ENERGY FACILITY SITING COUNCIL
OF THE
STATE OF OREGON

Third Amended Site Certificate

for the

Stateline Wind Project

June 20, 2005

Oregon Energy Facility Siting Council

THIRD AMENDED SITE CERTIFICATE FOR THE STATELINE WIND PROJECT

I. INTRODUCTION

The Energy Facility Siting Council ("Council") issues this site certificate for the Stateline Wind Project in the manner authorized under ORS Chapter 469. This site certificate is a binding agreement between the State of Oregon ("State"), acting through the Council, and FPL Energy Vansycle LLC ("FPL" or "certificate holder") authorizing the FPL to construct and operate the Stateline Wind Project in Umatilla County, Oregon.

The findings of fact, reasoning and conclusions of law underlying the terms and conditions of this site certificate are set forth in the following documents, incorporated herein by this reference: (a) the Council's Final Order in the Matter of the Application for a Site Certificate for the Stateline Wind Project ("Final Order on the Application"), issued on September 14, 2001, (b) the Council's Final Order in the Matter of the Request for Amendment #1 of the Site Certificate for the Stateline Wind Project ("Final Order on Amendment #1"), (c) the Council's Final Order in the Matter of the Request for Amendment #2 of the Site Certificate for the Stateline Wind Project ("Final Order on Amendment #2"), and (d) the Council's Final Order in the Matter of the Request for Amendment #3 of the Site Certificate for the Stateline Wind Project ("Final Order on Amendment #3)." [Amendments #1, #2, and #3]

Where this site certificate refers to attachments "to the final order," the applicable final orders are as follows:

- Attachment A: Final Order on Amendment #3
- Attachment B: Final Order on Amendment #2
- Attachment C: Final Order on Amendment #2 [Amendment #3]

In interpreting this site certificate, any ambiguity will be clarified by reference to the following, in order of priority: this Third Amended Site Certificate, the Final Order on Amendment #3, the Final Order on Amendment #2, the Final Order on Amendment #1, the Final Order on the Application and the record of the proceedings that led to the Final Orders on the Application and Amendments #1 and #2. [Amendments #1, #2, and #3]

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

II. SITE CERTIFICATION

1. To the extent authorized by state law and subject to the conditions set forth herein, the State authorizes FPL to construct, operate and retire a wind energy facility, together with certain related or supporting facilities, at the site in Umatilla County, Oregon, as described in Section III of this site certificate. ORS 469.401(1).
2. This site certificate is effective until it is terminated under OAR 345-027-0110 or the rules in effect on the date that termination is sought or until the site certificate is revoked under ORS 469.440 and OAR 345-029-0100 or the statutes and rules in effect on the date that revocation is ordered. ORS 469.401(1).

3. This site certificate does not address, and is not binding with respect to, matters that were not addressed in the Council's Final Orders on the Application and Amendments #1, #2 and #3. These matters include, but are not limited to: building code compliance, wage, hour and other labor regulations, local government fees and charges and other design or operational issues that do not relate to siting the facility (ORS 469.401(4)) and permits issued under statutes and rules for which the decision on compliance has been delegated by the federal government to a state agency other than the Council. 469.503(3). [Amendments #1, #2, and #3]

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

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

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

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

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

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

III. DESCRIPTIONS

1. The Facility

(i) Major Structures

The Stateline Wind Project ("facility") consists of:

- **Stateline 1:** No more than 127 Vestas V47-660-kilowatt (kW) wind turbines authorized for construction, of which 126 were built, having a total a nominal electric generating capacity of 83.2 megawatts (MW) (126 turbines, each with a capacity of 0.66 MW) as described further in the Final Order on the Application.

- **Stateline 2:** No more than 60 Vestas V47-660-kkW wind turbines with a total a nominal electric generating capacity of 39.6 MW (60 turbines, each with a capacity of 0.66 MW) as described further in the Final Order on Amendment #1.
- **Stateline 3:** No more than 279 Vestas V47-660-kW wind turbines with a total nominal electric generating capacity of 184.1 MW (279 turbines, each with a capacity of 0.66 MW) as described further in the Final Order on Amendment #2.

Each wind turbine is connected to a 34.5-kilovolt (kV) collector system. The wind turbines are grouped in "strings" of turbines, each turbine spaced approximately 250 feet from the next, generally slightly downwind of the crest of ridges. Major facility structures are further as described in the Final Orders on the Application and Amendments #1 and #2. [Amendments #1 and #2]

(ii) Related or Supporting Facilities

The facility includes the following related or supporting facilities:

- Access roads to reach each turbine for construction and maintenance
- Underground and aboveground collector cables that transmit the electrical output of the wind turbines to substations in Oregon and Washington [Amendment #2]
- A substation [Amendment #2]
- A 115-kV or 230 -kV transmission line [Amendment #2]
- Meteorological towers
- A satellite operations and maintenance building

Access Roads

County roads that extend south from Highway 12 in Washington (e.g., Hatch Grade Road and Butler Grade Road) and north from Oregon Highway 11 (e.g., Vansycle Canyon Road and Butler Grade Road) are the primary routes of access to the facility site. From the county roads, a web of private farm roads provides access to most of the ridges upon which the facility is located. Additional access roads are located along the length of each turbine string and connecting each turbine string to the next. Access roads are further as described in the Final Orders on the Application and Amendments #1 and #2. [Amendments #1 and #2]

Collector System, Substation and Transmission Line

The proposed wind turbines generate power at 690 volts. A transformer adjacent to each tower transforms the power to 34.5 kV. From the turbines in Range 32 E, power is transmitted via underground 34.5-kV electric cables buried directly in the soil approximately 3 to 4 feet below the ground surface to a substation in Washington. In some cases, trenches run from the end of one turbine string to the end of an adjacent turbine string to link the turbines via the underground network. From most of the turbines in Range 33 E, aboveground 34.5-kV transmission linestransmit power to a substation in Township 6 N, Range 33 E, Section 1 (tentatively called "North Star Substation"). Overhead transmission lines, located entirely within Washington, connect the Washington substation to a BPA 115-kV transmission line north of the Walla Walla River and to a PacifiCorp substation just north of Highway 12. An 8.5-mile aboveground 115-kV or 230-kV transmission line connects the North Star Substation to existing major transmission lines in Washington. The collector system is further as described in the Final Orders on the Application and Amendments #1 and #2. [Amendments #1 and #2]

Meteorological Towers

The facility includes nineteen permanent meteorological (met) towers to measure wind conditions. The met towers may be guyed or unguyed towers. The met towers are otherwise as described in the Final Orders on the Application and Amendments #1 and #2. [Amendments #1 and #2]

Satellite O&M Building

The facility includes an operation and maintenance (O&M) facility, which is a satellite to the primary O&M facility located in Washington. The satellite O&M facility is located along Butler Grade Road south of Gardena and just south of the state line in Oregon. It is further as described in the final order.

2. Location of the Proposed Facility

The facility is located in Umatilla County, north and east of Helix, Oregon. The towns closest to the facility are Helix, Oregon, and Touchet, Washington. The wind turbines would be located on ridges east of the Columbia River and south of the Walla Walla River. The location of the facility is further as described in the Final Orders on the Application and Amendments #1 and #2. [Amendments #1 and #2]

IV. CONDITIONS FOR STATELINE 1 REQUIRED BY COUNCIL RULES

This section lists conditions specifically required by OAR 345-027-0020 (Mandatory Conditions in Site Certificates), OAR 345-027-0023 (Site Specific Conditions), OAR 345-027-0028 (Monitoring Conditions) and in OAR Chapter 345, Division 26 (Construction and Operation Rules for Facilities). These conditions should be read together with the additional specific facility conditions in section V to ensure compliance with the siting standards of OAR Chapter 345, Divisions 22 and 24 and to protect the public health and safety. These conditions apply to Stateline 1. [Amendment #1]

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

Citation to the sources of, or basis for, the conditions are shown in parentheses.[1] Conditions are numbered continuously throughout sections IV and V of this site certificate.

