

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

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

November 20, 2009

The Oregon Energy Facility Siting Council
FIRST AMENDED SITE CERTIFICATE
FOR THE LEANING JUNIPER II WIND POWER FACILITY

I. INTRODUCTION

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

6 The findings of fact, reasoning and conclusions of law underlying the terms and
7 conditions of this site certificate are set forth in the following documents, incorporated herein by
8 this reference: (a) the Council's *Final Order on the Application* for the facility issued on
9 September 21, 2007, and (b) the Council's *Final Order on Amendment #1*. In interpreting this
10 site certificate, any ambiguity will be clarified by reference to the following, in order of priority:
11 (1) this Amended Site Certificate, (2) the *Final Order on Amendment #1*, (3) the *Final Order on*
12 *the Application* and (4) the record of the proceedings that led to the Final Orders on the
13 Application and Amendment #1. [Amendment #1]

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

II. SITE CERTIFICATION

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

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

III. DESCRIPTION

1. The Facility

(a) The Energy Facility

22 The energy facility is an electric power generating plant with an average electric
23 generating capacity of approximately 92 megawatts and a peak generating capacity of not more
24 than 277 megawatts that produces power from wind energy. The facility consists of not more
25 than 127 wind turbines. The maximum peak generating capacity of each turbine is not more than
26 3.0 megawatts. The energy facility is described further in the Final Orders on the Application
27 and Amendment #1. [Amendment #1]

(b) Related or Supporting Facilities

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

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

1 **Power Collection System**

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

6 **Substations and Interconnection System**

7 The facility includes a substation located near the Bonneville Power Administration
8 (BPA) Jones Canyon Switching Station. An aboveground transmission line less than 400 feet in
9 length carries the power from the substation to a BPA switching station and an interconnection
10 with the regional transmission grid through BPA’s McNary-Santiam 230-kV transmission line.
11 The facility may include a second substation located within the area added to the facility by
12 Amendment #1 (LJIIB) and a 230-kV transmission line to carry power from the second
13 substation to the facility substation located near the Jones Canyon Switching Station.
14 Alternatively, the facility may include two parallel double-circuit 34.5-kV lines to carry power
15 from the LJIIB area to the facility substation. [Amendment #1]

16 **Meteorological Towers**

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

19 **Operations and Maintenance Facilities**

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

22 **Control System**

23 A fiber optic communications network links the wind turbines to a central computer at
24 the O&M buildings. A “supervisory, control and data acquisition” (SCADA) system collects
25 operating and performance data from each wind turbine and from the project as a whole and
26 allows remote operation of the wind turbines.

27 **Access Roads**

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

29 **Temporary Construction Areas**

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

2. Location of the Proposed Facility

33 The facility is located southwest of Arlington, in Gilliam County, Oregon. The site is in
34 Townships 1, 2 and 3 North and Ranges 20, 21 and 22 East. The facility is located on land
35 subject to lease agreements with landowners. [Amendment #1]

IV. CONDITIONS REQUIRED BY COUNCIL RULES

36 This section lists conditions required by OAR 345-027-0020 (Mandatory Conditions in
37 Site Certificates), OAR 345-027-0023 (Site Specific Conditions), OAR 345-027-0028

1 (Monitoring Conditions) and OAR Chapter 345, Division 26 (Construction and Operation Rules
2 for Facilities). These conditions should be read together with the specific facility conditions
3 listed in Section V to ensure compliance with the siting standards of OAR Chapter 345,
4 Divisions 22 and 24, and to protect the public health and safety. In these conditions, “Office of
5 Energy” means the Oregon Department of Energy, and the other definitions in OAR 345-001-
6 0010 apply.

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

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

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

26 1 OAR 345-027-0020(1): The Council shall not change the conditions of the site certificate
27 except as provided for in OAR Chapter 345, Division 27.

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

33 3 OAR 345-027-0020(3): The certificate holder shall design, construct, operate and retire the
34 facility:

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

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

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

40 4 OAR 345-027-0020(4): The certificate holder shall begin and complete construction of the
41 facility by the dates specified in the site certificate. (*See conditions 25 and 26.*)

42 5 OAR 345-027-0020(5): Except as necessary for the initial survey or as otherwise allowed
43 for wind energy facilities, transmission lines or pipelines under this section, the certificate

holder shall not begin construction, as defined in OAR 345-001-0010, or create a clearing on any part of the site until the certificate holder has construction rights on all parts of the site. For the purpose of this rule, “construction rights” means the legal right to engage in construction activities. For wind energy facilities, transmission lines or pipelines, if the certificate holder does not have construction rights on all parts of the site, the certificate holder may nevertheless begin construction, as defined in OAR 345-001-0010, or create a clearing on a part of the site if the certificate holder has construction rights on that part of the site and:

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

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

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

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

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

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

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

11 OAR 345-027-0020(11): Upon completion of construction, the certificate holder shall restore vegetation to the extent practicable and shall landscape all areas disturbed by

1 construction in a manner compatible with the surroundings and proposed use. Upon
2 completion of construction, the certificate holder shall remove all temporary structures not
3 required for facility operation and dispose of all timber, brush, refuse and flammable or
4 combustible material resulting from clearing of land and construction of the facility.

5 12 OAR 345-027-0020(12): The certificate holder shall design, engineer and construct the
6 facility to avoid dangers to human safety presented by seismic hazards affecting the site that
7 are expected to result from all maximum probable seismic events. As used in this rule
8 “seismic hazard” includes ground shaking, landslide, liquefaction, lateral spreading,
9 tsunami inundation, fault displacement and subsidence.

