

Shoreline Management Plan

**Pelton Round Butte Project
FERC Project Number 2030**

Portland General Electric Company

and the

**Confederated Tribes of the
Warm Springs Reservation of Oregon**

Revised April 2011

Shoreline Management Plan

Pelton Round Butte Project

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List of Acronyms

BLM	Bureau Of Land Management
CRMP	Cultural Resources Management Plan
CRNG	Crooked River National Grassland
CTWS	Confederated Tribes Of The Warm Springs Reservation Of Oregon
DNF	Deschutes National Forest
DSL	Oregon Division Of State Lands
FERC	Federal Energy Regulatory Commission
IIEP	Integrated Interpretation And Education Plan
LWMP	Large Wood Management Plan
OPRD	Oregon Parks And Recreation Department
OSMB	Oregon State Marine Board
PGE	Portland General Electric Company
RRIP	Recreation Resources Implementation Plan
SEP	Shoreline Erosion Plan
SMP	Shoreline Management Plan
SMWG	Shoreline Management Working Group
SSP	Shoreline Structures Permit
TRMP	Terrestrial Resources Management Plan
TRRAW	Three Rivers Recreation Area Waterfront Zone
USFS	United States Forest Service
WECS	Wave Energy Control Structure

PELTON ROUND BUTTE PROJECT SHORELINE MANAGEMENT PLAN

1.0 INTRODUCTION

1.1 PURPOSE AND AUTHORITY

This Shoreline Management Plan (SMP) has been developed by Portland General Electric Company (PGE) and the Confederated Tribes of the Warm Springs Reservation of Oregon (CTWS), (together, the Licensees) to guide new development and resource protection on the shorelines of Lake Billy Chinook and Lake Simtustus. The Licensees have prepared the SMP to comply with the terms of the new license issued June 21, 2005, by the Federal Energy Regulatory Commission (FERC) for the operation of the Pelton Round Butte Project (the Project). The purposes of the plan are to provide a tool to manage new shoreline developments within the Project boundary to protect public health and safety, to recognize existing uses of the shoreline, and to achieve a balance of the interests of the Licensees and private and commercial property owners and recreational users, while allowing the Licensees to efficiently manage the Project's power generating facilities and fulfill the Project purposes.

Because there is no developed access and no shoreline development at the third Project impoundment, the Reregulating Reservoir, it is excluded from this SMP. Water levels there fluctuate on a daily basis as outflow from the upper two reservoirs is regulated. The CTWS manage the west side of the reservoir as undeveloped open space. The shoreline along the east side is owned by the Licensees and the United States Bureau of Land Management (BLM). No public access is permitted on either shoreline in this area, nor is any development. For these reasons, the Reregulating Reservoir is not addressed further in this SMP.

Development and implementation of the SMP is required by FERC License Article 428, *Shoreline Management Plan*. The SMP also implements Article 443, *Use and Occupancy*. The full text of both articles is provided in Appendix A. Specifically, the Licensees are directed to develop and implement standards and guidelines for “new shoreline development, installation of new docks, and modifications to existing docks.” These standards and regulatory procedures are presented in Sections 3.0 and 4.0 and apply only to lands within the FERC licensed Project boundary around Lake Billy Chinook and Lake Simtustus.

Pursuant to Article 428, the Licensees are required to develop the SMP in consultation with the Shoreline Management Working Group (SMWG) established by Article 402 of the new license. As discussed in the next section, this SMP was developed in consultation with the SMWG, which was expanded to include representatives of shoreline landowners as well as the entities originally specified in the new license.

1.2 HISTORY OF THE SMP

Article 428 of the new license required the Licensees to file an SMP within one year of license issuance. The Licensees filed an SMP with FERC on June 8, 2006, after completing consultation with the SMWG established pursuant to Article 402(d).¹ FERC issued public notice of the filing on July 3 and invited public comments until July 31, which deadline was subsequently extended until August 31. During the comment period, FERC received 55 comments or requests to intervene from landowners owning property along Lake Billy Chinook, in addition to requests to intervene by the Department of the Interior and the United States Forest Service.

A common theme in the public comments was that members of the public were not involved in the pre-filing consultation process prescribed by Article 428. Accordingly, on October 2, 2006, the Licensees requested that the SMP filed on June 8 be withdrawn, so that the Licensees could engage in further consultation in order to provide an opportunity for members of the public to provide comments on the SMP. To facilitate this process, the Licensees also requested an extension, until July 15, 2007, of the deadline to file the SMP. On October 12, 2006, FERC allowed the SMP to be withdrawn and granted the requested extension.

After extensive public notice, the Licensees then held four facilitated public meetings with members of the public to identify issues associated with the SMP and to develop a process by which the SMWG could be expanded to include representatives of the public.² As a result, the Licensees agreed to expand the SMWG to include five representatives of the public and to initiate a facilitated consultation process with the expanded SMWG to draft a revised SMP. The SMWG held five meetings, from March 7, 2007, to May 15, 2007, and developed a revised SMP. The SMP was then circulated for formal thirty-day consultation to the expanded SMWG as required by Article 428. The consultation record is summarized in Appendix F.

Simultaneously with the filing of the revised SMP, the Licensees filed a request for a non-capacity amendment of license to expand the SMWG to include five representatives of the public. This expansion of the SMWG is intended to make the license consistent with the process used to develop this SMP and to ensure that any future revisions to the SMP include consultation with all stakeholders potentially affected by such revisions.

The revised SMP was filed with FERC on July 11, 2007, and was approved, with modifications, on January 27, 2009. *Portland General Electric Company and Confederated Tribes of the Warm Springs Reservation of Oregon*, 126 FERC ¶ 62,058 (2009) (*errata* issued February 12, 2009). In that order, FERC approved the expansion of

¹ As established by Article 402 (see Appendix A), the Shoreline Management Working Group includes representatives from the Licensees, Forest Service, Bureau of Indian Affairs, Bureau of Land Management, Confederated Tribes of the Warm Springs Branch of Natural Resources, Oregon Department of Fish and Wildlife, Oregon Parks and Recreation Department, and Jefferson County.

² The licensees published newspaper notices in *The Oregonian*, the *Madras Pioneer*, and the *Bend Bulletin*. They also notified each landowner of record in the Jefferson County tax maps, and each commenter at FERC individually. A transcript was made of each of the first three meetings. These transcripts were included in the CD included in the plan filed with the Commission in July 2007.

the SMWG and required the Licensees to make specified revisions to the SMP and refile it within nine months, i.e., by October 27, 2009. The Licensees prepared a further revised SMP after consultation with the expanded SMWG to include the revisions required by FERC. This revised SMP was filed with FERC on September 9, 2009, and approved on February 15, 2011. *Portland General Electric Company and Confederated Tribes of the Warm Springs Reservation of Oregon*, 134 FERC ¶ 62,142 (2011). The FERC orders are included in Appendix F.

1.3 GOALS

The goals of this SMP are to manage shoreline structures within the Project boundary to:

- Protect public health and safety.
- Manage the lands and waters associated with the Project in a manner that assures safe and reliable Project operations and protects environmental values.
- Provide an accurate inventory of existing uses and development on Project reservoirs.
- Provide consistent and coordinated management of new development on Project reservoirs.
- Provide consistency with new Project license requirements related to shoreline erosion control, enhancement of shoreline habitat and vegetation, protection of cultural resources and control of in-water structures.
- Provide a management tool to evaluate proposed shoreline actions in a manner that is consistent across multiple ownership, jurisdictional, and management boundaries and treats all classes of owners in a consistent manner.
- Recognize existing uses of the shoreline, and achieve a balance of the interests of the Licensees and private and commercial property owners and recreational users.

1.4 DEFINITIONS

As used in this plan, the following words shall have the meanings specified below.

- **Alteration**: A change in the type or operating characteristics of the use of a structure, an increase in the size of a structure from its size on the date of FERC approval of the SMP, an increase in the amount of property being used, a major reconfiguration of the structure, or the relocation of the structure to another portion of the parcel.
- **Development**: Any new construction or alteration of structures; dredging; filling; bulkhead placement; or placing of obstructions on or below surface waters. Development does not include modifications or replacements as defined herein.

- **Existing Structure**: Any structure existing as of the date of FERC approval of this SMP.
- **Facility**: An establishment consisting of a structure or a group of structures dedicated to commercial or public use.
- **Maintenance or Repair**: Regular minor work that does not require a permit and is intended to compensate for the impact of normal use, daily wear and tear, and exposure to the elements in order to keep a structure continuously in safe condition to avoid the need for repair, restoration, or replacement. Examples of maintenance or repair work are (i) replacement of a board or boards on a dock or walkway; (ii) replacement of a railing; (iii) painting; and (iv) replacement or resetting of fasteners on a dock or walkway.
- **Marina**: A public or private facility providing docking access, boat moorage space, fuel, or commercial services.
- **Modification**: A minor change in a structure that does not require a permit, will not change the structure's use or location, will not result in a major reconfiguration, and will not increase the overall square footage of the structure or its height from its size on the date of FERC approval of this SMP. Examples of a modification are (i) a replacement dock, which might float slightly higher in the water because the replacement material used is that of an updated technology; (ii) new cleats for boat docks, (iii) new surfaces for structures, (iv) an improved configuration, or (v) environmental improvements.³
- **New Structure**: Any structure constructed or installed after the approval of the SMP by FERC that is not a replacement, repair, or modification of an existing structure.
- **Personal Use Dock**: A floating dock or similar structure suitable for the docking or mooring of personal pleasure boats and not used on a commercial or public basis.
- **Private Recreation**: Recreation opportunities provided by the private sector, based on private land, and available to a defined group of participants or members and not otherwise open to the general public
- **Replacement or Restoration**: Infrequent or periodic work that does not require a permit that is intended to return a structure to its original condition and size without alteration or modification, including the substitution of all or part of a structure for any reason, including but not limited to environmental enhancement or compliance, repair, safety, destruction due to casualty or natural disaster. Examples of replacement or restoration are (i) replacement of a section of dock or

³ In order to avoid inconsistency between the SMP and the 2007 Jefferson County Zoning Ordinance, and to simplify day-to-day implementation of the SMP, the term “modification” as used in the FERC license is equivalent to the term “alteration” in this SMP.