1. General Conditions

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

(2) The certificate holder shall design, construct, operate and retire the facility:
(a) Substantially as described in the site certificate;

[1] References to the site certificate application are to the application as modified by the supplement and later revisions, abbreviated as "App."

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

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

(OAR 345-027-0020(3))

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

See condition (24).

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

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

(6) For the related or supporting transmission lines:

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

(b) The certificate holder shall develop and implement a program that provides reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or structures of a permanent nature that could become inadvertently charged with electricity are grounded or bonded throughout the life of the line. (OAR 345-027-0023(5))

(7) The following general monitoring conditions apply:

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

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

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

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

(OAR 345-027-0028)

(8) The certificate holder shall report according to the following requirements:

(a) General reporting obligation for non-nuclear facilities under construction or operating:

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

(ii) The certificate holder shall, within 120 days after the end of each calendar year after beginning construction, submit an annual report to the Council addressing the subjects listed in this rule. The Council secretary and the certificate holder may, by mutual agreement, change the reporting date.

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

(b) In the annual report, the certificate holder shall include the following:

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

(ii) Reliability and Efficiency of Power Production: For electric power plants,

(A) The plant availability and capacity factors for the reporting year. If equipment failures or plant breakdowns had a significant impact on those factors, the certificate holder shall describe them and its plans to minimize or eliminate their recurrence;

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

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

(iii) Status of Surety Information: Documentation demonstrating that the bond or other security described in OAR 345-027-0020(8) or the financial mechanism or instrument described in OAR 345-027-0020(9) is in full force and effect and will remain in full force and effect for the term of the next reporting period;

(iv) Industry Trends: A discussion of any significant industry trends that may affect the operations of the facility;

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

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

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

(OAR 345-026-0080)

(9) The certificate holder shall promptly notify the Office of Energy of any changes in major milestones for construction, decommissioning, operation or retirement schedules. Major milestones are those identified by the certificate holder in its construction, retirement or decommissioning plan. (OAR 345-026-0100)

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

2. Conditions That Must Be Met Before Construction Begins

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

(a) The certificate holder has construction rights on that part of the site; and

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

(OAR 345-027-0020(5))

(12) Following receipt of the site certificate, the certificate holder shall implement a plan that verifies compliance with all site certificate terms and conditions and applicable statutes and rules. As a part of the compliance plan, to verify compliance with the requirement to begin construction by the date specified in the site certificate, the certificate holder shall report promptly to the Office of Energy when construction begins. Construction is defined in OAR 345-001-0010. In reporting the beginning of construction, the certificate holder shall describe all work on the site performed before beginning construction, including work performed before the Council issued the site certificate, and shall state the cost of that work. For the purpose of this exhibit, "work on the site" means any work within a site or corridor,

other than surveying, exploration or other activities to define or characterize the site or corridor. The certificate holder shall document the compliance plan and maintain it for inspection by the Office of Energy or the Council. (OAR 345-026-0048)

(13) Except as provided in OAR 345-027-0023(6), before beginning construction, the certificate holder shall submit to the Office of Energy a legal description of the site. The Office shall append the legal description to the site certificate. (OAR 345-027-0020(2))

See Condition (84).

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

(15) Before beginning construction of the facility, the certificate holder shall submit to the State of Oregon, through the Council, a bond or comparable security, satisfactory to the Council, in an amount specified in the site certificate. The Council shall specify an amount adequate to restore the site to a useful, non-hazardous condition if the certificate holder either begins but does not complete construction of the facility or permanently closes the facility before establishing the financial mechanism or instrument described in section OAR 345-027-0020(9). The certificate holder shall maintain the bond or comparable security in effect until the certificate holder has established that financial mechanism or instrument. (OAR 345-027-0020(8))

See Condition (43).

3. Conditions That Apply During Construction

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

(17) The certificate holder shall notify the Office of Energy, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if site investigations or trenching reveal that conditions in the foundation rocks differ significantly from those described in the application for a site certificate. After the Office receives the notice, the Council may require the certificate holder to consult with the Department of Geology and Mineral Industries and the Building Codes Division and to propose mitigation actions. (OAR 345-027-0020(13))

(18) The certificate holder shall notify the Office, the State Building Codes Division and the Department of Geology and Mineral Industries promptly if shear zones, artesian aquifers, deformations or clastic dikes are found at or in the vicinity of the site. (OAR 345-027-0020(14))

4. Conditions That Must Be Met Before Operation Begins

(19) Before beginning operation of the facility, the certificate holder shall establish a financial mechanism or instrument, satisfactory to the Council, assuring the availability of adequate funds throughout the life of the facility to retire the facility and restore the site to a useful, non-hazardous condition as described in OAR 345-022-0130. The certificate holder shall retire the facility according to an approved final retirement plan, as described in OAR 345-027-0110. (OAR 345-027-0020(9))

See Condition (80).

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

(21) If the proposed energy facility is a pipeline or a transmission line or has, as a related or supporting facility, a pipeline or transmission line, the Council shall specify an approved corridor in the site certificate and shall allow the certificate holder to construct the pipeline or transmission line anywhere within the corridor, subject to the conditions of the site certificate. If the applicant has analyzed more than one corridor in its application for a site certificate, the Council may, subject to the Council's standards, approve more than one corridor. Before beginning operation of the facility, the certificate holder shall submit to the Office a legal description of the permanent right-of-way where the applicant has built the pipeline or transmission line within an approved corridor. The Office shall append the legal description to the site certificate. The site of the pipeline or transmission line subject to the site certificate is the area within the permanent right-of-way. (OAR 345-027-0023(6))

5. Conditions That Must Be Met During Operation

(22) For the related or supporting transmission lines, the certificate holder shall restore the reception of radio and television at residences and commercial establishments in the primary reception area to the level present prior to operations of the transmission line, at no cost to residents experiencing interference resulting from the transmission line. (OAR 345-027-0023(4))

(23) The certificate holder shall notify the Office of Energy within 72 hours of any occurrence involving the facility if:

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

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

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

(OAR 345-026-0170)

V. SPECIFIC FACILITY CONDITIONS FOR STATELINE 1

The conditions listed in this section include conditions based on representations in the site certificate application and supporting record. The Council deems these representations to be binding commitments made by the applicant. These conditions are required under OAR 345-027-0020(10). These conditions apply to Stateline 1. [Amendment #1]

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

Citation to the sources of, or basis for, the conditions are shown in parentheses. Conditions are numbered continuously throughout sections IV and V of this site certificate.

1. General Conditions

(24) The certificate holder shall begin construction of the facility within one year after the effective date of the site certificate. The certificate holder shall complete construction of the facility on or before two years from the effective date of the site certificate. Under OAR 345-015-0085(9), a site certificate is effective upon execution by the Council Chair and the applicant. Completion of construction occurs upon the date commercial operation of the facility begins. The Council may grant an extension of the construction beginning or completion deadlines in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted.

See condition (3).

