



Oregon Water Resources Department  
 725 Summer Street NE, Suite A  
 Salem Oregon 97301-1266  
 (503) 986-0900  
 www.wrd.state.or.us

# Application for Water Right Transfer

Please type or print legibly in dark ink. If your application is incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "N/A" to indicate "Not Applicable." As you complete this form, please refer to notes and guidance included on the application. A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/OWRD/PUBS/forms.shtml](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).

## 1. TYPE OF TRANSFER APPLICATION

Please check one	
<input checked="" type="checkbox"/> Permanent Transfer	<input type="checkbox"/> Instream Transfer
<input type="checkbox"/> Temporary Transfer (1 to 5 yrs.)	<input type="checkbox"/> Permanent
• total number of years: <u>5</u>	<input type="checkbox"/> Time-Limited
(begin year: <u>2010</u> )	<input type="checkbox"/> Drought Transfer
(end year: <u>2015</u> )	<input type="checkbox"/> Other

## 2. APPLICANT INFORMATION

Name: Portland General Electric Company c/o Rick Tetzloff  
First Last

Address: 121 SW Salmon Street

Portland Oregon 97204  
City State Zip

Phone: 503-464-8508  
Home Work Other

Fax: 503-464-2285 E-Mail address: rick.tetzloff@pgn.com

## 3. AGENT INFORMATION

*(The agent listed is authorized to represent the applicant in all matters relating to this transfer application.)*

Name: Martha Pagel  
First Last

Address: 530 Center Street NE, Suite 400 (Schwabe Williamson & Wyatt)

Salem Oregon 97301  
City State Zip

Phone: 503-540-4260  
Home Work Other

Fax: 503-796-2900 E-Mail address: mpagel@schwabe.com

- If an agent is listed above, please check **one** of the following:
  - Please send all correspondence to Agent. Send *copies* of correspondence to Applicant; **or**
  - Please send all correspondence to Applicant. Send *copies* of correspondence to Agent.

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**4. PROPOSED CHANGE(S) TO WATER RIGHT(S)**

- List **all** water rights to be affected by this transfer. Indicate the certificate, permit, decree or other identifying number(s) in the table below: *(Attach additional pages as necessary.)*

	Application / Decree	Permit / Previous Transfer	Certificate
1.		34940	73396 / 81969
2.			
3.			
4.			
5.			
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- Attach a **separate Supplemental Form A** (*Description of Proposed Change(s) to a Water Right*) for **each** water right listed above.
- Check **all** proposed change(s) included in this transfer application:
  - Place of Use       Point of Diversion (POD)       Additional Point of Diversion
  - Character of Use       Point of Appropriation (POA, or well)       Additional POA
  - Instream Transfer       Surface Water POD to Ground Water POA
  - Substitution of Supplemental Groundwater right for Primary Surface water right
  - Historic POD change                       Other
- Reason(s) for change(s): Please see Attachment 1

**5. WATER DELIVERY SYSTEM**

- Describe the **current** water delivery system **or** the system that **was in place** at some time **within the last 5 years**. Include information on the pumps, canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use. If the transfer involves multiple rights that have independent systems, describe each system separately.

*The description must be sufficient to demonstrate that the full quantity of water to be transferred can be conveyed from the authorized source and applied at the authorized location and that the applicant is ready, willing, and able to exercise the right.*

Please see "Port Westward 2, Water Right Transfer Supplemental Form B"

- System capacity: \_\_\_\_\_ cubic feet per second (cfs). If the transfer involves multiple rights that have independent systems, describe the capacity for each system separately.

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**6. EVIDENCE OF BENEFICIAL WATER USE**

- Attach one or more **Evidence of Use Affidavits** (Supplemental Form B) demonstrating that each of the right(s) involved in the transfer have been exercised in the last five years in accordance with the terms and conditions of the right or that a presumption of forfeiture for non-use could be rebutted. The Evidence of Use Affidavit(s) **must include supporting documentation** such as the following:
  - ▶ Copies of receipts from sales of irrigated crops or for expenditures relating to 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 location and date of the photograph; *or*
  - ▶ If the right has **not** been used during the past five years, documentation that the presumption of forfeiture would be rebutted under ORS 540.610(2).

**7. AFFECTED DISTRICTS**

- Are any of the water rights proposed for transfer located within or served by an irrigation or other water district?     Yes     No
- Will any of the water rights be located within or served by an irrigation or other water district after the proposed transfer?     Yes     No
- Is water for any of the rights supplied under a water service agreement or other contract for stored water with a federal agency or other entity?     Yes     No

*If "Yes", for any of the above, list the name and mailing address of the district, agency and/or entity:*

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**8. LOCAL GOVERNMENTS**

- List the name and mailing address of all local governments (i.e., each county, city, municipal corporation, or tribal government within whose jurisdiction water will be diverted, conveyed or used).

Columbia County, 230 Strand Street, St. Helens, Op 97051

Port Of St. Helens, P.O. Box 598, St. Helens, OR 97501

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**9. LAND OWNERSHIP**

- Does the applicant own the lands **FROM** which the right is being transferred?  Yes  No

*If "No", provide the following information. For Temporary Transfers, also include a notarized statement granting consent to the transfer from each of the landowners (for Permanent Transfers see Section 12(c)):*

Names of Current Landowner(s): Please see Attachment 3

First Last

Address: \_\_\_\_\_

City State Zip

- Does the applicant own the lands **TO** which the right is being transferred?  
 Yes  No  N/A - NOT APPLICABLE TO INSTREAM TRANSFERS

*If "No", provide the following information:*

Names of Receiving Landowner(s): Portland General Electric (PGE) \*(see Section 10)

First Last

Address: P.O. Box 598

St. Helens Oregon 97501

City State Zip

- Check one of the following:
  - The receiving landowner will be responsible for completion of the proposed changes after the final order is issued. All notices and correspondence should be sent to this landowner.
  - The applicant will remain responsible for completion of changes. Notices and correspondence should continue to be sent to the applicant and applicant's agent.
  - N/A. (Not applicable. Application is for an Instream Water Right Transfer.)

**10. Other Remarks (optional)**

\*PGE has control of the lands under a long-term lease. The lands are owned by the Port of St. Helens.

Therefore, PGE is the "receiving landowner" for purposes of the transfer.

\_\_\_\_\_  
\_\_\_\_\_

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## 11. ATTACHMENTS

*Check each of the following attachments included with this application.  
The application will be returned if all required attachments are not included.*

### Supplemental Form A –

#### Description of Proposed Change(s) to a Water Right

- A **separate** Supplemental Form A is enclosed for **each** water right to be affected by this transfer.

### Supplemental Form B –

#### Evidence of Use Affidavit(s)

- At least one Evidence of Use Affidavit documenting that the right has been used during the last five years or that the right is not subject to forfeiture under ORS 540.610 is attached. The affidavit provided must be the original (not a copy), **and**
- The Evidence of Use Affidavit **must** be accompanied by **supporting documentation**.

### Map

- Water Right Transfer*  
The map must be prepared by a Certified Water Right Examiner and meet the requirements of OAR 690-380-3100 unless a waiver has been granted. The map provided must be the original, not a copy.
- Temporary Transfer or Historical POD Change*  
A map meeting the requirements of OAR 690-380-3100 must be included but need **not** be prepared by a Certified Water Right Examiner.

