

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

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**Fourth Amended Site Certificate  
for the  
Stateline Wind Project**

March 27, 2009

**Oregon Energy Facility Siting Council**

**FOURTH 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 the certificate holders. The certificate holders are FPL Energy Vansycle LLC (“FPL Vansycle”) and FPL Energy Stateline II, Inc. (“FPL Stateline”). This site certificate authorizes the certificate holders to construct and operate the Stateline Wind Project (the “facility”) in Umatilla County, Oregon. [Amendment #4]

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”), (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”) and (e) the Council’s Final Order in the Matter of the Request for Amendment #4 of the Site Certificate for the Stateline Wind Project (“Final Order on Amendment #4”). [Amendments #1, #2, 3 and #4]

[Text added here by Amendment #3 was deleted by Amendment #4]

In interpreting this site certificate, any ambiguity will be clarified by reference to the following, in order of priority: this Fourth Amended Site Certificate, the Final Order on Amendment #4, 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, #2, #3 and #4. [Amendments #1, #2, #3 and #4]

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 Vansycle to construct, operate and retire Stateline 1&2 and authorizes FPL Stateline to construct, operate and retire Stateline 3 as described in Section III of this site certificate. ORS 469.401(1). [Amendment #4]
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).

- 1 3. This site certificate does not address, and is not binding with respect to, matters that were not  
2 addressed in the Council’s Final Orders on the Application and Amendments #1, #2, #3 and  
3 #4. These matters include, but are not limited to: building code compliance, wage, hour and  
4 other labor regulations, local government fees and charges and other design or operational  
5 issues that do not relate to siting the facility (ORS 469.401(4)) and permits issued under  
6 statutes and rules for which the decision on compliance has been delegated by the federal  
7 government to a state agency other than the Council. ORS 469.503(3). [Amendments #1, #2, #3  
8 and #4]
- 9 4. The State and the certificate holders shall abide by local ordinances, state law and the rules of  
10 the Council in effect on the date this site certificate is executed. ORS 469.401(2). In addition,  
11 upon a clear showing of a significant threat to public health, safety or the environment that  
12 requires application of later-adopted laws or rules, the Council may require compliance with  
13 such later-adopted laws or rules. ORS 469.401(2). [Amendment #4]
- 14 5. For a permit, license or other approval addressed in and governed by this site certificate, the  
15 certificate holders shall comply with applicable state and federal laws adopted in the future to  
16 the extent that such compliance is required under the respective state agency statutes and  
17 rules. ORS 469.401(2). [Amendment #4]
- 18 6. Subject to the conditions herein, this site certificate binds the State and all counties, cities and  
19 political subdivisions in Oregon as to the approval of the site and the construction, operation  
20 and retirement of the facility as to matters that are addressed in and governed by this site  
21 certificate. ORS 469.401(3).
- 22 7. Each affected state agency, county, city and political subdivision in Oregon with authority to  
23 issue a permit, license or other approval addressed in or governed by this site certificate shall,  
24 upon submission of the proper application and payment of the proper fees, but without  
25 hearings or other proceedings, issue such permit, license or other approval subject only to  
26 conditions set forth in this site certificate. ORS 469.401(3).
- 27 8. After issuance of this site certificate, each state agency or local government agency that  
28 issues a permit, license or other approval for the facility shall continue to exercise  
29 enforcement authority over such permit, license or other approval. ORS 469.401(3).
- 30 9. After issuance of this site certificate, the Council shall have continuing authority over the site  
31 and may inspect, or direct the Oregon Office of Energy (“Office”) to inspect, or request  
32 another state agency or local government to inspect, the site at any time in order to assure  
33 that the facility is being operated consistently with the terms and conditions of this site  
34 certificate. ORS 469.430.

### 35 **III. DESCRIPTIONS AND DIVIDED RESPONSIBILITY**

#### 36 **1. Stateline 1&2**

##### 37 (i) Major Structures

38 Stateline 1&2 consists of up to 187 Vestas V47-660-kilowatt (kW) wind turbines, each  
39 having a peak generating capacity of 0.66 MW.<sup>1</sup> Each wind turbine is connected to a 34.5-  
40 kilovolt (kV) collector system. The wind turbines are grouped in “strings” of turbines, each

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<sup>1</sup> The site certificate authorizes up to 187 turbines, but the certificate holder chose to build 186.

1 turbine spaced approximately 250 feet from the next, generally slightly downwind of the crest of  
2 ridges. Major facility structures are further as described in the Final Orders on the Application  
3 and Amendments #1 and #2. [Amendments #1, #2 and #4]

4 (ii) Related or Supporting Facilities

5 Stateline 1&2 includes the following related or supporting facilities described below and  
6 in greater detail in the Final Order on Amendment #4:

- 7 ■ Access roads to reach each turbine for construction and maintenance
- 8 ■ Underground collector cables that transmit the electrical output of the wind  
9 turbines to a substation in Washington [Amendment #2]
- 10 ■ [Text added by Amendment #2 was deleted by Amendment #4]
- 11 ■ [Text added by Amendment #2 was deleted by Amendment #4]
- 12 ■ Meteorological towers
- 13 ■ A satellite operations and maintenance building

14 Access Roads

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

22 Collector System

23 The wind turbines generate power at 690 volts. A transformer adjacent to each tower  
24 transforms the power to 34.5 kV. From the turbines, power is transmitted via an underground  
25 34.5-kV collector system. Overhead transmission lines, located entirely within Washington,  
26 connect the Washington substation to a BPA 115-kV transmission line north of the Walla Walla  
27 River and to a PacifiCorp substation just north of Highway 12. [Amendments #1, #2 and #4]

28 Meteorological Towers

29 Stateline 1&2 includes up to six permanent meteorological (met) towers to measure wind  
30 conditions. The met towers are unguyed towers. [Amendments #1, #2 and #4]

31 Satellite O&M Building

32 Stateline 1&2 includes an operation and maintenance (O&M) facility, which is a satellite  
33 to the primary O&M facility located in Washington. The satellite O&M facility is located along  
34 Butler Grade Road south of Gardena and just south of the state line in Oregon. [Amendment #4]

35 **2. Stateline 3**

36 (i) Major Structures

37 Stateline 3 consists of up to 67 GE 1.5-MW wind turbines or up to 43 Siemens 2.3-MW  
38 wind turbines. If 1.5-MW turbines are used, Stateline 3 would have a combined peak generating  
39 capacity of up to 100.5 MW. If 2.3-MW turbines are used, Stateline 3 would have a combined

1 peak generating capacity of up to 98.9 MW. Major facility structures are further as described in  
2 the Final Order on Amendment #4. [Amendment #4]

3 (ii) Related or Supporting Facilities

4 Stateline 3 includes the following related or supporting facilities described below and in  
5 greater detail in the Final Order on Amendment #4:

- 6 ■ Access roads to reach each turbine for construction and maintenance
- 7 ■ Underground collector cables that transmit the electrical output of the wind  
8 turbines to a substation
- 9 ■ A substation
- 10 ■ A 230 -kV transmission line
- 11 ■ Meteorological towers
- 12 ■ An operations and maintenance building

13 [Amendment #4]

14 Access Roads

15 County roads that extend south from Highway 12 in Washington (e.g., Hatch Grade Road  
16 and Butler Grade Road) and north from Oregon Highway 11 (e.g., Vansycle Canyon Road and  
17 Butler Grade Road) are the primary routes of access to the facility site. From the county roads, a  
18 web of private farm roads provides access to most of the ridges upon which the facility is  
19 located. Additional access roads are located along the length of each turbine string and  
20 connecting each turbine string to the next. [Amendment #4]

21 Collector System, Substation and Transmission Line

22 The wind turbines generate power at 690 volts. A transformer adjacent to each tower  
23 transforms the power to 34.5 kV. From the turbines, power is transmitted via an underground  
24 34.5-kV collector system to a substation located in Township 5 North, Range 34 East.  
25 Approximately 16 miles of aboveground 230-kV transmission line (13 miles in Oregon) connects  
26 the Stateline 3 substation to existing major transmission lines in Washington. [Amendment #4]

Meteorological Towers

27 Stateline 3 includes two permanent meteorological (met) towers. The met towers are  
28 unguyed towers. [Amendment #4]

29 O&M Building

30 Stateline 3 includes an O&M building near the intersection of Wayland Road and  
31 Gerking Flat Road north of Helix. [Amendment #4]

32 **3. Location of the Facility**

33 The facility is located in Umatilla County, north and east of Helix, Oregon. The towns  
34 closest to the facility are Helix, Oregon, and Touchet, Washington. The wind turbines would be  
35 located on ridges east of the Columbia River and south of the Walla Walla River. The location of  
36 the facility is further as described in the Final Orders on the Application and Amendments #1, #2  
37 and #4. [Amendments #1, #2 and #4]