(25) Within 72 hours of discovery of conditions or circumstances that may violate the terms or conditions of the site certificate, the certificate holder shall report the conditions or circumstances to the Office of Energy. (OAR 345-027-0020(3))

(26) Notwithstanding OAR 345-027-0050(2), an amendment of the site certificate is required if the proposed change would increase the electrical generation capacity of the facility and would increase the number of wind turbines or the dimensions of existing wind turbines. (OAR 345-027-0020(3))

(27) The certificate holder shall restore the site to a useful, nonhazardous condition if the certificate holder either begins but does not complete construction of the facility or permanently closes the facility after construction is complete. (OAR 345-027-0020(3))

(28) The certificate holder shall report promptly to the Office of Energy any change in its corporate relationship with FPL Energy LLC. The certificate holder shall report promptly to the Office of Energy any change in its access to the resources, expertise and personnel of FPL Energy LLC. (App A-3, D-2, OAR 345-022-0010)

(29) The certificate holder shall inspect and maintain all roads, pads and trenched areas to minimize erosion. (App B-11)

(30) The certificate holder shall carry out weed control and reseeding as necessary for the life of the facility, in consultation with the weed control board of Umatilla County. (App B-11)

(31) The certificate holder shall not store fuel or chemicals in Oregon. (App B-12)

(32) The certificate holder shall use hazardous materials in a manner that is protective of human health and the environment and shall comply with all applicable local, state, and federal environmental laws and regulations. The certificate holder shall make sure that accidental releases of hazardous materials will be prevented or minimized through the proper containment of these substances during transportation and use on the site. The certificate holder shall make sure that any oily waste, rags or dirty or hazardous solid waste will be collected in sealable drums and removed for recycling or disposal by a licensed contractor. The certificate holder shall have spill kits containing items such as absorbent pads on equipment and in storage facilities to respond to accidental spills. If an accidental hazardous materials spill or release occurs, the certificate holder shall clean up the spill or release and shall treat or dispose of contaminated soil or other materials according to applicable regulations. (App G-2, V-3)

(33) The certificate holder shall provide to the Office of Energy a copy of the contract with the Milton-Freewater Rural Fire Department for fire protection services during construction and operation of the facility before beginning construction. (App U-25)

(34) During construction and operation of the facility, the certificate holder shall have water-carrying trailers ("water buffaloes") at appropriate locations around the facility. The certificate holder shall bring a water buffalo to any job site where there is a substantial risk of fire. The certificate holder shall coordinate with the fire chiefs of the Helix and Milton-Freewater Rural Fire Departments as to the number, capacity and location of the water buffaloes. The certificate holder shall make sure that each water buffalo has a minimum capacity of 350 gallons with sufficient pump and hose equipment, as approved by the local fire chiefs. The certificate holder shall have service trucks and pickup trucks capable of towing water buffaloes available in sufficient numbers at all times during construction and operation of the facility. (App B-12)

(35) The certificate holder shall take steps to protect the facility and property from unauthorized access and to reduce the risk of accidental injury during construction and operations by (App U-25, 26) [Amendment #3]:

(a) Maintaining access gates on private access roads to Stateline 3 facilities in accordance with Umatilla County Development Code § 152.616(HHH)(5)(e), unless Umatilla County has allowed a waiver upon a request by the landowner, and otherwise maintaining fencing and access gates around dangerous equipment or portions of the site as feasible [Amendment #3]

(b) Posting warning signs near high-voltage equipment

(c) Requiring construction contractors to provide specific job-related training to employees, including cardiopulmonary resuscitation, first aid, tower climbing, rescue techniques and safety equipment inspection

(d) Requiring each worker to be familiar with site safety

(e) Assigning safety officers to monitor construction activities and methods during each work shift

(f) Ensuring that workers on each shift are certified in first aid

(g) Ensuring a well-stocked first-aid supply kit is accessible on-site at all times and that each worker knows its location

(h) Conducting periodic safety meetings for construction and maintenance staff

(36) The certificate holder shall notify the Office of Energy and the Umatilla County Planning Department of any accidents including mechanical failures on the site associated with the operation of the wind power facility that may result in public health and safety concerns. (ORS 469.310)

(37) To reduce the visual impact of the facility, the certificate holder shall:

(a) Design, construct and operate a facility consisting of:

(i) Stateline 1: No more than 127 Vestas V47-660-kilowatt (kW) wind turbines (App B-2, Table B-3) [Amendments #1 and #2]

(ii) Stateline 2: No more than 60 Vestas V47-660-kW wind turbines [Amendments #1 and #2]

(iii) Stateline 3: No more than 279 Vestas V47-660-kW wind turbines [Amendment #2]

(b) Group the turbines in strings of 2 to 37 turbines, each spaced approximately 250 feet from the next [Amendments #1 and #2]

(c) Construct each turbine to be approximately 165 feet tall at the turbine hub and with a total height of approximately 242 feet with the nacelle and blades mounted (App B-5)

(d) Mount nacelles on smooth, hollow steel towers, approximately 14 feet in diameter at the base (App B-5)

(e) Paint all towers west of Butler Grade Road uniformly in a neutral light gray color. Paint towers east of Butler Grade Road a neutral white color to blend in with the color of the towers in the Vansycle Project. [Amendment #2]

(f) Not allow any advertising to be used on any part of the facility or on any signs posted at the facility, except that the turbine manufacturer's logo may appear on turbine nacelles (App BB-2)

(g) Use only the minimum lighting on its turbine strings required by the Federal Aviation Administration, except:

(i) The satellite operations and maintenance building may have a small amount of low-impact exterior lighting for security purposes (App BB-2);

(ii) Low-impact lighting may be used for occasional nighttime repairs, operations or maintenance at the substation (at other times this lighting would be turned off). [Amendment #2]

(h) Use only those signs required for facility safety or required by law (App BB-2)

(i) Design and construct the operation and maintenance building to be generally consistent with the character of similar buildings used by commercial farmers or ranchers. Upon retirement of the energy facility, the operations and maintenance building must be removed or converted to farm use, in accordance with Condition 98. [Amendment #3]

(38) To restrict public access to turbine towers, the certificate holder shall install locked access doors accessible only to authorized project staff. (App BB-3)

(39) If any state-listed threatened, endangered or candidate plant species are found during the pre-construction surveys described in condition (55), the certificate holder shall use appropriate measures to protect the species and mitigate for impacts from construction, operation and retirement of the facility.

See condition (55).

(40) In constructing and operating the facility, the certificate holder shall make reasonable efforts not to disturb the farming and ranching activities on adjacent lands. (App K-6)

(41) If the certificate holder elects to use a bond to meet the requirements of Conditions (43), (80), (102) or (109), the certificate holder shall ensure that the surety is obligated to comply with the requirements of applicable statutes, Council rules and this site certificate when the surety exercises any legal or contractual right it may have to assume construction, operation or retirement of the energy facility. The certificate holder shall also assure that the surety is obligated to notify the Council that it is exercising such rights and to obtain any Council approvals required by applicable statutes, Council rules and this site certificate before the surety commences any activity to complete construction, operate or retire the energy facility. [Amendments #1 and #2]

See Condition (2).

2. Conditions That Must Be Met Before Construction Begins

(42) The certificate holder shall notify the Office of Energy in advance of any initial road improvement work that does not meet the definition of "construction" in OAR 345-001-0010(10) or ORS 469.300(6) and shall provide to the Office of Energy plans of the work and evidence that its value is less than $250,000. (App B-21)

(43) The certificate holder shall submit to the State of Oregon through the Council a bond or letter of credit in the amount of $1,459,000 (in 2001 dollars) naming the State of Oregon, acting by and through the Council, as beneficiary or payee.

(a) The calculation of 2001 dollars shall be made using the U.S. Gross Domestic Product Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of Administrative Services' "Oregon Economic and Revenue Forecast," or by any successor agency (the "Index"). The amount of the bond or letter of credit account shall increase annually by the percentage increase in the Index and shall be pro-rated within the year to the date of retirement. If at any time the Index is no longer published, the Council shall select a comparable calculation of 2001 dollars. [Amendment #2]

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

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

(d) The bond or letter of credit shall not be subject to revocation or reduction before the certificate holder's satisfaction of Condition (19).

(e) The certificate holder may satisfy Sections IV.2(15) and V.2(43) of this site certificate by delivering to the Council a facsimile of the duly issued letter of credit along with a certification from the issuing bank. The bank's certification shall state that the original of the letter of credit has been deposited with a reputable mail carrier for delivery to the Council and shall provide the mail carrier's tracking number for the letter of credit. To maintain the certificate holder's compliance with Sections IV.2(15) and V.2(43) of this site certificate, the original of the letter of credit must be received by the Council within five business days after the facsimile transmission. The parties have agreed to this condition in light of unique circumstances affecting air travel and mail delivery and it is not intended by the Council to have any precedential effect.