### Water Well Report(s)/Well Log(s):

- The application is for a change in point of appropriation or change from surface water to ground water and copies of all water well reports are attached.
- Water well reports are not available and a description of construction details including well depth, static water level, and information necessary to establish the ground water body developed or proposed to be developed is attached.
- N/A. The application does **not** involve a change in point of appropriation or a change from surface water to ground water, so water well reports are **not** required.)

### Land Use Information For Proposed Changes:

#### *For Instream Transfers:*

- Notice of the intent to file an instream transfer application has been provided to each affected local government along the proposed reach, and copies of the notices are enclosed. (*For instream transfers a Land Use Information Form is not required.*)

#### *For All Other Transfers:*

- Land Use Information Form is enclosed; *or*
- All** of the following criteria are met, therefore a Land Use Information Form is not required:
- ① In EFU zone or irrigation district,
  - ② Change in place of use only,
  - ③ No structural changes needed, including diversion works, delivery facilities, other structures, *and*
  - ④ Irrigation only.

#### Fees:

- Amount enclosed: \$ 2800.00  
See the Department's Fee Schedule at [www.wrd.state.or.us](http://www.wrd.state.or.us) or call (503) 986-0900.

#### *Instream Water Right Transfers, also include:*

### Supplemental Form C –

#### Instream Water Right Transfer

- Complete this form to describe the desired nature and attributes for the proposed instream water right.

#### *Temporary Transfers, also include:*

#### Recorded Deed:

- The applicant must submit a copy of the current deed of record for the land **from** which the authorized place of use or point of diversion/appropriation is being moved.

#### Affidavit of Consent:

- If the applicant is **NOT** the owner of record for the land **from** which the authorized place of use or point of diversion/appropriation is being moved, a notarized statement from the actual owner of record consenting to the proposed transfer must be submitted.

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**Before submitting your application to the Department, be sure you have:**

- Answered each question completely.
- Included all the required attachments.
- Provided original signatures for all named deed holders, or other parties, with an interest in the water right.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount.

**12. SIGNATURES**

▪ Check one of the following, as appropriate, and sign the application in the signature box below:

In accordance with OAR 690-380-3000(13)(a), I (we) understand that prior to Department approval of a permanent transfer and upon my receipt of a draft Preliminary Determination for the proposed transfer, I (we) will be required [pursuant to OAR 690-380-4010(5)] to provide the following landownership information and evidence demonstrating that I (we) are authorized to pursue the transfer:

(a) A report of ownership and lien information that has been prepared by a title company *within the last three months*;

(b) A copy of written notification of the proposed transfer provided by the applicant to all lien holders on the subject lands unless the report of ownership and lien information shows that a water right conveyance agreement has been recorded for the subject lands. *If a water right conveyance agreement has been recorded for the subject lands, a copy of the agreement and identification of the owner of the lands at the time the agreement was recorded must be submitted; and*

(c) If the landowner identified in the report of ownership and lien information is not the applicant, a notarized statement consenting to the transfer (*attached*) signed by the landowner identified in the report or an authorized representative of the entity to whom the interest in the water right has been conveyed as identified in a water right conveyance agreement or other documentation demonstrating that the applicant is authorized to pursue the transfer in the absence of the consent of the landowner.

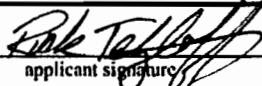
I (we) affirm that interest in the water right has been conveyed to someone other than the landowner, and documents, including a water right conveyance agreement, report of ownership and lien information, and any required lienholder notification are enclosed, demonstrating that I am (we are) authorized to pursue the transfer. I (we) understand that we may be required to provide additional information upon receipt of the draft Preliminary Determination.

I (we) affirm that the applicant is a municipality, as defined in ORS 540.510(3)(b), and that the right is in the name of the municipality or a predecessor. Therefore, pursuant to OAR 690-380-3000(13)(b), the applicant is NOT required to provide the above described report of ownership and lien information.

I (we) affirm that the applicant is an entity with the authority to condemn property and is acquiring the property to which the water right proposed for transfer is appurtenant by condemnation. Documentation is provided with this application supporting this statement. Therefore, pursuant to OAR 690-380-3000(13)(c), the applicant is NOT required to provide the above described report of ownership and lien information. (*NOTE: Such an entity may only apply for a transfer under this subsection if it has filed a condemnation action to acquire the property.*)

I (we) affirm that this is a temporary transfer and a copy of the deed for the "from" land (and affidavits of consent from any other landowners, if applicable) is enclosed.

▪ I (we) affirm that the information contained in this application is true and accurate.

 applicant signature	RICK TETZELOFF - PROTECT MGR name and title if applicable (print)	9-18-09 date
_____ applicant signature	_____ name and title if applicable (print)	_____ date

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**Water Right Transfer Supplemental Form A**  
**DESCRIPTION OF PROPOSED CHANGE(S) TO A WATER RIGHT**

List only one water right per page. A separate Supplemental Form A must be completed for each certificate, permit, decree, or other right involved in the proposed transfer.

Attach additional copies of Supplemental Form A as needed to describe other certificates, permits, decrees or other rights involved in this transfer.

▪ Certificate Number or other identifying number: 73396 / 81969

**1. TYPE OF CHANGE(S) PROPOSED**

(Check *all* that apply.)

Point of Diversion or Appropriation	Place of Use	Character of Use
<input type="checkbox"/> <b>Change</b> (The old point of diversion or appropriation will <b>not</b> be used for the portion of the water right affected by the transfer.) <input checked="" type="checkbox"/> <b>Additional</b> (Both the old <b>and</b> new points of diversion or appropriation will be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> <b>Historic Point of Diversion or Appropriation Change</b> (Unauthorized point of diversion or appropriation used for more than 10 years.) <input type="checkbox"/> <b>Surface Water to Ground Water</b> (A new point of appropriation will be used <b>instead of</b> the old point of diversion. The old point of diversion will <b>not</b> be used.) <input type="checkbox"/> <b>Point of Diversion Change due to Government Action</b> (The old point of diversion or appropriation can no longer be used due to government action.) <input type="checkbox"/> <b>Exchange</b> (Water from another source will be used in exchange for supplying an equal amount of replacement water to that source.)	<input type="checkbox"/> <b>All of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.) <input checked="" type="checkbox"/> <b>Only a portion of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.)	Proposed new use: <input type="checkbox"/> <b>Irrigation</b> <input type="checkbox"/> <b>Municipal</b> <input type="checkbox"/> <b>Quasi-municipal</b> <input type="checkbox"/> <b>Commercial</b> <input checked="" type="checkbox"/> <b>Industrial</b> <input type="checkbox"/> <b>Instream</b> (complete and attach <i>Supplemental Form C</i> ) <input type="checkbox"/> <b>Domestic</b> (indicate number of households) _____ <input type="checkbox"/> <b>Other</b> _____  <input type="checkbox"/> <b>Substitution</b> (A supplemental ground water right will be substituted for a primary surface water right.)  <input type="checkbox"/> <b>Supplemental Use to Primary Use</b> (Primary water right shall be cancelled and the supplemental water right will change to primary use.)

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▪ Certificate Number or other identifying number: 73396 / 81969

The following information **must be provided** only for those points of diversion or appropriation that are involved in the transfer (i.e., list only the portion of the water right you propose to transfer.) Attach additional pages as necessary.

Government lot and donation land claim numbers must be included in the tables below **only** if the information is reflected on the existing water right.