- walkway with a section of the same size and comparable materials; and (ii) replacement of individual floats.
- **Stabilization**: Measures that prevent or limit erosion, slippage or loss of vegetation.
 - **Structure**: Any permanent or temporary building or any piece of work artificially built or composed of parts joined together in some definite manner, including retaining walls, decks, docks, booms, wave erosion control and shoreline stabilization structures, and boat lifts, whether installed or attached on, above, or below the surface of the ground or water, except for vessels.
 - **Wave Erosion Control Structure (WECS)**: A structure designed to control the effects of waves on the shoreline or other structures. Also referred to as a Shoreline Stabilization Structure. Common materials for these structures are logs and dock materials.

1.5 PROJECT DESCRIPTION

The Pelton Round Butte Project includes three dams and impoundments on the Deschutes River in central Oregon. Round Butte Dam, at Deschutes River Mile (RM) 110, forms Lake Billy Chinook, a 4,000-acre reservoir extending 7 to 13 miles into the canyons of the Metolius, Deschutes and Crooked rivers. The Project boundary around Lake Billy Chinook is at elevation 1,945 feet. This lake is a popular recreation destination, although much of its 60-mile shoreline is not easily accessible. The surrounding high cliffs are not conducive to shoreline-based recreation and much of the shoreline under CTWS jurisdiction is closed to the public—primarily the northern shore of the Metolius Arm and the western shore of Lake Simtustus (except Indian Park Campground). During the recreation season, daily water level fluctuations are limited to one foot. Outside of the recreation season, seasonal drawdowns are limited to 20 feet.

Pelton Dam, located at approximately RM 103, impounds the 540-acre Lake Simtustus, which extends about 7 miles upstream to Round Butte Dam. This narrow reservoir is about 1,000 feet wide at its maximum point, with over 18 miles of shoreline. The Project boundary around Lake Simtustus roughly conforms to elevation 1,580 feet. During the summer (June 1 to August 31), Lake Simtustus must be kept at or above the 1,576-foot water surface level. The winter (September 1 to May 31) minimum operating water surface level is 1,573 feet.

Situated 2.5 miles downstream of Pelton Dam, the Reregulating Dam (RM 100) was constructed to capture and attenuate the fluctuating flows from the two upstream projects. This 2-mile-long impoundment fluctuates as much as 15 to 25 feet per day. No public access is permitted to the Reregulating Dam Reservoir and the shoreline is undeveloped.

1.6 RELATIONSHIP TO OTHER LICENSING MEASURES

The Licensees will continue to evaluate and manage measures proposed to protect and stabilize the reservoir shorelines as an integral part of this and several other FERC-

required management plans. The following plans, which have some overlapping guidance with this SMP, will be implemented.

- The Shoreline Erosion Plan or SEP (License Article 429), filed on June 16, 2006, and approved on January 24, 2007, identifies shoreline erosion sites that will be monitored and treated as necessary.
- The Terrestrial Resources Management Plan or TRMP (License Article 422), filed on June 15, 2006, and approved on November 9, 2007, includes provisions to restore riparian vegetation where feasible along reservoir shorelines in the Project area.
- The Recreation Resources Implementation Plan or RRIP (License Article 424), filed on June 14, 2006, and approved on December 7, 2006, identifies improvements and maintenance at recreation sites, many of which are in the shoreline area.
- Interpretation and education measures are being addressed through an Integrated Interpretation and Education Plan or IIEP (License Article 427), filed on June 1, 2007, and approved on July 1, 2008. This plan will include opportunities to educate the public about sensitive shoreline resources.
- A Large Wood Management Plan or LWMP (License Article 434), filed on April 10, 2006, and approved on October 31, 2006, includes measures to anchor large wood in places above Rattlesnake Point in Lake Billy Chinook to minimize bank erosion and improve habitat.
- The Cultural Resources Management Plan or CRMP, approved by FERC when it issued the new license, is now being implemented by the Licensees. This plan specifically addresses how and when protection measures for shoreline cultural sites will be developed to address Project-related erosion.

1.7 ROLES AND RESPONSIBILITIES

Multiple jurisdictions manage shoreline areas surrounding lakes Billy Chinook and Simtustus, each with its own regulatory process. This section provides an overview of the current jurisdictions, organized by managing entity.

SMP provisions compliment and work in concert with, but do not replace regulations or review procedures in effect for any other jurisdiction. Under the terms of the new FERC license, the Licensees are responsible for reviewing and permitting specific classes of new shoreline development along Lake Billy Chinook and Lake Simtustus. This will be accomplished by the Licensees (1) reviewing all proposed new or altered shoreline development actions within the Project boundary at Lake Billy Chinook and Lake Simtustus; (2) monitoring and identifying violations; and (3) coordinating enforcement actions with appropriate jurisdictional agencies. The role of each key regulatory authority for shoreline management is summarized below.

1.7.1 Licensees

Article 428 of the FERC license (*see* Appendix A) requires the Licensees to develop an SMP to establish standards and guidelines for “new shoreline development, installation of new docks, and modification of existing docks.” Article 443 of the FERC license (*see* Appendix A) allows the Licensees to supervise and control occupancy of lands within the Project boundary, provided that they ensure that uses are consistent with scenic, recreational and other environmental values. Article 443 also describes the scope of the Licensee’s authority to approve facilities or actions without prior review by the FERC. As part of their obligations under the new license, the Licensees also have the responsibility to communicate with stakeholders affected by the SMP and to consult with them regarding possible modifications to the SMP. If the Licensees identify violations of the provisions of this Plan that may also be violations of another jurisdiction’s requirements, they will inform the primary regulatory authority. Subsequently they will be active participants in bringing the violation into compliance.

1.7.2 Confederated Tribes of the Warm Springs Reservation of Oregon

Warm Springs Reservation lands are managed to preserve the traditional and cultural values of the Tribes and the resources within the boundary of the Reservation and on Tribal lands outside of the Reservation. The Tribal Branch of Natural Resources will review any proposed action within the shoreline area of the Reservation for compatibility with the Tribal Comprehensive Plan, the Integrated Resource Management Plan, and Tribal water, zoning and land use codes.

1.7.3 Jefferson County

With the exception of tribal trust lands and public lands and reservations of the United States, lands adjacent to Project reservoirs are subject to the regulatory jurisdiction of Jefferson County. The Jefferson County Community Development Department is responsible for ensuring that construction of structures within the Project boundary or in areas adjacent to but outside the Project boundary meets state building codes and local and state land use regulations. The Licensees and the County may share information with each other about construction activities within the Project boundary. Section 419.9 of the 2007 Jefferson County Zoning Ordinance provides that upon receiving an application for development within the Project boundary the Pelton Round Butte Project, the County will notify the Licensees or other regulating agency.

1.7.4 United States Forest Service

Project-area lands managed by the United States Forest Service (USFS) are within two jurisdictions: the Deschutes National Forest (DNF) and the Crooked River National Grassland (CRNG). As shown on Appendix B, Project shore lands within the DNF occur at the upstream end of the Metolius Arm of Lake Billy Chinook. This area is within Scenic Views and Intensive Recreation management areas. Guidelines for both areas focus on vegetation management for visual protection and accommodation of visitors. The USFS guidelines are silent on management of shoreline areas (USDA Forest Service 1990).

Portions of the CRNG that are within The Cove Palisades State Park (Management Area G12) are under a long-term lease to the State of Oregon and managed by the Oregon Parks and Recreation Department (OPRD) for developed recreation uses. The USFS provides only mineral and fire management on these lands. Portions of the CRNG outside of the park (Management Area G13) emphasize maintaining their natural appearance in an undeveloped state to preserve the scenic quality. As with the DNF, no specific shoreline management guidelines are defined.

1.7.5 United States Bureau of Land Management

The BLM is the identified administrator of extensive areas near the Project reservoirs. Its management interests currently extend only to grazing and fire control within the FERC Project boundary. Actions proposed on BLM lands, including those proposed on land leased to OPRD, must comply with the BLM's federal regulatory procedures.

2.0 EXISTING CONDITIONS

The current condition of each major shoreline component is described in this section. Both ownership and regulatory jurisdictions are summarized.

2.1 SHORELINE MANAGEMENT AND OWNERSHIP

All Project shore lands are in Jefferson County and are owned or managed by a variety of federal, Tribal, state and private entities. Major land and resource managers include the BLM, USFS, OPRD, and the CTWS. In addition to these entities, some reaches of reservoir shoreline are owned by the Licensees and private parties. Table 1 summarizes the approximate percentage of ownership adjacent to the Project reservoirs. Ownership is depicted on the maps included as Appendix B.

Table 1. Approximate Percentage of Shoreline Ownership Surrounding Project Reservoirs.

Owner/Manager	Percent of Total ¹
BLM	31
CTWS	30
USFS: Crooked River National Grassland	13
Private (excluding the Licensees)	10
State of Oregon	7
Licensees	5
USFS: Deschutes National Forest	4
Total	100

¹ Percentages reflect approximate ownership within 0.25 miles of the Project boundary.

The SMP applies to new development and the alteration of existing development within the Project boundary on Lake Billy Chinook and Lake Simtustus. Land owners seeking approval to develop new structures or to alter existing structures within the Project boundary of either Lake Billy Chinook or Lake Simtustus will be expected to obtain a permit from the Licensees and, satisfy all other regulatory requirements, including obtaining any necessary permits required by the entity with underlying jurisdiction as described in Section 1.7. Landowners seeking to modify or replace structures do not need approval from the Licensees. For new structures, authorization will be required from both the Licensees and the County before construction may begin on a proposed project (*see* Section 4.0).