See Conditions (15) and (41).

(44) The certificate holder shall locate roads to minimize disturbance and maximize transportation efficiency and to avoid sensitive resources and unsuitable topography. The certificate holder shall use existing county roads and private farm roads to the maximum extent feasible. The certificate holder shall coordinate farm road improvements with landowners to minimize crop impacts and to assure that the final road provides useful access, where possible, to the landowners' fields. (App B-6)

(45) The certificate holder shall videotape all Umatilla County roads used as access to the facility and shall require construction contractors to enter into a written agreement with Umatilla County stating that all roads used by the contractor will be restored to as good or better condition than they were before construction. (App U-24)

(46) The certificate holder shall notify the Office of Energy of the identity and qualifications of major construction contractors for the facility. The certificate holder shall select major construction contractors based on a proven record of environmental compliance and stewardship, a clean record in terms of other regulatory obligations and other appropriate factors. (App D-3, 4)

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

See condition (2).

(48) The certificate holder shall require that all on-site construction contractors prepare a site health and safety plan before beginning construction activities. The certificate holder shall ensure that the plan informs employees and others onsite what to do in case of emergencies and includes the locations of fire extinguishers and nearby hospitals, important telephone numbers and first aid techniques. (App U-25)

(49) The certificate holder shall design the facility in accordance with seismic design provisions given in the Oregon Building Code. The certificate holder shall identify localized areas of S_C and S_D soil types and assure that any structures to be built in those areas are designed according to the code. (App H-7, 13)

(50) The certificate holder shall provide the Office with design specifications showing the locations of turbines and type of foundations to be employed and demonstrating that the following conditions have been satisfied (OAR 345-022-0020):

(a) If a turbine is located within 50 feet of a slope steeper than 30°, the stability of the slope has been reviewed by the foundation designer to confirm that either (i) the slope has a safety factor of at least 1.1 during the maximum probable seismic event or (ii) the safety factor is less than 1.1, but ground displacements will not adversely affect the stability of the wind turbine. Slopes shall be evaluated in the field for each proposed turbine location.

(b) The foundation designer's review of slope displacement during a seismic event has been made using a pseudo-static horizontal coefficient of 0.13g and, if the safety factor is less than 1.1, the foundation designer has shown that (i) the movement will not intersect the turbine, (ii) the movement will intersect the turbine but will not affect its stability, or (iii)

additional stabilization measures, such as anchor tie-downs or ground support systems, will be employed to maintain stability.

(c) If a turbine is located where power generating or other requirements preclude sufficient setback distances to avoid intersection of a moving slope with the turbine foundation, the foundation designer has demonstrated that the turbine foundation will withstand loads from the moving soil or has been equipped with ground support systems that will withstand loads from moving soil.

(d) The foundation designer has confirmed that the turbines and conduit can tolerate some movement without instability or breakage if a mapped fault were to rupture.

(51) In modifying slope angles for roads or other facilities, the certificate holder shall assure that the foundation designer has achieved a factor of safety of 1.5 or greater for permanent structures and a factor of safety of 1.3 or greater for temporary structures. (OAR 345-022-0020)

(52) The certificate holder shall design the facility to avoid or minimize adverse impacts to wildlife by measures including but not limited to the following (App P-41):

(a) Siting the turbines on ridges outside of migration flyways

(b) Siting turbines to avoid placing turbines in saddle locations along ridges (where bird use is typically higher)

(c) Avoiding the use of overhead collector lines, except in Stateline 3 areas where limitations in carrying capacity of underground lines make the use of overhead collector lines unavoidable [Amendment #2]

(53) The certificate holder shall survey the status of known Swainson's hawk nests within the vicinity of proposed construction before the projected date for construction to begin. If active nests are found, and construction is scheduled to begin before the end of the sensitive nesting and breeding season (June 1 to August 31), the certificate holder shall develop a no-construction buffer in consultation with ODFW and shall not engage in construction activities within the buffer until the sensitive season has ended. If construction continues into the sensitive nesting and breeding season for the following year, the certificate holder shall not engage in construction activities within the buffer around active nests until the sensitive season has ended. [Amendment #2]

(54) The certificate holder shall conduct appropriate pre-construction nest surveys for burrowing owls if construction is scheduled to occur during the sensitive period (March 15 to August 30). The certificate holder shall leave a no-construction buffer, developed in consultation with ODFW, around any active nests during the sensitive period. [Amendment #2]

(55) The certificate holder shall conduct pre-construction surveys for state-listed threatened, endangered or candidate plant species in all areas not included in earlier botanical surveys of the analysis area. If any listed plants are found, FPL will notify the Office of Energy and consult with the Oregon Department of Agriculture regarding appropriate measures to protect the species and mitigate for impacts from construction, operation and retirement of the facility. (App Q-7)

(56) The certificate holder shall conduct appropriate pre-construction surveys for the presence of Washington ground squirrels in construction zones that have suitable habitat. Construction zones include the areas of permanent and temporary disturbance and a 175-foot surrounding buffer in which there may be incidental construction impacts. If squirrel activity is found,

the certificate holder shall notify the Office of Energy and develop an appropriate no-construction buffer and other appropriate mitigation measures in consultation with the Office and ODFW. In addition, the certificate holder shall map and stake sensitive areas to be avoided during construction as required by Condition (63). [Amendment #2]

3. Conditions That Apply During Construction

(57) The certificate holder shall report to the Council any change of major construction contractors.

See condition (8).

(58) The certificate holder shall take steps to prevent fires during construction including but not limited to (App U-25):

(a) Establishing roads before accessing the site to allow vehicles to stay away from grass

(b) Using diesel vehicles whenever possible to prevent potential ignition by catalytic converters

(c) Avoiding idling vehicles in grassy areas

(d) Keeping cutting torches and similar equipment away from grass

(e) Making sure that all construction personnel receive appropriate fire-safety instruction from qualified local fire departments or qualified fire-fighting trainers on the job site

(f) Making sure that fire-fighting equipment is available at all active parts of the job site.

(59) The certificate holder shall require the foundation designer to inspect excavations during construction of foundations for the turbines and other facilities to confirm that geologic conditions are appropriate for supporting the turbines during gravity, seismic and wind loading. (OAR 345-022-0020)

(60) The certificate holder shall conduct all construction work in compliance with an Erosion and Sediment Control Plan (ESCP) satisfactory to the Oregon Department of Environmental Quality and as required under the facility's National Pollutant Discharge Elimination System (NPDES) Construction Stormwater Permit. The certificate holder shall include in the ESCP any procedures necessary to meet local erosion and sediment control requirements or stormwater management requirements. (App B-7, 13, E-3, P-41)

(61) The certificate holder shall mitigate potential adverse impacts to soils from erosion and compaction by measures including but not limited to the following (App H-17, I-4, 5):

(a) Maintaining vegetative buffer strips between the areas impacted by construction activities and any receiving waters

(b) Installing sediment fence/straw bale barriers at locations shown on the plans

(c) Wherever feasible, constructing roadways so that surface drainage continues along natural drainage patterns with minimal diversions through ditches and culverts

(d) Working with the Umatilla County Public Works Department and the local Natural Resources Conservation Service office to design water bars and other management practices to slow the flow of water on newly constructed repaired roads

(e) Straw mulching and discing at locations adjacent to the road that have been impacted

(f) Providing temporary sediment traps downstream of intermittent stream crossings

(g) Providing sedimat type mats downstream of perennial stream crossings

(h) Planting designated seed mixes at impacted areas adjacent to the roads

(i) Installing sediment fencing along the downslope side of construction equipment staging areas

(j) Seeding all areas that are impacted by construction and reseeding as necessary to establish a healthy cover crop

