder should take into account the dry nature of the region and  
16 should address risks on a seasonal basis. The certificate holder shall meet annually with  
17 District and Fire Department personnel to discuss emergency planning and shall invite  
18 District and Fire Department personnel to observe any emergency drill or tower rescue  
19 training conducted at the facility.
- 20 62 During construction and operation of the facility, the certificate holder shall ensure that the  
21 O&M buildings and all service vehicles are equipped with shovels and portable fire  
22 extinguishers of a 4A50BC or equivalent rating.
- 23 63 During construction, the certificate holder shall ensure that construction vehicles and  
24 equipment are operated on graveled areas to the extent possible and that open flames, such  
25 as cutting torches, are kept away from dry grass areas.
- 26 64 Upon the beginning of operation of the facility, the certificate holder shall provide to North  
27 Gilliam County Rural Fire Protection District and the Arlington Fire Department a site plan  
28 indicating the identification number assigned to each turbine and the location of all facility  
29 structures. During operation, the certificate will ensure that appropriate District and Fire  
30 Department personnel have an up-to-date list of the names and telephone numbers of  
31 facility personnel available to respond on a 24-hour basis in case of an emergency on the  
32 facility site.
- 33 65 During operation, the certificate holder shall ensure that all on-site employees receive  
34 annual fire prevention and response training, including tower rescue training, by qualified  
35 instructors or members of the local fire department and that all employees are instructed to  
36 keep vehicles on roads and off dry grassland, except when off-road operation is required for  
37 emergency purposes.
- 38 66 During construction, the certificate holder shall require that all on-site construction  
39 contractors develop and implement a site health and safety plan that informs workers and  
40 others on-site what to do in case of an emergency and that includes the locations of fire  
41 extinguishers and nearby hospitals, important telephone numbers and first aid techniques.  
42 The certificate holder shall ensure that construction contractors have personnel on-site who  
43 are trained and equipped for tower rescue and who are first aid and CPR certified.

- 1 67 During operation, the certificate holder shall develop and implement a site health and safety  
2 plan that informs employees and others on-site what to do in case of an emergency and that  
3 includes the locations of fire extinguishers and nearby hospitals, important telephone  
4 numbers and first aid techniques.
- 5 68 The certificate holder shall handle any hazardous materials used on the site in a manner that  
6 protects public health, safety and the environment and shall comply with all applicable  
7 local, state and federal environmental laws and regulations.
- 8 69 If a spill or release of hazardous materials occurs during construction or operation of the  
9 facility, the certificate holder shall notify the Department within 72 hours and shall clean up  
10 the spill or release and dispose of any contaminated soil or other materials according to  
11 applicable regulations. The certificate holder shall make sure that spill kits containing items  
12 such as absorbent pads are located on equipment and storage facilities to respond to  
13 accidental spills and shall instruct employees handling hazardous materials in the proper  
14 handling, storage and cleanup of these materials.

## 6. Water, Soils, Streams & Wetlands Conditions

- 15 70 The certificate holder shall conduct all construction work in compliance with an Erosion  
16 and Sediment Control Plan (ESCP) satisfactory to the Oregon Department of  
17 Environmental Quality and as required under the National Pollutant Discharge Elimination  
18 System (NPDES) Storm Water Discharge General Permit #1200-C. The certificate holder  
19 shall include in the ESCP any procedures necessary to meet local erosion and sediment  
20 control requirements and storm water management requirements.
- 21 71 During construction, the certificate holder shall limit truck traffic to designated existing and  
22 improved road surfaces to avoid soil compaction, to the extent possible.
- 23 72 During construction, the certificate holder shall avoid impacts to waters of the state in the  
24 following manner:
- 25 (a) The certificate holder shall avoid any disturbance, including the placement of poles  
26 for the collector line, within 25 feet of the stream channel in the area identified as "S5" on  
27 Figure J-1 of the Site Certificate Application.
- 28 (b) The certificate holder shall avoid any disturbance to the six wetland areas identified  
29 as "W1" through "W6" on Figure J-1 of the Site Certificate Application.
- 30 (c) The certificate holder shall avoid any disturbance to the stream channels identified as  
31 "S24" and "S25" on Figure J-1 of the Site Certificate Application.
- 32 (d) Before beginning construction affecting the location identified as "S27" on Figure J-1  
33 of the Site Certificate Application, the certificate holder shall apply for and obtain a  
34 Removal/Fill Permit from the Department of State Lands, which, in accordance with ORS  
35 469.401, shall issue the permit substantially in the form of Attachment F of the Final Order  
36 on the Application and subject only to the conditions of this site certificate including  
37 substantive requirements listed in that attachment.
- 38 (e) Before beginning construction, the certificate holder shall determine whether any  
39 construction disturbance would occur in locations not previously investigated for potential  
40 jurisdictional waters as described in the Final Order on the Application. The certificate  
41 holder shall conduct a pre-construction investigation to determine whether any  
42 jurisdictional waters exist in those locations. The certificate holder shall submit a written