10 13 OAR 345-027-0020(13): The certificate holder shall notify the Department, the State
11 Building Codes Division and the Department of Geology and Mineral Industries promptly
12 if site investigations or trenching reveal that conditions in the foundation rocks differ
13 significantly from those described in the application for a site certificate. After the
14 Department receives the notice, the Council may require the certificate holder to consult
15 with the Department of Geology and Mineral Industries and the Building Codes Division
16 and to propose mitigation actions.

17 14 OAR 345-027-0020(14): The certificate holder shall notify the Department, the State
18 Building Codes Division and the Department of Geology and Mineral Industries promptly
19 if shear zones, artesian aquifers, deformations or clastic dikes are found at or in the vicinity
20 of the site.

21 15 OAR 345-027-0020(15): Before any transfer of ownership of the facility or ownership of
22 the site certificate holder, the certificate holder shall inform the Department of the proposed
23 new owners. The requirements of OAR 345-027-0100 apply to any transfer of ownership
24 that requires a transfer of the site certificate

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

41 17 OAR 345-027-0023(4): If the facility includes any transmission line under Council
42 jurisdiction:

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

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

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

15 19 OAR 345-027-0028: The following general monitoring conditions apply:

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

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

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

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

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

1 21 OAR 345-026-0080: The certificate holder shall report according to the following
2 requirements:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 23 OAR 345-026-0170: The certificate holder shall notify the Department of Energy within 72
19 hours of any occurrence involving the facility if:

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

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

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

V. SPECIFIC FACILITY CONDITIONS

25 The conditions listed in this section include conditions based on representations in the
26 site certificate application and supporting record. The Council deems these representations to be
27 binding commitments made by the applicant. These conditions are required under OAR 345-027-
28 0020(10). The certificate holder must comply with these conditions in addition to the conditions
29 listed in Section IV. This section includes other specific facility conditions the Council finds
30 necessary to ensure compliance with the siting standards of OAR Chapter 345, Divisions 22 and
31 24, and to protect public health and safety. For conditions that require subsequent review and
32 approval of a future action, ORS 469.402 authorizes the Council to delegate the future review
33 and approval to the Department if, in the Council's discretion, the delegation is warranted under
34 the circumstances of the case.

1. Certificate Administration Conditions

35 24 The certificate holder shall request an amendment of the site certificate if the LJ-North
36 components are built or operated as part of the Pebble Springs Wind Project under the
37 authority of a Gilliam County Conditional Use Permit.

38 25 The certificate holder shall begin construction of the facility by September 24, 2010. Under
39 OAR 345-015-0085(9), a site certificate is effective upon execution by the Council Chair
40 and the applicant. The Council may grant an extension of the deadline to begin construction

1 in accordance with OAR 345-027-0030 or any successor rule in effect at the time the
2 request for extension is submitted. [Amendment #1]

3 26 The certificate holder shall complete construction of the facility by September 24, 2013.
4 Construction is complete when: 1) the facility is substantially complete as defined by the
5 certificate holder's construction contract documents, 2) acceptance testing has been
6 satisfactorily completed and 3) the energy facility is ready to begin continuous operation
7 consistent with the site certificate. The certificate holder shall promptly notify the
8 Department of the date of completion of construction. The Council may grant an extension
9 of the deadline for completing construction in accordance with OAR 345-027-0030 or any
10 successor rule in effect at the time the request for extension is submitted. [Amendment #1]

11 27 The certificate holder shall construct a facility substantially as described in the site
12 certificate and may select turbines of any type, subject to the following restrictions:
13 (a) The total number of turbines at the facility must not exceed 127 turbines.
14 (b) The peak generating capacity of each turbine must not exceed 3.0 megawatts.
15 (c) The combined peak generating capacity of the facility must not exceed 277
16 megawatts.
17 (d) The turbine hub height must not exceed 100 meters, and the turbine blade tip height
18 must not exceed 150 meters.
19 (e) The minimum blade tip clearance must be 30 meters above ground.
20 (f) The certificate holder shall request an amendment of the site certificate to increase the
21 combined peak generating capacity of the facility or to increase the number of wind
22 turbines or the dimensions of wind turbines at the facility.

23 [Amendment #1]

24 28 The certificate holder shall obtain all necessary federal, state and local permits or approvals
25 required for construction, operation and retirement of the facility or ensure that its
26 contractors obtain the necessary federal, state and local permits or approvals.

27 29 Before beginning construction, the certificate holder shall notify the Department in advance
28 of any work on the site that does not meet the definition of "construction" in OAR 345-001-
29 0010 or ORS 469.300 and shall provide to the Department a description of the work and
30 evidence that its value is less than \$250,000.

31 30 Before beginning construction of the LJIIA components as described in the *Final Order on*
32 *Amendment #1*, the certificate holder shall submit to the State of Oregon through the
33 Council a bond or letter of credit in the amount described herein naming the State of
34 Oregon, acting by and through the Council, as beneficiary or payee. The initial bond or
35 letter of credit amount is \$8.847 million (in 2006 dollars), adjusted to the date of issuance
36 as described in (b), or the amount determined as described in (a). The certificate holder
37 shall adjust the amount of the bond or letter of credit on an annual basis thereafter as
38 described in (b).

39 (a) The certificate holder may adjust the amount of the bond or letter of credit based on
40 the final design configuration of the LJIIA components by applying the unit costs and
41 general costs illustrated in Table 2 and Table 3 of the Final Order on the Application to the
42 final design and calculating the financial assurance amount as described in that order,
43 adjusted to the date of issuance as described in (b) and subject to approval by the
44 Department.

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

3 (i) Adjust the Subtotal component of the bond or letter of credit amount (expressed in
4 2006 dollars) 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 annual average index value for 2006 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 2006 dollars
10 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 for the adjusted administration and
14 project management costs and 10 percent of the adjusted Gross Cost for the adjusted future
15 developments contingency.