(k) Leaving sediment fencing, check dams and other erosion control measures in place until the impacted areas are well vegetated and the risk of erosion has been eliminated

(l) Limiting truck and heavy equipment traffic, to the extent possible, to improved road surfaces, and thereby limiting soil compaction and disturbances

(m) Scarifying and reseeding compacted areas after construction is completed

(n) Using appropriate erosion control methods to limit soil loss due to water and wind action

(o) Covering roads and turbine pads with gravel immediately following exposures, thereby limiting the time for wind or water erosion (App I-2, 3)

(p) Using water for dust suppression during construction (App O-1)

(62) The certificate holder shall place underground electrical and communications cables at a minimum depth of three feet below grade in trenches along the length of each turbine string corridor and in some cases in trenches from the end of one turbine string to the end of an adjacent turbine string. The certificate holder shall excavate trenches and segregate the topsoil from subsoil. After installing the electrical or communications cables and within two weeks of trenching, the certificate holder shall backfill the trenches and replace topsoil on top. The certificate holder shall reseed the area with native grasses or other plants appropriate to the location. (App B-8, I-2, W-2)

(63) The certificate holder shall mitigate possible impacts to wildlife by measures including but not limited to the following (App P-42 through 45, Q-10, 11):

(a) Preparing maps to show sensitive areas that are off-limits during the construction phase, distributing the maps to construction staff and having a biologist flag sensitive areas as needed

(b) Minimizing road construction and vehicle use where possible

(c) Posting speed limit signs throughout the construction zone

(d) Instructing construction personnel (including all construction contractors and their personnel) on sensitive wildlife of the area and on required precautions to avoid injuring or destroying wildlife

(e) Instructing construction personnel (including all construction contractors and their personnel) to watch out for wildlife while driving through the project area, to maintain reasonable driving speeds so as not to harass or accidentally strike wildlife and to be particularly cautious and drive at slower speeds in a period from one hour before sunset to one hour after sunrise when some wildlife species are the most active

(f) Requiring all construction personnel to report any injured or dead wildlife detected at the facility site

(g) Requiring all construction personnel to respect all staked wildlife areas and associated no-construction buffer areas

(64) To avoid creating habitat for raptor prey near turbine towers, the certificate holder shall spread gravel on all above ground portions of the turbine pads to reduce the potential for weed infestation. (App BB-5)

(65) The certificate holder shall mitigate possible impacts to fish and wildlife habitat by measures including but not limited to the following (App P-42 through 45, Q-10, 11):

(a) Avoiding vegetation removal wherever possible

(b) Limiting construction activities to within public road right-of-ways where possible

(c) Using best management practices to prevent erosion of soil into stream channels

(d) Controlling invasive, weedy plant species during maintenance of project facilities

(e) Restoring temporarily disturbed sites to pre-construction condition or better with native seed mixes as described for temporarily disturbed habitats in the Revegetation Plan included in the final order as Attachment B and as revised from time to time. [Amendment #1]

(f) Developing re-vegetation plant mixes and habitat enhancement locations in consultation with ODFW and the Umatilla County weed control board

(g) Monitoring re-vegetated areas to ensure successful establishment of new vegetation

(h) Monitoring turbine strings, roads and other disturbed areas regularly to prevent the spread of noxious weeds

(i) Developing measures to reduce the potential spread of noxious weeds in consultation with the weed control board of Umatilla County.

(66) To mitigate for the permanent elimination of one-half acre of Category 2 habitat, the certificate holder shall control weeds and enhance habitat of one acre of weed-infested upland habitat with native plants. The certificate holder shall carry out enhancement activities as described for habitat improvement areas in the Revegetation Plan included in the final order as Attachment B and as revised from time to time. The certificate holder shall acquire the legal right to create and maintain the enhancement area for the life of the facility by means of an outright purchase, conservation easement or similar conveyance and shall provide a copy of the documentation to the Office of Energy. The certificate holder shall determine the location of this habitat enhancement area in consultation with ODFW and landowners. (App P-44) [Amendment #1]

(67) To mitigate for the permanent elimination of approximately 48 acres of Category 3 habitat, the certificate holder shall control weeds and enhance habitat on an equal area of weed-infested land in the project vicinity. The certificate holder shall carry out enhancement activities as described for habitat improvement areas in the Revegetation Plan included in the final order as Attachment B and as revised from time to time. The certificate holder shall acquire the legal right to create and maintain the enhancement area for the life of the facility by means of an outright purchase, conservation easement or similar conveyance and shall provide a copy of the documentation to the Office of Energy. The certificate holder shall determine the location of this habitat enhancement area in consultation with ODFW and landowners. (App P-44) [Amendment #1]

(68) To minimize impacts to temporarily disturbed Category 6 habitat areas, the certificate holder shall use measures including but not limited to the following (App P-45):

(a) Replacing agricultural topsoil to its pre-construction condition

(b) Using best management practices to prevent loss of topsoil during construction

(c) Reseeding native habitats with a native seed mix that includes at least some seed collected from the area as described for temporarily disturbed habitats in the Revegetation Plan included in the final order as Attachment B and as revised from time to time. [Amendment #1]

(d) Controlling noxious weeds in areas disturbed by construction activities

(69) The certificate holder shall not place any part of the facility within any Washington ground squirrel colony or on potential Washington ground squirrel burrows, except as allowed for Stateline 3 facilities under the *Resource Impact Avoidance and Mitigation Plan*, included in the final order as Attachment C and as revised from time to time. The certificate holder shall limit permanent road widening and other improvements and shall locate temporary roads and laydown areas to minimize impacts to potential Washington ground squirrel habitat. [Amendment #2]

(70) To reduce potential injury or fatality of migratory birds, the certificate holder shall (App Q-10):

(a) Locate turbines away from saddles in long ridges

(b) Locate turbines on the top or slightly downwind side of distinct ridges and set back from the upwind (prevailing) side

(c) Use monopole design for all turbine and meteorological towers

(71) The certificate holder shall implement a waste management plan during construction that includes but is not limited to the following measures (App V-2):

(a) Collecting steel scrap and transporting it to a recycling facility

(b) Recycling wood waste to the greatest extent feasible, depending on size and quantity of scrap or leftover materials

(c) Using concrete waste as fill on-site or at another site or, if no reuse option is available, transporting it to a local landfill

(d) Recycling packaging wastes (such as paper and cardboard)

(e) Collecting non-recyclable waste and transporting it to a local landfill

(72) The certificate holder shall require that disposal of waste concrete on-site is conducted in accordance with OAR 340-093-0080, other applicable regulations and this condition. The construction contractor may bury waste concrete on-site with the permission of the landowner in the following manner: by placing the waste concrete in an excavated hole, covering it with at least three feet of topsoil and grading the area to match existing contours so that all buried concrete is at least three feet below grade. (App V-3, 4).