1 **4. Responsibility for Stateline 1&2 and Stateline 3**

2 FPL Vansycle shall be individually responsible for compliance with all conditions  
3 relating to Stateline 1&2, and FPL Stateline shall not be jointly responsible for such compliance.  
4 FPL Stateline shall be individually responsible for compliance with all conditions relating to  
5 Stateline 3 and FPL Vansycle shall not be jointly responsible for such compliance. If the Council  
6 or the Oregon Department of Energy (“Department”) determines that a violation of the Site  
7 Certificate or any Council order pertaining to the facility may have occurred, the Council or the  
8 Department may direct appropriate inquiries to the responsible entity. If the Council or the  
9 Department is unable to determine which entity is responsible, the Council or the Department  
10 may direct appropriate inquiries to both entities. [Amendment #4]

11 **IV. CONDITIONS REQUIRED BY COUNCIL RULES**

12 This section lists conditions specifically required by OAR 345-027-0020 (Mandatory  
13 Conditions in Site Certificates), OAR 345-027-0023 (Site Specific Conditions), OAR 345-027-  
14 0028 (Monitoring Conditions) and in OAR Chapter 345, Division 26 (Construction and  
15 Operation Rules for Facilities). These conditions should be read together with the additional  
16 specific facility conditions in section V to ensure compliance with the siting standards of OAR  
17 Chapter 345, Divisions 22 and 24 and to protect the public health and safety. [Amendments #1 and  
18 #4]

19 The Council recognizes that many specific tasks related to the design, construction,  
20 operation and retirement of the facility will be undertaken by agents or contractors. However,  
21 FPL Vansycle is responsible for ensuring compliance with all provisions of the site certificate  
22 pertaining to Stateline 1&2, and FPL Stateline is responsible for ensuring compliance with all  
23 provisions of the site certificate pertaining to Stateline 3. [Amendment #4].

24 Citation to the sources of, or basis for, certain conditions are shown in parentheses.<sup>2</sup>  
25 Conditions are numbered continuously throughout sections IV through IX of this site certificate.  
26 [Amendment #4]

27 In applying the conditions in this section, “certificate holder” means FPL Vansycle with  
28 regard to Stateline 1&2 and FPL Stateline with regard to Stateline 3. [Amendment #4]

**1. General Conditions**

- 29 (1) The Council shall not change the conditions of the site certificate except as provided for in  
30 OAR Chapter 345, Division 27. (OAR 345-027-0020(1))
- 31 (2) The certificate holder shall design, construct, operate and retire the facility:  
32 (a) Substantially as described in the site certificate;  
33 (b) In compliance with the requirements of ORS Chapter 469, applicable Council rules,  
34 and applicable state and local laws, rules and ordinances in effect at the time the site  
35 certificate is issued; and  
36 (c) In compliance with all applicable permit requirements of other state agencies.  
37 (OAR 345-027-0020(3))

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<sup>2</sup> References to the site certificate application are to the application as modified by the supplement and later revisions, abbreviated as “App.”

- 1 (3) The certificate holder shall begin and complete construction of the facility by the dates  
2 specified in the site certificate. (345-027-0020(4))  
3 See conditions (24), (97) and (106). [Amendment #4]
- 4 (4) The certificate holder shall prevent the development of any conditions on the site that  
5 would preclude restoration of the site to a useful, non-hazardous condition to the extent that  
6 prevention of such site conditions is within the control of the certificate holder. (345-027-  
7 0020(7))
- 8 (5) The Council shall include as conditions in the site certificate all representations in the site  
9 certificate application and supporting record the Council deems to be binding commitments  
10 made by the applicant. (OAR 345-027-0020(10))
- 11 (6) For the related or supporting transmission lines:  
12 (a) The certificate holder shall design, construct and operate the transmission line in  
13 accordance with the requirements of the National Electrical Safety Code (American  
14 National Standards Institute, Section C2, 1997 Edition); and  
15 (b) The certificate holder shall develop and implement a program that provides  
16 reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or  
17 structures of a permanent nature that could become inadvertently charged with electricity  
18 are grounded or bonded throughout the life of the line. (OAR 345-027-0023(6)) [Amendment  
19 #4]
- 20 (7) The following general monitoring conditions apply:  
21 (a) The certificate holder shall consult with affected state agencies, local governments  
22 and tribes and shall develop specific monitoring programs for impacts to resources  
23 protected by the standards of divisions 22 and 24 of OAR Chapter 345 and resources  
24 addressed by applicable statutes, administrative rules and local ordinances. The certificate  
25 holder must submit the monitoring programs to the Department of Energy and receive  
26 Department approval before beginning construction or, as appropriate, operation of the  
27 facility.  
28 (b) The certificate holder shall implement the approved monitoring programs described in  
29 section (a) and monitoring programs required by permitting agencies and local  
30 governments.  
31 (c) For each monitoring program described in sections (a) and (b), the certificate holder  
32 shall have quality assurance measures approved by the Department before beginning  
33 construction or, as appropriate, before beginning commercial operation.  
34 (d) If the certificate holder becomes aware of a significant environmental change or  
35 impact attributable to the facility, the certificate holder shall, as soon as possible, submit a  
36 written report to the Department describing the impact on the facility and any affected site  
37 certificate conditions.  
38 (OAR 345-027-0028) [Amendment #4]
- 39 (8) The certificate holder shall report according to the following requirements:  
40 (a) General reporting obligation for energy facilities under construction or operating:  
41 (i) Within six months after beginning construction, and every six months thereafter  
42 during construction of the energy facility and related or supporting facilities, the certificate  
43 holder shall submit a semiannual construction progress report to the Department of Energy.  
44 In each construction progress report, the certificate holder shall describe any significant

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

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

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

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

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

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

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

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

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

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

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

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

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



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

4 (OAR 345-026-0080) [Amendment #4]

5 (9) [Condition removed by Amendment #4]

6 (10) The certificate holder and the Department of Energy shall exchange copies of all  
7 correspondence or summaries of correspondence related to compliance with statutes, rules  
8 and local ordinances on which the Council determined compliance, except for material  
9 withheld from public disclosure under state or federal law or under Council rules. The  
10 certificate holder may submit abstracts of reports in place of full reports; however, the  
11 certificate holder shall provide full copies of abstracted reports and any summarized  
12 correspondence at the request of the Department. (OAR 345-026-0105) [Amendment #4]

## 13 **2. Conditions That Must Be Met Before Construction Begins**

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

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

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

30 (OAR 345-027-0020(5)) [Amendment #4]

31 (12) Following receipt of a site certificate or an amended site certificate, the certificate holder  
32 shall implement a plan that verifies compliance with all site certificate terms and conditions  
33 and applicable statutes and rules. As a part of the compliance plan, to verify compliance  
34 with the requirement to begin construction by the date specified in the site certificate, the  
35 certificate holder shall report promptly to the Department of Energy when construction  
36 begins. Construction is defined in OAR 345-001-0010. In reporting the beginning of  
37 construction, the certificate holder shall describe all work on the site performed before  
38 beginning construction, including work performed before the Council issued the site  
39 certificate, and shall state the cost of that work. For the purpose of this exhibit, “work on  
40 the site” means any work within a site or corridor, other than surveying, exploration or  
41 other activities to define or characterize the site or corridor. The certificate holder shall  
42 document the compliance plan and maintain it for inspection by the Department or the  
43 Council. (OAR 345-026-0048) [Amendment #4]

1 (13) The certificate holder shall submit a legal description of the site to the Department of  
2 Energy within 90 days after beginning operation of the facility. The legal description  
3 required by this rule means a description of metes and bounds or a description of the site by  
4 reference to a map and geographic data that clearly and specifically identifies the outer  
5 boundaries that contain all parts of the facility. (OAR 345-027-0020(2)) [Amendment #4]

6 See Condition (84).

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

14 (15) Before beginning construction of the facility, the certificate holder shall submit to the State  
15 of Oregon, through the Council, a bond or letter of credit in a form and amount satisfactory  
16 to the Council. The certificate holder shall maintain the bond or letter of credit in effect at  
17 all times until the facility has been retired. The Council may specify different amounts for  
18 the bond or letter of credit during construction and during operation of the facility. (OAR  
19 345-027-0020(8))

20 See Conditions (80) and (109).

21 [Amendment #4]

### 22 **3. Conditions That Apply During Construction**

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

28 (17) The certificate holder shall notify the Department, the State Building Codes Division and  
29 the Department of Geology and Mineral Industries promptly if site investigations or  
30 trenching reveal that conditions in the foundation rocks differ significantly from those  
31 described in the application for a site certificate. After the Department receives the notice,  
32 the Council may require the certificate holder to consult with the Department of Geology  
33 and Mineral Industries and the Building Codes Division and to propose mitigation actions.  
34 (OAR 345-027-0020(13)) [Amendment #4]