Each Tribal and federal entity has the authority to administer its lands in accordance with its regulatory and planning policies; however, the FERC license requires the Licensees to regulate land uses within the Project boundary. This overlapping authority balances the needs of federal, Tribal, state, and local landowners and regulatory authorities with the Licensees' mandate to ensure consistency with the terms of the license. Management guidelines in use by each of the primary landowners at the time of SMP development are listed below.

2.1.1 Confederated Tribes of the Warm Springs Reservation of Oregon

The northern shore of the Metolius Arm of Lake Billy Chinook and the western shore of Lake Simtustus are lands of the CTWS Reservation. The Everly property on the south shore of the Metolius Arm at the confluence of the reservoir and the Metolius River is owned by the CTWS and may be incorporated into the Reservation. These lands are primarily undeveloped except for Indian Park Campground on Lake Simtustus, Chinook Island Day Use Area in Lake Billy Chinook, and developed industrial areas associated with the Project. Undeveloped lands are designated as wildlife management and rangeland grazing zones, primarily to benefit wintering mule deer. Proponents of actions on Warm Springs Reservation lands must consider the following plans, as they may be revised or amended during the term of the new license:

- Confederated Tribes of the Warm Springs Reservation of Oregon and the Bureau of Indian Affairs. 1999. Integrated Resources Management Plan and Project Assessment for the Non-Forested and Rural Areas. Warm Springs, OR.
- Confederated Tribes of the Warm Springs, Bureau of Indian Affairs, US Forest Service, Bureau of Land Management, State of Oregon, et al. 1999. Pelton Round Butte Comprehensive Management Plan (Recreation / Land Use / Aesthetic Component). March 1999.
- Warm Springs Tribal Code, Chapter 411: Land Use Code.
- Confederated Tribes of the Warm Springs Reservation of Oregon. 1968. Water Management Plan (Ordinance 45, Tribal Code 430). Warm Springs, OR.

- Confederated Tribes of the Warm Springs Reservation of Oregon. 1998. Water Quality Standards, Beneficial Uses and Treatment Criteria (Ordinance 80) and Implementation Plan (Ordinance 81). Warm Springs, OR.

2.1.2 United States Bureau of Land Management

The BLM Prineville District manages most of the eastern shore of Lake Simtustus and large tracts of land along both shores of the Crooked and Deschutes river arms of Lake Billy Chinook. These lands are largely undeveloped, except for a small shoreline dispersed camping area east of the Three Rivers marina and two other areas near Cove Marina. The BLM leases 1,120 acres to the OPRD for The Cove Palisades State Park. In addition, the BLM and the USFS manage The Island Research Natural Area, a prominent peninsula extending into Lake Billy Chinook that has a largely inaccessible shoreline.

Actions proposed on BLM-managed shoreline areas must consider provisions of the Two Rivers Resource Management Plan (BLM 1986), as it may be revised or amended during the term of the new license. Relevant guidance is limited to the intent that soil erosion shall be minimized and resolved should it compromise state or federal water quality standards.

2.1.3 United States Forest Service

The shoreline areas include lands within the Crooked River National Grassland (CRNG) and the Deschutes National Forest (DNF). These areas are located along the eastern shore of Lake Simtustus, the south shore of the Metolius River Arm, and both shores of the Crooked River and Deschutes River arms of Lake Billy Chinook. Undeveloped forest and grassland typifies these areas, except for two developed recreation areas on the Metolius River Arm.

Depending on the location of the proposed action, the USFS will evaluate actions proposed on USFS-managed shore lands for consistency with the following plans and their subsequent revisions and amendments during the term of the new license:

- Deschutes National Forest Land and Resource Management Plan (1990).
- Crooked River National Grassland Land and Resource Management Plan (1989).

2.1.4 State of Oregon

In addition to the land it owns, OPRD manages land leased from the BLM and USFS as The Cove Palisades State Park. The park extends along the Crooked River and Deschutes River arms of Lake Billy Chinook. An additional isolated, undeveloped park holding is located on the south shore of the Metolius Arm adjacent to USFS land.

Actions within the state park that are proposed on BLM-owned lands are subject to federal environmental and regulatory criteria (*see* Section 2.1.2). Actions on other OPRD lands are subject to review by Jefferson County. Measures that are part of the conceptual Cove Palisades Master Plan were approved by the County through its review provisions granted under OAR 660-034-0030(2). Measures proposed on OPRD shore lands will be

evaluated for consistency with the following plans and ordinances, as they may be revised or amended during the term of the new license:

- Cove Palisades State Park Master Plan, 2002.
- 2007 Jefferson County Comprehensive Plan.
- 2007 Jefferson County Zoning Ordinances.

2.1.5 Licensees

The Licensees own several tracts of land that are governed by this SMP. The largest is in Juniper Canyon on the Metolius Arm of Lake Billy Chinook. Other Licensee-owned lands are where Fly Creek joins Lake Billy Chinook, at Pelton Park on the east shore of Lake Simtustus, and a very small parcel across from the lower Deschutes boat launch in The Cove Palisades State Park. These lands are generally open to the public (with a few exceptions) and are managed primarily for habitat protection or for developed recreation.

Measures proposed on these parcels must be consistent with the following plans and ordinances, as they may be revised or amended during the term of the new license:

- 2007 Jefferson County Comprehensive Plan.
- 2007 Jefferson County Zoning Ordinances.
- Applicable Jefferson County Codes.

2.1.6 Private

A portion of the land along the south shore of the Metolius River Arm of Lake Billy Chinook is privately owned. The Licensees hold flowage easements on all private shoreline parcels. This SMP does not alter any existing property rights within the Project boundary.

Current shoreline uses include permanent and seasonal homes, private docks, boathouses and boat lifts, decks, wave erosion control structures, retaining walls, storage sheds, and other structures. The private shoreline properties are held in a numbers of legal configurations, including individual title, joint tenancies, and LLCs. The private shoreline uses also include a commercial 300-slip marina with gas dock, store, pad for mobile food vendor, and out-buildings and boat launch, a commercial houseboat service and mooring docks, a fuel/service dock, storage sheds, and a private day use area, boat launches, enclosed swim area, swim dock, and a floating shoreline stabilization system for the Three Rivers Land Owners Association. A private inholding on Lake Simtustus is the site of the commercially-operated Lake Simtustus RV Park, which extends into the Project boundary.

Actions proposed on privately owned land currently are regulated by Jefferson County. Such actions must comply with following plans and ordinances, as they may be revised or amended during the term of the new license:

- 2007 Jefferson County Comprehensive Plan.
- 2007 Jefferson County Zoning Ordinances.

- Applicable Jefferson County Codes.

2.2 SHORELINE USES AND RESOURCES

Land use around Lake Billy Chinook is strongly influenced by ownership and the dramatic geology of the shoreline. Development has occurred in only five areas around the reservoir where topography is suitable. Steep cliffs typify the reservoir shoreline setting, along with open space and rangeland. The vertical nature of the shoreline offers few level areas or shoreline access points. Public vehicle access into and through the canyons around Lake Billy Chinook is provided via Jordan Road and spur roads. Around Lake Simtustus, canyon walls are high and often steep. In addition to the hydroelectric development, other developed land uses on the reservoirs are primarily recreation-oriented, with three parks providing reservoir access to the public. Approximately one-third of the shoreline area along both reservoirs is within the Warm Springs Reservation, with access restricted to tribal members in all but two recreation sites designated for public use: Chinook Island Day Use Area and Indian Park Campground.

2.2.1 Natural Resources

The Project's reservoirs inundated deep river canyons, so shoreline areas lack lakefront beaches and shoreline gradients typically are steep. Lake Billy Chinook only supports about 26 acres of riparian habitat, while Lake Simtustus supports approximately 50 acres (Tressler et al. 1996). Most of the riparian habitat adjacent to Lake Billy Chinook occurs at the upper ends of the Crooked River and Deschutes River arms. At Lake Billy Chinook, juniper and shrub communities are the most common cover types, followed by grasslands. Only the upper Metolius River Arm is forested. The lands around Lake Simtustus are dominated by juniper and shrub communities. Most shoreline access to both reservoirs is via boat, which limits the extent of human disturbance to natural resources. Localized use has created some erosion and degradation of vegetation. The SEP developed pursuant to Article 429, includes erosion control and monitoring provisions to address the most environmentally sensitive areas on both reservoirs. These areas are not located within areas of private ownership.

The reservoirs provide an abundant prey base for foraging raptors, spring/fall resting habitat for migratory waterfowl, and are a water source for terrestrial species. The small amount of riparian and wetland habitat identified in the TRMP limits use by other species. However, because of the sensitivity and limited availability of these habitat types, any proposed development in sensitive habitat areas within the Project boundary will be required to be consistent with the TRMP.

2.2.2 Recreation and Public Access

Land use around lakes Simtustus and Billy Chinook is primarily undeveloped non-forested upland. Developed recreation sites provide the only land-based public access. Each site is listed in Table 2 below and shown on the maps included as Appendix B. For a complete facility and structure inventory, see Everett and Frayer (1999).

Lake Billy Chinook is seated within deep river-cut canyons that have little accessible shoreline. Although it has over 60 miles of shoreline, recreational access to shorelines is

limited to a few locations, which may affect shoreline erosion. However, recreation researchers identified only 2,815 linear feet, or 0.9 percent of reservoir frontage, that has experienced vegetation loss due to dispersed recreation use of non-private lands (Hall and Shelby 1998). This research excluded the developed shorelines such as The Cove Palisades State Park, developed campgrounds, and development in the Three Rivers development.