**Location of Existing Authorized Point(s) of Diversion or Appropriation to be Changed:**

(i.e., the allowed point(s) of diversion or appropriation listed on the water right that will be affected by the proposed transfer, the "FROM" point(s) of diversion or appropriation)

If Ground Water, OWRD Well Log ID No. (or Well ID Tag No. L-___)	Source and Priority Date	Township	Range	Mer	Sec	¼ ¼	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
	Columbia River; 8/3/1970	7 North	2 West	W.M.	36	SW1/4, SW1/4	Lot3	150' North and 920' East from SW corner of Sec. 36

- Does the water right being transferred involve a ground water source(s)?
  - Yes
  - No (Surface water source only.)

If "Yes", for each authorized point of appropriation (well) involved, you must either:

A. Supply a copy of the well log(s) for each point of appropriation that is **clearly labeled** and associated with the corresponding well in the table above and on the accompanying application map. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

**or**

B. If a well log is **not** available, you must describe the construction of the authorized point of appropriation by completing the table below. Attach additional copies as necessary.

**Construction of Existing Authorized Point(s) of Appropriation – (Only needed if no well log is available.)**

Wells in this listing must be **clearly tied** to corresponding well location(s) described in the table above and shown on the accompanying application map.

OWRD Well No. as identified in table above	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
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▪ Certificate Number or other identifying number: 73396 / 81969

Will the ENTIRE water right be affected by this transfer?  Yes  No

If "Yes", the remainder of this page does not need to be completed. Go on to the next page.

If "No", the following information **must be provided only** for those places of use that **are involved in the transfer (i.e., list only the portion of the water right to be affected by the change.)** Attach additional pages as necessary.

Government lot and donation land claim numbers must be included in the tables below **only** if the information is reflected on the existing water right.

**Location of Existing Authorized Place of Use to be Affected:**

(i.e., the allowed lands listed on the water right that will be affected by the proposed transfer, the "FROM" lands)

Source and Priority Date	Township	Range	Mer	Sec	¼ ¼ Section	Gov't Lot	Acres (if applicable)
Columbia River; 8/3/1970	6 N.	2 W.	WM	1	NW NW	1	
Columbia River; 8/3/1970	6 N.	2 W.	WM	2	NE NE		
Columbia River; 8/3/1970	7N	2W.	WM	35	SE SE		
Columbia River; 8/3/1970	7N.	2W.	WM	36	SW SW		

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▪ Certificate Number or other identifying number: 73396 / 81969

**3. PROPOSED CHANGES TO THE WATER RIGHT**

Describe proposed changes to the water right involving point(s) of diversion and/or appropriation. Survey coordinates described below should accurately correspond to the points shown on the accompanying application map. Attach additional pages as necessary.

**Location of Proposed Point(s) of Diversion or Appropriation:**

(i.e., the "TO" point(s) of diversion or appropriation)  N/A – Instream Water Right Transfer

(NOTE: Complete this table **only** if a Change in Point of Diversion or Appropriation is being proposed.)

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
Columbia River	8N	4W	WM	15	SE SE	DLC 39	2800' NORTH AND 560' WEST FROM THE EAST ¼ CORNER OF SEC 22.

- If there are proposed point(s) of appropriation (wells) listed in the table above, are the well(s) already constructed?  Yes  No  N/A - No proposed well(s) listed above.

If "Yes", attach and clearly label the corresponding well log(s) for each proposed well, or if well log(s) are **not** available, describe the construction of the well(s) using the table below. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

If "No", describe the anticipated construction for the proposed well(s) in the following table:

**Construction of Proposed Point(s) of Appropriation or Well(s)**

Well numbers in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.

Well already built? (Yes/No)	If an existing well, OWRD Well Log ID No. (or Well ID Tag No. L- )	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
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**Attachment 3**  
(Names of current landowners)

Portland General Electric Company, Eugene Water & Electric Board, and PacifiCorp own the Trojan Project and associated real property as tenants in common. PGE owns a 67.5% share of the Project and is the operator of the site. Eugene Water & Electric Board owns a 30% share of the Project and PacifiCorp owns a 2.5% share of the Project. Attached is Eugene Water & Electric Board and PacifiCorp's consent to the permanent transfer of a portion of the water right that is the subject of this application for use at the Port Westward site.

Their addresses are as follows:

Eugene Water & Electric Board  
500 East Fourth Avenue  
Post Office Box 10148  
Eugene, Oregon 97440-2148

PacifiCorp  
825 NE Multnomah  
Portland, Oregon 97232

T 10955



June 3, 2005

Stephen M. Quennoz  
Vice President, Generation  
Portland General Electric Company  
Trojan Nuclear Plant  
71760 Columbia River Hwy.  
Rainier, Oregon 97048

Dear Mr. Quennoz:

PacifiCorp has reviewed and concurs with PGE's proposal regarding the transfer and potential sale of Trojan's water right. Specifically, PacifiCorp approves the transfer of 83.7 cfs to instream lease, the sale of 5.4 cfs to PGE's Port Westward project for \$10,900, while retaining 0.4 cfs for fire suppression requirements.

The executed Statement Granting Permission for Transfer of Water Right is enclosed.

Call Mr. Ed Burton at (503) 813-5431 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Stan Watters".

Stan Watters  
Senior Vice President

Enclosure

cc: J. D. Reid - PGE Trojan  
K. D. Beeson - EWEB  
R. N. Sherman - BPA

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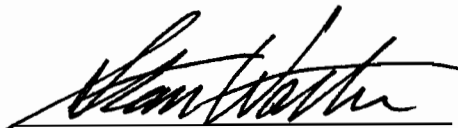
Statement Granting Permission for Transfer of Water Right

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.



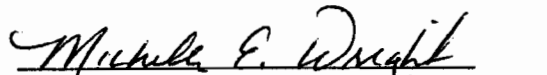
Signature

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.



  
NOTARY PUBLIC, State of Oregon  
Commission Expires: 1/25/2009



## Eugene Water & Electric Board

500 East 4th Avenue / Post Office Box 10148  
Eugene, Oregon 97440-2148  
541-484-2411 Fax 541-484-3762

May 25, 2005

Stephen M. Quennoz  
Vice President, Generation  
Portland General Electric Company  
Trojan Nuclear Plant  
71760 Columbia River Highway  
Rainier, Oregon 97048

Subject: Trojan Co-Owner Concurrence with Trojan Water Right Transfer

Dear Mr. Quennoz:

In response to your October 24, 2004 letter regarding the above referenced water right transfer, I am attaching an executed "Statement Granting Permission for Transfer of Water Right".

Eugene Water & Electric Board agreement to this Permission Statement is made with the following understanding:

- The referenced Certificate of Water Right No. 73396 allows for a maximum diversion from the Columbia River of 89.5 cubic feet per second.
- PGE is proposing to transfer 5.4 cfs of that right to the Port Westward site for a price of \$10,900, a value established in the March 22, 2005 "Valuation of Water Right Certificate 73396, Trojan Nuclear Plant Final Report" (the "Valuation Report"), prepared by WestWater Research of Vancouver, Washington.
- EWEB acceptance at this time of this particular value for the 5.4 cfs shall not be considered a precedent for any future valuation of the remaining water right.<sup>1</sup>
- As has been the case with previously received proceeds from salvage of Trojan Project equipment and material, the \$10,900 will be used to offset future costs related to Trojan.
- Except for 0.4 cfs, which will remain at the site for fire protection purposes, the remaining water right will be transferred "instream" in accordance with Oregon Water Resources Department regulatory requirements, and will thereby remain available to the Co-Owners for potential future uses.