35 (18) The certificate holder shall notify the Department, the State Building Codes Division and  
36 the Department of Geology and Mineral Industries promptly if shear zones, artesian  
37 aquifers, deformations or clastic dikes are found at or in the vicinity of the site. (OAR 345-  
38 027-0020(14)) [Amendment #4]

### 39 **4. Conditions That Must Be Met Before Operation Begins**

40 (19) The certificate holder shall retire the facility if the certificate holder permanently ceases  
41 construction or operation of the facility. The certificate holder shall retire the facility

1 according to a final retirement plan approved by the Council, as described in OAR 345-  
2 027-0110. The certificate holder shall pay the actual cost to restore the site to a useful, non-  
3 hazardous condition at the time of retirement, notwithstanding the Council's approval in the  
4 site certificate of an estimated amount required to restore the site. (OAR 345-027-0020(9))  
5 [Amendment #4]

6 (20) Upon completion of construction, the certificate holder shall restore vegetation to the extent  
7 practicable and shall landscape portions of the site disturbed by construction in a manner  
8 compatible with the surroundings and proposed use. Upon completion of construction, the  
9 certificate holder shall remove all temporary structures not required for facility operation  
10 and dispose of all timber, brush, refuse and flammable or combustible material resulting  
11 from clearing of land and construction of the facility. (OAR 345-027-0020(11)) [Amendment  
12 #4]

13 (21) If the proposed energy facility is a pipeline or a transmission line or has, as a related or  
14 supporting facility, a pipeline or transmission line, the Council shall specify an approved  
15 corridor in the site certificate and shall allow the certificate holder to construct the pipeline  
16 or transmission line anywhere within the corridor, subject to the conditions of the site  
17 certificate. If the applicant has analyzed more than one corridor in its application for a site  
18 certificate, the Council may, subject to the Council's standards, approve more than one  
19 corridor. (OAR 345-027-0023(5)) [Amendment #4]

## 20 **5. Conditions That Must Be Met During Operation**

21 (22) [Condition removed by Amendment #4]

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

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

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

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

29 (OAR 345-026-0170) [Amendment #4]

## 30 **V. SPECIFIC FACILITY CONDITIONS**

31 The conditions listed in this section include conditions based on representations in the  
32 site certificate application and supporting record. The Council deems these representations to be  
33 binding commitments made by the applicant. These conditions are required under OAR 345-027-  
34 0020(10). [Amendments #1 and #4]

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

38 Citation to the sources of, or basis for, certain conditions are shown in parentheses.  
39 [Amendment #4]

1 Except as specifically noted, these conditions apply to all phases of the Stateline Wind  
2 Project. In applying the conditions in this section, “certificate holder” means FPL Vansycle with  
3 regard to Stateline 1&2 and FPL Stateline with regard to Stateline 3. [Amendment #4]

#### 4 **1. General Conditions**

5 (24) This condition applies to Stateline 1 only. The certificate holder shall begin construction of  
6 Stateline 1 within one year after the effective date of the site certificate. The certificate  
7 holder shall complete construction of Stateline 1 on or before two years from the effective  
8 date of the site certificate. Under OAR 345-015-0085(9), a site certificate is effective upon  
9 execution by the Council Chair and the applicant. Completion of construction occurs upon  
10 the date commercial operation of Stateline 1 begins. The Council may grant an extension of  
11 the construction beginning or completion deadlines in accordance with OAR 345-027-0030  
12 or any successor rule in effect at the time the request for extension is submitted. [Amendment  
13 #4]

14 See condition (3).

15 (25) Within 72 hours of discovery of conditions or circumstances that may violate the terms or  
16 conditions of the site certificate, the certificate holder shall report the conditions or  
17 circumstances to the Department of Energy. (OAR 345-027-0020(3)) [Amendment #4]

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

22 (27) [Condition removed by Amendment #4]

23 (28) The certificate holder shall report promptly to the Department of Energy any change in its  
24 corporate relationship with NextEra Energy Resources LLC. The certificate holder shall  
25 report promptly to the Department any change in its access to the resources, expertise and  
26 personnel of NextEra Energy Resources LLC. (App A-3, D-2, OAR 345-022-0010)  
27 [Amendment #4]

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

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

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

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

- 1 shall treat or dispose of contaminated soil or other materials according to applicable  
2 regulations. (App G-2, V-3)
- 3 (33) The certificate holder shall provide to the Department of Energy a copy of the contract with  
4 the Milton-Freewater Rural Fire Department for fire protection services during construction  
5 and operation of the facility before beginning construction. (App U-25) [Amendment #4]
- 6 (34) During construction and operation of the facility, the certificate holder shall have water-  
7 carrying trailers (“water buffaloes”) at appropriate locations around the facility. The  
8 certificate holder shall bring a water buffalo to any job site where there is a substantial risk  
9 of fire. The certificate holder shall coordinate with the fire chiefs of the Helix and Milton-  
10 Freewater Rural Fire Departments as to the number, capacity and location of the water  
11 buffaloes. The certificate holder shall make sure that each water buffalo has a minimum  
12 capacity of 350 gallons with sufficient pump and hose equipment, as approved by the local  
13 fire chiefs. The certificate holder shall have service trucks and pickup trucks capable of  
14 towing water buffaloes available in sufficient numbers at all times during construction and  
15 operation of the facility. (App B-12)
- 16 (35) The certificate holder shall take steps to protect the facility and property from unauthorized  
17 access and to reduce the risk of accidental injury during construction and operations by  
18 (App U-25, 26) [Amendment #3]:
- 19 (a) Maintaining fencing and access gates around dangerous equipment or portions of the  
20 site as feasible. [Amendments #3 and #4]
- 21 (b) Posting warning signs near high-voltage equipment.
- 22 (c) Requiring construction contractors to provide specific job-related training to  
23 employees, including cardiopulmonary resuscitation, first aid, tower climbing, rescue  
24 techniques and safety equipment inspection.
- 25 (d) Requiring each worker to be familiar with site safety.
- 26 (e) Assigning safety officers to monitor construction activities and methods during each  
27 work shift.
- 28 (f) Ensuring that workers on each shift are certified in first aid.
- 29 (g) Ensuring a well-stocked first-aid supply kit is accessible on-site at all times and that  
30 each worker knows its location.
- 31 (h) Conducting periodic safety meetings for construction and maintenance staff.
- 32 (36) The certificate holder shall notify the Department of Energy and the Umatilla County  
33 Planning Department of any accidents including mechanical failures on the site associated  
34 with the operation of the wind power facility that may result in public health and safety  
35 concerns. (ORS 469.310) [Amendment #4]
- 36 (37) To reduce the visual impact of the facility, the certificate holder shall:
- 37 (a) Design, construct and operate a facility consisting of the major structures and related  
38 or supporting facilities described in the Site Certificate. [Amendments #1, #2 and #4]
- 39 (b) Group the turbines in strings of 2 to 37. [Amendments #1, #2 and #4]
- 40 (c) Construct each turbine to be not more than 263 feet tall at the turbine hub and with a  
41 total height of not more than 416 feet with the nacelle and blades mounted (App B-5)  
42 [Amendment #4]
- 43 (d) Mount nacelles on smooth, hollow steel towers. [Amendment #4]
- 44 (e) Paint all towers uniformly in a neutral light gray or white color. [Amendments #2 and #4]

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

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

6 (i) The Stateline 1&2 satellite operations and maintenance building may have a small  
7 amount of low-impact exterior lighting for security purposes (App BB-2).

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

10 (iii) Security lighting may be used at the Stateline 3 O&M building and substation if  
11 it is shielded or downward-directed to reduce glare.