Researchers reported little shoreline use around Lake Simtustus (Hall and Shelby 1998). Access tends to be concentrated around developed recreation sites, such as Pelton Park and Indian Park Campground. Dispersed recreation has affected only 273 feet of shoreline, or approximately 0.3 percent of Lake Simtustus (excluding Indian and Pelton parks) (Hall and Shelby 1998), and is recovering naturally, due to visitor preference for developed sites.

Table 2. Shoreline Recreation Facilities within the Project Boundary at Lake Billy Chinook and Lake Simtustus in 2006.

Site Manager/Owner	Facility	Amenities
Lake Billy Chinook		
OPRD: The Cove Palisades State Park	Cove Palisades Marina	One boat launch, fuel dock, 127-slip marina
	Crooked River Day Use Area	One 3-lane concrete boat launch, two boarding floats, three courtesy docks
	Lower Deschutes Day Use Area	One 2-lane concrete boat launch, two boarding floats, two courtesy docks, 20 moorage slips
	Upper Deschutes Day Use Area	One 3-lane concrete boat launch and one boarding float
USFS	Perry South Campground	One concrete boat launch and one boat tie-up dock
	Street Creek Boat Launch	One unimproved boat launch open seasonally
CTWS	Chinook Island Day Use area	One boat tie-up dock that accommodates up to 14 boats
Private	Three Rivers Store & Marina	300-slip marina, bulkhead, access walk-ways enclosed by wave erosion control structures, fuel dock, and transient dock
Private	Fly Creek Area	Fly Creek area docks and structures, which include 17 docks with 41 slips and 7 bulkhead pads
Private	Lake Billy Chinook Houseboats	One (1) unimproved boat launch, Houseboat mooring docks, and a service/fuel dock, pumping station, floating storage buildings and access walk-ways

Site Manager/Owner	Facility	Amenities
Private	Three Rivers Land Owners Assn.	Four (4) concrete boat launches with two docks and one pier; private day use picnic and swim beach, enclosed swim area with swim platform for use by community members; a shoreline stabilization structure; a gabion wall with access walkway and retaining wall
Lake Simtustus		
Licensees	Pelton Park	Two boat launch lanes with tie-up docks and a 43-slip marina, swim beach with docks
CTWS	Indian Park Campground	One concrete boat launch and one boat tie-up dock. A Tribal permit is required to use this campground
Private	Lake Simtustus RV Park	One boat launch, and a 30-slip marina

2.2.3 Private Development

The relatively small amount (approximately 10 percent) of project shoreline occupied by private development is concentrated in the Metolius Arm of Lake Billy Chinook. Homes, private docks, boathouses, boat lifts, wave erosion control structures, decks, commercial marinas and boat rental, and gas docks are present on the south bank of the reservoir. This private residential and commercial use is regulated by Jefferson County.

Surveys conducted in 1998 (EDAW and PGE 1999) identified 56 different private residential and commercial developments in the shoreline zone of the two reservoirs; 54 were located on Lake Billy Chinook. The majority (62.4 percent) contained only one structure. In general, the houses are located outside of the Project boundary, although some may cantilever over the Project boundary. Under current ownership patterns, home sites are clustered along the shoreline and on the high bluffs in the Three Rivers development. A few private homes have been constructed outside the Three Rivers development, on lands designated as Rangeland and Forest Management. There is a small commercial development on the shore of Lake Simtustus, but no residential development.

2.2.4 Private Commercial Development

A limited shoreline area on Lake Billy Chinook is designated by Jefferson County as suitable for commercial enterprises, where for-profit businesses may be operated. Existing facilities include a 300-slip marina with a gas dock, store, pad for mobile food vendor and out-buildings; a commercial houseboat service and houseboat docks, a fuel/service dock, pumping station, floating storage buildings, access walkways, and one unimproved boat launch. On Lake Simtustus at the privately operated RV park,

commercial facilities include an 85-site RV hook-up campground, one boat launch, and a 30-slip marina.

2.2.5 Private Recreational Development

The Three Rivers Landowners Association owns a 147-acre private recreational site containing four boat launches with two docks and one pier, private day use picnic area, an enclosed swimming area with swim platform, a gabion wall with access walkway and retaining walls, on-shore facilities outside the Project boundary, and a fire fighting drafting station. The site is operated for the members of the Three Rivers development, who live on lands outside of the Project boundary.

2.2.6 Hydroelectric Development

Shoreline areas occupied by industrial facilities are associated with the Pelton Round Butte Hydroelectric Project. These facilities include Round Butte Dam, Pelton Dam, the Reregulation Dam, and their associated powerhouses, switchyards, boat launch sites, and storage areas. These lands total 155 acres, a portion of which is within the shoreline area. In these areas, energy generation is the primary allowable use. Public access is restricted for safety and security reasons. Future uses will be limited to power production, fish passage, or emergency services, such as for the Jefferson County Sheriff.

3.0 REGULATIONS PERTAINING TO ALL SHORELINE AREAS

This section presents the Licensees' standards for new shoreline structures, installation of new docks, and the alteration or modification of existing docks. These guidelines pertain to all shoreline areas – regardless of ownership – within the Project Boundary surrounding Lake Billy Chinook and Lake Simtustus. Specifically, Article 428 requires the Licensees to develop standards and guidelines for "new shoreline development, installation of new docks, and modification of existing docks." Article 443 authorizes the Licensees to grant permission for certain types of use and occupancy of Project lands and waters, and describes the Licensees' responsibilities to supervise and control uses for which they grant permits, and to ensure that facilities are maintained in good repair and comply with applicable state and local health and safety requirements.

The Licensees intend to meet this responsibility while at the same time minimizing new regulatory hurdles for landowners. To do this, this Section first describes the standards and guidelines applicable to existing structures, which are not regulated pursuant to Article 428 unless they are altered. Guidelines described in this section rely wherever possible on Jefferson County regulations or have been derived from public or Tribal land management guidance, the latter of which applies only to Tribal lands.

3.1 EXISTING STRUCTURES

Structures that exist within the Project boundary on the date of FERC approval of this SMP will be inventoried and permitted as existing structures, as described in Section 4.1.⁴ The use of existing structures may be continued. Pursuant to Article 443(b), the Licensees must ensure that repairs, normal maintenance and replacement required to keep an existing structure in a safe condition or good repair, or when necessary to comply with state or local health or safety requirements are made. Pursuant to this SMP, such repairs are allowed without a permit from the Licensees. Permits for existing structures are transferable.

Repairs, replacement, restoration or maintenance needed for any reason can be undertaken without a permit from the Licensees. If an existing structure is damaged by fire, other casualty, or natural disaster, it may be repaired, restored, or replaced without a permit from the Licensees, when either (i) such work commences within one year of the damage, or (ii) application for a building permit to undertake such repair, restoration, or replacement has been made within one year of the damage. Alteration of an existing structure will require a permit as provided in Section 3.2 and will be required to comply with the applicable standards in this SMP. If an existing structure is not used for a continuous period of more than three consecutive years, the structure is considered to be abandoned and must be permitted as provided in Section 3.2 before any use of the structure resumes.

3.2 STRUCTURAL GUIDELINES

To accomplish the goals of this plan, this SMP establishes three categories of docks: 1) personal use docks, 2) commercial docks; and 3) private recreational docks. These standards are also intended to be consistent with the general guidelines published by the State Marine Board (OSMB 2001a) for the construction of boating facilities.

Personal Use Docks

One personal use dock per individually-owned legal parcel may be permitted when in conformance with the following provisions of this section. Variances may be granted pursuant to the provisions of section 4.3 of this SMP. If a legal parcel is jointly owned as of the date of FERC approval of this SMP, one personal use dock per owner, not to exceed 16 docks in 1,400 feet of shoreline, may be permitted. A legal parcel is considered jointly-owned if it is owned by two or more individuals as joint tenants, or by a limited liability company with two or more members who are individuals. The proposed structure shall be appropriate for its intended personal use as a private dock and shall not be used on a commercial or public basis.

The following criteria apply to personal use docks:

- To achieve a navigable corridor/passage in areas of constricted width, such as Street Creek, Fly Creek, and Wheeler Cove, no new docks/structures may be constructed

⁴ The issuance of a permit for an existing structure does not establish that the structure is a nonconforming use pursuant to or in compliance with the Jefferson County Zoning Ordinance.

that encroach on an area that is 25 feet to each side of the center line of the body of water.

- New personal docks on individually-owned land shall be limited to one dock for every 100 feet of shoreline, with a maximum length perpendicular to the shoreline of less than 60 feet and a maximum length parallel to the shoreline of 60 feet. The dock shall be oriented so that the longer dimension is parallel to the shore. The maximum structural footprint may not exceed 1,000 sq ft per dock.
- New personal docks located on any legal parcel in joint private ownership, except the 1,400-foot shoreline of Montgomery Shores, shall be limited to one dock for every 100 feet of shoreline. Each dock may have a maximum length perpendicular to the shoreline of less than 60 feet and a maximum length parallel to the shoreline of 60 feet. The dock shall be oriented so that the longer dimension is parallel to the shore. The maximum structural footprint shall not exceed 1,000 sq. feet.
- Montgomery Shores is allowed 16 docks (including any docks in existence on the date of FERC approval of the SMP) within 1400 feet of shoreline. Each new dock may have a maximum length perpendicular to the shoreline of less than 60 feet and a maximum length parallel to the shoreline of 50 feet. The dock shall be oriented so that the longer dimension is parallel to the shore. The maximum structural footprint may not exceed 1,000 sq ft per dock.
- Unless otherwise permitted by another provision of this plan, new structural development located on the surface of the water is not permitted.
- New floating walkways or pedestrian platforms will be treated the same as docks.
- New dock development shall comply with applicable provisions of the Jefferson County Zoning Ordinance.
- New docks and piers shall not interfere with Project operations or the normal public navigational use of the lake.
- New private boat docks intended to serve single-family type dwellings shall not accommodate more than six watercraft.
- New structures shall not isolate the area under the dock from the rest of the reservoir.
- New construction methods shall comply with all applicable permit requirements. In addition, new development shall comply with the OSMB *Best Management Practices*, and the *Construction Measures to Protect Project Resources*, each of which is set forth in Appendix C.⁵

⁵ Construction methods for replacement construction or modifications will have to comply with any standards applicable under applicable law.