1 report on this pre-construction investigation to the Department of Energy and to the  
2 Department of State Lands for approval before beginning construction and shall ensure that  
3 construction of the facility would have no impact on any jurisdictional water identified in  
4 the report.

5 73 During construction, the certificate holder shall ensure that the wash down of concrete  
6 trucks occurs only at a contractor-owned batch plant or at tower foundation locations. If  
7 such wash down occurs at tower foundation locations, then the certificate holder shall  
8 ensure that wash down wastewater does not run off the construction site into otherwise  
9 undisturbed areas and that the wastewater is disposed of on backfill piles and buried  
10 underground with the backfill over the tower foundation.

11 74 The certificate holder shall restore areas outside the permanent footprint that are disturbed  
12 during construction according to the methods and monitoring procedures described in the  
13 Revegetation Plan that is incorporated in the Final Order on the Application as Attachment  
14 B and as amended from time to time.

15 75 During facility operation, the certificate holder shall routinely inspect and maintain all  
16 roads, pads and trenched areas and, as necessary, maintain or repair erosion control  
17 measures. The certificate holder shall restore areas that are temporarily disturbed during  
18 facility maintenance or repair activities to pre-disturbance condition or better.

19 76 During facility operation, the certificate holder shall obtain water for on-site uses from one  
20 or more on-site wells, subject to compliance with any applicable permit requirements, not  
21 exceeding 5,000 gallons per day. The certificate holder shall not change the source of water  
22 for on-site uses without prior Department approval.

23 77 During facility operation, if blade-washing becomes necessary, the certificate holder shall  
24 ensure that there is no runoff of wash water from the site or discharges to surface waters,  
25 storm sewers or dry wells. The certificate holder shall not use more than 50 gallons of water  
26 per blade and shall not wash more than eight turbines (24 blades) per week. The certificate  
27 holder shall not use acids, bases or metal brighteners with the wash water. The certificate  
28 may use biodegradable, phosphate-free cleaners sparingly.

## 7. Transmission Line & EMF Conditions

29 78 The certificate holder shall install the 34.5-kV collector system underground to the extent  
30 practical. Where geotechnical conditions or other engineering considerations require, the  
31 certificate holder may install segments of the collector system but the total length of  
32 aboveground segments must not exceed 9.9 miles. The certificate holder shall construct  
33 aboveground segments of the collector system using single or double circuit monopole  
34 design as described in the site certificate application.

35 79 At least 30 days before beginning preparation of detailed design and specifications for the  
36 electrical transmission lines, the certificate holder shall consult with the Oregon Public  
37 Utility Commission staff to ensure that transmission line designs and specifications are  
38 consistent with applicable codes and standards.

39 80 To protect public safety, the certificate holder shall design and maintain the transmission  
40 lines so that:

1 (a) Alternating current electric fields during operation do not exceed 9 kV per meter at  
2 one meter above the ground surface in areas accessible to the public.

3 (b) Induced voltages during operation are as low as reasonably achievable.