(73) The certificate holder shall provide portable toilets for onsite sewage handling during construction and make sure that they are pumped and cleaned regularly by a licensed pumper who is qualified to pump and clean portable toilet facilties. The certificate holder shall minimize the generation of wastes from construction through detailed estimating of materials needs and through efficient construction practices. The certificate holder shall recycle any wastes generated during construction as much as feasible and shall collect any non-recyclable wastes and transport such wastes to a local landfill. (App B-13, G-3, V-2)

(74) The certificate holder shall have a full-time on-site assistant construction manager, qualified in environmental compliance and familiar with all site certificate conditions, to observe contractor waste management practices and to assure compliance with applicable regulations and construction site policy. (App V-4)

(75) The certificate holder shall post no-entry barriers by staking or flagging to ensure that construction workers stay away from the vicinity of the cultural sites. The certificate holder shall locate barriers to create a buffer with a minimum width of 50 feet between the cultural sites and construction activities. The certificate holder shall have a qualified cultural resource expert, chosen by the Confederated Tribes of the Umatilla Indian Reservation,

present during construction in the immediate vicinity of the sites to ensure that construction crews respect the buffers. (App S-4)

(76) If previously unidentified cultural resources are encountered during construction, the certificate holder shall halt earth-disturbing activities in the immediate vicinity of the find, in accordance with Oregon state law (ORS 97.745 and 358.920), and shall notify the Office of Energy, the Oregon State Historic Preservation Officer (SHPO) and the Confederated Tribes of the Umatilla Indian Reservation (CTUIR). The certificate holder shall have a qualified archaeologist evaluate the discovery and recommend subsequent courses of action in consultation with the CTUIR and the SHPO. (App S-5, 6)

(77) The certificate holder shall include traffic control procedures in contract specifications for construction of the facility. The certificate holder shall require flaggers to be at appropriate locations at appropriate times during construction to direct traffic and to ensure minimal conflicts between harvest and construction vehicles. (App U-24)

(78) The certificate holder shall confine the noisiest construction activities to the daylight hours. (App X-8)

(79) The certificate holder shall construct the cable crossing of Vansycle Canyon at a time when the stream is dry. The certificate holder shall remove no more than approximately 7.5 cubic yards of material from the streambed crossing and shall replace a like amount of fill material after the cable has been laid, restoring the area similar to the original contours of the streambed. (Linehan, July 23 letter, 3)

4. Conditions That Must Be Met Before Operation Begins

(80) The certificate holder shall submit to the State of Oregon through the Council a bond or letter of credit in the amount of $1,161,120 (in 2001 dollars) naming the State of Oregon, acting by and through the Council, as beneficiary or payee (the "retirement fund").

(a) The calculation of 2001 dollars shall be made using the Index described in Condition (43).

(b) The certificate holder shall use a form of retirement fund approved by the Council.

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

(d) The retirement fund shall not be subject to revocation or reduction before retirement of the energy facility.

(e) The certificate holder shall describe the status of the retirement fund in the annual report submitted to the Council under Condition (8).

See Conditions (19) and (41).

(81) After construction is complete, the certificate holder shall restore the county roads to at least their pre-project condition, to the satisfaction of the county public works department. (App B-6, 9)

(82) The certificate holder shall grade and reseed laydown areas to wheat or native grasses as necessary to restore those areas to their pre-construction condition (App B-10).

(83) For any materials disposed of as fill on site, the certificate holder shall conduct such disposal with the approval of the landowner and in accordance with OAR 340-093-0080 and other applicable regulations. (App G-3, V-3)

(84) For the purposes of this site certificate, the term "legal description" means a description of location by reference to a map and geographic information system (GIS) data that clearly and specifically identifies the physical location of all parts of the facility, including but not limited to turbine towers, meteorological towers, roads and underground collection cables. Notwithstanding OAR 345-027-0020(2), for the purposes of this site certificate, wind turbine tower locations are analogous to location of permanent rights-of-way for pipelines or transmission lines as described in OAR 345-027-0023(6). The Council approves the corridor described in the final order for construction of turbine strings. Before beginning operation of the facility, the certificate holder shall submit to the Office of Energy a legal description of the location where the certificate holder has built turbine towers and other parts of the facility. Before beginning operation of any turbines that are added to the facility by amendment of the site certificate, the certificate holder shall submit to the Office of Energy a legal description of the location of any additional turbine towers and related or supporting facilities allowed by the amendment. The site of the facility is the area identified by the legal descriptions required by this condition. By means of the legal descriptions, the certificate holder shall provide to the Office of Energy and the Umatilla County Planning Department the actual location of each turbine and all connecting lines. (OAR 345-027-0020(3)) [Amendment #1]

See Condition (13).

5. Conditions That Must Be Met During Operation

(85) The certificate holder shall prepare and maintain a site health and safety plan that informs employees and others onsite what to do in case of emergencies and includes the locations of fire extinguishers and nearby hospitals, important telephone numbers and first aid techniques. (App U-25)

(86) The certificate holder shall recycle solid waste generated during operation of the facility as much as feasible and shall collect non-recyclable waste and transport it to a local landfill. (App V-2)

(87) The certificate holder shall provide portable toilets for use at the satellite O&M building and shall make sure that they are pumped and cleaned regularly by a licensed pumper who is qualified to pump and clean portable toilet facilties. The certificate holder must contact the Oregon Department of Environmental Quality if the on-site septic system is to be used. (App O-2)

(88) If the turbine blades need to be washed, the certificate holder shall use no more than 500 gallons of water per turbine, trucked to the site by a contractor and purchased from a source with a valid water right. The certificate holder shall use high-pressure cold water only and shall not use chemicals or additives in the wash water. (App O-2) [Amendment #1]

(89) If any new nesting or denning sites for wildlife species of concern are located, the certificate holder shall prepare maps indicating off-limit areas. In addition, the certificate holder shall minimize road construction and vehicle use where possible. (P-42)

(90) The certificate holder shall mitigate possible impacts to wildlife by measures including but not limited to the following (App P-43, Q-10):

(a) Instructing all personnel on sensitive wildlife of the area and on required precautions to avoid injuring or destroying wildlife

(b) Instructing all personnel to watch out for wildlife while driving through the project area, to maintain reasonable driving speeds so as not to harass or accidentally strike wildlife and to be particularly cautious and drive at slower speeds in a period from one hour before sunset to one hour after sunrise when some wildlife species are the most active

(c) Requiring all personnel to report any injured or dead wildlife detected at the facility site

(91) The certificate holder shall mitigate possible impacts to fish and wildlife habitat by measures including but not limited to the following (App P-43, Q-10):

(a) Using best management practices to prevent erosion of soil into stream channels

(b) Controlling invasive, weedy plant species during maintenance of project facilities

(c) Monitoring re-vegetated areas to ensure successful establishment of new vegetation

(92) The certificate holder shall mitigate potential adverse impacts to soils from erosion by measures including but not limited to the following (App I-3 through 5):

(a) Using drainage collection procedures to capture surface water that collects on, and drains from, gravel surfaces or structures as a result of precipitation and routing the water to drainage ditches lined with quarry stone or other similar materials

(b) Using sand bags, straw bales and silt fences as needed to reduce erosion from precipitation during repair of underground cables or other soil-disturbing repairs

(c) If areas of erosion are observed during operation, implementing mitigation and reclamation measures

(93) The certificate holder shall conduct wildlife monitoring as described in the Oregon Wildlife Monitoring Plan, included in the final order as Attachment A and as revised from time to time. Subject to approval by the Office of Energy as to professional qualifications, the certificate holder shall hire qualified wildlife consultants to carry out the monitoring. (OAR 345-022-0060) [Amendment #1]

(94) If analysis of monitoring data indicates impacts to wildlife or wildlife habitat that the certificate holder has not adequately addressed by mitigation and if these impacts result in a loss of habitat quantity or quality, the certificate holder shall mitigate for the loss of habitat quality by measures approved by the Oregon Office of Energy. (OAR 345-022-0060)

(95) The certificate holder shall inspect turbine blades on a regular basis for signs of wear or potential failure. (App BB-1)

(96) The certificate holder shall make sure that all on-site employees receive annual fire prevention and response training by a professional fire-safety training firm. The certificate holder shall prohibit employees from smoking outside of company vehicles during dry summer months and shall require employees to keep vehicles on roads and off dry grassland during the dry months unless necessary for work purposes. The certificate holder shall not engage in welding, cutting, grinding or other flame or spark-producing operations near the turbines. The certificate holder shall equip each company vehicle on site with a fire extinguisher, water spray can, shovel, Emergency Response procedures book and a two-way radio for immediate communications with the O&M facility. The certificate holder

shall have staff in the local area on call at all times to respond in case of fire or other emergency. The certificate holder shall supply all local fire departments with maps of and gate keys to the facility. (App B-12)

VI. SPECIFIC FACILITY CONDITIONS FOR STATELINE 2 [This section added by Amendment #1]

The conditions listed in this section include conditions based on representations in the request for Amendment #1 and supporting record. The Council deems these representations to be binding commitments made by the applicant. These conditions are required under OAR 345-027-0020(10). These conditions apply to Stateline 2. Conditions (98), (99), (100) and (103) also apply to Stateline 1.