<sup>1</sup> The Valuation Report states that because new water rights are available from the Columbia River in the area of Trojan, the \$10,900 value has been determined to be equivalent to the estimated cost to obtain a new water right. The Valuation Report states further that this \$10,900 value is significantly low when compared to values for water rights in other regions where new water rights are not generally available.



May 25, 2005  
Stephen M. Quennoz  
Trojan Water Right Transfer  
Page 2

- Future proposals by PGE for transfer of any portion of this "instream" amount will be reviewed in advance with the Co-Owners.

Sincerely,



Kenneth D. Beeson  
Energy Resource Projects Manager

Attachment

C: Robert N. Sherman, Bonneville Power Administration  
E. M. Burton, PacifiCorp  
Jerry Reid, Trojan Nuclear Plant

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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, KENNETH D. BEESON, being duly sworn, hereby depose and state that I am 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 BOARD for transfer of the Water Right.

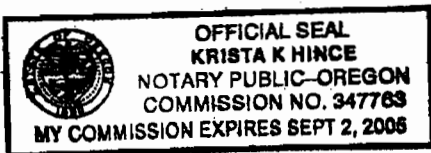
[Handwritten Signature]

Signature

STATE OF OREGON )

COUNTY OF Lane )

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



Krista K. Hince  
NOTARY PUBLIC, State of OREGON  
Commission Expires: 09/02/06

# **APPENDIX O-3**

## **Port of St. Helens NPDES Permit**

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G.  
**Oregon**

Theodore Kulongoski, Governor

PW ENV 11-6 NPDES

**Department of Environmental Quality**

Northwest Region Portland Office

2020 SW 4<sup>th</sup> Avenue, Suite 400

Portland, OR 97201-498

(503) 229-5263

FAX (503) 229-6957

TTY (503) 229-5471

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

February 10, 2003  
7001 1140 0002 3345 6188

Paul Langner  
Marine Industrial Manager  
Port of St. Helens  
PO Box 598  
St. Helens OR 97051

Re: NPDES Permit  
File No. 111746  
Port of St. Helens, Port Westward  
Columbia County

We have completed our review of your permit application and the comments received regarding the preliminary draft permit, and have issued the enclosed National Pollutant Discharge Elimination System Permit.

This permit will be considered the final action on permit application number 986433.

If you are dissatisfied with the conditions or limitations of this permit, you have 20 days to request a hearing before the Environmental Quality Commission or its authorized representative. Any such request shall be made in writing to the Director and shall clearly state the grounds for the request.

You are urged to carefully read the permit and take all possible steps to comply with conditions established.

Should you have any questions regarding this permit, please contact Elliot Zais at 503/229-5292.

Sincerely,

Robert P. Baumgartner, Manager  
Water Quality Source Control  
Northwest Region

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Enclosure: NPDES permit  
cc: File

**RECEIVED**  
BY ENGRG

FEB 20 2003

CC: Data Room, Port Westward file GOV REL 9, A Behbehani-Divers, A Bidwell/Environmental file, M Shively, J Mody, M Schwartz, M Livingston, K Marold, M Mikolaitis, K Marshall



Permit Number: 102650  
 Expiration Date: 12/31/2007  
 File Number: 111746  
 Page 1 of 16 Pages

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

WASTE DISCHARGE PERMIT  
 Department of Environmental Quality  
 Northwest Region Office

2020 Southwest Fourth Avenue, Portland, OR 97201-4987  
 Telephone: (503) 229-5263

Issued pursuant to ORS 468B.050 and The Federal Clean Water Act

ISSUED TO:

Port of St. Helens  
 PO Box 598  
 St. Helens, Oregon

SOURCES COVERED BY THIS PERMIT:

<u>Type of Waste</u>	<u>Outfall Number</u>	<u>Outfall Location</u>
Process Wastewater	001	RK 85 (RM 53)

PLANT TYPE AND LOCATION:

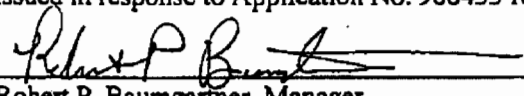
Wastewater Collection System  
 Port Westward Industrial Site  
 Clatskanie, Oregon

RECEIVING STREAM INFORMATION:

Basin: North Coast/Lower Columbia  
 Sub-Basin: Lower Columbia/Clatskanie  
 Stream: Columbia River  
 Hydro-code: 10-COLU 53 D  
 County: Columbia

EPA REFERENCE NUMBER: OR 004085-1

Issued in response to Application No. 986433 received 26 February 2002

  
 Robert P. Baumgartner, Manager  
 Water Quality Source Control, Northwest Region

2/10/2003  
 Date

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PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify or operate a waste water collection, treatment, control and disposal system and discharge to public waters adequately treated waste waters only from the authorized discharge point or points established in Schedule A and only in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

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Schedule A - Waste Discharge Limitations not to be Exceeded.....	2
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Unless specifically authorized by this permit, by another NPDES or WPCF permit, or by Oregon Administrative Rule, any other direct or indirect discharge to waters of the state is prohibited, including discharge to an underground injection control system.

**SCHEDULE A**

1. Waste Discharge Limitations not to be Exceeded After Permit Issuance Date

a. Outfall 001: Wastewater Discharge to Columbia River

Parameter	7-Day Moving Average	30-Day Moving Average	Peak (2-hour average)
Excess Heat Load <sup>1</sup> 1 June – 15 October	4.46 MW	3.58 MW	—
pH	Must not be outside the range of 6.5 – 8.5	Must not be outside the range of 6.5 – 8.5	Must not be outside the range of 6.5 – 8.5
Temperature <sup>2</sup> 1 June – 15 October	27 °C	26 °C	32 °C

<sup>1</sup> Excess heat load is heat loads above the applicable criteria (68 °F (20 °C)) which shall be calculated as follows.

Heat transfer per unit time equals density of water times flow rate times specific heat times temperature difference. Heat transfer is in units of megawatts (MW) or megajoules/second (MJ/s).

$H = (1000 \text{ kg/m}^3)(Q \text{ m}^3/\text{s})(4182 \text{ J/(kg } ^\circ\text{C)})(\Delta T)(1 \text{ W/(1 J/s)})(1 \text{ MJ/1000 J})$ , where  $\Delta T$  = effluent temperature (expressed as the 7-day or 30-day moving average temperature, as applicable) – 20 °C. If  $\Delta T$  is less than or equal to zero, the excess heat load will be reported as zero for that period.

For example, the projected excess heat load at full buildout using a 7-day average temperature of 29.67 °C and an average flowrate of 5.23 cfs or 0.148097 m<sup>3</sup>/s will be:

$$H = (1000 \text{ kg/m}^3)(0.148097 \text{ m}^3/\text{s})(4182 \text{ J/(kg } ^\circ\text{C)})(9.67 \text{ } ^\circ\text{C})(1 \text{ W/(1 J/s)})(1 \text{ MJ/10}^6\text{J}) = 5.99 \text{ MW}$$

<sup>2</sup> Daily average temperature is the arithmetic average of temperatures taken every 30 minutes throughout a 24-hour day. The 7-day moving average temperature is the average of 7 consecutive daily averages. If there is no flow on a given day, that day is to be skipped for the averaging. The 30-day moving average is calculated similarly.

b. The Permittee shall require all dischargers that are subject to 40 CFR Part 423 (steam electric power generators) to comply with the following conditions as applicable to their discharges upstream of the point of discharge into the Permittee's system.

i) Once Through cooling water

Parameter	Monthly Average	Daily Maximum
Total Residual Chlorine <sup>3</sup>	0.15 mg/L	0.38 mg/L

<sup>3</sup>Chlorine must not be discharged for more than two hours on any day. The permittee shall prohibit dischargers to its system from discharging cooling tower blowdown during chlorination.

ii) Cooling Tower Blowdown prior to mixing with other waste streams

Parameter	Monthly Average	Daily Maximum
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Free Available Chlorine	0.15 mg/L	0.38 mg/L
Total Chromium	0.2 mg/L	0.2 mg/L
Total Zinc	1.0 mg/L	1.0 mg/L

iii) Low Volume Waste Sources<sup>3</sup>.