- The construction of new wave erosion control structures shall comply with the *Guidelines for Wave Erosion Control (WEC) Structures for New Development* set forth in Appendix D.

Commercial Docks

The purpose of the Three Rivers Recreation Area Waterfront Zone (TRRAW) established by the Jefferson County Zoning Ordinance is to allow commercial uses of a type and scale appropriate to serve the needs of the rural community, water oriented recreation, and limited tourist needs. New docks, wharves, or similar platforms or structures which are intended for commercial, docking or mooring of vessels (ships, houseboats, or pleasure boats in conjunction with the uses listed above) are permitted in the TRRAW (tax lots 100, 200, 2200, and 3600). Issuance of a permit for such a use requires prior FERC approval as a non-project use. No new commercial uses will be permitted outside of the TRRAW as it exists on the date of FERC approval of this SMP. The following criteria apply to commercial docks:

- For newly proposed public or private campground facilities, proposals shall be reviewed to ensure that a common dock is utilized for the development to the maximum extent feasible.
- New gangways are permitted.
- New dock development shall comply with applicable provisions of the Jefferson County Zoning Ordinance.
- New structural developments located on the surface of the water, such as access walkways, shoreline stabilizations systems, elevated walkways, platforms, storage buildings, boat garages and similar use structures are permitted.
- New commercial docks within the TRRAW will be allowed to accommodate the mooring of all types of vessels, including but not limited to houseboats and personal use craft. The total number of slips shall be limited to 300 for watercraft under 24 feet in length and an additional maximum 100 for watercraft exceeding 24 feet in length.
- New docks and structures shall not interfere with Project operations or the normal public navigational and recreational use of the lake.
- New retaining walls for erosion protection of the riparian area are permitted.
- Offshore moorages are permitted to the extent consistent with the offshore moorage feasibility study pursuant to Article 424 of the License.
- New construction methods shall comply with all applicable permit requirements. In addition, new development shall comply with the OSMB *Best Management*

Practices, and the *Construction Measures to Protect Project Resources*, each of which is set forth in Appendix C.⁶

Private Recreational Structures, including Three Rivers Landowners Association

Private Recreational Structures can be described as those structures owned by an organization or land owners association with at least 500 members or owners. Usage of the facility by members, owners, or guests may number in the thousands at any given time. The Private Recreational Structures are for the purpose of enhancing recreational use and protecting the waterfront beach area from erosion. Private Recreational Structures may include docks, floating platforms, shoreline stabilization systems and other structures. At the time of filing, Three Rivers Landowners Association is the only Private Recreational development in the project area. Issuance of a permit for a Private Recreational Structure may require prior FERC approval pursuant to Article 443. The following criteria apply to Private Recreational Structures:

- The proposed structure shall be appropriate for its intended private recreational use as a private recreational dock.
- New private recreational docks shall be limited to a maximum length of shoreline stabilization of 170 feet parallel to the shoreline and 60 feet perpendicular to the shoreline, with three access walkways, ten 18 foot slips, and five navigational buoys. Their total square footage shall not exceed 2500 square feet.
- New *structural* development located on the surface of the water such as docks and their access walkway, shoreline stabilization systems, and elevated walkways platforms are permitted.
- New floating walkways or pedestrian platforms will be treated the same as docks.
- New *gangways* are permitted.
- New *retaining* walls for erosion protection of the riparian area are permitted.
- *Offshore* moorages are permitted to the extent consistent with the offshore moorage feasibility study pursuant to Article 424 of the license.
- New *construction* methods shall comply with all applicable permit requirements. In addition, new development shall comply with the OSMB *Best Management Practices*, and the *Construction Measures to Protect Project Resources*, each of which is set forth in Appendix C.⁷

⁶ Construction methods for replacement construction or modifications will have to comply with any standards applicable under applicable law.

⁷ Construction methods for replacement construction or modifications will have to comply with any standards applicable under applicable law.

3.3 FLOATATION MATERIAL GUIDELINES

Floatation materials can affect public health and safety as well as water quality and aquatic habitat. Standards for floatation materials in new structures are put forth by the Oregon Marine Board and codified in OAR 250-014-0030. These standards will apply to all development within the Project boundary, including, to the extent applicable, repair, replacement, and maintenance activities. Standards in effect in December 2005 are presented in Appendix C. These standards will evolve over time, and applicants for development permits will be held to the most current requirements.

Polystyrene foam typically is used in new floats at public facilities in Oregon (OSMB 2001a), although some new floats are solid and contain no foam. When foam is involved, the Marine Board requires that it be encapsulated to prevent the introduction of particles to the water. Floatation materials must be approved by the OSMB. Pursuant to OAR 250-14-0040, the Marine Board will evaluate the Certification Form for each project, describing the methods and materials proposed to encapsulate a floating structure. If approved, written Certification will be issued. Certification must be provided to the Licensees along with a development application. Activities such as routine repair and maintenance or replacement that do not require a permit from the Licensees may nonetheless require certification by the OSMB. It is the obligation of the owner to comply with all applicable OSMB standards, and to provide evidence of compliance upon request by the Licensees.

3.4 SHORELINE STABILIZATION / EROSION CONTROL GUIDELINES

Under certain circumstances, the Licensees recognize that shoreline stabilization measures may be warranted. These measures could include bank re-contouring, debris removal, vegetation planting, or bank protection using rock or woody material. Non-Project-related erosion (such as that associated with private shoreline development, which was permitted prior to the adoption of this SMP) will be assessed on a case-by-case basis under this SMP. Project-related erosion is primarily addressed through the Pelton Round Butte SEP. Shoreline habitat stabilization is also addressed in the LWMP, prepared in compliance with Article 434. Shoreline condition will be inspected by the Licensees annually, as required by the SEP. If erosive conditions are identified that may be compromising water quality in fish-bearing waters, the Division of State Lands (DSL) will be contacted. DSL has jurisdiction over non-point source pollution of waters of the state (OAR 340-41-0004).

Section 5.3 of the SEP provides that existing and newly permitted activities that are likely to cause erosion associated with private shoreline development are addressed by the SMP when such activities threaten to interfere with Project operations, impact structural safety or stability, or result in environmental degradation. In addition, Article 443(a) specifically requires the Licensees to take any lawful action necessary to correct a violation by a permitted use of any license condition for the protection and enhancement of the Project's scenic, recreational or other environmental values. In practice, this means that the Licensees will notify landowners of conditions requiring correction and

will provide them with a reasonable time in which to implement corrective measures, as provided in Section 4.6.

3.5 MOORING BUOY GUIDELINES

As required by FERC's December 7, 2006, order approving the RRIP, the Licensees undertook a study ("the Mooring Buoy Study") of the feasibility of implementing an off shore moorage buoy program in Lake Billy Chinook. The Licensees filed this study with FERC on August 18, 2008, after consultation with the SMWG. The Mooring Buoy Study concluded that a program of mooring buoys installed and maintained by the Licensees would be neither feasible nor desirable. The study also determined that the Licensees should adopt a program, to be administered in parallel with the permit program established by this SMP, to provide for the issuance of permits to OPRD or to private individuals seeking to install mooring buoys for houseboats. FERC approved the Mooring Buoy Study by letter dated January 27, 2009.

Permission to install mooring buoys, or any other type of buoy other than navigational buoys, must be obtained from the Licensees. Proposed installations must demonstrate an appropriate anchoring system, adequate distance from the shore, and sufficient water depth. The proposed buoy must not jeopardize ingress or other rights of property owners or the public. Anyone proposing to install a buoy must demonstrate that it has obtained any other permits required for such installation. The criteria for issuing mooring buoy permits are attached as Appendix G-1. The process for obtaining a mooring buoy permit is detailed in Appendix G-2.

No mooring buoy permit applications will be accepted and no mooring buoy permits will be issued before completion of the inventory of shoreline structures pursuant to the revised SMP.

State mooring buoy standards are established by the Oregon State Marine Board in OAR 250-010-0205 and pertain to all Project waters. Pursuant to the criteria established by the OSMB, mooring buoys shall not be mistaken for navigational aids. Mooring buoys shall be white with a blue band clearly visible above the water line, except those in officially designated mooring areas.

3.6 EXCAVATION AND FILL

Development actions involving excavation or filling within the Project boundary must comply with current regulatory standards appropriate to the jurisdiction within which the action is proposed. Compliance with all current regulatory standards must be demonstrated before a permit will be issued by the Licensees.

3.7 VEGETATION MANAGEMENT

Riparian areas provide bank stability, enhance water quality, and provide fish and wildlife habitat. While not common in the Project area, there are riparian areas located on both Lake Simtustus and Lake Billy Chinook. As noted above, the riparian areas on Lake Billy Chinook principally occur at the upper ends of the Crooked River and Deschutes River Arms. Because of the sensitivity and limited availability of these habitat

types in the Project area, any proposed development within the Project boundary in sensitive areas will be required to be consistent with established law and the Licensees' TRMP. The Licensees will inform landowners if their proposed development is in a TRMP-designated sensitive area.

3.8 CULTURAL RESOURCES

Cultural resources are known to exist near or within the Project shoreline area. These are protected under both state and federal law from damage, degradation or disturbance. The Licensees will inform landowners if their prospective development could affect known historic or archaeological sites. Any proposed development within the Project boundary in culturally sensitive areas will be required to be consistent with applicable law prior to initiating any ground disturbing action. If cultural resource materials are discovered during work performed under an issued permit, all work associated with the permitted activity must cease. The Licensees must be notified, consultation with the appropriate resource agency or governmental entity initiated and completed, and the recommended treatment implemented prior to recommencing work.