In addition to the conditions listed in this section, all conditions in sections IV and V also apply to Stateline 2, except Conditions (11), (15), (19), (24), (27), (39), (42), (43), (53), (54), (55), (56), (66) and (80).

1. General Conditions

(97) The certificate holder shall begin construction of Stateline 2 within six months after the effective date of the First Amended Site Certificate. The certificate holder shall complete construction of Stateline 2 before March 1, 2005. Under OAR 345-027-0070, an amended site certificate is effective upon execution by the Council Chair and the applicant. Completion of construction occurs upon the date commercial operation of the facility begins. The Council may grant an extension of the construction beginning or completion deadlines in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted. [Amendment #2]

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

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

(100) If the Council finds that the certificate holder has permanently ceased construction or operation of the facility without retiring the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110, the Council shall notify the certificate holder and request that the certificate holder submit a proposed final retirement plan to the Office within a reasonable time not to exceed 90 days. If the certificate holder does not submit a proposed final retirement plan by the specified date, the Council may direct the Office to prepare a proposed a final retirement plan for the Council's approval. Upon the Council's approval of the final retirement plan, the Council may draw on the bond or letter of credit described in section (8) to restore the site to a useful, non-hazardous condition according to the final retirement plan, in addition to any penalties the Council

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

2. Conditions That Must Be Met Before Construction Begins

(101) The certificate holder shall not engage in construction activities for Stateline 2 facilities, including the movement of heavy trucks and equipment, within a ¼-mile buffer around an identified ferruginous hawk nest tree during the sensitive period of the nesting season (March 20 to August 15), except as provided in this condition. The certificate holder shall use a protocol approved by the Oregon Department of Fish and Wildlife (ODFW) to determine whether the nest is occupied. The certificate holder may begin construction activities before August 15 if the nest is not occupied. If the nest is occupied, the certificate holder shall use a protocol approved by ODFW to determine when the young are fledged (independent of the core nest site). With the approval of ODFW, the certificate holder may begin construction before August 15 if the young are fledged. During the specified nesting season, the certificate holder may use the road into the site with vehicles that are one ton in capacity or smaller; conduct turbine, turbine tower, blade or met tower construction activities that are not visible above the horizon from the vantage point of the ferruginous hawk nest; and use the road one time to transport heavy equipment off the site. [Amendment #2]

(102) In addition to the requirements of Condition (80), the certificate holder shall submit to the State of Oregon through the Council a bond or letter of credit in the amount of $899,200 (in 2002 dollars) naming the State of Oregon, acting by and through the Council, as beneficiary or payee. In lieu of submitting a separate bond or letter of credit in the amount required under this condition, the certificate holder may submit a bond or letter of credit that includes the amount required under this condition and the amount required under Condition (80).

(a) The calculation of 2002 dollars shall be made using the U.S. Gross Domestic Product Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of Administrative Services' "Oregon Economic and Revenue Forecast," or by any successor agency (the "Index"). The amount of the bond or letter of credit account shall increase annually by the percentage increase in the Index and shall be pro-rated within the year to the date of retirement. If at any time the Index is no longer published, the Council shall select a comparable calculation of 2002 dollars. [Amendment #2]

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

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

(d) The certificate holder shall describe the status of the bond or letter of credit in the annual report submitted to the Council, as required by Condition (8).

(e) After restoration of the temporary laydown and staging areas, as required by Conditions (20) and (68), the certificate holder may reduce the amount of the bond or letter of credit required under this condition to $559,920 (in 2002 dollars).

(f) The bond or letter of credit shall not be subject to revocation or reduction, except as allowed by paragraph (e), before retirement of the Stateline 2 site.

3. Conditions That Apply During Construction

(103) To minimize the risk of fire, the certificate holder shall:
(a) Construct turbines, towers and pads of fire retardant materials
(b) Bury electrical cables
(c) Use enclosed, locked pad-mounted transformer structures
(d) Include built-in fire prevention measures in turbines
(e) Not store combustible materials at the Stateline site.

(104) To mitigate for the permanent elimination of approximately 1 acre of Category 3 and 4 habitat, the certificate holder shall enlarge the habitat enhancement area described in Condition (67) by 1 acre (making a total area of 49 acres).

4. Conditions That Must Be Met During Operation

(105) The certificate holder shall enter into an agreement with the landowner of a property identified as 84301 Stockman Road, Helix, Oregon, requiring that the structure remain uninhabited during construction. The certificate holder shall continue the no-occupation agreement until retirement of the facility unless the certificate holder demonstrates to the satisfaction of the Department that the facility complies with the applicable noise control regulations under OAR 340-035-0035. The certificate holder may demonstrate compliance with the regulations as to the increase in ambient statistical noise levels by entering into a legally effective easement or real covenant with the owner of the property identified as 84301 Stockman Road, Helix, Oregon, pursuant to which the owner authorizes the certificate holder's operation of the facility to increase ambient statistical noise levels L_{10} and L_{50} by more than 10 dBA at the appropriate measurement point. A legally effective easement or real covenant shall: include a legal description of the burdened property (the noise sensitive property); be recorded in the real property records of the county; expressly benefit the certificate holder; expressly run with the land and bind all future owners, lessees or holders of any interest in the burdened property; and not be subject to revocation without the certificate holder's written approval. If such easement or real covenant is not in effect, then the certificate holder shall demonstrate to the satisfaction of the Department, based on modeling or measurements performed in compliance with OAR 340-035-0035, that an easement or real covenant is not necessary to comply with those regulations. [Amendment #3].

VII. SPECIFIC FACILITY CONDITIONS FOR STATELINE 3 [This section added by Amendment #2]

The conditions listed in this section include conditions based on representations in the request for Amendment #2 and supporting record. The Council deems these representations to be binding commitments made by the applicant. These conditions are required under OAR 345-027-0020(10). These conditions apply to Stateline 3.

In addition to the conditions listed in this section, all conditions in sections IV, V and VI also apply to Stateline 3, except Conditions (11), (15), (19), (24), (42), (43), (66), (67), (79), (80), (97), (101), (102), (104) and (105).

1. General Conditions

(106) The certificate holder shall begin construction of Stateline 3 by June 23, 2007. The certificate holder shall complete construction of Stateline 3 before December 31, 2007. Under OAR 345-027-0070, an amended site certificate is effective upon execution by the Council Chair and the applicant. Completion of construction occurs upon the date commercial operation of the facility begins. The Council may grant an extension of the construction beginning or completion deadlines in accordance with OAR 345-027-0030 or any successor rule in effect at the time the request for extension is submitted. [Amendment #3]

(107) To reduce and mitigate the impacts to Category 1 habitat, the certificate holder shall implement the measures described in the Resource Impact Avoidance and Mitigation Plan, included in the final order as Attachment C and as revised from time to time.

(108) The certificate holder shall take reasonable steps to reduce or manage human exposure to electromagnetic fields, including but not limited to:

(a) Designing and operating the transmission lines so that maximum current (amps per conductor) would not exceed the following levels: For 34.5-kV underground lines, 343 amps; for 34.5-kV aboveground lines, 1,200 amps; for 115-kV transmission lines, 1,064 amps; and for 230-kV transmission lines, 535 amps.

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

2. Conditions That Must Be Met Before Construction Begins

(109) In addition to the requirements of Conditions (80) and (102), the certificate holder shall submit to the State of Oregon through the Council a bond or letter of credit in the amount of **$3,322,900** (in 2002 dollars) naming the State of Oregon, acting by and through the Council, as beneficiary or payee. However, the Council authorizes the Office of Energy staff to adjust the amount if the certificate holder constructs fewer than 279 turbines. For calculating any such adjustments, the Office shall use the methodology and cost estimates approved in the Final Order on Amendment #2. In lieu of submitting a separate bond or letter of credit in the amount required under this condition, the certificate holder may submit a bond or letter of credit that includes the amount required under this condition and the amount required under Conditions (80) and (102).