Parameter	Monthly Average	Daily Maximum
Total Suspended Solids	30 mg/L	100 mg/L
Oil & Grease	15 mg/L	20 mg/L

<sup>3</sup> Low volume waste sources means, taken collectively as if from one source, wastewater from all sources except those for which specific limitations are otherwise established in this part. Low volume waste sources include, but are not limited to: wastewater from wet scrubber air pollution control system, ion exchange water treatment system, water treatment evaporator blowdown, floor drains, cooling tower basin cleaning wastes, and re-circulating house service water systems. Sanitary and air conditioning wastes are not included.

There must be no addition of polychlorinated biphenyl compounds to process wastewater.

2. Notwithstanding the effluent limitations established by this permit, no wastes shall be discharged and no activities shall be conducted which will violate Water Quality Standards as adopted in OAR 340-041-0202 through -0215 except in the following defined mixing zone:

The size of the mixing zone is:

30 meters horizontally in any flow direction from the diffuser.

The size of the zone of initial dilution (ZID) is:

3.5 meters horizontally in any flow direction from the diffuser.

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3. Temperature Management Plan

a. The effluent limitations and other conditions in this permit related to temperature shall constitute the surface water temperature management plan (temperature management plan) required by OAR 340-041-0026(3)(a)(D) and 340-041-0120 (11)(e)(C) applicable to the permittee. Provided that the permittee complies with this temperature management plan, the permittee shall be deemed to be in compliance with the state temperature water quality standard and not be deemed to be causing or contributing to a violation of the water quality standards for temperature.

b. The permittee shall install (or require dischargers to the permittee's system to install) one or more influent/effluent heat exchangers to reduce the temperature of waste water before it is discharged. The permittee will operate (or require dischargers to the permittee's system to operate) the influent/effluent heat exchangers June 1 through October 15 each year commencing the first year that wastewater is discharged under this permit.

c. The permittee shall comply with the mitigation requirements set forth in condition D.1. Once approved by DEQ, the Mitigation Plan and Mitigation Agreement described in Condition D.1.b.B shall become part this Temperature Management Plan.

**SCHEDULE B**  
**Minimum Monitoring and Reporting Requirements (unless otherwise approved in writing by the Department)**

1. Outfall Number 001

<u>Item or Parameter</u>	<u>Minimum Frequency</u>	<u>Type of Sample</u>
Chlorine	Continuous	Monitor
Temperature*	Continuous	Monitor
pH	Continuous	Monitor
Heat Load	Continuous	Calculated
Flow rate**	Continuous	Meter

\*Half-hourly readings will be used for calculating average temperatures and heat loads as described above.

\*\*Flow will be totalized daily. The daily flowrate will be the totalized flow divided by the total flow time within a 24-hour period from midnight to the following midnight.

2. Discharges to Permittee's System

The Permittee will require discharges subject to Condition A.1.b to monitor and report to the Permittee the following parameters for the wastewater streams described in Condition A.1.b, as applicable:

<u>Item or Parameter</u>	<u>Minimum Frequency</u>	<u>Type of Sample</u>
Chlorine	Continuous	Monitor
Total Chromium	Annually	Grab
Total Zinc	Annually	Grab
Total Suspended Solids	Monthly	Grab
Oil and Grease	Monthly	Grab

The Permittee shall include the monitoring results submitted by dischargers in its monitoring reports to the Department.

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**SCHEDULED  
Special Conditions**

1. Mitigation Conditions

a. Duty to Mitigate

During the first three years of this Permit, the Permittee shall evaluate the performance of influent/effluent heat exchangers to reduce the discharge of excess heat load. If the use of the heat exchangers is shown to be successful in reducing or eliminating excess heat load discharged to the Columbia River, the permittee can propose permit modifications with new wasteload allocations. If by December 31, 2005, the permittee demonstrates that no excess heat load will be discharged under this permit and requests in writing that the Department modify this permit to include effluent limitations that do not allow the discharge of excess heat, then the requirements of these mitigation conditions shall no longer apply. Otherwise, the Permittee shall implement a heat load mitigation project in accordance with the schedule and requirements set forth in these mitigation conditions.

b. Schedule

The permittee shall:

A. By December 31, 2005, identify a specific riparian vegetation restoration project within the watershed (Columbia River watershed within Oregon) and submit to DEQ for review a draft Mitigation Plan (as defined in Condition D.1.c), Mitigation Agreement (as defined in Condition D.1.d) and request for modification of the heat load effluent limits in this permit, consistent with the mitigation standard set forth in Condition D.1.e.

B. Develop a final Mitigation Plan and Mitigation Agreement and submit them to DEQ for approval within 30 days of receiving Department comments on the plan. Upon approval by DEQ these documents shall become part of an updated Temperature Management Plan (TMP).

C. Enter into the approved Mitigation Agreement and fully fund the mitigation project within 180 days of DEQ approval of the Mitigation Plan and Mitigation Agreement. Once the permittee has entered into the approved Mitigation Agreement and fully funded its obligations under the Mitigation Agreement, its mitigation obligations shall be fully satisfied under this permit. The Mitigation Agreement also shall satisfy any mitigation requirements in subsequent renewals of this permit for as long as the mitigation project is maintained. In the event of any changes to the discharge that increase excess heat load above the levels mitigated under these special conditions, additional mitigation shall be required by the Department only with respect to the increased heat load.

c. Mitigation Plan

The Mitigation Plan shall include the following components:

A. Description of the location of the riparian restoration project by water body, river mile and legal description.

B. A planting plan, including vicinity map, plan view drawing, cross section drawing, and plant list. Specifications for construction/installation of the riparian vegetation

C. The schedule for initial planting and riparian restoration tasks.

D. Calculations demonstrating that the mitigation standards identified below in Condition D.1.e. will be met by the mitigation project.

E. A maintenance plan describing how the plants will be maintained and providing for replacement of plants if survival rate is not as great as the survival rate assumed in the calculations described in Condition D.1.c.D

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above.

F. Monitoring to confirm implementation of the Mitigation Plan in accordance with its terms. The plan will specify the parameters to be monitored, which shall include a biologist's assessment of plant growth rate and survival. The initial monitoring shall be conducted in the first year following completion of the initial planting and shall be repeated in years 2, 3, 5, 8, and 10 and every 10<sup>th</sup> year thereafter through the life of the mitigation project. A monitoring report will be submitted to the Department by December 31 in each year monitoring is required. The monitoring report will describe the results of the monitoring and any planting, maintenance or plant replacement conducted since the last monitoring report.

G. Description of the mechanism by which the mitigation site will be protected from uses not consistent with the intent of the mitigation, until the mitigation requirements are met.