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

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

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

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

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

26 [Amendment #1]

27 31 If the certificate holder elects to use a bond to meet the requirements of Condition 30 or
28 Condition 101, the certificate holder shall ensure that the surety is obligated to comply with
29 the requirements of applicable statutes, Council rules and this site certificate when the
30 surety exercises any legal or contractual right it may have to assume construction, operation
31 or retirement of the energy facility. The certificate holder shall also ensure that the surety is
32 obligated to notify the Council that it is exercising such rights and to obtain any Council
33 approvals required by applicable statutes, Council rules and this site certificate before the
34 surety commences any activity to complete construction, operate or retire the energy
35 facility. [Amendment #1]

36 32 Before beginning construction, the certificate holder shall notify the Department of the
37 identity and qualifications of major construction contractor(s) for specific portions of the
38 work. The certificate holder shall select contractors that have substantial experience in the
39 design and construction of similar facilities. The certificate holder shall report to the
40 Department any change of major construction contractors.

41 33 The certificate holder shall contractually require all construction contractors and
42 subcontractors involved in the construction of the facility to comply with all applicable
43 laws and regulations and with the terms and conditions of the site certificate. Such
44 contractual provisions shall not operate to relieve the certificate holder of responsibility
45 under the site certificate.

- 1 34 During construction, the certificate holder shall have an on-site assistant construction
2 manager who is qualified in environmental compliance to ensure compliance with all
3 construction-related site certificate conditions. During operation, the certificate holder shall
4 have a project manager who is qualified in environmental compliance to ensure compliance
5 with all ongoing site certificate conditions. The certificate holder shall notify the
6 Department of the name, telephone number, fax number and e-mail address of these
7 managers and shall keep the Department informed of any change in this information.
- 8 35 Within 72 hours after discovery of conditions or circumstances that may violate the terms
9 or conditions of the site certificate, the certificate holder shall report the conditions or
10 circumstances to the Department.

2. Land Use Conditions

- 11 36 The certificate holder shall cooperate with the Gilliam County Road Department to ensure
12 that any unusual damage or wear to county roads that is caused by construction of the
13 facility is repaired by the certificate holder. Upon completion of construction, the certificate
14 holder shall restore county roads to pre-construction condition or better, to the satisfaction
15 of the County Road Department.
- 16 37 During construction, the certificate holder shall implement measures to reduce traffic
17 impacts, including:
- 18 (a) Providing notice to adjacent landowners when heavy construction traffic is
19 anticipated.
 - 20 (b) Providing appropriate traffic safety signage and warnings.
 - 21 (c) Requiring flaggers to be at appropriate locations at appropriate times during
22 construction to direct traffic reduce accident risks.
 - 23 (d) Using traffic diversion equipment (such as advanced signage and pilot cars) when
24 slow or oversize construction loads are anticipated.
 - 25 (e) Maintaining at least one travel lane at all times to the extent reasonably possible so
26 that roads will not be closed to traffic because of construction vehicles. [Amendment #1]
 - 27 (f) Encouraging carpooling for the construction workforce.
 - 28 (g) Including traffic control procedures in contract specifications for construction of the
29 facility.
 - 30 (h) Keeping the access from Highway 19 free of gravel that tracks out onto the highway.
- 31 38 The certificate holder shall ensure that no equipment or machinery is parked or stored on
32 any county road except while in use.
- 33 39 The certificate holder shall construct all facility components in compliance with the
34 following setback requirements:
- 35 (a) All facility components must be at least 3,520 feet from the property line of properties
36 zoned residential use or designated in the Gilliam County Comprehensive Plan as
37 residential.
 - 38 (b) Where (a) does not apply, the certificate holder shall maintain a minimum distance of
39 110-percent of maximum blade tip height, measured from the centerline of the turbine
40 tower to the nearest edge of any public road right-of-way. The certificate holder shall
41 assume a minimum right-of-way width of 60 feet.

1 (c) Where (a) does not apply, the certificate holder shall maintain a minimum distance of
2 1,320 feet, measured from the centerline of the turbine tower to the center of the nearest
3 residence existing at the time of tower construction.

4 (d) Where (a) does not apply, the certificate holder shall maintain a minimum distance of
5 110-percent of maximum blade tip height, measured from the centerline of the turbine
6 tower to the nearest boundary of the certificate holder's lease area.

7 (e) The certificate holder shall maintain a minimum distance of 250 feet measured from
8 the center line of each turbine tower to the nearest edge of any railroad right-of-way or
9 electrical substation.

10 (f) The certificate holder shall maintain a minimum distance of 250 feet measured from
11 the center line of each meteorological tower to the nearest edge of any public road right-of-
12 way or railroad right-of-way, nearest boundary of the certificate holder's lease area or
13 nearest electrical substation.

14 (g) The certificate holder shall maintain a minimum distance of 50 feet measured from
15 any facility O&M building to the nearest edge of any public road right-of-way or railroad
16 right-of-way or the nearest boundary of the certificate holder's lease area.

17 (h) The certificate holder shall maintain a minimum distance of 50 feet measured from
18 any substation to the nearest edge of any public road right-of-way or railroad right-of-way
19 or the nearest boundary of the certificate holder's electrical substation easement or, if there
20 is no easement, the nearest boundary of the certificate holder's lease area.

21 [Amendment #1]

22 40 The certificate holder shall consult with area landowners and lessees during construction
23 and operation of the facility and shall implement measures to reduce or avoid any adverse
24 impacts to farm practices on surrounding lands and to avoid any increase in farming costs.

25 41 The certificate holder shall locate access roads and temporary construction laydown and
26 staging areas to minimize disturbance with farming practices and, wherever feasible, shall
27 place turbines and transmission interconnection lines along the margins of cultivated areas
28 to reduce the potential for conflict with farm operations.

