

See also T-

Nov 2004



State of Oregon
Water Resources Department
725 Summer Street NE, Suite "A"
Salem, Oregon 97301-1271
(503) 986-0900

Application for Short-Term Instream Lease

A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/publication/reports/index.shtml.

Pursuant to ORS 537.348(2) and OAR 690-077-0077

Optional Identification by Lessor/Lessee: _____
Lease Agreement Number (assigned by WRD): L-691

This Lease Agreement is between:

Lessor #1:
(Name) Portland General Electric Company
(Mailing address) 121 SW Salmon Street
(City, State, Zip Code) Portland, Oregon 97204
(Telephone number) 503-464-7717
(Email address) _____

Lessor #2, 3, etc.
Eugene Water & Electric Board and PacifiCorp

The water right to be leased is located in Columbia County.

Lessee (if different than Oregon Water Resources Department):
(Name) Not Applicable
(Mailing address) _____
(City, State, Zip Code) _____
(Telephone number) _____
(Email address) _____

Trustee:
Oregon Water Resources Department
725 Summer Street N.E., Suite "A"
Salem, OR 97301-1271
(503) 986-0900

~I~ Ownership and Water Right Information

1.1 Lessor #1 is the owner, or authorized agent for owner of property located at: Township 6 N, Range 2 W, Section 2, Lot 1 and Township 7N, Range 2W, Section 35 and 36 and Tax Lot number --. If the water right appurtenant to these lands is also appurtenant to lands owned by others, then Attachment 1, (tax lot map of lessor's property) needs to be included.

1.2 Lessor #2 is the (Check one):
 Not applicable
 Official representative of _____, the irrigation district which conveys water to the subject water rights.

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Another party with an interest in the subject water rights representing _____.

- 1.3 For the lands being leased, list all water rights appurtenant to the lessor's property. Indicate if there are any supplemental or overlying rights.

Certificate No. 73396 is subject to this lease. 61121 and 61122 are not subject to this lease.

- 1.4 Are some or all of the lands being leased part of a Conservation Reserve Enhancement Program. Yes No

- 1.5 **Subject water rights.** Lessor proposes to lease the water rights listed in 1.3.

The right(s) to be leased are further described as follows:

Certificate No.: 73396

Priority date: August 3, 1970 Type of use: General Industrial Use

Legal Season of Use: year-round

Is the entire water right certificate being leased? Yes No

If no, list the acres of the subject water right by legal description of township, range, section, and ¼ ¼ which will be dried up as part of this lease, and include a map (Attachment 2) showing the lands which will not receive water.

Place of use: T ___, R ___, Section __, ¼ ¼ - _____ acres to be leased

Enter additional places of use here, using format above:

PGE possesses a water right at Trojan Nuclear Plant for 89.5 cfs. PGE proposes 79.2 cfs be leased in-stream. PGE has applied to transfer 5.4 cfs to the Port Westward project (see PGE's water right transfer application). PGE wishes to retain 0.4 cfs for fire suppression purposes and 4.5 cfs for General Industrial Use.

Page _____ (Identify page number of certificate, if certificate is greater than 10 pages.)

Number of acres being leased, if for irrigation: n/a

Acre-feet of storage, if applicable: n/a

Maximum rate associated with subject water rights (cfs): 89.5

(Use additional lines if there is more than one rate associated with the water right.)

Maximum duty associated with subject water rights (ac-ft): _____

(Use additional lines if there is more than one duty associated with the water right.)

Conditions or other limitations, if any: n/a

If you need to enter another leased right, please use the additional water rights form.

- 1.6 **Validity of rights.** Lessor(s) attests (mark one) that:

- the water has been used over the past five years according to the terms and conditions of the owner's water right certificate or as an instream water right or
- the water has not been used over the past five years according to the terms and conditions of the owner's water right certificate, however the water right is not subject to forfeiture under ORS 540.610(2)()(include necessary supporting documentation as Attachment 3).

~II~ Instream Water Right Information

- 2.1 **Public use.** This lease will increase streamflows which will benefit:

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- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, and fish and wildlife habitat
- Pollution abatement
- Recreation and scenic attraction

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2.2 Instream use created by lease. The instream use to be created is described as follows:

Columbia River
Tributary to Pacific Ocean in the Columbia Basin.

Describe the point of diversion (POD) and any associated reach(es) of the instream use being created. If possible list the reach by river mile. If no reach is identified, and there is only one POD listed on the certificate, the lease may be processed to be protected at the POD. (If more than one POD is listed on the certificate, then the POD and any associated reach(es) must be identified): 79.2 cfs to be protected at Point of Diversion: Lot 3 (SW1/4 SW1/4) Section 36, T 7 N, R2 W, W.M.; 150 Feet North and 920 Feet East from the SW corner of Section 36.