4 81 The certificate holder shall take reasonable steps to reduce or manage human exposure to  
5 electromagnetic fields, including but not limited to:

6 (a) Constructing all aboveground transmission lines at least 200 feet from any residence  
7 or other occupied structure.

8 (b) Ensuring that the area near the facility substation is inaccessible to the public by  
9 fencing the area.

10 (c) Constructing aboveground 34.5-kV transmission lines with a minimum clearance of  
11 25 feet from the ground.

12 (d) Providing to landowners a map of underground and overhead transmission lines on  
13 their property and advising landowners of possible health risks.

## 8. Plants, Wildlife & Habitat Protection Conditions

14 82 During construction and operation of the facility, the certificate holder shall implement a  
15 plan to control the introduction and spread of noxious weeds. The certificate shall develop  
16 the weed control plan in consultation with the Gilliam County Weed Control Board.

17 83 The certificate holder shall design all aboveground transmission line support structures  
18 following the practices suggested by the Avian Powerline Interaction Committee (1996)  
19 and shall install anti-perching devices on transmission pole tops and cross arms where the  
20 poles are located within ½ mile of turbines.

21 84 The certificate holder may construct turbines and other facility components within the  
22 micrositing areas identified in Attachment D of the Final Order on the Application, subject  
23 to the following requirements addressing potential habitat impact:

24 (a) The certificate holder shall not construct any facility components within areas of  
25 Category 1 habitat and shall avoid temporary disturbance of Category 1 habitat.

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

28 (c) In the final design of the facility within micrositing areas, the certificate holder shall  
29 reduce impact on essential or important habitat (Category 4 and above) to the extent  
30 practical.

31 (d) As a protective measure during construction, the certificate holder shall install  
32 exclusion fencing around confirmed populations of sessile mousetail (identified in Figure  
33 Q-3 of the site certificate application). The certificate holder shall not install facility  
34 components or cause temporary disturbance within these areas. Before beginning  
35 construction, the certificate holder shall verify the protected status of sessile mousetail and  
36 notify the Department. If the species has been upgraded to threatened or endangered under  
37 State or federal law, the certificate holder shall take appropriate mitigation actions, subject  
38 to Department approval.

39 (e) If construction would affect locations within the micrositing areas that were not  
40 surveyed in 2005 and 2006 for the occurrence of State or federal threatened or endangered  
41 species, the certificate holder shall conduct additional pre-construction surveys of those  
42 locations, notify the Department of the findings and implement appropriate avoidance or

1 mitigation measures for any threatened or endangered species detected, subject to  
2 Department approval.

3 85 The certificate holder shall implement measures to mitigate impacts to sensitive wildlife  
4 habitat during construction and operation including, but not limited to, the following:

5 (a) Preparing maps to show sensitive areas, such as nesting or denning areas for sensitive  
6 wildlife species, that are off limits to construction personnel.

7 (b) Before construction begins, the certificate holder shall have a qualified biologist place  
8 exclusion markers around sensitive wildlife habitat areas, including Category 1 Washington  
9 ground squirrel (WGS) areas and an appropriate buffer around these areas. The certificate  
10 holder shall maintain the exclusion markings until construction has been completed.

11 (c) Ensuring that a qualified person instructs construction and operations personnel to be  
12 aware of wildlife in the area and to take precautions to avoid injuring or destroying wildlife  
13 or sensitive wildlife habitat.

14 (d) Avoiding unnecessary road construction, temporary disturbance and vehicle use.

15 (e) Posting and maintaining speed limit signs (not to exceed 20 miles per hour) on access  
16 roads throughout the site. The certificate holder shall ensure that all construction and  
17 operations personnel are instructed to observe caution when driving in the facility area to  
18 avoid injury or disturbance to wildlife enforce and for personal safety.