29 42 Before beginning construction of any phase of the facility, the certificate holder shall record
30 in the real property records of Gilliam County a Covenant Not to Sue with regard to
31 generally accepted farming practices on farmland adjacent to the construction area
32 consistent with Gilliam County Zoning Ordinance 7.020(T)(4)(a)(5). [Amendment #1]

33 43 The certificate holder shall install lockable gates at the substation and on private access
34 roads.

35 44 Within 90 days after beginning operation of any phase of the facility, the certificate holder
36 shall provide to the Department and to the Gilliam County Planning Director the actual
37 latitude and longitude location or Stateplane NAD 83(91) coordinates of each turbine
38 tower, connecting line and transmission line built in that phase. In addition, the certificate
39 holder shall provide to the Department and to the Gilliam County Planning Director, a
40 summary of as-built changes in the facility compared to the original plan, if any. [Amendment
41 #1]

3. Cultural Resource Conditions

- 1 45 Before beginning construction of the LJIIA components as described in the *Final Order on*
2 *Amendment #1*, the certificate holder shall provide to the Department a map showing the
3 final design locations of all LJIIA components and areas that would be disturbed during
4 their construction and also showing the LJIIA areas that were surveyed in 2004, 2005 and
5 2006 for cultural resources as described in the site certificate application. If areas to be
6 disturbed during construction lie outside of the surveyed areas, the certificate holder shall
7 hire qualified personnel to conduct field investigation of those areas. The certificate holder
8 shall provide a written report of the field investigation to the Department and to the State
9 Historic Preservation Office (SHPO). If any historic, cultural or archaeological resources
10 are found during the field investigation, the certificate holder shall ensure that construction
11 and operation of the facility will have no impact on the resources. The certificate holder
12 shall instruct all construction personnel to avoid the areas where resources were identified
13 in the 2004-2006 surveys or were found during pre-construction investigations and shall
14 implement other appropriate measures to protect the resources. [Amendment #1]
- 15 46 The certificate holder shall ensure that a qualified person instructs construction personnel in
16 the identification of cultural materials and avoidance of accidental damage to identified
17 resource sites.
- 18 47 The certificate holder shall ensure that construction personnel cease all ground-disturbing
19 activities in the immediate area if any archaeological or cultural resources are found during
20 construction of the facility until a qualified archaeologist can evaluate the significance of
21 the find. The certificate holder shall notify the Department and the State Historic
22 Preservation Office (SHPO) of the find. If the archaeologist determines that the resource is
23 significant, the certificate holder shall make recommendations to the Council for mitigation,
24 including avoidance or data recovery, in consultation with the Department, SHPO and other
25 appropriate parties. The certificate holder shall not restart work in the affected area until the
26 certificate holder has demonstrated to the Department that it has complied with the
27 archaeological permit requirements administered by SHPO.
- 28 48 During construction of the LJIIA components as described in the *Final Order on*
29 *Amendment #1*, the certificate holder shall label all identified historic, cultural or
30 archaeological resource sites on construction maps and drawings as “no entry” areas, and if
31 construction activities will occur within 200 feet of an identified site, the certificate holder
32 shall flag a 50-foot buffer around the site. During construction of the LJIB components, the
33 certificate holder shall label the site identified as LJ-4/10/09-8 in the Request for
34 Amendment #1 on construction maps and drawings as a “no entry” area, and if construction
35 will occur within 200 feet of the site, the certificate holder shall flag a 50-foot buffer around
36 the site. [Amendment #1]

4. Geotechnical Conditions

- 37 49 Before beginning construction of any phase of the facility, the certificate holder shall
38 conduct site-specific geotechnical investigation of that phase and shall report its findings to
39 the Oregon Department of Geology & Mineral Industries (DOGAMI). The certificate
40 holder shall conduct the geotechnical investigation after consultation with DOGAMI and in

1 general accordance with DOGAMI open file report 00-04 “Guidelines for Engineering
2 Geologic Reports and Site-Specific Seismic Hazard Reports.” [Amendment #1]

3 50 The certificate holder shall design and construct the facility in accordance with
4 requirements set forth by the State of Oregon’s Building Code Division and any other
5 applicable codes and design procedures. The certificate holder shall design all components
6 of the facility to meet or exceed the minimum standards required by the 2003 International
7 Building Code.

8 51 The certificate holder shall design, engineer and construct the facility to avoid dangers to
9 human safety presented by non-seismic hazards. As used in this condition, “non-seismic
10 hazards” include settlement, landslides, flooding and erosion.

5. Hazardous Materials, Fire Protection & Public Safety Conditions

11 52 The certificate holder shall notify the Department within 72 hours of any accidents
12 including mechanical failures on the site associated with construction or operation of the
13 facility that may result in public health and safety concerns.

14 53 Before beginning construction of any phase of the facility, the certificate holder shall
15 submit Notices of Proposed Construction or Alteration to the Federal Aviation
16 Administration (FAA) and the Oregon Department of Aviation identifying the proposed
17 final locations of the turbines and related or supporting facilities in that phase of
18 construction. The certificate holder shall promptly notify the Department of the responses
19 from the FAA and the Oregon Department of Aviation. [Amendment #1]

20 54 To protect the public from electrical hazards, the certificate holder shall enclose the facility
21 substations with appropriate fencing and locked gates.

22 55 The certificate holder shall construct turbine towers that are smooth steel structures with no
23 exterior ladders or access to the turbine blades and shall install locked access doors
24 accessible only to authorized personnel.

25 56 The certificate holder shall follow manufacturers’ recommended handling instructions and
26 procedures to prevent damage to towers or blades that could lead to failure.

27 57 The certificate holder shall have an operational safety monitoring program and shall inspect
28 turbine blades on a regular basis for signs of wear. The certificate holder shall repair turbine
29 blades as necessary to protect public safety.