Maximum volume in acre-feet: _____

Rate in cfs: 79.2

(Use the section below to indicate a more restrictive period of use than allowed by the water right.)

Conditions to prevent injury, if any:

- None
- The instream flow will be allocated on a daily average basis up to the described rate from _____ through _____.
- Other (describe): In-stream right to be protected at Point of Diversion

If you need to enter more instream uses, please use the additional water rights form.

2.3 Term of lease. This lease shall terminate on October 1, 2010.

2.4 Flow protection. The Trustee will regulate use of water from the source, subject to prior appropriation and the agency enforcement guidance, to assure the water is delivered to the point of diversion, and through the reach past junior downstream users, so long as flow is sufficient to meet the demand under priority date of the new instream use (see section 2.2). As part of regulation activities the watermaster or a designee has access to the point of diversion and place of use for the water rights involved in this lease. No party is required to continuously measure the flow of the waterway described in Section 2.2.

~III~ Other Information

3.1 Accuracy. The Undersigned Lessor/s, Lessee and Trustee declare that, to the best of their knowledge and belief, the information contained in this lease is true, correct and complete. If after the lease is signed, any information is determined to be false, the lease may be modified or terminated. This lease only exercises the water rights being leased; for the term of the lease; it shall not be construed to overcome any claim that the water right may otherwise be subject to forfeiture for nonuse pursuant to ORS 540.610 during the period of time prior to the execution of the lease.

3.2 Lease. All Lessors agree to lease the water rights listed in 1.4 for instream use for the term of this Agreement through Lessee to Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-077-0077.

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- 3.3 **Precedent.** If a right which has been leased is later proposed to be leased again or transferred to an instream use under ORS 537.348 and OAR 690-077- 0070 or OAR 690-077-0075 a new injury review shall be required, and a prior short term lease shall not set a precedent for the amount of water to be leased or transferred instream.
- 3.4 **Suspension of original use.** During the period of the lease, the owner agrees to suspend use of water allowed under the subject water rights and under any water right that is supplemental to the subject water rights. In the event that a supplemental water right is not part of this lease, it may be subject to forfeiture.
- 3.5 **Termination provision.**
 - For multiyear leases, lessor *shall* have the option of terminating the lease each year, prior to the lease being exercised (____), with 30 day written notice to the Department.
 - For multiyear leases, lessor *shall not* have the option of terminating the lease each year, prior to the lease being exercised, with written notice to the Department.
- 3.6 **Modification to prevent injury.** Allocation of water to the instream use described in Section 2.2 during the term of this lease is not reasonably expected to cause injury to other rights to use water from the same source. If injury is found after this lease is signed, the lease may be modified or terminated to prevent injury.
- 3.7 **Fees.** Effective October 1, 2003, pursuant to ORS 536.050 (1)(v) (2003 SB 820), the following fee is included:
 - \$200 for an application with four or more landowners or four or more water rights.
 - \$100 for all other applications.

Lessor #1: Stephen [Signature] Date: 9/6/05
Portland General Electric Company

For additional Lessors, type in space for signature and date

Lessor # 2: _____ Date: _____
Eugene Water and Electric Board

Lessor #3: _____ Date: _____
PacifiCorp

Lessee: _____ Date: _____

Other Attachments as Needed:

- Attachment 1: Tax Lot Map of Lessor's Property (required if landowner is not the sole landowner to lands for which the subject water rights are appurtenant)
- Attachment 2: Detailed map illustrating lands under subject rights to be leased (required if only part of a right is being leased instream).
- Attachment 3: Supporting documentation indicating why a right is valid and not subject to forfeiture even though the right has not been exercised for five or more consecutive years (required if the second box in Section 1.6 is checked)
- Attachment 4: Split Season Instream Use Form

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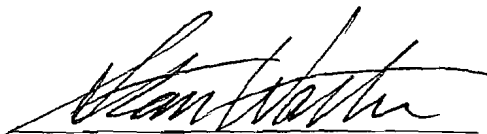
Statement Granting Permission for Transfer of Water Right

Whereas Certificate of Water Right No. 73396 was issued to Portland General Electric Company ("PGE") in 1996, confirming water use at the Trojan Nuclear Plant site, and originally authorized under Permit No. 34940 issued to PGE with a priority date of August 3, 1970 (the "Water Right");

Whereas subsequent to the original issuance of the Water Right to PGE, PGE conveyed to the City of Eugene for the use and benefit of the Eugene Water & Electric Board ("EWEB"), an undivided 30 percent interest, and to PacifiCorp (formerly Pacific Power & Light Company) an undivided 2.5 percent interest, in specific portions of the Trojan Nuclear Plant site; and

Whereas PGE is now in the process of decommissioning the Trojan Nuclear Plant, and desires to modify the use of water under the Water Right:

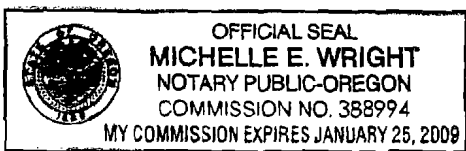
I, Stan Watters, being duly sworn, hereby depose and state that I am [Title, Company] Senior Vice President, Pacificorp; that I grant permission for PGE to transfer the Water Right for instream use and/or use at other locations as determined by PGE; and that I am duly authorized to grant permission on behalf of Pacificorp for transfer of the Water Right.