19 86 During construction, the certificate holder shall protect the area within a 1300-foot buffer  
20 around active nests of the following species during the sensitive period, as provided in this  
21 condition:

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

22 During the year in which construction occurs, the certificate holder shall use a protocol  
23 approved by the Oregon Department of Fish and Wildlife (ODFW) to determine whether  
24 there are any active nests of these species within a half-mile of any areas that would be  
25 disturbed during construction. If a nest is occupied by any of these species after the  
26 beginning of the sensitive period, the certificate holder shall not engage in high-impact  
27 construction activities (activities that involve blasting, grading or other major ground  
28 disturbance) or allow high levels of construction traffic within 1300 feet of the nest site. In  
29 addition, the certificate holder will flag the boundaries of the 1300-foot buffer area and  
30 shall instruct construction personnel to avoid any unnecessary activity within the buffer  
31 area. The certificate holder shall hire an independent biological monitor to observe the  
32 active nest sites during the sensitive period for signs of disturbance and to notify the  
33 Department of any non-compliance with this condition. If the monitor observes nest site  
34 abandonment or other adverse impact to nesting activity, the certificate holder shall  
35 implement appropriate mitigation, in consultation with ODFW and subject to the approval  
36 of the Department, unless the adverse impact is clearly shown to have a cause other than  
37 construction activity. The certificate holder may begin or resume high-impact construction  
38 activities before the ending day of the sensitive period if any known nest site is not  
39 occupied by the early release date. If a nest site is occupied, then the certificate holder may  
40 begin or resume high-impact construction before the ending day of the sensitive period with  
41 the approval of ODFW, after the young are fledged. The certificate holder shall use a

1 protocol approved by ODFW to determine when the young are fledged (the young are  
2 independent of the core nest site).

3 87 The certificate holder shall conduct wildlife monitoring as described in the Wildlife  
4 Monitoring and Mitigation Plan that is incorporated in the Final Order on the Application as  
5 Attachment A and as amended from time to time.

6 88 Before beginning construction, the certificate holder shall obtain an Incidental Take Permit  
7 (ITP) letter from the Oregon Department of Fish and Wildlife (ODFW) that incorporates  
8 the terms and commitments of the ITP application as set forth in Attachment E of the Final  
9 Order on the Application.

10 89 The certificate holder shall acquire the legal right to create, enhance, maintain and protect a  
11 habitat mitigation area as long as the site certificate is in effect by means of an outright  
12 purchase, conservation easement or similar conveyance and shall provide a copy of the  
13 documentation to the Department. Within the habitat mitigation area, the certificate holder  
14 shall improve the habitat quality as described in the Habitat Mitigation Plan that is  
15 incorporated in the Final Order on the Application as Attachment C and as amended from  
16 time to time.

## 9. Visual Effects Conditions

17 90 To reduce the visual impact of the facility, the certificate holder shall:

18 (a) Mount nacelles on smooth steel towers, painted uniformly in a neutral white color.

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

20 (c) Not allow any advertising on any part of the facility.

21 (d) Use only those signs required for facility safety or required by law, except that the  
22 certificate holder may erect a sign to identify the facility.

23 (e) Maintain any signs allowed under this condition in good repair.

24 91 The certificate holder shall design and construct the operation and maintenance buildings to  
25 be generally consistent with the character of similar buildings used by commercial farmers  
26 or ranchers in the area and shall paint the building in a neutral color to blend with the  
27 surrounding landscape.

28 92 The certificate holder shall not use exterior lighting at the facility except:

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

31 (b) Security lighting at the operations and maintenance buildings and at the substations,  
32 provided that such lighting is shielded or downward-directed to reduce glare.

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

## 10. Noise Control Conditions

34 93 To reduce noise impacts at nearby residential areas, the certificate holder shall:

35 (a) Confine the noisiest operation of heavy construction equipment to the daylight hours.

36 (b) Require contractors to install and maintain exhaust mufflers on all combustion  
37 engine-powered equipment; and

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

1 94 Before beginning construction, the certificate holder shall provide to the Department:

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

4 (b) The maximum sound power level of the turbines and substation transformers based on  
5 manufacturers' warranties or confirmed by other means acceptable to the Department.