12 [Amendments #2 and #4]

13 (h) Use only those signs required for facility safety or required by law and comply with  
14 Umatilla County design requirements for signs as described in UCDC Sections 152.545  
15 through 152.548. (App BB-2) [Amendment #4]

16 (i) Design and construct the operation and maintenance building to be generally  
17 consistent with the character of similar buildings used by commercial farmers or ranchers.  
18 Upon retirement of the energy facility, the operations and maintenance building must be  
19 removed or converted to farm use, in accordance with Condition 19. [Amendment #3 and #4]

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

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

26 See condition (55).

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

29 (41) If the certificate holder elects to use a bond to meet the requirements of Conditions (80) or  
30 (109), the certificate holder shall ensure that the surety is obligated to comply with the  
31 requirements of applicable statutes, Council rules and this site certificate when the surety  
32 exercises any legal or contractual right it may have to assume construction, operation or  
33 retirement of the energy facility. The certificate holder shall also assure that the surety is  
34 obligated to notify the Council that it is exercising such rights and to obtain any Council  
35 approvals required by applicable statutes, Council rules and this site certificate before the  
36 surety commences any activity to complete construction, operate or retire the energy  
37 facility. [Amendments #1, #2 and #4]

38 See Condition (2).

## 39 **2. Conditions That Must Be Met Before Construction Begins**

40 (42) The certificate holder shall notify the Department of Energy in advance of any initial road  
41 improvement work that does not meet the definition of "construction" in OAR 345-001-  
42 0010(10) or ORS 469.300(6) and shall provide to the Department plans of the work and  
43 evidence that its value is less than \$250,000. (App B-21) [Amendment #4]

- 1 (43) [Condition removed by Amendment #4]
- 2 (44) The certificate holder shall locate roads to minimize disturbance and maximize  
3 transportation efficiency and to avoid sensitive resources and unsuitable topography. The  
4 certificate holder shall use existing county roads and private farm roads to the maximum  
5 extent feasible. The certificate holder shall coordinate farm road improvements with  
6 landowners to minimize crop impacts and to assure that the final road provides useful  
7 access, where possible, to the landowners' fields. (App B-6)
- 8 (45) The certificate holder shall videotape all Umatilla County roads used as access to the  
9 facility and shall require construction contractors to enter into a written agreement with  
10 Umatilla County stating that all roads used by the contractor will be restored to as good or  
11 better condition than they were before construction. (App U-24)
- 12 (46) The certificate holder shall notify the Department of Energy of the identity and  
13 qualifications of major construction contractors for the facility. The certificate holder shall  
14 select major construction contractors based on a proven record of environmental  
15 compliance and stewardship, a clean record in terms of other regulatory obligations and  
16 other appropriate factors. (App D-3, 4) [Amendment #4]
- 17 (47) The certificate holder shall contractually require all construction contractors and  
18 subcontractors involved in the construction of the facility to comply with all applicable  
19 laws and regulations and with the terms and conditions of the site certificate. Such  
20 contractual provisions shall not operate to relieve the certificate holder of responsibility  
21 under the site certificate.  
22 See condition (2).
- 23 (48) The certificate holder shall require that all on-site construction contractors prepare a site  
24 health and safety plan before beginning construction activities. The certificate holder shall  
25 ensure that the plan informs employees and others onsite what to do in case of emergencies  
26 and includes the locations of fire extinguishers and nearby hospitals, important telephone  
27 numbers and first aid techniques. (App U-25)
- 28 (49) The certificate holder shall design the facility in accordance with seismic design provisions  
29 given in the Oregon Building Code. The certificate holder shall identify localized areas of  
30  $S_C$  and  $S_D$  soil types and assure that any structures to be built in those areas are designed  
31 according to the code. The certificate holder shall design all components constructed after  
32 2008 to meet the current Oregon Structural Specialty Code (OSSC 2007) and the 2006  
33 International Building Code. [Amendment #4]
- 34 (50) The certificate holder shall provide the Department of Energy with design specifications  
35 showing the locations of turbines and type of foundations to be employed and  
36 demonstrating that the following conditions have been satisfied (OAR 345-022-0020):  
37 (a) If a turbine is located within 50 feet of a slope steeper than  $30^\circ$ , the stability of the  
38 slope has been reviewed by the foundation designer to confirm that either (i) the slope has a  
39 safety factor of at least 1.1 during the maximum probable seismic event or (ii) the safety  
40 factor is less than 1.1, but ground displacements will not adversely affect the stability of the  
41 wind turbine. Slopes shall be evaluated in the field for each proposed turbine location.  
42 (b) The foundation designer's review of slope displacement during a seismic event has  
43 been made using a pseudo-static horizontal coefficient of 0.13g and, if the safety factor is

1 less than 1.1, the foundation designer has shown that (i) the movement will not intersect the  
2 turbine, (ii) the movement will intersect the turbine but will not affect its stability, or (iii)  
3 additional stabilization measures, such as anchor tie-downs or ground support systems, will  
4 be employed to maintain stability.

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

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

12 [Amendment #4]

13 (51) In modifying slope angles for roads or other facilities, the certificate holder shall assure that  
14 the foundation designer has achieved a factor of safety of 1.5 or greater for permanent  
15 structures and a factor of safety of 1.3 or greater for temporary structures. (OAR 345-022-  
16 0020)

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

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

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

22 (c) Avoiding the use of overhead collector lines. [Amendments #2 and #4]

23 (53) This condition does not apply to Stateline 2. The certificate holder shall survey the status of  
24 known Swainson's hawk nests within the vicinity of proposed construction before the  
25 projected date for construction to begin. If active nests are found, and construction is  
26 scheduled to begin before the end of the sensitive nesting and breeding season (June 1 to  
27 August 31), the certificate holder shall develop a no-construction buffer in consultation  
28 with ODFW and shall not engage in construction activities within the buffer until the  
29 sensitive season has ended. If construction continues into the sensitive nesting and breeding  
30 season for the following year, the certificate holder shall not engage in construction  
31 activities within the buffer around active nests until the sensitive season has ended.

32 [Amendments #2 and #4]

33 (54) This condition does not apply to Stateline 2. The certificate holder shall conduct appropriate  
34 pre-construction nest surveys for burrowing owls if construction is scheduled to occur  
35 during the sensitive period (March 15 to August 30). The certificate holder shall leave a no-  
36 construction buffer, developed in consultation with ODFW, around any active nests during  
37 the sensitive period. [Amendments #2 and #4]

38 (55) This condition does not apply to Stateline 2. The certificate holder shall conduct pre-  
39 construction surveys for state-listed threatened, endangered or candidate plant species in all  
40 areas not included in earlier botanical surveys of the analysis area. If any listed plants are  
41 found, the certificate holder will notify the Department of Energy and consult with the  
42 Oregon Department of Agriculture regarding appropriate measures to protect the species  
43 and mitigate for impacts from construction, operation and retirement of the facility. (App  
44 Q-7) [Amendment #4]



1 (56) This condition does not apply to Stateline 2. The certificate holder shall conduct appropriate  
2 pre-construction surveys for the presence of Washington ground squirrels in construction  
3 zones that have suitable habitat. Construction zones include the areas of permanent and  
4 temporary disturbance and a 175-foot surrounding buffer in which there may be incidental  
5 construction impacts. If squirrel activity is found, the certificate holder shall notify the  
6 Department of Energy and develop an appropriate no-construction buffer and other  
7 appropriate mitigation measures in consultation with the Department and ODFW. In  
8 addition, the certificate holder shall map and stake sensitive areas to be avoided during  
9 construction as required by Condition (63). [Amendments #2 and #4]

### 10 **3. Conditions That Apply During Construction**

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

13 See condition (8).

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

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

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

19 (c) Avoiding idling vehicles in grassy areas.

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

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

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

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

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

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

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

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

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

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

- 1 (e) Straw mulching and discing at locations adjacent to the road that have been impacted.
- 2 (f) Providing temporary sediment traps downstream of intermittent stream crossings.
- 3 (g) Providing sediment mats downstream of perennial stream crossings.
- 4 (h) Planting designated seed mixes at impacted areas adjacent to the roads.
- 5 (i) Installing sediment fencing along the downslope side of construction equipment
- 6 staging areas.
- 7 (j) Seeding all areas that are impacted by construction and reseeding as necessary to
- 8 establish a healthy cover crop.
- 9 (k) Leaving sediment fencing, check dams and other erosion control measures in place
- 10 until the impacted areas are well vegetated and the risk of erosion has been eliminated.
- 11 (l) Limiting truck and heavy equipment traffic, to the extent possible, to improved road
- 12 surfaces, and thereby limiting soil compaction and disturbances.
- 13 (m) Scarifying and reseeding compacted areas after construction is completed.
- 14 (n) Using appropriate erosion control methods to limit soil loss due to water and wind
- 15 action.
- 16 (o) Covering roads and turbine pads with gravel immediately following exposures,
- 17 thereby limiting the time for wind or water erosion. (App I-2, 3)
- 18 (p) Using water for dust suppression during construction. (App O-1)

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

- 27 (63) The certificate holder shall mitigate possible impacts to wildlife by measures including but  
 28 not limited to the following (App P-42 through 45, Q-10, 11):
- 29 (a) Preparing maps to show sensitive areas that are off-limits during the construction
  - 30 phase, distributing the maps to construction staff and having a biologist flag sensitive areas
  - 31 as needed.
  - 32 (b) Minimizing road construction and vehicle use where possible.
  - 33 (c) Posting speed limit signs throughout the construction zone.
  - 34 (d) Instructing construction personnel (including all construction contractors and their
  - 35 personnel) on sensitive wildlife of the area and on required precautions to avoid injuring or
  - 36 destroying wildlife.
  - 37 (e) Instructing construction personnel (including all construction contractors and their
  - 38 personnel) to watch out for wildlife while driving through the project area, to maintain
  - 39 reasonable driving speeds so as not to harass or accidentally strike wildlife and to be
  - 40 particularly cautious and drive at slower speeds in a period from one hour before sunset to
  - 41 one hour after sunrise when some wildlife species are the most active.
  - 42 (f) Requiring all construction personnel to report any injured or dead wildlife detected at
  - 43 the facility site.
  - 44 (g) Requiring all construction personnel to respect all staked wildlife areas and associated
  - 45 no-construction buffer areas.