Signature

STATE OF OREGON)
)
COUNTY OF Multnomah)

Subscribed and sworn to before me, a Notary Public in and for the State of Oregon, this 6 day of June, 2005.



Michelle E. Wright
NOTARY PUBLIC, State of Oregon
Commission Expires: 1/25/2009

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Statement Granting Permission for Transfer of Water Right WATER RESOURCES DEPT
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Whereas Certificate of Water Right No. 73396 was issued to Portland General Electric Company ("PGE") in 1996, confirming water use at the Trojan Nuclear Plant site, and originally authorized under Permit No. 34940 issued to PGE with a priority date of August 3, 1970 (the "Water Right");

Whereas subsequent to the original issuance of the Water Right to PGE, PGE conveyed to the City of Eugene for the use and benefit of the Eugene Water & Electric Board ("EWEB"), an undivided 30 percent interest, and to PacifiCorp (formerly Pacific Power & Light Company) an undivided 2.5 percent interest, in specific portions of the Trojan Nuclear Plant site; and

Whereas PGE is now in the process of decommissioning the Trojan Nuclear Plant, and desires to modify the use of water under the Water Right:

I, Kenneth D. Beeson, being duly sworn, hereby depose and state that I am [Title, Company] Energy Resource Projects Manager for Eugene Water & Electric Board; that I grant permission for PGE to transfer the Water Right for instream use and/or use at other locations as determined by PGE; and that I am duly authorized to grant permission on behalf of Eugene Water & Electric Bd for transfer of the Water Right.



Signature

STATE OF OREGON)
COUNTY OF Lane)

Subscribed and sworn to before me, a Notary Public in and for the State of Oregon, this 25th day of May, 2005.



Krista K. Hince
NOTARY PUBLIC, State of OREGON
Commission Expires: 09/02/05

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**Water Right Transfer Supplemental Form A
AFFIDAVIT ATTESTING TO THE USE OF WATER**

State of Oregon)
) ss
County of Columbia)

I, Jay P. Fischer, in my capacity as Supervising Engineer,
mailing address 71760 Columbia River Hwy Rainier, OR 97048
telephone number (503) 556-7030, being first duly sworn depose and say:

1. I attest that:

- Water was used during the previous five years on the entire authorized place of use of the water right proposed for transfer as described on the accompanying transfer application, or
- The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.

2. My knowledge of the exercise or status of the water right is based on (check one):

- Personal observation
- Professional expertise

3. My knowledge is specific to the use of water at the following locations:

Township	Range		Sect.		1/4 1/4 Section	Gov't Lot or DLC
6	N	2	W	1	NW NW	
6	N	2	W	2	NE NE	
7	N	2	W	35	SE SE	
7	N	2	W	36	SW SW	

(continues on reverse side)

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.

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4. The water right was exercised for the authorized purpose described below (e.g., crops grown):

General Industrial Use

5. The water delivery system used to apply water as authorized by the right is described below:

Trojan Intake Structure, Two (2) 500 HP, 23,000 gpm Service Water Pumps,
One (1) 200 HP, 2,000 gpm Electric Fire Pump, Two (2) 200 HP, 4,500 gpm
Cooling Water Pumps

6. One or more of the following documentation supporting the above statements is attached:

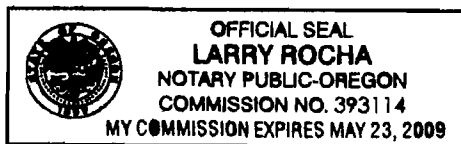
- Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),
- Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
- Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
- Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
- Dedicated power usage records or receipts,
- Other: Summary of Water Usage at the Trojan Nuclear Plant

June 1997 through May 2004

Jay Joseph
Signature of Affiant

8/11/2005
Date

Signed and sworn to (or affirmed) before me this 11th day of August, 2005.



Larry Rocha
Notary Public for Oregon

My Commission Expires: May 23, 2009

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.