4.0 IMPLEMENTATION

The Licensees will implement and administer SMP provisions for new structures and docks proposed within the Project boundary. Criteria for construction and use adopted in the SMP are intended to be as consistent as practicable with those established by state building codes and the applicable guidelines of the Tribal, federal and state entities owning or managing lands within the Project boundary.

There is no fee for applying for or obtaining a permit for existing or new structures pursuant to this SMP.

4.1 PERMITTING OF EXISTING STRUCTURES

During the inventory phase of SMP implementation, the Licensees will inventory and issue a permit for each existing shoreline structure. All existing shoreline structures will be grandfathered, although they may be considered to be non-conforming uses pursuant to applicable Jefferson County standards.⁸ To accomplish this step, the Licensees will perform a complete inventory of structures within the Project boundary to establish a management baseline as of the date of FERC approval of the SMP. Management tools such as GPS and photography may be employed, as deemed necessary by the Licensees. After written notification to the landowner, agents of the Licensees will have access to shoreline structures from the reservoir, but will need to obtain permission before entering onto private property outside of the Project boundary. The Licensees will then administer SMP provisions and apply the provisions to new structures as well as alterations to existing structures within the Project boundary.

⁸ The Licensees are not responsible for administering or interpreting Jefferson County land use regulations or permits. Regardless of the issuance of an SSP, the property owner remains responsible to comply with applicable regulations, including but not limited to Jefferson County land use regulations.

Within one year of SMP approval by FERC, the Licensees will contact each landowner with a shoreline structure attached to property within the Project boundary. With that landowner, the Licensees will confirm and document the type and condition of the existing structure(s). During this implementation phase, the Licensees will issue a Shoreline Structures Permit (SSP) for all structures within the Project boundary regardless of existing condition.

As discussed in Section 3.1, properties with permitted existing structures and their attendant SSPs may be sold or otherwise transferred, modified, repaired, maintained and replaced. If an existing structure with an SSP is not used for a period in excess of three years (36 consecutive months), the SSP expires; the right to continue using the structure terminates, and the structure and further use of it must comply with the requirements of this SMP applicable to new structures.

4.2 SHORELINE STRUCTURE PERMITTING PROCESS

This section describes how to apply for a Shoreline Structure Permit (SSP), the permit review process, and the general information that must be included in an application. The steps identified below pertain to all non-Project related proposals to construct new structures or to alter existing structures within the Project boundary. As noted, structures existing at the date the SMP is approved by FERC will qualify for an SSP. The process for applying for a mooring buoy permit is attached in Appendix G-2.

4.2.1 Step 1: Permit Application

Applicants may contact the Licensees by telephone, mail, email, fax or in person to request a Shoreline Structure Permit application package to construct or alter a structure within the Project boundary. Requests for application packages should be addressed as follows:

- By telephone: Property Services – (503) 464-8118
- By mail: Property Services
 Portland General Electric Company
 121 SW Salmon Street
 1 WTC 0401
 Portland, OR 97204
- By email: property.services@pgn.com
- By fax: (503) 464-2863
- In person: 121 SW Salmon Street, 3 World Trade Center – 4th Floor

In addition, application packages may be available at the offices of the Jefferson County Community Development Department. The form of application for a permit is attached to this SMP as Appendix D.

4.2.2 Step 2: Preliminary Site Plan Review

An applicant must submit a site plan that identifies (1) its property boundary in relation to the reservoir shoreline; (2) the location of existing structures within the project boundary; (3) the location of proposed structures within the project boundary; and (4) areas inside the project boundary that may be temporarily disturbed or affected by construction activities. The applicant may, but is not required to, request that the Licensees conduct an on-site site review of the applicant's proposed structures. The Licensees will compare the site plan with SMP standards and known sensitive resources maps contained in other plans prepared pursuant to the license, including the TRMP, SEP, LWMP, and CRMP. This review will be completed and a written response will be provided to the applicant by certified mail within 30 days of receipt. The written response will specify whether the proposed site plan is (i) incomplete; (ii) consistent with other approved plans; or (iii) inconsistent with any other approved plan. The written response will specify the changes to the proposed site plan that will be necessary in order for it to be approved.

4.2.3 Step 3: Submit and Process the SSP Application

Applicants must submit the Shoreline Structure Permit application package to the Licensees by mail, email, or in person. Applications should be addressed as follows:

- By telephone: Property Services – (503) 464-8118
- By mail: Property Services
 Portland General Electric Company
 121 SW Salmon Street
 1 WTC 0401
 Portland, OR 97204
- By email: property.services@pgn.com
- By fax: (503) 464-2863
- In person: 121 SW Salmon Street, 3 World Trade Center – 4th Floor

A completed SSP application must include:

- A. A signed original application and two copies.
- B. Two copies of construction drawings or design plans for the proposed structure. Where appropriate, revegetation or shoreline stabilization plans should be included.
- C. A copy of the sensitive areas clearance notice issued by the Licensees in Step 2.

Upon receipt of a complete application, the Licensees will process the permit request within 30 days if the Licensees conducted a preliminary site plan review or within 60 days if a preliminary site plan review was not requested. Notice of issuance or denial

will be provided in writing to the applicant by certified mail. If the application is granted, the approval may include conditions to ensure that the proposed structure is consistent with all applicable license requirements. If the application is denied, the Licensees will explain in detail why the application was denied. If the permit is denied or contains conditions that are not acceptable to the applicant, the applicant may request reconsideration or appeal as provided in Section 4.8.

4.2.4 Step 4: Processing the Application

Upon issuance of a SSP, the applicant must obtain all required permits, authorizations or certifications from the county, state, federal or Tribal agencies responsible for approving the proposed action or any component of it.

4.2.5 Step 5: Construction Approval

New construction may not commence on a structure that would extend into the Project boundary without evidence of consultation and compliance with applicable county, state, federal or Tribal laws and regulations. Copies of all approved permits must be provided to the Licensees, after which the Licensees will issue a construction approval notice by certified mail within 15 days of receiving notice of all other approvals. Construction may not proceed until the construction approval notice has been received.⁹ Issuance of a construction approval notice does not constitute a determination by the Licensees that all necessary permits have been obtained, and it remains the responsibility of the applicant to ensure that all necessary permits have been obtained and remain in effect during construction.

Similarly, while modification, replacement, or repair of a structure does not require a permit pursuant to the SMP, it may require approvals under other applicable laws, and it remains the responsibility of the applicant to ensure that all necessary permits have been obtained and remain in effect during such modification, replacement, or repair.

4.2.6 Step 6: Inspection and Approval

During construction, the owner must post the issued SSP in plain sight on the affected property. A representative of the Licensees may, after notifying the owner, inspect the work site during construction and may inspect the completed project. Upon completion of construction, the owner must notify the Licensees that construction has been completed. The Licensees will inspect the completed construction at least once to ensure compliance with the construction approval.¹⁰

If the Licensees find after an inspection that the owner has not complied with permit conditions, written notice of noncompliance will be issued to the landowner by the Licensees by certified mail at the address of record for the property. The notice of noncompliance will specify a deadline of not less than 60 days for bringing the structure

⁹ Similarly, placement of a mooring buoy may not proceed until permission to proceed has been received from the Licensees. *See Appendix G-2.*

¹⁰ Similarly, the Licensees will inspect a completed buoy at least once to ensure compliance with all approvals. *See Appendix G-2.*

into compliance, provided that a shorter deadline may be specified if the violation presents a hazard to health or safety. The owner may, within 30 days of receipt of the notice, request a meeting with the Licensees to review the noncompliance and to discuss ways to remedy it. If remedial efforts fail or corrective action is not taken within the time specified in the notice (as such deadline may be extended at the written request of the owner) or the matter is not appealed within 60 days of receipt of the notice, the Licensees may pursue corrective action at the owner's expense, in collaboration with the federal/tribal land manager or County, provided that the Licensees will take no action until the completion of any appeals process. If the site passes final inspection, written notice of the completed inspection will be provided by the Licensees.

In addition, for any permitted over-water structure, an identification tag with an SSP number will be issued to the landowner within 30 days of the date of the inspection or within 60 days of the date of the owner's request for an inspection, if no inspection is performed within 30 days of such request. The tag must be posted on the structure within 30 days of receipt in a location visible and accessible from the water. If the tag is received after September 15, the landowner must post the tag before June 1 of the following year.

The SSP will be issued for a period no longer than the term of the current FERC license, which expires on May 31, 2055.

4.3 VARIANCES

Variances may be granted from the specific provisions of Section 3.2 when it can be shown that due to special physical circumstances related to a specific shoreline, or lake bed or stream bed profile, strict application of the provisions of Section 3.2 would cause an undue or unnecessary hardship, because the proposed structure would be unable to function properly for its intended use. An application for a variance will be reviewed by the Licensees under the procedures described in this section. In granting a variance, the Licensees may attach conditions deemed necessary to protect the resources of the Project and surrounding properties, or which may otherwise be required by the terms of the license.

4.3.1 Variance Approval Criteria

In order to be approved, an application for a variance must comply with all of the following criteria:

- Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the vicinity due to lot size or shape, topography, or other circumstances over which the applicant has no control;
- The variance is necessary for the preservation of a personal or real property right substantially the same as is possessed by owners of other property in the vicinity, and strict application of the SMP provision would result in unwarranted practical difficulties;

- The variance would substantially comply with the purpose and intent of the SMP provision to be varied, and would not be materially detrimental to other property in the vicinity;
- The variance requested is the minimum variance that would alleviate the hardship; and
- The variance is not the result of a self-created hardship by the applicant, its agents, employees, or family members.