(a) The calculation of 2002 dollars shall be made using the U.S. Gross Domestic Product Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of Administrative Services' "Oregon Economic and Revenue Forecast," or by any successor agency (the "Index"). The amount of the bond or letter of credit account shall increase annually by the percentage increase in the Index and shall be pro-rated within the year to the date of retirement. If at any time the Index is no longer published, the Council shall select a comparable calculation of 2002 dollars.

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

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

(d) The certificate holder shall describe the status of the bond or letter of credit in the annual report submitted to the Council, as required by Condition (8).

(e) After restoration of the temporary laydown and staging areas, as required by Conditions (20) and (68), the certificate holder shall increase the amount of the bond or letter of credit required under this condition to **$3,392,900** (in 2002 dollars), or to a lesser proportionate amount as determined by the Office of Energy staff in the event less than 279 turbines are built as discussed above.

(f) After construction is complete, the bond or letter of credit shall not be subject to revocation or reduction before retirement of the Stateline 3 site.

(110) At least 30 days before beginning preparation of detailed design and specifications for the electrical transmission lines, the certificate holder shall consult with the Oregon Public Utility Commission staff to ensure that its designs and specifications are consistent with applicable codes and standards.

(111) The certificate holder shall perform field surveys for rare plant species during the appropriate season in 2003 in those Stateline 3 areas that were not previously surveyed. The certificate holder shall report the results of these surveys to the Office of Energy.

3. Conditions That Apply During Construction

(112) To mitigate for the Stateline 3 impacts to Category 2, 3 and 5 habitat, the certificate holder shall control weeds and enhance habitat on 35 acres of weed-infested land in the project vicinity. The certificate holder shall carry out enhancement activities as described for habitat improvement areas in the Revegetation Plan included in the final order as Attachment B and as revised from time to time. The certificate holder shall acquire the legal right to create and maintain the enhancement area for the life of the facility by means of an outright purchase, conservation easement or similar conveyance and shall provide a copy of the documentation to the Office of Energy. The certificate holder shall determine the location of this habitat enhancement area in consultation with ODFW and landowners.

(113) To protect the public from electrical hazards including electric and magnetic field exposure, the certificate holder shall:

(a) Enclose the substation with a seven-foot-tall chain link fence with barbed wire at the top pointing out at a 45-degree angle.

(b) Attach the 34.5-kV aboveground collector lines to single-pole wood structures that are typically 42 feet high and with minimum design ground clearance of 25 feet to the lowest conductor as described in the Request for Amendment #2.

(c) Attach the 115-kV or 230-kV aboveground transmission lines to H-frame structures that consist of two wooden poles connected by cross-members with a typical overall height of 70 feet and a minimum design ground clearance of 30 feet to the lowest conductor as described in the Request for Amendment #2.

(d) Design and construct the transmission lines so that:

(i) Alternating current electric fields during operation do not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the public, and

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

(114) To deter raptors from perching on transmission support structures near the wind turbines, the certificate holder shall install anti-perching devices on all proposed single-pole and double pole structures within one mile of any turbine. Wherever feasible, the certificate holder shall use "spike-type" devices instead of "triangle-type" devices.

(115) To protect raptors, the certificate holder shall design structures for aboveground 34.5-kV, 115-kV and 230-kV transmission lines so that electrical conductors are spaced far enough apart to reduce the risk of bird electrocution.

(116) Except as required for known burrowing owl nest sites under Condition (54), the certificate holder may engage in construction activities within construction zones during the sensitive grasshopper sparrow and other ground-nesting wildlife season (April 15 to June 30) subject to the requirements of this condition. Construction zones include the areas of permanent and temporary disturbance and a 175-foot surrounding buffer in which there may be incidental construction impacts. Construction is allowed during the sensitive period only if the certificate holder has removed vegetation in the construction zone (excluding the 175-foot surrounding buffer) before April 15 of the year in which the construction occurs.

(117) The certificate holder shall not engage in construction activities for Stateline 3 facilities, including the movement of heavy trucks and equipment, within a ¼-mile buffer around known ferruginous hawk nests during the sensitive period of the nesting season from (March 20 to August 15), except as provided in this condition. The certificate holder shall use a protocol approved by the Oregon Department of Fish and Wildlife (ODFW) to determine whether the nest is occupied. The certificate holder may begin construction activities before August 15, if the nest is not occupied. If the nest is occupied, the certificate holder shall use a protocol approved by ODFW to determine when the young are fledged (independent of the core nest site). With the approval of ODFW, the certificate holder may begin construction before August 15, if the young are fledged.

(118) The certificate holder shall construct stream crossings substantially as described in the Request for Amendment #2, Exhibit 21. In particular, the certificate holder shall not use more than 50 cubic yards of new fill material in total for all stream crossings combined.

4. Conditions That Must Be Met During Operation

(119) The certificate holder shall perform frequent maintenance to keep the substation transformer in good repair and in reliable operating condition.

(120) The certificate holder shall verify that the actual sound power level output of the Vestas V47-660-kW wind turbines meets the manufacturer's warranty. This verification may consist of field measurement or other means of verification satisfactory to the Office of Energy. The certificate holder shall include the verification in the first annual report following construction of any Stateline 3 turbines.

VIII. CONDITIONS ADDED BY AMENDMENT #3

The conditions in this section apply to the facility as a whole. [Amendment #3]

(121) The certificate holder shall not construct any Stateline 3 facilities in areas identified as Category 1 habitat in the Final Order on Amendment #2 or otherwise disturb that habitat unless the Council specifically authorizes such construction or other disturbance in a future site certificate amendment proceeding. In a future proceeding, the Council may consider proposed changes in the location of Stateline 3 facilities in the affected area, may re-evaluate whether some or all of the affected area qualifies as Category 1 habitat and, if appropriate, may apply its balancing authority under OAR 345-022-0000(2). [Amendment #3]

(122) Prior to constructing any turbine within 5,000 feet of the property identified as 81876 Gerking Flat Road, Athena, Oregon, the certificate holder shall enter into a legally effective easement or real covenant pursuant to which the owner of the property authorizes the certificate holder's operation of the facility to increase ambient statistical noise levels L_{10} and L_{50} by more than 10 dBA at the appropriate measurement point. The 5,000-foot distance shall be measured from the appropriate measurement point as determined pursuant to OAR 340-035-0035. A legally effective easement or real covenant shall: include a legal description of the burdened property (the noise sensitive property); be recorded in the real property records of the county; expressly benefit the certificate holder; expressly run with the land and bind all future owners, lessees or holders of any interest in the burdened property; and not be subject to revocation without the certificate holder's written approval. If such easement or real covenant is not in effect, then the certificate holder shall demonstrate to the satisfaction of the Department, based on modeling or measurements performed in compliance with OAR 340-035-0035, that an easement or real covenant is not necessary to comply with those regulations. [Amendment #3]

IX. SUCCESSORS AND ASSIGNS

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

X. SEVERABILITY AND CONSTRUCTION

If any provision of this agreement and certificate is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement and certificate did not contain the particular provision held to be invalid. In the event of a conflict between the conditions contained in the site certificate and the Council's final order or the Final Order on Amendment #1, the conditions contained in this site certificate shall control. [Amendment #1]

XI. GOVERNING LAW AND FORUM

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

XII. EXECUTION

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

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

ENERGY FACILITY SITING COUNCIL

By: _____
Karen H. Green, Chair
Oregon Energy Facility Siting Council

Date: June 20, 2005

FPL ENERGY VANSYCLE LLC

By: _____

Print: Dean Gosselin

Date: July 12, 2005

FPLE LAND DEPT
-ok
7/5/05