30 58 The certificate holder shall install and maintain self-monitoring devices on each turbine,
31 linked to sensors at the operations and maintenance building, to alert operators to
32 potentially dangerous conditions, and the certificate holder shall immediately remedy any
33 dangerous conditions. The certificate holder shall maintain automatic equipment protection
34 features in each turbine that would shut down the turbine and reduce the chance of a
35 mechanical problem causing a fire.

36 59 The certificate holder shall install generator step-up transformers at the base of each tower
37 in locked cabinets designed to protect the public from electrical hazards and shall design the
38 cabinets to avoid creation of artificial habitat for raptor prey.

39 60 The certificate holder shall construct turbines on concrete pads with a minimum of 10 feet
40 of non-flammable and non-erosive ground cover on all sides. The certificate holder shall

- 1 cover turbine pad areas with non-erosive material immediately following exposure during
2 construction and shall maintain the pad area covering during operation of the facility.
- 3 61 During construction and operation of the facility, the certificate holder shall develop and
4 implement fire safety plans in consultation with the North Gilliam County Rural Fire
5 Protection District and the Arlington Fire Department to minimize the risk of fire and to
6 respond appropriately to any fires that occur on the facility site. In developing the fire
7 safety plans, the certificate holder should take into account the dry nature of the region and
8 should address risks on a seasonal basis. The certificate holder shall meet annually with
9 District and Fire Department personnel to discuss emergency planning and shall invite
10 District and Fire Department personnel to observe any emergency drill or tower rescue
11 training conducted at the facility.
- 12 62 During construction and operation of the facility, the certificate holder shall ensure that the
13 O&M buildings and all service vehicles are equipped with shovels and portable fire
14 extinguishers of a 4A50BC or equivalent rating.
- 15 63 During construction, the certificate holder shall ensure that construction vehicles and
16 equipment are operated on graveled areas to the extent possible and that open flames, such
17 as cutting torches, are kept away from dry grass areas.
- 18 64 Upon the beginning of operation of the facility, the certificate holder shall provide to North
19 Gilliam County Rural Fire Protection District and the Arlington Fire Department a site plan
20 indicating the identification number assigned to each turbine and the location of all facility
21 structures. During operation, the certificate will ensure that appropriate District and Fire
22 Department personnel have an up-to-date list of the names and telephone numbers of
23 facility personnel available to respond on a 24-hour basis in case of an emergency on the
24 facility site.
- 25 65 During operation, the certificate holder shall ensure that all on-site employees receive
26 annual fire prevention and response training, including tower rescue training, by qualified
27 instructors or members of the local fire department and that all employees are instructed to
28 keep vehicles on roads and off dry grassland, except when off-road operation is required for
29 emergency purposes.
- 30 66 During construction, the certificate holder shall require that all on-site construction
31 contractors develop and implement a site health and safety plan that informs workers and
32 others on-site what to do in case of an emergency and that includes the locations of fire
33 extinguishers and nearby hospitals, important telephone numbers and first aid techniques.
34 The certificate holder shall ensure that construction contractors have personnel on-site who
35 are trained and equipped for tower rescue and who are first aid and CPR certified.
- 36 67 During operation, the certificate holder shall develop and implement a site health and safety
37 plan that informs employees and others on-site what to do in case of an emergency and that
38 includes the locations of fire extinguishers and nearby hospitals, important telephone
39 numbers and first aid techniques.
- 40 68 The certificate holder shall handle any hazardous materials used on the site in a manner that
41 protects public health, safety and the environment and shall comply with all applicable
42 local, state and federal environmental laws and regulations.

1 69 If a spill or release of hazardous materials occurs during construction or operation of the
2 facility, the certificate holder shall notify the Department within 72 hours and shall clean up
3 the spill or release and dispose of any contaminated soil or other materials according to
4 applicable regulations. The certificate holder shall make sure that spill kits containing items
5 such as absorbent pads are located on equipment and storage facilities to respond to
6 accidental spills and shall instruct employees handling hazardous materials in the proper
7 handling, storage and cleanup of these materials.

6. Water, Soils, Streams & Wetlands Conditions

8 70 The certificate holder shall conduct all construction work in compliance with an Erosion
9 and Sediment Control Plan (ESCP) satisfactory to the Oregon Department of
10 Environmental Quality and as required under the National Pollutant Discharge Elimination
11 System (NPDES) Storm Water Discharge General Permit #1200-C. The certificate holder
12 shall include in the ESCP any procedures necessary to meet local erosion and sediment
13 control requirements and storm water management requirements.

14 71 During construction, the certificate holder shall limit truck traffic to designated existing and
15 improved road surfaces to avoid soil compaction, to the extent possible.

16 72 During construction, the certificate holder shall avoid impacts to waters of the state in the
17 following manner:

18 (a) The certificate holder shall avoid any disturbance, including the placement of poles
19 for the collector line, within 25 feet of the stream channel in the area identified as “S5” on
20 Figure J-1 of the Site Certificate Application.

21 (b) The certificate holder shall avoid any disturbance to the six wetland areas identified
22 as “W1” through “W6” on Figure J-1 of the Site Certificate Application and the wetland
23 area identified as “W-8” in the Request for Amendment #1, Attachment 11, Figure 6.
24 [Amendment #1].

25 (c) The certificate holder shall avoid any disturbance to the stream channels identified as
26 “S24” and “S25” on Figure J-1 of the Site Certificate Application.

27 (d) Before beginning construction affecting the location identified as “S27” on Figure J-1
28 of the Site Certificate Application, the certificate holder shall apply for and obtain a
29 Removal/Fill Permit from the Department of State Lands, which, in accordance with ORS
30 469.401, shall issue the permit substantially in the form of Attachment F of the Final Order
31 on the Application and subject only to the conditions of this site certificate including
32 substantive requirements listed in that attachment.