- 1 (64) To avoid creating habitat for raptor prey near turbine towers, the certificate holder shall  
2 spread gravel on all above ground portions of the turbine pads to reduce the potential for  
3 weed infestation. (App BB-5)
- 4 (65) The certificate holder shall mitigate possible impacts to fish and wildlife habitat by  
5 measures including but not limited to the following (App P-42 through 45, Q-10, 11):  
6 (a) Avoiding vegetation removal wherever possible.  
7 (b) Limiting construction activities to within public road right-of-ways where possible.  
8 (c) Using best management practices to prevent erosion of soil into stream channels.  
9 (d) Controlling invasive, weedy plant species during maintenance of project facilities.  
10 (e) Restoring temporarily disturbed sites to pre-construction condition or better with  
11 native seed mixes as described for temporarily disturbed areas in the *Revegetation Plan*  
12 included in the Final Order on Amendment #4 as Attachment B and as revised from time to  
13 time. [Amendments #1 and #4]  
14 (f) Developing re-vegetation plant mixes and habitat enhancement locations in  
15 consultation with ODFW and the Umatilla County weed control board.  
16 (g) Monitoring re-vegetated areas to ensure successful establishment of new vegetation.  
17 (h) Monitoring turbine strings, roads and other disturbed areas regularly to prevent the  
18 spread of noxious weeds.  
19 (i) Developing measures to reduce the potential spread of noxious weeds in consultation  
20 with the weed control board of Umatilla County.
- 21 (66) This condition applies to Stateline 1 only. To mitigate for the permanent elimination of one-  
22 half acre of Category 2 habitat, the certificate holder shall control weeds and enhance  
23 habitat of one acre of weed-infested upland habitat with native plants. The certificate holder  
24 shall carry out enhancement activities as described for habitat enhancement areas in the  
25 *Revegetation Plan* referenced in Condition 65. The certificate holder shall acquire the legal  
26 right to create and maintain the enhancement area for the life of the facility by means of an  
27 outright purchase, conservation easement or similar conveyance and shall provide a copy of  
28 the documentation to the Department of Energy. The certificate holder shall determine the  
29 location of this habitat enhancement area in consultation with ODFW and landowners.  
30 (App P-44) [Amendments #1 and #4]
- 31 (67) This condition does not apply to Stateline 3. To mitigate for the permanent elimination of  
32 approximately 48 acres of Category 3 habitat, the certificate holder shall control weeds and  
33 enhance habitat on an equal area of weed-infested land in the project vicinity. The  
34 certificate holder shall carry out enhancement activities as described for habitat  
35 enhancement areas in the *Revegetation Plan* referenced in Condition 65. The certificate  
36 holder shall acquire the legal right to create and maintain the enhancement area for the life  
37 of the facility by means of an outright purchase, conservation easement or similar  
38 conveyance and shall provide a copy of the documentation to the Department of Energy.  
39 The certificate holder shall determine the location of this habitat enhancement area in  
40 consultation with ODFW and landowners. (App P-44) [Amendments #1 and #4]
- 41 (68) To minimize impacts to temporarily disturbed Category 6 habitat areas, the certificate  
42 holder shall use measures including but not limited to the following (App P-45):  
43 (a) Replacing agricultural topsoil to its pre-construction condition.  
44 (b) Using best management practices to prevent loss of topsoil during construction.

1 (c) Reseeding native habitats with a native seed mix that includes at least some seed  
2 collected from the area as described for temporarily disturbed habitats in the *Revegetation*  
3 *Plan* referenced in Condition 65. [Amendments #1 and #4]

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

5 (69) The certificate holder shall not place any part of the facility within any Washington ground  
6 squirrel (WGS) colony or on potential Washington ground squirrel burrows. The certificate  
7 holder shall have an on-site wildlife monitor who will flag habitat required for WGS  
8 survival (Category 1), conduct pre-construction surveys to determine the distribution of  
9 WGS in the area and ensure that construction personnel do not enter the area. The monitor  
10 shall conduct post construction monitoring to document distribution of the WGS in the area.  
11 [Amendments #2 and #4]

12 (70) To reduce potential injury or fatality of migratory birds, the certificate holder shall (App Q-  
13 10):

14 (a) Locate turbines away from saddles in long ridges.

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

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

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

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

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

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

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

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

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

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

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

- 1 (75) The certificate holder shall post high-visibility no-entry barriers around recorded cultural  
2 and archaeological sites and shall to ensure that construction workers stay away from the  
3 vicinity of the sites. The certificate holder shall locate barriers to create a buffer with a  
4 minimum width of 30 meters between the sites and construction activities. The certificate  
5 holder shall have a qualified cultural resource expert to monitor the avoidance of the no-  
6 entry areas by construction workers and to monitor ground disturbing activities. The  
7 certificate holder shall select a cultural resource expert chosen by the Confederated Tribes  
8 of the Umatilla Indian Reservation, if available, or shall select a qualified cultural resource  
9 expert, subject to Department approval, to conduct the monitoring. [Amendment #4]
- 10 (76) If previously unidentified cultural resources are encountered during construction, the  
11 certificate holder shall halt earth-disturbing activities in the immediate vicinity of the find,  
12 in accordance with Oregon state law (ORS 97.745 and 358.920), and shall notify the  
13 Department of Energy, the Oregon State Historic Preservation Officer (SHPO) and the  
14 Confederated Tribes of the Umatilla Indian Reservation (CTUIR). The certificate holder  
15 shall have a qualified archaeologist evaluate the discovery and recommend subsequent  
16 courses of action in consultation with the CTUIR and the SHPO. If human remains are  
17 discovered, the certificate holder shall halt all construction activities in the immediate area  
18 and shall notify the Department, SHPO, CTUIR, the County Medical Examiner and the  
19 State Police. [Amendment #4]
- 20 (77) The certificate holder shall include traffic control procedures in contract specifications for  
21 construction of the facility. The certificate holder shall require flaggers to be at appropriate  
22 locations at appropriate times during construction to direct traffic and to ensure minimal  
23 conflicts between harvest and construction vehicles. (App U-24)
- 24 (78) The certificate holder shall confine the noisiest construction activities to the daylight hours.  
25 (App X-8)
- 26 (79) This condition does not apply to Stateline 3. The certificate holder shall construct the cable  
27 crossing of Vansycle Canyon at a time when the stream is dry. The certificate holder shall  
28 remove no more than approximately 7.5 cubic yards of material from the streambed  
29 crossing and shall replace a like amount of fill material after the cable has been laid,  
30 restoring the area similar to the original contours of the streambed. (Linehan, July 23 letter,  
31 3) [Amendment #4]

32 **4. Conditions That Must Be Met Before Operation Begins**

- 33 (80) This condition applies to Stateline 1&2 only. Within 90 days after the effective date of the  
34 Fourth Amended Site Certificate, the certificate holder shall submit to the State of Oregon  
35 through the Council a bond or letter of credit in the amount of \$6.160 million (1<sup>st</sup> Quarter  
36 2009 dollars), to be adjusted to the date of issuance as described in (a), naming the State of  
37 Oregon, acting by and through the Council, as beneficiary or payee.  
38

1 (a) Subject to approval by the Department, the certificate holder shall adjust the amount  
2 of the bond or letter of credit on an annual basis using the following calculation:

3 (i) Adjust the Subtotal (1<sup>st</sup> Quarter 2009 dollars) shown in Table 1 of the Final Order  
4 on Amendment #4 to present value, using the U.S. Gross Domestic Product Implicit Price  
5 Deflator, Chain-Weight, as published in the Oregon Department of Administrative  
6 Services' "Oregon Economic and Revenue Forecast," or by any successor agency (the  
7 "Index"), and using the index value for 1<sup>st</sup> Quarter 2009 dollars and the quarterly index  
8 value for the date of issuance of the new bond or letter of credit. If at any time the Index is  
9 no longer published, the Council shall select a comparable calculation to adjust 1<sup>st</sup> Quarter  
10 2009 dollars to present value.

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

13 (iii) Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration and  
14 project management costs and 10 percent of the adjusted Gross Cost (ii) for the adjusted  
15 future developments contingency.

16 (iv) Add the adjusted Gross Cost (ii) to the sum of the percentages (iii) to determine  
17 the adjusted Full Cost, and round the resulting total to the nearest \$1,000 to determine the  
18 adjusted financial assurance amount for the reporting year.