H. A description of the real property rights that have been or will be acquired to provide access to the mitigation site, including easements, equitable servitudes, fee title or other rights.

d. Mitigation Agreement

The permittee shall enter into a Mitigation Agreement with a reputable land or water conservation organization or governmental entity (the "Conservation Entity") to implement the Mitigation Plan. The Mitigation Agreement shall include at least the following terms:

A. A commitment by the Conservation Entity to fully implement the Mitigation Plan in accordance with its terms, including the initial planting and long-term maintenance, monitoring and reporting.

B. A provision that the Mitigation Agreement is enforceable by the Permittee and the Department and any successor agency. A breach of the Mitigation Agreement by the Conservation Entity shall not be deemed a violation of this permit by the permittee.

C. Terms describing the total amount of funding necessary for the mitigation project and the schedule and payment terms for how the permittee will provide that funding.

D. A commitment by the Conservation Entity to hold in trust the project funding and the necessary real property rights for the mitigation site for the benefit of the Department, the public and the permittee for at least the term of the mitigation project.

E. A requirement that the Conservation Entity will cause to be recorded in the county real property records a memorandum describing the Mitigation Agreement.

e. Mitigation Standards

The intent of the mitigation project is to offset the estimated aggregate excess heat load that the permittee will discharge during the water quality limited period of the Columbia River at the discharge (July, August, and September) over 40 years, which is the estimated life of the projects that initially will be discharging wastewater to the permittee for discharge under this permit.

A. The Estimated Aggregate Excess Heat Load under this permit shall be calculated as the 40-year sum of the average excess heat load over the 20°C standard projected for the temperature water quality limited season. The estimate shall be based on the temperature and heat load discharged over the first three years of this permit, adjusted to reflect projections for future operations of the sources generating (or projected to generate) the effluent discharged under this permit and long-term meteorological data. The Estimated Aggregate Excess Heat Load shall include any excess heat load actually discharged prior to date this projection is made.

B. The Projected Heat Load Reduction to the water body at the mitigation site shall be calculated as the amount of solar radiation blocked by shade trees from the surface area of the project stream over a 40-

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year period. The mitigation value of the mitigation project shall be the sum of the Projected Heat Load Reduction over the 40-year life of the mitigation project, taking into consideration the time necessary for plants to mature to the point of providing the projected levels of shading.

- C. The Projected Heat Load Reduction over the life of the mitigation project shall be at least as great as the 40-year Estimated Aggregate Excess Heat Load of the discharge described in paragraph D.1.e.A above.
- D. Upon approval of the Mitigation Plan, the Department will modify this permit to revise the temperature and excess heat load limits set forth in Condition A.1.a consistent with the Estimated Aggregate Excess Heat Load, which modification may include the addition of a limit on aggregate excess heat load for each temperature water quality limited season.

#### Additional Conditions

- 2. An adequate contingency plan for prevention and handling of spills and unplanned discharges shall be in force at all times. A continuing program of employee orientation and education shall be maintained to ensure awareness of the necessity of good in plant control and quick and proper action in the event of a spill or accident
- 3. An environmental supervisor shall be designated to coordinate and carry out all necessary functions related to maintenance and operation of the collection and treatment system. This person must have access to all information pertaining to entire system, including all data generated.
- 4. Reopening of Permit. This permit may be reopened and modified or reissued to incorporate one or more waste load allocations (WLAs) resulting from a Total Maximum Daily Load (TMDL) for any of the parameters associated with the permittee's discharge. Nothing in this condition shall limit reopening of this permit for reasons specified in Schedule F, General Conditions. Nothing in this condition shall abridge the public process associated with permit modification or reissuance.

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**SCHEDULE F  
NPDES GENERAL CONDITIONS****SECTION A. STANDARD CONDITIONS**1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of Oregon Revised Statutes (ORS) 468B.025 and is grounds for enforcement action; for permit termination, suspension, or modification; or for denial of a permit renewal application.

2. Penalties for Water Pollution and Permit Condition Violations

Oregon Law (ORS 468.140) allows the Director to impose civil penalties up to \$10,000 per day for violation of a term, condition, or requirement of a permit.

In addition, a person who unlawfully pollutes water as specified in ORS 468.943 or ORS 468.946 is subject to criminal prosecution.

3. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. In addition, upon request of the Department, the permittee shall correct any adverse impact on the environment or human health resulting from noncompliance with this permit, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

4. Duty to Reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and have the permit renewed. The application shall be submitted at least 180 days before the expiration date of this permit.

The Director may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date.

5. Permit Actions

This permit may be modified, suspended, revoked and reissued, or terminated for cause including, but not limited to, the following:

- a. Violation of any term, condition, or requirement of this permit, a rule, or a statute;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all material facts; or
- c. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

The filing of a request by the permittee for a permit modification or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

6. Toxic Pollutants

The permittee shall comply with any applicable effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

7. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privilege.

8. Permit References

Except for effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act, all rules and statutes referred to in this permit are those in effect on the date this permit is issued.

**SECTION B. OPERATION AND MAINTENANCE OF POLLUTION CONTROLS**

1. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls, and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

2. Duty to Halt or Reduce Activity

For industrial or commercial facilities, upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production or all discharges or both until the facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced or lost. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

3. Bypass of Treatment Facilities

a. Definitions

- (1) "Bypass" means intentional diversion of waste streams from any portion of the treatment facility. The term "bypass" does not include nonuse of singular or multiple units or processes of a treatment works when the nonuse is insignificant to the quality and/or quantity of the effluent produced by the treatment works. The term "bypass" does not apply if the diversion does not cause effluent limitations to be exceeded, provided the diversion is to allow essential maintenance to assure efficient operation.
- (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities or treatment processes which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. Prohibition of bypass.

- (1) Bypass is prohibited unless:
  - (a) Bypass was necessary to prevent loss of life, personal injury, or severe property damage;
  - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup

equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

- (c) The permittee submitted notices and requests as required under General Condition B.3.c.
- (2) The Director may approve an anticipated bypass, after considering its adverse effects and any alternatives to bypassing, when the Director determines that it will meet the three conditions listed above in General Condition B.3.b.(1).
- c. Notice and request for bypass.
  - (1) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior written notice, if possible at least ten days before the date of the bypass.
  - (2) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in General Condition D.5.

#### 4. Upset

- a. Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operation error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- b. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of General Condition B.4.c are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- c. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (1) An upset occurred and that the permittee can identify the causes(s) of the upset;
  - (2) The permitted facility was at the time being properly operated;
  - (3) The permittee submitted notice of the upset as required in General Condition D.5, hereof (24-hour notice); and
  - (4) The permittee complied with any remedial measures required under General Condition A.3 hereof.
- d. Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

#### 5. Treatment of Single Operational Event

For purposes of this permit, A Single Operational Event which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation. A single operational event is an exceptional incident which causes simultaneous, unintentional, unknowing (not the result of a knowing act or omission), temporary noncompliance with more than one Clean Water Act effluent discharge pollutant parameter. A single operational event does not include Clean Water Act violations involving discharge without a NPDES permit or noncompliance to the extent caused by improperly designed or inadequate treatment facilities. Each day of a single operational event is a violation.