33 (e) Before beginning construction of any phase of the facility, the certificate holder shall
34 determine whether any construction disturbance in that phase would occur in locations not
35 previously investigated for potential jurisdictional waters as described in the Final Orders
36 on the Application and Amendment #1. The certificate holder shall conduct pre-
37 construction investigations to determine whether any jurisdictional waters exist in those
38 locations. The certificate holder shall submit a written report on the pre-construction
39 investigation to the Department of Energy and to the Department of State Lands for
40 approval before beginning construction of any phase of the facility and shall ensure that
41 construction of that phase would have no impact on any jurisdictional water identified in
42 the report. [Amendment #1]

- 1 73 During construction, the certificate holder shall ensure that the wash down of concrete
2 trucks occurs only at a contractor-owned batch plant or at tower foundation locations. If
3 such wash down occurs at tower foundation locations, then the certificate holder shall
4 ensure that wash down wastewater does not run off the construction site into otherwise
5 undisturbed areas and that the wastewater is disposed of on backfill piles and buried
6 underground with the backfill over the tower foundation.
- 7 74 The certificate holder shall restore areas outside the permanent footprint that are disturbed
8 during construction according to the methods and monitoring procedures described in the
9 *Revegetation Plan* that is incorporated in the *Final Order on Amendment #1* as Attachment
10 B and as amended from time to time. [Amendment #1]
- 11 75 During facility operation, the certificate holder shall routinely inspect and maintain all
12 roads, pads and trenched areas and, as necessary, maintain or repair erosion control
13 measures. The certificate holder shall restore areas that are temporarily disturbed during
14 facility maintenance or repair activities to pre-disturbance condition or better.
- 15 76 During facility operation, the certificate holder shall obtain water for on-site uses from one
16 or more on-site wells, subject to compliance with any applicable permit requirements, not
17 exceeding 5,000 gallons per day. The certificate holder shall not change the source of water
18 for on-site uses without prior Department approval.
- 19 77 During facility operation, if blade-washing becomes necessary, the certificate holder shall
20 ensure that there is no runoff of wash water from the site or discharges to surface waters,
21 storm sewers or dry wells. The certificate holder shall not use more than 50 gallons of water
22 per blade and shall not wash more than eight turbines (24 blades) per week. The certificate
23 holder shall not use acids, bases or metal brighteners with the wash water. The certificate
24 may use biodegradable, phosphate-free cleaners sparingly.

7. Transmission Line & EMF Conditions

- 25 78 The certificate holder shall install the 34.5-kV collector system underground to the extent
26 practical. The certificate holder shall install underground segments of the collector system
27 at a minimum depth of three feet. Where geotechnical conditions or other engineering
28 considerations require, the certificate holder may install segments of the collector system
29 aboveground, but the total length of aboveground segments must not exceed 30 percent of
30 the collector system, excluding the optional parallel double-circuit 34.5-kV lines that may
31 be built to carry power from the LJIIB area to the LJIIA substation as described in the *Final*
32 *Order on Amendment #1*. The certificate holder shall construct aboveground segments of
33 the collector system using single or double circuit monopole design as described in the site
34 certificate application. [Amendment #1]
- 35 79 At least 30 days before beginning preparation of detailed design and specifications for the
36 electrical transmission lines, the certificate holder shall consult with the Oregon Public
37 Utility Commission staff to ensure that transmission line designs and specifications are
38 consistent with applicable codes and standards.
- 39 80 To protect public safety, the certificate holder shall design and maintain the transmission
40 lines so that:
41 (a) Alternating current electric fields during operation do not exceed 9 kV per meter at
42 one meter above the ground surface in areas accessible to the public.

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

2 81 The certificate holder shall take reasonable steps to reduce or manage human exposure to
3 electromagnetic fields, including but not limited to:

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

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

8 (c) Constructing aboveground 34.5-kV transmission lines with a minimum clearance of
9 25 feet from the ground.

10 (d) Constructing all aboveground 230-kV transmission lines with a minimum clearance
11 of 30 feet from the ground.

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

14 [Amendment #1]

8. Plants, Wildlife & Habitat Protection Conditions

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

18 83 The certificate holder shall design all aboveground transmission line support structures
19 following the practices suggested by the Avian Powerline Interaction Committee (2006)
20 and shall install anti-perching devices on transmission pole tops and cross arms where the
21 poles are located within ½ mile of turbines. [Amendment #1]

22 84 The certificate holder may construct turbines and other facility components within the site
23 boundary as described in the Final Orders on the Application and Amendment #1, subject
24 to the following requirements addressing potential habitat impact:

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

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

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

32 (d) As a protective measure during construction, the certificate holder shall install
33 exclusion fencing around confirmed populations of Laurent's milk-vetch (identified in the
34 Request for Amendment #1, Attachment 7, p. 13) and sessile mousetail (identified in Figure
35 Q-3 of the site certificate application). The certificate holder shall not install facility
36 components or cause temporary disturbance within these areas. Before beginning
37 construction, the certificate holder shall verify the protected status of sessile mousetail and
38 notify the Department. If the species has been upgraded to threatened or endangered under
39 State or federal law, the certificate holder shall take appropriate mitigation actions, subject
40 to Department approval.

41 (e) If construction would affect locations within the micrositeing areas that were not
42 previously surveyed for the occurrence of State or federal threatened or endangered species
43 as described in the Final Orders on the Application and Amendment #1, the certificate

holder shall conduct additional pre-construction surveys of those locations, notify the Department of the findings and implement appropriate avoidance or mitigation measures for any threatened or endangered species detected, subject to Department approval.

[Amendment #1]

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

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

(b) Before beginning construction of any phase of the facility, the certificate holder shall have a qualified biologist place exclusion markers around sensitive wildlife habitat areas for that phase of construction, including Category 1 Washington ground squirrel (WGS) areas and an appropriate buffer around these areas. The certificate holder shall maintain the exclusion markings until that phase of construction has been completed.