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

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

23 (d) The bond or letter of credit shall not be subject to revocation or reduction before  
24 retirement of the energy facility.

25 (e) The certificate holder shall describe the status of the bond or letter of credit in the  
26 annual report submitted to the Council under Condition (8).

27 See Conditions (19) and (41).

28 [Amendment #4]

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

32 (82) The certificate holder shall grade and reseed laydown areas to wheat or native grasses as  
33 necessary to restore those areas to their pre-construction condition (App B-10).  
34

- 1 (83) For any materials disposed of as fill on site, the certificate holder shall conduct such  
2 disposal with the approval of the landowner and in accordance with OAR 340-093-0080  
3 and other applicable regulations. (App G-3, V-3)
- 4 (84) For the purposes of this site certificate, wind turbine tower locations are analogous to  
5 location of permanent rights-of-way for pipelines or transmission lines as described in OAR  
6 345-027-0023(5). The Council approves the corridor described in the final order for  
7 construction of turbine strings. As required under OAR 345-027-0020(2) and Condition 13,  
8 the certificate holder shall submit to the Department of Energy a legal description of the  
9 location where the certificate holder has built turbine towers and other parts of the facility.  
10 Within 90 days after beginning operation of any turbines that are added to the facility by  
11 amendment of the site certificate, the certificate holder shall submit to the Department a  
12 legal description of the location of any additional turbine towers and related or supporting  
13 facilities allowed by the amendment. The site of the facility is the area identified by the  
14 legal descriptions required by this condition. Within 90 days after beginning facility  
15 operation, the certificate holder shall provide to the Department and the Umatilla County  
16 Planning Department the actual latitude and longitude location or Stateplane NAD 83(91)  
17 coordinates of each turbine tower, connecting lines and transmission lines and a summary  
18 of as built changes in the facility from the original plan. (OAR 345-027-0020(2) and (3))  
19 [Amendments #1 and #4]
- 20 See Condition (13).

21 **5. Conditions That Must Be Met During Operation**

- 22 (85) The certificate holder shall prepare and maintain a site health and safety plan that informs  
23 employees and others onsite what to do in case of emergencies and includes the locations of  
24 fire extinguishers and nearby hospitals, important telephone numbers and first aid  
25 techniques. (App U-25)
- 26 (86) The certificate holder shall recycle solid waste generated during operation of the facility as  
27 much as feasible and shall collect non-recyclable waste and transport it to a local landfill.  
28 (App V-2)
- 29 (87) This condition applies to Stateline 1&2 only. The certificate holder shall provide portable  
30 toilets for use at the satellite O&M building and shall make sure that they are pumped and  
31 cleaned regularly by a licensed pumper who is qualified to pump and clean portable toilet  
32 facilities. The certificate holder must contact the Oregon Department of Environmental  
33 Quality if the on-site septic system is to be used. (App O-2) [Amendment #4]
- 34 (88) If the turbine blades need to be washed, the certificate holder shall use no more than 500  
35 gallons of water per turbine, trucked to the site by a contractor and purchased from a source  
36 with a valid water right. The certificate holder shall use high-pressure cold water only and  
37 shall not use chemicals or additives in the wash water. (App O-2) [Amendment #1]
- 38 (89) If any new nesting or denning sites for wildlife species of concern are located, the  
39 certificate holder shall prepare maps indicating off-limit areas. In addition, the certificate  
40 holder shall minimize road construction and vehicle use where possible. (P-42)
- 41 (90) The certificate holder shall mitigate possible impacts to wildlife by measures including but  
42 not limited to the following (App P-43, Q-10):

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

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

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

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

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

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

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

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

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

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

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

23 (93) The certificate holder shall conduct wildlife monitoring as described in the *Wildlife*  
24 *Monitoring and Mitigation Plan*, included in the Final Order on Amendment #4 as  
25 Attachment A and as revised from time to time. Subject to approval by the Department of  
26 Energy as to professional qualifications, the certificate holder shall hire qualified wildlife  
27 consultants to carry out the monitoring. (OAR 345-022-0060) [Amendments #1 and #4]

28 (94) If analysis of monitoring data indicates impacts to wildlife or wildlife habitat that the  
29 certificate holder has not adequately addressed by mitigation and if these impacts result in a  
30 loss of habitat quantity or quality, the certificate holder shall mitigate for the loss of habitat  
31 quality by measures approved by the Oregon Department of Energy. (OAR 345-022-0060)  
32 [Amendment #4]

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

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



1 emergency. The certificate holder shall supply all local fire departments with maps of and  
2 gate keys to the facility. (App B-12)

3 **VI. CONDITIONS ADDED BY AMENDMENT #1** [Amendments #1 and #4]

4 The conditions listed in this section include conditions based on representations in the  
5 request for Amendment #1 and supporting record. The Council deems these representations to be  
6 binding commitments made by the applicant. These conditions are required under OAR 345-027-  
7 0020(10). [Amendment #4]

8 Except as specifically noted, these conditions apply to all phases of the Stateline Wind  
9 Project. In applying the conditions in this section, “certificate holder” means FPL Vansycle with  
10 regard to Stateline 1&2 and FPL Stateline with regard to Stateline 3. [Amendment #4]

11 **1. General Conditions**

12 (97) This condition applies to Stateline 2 only. The certificate holder shall begin construction of  
13 Stateline 2 within six months after the effective date of the First Amended Site Certificate.  
14 The certificate holder shall complete construction of Stateline 2 before March 1, 2005.  
15 Under OAR 345-027-0070, an amended site certificate is effective upon execution by the  
16 Council Chair and the applicant. Completion of construction occurs upon the date  
17 commercial operation of Stateline 2 begins. The Council may grant an extension of the  
18 construction beginning or completion deadlines in accordance with OAR 345-027-0030 or  
19 any successor rule in effect at the time the request for extension is submitted. [Amendments #2  
20 and #4]

21 (98) [Condition removed by Amendment #4]

22 (99) Before any transfer of ownership of the facility or ownership of the site certificate holder,  
23 the certificate holder shall inform the Department of the proposed new owners. The  
24 requirements of OAR 345-027-0100 apply to any transfer of ownership that requires a  
25 transfer of the site certificate. (OAR 345-027-0020(15) [Amendment #4]

26 (100) If the Council finds that the certificate holder has permanently ceased construction or  
27 operation of the facility without retiring the facility according to a final retirement plan  
28 approved by the Council, as described in OAR 345-027-0110, the Council shall notify the  
29 certificate holder and request that the certificate holder submit a proposed final retirement  
30 plan to the Department of Energy within a reasonable time not to exceed 90 days. If the  
31 certificate holder does not submit a proposed final retirement plan by the specified date, the  
32 Council may direct the Department to prepare a proposed a final retirement plan for the  
33 Council’s approval. Upon the Council’s approval of the final retirement plan, the Council  
34 may draw on the bond or letter of credit described in OAR 345-027-0020(8) to restore the  
35 site to a useful, non-hazardous condition according to the final retirement plan, in addition  
36 to any penalties the Council may impose under OAR Chapter 345, Division 29. If the  
37 amount of the bond or letter of credit is insufficient to pay the actual cost of retirement, the  
38 certificate holder shall pay any additional cost necessary to restore the site to a useful, non-  
39 hazardous condition. After completion of site restoration, the Council shall issue an order to  
40 terminate the site certificate if the Council finds that the facility has been retired according  
41 to the approved final retirement plan. (OAR 345-027-0020(16) [Amendment #4]

1 **2. Conditions That Must Be Met Before Construction Begins**

2 (101) This condition applies to Stateline 2 only. The certificate holder shall not engage in  
3 construction activities for Stateline 2 facilities, including the movement of heavy trucks and  
4 equipment, within a ¼-mile buffer around an identified ferruginous hawk nest tree during  
5 the sensitive period of the nesting season (March 20 to August 15), except as provided in  
6 this condition. The certificate holder shall use a protocol approved by the Oregon  
7 Department of Fish and Wildlife (ODFW) to determine whether the nest is occupied. The  
8 certificate holder may begin construction activities before August 15 if the nest is not  
9 occupied. If the nest is occupied, the certificate holder shall use a protocol approved by  
10 ODFW to determine when the young are fledged (independent of the core nest site). With  
11 the approval of ODFW, the certificate holder may begin construction before August 15 if  
12 the young are fledged. During the specified nesting season, the certificate holder may use  
13 the road into the site with vehicles that are one ton in capacity or smaller; conduct turbine,  
14 turbine tower, blade or met tower construction activities that are not visible above the  
15 horizon from the vantage point of the ferruginous hawk nest; and use the road one time to  
16 transport heavy equipment off the site. [Amendments #2 and #4]

17 (102) [Condition removed by Amendment #4]