4.3.2 Variance Approval Procedures

The procedures described in Section 4.2, as modified by this section, are applicable to applications for a variance. Applicants for a variance must submit the application for a variance to the Licensees by mail, email, or in person as provided in Section 4.2.3. The application for a variance must include, in addition to the completed SSP application package described in Section 4.2.3, such information as the applicant believes adequate to demonstrate that it satisfies the variance approval criteria specified in Section 4.3.1.

In addition to the steps described in Section 4.2, applications for variances will be reviewed by the Licensees according to the following procedures:

- Within 15 days of receipt of a complete application for a variance, notice of an accepted application for a variance will be sent to adjacent property owners, and at the option of the Licensees, to any agency or jurisdiction that may be affected by the proposed variance. The notice shall state that the Licensees have accepted an application for a variance, describe the nature of the proposed variance, and state that comments may be made in writing as provided in Section 4.2.3 within 15 days from the day the notice was received.
- Notice of the Licensees' decision will be sent by certified mail to the applicant and by first-class mail to any party who submitted written comments on the application.
- The decision may be appealed as provided in Section 4.8.

Before issuing a variance, the Licensees will file the proposed variance with FERC for its approval; and no variance will be effective unless and until approved by FERC, which has the authority to change the terms of any proposed variance.

4.3.3 Variance Conditions

Each variance will include standard conditions to ensure the protection of project resources and surrounding properties. These conditions are listed below:

- The variance applies only to the specific provision of Section 3.2 of the SMP for which the variance was requested and granted. All other requirements of Section 3.2 must be complied with fully.

- The variance does not reduce the landowner's obligation to comply with any other applicable legal requirement, including but not limited to, all applicable provisions of the Jefferson County Zoning Ordinance, and any other applicable federal, Tribal, state, county, or local requirements.
- The use of the structure for which the variance was granted may not impede navigation or impair public use of Lake Billy Chinook.
- The structure for which the variance was granted may not interfere with the use or enjoyment of any neighboring property.
- The work subject to the variance must be completed within 12 months of the date of the variance, unless an extension, not to exceed one year, is granted in writing by the Licensees. Work that is not completed in a timely manner must be removed and the site restored at the landowner's expense.
- A variance for uncompleted construction work is not transferrable.

4.4 PERMIT TRANSFERS

Shoreline Structure Permits are transferable with title to the property. It is the property owner's obligation to notify the Licensees of any change in the identity or address of the owners. Transfer notifications shall be provided to the Licensees at the locations described in Section 4.2.3.

4.5 REPAIRS, MAINTENANCE, AND ALTERATIONS

Existing structures may be repaired, maintained, or replaced for any reason without a permit from the Licensees. If an existing structure is damaged by fire, other casualty, or natural disaster, it may be repaired, restored, or replaced without a permit from the Licensees, when either (i) such work commences within one year of the damage, or (ii) application for a building permit to undertake such repair, restoration, or replacement has been made within one year of the damage.

However, alteration of an existing structure will require a permit pursuant to this SMP. If an existing structure is not used for a continuous period of more than three consecutive years, the structure will be considered to be abandoned and must be permitted as provided in Section 3.2 before any use of the structure resumes. Alterations may not be undertaken without prior authorization by the Licensees.¹¹

In order to avoid a possible enforcement action, if a Landowner is uncertain whether its proposed repair, maintenance, or replacement restoration of an existing structure will require a permit, it should notify the Licensees at least 60 days before starting such work in order to provide the Licensees an opportunity to inspect the property and determine whether a permit is required. If the Licensees determine that a permit is required, the

¹¹ In accordance with approved SMP and other license requirements, the Licensees are also expected to obtain prior FERC approval for such changes, as appropriate.

landowner must comply with the procedures described in Section 4.2. If the Licensees determine that no permit is required, the landowner may proceed with the repair, maintenance, or restoration work, but must notify the Licensees when that work is completed. The Licensees will then inspect the work to ensure compliance with this section.

4.6 MONITORING

The Licensees will monitor all shoreline structures within the Project boundary annually to assure SMP compliance. After written notification to the landowner, agents of the Licensees will have access to shoreline structures from the reservoir, but will need to obtain permission before entering onto private property outside of the Project boundary. The Licensees will visually monitor shoreline structures, observe and document structural conditions, structure uses, and surrounding resource conditions. Monitoring and inspection of existing structures will be limited to that necessary to verify that the structure has not been altered and does not present a hazard to public health and safety of Project operations. The Licensees will contact, by certified mail, any landowner whose structure is not consistent with the SSP terms and conditions, or which poses a threat to public health and safety or to the safe operation of the Project. In the case of private property uses inconsistent with the SSP, contact will also be made with Jefferson County to verify permit conditions.¹² Regardless of whether Jefferson County seeks to enforce County ordinances, the Licensees may, if warranted, take action as appropriate pursuant to the terms of the FERC license to initiate enforcement action pursuant to the SMP (*see* Section 4.7).

4.7 ENFORCEMENT

The Licensees are solely responsible for enforcing the terms of this SMP. If the Licensees determine that a permittee is in violation of the terms of its SSP, they will issue a notice of violation to the permittee by certified mail. The notice of violation will specify the nature of the violation and a deadline of not less than 60 days in which to take corrective action, provided that a shorter deadline may be specified if the violation presents a hazard to health or safety. The Licensees will notify Jefferson County of all SMP violations being processed by the Licensees; however, Jefferson County is not responsible for enforcing the SMP.¹³ The owner may, within 30 days of receipt of the notice of violation, request a meeting with the Licensees to review the violation and to discuss ways to remedy it. If the violation is not addressed within the time period specified in the notice (as such deadline may be extended at the written request of the owner) and has not been appealed as provided in Section 4.8, the Licensees may require removal of non-complying structures and pursue any other available remedies.

¹² The Licensees do not have the authority and will not seek to enforce Jefferson County or other applicable regulations.

¹³ Jefferson County may, regardless of any enforcement action taken by the Licensees, seek to enforce applicable County requirements.

Any violations of Jefferson County ordinances will be handled by the County under its own processes. However, the County may notify, and as necessary, coordinate with the Licensees on such violations.

Noncompliance or environmental degradation documented on federal, state or tribal land will be directed to the appropriate management agency.

4.8 APPEALS

Any person whose application for an SSP or a mooring buoy permit is denied or conditioned in a way that is not acceptable to such person, and any person who receives a notice of a violation of an SSP or a mooring buoy permit, may, but is not required to, request that the Licensees reconsider such decision. A person seeking reconsideration may submit additional information in support of its request. The Licensees shall act upon a request for reconsideration and respond by certified mail within 30 days. If the request seeks reconsideration of an enforcement notice, the Licensees will take no action pursuant to the notice until a decision is reached.

Any person aggrieved by the Licensees' decision on a request for reconsideration, or by a permit denial or enforcement notice if no reconsideration is requested, may file an appeal of the Licensees' action with the SMWG within 30 days of receipt of the decision being challenged. The Licensees shall convene a meeting of the SMWG, which shall act upon the appeal and respond by certified mail within 60 days. If the appeal challenges an enforcement notice, the Licensees will take no action pursuant to the notice until a decision on the appeal is reached.

If the matter in dispute cannot be satisfactorily resolved by the decision of SMWG, the aggrieved party may bring the issue to the attention of FERC, which could consider the matter. Further challenges to FERC's action on an appeal are governed by Section 313 of the Federal Power Act, 16 U.S.C. § 825l.

5.0 ANNUAL MEETING

The SMWG will meet annually, no later than October 31, or at a frequency as requested by the Licensees or as agreed to by the SMWG, to review the previous year's actions under the SMP, discuss the following year's anticipated activities, and identify representatives of the public who will serve as members of the SMWG for the following year.¹⁴ In addition to this Annual Meeting, the SMWG may choose to meet at other times of the year, as needed, to address specific SMP activities or unanticipated matters or circumstances.

¹⁴ The initial representatives of the public who will serve as members of the SMWG are Don Colfels, Debi Curl, Ty Peters, Gary Popp, and Wayne Purcell. Unless a representative of the public identifies a replacement, that member will continue to serve on the SMWG for the following year.

6.0 AMENDMENTS TO PLAN

Amendments to this plan may be submitted to FERC after consultation with the SMWG. The Licensees shall include with any proposed amendment filed with FERC documentation of consultation, copies of comments and recommendations on the proposed amendment after it has been provided to the SMWG, and specific descriptions of how the SMWG's comments are accommodated by the proposed amendment. The Licensees will allow a minimum of 30 days for the SMWG to comment before filing the proposed amendment with FERC.

7.0 REPORTING

By January 31 of each year, beginning January 2010, the Licensees will file with FERC a status report on their efforts to complete the initial implementation phase of the SMP. Each report, at a minimum, will include detailed descriptions of the Licensees' progress in inventorying and permitting all existing structures within the project boundary, and correcting any unsafe conditions related to these structures. The Licensees will continue to file these reports until notified to the contrary by FERC.

Every six years, starting in January 2015, the Licensees will file a report with FERC providing the results of a comprehensive review of the effectiveness of the SMP in achieving its prescribed goals, particularly with regard to resource protection, permitting, monitoring and enforcement, and coordination with other jurisdictional entities. The report will be prepared in consultation with the SMWG.