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6. Overflows from Wastewater Conveyance Systems and Associated Pump Stations

a. Definitions

- (1) "Overflow" means the diversion and discharge of waste streams from any portion of the wastewater conveyance system including pump stations, through a designed overflow device or structure, other than discharges to the wastewater treatment facility.
- (2) "Severe property damage" means substantial physical damage to property, damage to the conveyance system or pump station which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of an overflow.
- (3) "Uncontrolled overflow" means the diversion of waste streams other than through a designed overflow device or structure, for example to overflowing manholes or overflowing into residences, commercial establishments, or industries that may be connected to a conveyance system.

b. Prohibition of overflows. Overflows are prohibited unless:

- (1) Overflows were unavoidable to prevent an uncontrolled overflow, loss of life, personal injury, or severe property damage;
- (2) There were no feasible alternatives to the overflows, such as the use of auxiliary pumping or conveyance systems, or maximization of conveyance system storage; and
- (3) The overflows are the result of an upset as defined in General Condition B.4. and meeting all requirements of this condition.

c. Uncontrolled overflows are prohibited where wastewater is likely to escape or be carried into the waters of the State by any means.

d. Reporting required. Unless otherwise specified in writing by the Department, all overflows and uncontrolled overflows must be reported orally to the Department within 24 hours from the time the permittee becomes aware of the overflow. Reporting procedures are described in more detail in General Condition D.5.

7. Public Notification of Effluent Violation or Overflow

If effluent limitations specified in this permit are exceeded or an overflow occurs, upon request by the Department, the permittee shall take such steps as are necessary to alert the public about the extent and nature of the discharge. Such steps may include, but are not limited to, posting of the river at access points and other places, news releases, and paid announcements on radio and television.

8. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in such a manner as to prevent any pollutant from such materials from entering public waters, causing nuisance conditions, or creating a public health hazard.

SECTION C. MONITORING AND RECORDS

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1. Representative Sampling

Sampling and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge. All samples shall be taken at the monitoring points specified in this permit and shall be taken, unless otherwise specified, before the effluent joins or is diluted by any other waste stream, body

of water, or substance. Monitoring points shall not be changed without notification to and the approval of the Director.

2. Flow Measurements

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated and maintained to insure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than  $\pm 10$  percent from true discharge rates throughout the range of expected discharge volumes.

3. Monitoring Procedures

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

4. Penalties of Tampering

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person, punishment is a fine not more than \$20,000 per day of violation, or by imprisonment of not more than four years or both.

5. Reporting of Monitoring Results

Monitoring results shall be summarized each month on a Discharge Monitoring Report form approved by the Department. The reports shall be submitted monthly and are to be mailed, delivered or otherwise transmitted by the 15th day of the following month unless specifically approved otherwise in Schedule B of this permit.

6. Additional Monitoring by the Permittee

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Discharge Monitoring Report. Such increased frequency shall also be indicated. For a pollutant parameter that may be sampled more than once per day (e.g., Total Chlorine Residual), only the average daily value shall be recorded unless otherwise specified in this permit.

7. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean, except for bacteria which shall be averaged as specified in this permit.

8. Retention of Records

Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by 40 CFR part 503), the permittee shall retain records of all monitoring information, including all calibration and maintenance records of all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Director at any time.

9. Records Contents



Records of monitoring information shall include:

- a. The date, exact place, time and methods of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

10. Inspection and Entry

The permittee shall allow the Director, or an authorized representative upon the presentation of credentials to:

- a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and
- d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by state law, any substances or parameters at any location.

SECTION D. REPORTING REQUIREMENTS

1. Planned Changes

The permittee shall comply with Oregon Administrative Rules (OAR) 340, Division 52, "Review of Plans and Specifications". Except where exempted under OAR 340-52, no construction, installation, or modification involving disposal systems, treatment works, sewerage systems, or common sewers shall be commenced until the plans and specifications are submitted to and approved by the Department. The permittee shall give notice to the Department as soon as possible of any planned physical alternations or additions to the permitted facility.

2. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

3. Transfers

This permit may be transferred to a new permittee provided the transferee acquires a property interest in the permitted activity and agrees in writing to fully comply with all the terms and conditions of the permit and the rules of the Commission. No permit shall be transferred to a third party without prior written approval from the Director. The permittee shall notify the Department when a transfer of property interest takes place.

4. Compliance Schedule

Reports of compliance or noncompliance with, or any progress reports on interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date. Any reports of noncompliance shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirements.

5. Twenty-Four Hour Reporting

The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally (by telephone) within 24 hours, unless otherwise specified in this permit, from the time the permittee becomes aware of the circumstances. During normal business hours, the Department's Regional office shall be called. Outside of normal business hours, the Department shall be contacted at 1-800-452-0311 (Oregon Emergency Response System).

A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. If the permittee is establishing an affirmative defense of upset or bypass to any offense under ORS 468.922 to 468.946, and in which case if the original reporting notice was oral, delivered written notice must be made to the Department or other agency with regulatory jurisdiction within 4 (four) calendar days. The written submission shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times;
- c. The estimated time noncompliance is expected to continue if it has not been corrected;
- d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and
- e. Public notification steps taken, pursuant to General Condition B.7.

The following shall be included as information which must be reported within 24 hours under this paragraph:

- a. Any unanticipated bypass which exceeds any effluent limitation in this permit.
- b. Any upset which exceeds any effluent limitation in this permit.
- c. Violation of maximum daily discharge limitation for any of the pollutants listed by the Director in this permit.

The Department may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

6. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under General Condition D.4 or D.5, at the time monitoring reports are submitted. The reports shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times;
- c. The estimated time noncompliance is expected to continue if it has not been corrected; and
- d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

7. Duty to Provide Information

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The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by this permit.

Other Information: When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Department, it shall promptly submit such facts or information.

8. Signatory Requirements

All applications, reports or information submitted to the Department shall be signed and certified in accordance with 40 CFR 122.22.

9. Falsification of Information

A person who supplies the Department with false information, or omits material or required information, as specified in ORS 468.953 is subject to criminal prosecution.

10. Changes to Indirect Dischargers - [Applicable to Publicly Owned Treatment Works (POTW) only]

The permittee must provide adequate notice to the Department of the following:

- a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to section 301 or 306 of the Clean Water Act if it were directly discharging those pollutants and;
- b. Any substantial change in the volume or character of pollutants being introduced into the POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.
- c. For the purposes of this paragraph, adequate notice shall include information on (i) the quality and quantity of effluent introduced into the POTW, and (ii) any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

11. Changes to Discharges of Toxic Pollutant - [Applicable to existing manufacturing, commercial, mining, and silvicultural dischargers only]

The permittee must notify the Department as soon as they know or have reason to believe of the following:

- a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - (1) One hundred micrograms per liter (100 µg/l);
  - (2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;
  - (3) Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
  - (4) The level established by the Department in accordance with 40 CFR 122.44(f).
- b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":
  - (1) Five hundred micrograms per liter (500 µg/l);

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- (2) One milligram per liter (1 mg/l) for antimony;
- (3) Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); or
- (4) The level established by the Department in accordance with 40 CFR 122.44(f).

**SECTION E. DEFINITIONS**

1. BOD means five-day biochemical oxygen demand.
2. TSS means total suspended solids.
3. mg/l means milligrams per liter.
4. kg means kilograms.
5. m<sup>3</sup>/d means cubic meters per day.
6. MGD means million gallons per day.
7. Composite sample means a sample formed by collecting and mixing discrete samples taken periodically and based on time or flow.
8. FC means fecal coliform bacteria.
9. Technology based permit effluent limitations means technology-based treatment requirements as defined in 40 CFR 125.3, and concentration and mass load effluent limitations that are based on minimum design criteria specified in OAR 340-41.
10. CBOD means five day carbonaceous biochemical oxygen demand.
11. Grab sample means an individual discrete sample collected over a period of time not to exceed 15 minutes.
12. Quarter means January through March, April through June, July through September, or October through December.
13. Month means calendar month.
14. Week means a calendar week of Sunday through Saturday.
15. Total residual chlorine means combined chlorine forms plus free residual chlorine.
16. The term "bacteria" includes but is not limited to fecal coliform bacteria, total coliform bacteria, and E. coli bacteria.
17. POTW means a publicly owned treatment works.