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**Summary of Water Usage at the Trojan Nuclear Plant
June 1997 through May 2004**

By June 1997, most of the plant systems that used river water from the river intake structure for cooling purposes had been deactivated and removed. Service Water (taken from the river) was still being credited and required by the Nuclear Regulatory Commission (NRC) for backup cooling to the Spent Fuel Pool (in the form of direct makeup to the pool if required).¹ This continued up until the time that all of the spent fuel was removed from the Spent Fuel Pool in September 2003. Screen Wash pumps were still being used periodically to clean the Intake Structure travelling screens. Electric and Diesel Fire Pumps were still providing fire water to the fire protection loop. Two former Fish Rearing Facility pumps (renamed the Cooling Water pumps) were in place and being used to provide river water for dilution flow to the Discharge and Dilution Structure (D&DS) as required during radioactive liquid discharges to the river, and discharge of water from the oily water separator. Two of the three Service Water Pumps were installed (the third had been removed for overhaul, but not reinstalled).

During the past seven years, the primary purpose of pumping water at the river intake structure has been for dilution of discharges to the river. In June of 1997, there was usually one Cooling Water pump running continuously at about 3,400 gpm (7.58 cfs). From June 1997 through January 2001, typical monthly values ranged from 100,000,000 to 180,000,000 gallons (310 to 558 acre-feet) pumped. By February 2001, the 200 hp motor for one of the Cooling Water pumps had been replaced with a 60 hp motor to more closely match the dilution water needs. From January through May 2001, monthly volumes pumped were around 90,000,000 gallons (279 acre-feet). From June through November 2001, all pumps were turned off during periods when no dilution flow was required. Monthly volumes during this period of time ranged from 1,000,000 to 5,000,000 gallons (3.1 to 15.5 acre-feet). From December 2001 through August 2003, a Cooling Water pump was again run most of the time. Monthly volumes pumped during these months ranged from 86,000,000 to 107,000,000 gallons (267 to 332 acre-feet) per month.

In December 2002, additional underground piping was installed between the intake structure and the D&DS in preparation for the higher dilution flows needed to discharge the Spent Fuel Pool water. A flow test was performed on February 18, 2003, to determine dilution flow rate. First the B pump was run, then both pumps were run, and lastly the C pump was run. Start and stop times for the test were not recorded, but it is believed that the total pumping time was about 45 minutes (15 minutes for each section of the test). The following results were obtained:

B Pump only

¹ Title 10 of the Code of Federal Regulations (10 CFR) contains regulatory requirements for nuclear power plant activities. 10 CFR 50.10, 10 CFR 50.57, and 10 CFR 50.90 require a nuclear power plant operator to have and maintain a license issued by the NRC, and to operate the plant in accordance with the license. 10 CFR 50.34 and 10 CFR 50.71(e) codifies requirements for licensees of nuclear power plant(s) to establish and maintain an NRC-approved Final Safety Analysis Report (FSAR), and to operate the plant(s) in accordance with the approved FSAR. These regulations are incorporated by, into, and throughout Trojan Nuclear Plant License No. NPF-1 issued by the NRC. Until the spent fuel was removed in its entirety from the Spent Fuel Pool in September 2003, the Trojan Nuclear Plant FSAR, Sections 6.3 and 3.3.4 (implementing the afore-described regulatory and license requirements), required that the Service Water System be maintained with the primary function of providing alternate make-up water (from the river) to the Spent Fuel Pool in the event of a loss of Spent Fuel Pool water.

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Flowrate: 22,800 gpm (50.80 cfs)
Amount pumped: (22,800 gal/min)(15 min) = 342,000 gal (1.1 acre-feet)

B and C Pumps simultaneously

Flowrate: 36,850 gpm (82.10 cfs)
Amount pumped: (36,850 gal/min)(15 min) = 552,750 gal (1.7 acre-feet)

C Pump only

Flowrate: 26,300 gpm (58.60 cfs)
Amount pumped: (26,300 gal/min)(15 min) = 394,500 gal (1.2 acre-feet)

Total amount pumped during test: 1,289,250 gal (4 acre-feet)

In September 2003, the water from the Spent Fuel Pool was discharged to the river. This required a much larger dilution flowrate, and thus the number of gallons discharged that month was significantly increased.

The Spent Fuel Pool water was discharged over a period of about 3 weeks. During the discharge, both of the large Service Water Pumps (B and C) were run continuously. Using the daily log, an average flowrate over a 4-day period (9/12 through 9/15) is determined to have been 81.30 cfs. Totaling the gallons recorded for the 21 days of Spent Fuel Pool water discharge gives a total water pumped of about 657,640,000 gallons (2,039 acre-feet).

After discharge of the Spent Fuel Pool was complete, the pumps were again secured except when actually needed for dilution flow. From October 2003 through May 2004 monthly volumes were in the range of 600,000 to 10,000,000 gallons (2 to 31 acre-feet) pumped.