6 (c) The results of noise analysis of the facility to be built according to the final design  
7 performed in a manner consistent with the requirements of OAR 340-035-  
8 0035(1)(b)(B)(iii)(IV) and (VI) demonstrating to the satisfaction of the Department that the  
9 total noise generated by the facility (including the noise from turbines and substation  
10 transformers) would meet the ambient noise degradation test and maximum allowable test  
11 at the appropriate measurement point for all potentially-affected noise sensitive properties.

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

22 95 During operation, the certificate holder shall maintain a complaint response system to  
23 address noise complaints. The certificate holder shall promptly notify the Department of  
24 any complaints received regarding facility noise and of any actions taken by the certificate  
25 holder to address those complaints.

## 11. Waste Management Conditions

26 96 The certificate holder shall provide portable toilets for on-site sewage handling during  
27 construction and shall ensure that they are pumped and cleaned regularly by a licensed  
28 contractor who is qualified to pump and clean portable toilet facilities.

29 97 During operation, the certificate holder shall discharge sanitary wastewater generated at the  
30 O&M building to a licensed on-site septic system in compliance with county permit  
31 requirements. The certificate holder shall design the septic system design with a capacity  
32 that is less than 2,500 gallons per day.

33 98 The certificate holder shall implement a waste management plan during construction that  
34 includes but is not limited to the following measures:

35 (a) Training construction personnel to minimize and recycle solid waste.

36 (b) Minimizing the generation of wastes from construction through detailed estimating of  
37 materials needs and through efficient construction practices.

38 (c) Recycling steel and other metal scrap.

39 (d) Recycling wood waste.

40 (e) Recycling packaging wastes such as paper and cardboard.

41 (f) Collecting non-recyclable waste for transport to a landfill by a licensed waste hauler.

42 (g) Segregating all hazardous wastes such as used oil, oily rags and oil-absorbent  
43 materials, mercury-containing lights and lead-acid and nickel-cadmium batteries for

1 disposal by a licensed firm specializing in the proper recycling or disposal of hazardous  
2 wastes.

3 99 The certificate holder may dispose of waste concrete on site with the permission of the  
4 landowner and in accordance with OAR 340-093-0080 and other applicable regulations.  
5 The certificate holder shall dispose of waste concrete on site by placing the material in an  
6 excavated hole, covering it with at least three feet of topsoil and grading the area to match  
7 existing contours. If the waste concrete is not disposed of on site, the certificate holder shall  
8 arrange for proper disposal in a landfill.

9 100 The certificate holder shall implement a waste management plan during operation that  
10 includes but is not limited to the following measures:

11 (a) Training employees to minimize and recycle solid waste.

12 (b) Recycling paper products, metals, glass and plastics.

13 (c) Recycling used oil and hydraulic fluid.

14 (d) Collecting non-recyclable waste for transport to a landfill by a licensed waste hauler.

15 (e) Segregating all hazardous, non-recyclable wastes such as used oil, oily rags and oil-  
16 absorbent materials, mercury-containing lights and lead-acid and nickel-cadmium batteries  
17 for disposal by a licensed firm specializing in the proper recycling or disposal of hazardous  
18 wastes.

#### **VI. SUCCESSORS AND ASSIGNS**

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

#### **VII. SEVERABILITY AND CONSTRUCTION**

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

#### **VIII. GOVERNING LAW AND FORUM**

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

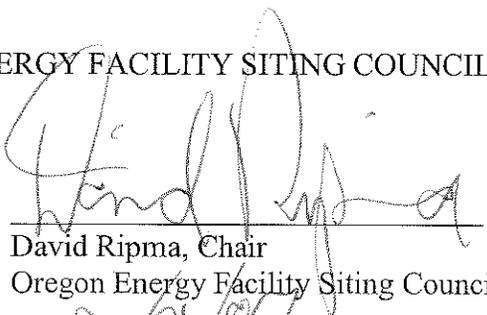
**IX. EXECUTION**

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

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

ENERGY FACILITY SITING COUNCIL

LEANING JUNIPER WIND POWER II LLC

By:   
David Ripma, Chair  
Oregon Energy Facility Siting Council

By:   
Print: Ty Daul

*Ty Daul  
SMP*

Date: 9/21/07

Date: 09/24/07