18 **3. Conditions That Apply During Construction**

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

25 (104) This condition applies to Stateline 2 only. To mitigate for the permanent elimination of  
26 approximately 1 acre of Category 3 and 4 habitat, the certificate holder shall enlarge the  
27 habitat enhancement area described in Condition (67) by 1 acre. [Amendment #4]

28 **4. Conditions That Must Be Met During Operation**

29 (105) This condition applies to Stateline 2 only. The certificate holder shall enter into an  
30 agreement with the landowner of a property identified as 84301 Stockman Road, Helix,  
31 Oregon, requiring that the structure remain uninhabited during construction. The certificate  
32 holder shall continue the no-occupation agreement until retirement of the facility unless the  
33 certificate holder demonstrates to the satisfaction of the Department that the facility  
34 complies with the applicable noise control regulations under OAR 340-035-0035. The  
35 certificate holder may demonstrate compliance with the regulations as to the increase in  
36 ambient statistical noise levels by entering into a legally effective easement or real covenant  
37 with the owner of the property identified as 84301 Stockman Road, Helix, Oregon, pursuant  
38 to which the owner authorizes the certificate holder's operation of the facility to increase  
39 ambient statistical noise levels L<sub>10</sub> and L<sub>50</sub> by more than 10 dBA at the appropriate  
40 measurement point. A legally effective easement or real covenant shall: include a legal  
41 description of the burdened property (the noise sensitive property); be recorded in the real  
42 property records of the county; expressly benefit the certificate holder; expressly run with  
43 the land and bind all future owners, lessees or holders of any interest in the burdened

1 property; and not be subject to revocation without the certificate holder’s written approval.  
2 If such easement or real covenant is not in effect, then the certificate holder shall  
3 demonstrate to the satisfaction of the Department, based on modeling or measurements  
4 performed in compliance with OAR 340-035-0035, that an easement or real covenant is not  
5 necessary to comply with those regulations. [Amendments #3 and #4].

6 **VII. CONDITIONS ADDED BY AMENDMENT #2** [Amendments #2 and #4]

7 The conditions listed in this section include conditions based on representations in the  
8 request for Amendment #2 and supporting record. The Council deems these representations to be  
9 binding commitments made by the applicant. These conditions are required under OAR 345-027-  
10 0020(10). These conditions apply to Stateline 3 only. In applying the conditions in this section,  
11 “certificate holder” means FPL Stateline. [Amendment #4]

12 **1. General Conditions**

13 (106) The certificate holder shall begin construction of Stateline 3 by October 1, 2009. The  
14 certificate holder shall complete construction of Stateline 3 before December 31, 2010.  
15 Under OAR 345-027-0070, an amended site certificate is effective upon execution by the  
16 Council Chair and the applicant. Completion of construction occurs upon the date  
17 commercial operation of Stateline 3 begins. The Council may grant an extension of the  
18 construction beginning or completion deadlines in accordance with OAR 345-027-0030 or  
19 any successor rule in effect at the time the request for extension is submitted. [Amendments #3  
20 and #4]

21 (107) [Condition removed by Amendment #4]

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

24 (a) Designing and operating the transmission lines so that maximum current (amps per  
25 conductor) would not exceed the following levels: For 34.5-kV underground lines, 560  
26 amps and for 230-kV transmission lines, 753 amps. [Amendment #4]

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

29 **2. Conditions That Must Be Met Before Construction Begins**

30 (109) Before beginning construction of Stateline 3, the certificate holder shall submit to the  
31 State of Oregon through the Council a bond or letter of credit in the amount described  
32 herein naming the State of Oregon, acting by and through the Council, as beneficiary or  
33 payee. The initial bond or letter of credit amount is either \$5.911 million (in 1<sup>st</sup> Quarter  
34 2009 dollars), to be adjusted to the date of issuance as described in (b), or the amount  
35 determined as described in (a). The certificate holder shall adjust the amount of the bond or  
36 letter of credit on an annual basis thereafter as described in (b).  
37

1 (a) The certificate holder may adjust the amount of the bond or letter of credit based on  
2 the final design configuration of Stateline 3 by applying the unit costs and general costs  
3 illustrated in Table 3 in the Final Order on Amendment #4 and calculating the financial  
4 assurance amount as described in that order, adjusted to the date of issuance as described in  
5 (b) and subject to approval by the Department.

6 (b) Subject to approval by the Department, the certificate holder shall adjust the amount  
7 of the bond or letter of credit on an annual basis using the following calculation:

8 (i) Adjust the Subtotal component of the initial bond or letter of credit amount  
9 (expressed in 1<sup>st</sup> Quarter 2009 dollars) to present value, using the U.S. Gross Domestic  
10 Product Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of  
11 Administrative Services' "Oregon Economic and Revenue Forecast," or by any successor  
12 agency (the "Index") and using the index value for 1<sup>st</sup> Quarter 2009 dollars and the  
13 quarterly index value for the date of issuance of the new bond or letter of credit. If at any  
14 time the Index is no longer published, the Council shall select a comparable calculation to  
15 adjust 1<sup>st</sup> Quarter 2009 dollars to present value.

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

18 (iii) Add 10 percent of the adjusted Gross Cost (ii) for the adjusted administration and  
19 project management costs and 10 percent of the adjusted Gross Cost (ii) for the adjusted  
20 future developments contingency.

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

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

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

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

30 (f) The bond or letter of credit shall not be subject to revocation or reduction before  
31 retirement of the Stateline 3 site.

32 [Amendment #4]

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

1 (111) [Condition removed by Amendment #4]

2 **3. Conditions That Apply During Construction**

3 (112) Before beginning construction and after considering all micrositing factors, the certificate  
4 holder shall provide to the Department and to the Oregon Department of Fish and Wildlife  
5 (ODFW) detailed maps of the facility site, showing the final design locations where the  
6 certificate holder proposes to build facility components and the habitat categories of all  
7 areas that would be affected during construction. In addition, the certificate holder shall  
8 provide a table showing the acres of temporary and permanent habitat impact by habitat  
9 category and subtype, similar to Table 8 in the Final Order on Amendment #4. In  
10 classifying the affected habitat into habitat categories, the certificate holder shall consult  
11 with the ODFW. The certificate holder shall not begin ground disturbance in an affected  
12 area until the habitat assessment has been approved by the Department. The Department  
13 may employ a qualified contractor to confirm the habitat assessment by on-site inspection.  
14 Based on the approved habitat assessment, the certificate holder shall calculate the  
15 mitigation area requirement and shall carry out enhancement activities as described in the  
16 *Stateline 3 Habitat Mitigation Plan* included in the Final Order on Amendment #4 as  
17 Attachment C and as revised from time to time. The certificate holder shall acquire the legal  
18 right to create and maintain the enhancement area for the life of the facility by means of an  
19 outright purchase, conservation easement or similar conveyance and shall provide a copy of  
20 the documentation to the Department of Energy. The certificate holder shall determine the  
21 location of this habitat enhancement area in consultation with ODFW and landowners.  
22 [Amendment #4]

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

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

27 (b) Attach the 230-kV aboveground transmission lines to H-frame structures that consist  
28 of two wooden poles connected by cross-members with a typical overall height of 61 feet  
29 and a minimum design ground clearance of 25 feet to the lowest conductor as described in  
30 the Request for Amendment #4.

31 (c) Design and construct the transmission lines so that:

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

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

35 [Amendment #4]

36 (114) To deter raptors from perching on transmission support structures near the wind turbines,  
37 the certificate holder shall install anti-perching devices on all proposed support structures  
38 within one-half mile of any turbine, unless the top of the support structure is below the base  
39 of the turbine tower due to topography. Wherever feasible, the certificate holder shall use  
40 “spike-type” devices instead of “triangle-type” devices. [Amendment #4]

41 (115) To protect raptors, the certificate holder shall design structures for 230-kV transmission  
42 lines to conform to the guidelines of the Avian Power Line Interaction Committee so that  
43 electrical conductors are spaced far enough apart to reduce the risk of bird electrocution.  
44 [Amendment #4]

- 1 (116) [Condition removed by Amendment #4]
- 2 (117) The certificate holder shall not engage in construction activities for Stateline 3 facilities,  
3 including the movement of heavy trucks and equipment, within a ¼-mile buffer around  
4 known ferruginous hawk nests during the sensitive period of the nesting season from  
5 (March 20 to August 15), except as provided in this condition. The certificate holder shall  
6 use a protocol approved by the Oregon Department of Fish and Wildlife (ODFW) to  
7 determine whether the nest is occupied. The certificate holder may begin construction  
8 activities before August 15, if the nest is not occupied. If the nest is occupied, the certificate  
9 holder shall use a protocol approved by ODFW to determine when the young are fledged  
10 (independent of the core nest site). With the approval of ODFW, the certificate holder may  
11 begin construction before August 15, if the young are fledged.
- 12 (118) The certificate holder shall construct stream crossings substantially as described in the  
13 Final Order on Amendment #4. In particular, the certificate holder shall not remove  
14 material from waters of the state or add new fill material to waters of the state such that the  
15 total volume of removal and fill exceeds 50 cubic yards for the project as a whole.  
16 [Amendment #4]