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

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

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

[Amendment #1]

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

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

During the year in which construction of any phase of the facility occurs, the certificate holder shall use a protocol approved by the Oregon Department of Fish and Wildlife (ODFW) to determine whether there are any active nests of these species within a half-mile of any areas that would be disturbed during construction of that phase. If a nest is occupied by any of these species after the beginning of the sensitive period, the certificate holder shall not engage in high-impact construction activities (activities that involve blasting, grading or other major ground disturbance) or allow high levels of construction traffic within 1300 feet of the nest site. In addition, the certificate holder will flag the boundaries of the 1300-foot buffer area and shall instruct construction personnel to avoid any unnecessary activity within the buffer area. The certificate holder shall hire an independent biological monitor to observe the active nest sites during the sensitive period for signs of disturbance and to notify the Department of any non-compliance with this condition. If the monitor observes nest site abandonment or other adverse impact to nesting activity, the certificate holder shall implement appropriate mitigation, in consultation with ODFW and subject to the approval of the Department, unless the adverse impact is clearly shown to have a cause other than construction activity. The certificate holder may begin or resume

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

7 [Amendment #1]

8 87 The certificate holder shall conduct wildlife monitoring as described in the *Wildlife*
9 *Monitoring and Mitigation Plan* that is incorporated in the *Final Order on Amendment #1*
10 as Attachment A and as amended from time to time. [Amendment #1]

11 88 Before beginning construction of the LJIIA components as described in the *Final Order on*
12 *Amendment #1*, the certificate holder shall obtain an Incidental Take Permit (ITP) letter
13 from the Oregon Department of Fish and Wildlife (ODFW) that incorporates the terms and
14 commitments of the ITP application as set forth in Attachment E of the Final Order on the
15 Application. [Amendment #1]

16 89 The certificate holder shall acquire the legal right to create, enhance, maintain and protect a
17 habitat mitigation area as long as the site certificate is in effect by means of an outright
18 purchase, conservation easement or similar conveyance and shall provide a copy of the
19 documentation to the Department. Within the habitat mitigation area, the certificate holder
20 shall improve the habitat quality as described in the *Habitat Mitigation Plan* that is
21 incorporated in the *Final Order on Amendment #1* as Attachment C and as amended from
22 time to time. [Amendment #1]

9. Visual Effects Conditions

23 90 To reduce the visual impact of the facility, the certificate holder shall:

- 24 (a) Mount nacelles on smooth steel towers, painted uniformly in a neutral white color.
- 25 (b) Paint substation structures in a neutral color to blend with the surrounding landscape.
- 26 (c) Not allow any advertising on any part of the facility.
- 27 (d) Use only those signs required for facility safety or required by law, except that the
- 28 certificate holder may erect a sign to identify the facility.
- 29 (e) Maintain any signs allowed under this condition in good repair.

30 91 The certificate holder shall design and construct the operation and maintenance buildings to
31 be generally consistent with the character of similar buildings used by commercial farmers
32 or ranchers in the area and shall paint the building in a neutral color to blend with the
33 surrounding landscape.

34 92 The certificate holder shall not use exterior lighting at the facility except:

- 35 (a) The minimum turbine tower lighting required or recommended by the Federal
- 36 Aviation Administration.
- 37 (b) Security lighting at the operations and maintenance buildings and at the substations,
- 38 provided that such lighting is shielded or downward-directed to reduce glare.
- 39 (c) Minimum lighting necessary for repairs or emergencies.

1 (d) Minimum lighting necessary for construction directed to illuminate the work area and
2 shielded or downward-directed to reduce glare.

3 [Amendment #1]

10. Noise Control Conditions

4 93 To reduce noise impacts at nearby residential areas, the certificate holder shall:

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

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

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

10 94 Before beginning construction of any phase of the facility, the certificate holder shall
11 provide to the Department:

12 (a) Information that identifies the final design locations of all turbines to be built in that
13 phase of construction.

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

16 (c) The results of noise analysis of the facility to be built according to the final design
17 performed in a manner consistent with the requirements of OAR 340-035-
18 0035(1)(b)(B)(iii)(IV) and (VI) demonstrating to the satisfaction of the Department that the
19 total noise generated by the facility (including the noise from turbines and substation
20 transformers) would meet the ambient noise degradation test and maximum allowable test
21 at the appropriate measurement point for all potentially-affected noise sensitive properties.

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

32 [Amendment #1]

33 95 During operation, the certificate holder shall maintain a complaint response system to
34 address noise complaints. The certificate holder shall promptly notify the Department of
35 any complaints received regarding facility noise and of any actions taken by the certificate
36 holder to address those complaints.

11. Waste Management Conditions

37 96 The certificate holder shall provide portable toilets for on-site sewage handling during
38 construction and shall ensure that they are pumped and cleaned regularly by a licensed
39 contractor who is qualified to pump and clean portable toilet facilities.