(May 1998)

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# **APPENDIX O-4**

## **Letter from Port of St. Helens Regarding Wastewater Discharge**

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April 22, 2009

Mr. Rick Tetzloff  
Portland General Electric  
Three World Trade Center  
121 SW Salmon St  
Portland OR 99204

Re: Port Westward Generating Project – Unit 2  
(Port Westward Industrial Area, Columbia County)

Dear Rick:

The Port of St. Helens (the "Port") is the holder of a National Pollution Discharge Elimination System Permit (the "NPDES Permit") from the Oregon Department of Environmental Quality ("DEQ") for the discharge of certain wastewater from the Port's tenants in the Port Westward Industrial Area. The Port, Portland General Electric Company ("PGE"), Westward Energy LLC, and Cascade Grain Products, LLC are parties to the amended Port of St. Helens Operations and Maintenance Agreement for Wastewater Discharge Facility dated January 31, 2005 ("O&M Agreement") which provides for the common use and maintenance of the NPDES Permit, subject to the terms and conditions therein.

Pursuant to Section 5.4.1(c) of the O&M Agreement, PGE has requested a modification to its limits set forth in Exhibit A of the O&M Agreement as listed below:

- Flow - from 1.81 cfs to 2.51 cfs
- Excess Heat Load – from 7-day average of 1.50 MW to 2.08 MW
- Excess Heat Load – from 30-day average of 1.29 MW to 1.79 MW

The Port hereby consents to the above modification so long as PGE (1) complies with the terms of the O&M Agreement, (2) complies with any and all DEQ conditions and (3) pays all costs associated with these expanded limits, including but not limited to any required mitigation.

Please do not hesitate to contact me if you have any questions. We look forward to working together to bring this very important project on-line.

Sincerely,

Gerald Meyer  
Executive Director

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## **EXHIBIT O**

### **WATER RESOURCES OAR 345-021-0010(1)(o)**

#### **O.1 INTRODUCTION**

The following description identifies the sources of water to be used, the nature of the water use by the facility and steps taken to minimize consumptive use.

#### **O.2 SUMMARY**

The Port Westward Generation Plant (PWGP) Site Certificate application estimated water usage at approximately 8.3 cfs of water. With this amendment request, the estimated water usage will increase slightly to approximately 8.4 cfs. The energy facility (Unit 1 only) currently has a 5.4 cfs water right from a permitted point of diversion at an existing intake facility owned and operated by PGE. The 5.4 cfs industrial water right was transferred to the Beaver/Port Westward intake facility in 2006 from the Trojan Project.

Through this amendment request, PGE is applying to the Oregon Water Resources Department (OWRD) for a water right transfer for an additional 3.0 cfs. This water right will also be transferred from an existing industrial water right from the Trojan Project.

The primary use of water at the proposed PW2 will be cooling water make-up for the recirculating cooling water system. Average summer water demand for PW1 and PW2 combined will be 3,500 gallons per minute (5.04 million gallons per day). Average annual water demand at the energy facility will be approximately 2,800 gallons per minute (4.03 million gallons per day). Water losses at the energy facility have been and will continue to be reduced by incorporating water-saving features into the design of the energy facility. These include in-plant recycling of all process blowdown, dry low NO<sub>x</sub> combustion control (where applicable), and high-efficiency cooling tower drift eliminators. Most of the water supplied to the proposed energy facility will be lost to evaporation. The remainder will be treated per the pre-treatment requirements of the Port of St. Helens' municipal NPDES Permit and discharged into the municipal sewer system.

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### **O.3 SOURCE OF WATER**

Water supply for the energy facility is drawn from Bradbury Slough, at approximately River Mile (RM) 53.8 of the Columbia River, from an existing PGE intake facility. The existing intake facility was upgraded in 2007 to insure compliance with NMFS and ODFW fish screen criteria.

### **O.4 WATER RIGHTS**

The energy facility currently has a 5.4 cfs water right from a permitted point of diversion at an existing intake facility owned and operated by PGE. The 5.4 cfs industrial water right was transferred to the Beaver/Port Westward intake facility in 2006 from the Trojan Project.

Through this amendment request, PGE is applying to the Oregon Water Resources Department (OWRD) for a water right transfer for an additional 3.0 cfs. This water right will also be transferred from an existing industrial water right from the Trojan Project.

### **O.5 WATER USE**

The primary use of the industrial water right for PW2 is industrial, for cooling water make-up for the recirculating cooling water system. Average summer water demand for PW1 and PW2 combined will be 3,500 gallons per minute (5.04 million gallons per day). Average annual water demand at the energy facility will be approximately 2,800 gallons per minute (4.03 million gallons per day). (See Appendix O-1, Water Mass Balance Diagram).

Note the water rights provide the maximum instantaneous allowed rate of diversion from the river, whereas the water needs are expressed as "average summer demand" or "average annual demand".

### **O.6 WATER LOSSES**

Water losses at Unit 2 will primarily be evaporative loss from the cooling system and discharge of cooling system blowdown. (See Appendix O-1, Water Mass Balance Diagram).

Actual water losses from the recirculating water-cooling system will depend on weather conditions, river water quality, and the operating mode of the energy facility.

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## **O.7 WASTEWATER DISCHARGE**

The energy facility currently treats its discharge water per the pre-treatment requirements of the Port of St. Helens' municipal NPDES Permit (File 111746) and discharges into the municipal sewer system. (See Appendix O-3). Multiple parties, including PGE, are allowed to discharge wastewater to the Port of St. Helens' NPDES Permit and municipal sewer system. PGE has sought an increase of its allotment under the NPDES Permit for PW2, and the Port has provided a letter regarding the increase in PGE's allotment for wastewater discharge. (See Appendix O-4). The NPDES Permit does not need to be modified in order to accommodate PW2.

## **O.8 WATER BALANCE DIAGRAM**

The water balance diagram for annual average water use conditions are shown in Appendix O-1. The water balance diagram is based on the PW2 configuration that has the highest water use - 200 MW of reciprocating engines.

## **O.9 PERMITS OR TRANSFERS REQUIRED**

Through this amendment request, PGE is applying to the OWRD for a water right transfer for an additional 3.0 cfs. This water right will be transferred from an existing industrial water right from the Trojan Project.

As discussed in Section O.7, the energy facility currently treats its discharge water per the pre-treatment requirements of the Port of St. Helens' municipal NPDES Permit (File 111746) and discharges into the municipal sewer system. The Port has provided a letter regarding the increase in PGE's allotment for wastewater discharge. (See Appendices O-3 and O-4).

## **O.10 EVIDENCE IN SUPPORT OF PERMITS OR TRANSFERS**

See Appendix O-2 for the water right transfer application. See Appendix O-3 for a copy of the Port of St. Helens' municipal NPDES Permit. See Appendix O-4 for a copy of a Port of St. Helens letter regarding the increase in PGE's allotment for wastewater discharge needed for PW2.

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# **APPENDIX O-1**

## **Water Balance Diagram**

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# **APPENDIX O-2**

## **Water Right Transfer Application**