

**SECTION 401**  
**INTERIM AGREEMENT**  
**For the**  
**PELTON ROUND BUTTE HYDROELECTRIC PROJECT**

This Interim Agreement ("Agreement") is entered on the Effective Date between the Oregon Department of Environmental Quality ("DEQ") and Portland General Electric Company ("PGE") (collectively, "the Parties"), on behalf of itself as Operator of the Pelton Round Butte Hydroelectric Project (the "Project") located on the Deschutes River in Jefferson County, Oregon, and the Confederated Tribes of the Warm Springs Reservation of Oregon ("CTWS"), who together with PGE are the Joint Licensees for the Project.

**RECITALS**

- A. DEQ is the state agency charged with administering and enforcing state law regarding water quality. On June 24, 2002, DEQ issued a water quality certification under Section 401 of the federal Clean Water Act, 33 U.S.C. §1341 ("§ 401 Certification") for the Project. Thereafter, on June 21, 2005, the Federal Energy Regulatory Commission ("FERC") issued a new 50-year license for the Project.
- B. Condition A of the § 401 Certification requires the Joint Licensees to implement a Water Quality Management and Monitoring Plan ("WQMMP") to satisfy the requirements of the § 401 Certification. Section 2 of the WQMMP is a Water Temperature Management Plan. Section 3 of the WQMMP is a Dissolved Oxygen Management Plan. Section 4 of the WQMMP is a pH Management Plan. Section 5 of the WQMMP is a Nuisance Phytoplankton Growth Management Plan. The Joint Licensees have been implementing each of these management plans, since the new license was issued, in accordance with Condition A of the § 401 Certification.
- C. Since December 2009, the Joint Licensees have been operating a Selective Water Withdrawal facility ("SWW") at the Round Butte Dam to manage temperature, dissolved oxygen, and pH, and to facilitate downstream passage of migrating salmonids.
- D. The § 401 Certification and the WQMMP establish management measures for the Joint Licensees to achieve discharge temperatures at the Reregulating Dam that are at or below the temperature that would occur at that location without the project ("WPT") + 0.25°F when the combined inflows to Lake Billy Chinook are greater than 10°C. WPT is calculated using a regression equation that inputs the flow-weighted, 7-day average daily maximum temperatures of the three major tributaries to Lake Billy Chinook, and the 7-day average daily air temperature at the Redmond Airport. If the weather cools suddenly, and the maximum daily temperatures of the three upstream tributaries suddenly decline, the calculated WPT can decrease before the cooler water reaches the Reregulating Dam, which may lead to an exceedance of WPT + 0.25°F.
- E. The Dissolved Oxygen Management Plan contemplates determination of the applicable DEQ dissolved oxygen standard(s) after a three-year period of required monitoring of water

column and intergravel dissolved oxygen (“IGDO”) levels. In early 2013, the Parties decided that additional data collection was needed. Based on the four years of data, DEQ has determined that the 9.0 mg/L standard applies below the Project during the spawning season of the year.

- F. The WQMMP applies the spawning criterion for dissolved oxygen to the Deschutes River below the Project on a year-round basis. Under the state standard for dissolved oxygen, however, the spawning criterion only applies from October 15<sup>th</sup> to June 15<sup>th</sup>. The criterion for cold-water aquatic life applies during the rest of the year.
- G. As contemplated by the WQMMP, the Joint Licensees will take an adaptive management approach in operations of the SWW to attain water quality standards. The purpose of this Agreement is to provide a framework for the Joint Licensees to evaluate management and monitoring measures that may be needed to ensure continued compliance with the temperature and dissolved oxygen standards applicable to the Deschutes River below the Project.
- H. The CTWS Water Control Board (“WCB”) is currently reviewing its water quality standards and within the next year may be proposing to revise its standards related to temperature and dissolved oxygen.

## AGREEMENT

Therefore, the Parties agree as follows:

### **1. Applicable Temperature Standard**

During 2017, PGE will attempt to anticipate cooling events based on weather forecasts, and to increase the percentage of cooler water in the water released by the SWW to match the anticipated decline in the WPT. During such cooling events, the blending operations at the SWW may target a 7-day average daily maximum discharge temperature below the Reregulating Dam of up to 0.5°C above WPT for up to three (3) calendar days. Thereafter, the targeted 7-day average daily maximum discharge temperature will be no more than WPT+0.3°C. PGE will begin blending operations at the SWW when the increasing discharge temperature below the Reregulating Dam approaches 13.0°C.

### **2. Applicable Dissolved Oxygen Standard**

Because the Joint Licensees collect hourly dissolved oxygen (“D.O.”) data from the Project’s Reregulating Dam water quality monitoring station, DEQ has determined that the Joint Licensees can apply the 30-D, 7-Mi and minimum D.O. values that are specified in Table 21 of DEQ’s D.O. criterion for cold-water aquatic life during the non-spawning season. Accordingly, the Joint Licensees will operate the Project pursuant to the terms of the Dissolved Oxygen Management Plan to achieve: (i) dissolved oxygen concentrations of at least 8.0 mg/L (30-D value), 6.5 mg/L (7-Mi value) and 6.0 mg/L (absolute minimum value) in the Deschutes River downstream of the Reregulating Dam during the period from June 16 through October 14; and



(ii) an absolute minimum dissolved oxygen concentration of 9.0 mg/L (or 95% saturation) in the Deschutes River downstream of the Reregulating Dam from October 15 through June 15.

### **3. Revision of WQMMP**

In order to accommodate the CTWS WCB's review and potential revision of its applicable temperature and dissolved oxygen standards, one year after the Effective Date of this Agreement, the Joint Licensees will promptly meet with DEQ and the CTWS WCB to discuss the applicable temperature and D.O. standards. In consultation with PGE, DEQ will determine whether PGE should file a revised WQMMP that incorporates the measures needed to satisfy the temperature and D.O. standards DEQ determines to be applicable in the Deschutes River below the Reregulating Dam. If determined to be necessary, upon approval by DEQ, PGE will (i) file a revised WQMMP with FERC and, upon FERC approval, (ii) implement the revised WQMMP. In consultation with PGE, DEQ will determine, pursuant to OAR 340-048-0050, whether modification to the § 401 Certification to include the revised WQMMP is necessary. The Parties acknowledge and agree that no provision of this Agreement waives or alters DEQ's authority to modify or revoke the Project's state 401 certification, which includes the WQMMP, in accordance with applicable law.

### **4. Relationship to WQMMP**

This Agreement does not otherwise affect, modify, or supersede the Joint Licensees' obligations under the WQMMP.

### **5. Entire Agreement**

This Agreement contains all the terms and conditions agreed upon by the Parties.

### **6. Modification**

Modifications to this Agreement shall be made only by mutual consent of the Parties, by the issuance of a written modification, signed and dated by all Parties, prior to any changes being effective; provided, DEQ reserves all authorities to administer and enforce the § 401 certification and water quality standards as provided under applicable law.

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## 7. Effective Date


The Effective Date of this Agreement is the latest date of the signature dates below. This Agreement expires fifteen months from the latest date of the signature dates below.


### PORTLAND GENERAL ELECTRIC COMPANY

  
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Maria M. Pope  
SRVP Power Supply &  
Operations & Resource Strategy

  
\_\_\_\_\_  
7/16/2017  
Date

### OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY

  
\_\_\_\_\_  
Linda Hayes Gorman  
DEQ Regional Division Administrator

  
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7/20/2017  
Date