- 1 97 During operation, the certificate holder shall discharge sanitary wastewater generated at the
2 O&M building to a licensed on-site septic system in compliance with county permit
3 requirements. The certificate holder shall design the septic system design with a capacity
4 that is less than 2,500 gallons per day.
- 5 98 The certificate holder shall implement a waste management plan during construction that
6 includes but is not limited to the following measures:
7 (a) Training construction personnel to minimize and recycle solid waste.
8 (b) Minimizing the generation of wastes from construction through detailed estimating of
9 materials needs and through efficient construction practices.
10 (c) Recycling steel and other metal scrap.
11 (d) Recycling wood waste.
12 (e) Recycling packaging wastes such as paper and cardboard.
13 (f) Collecting non-recyclable waste for transport to a landfill by a licensed waste hauler.
14 (g) Segregating all hazardous wastes such as used oil, oily rags and oil-absorbent
15 materials, mercury-containing lights and lead-acid and nickel-cadmium batteries for
16 disposal by a licensed firm specializing in the proper recycling or disposal of hazardous
17 wastes.
- 18 99 The certificate holder may dispose of waste concrete on site with the permission of the
19 landowner and in accordance with OAR 340-093-0080 and other applicable regulations.
20 The certificate holder shall dispose of waste concrete on site by placing the material in an
21 excavated hole, covering it with at least three feet of topsoil and grading the area to match
22 existing contours. If the waste concrete is not disposed of on site, the certificate holder shall
23 arrange for proper disposal in a landfill.
- 24 100 The certificate holder shall implement a waste management plan during operation that
25 includes but is not limited to the following measures:
26 (a) Training employees to minimize and recycle solid waste.
27 (b) Recycling paper products, metals, glass and plastics.
28 (c) Recycling used oil and hydraulic fluid.
29 (d) Collecting non-recyclable waste for transport to a landfill by a licensed waste hauler.
30 (e) Segregating all hazardous, non-recyclable wastes such as used oil, oily rags and oil-
31 absorbent materials, mercury-containing lights and lead-acid and nickel-cadmium batteries
32 for disposal by a licensed firm specializing in the proper recycling or disposal of hazardous
33 wastes.

VI. CONDITIONS ADDED BY AMENDMENT #1

- 34 101 Before beginning construction of the LJIIB components as described in the *Final Order on*
35 *Amendment #1*, the certificate holder shall submit to the State of Oregon through the
36 Council a bond or letter of credit in the amount described herein naming the State of
37 Oregon, acting by and through the Council, as beneficiary or payee. The initial bond or
38 letter of credit amount is \$7.281 million (in 4th Quarter 2009 dollars), adjusted to the date of
39 issuance as described in (b), or the amount determined as described in (a). The certificate
40 holder shall adjust the amount of the bond or letter of credit on an annual basis thereafter as
41 described in (b).
42 (a) The certificate holder may adjust the amount of the bond or letter of credit based on
43 the final design configuration of the LJIIB components by applying the unit costs and

1 general costs illustrated in Table 2 of the *Final Order on Amendment #1* to the final design
2 and calculating the financial assurance amount as described in that order, adjusted to the
3 date of issuance as described in (b) and subject to approval by the Department.

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

6 (i) Adjust the Subtotal component of the bond or letter of credit amount (expressed in
7 4th Quarter 2009 dollars) to present value, using the U.S. Gross Domestic Product Implicit
8 Price Deflator, Chain-Weight, as published in the Oregon Department of Administrative
9 Services' "Oregon Economic and Revenue Forecast" or by any successor agency (the
10 "Index") and using the index value for 4th Quarter 2009 dollars and the quarterly index
11 value for the date of issuance of the new bond or letter of credit. If at any time the Index is
12 no longer published, the Council shall select a comparable calculation to adjust 4th Quarter
13 2009 dollars to present value.

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

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

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

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

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

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 21.

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

29 102 Before beginning construction of the LJIIB components as described in the *Final Order on*
30 *Amendment #1*, the certificate holder shall provide to the Department a map showing the
31 final design locations of all LJIIB components, the areas that would be disturbed during
32 construction and the areas that were surveyed in 2009 for historic, cultural or archaeological
33 resources as described in the Request for Amendment #1. If areas to be disturbed during
34 construction lie outside of the previously surveyed areas, the certificate holder shall hire
35 qualified personnel to conduct field investigation of those areas. The certificate holder shall
36 provide a written report of the field investigation to the Department and to the Oregon State
37 Historic Preservation Office (SHPO). If any potentially significant historic, cultural or
38 archaeological resource sites are found during the field investigation, the certificate holder
39 shall ensure that construction and operation of the facility will have no impact on the
40 resources. The certificate holder shall instruct all construction personnel to avoid the areas
41 where resources were identified in the 2009 surveys or were found during pre-construction
42 investigations and shall implement other appropriate measures to protect the resources.

43 103 In reference to the approximate alignment of the Oregon Trail described in the Request for
44 Amendment #1, the certificate holder shall comply with the following requirements:

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

1 (b) The certificate holder shall not locate facility components on undeveloped land where
2 the trail alignment is marked by existing Oregon-California Trail Association markers, as
3 described in the Request for Amendment #1.

4 (c) Before beginning construction of the LJIIB components as described in the *Final*
5 *Order on Amendment #1*, the certificate holder shall provide to the State Historic
6 Preservation Office (SHPO) and the Department photographic documentation of the
7 presumed Oregon Trail alignments within the site boundary.

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

15 104 Before beginning construction of any new State Highway approaches or utility crossing
16 authorized by the *Final Order on Amendment #1*, the certificate holder shall obtain all
17 required permits from the Oregon Department of Transportation (ODOT) subject to the
18 applicable conditions required by OAR Chapter 734, Divisions 51 and 55. The certificate
19 holder shall submit the necessary application or applications in a form satisfactory to
20 ODOT and the Department for the location, construction and maintenance of approaches to
21 State Highway 19 for access to the site. The certificate holder shall submit the necessary
22 application or applications in a form satisfactory to ODOT and the Department for the
23 location, construction and maintenance of collector cables or transmission lines crossing
24 Highway 19.

VII. SUCCESSORS AND ASSIGNS

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

VIII. SEVERABILITY AND CONSTRUCTION

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

IX. GOVERNING LAW AND FORUM

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

X. EXECUTION

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

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

ENERGY FACILITY SITING COUNCIL

LEANING JUNIPER WIND POWER II LLC

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

By: _____
Print: _____

Date: November 20, 2009

Date: _____

and

By: _____
Print: _____
Date: _____