#### 17 **4. Conditions That Must Be Met During Operation**

- 18 (119) The certificate holder shall perform frequent maintenance to keep the substation  
19 transformer in good repair and in reliable operating condition.
- 20 (120) The certificate holder shall verify that the actual sound power level output of the wind  
21 turbines constructed for Stateline 3 meets the manufacturer’s warranty. This verification  
22 may consist of field measurement or other means of verification satisfactory to the  
23 Department of Energy. The certificate holder shall include the verification in the first  
24 annual report following construction of any Stateline 3 turbines. [Amendment #4]

#### 25 **VIII. CONDITIONS ADDED BY AMENDMENT #3**

- 26 (121) [Condition removed by Amendment #4]
- 27 (122) [Condition removed by Amendment #4]

#### 28 **IX. CONDITIONS ADDED BY AMENDMENT #4**

- 29 Except as specifically noted, the conditions in this section apply to Stateline 3 only. In  
30 applying the conditions in this section, “certificate holder” means FPL Stateline. In applying the  
31 conditions in this section, “certificate holder” means FPL Vansycle with regard to Stateline 1&2  
32 and FPL Stateline with regard to Stateline 3. [Amendment #4]
- 33 (123) The certificate holder shall design and construct Stateline 3 in compliance with the County  
34 design requirements as described in Umatilla County Development Code Sections 152.010,  
35 152.011, 152.015, 152.018, 152.063(E) and 152.616(HHH)(5)(F) in effect as of October 24,  
36 2008. [Amendment #4]
- 37 (124) The certificate holder shall ensure that construction contractors use a transportation route  
38 reviewed and approved by the Umatilla County Public Works Director for all oversized and  
39 heavy load transport vehicles. [Amendment #4]

- 1 (125) The certificate holder shall record a Covenant Not to Sue with regard to generally  
2 accepted farming practices as required by Umatilla County Development Code Section  
3 152.616(HHH)(2)(E). [Amendment #4]
- 4 (126) The certificate holder shall construct all Stateline 3 components in compliance with the  
5 following setback requirements:  
6 (a) All facility components must be at least 3,520 feet from the property line of properties  
7 zoned residential use or designated in the Umatilla County Comprehensive Plan as  
8 residential.  
9 (b) Where (a) does not apply, the certificate holder shall maintain a minimum distance of  
10 110-percent of maximum blade tip height, measured from the centerline of the turbine  
11 tower to the nearest edge of any public road right-of-way. The certificate holder shall  
12 assume a minimum right-of-way width of 60 feet.  
13 (c) Where (a) does not apply, the certificate holder shall maintain a minimum distance of  
14 1,320 feet, measured from the centerline of the turbine tower to the center of the nearest  
15 residence existing at the time of tower construction.  
16 (d) Where (a) does not apply, the certificate holder shall maintain a minimum distance of  
17 110-percent of maximum blade tip height, measured from the centerline of the turbine  
18 tower to the nearest boundary of the certificate holder's lease area.  
19 (e) The certificate holder shall not locate equipment associated with the temporary batch  
20 plant within 50 feet of a public road, county road or utility right of way.  
21 [Amendment #4]
- 22 (127) The certificate holder shall deliver a copy of the annual report required under Condition 8  
23 to the Umatilla County Planning Commission on an annual basis unless specifically  
24 discontinued by the County. [Amendment #4]
- 25 (128) During construction, the certificate holder shall position a 3,000-gallon water truck on-site  
26 while personnel are present and actively working. [Amendment #4]
- 27 (129) During operation, the certificate holder shall discharge sanitary wastewater generated at  
28 the Stateline 3 O&M building to a licensed on-site septic system in compliance with county  
29 permit requirements. The certificate holder shall locate the septic system more than 100 feet  
30 from any streams, lakes or wetlands. The certificate holder shall design the septic system  
31 for a discharge capacity of less than 2,500 gallons per day. [Amendment #4]
- 32 (130) During operation, the certificate holder shall obtain water for on-site uses from a wells  
33 located at the Stateline 3 O&M building, subject to compliance with applicable permit  
34 requirements. The certificate holder shall not use more than 5,000 gallons of water per day  
35 from the on-site well. [Amendment #4]
- 36 (131) The certificate holder shall avoid permanent and temporary disturbance to all Category 1  
37 and Category 2 habitat within the Stateline 3 site boundary. [Amendment #4]
- 38 (132) Before beginning construction, the certificate holder shall conduct a site-specific  
39 geotechnical investigation and shall report its findings to the Oregon Department of  
40 Geology & Mineral Industries (DOGAMI) and the Department. The certificate holder shall  
41 conduct the geotechnical investigation after consultation with DOGAMI and in general  
42 accordance with DOGAMI open file report 00-04 "Guidelines for Engineering Geologic  
43 Reports and Site-Specific Seismic Hazard Reports." [Amendment #4]

1 (133) Before beginning construction, the certificate holder shall provide to the Department:

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

4 (b) The maximum sound power level for the Stateline 3 substation transformers and the  
5 maximum sound power level and octave band data for the turbines selected for the Stateline  
6 3 based on manufacturers' warranties or confirmed by other means acceptable to the  
7 Department.

8 (c) The results of noise analysis of the facility, including the Stateline 3 components to be  
9 built according to the final design, performed in a manner consistent with the requirements  
10 of OAR 340-035-0035(1)(b)(B)(iii)(IV) and (VI) demonstrating to the satisfaction of the  
11 Department that the total noise generated by the facility (including the noise from turbines  
12 and substation transformers) would meet the ambient degradation test and maximum  
13 allowable test at the appropriate measurement point for all potentially-affected noise  
14 sensitive properties.

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

25 [Amendment #4]

26 (134) During operation, the certificate holder shall maintain a complaint response system to  
27 address noise complaints. The certificate holder shall promptly notify the Department of  
28 any complaints received regarding facility noise and of any actions taken by the certificate  
29 holder to address those complaints. In response to a complaint from the owner of a noise  
30 sensitive property regarding noise levels during operation of the facility, the Council may  
31 require the certificate holder to monitor and record the statistical noise levels to verify that  
32 the certificate holder is operating the facility in compliance with the noise control  
33 regulations. [Amendment #4]

34 (135) During construction, the certificate holder shall not install any transmission line support  
35 structures within 800 feet of any active Swainson's hawk nest identified in 2008 or later.  
36 [Amendment #4]

37 (136) This condition applies to all phases of the Stateline Wind Project. When any third-party  
38 lien or security interest in the facility's wind turbines or turbine towers is created, the  
39 certificate holder shall notify such third party in writing that the wind turbines and towers  
40 are components an energy facility that is subject to the terms and conditions of a Site  
41 Certificate and subject to the rules of the Oregon Energy Facility Siting Council. The  
42 certificate holder shall provide to the Department a copy of each written notification  
43 required under this condition and the name and contact information for each third party so  
44 notified. [Amendment #4]



1 **X. SUCCESSORS AND ASSIGNS**

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

4 **XI. SEVERABILITY AND CONSTRUCTION**

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

12 **XII. GOVERNING LAW AND FORUM**

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

15 **XIII. EXECUTION**

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

19 **IN WITNESS WHEREOF**, this site certificate has been executed by the State of Oregon, acting  
20 by and through its Energy Facility Siting Council, by FPL Energy Vansycle LLC and by FPL  
21 Energy Stateline III, Inc.

ENERGY FACILITY SITING COUNCIL

FPL ENERGY VANSYCLE LLC

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

By: Michael O'Sullivan  
Print: Michael O'Sullivan  
Sr. Vice President

Date: 3/27/09

Date: \_\_\_\_\_

FPL ENERGY STATELINE II, INC.

By: Michael O'Sullivan  
Print: Michael O'Sullivan  
Sr. Vice President

Date: \_\_\_\_\_

MAY 28 2009

*Done*



DEPARTMENT OF ENERGY

MAY 29 2009

RECEIVED

MAY 29 2009

DEPARTMENT OF ENERGY

May 22, 2009

John White  
Oregon Department of Energy  
625 Marion St NE  
Salem, OR 97301

Dear Mr. White,

I apologize for the missing date on the Stateline Site Fourth Amendment dated March 27, 2009; this was an oversight on our part. Please consider this letter as a confirmation that the document was executed on May 19, 2009.

Please feel free to contact me with any questions at 561-329-4550 or email [cliff.graham@nexteraenergy.com](mailto:cliff.graham@nexteraenergy.com). Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read 'Cliff Graham'.

Cliff Graham  
Project Manager