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Appendix A

Articles 402, 428 and 443

from the June 21, 2005 FERC Order

Approving Settlement and Issuing New License

Appendix A – Articles 402, 428 and 443 from the June 21, 2005 FERC Order Approving Settlement and Issuing New License

Article 402 (d): Implementation Committees. The licensees shall establish a Shoreline Management Working Group as provided in the Settlement Agreement. The Shoreline Management Working Group shall consist of the licensees, and to the extent of their interest in participating, USFS; BIA; BLM; CTWS BNR; ODFW; OPRD; and Jefferson County. Licensees' development and implementation of study plans, reports, facility designs, and operating and implementation plans submitted to the Shoreline Management Working Group pursuant to the terms of this license shall comply with the requirements of the Settlement Agreement and the applicable License Implementation Plan, to the extent such requirements are approved by the license. Unless a different time period is specifically established pursuant to another provision of this license, the licensees shall, where consultation with the Shoreline Management Working Group is required, allow a minimum of 30 days for the Shoreline Management Working Group members to comment, work to achieve consensus, and to make recommendations before filing any study, operating or implementation plan, report, or facility design with the Commission. If after consideration by the Shoreline Management Working Group of all comments or recommendations, consensus is not achieved regarding the study, operating or implementation plan, report, or facility design, and any member of the Shoreline Management Working Group invokes dispute resolution pursuant to section 7.5 of the Settlement Agreement, the licensees shall not file any study, operating or implementation plan, report, or facility design with the Commission until the dispute resolution process has been completed, unless otherwise directed by the Commission. The licensees shall include with the study, operating or implementation plan, report, or facility design: documentation of consultation with the working group, copies of comments and recommendations of working group members on the completed study, operating or implementation plan, report, or facility design after it has been prepared and provided to the working group, and specific descriptions of how the comments of the Shoreline Management Working Group members are accommodated by the study, operating or implementation plan, report, or facility design.

Article 428. Shoreline Management Plan. Within one year of license issuance, the licensees shall, after consultation with the Shoreline Management Working Group established pursuant to Article 402, file for Commission approval a Shoreline Management Plan (SMP) for the Pelton Round Butte Project. The SMP shall include standards and guidelines for new shoreline development, installation of new docks, and modification of existing docks.

The licensees shall include with the SMP, an implementation schedule, documentation of consultation, copies of comments and recommendations on the completed SMP after it has been prepared and provided to the Shoreline Management Working Group, and specific descriptions of how the Working Group's comments are accommodated by the SMP. The licensees shall allow a minimum of 30 days for the Working Group to comment before filing the plan with the Commission. If the licensees do not adopt a recommendation, the filing shall include the licensees' reasons, based on project-specific information.

The Commission reserves the right to require changes to the SMP. Implementation of the SMP shall not begin until the SMP is approved by the Commission. Upon Commission approval, the licensees shall implement the SMP, including any changes required by the Commission.

Article 443. Use and Occupancy. (a) In accordance with the provisions of this article, the licensees shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain types of use and occupancy, without prior Commission approval. The licensees may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the licensees shall also have continuing responsibility to supervise and control the use and occupancies, for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the licensees for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the licensees shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, canceling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.

(b) The type of use and occupancy of project lands and waters for which the licensees may grant permission without prior Commission approval are: (1) landscape plantings; (2) non-commercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 watercraft at a time and where said facility is intended to serve single-family type dwellings; (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline; and (4) food plots and other wildlife enhancement.

To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the licensees shall require multiple use and occupancy of facilities for access to project lands or waters. The licensees shall also ensure, to the satisfaction of the Commission's authorized representative, that the use and occupancies for which it grants permission are maintained in good repair and comply with applicable state and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the licensees shall: (1) inspect the site of the proposed construction, (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site, and (3) determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline. To implement this paragraph (b), the licensees may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the licensees' costs of administering the permit program. The Commission reserves the right to require the licensees to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.

(c) The licensees may convey easements or rights-of-way across, or leases of, project lands for: (1) replacement, expansion, realignment, or maintenance of bridges or roads where all necessary state and Federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project reservoir.

No later than January 31 of each year, the Licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.

(d) The licensees may convey fee title to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary state and Federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary Federal and state water quality certification or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary Federal and state approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile (measured over project waters) from any other private or public marina; (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is 5 acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from project waters at normal surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year.

At least 60 days before conveying any interest in project lands under this paragraph (d), the licensees must submit a letter to the Director, Office of Energy Projects, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G or K map may be used), the nature of the proposed use, the identity of any Federal or state agency official consulted, and any Federal or state approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the licensees to file an application for prior approval, the licensees may convey the intended interest at the end of that period.

(e) The following additional conditions apply to any intended conveyance under paragraph (c) or (d) of this article:

(1) Before conveying the interest, the licensees shall consult with Federal and state fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.

(2) Before conveying the interest, the licensees shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved Exhibit R or approved report on recreational resources of an Exhibit E; or, if the project does not have an approved Exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.

(3) The instrument of conveyance must include the following covenants running with the land: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; (ii) the grantee shall take all reasonable precautions to ensure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project; and (iii) the grantee shall not unduly restrict public access to project waters.

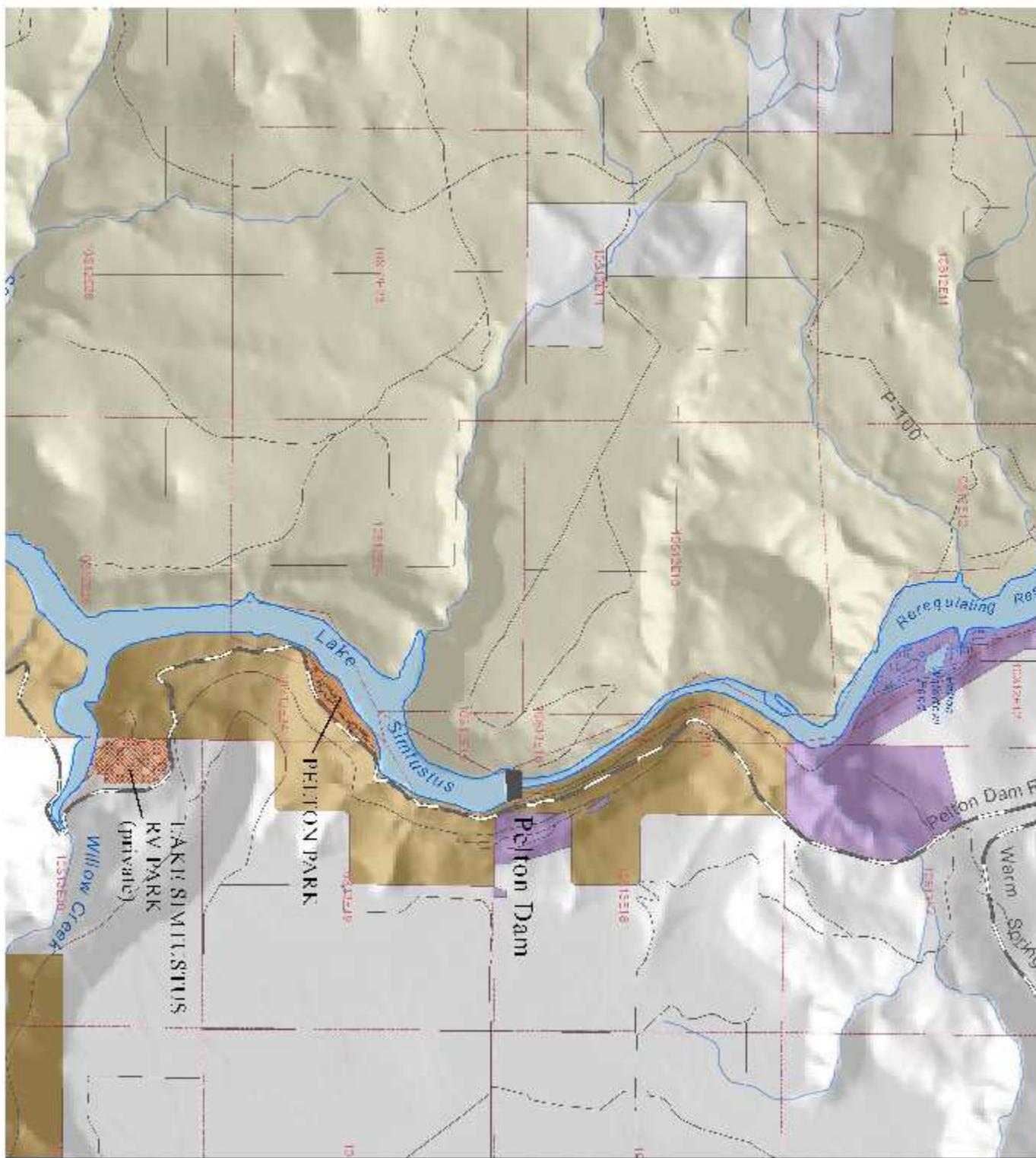
(4) The Commission reserves the right to require the licensees to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.

(f) The conveyance of an interest in project lands under this article does not in itself change the project boundary. The project boundary may be changed to exclude land conveyed under this article only upon approval of revised Exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised Exhibit G or K drawings would be filed for approval for other purposes.

(g) The authority granted to the licensees under this article shall not apply to any part of the public lands and reservations of the United States included within the project boundary.

Appendix B

Project Area Land Management and Ownership Maps



Appendix C

Additional Standards Applicable to New Construction

Appendix C

Additional Standards Applicable to New Construction

Construction Measures to Protect Project Resources

- Materials (e.g., rock, logs) to build the structure should not be taken from the shoreline, from below the 1945 water elevation or from the reservoir or river bottom. Use clean materials that are free of dirt.
- If rocks, stumps or logs need to be moved on the reservoir or river bottom or shoreline to build the dock, they are relocated to an area of similar depth adjacent to the structure and not removed altogether from the bottom or shoreline.
- Appropriate sediment and erosion control measures (i.e. silt fences) shall be in place before the start of dock construction and properly inspected and maintained during construction, particularly on sites with erodible soils such as sand and clay.
- Naturally rot-resistant, untreated materials (e.g. cedar, hemlock, rocks, concrete, plastic) should be used for supports for dock structures that will be submerged in water and preferably for structures above water. Treated lumber that contains compounds that can be released into the water may not be used.
- New construction shall not use any wood or natural material, such as logs, found within the Project boundary unless it is recycled material from an existing structure.

Marine Board Best Management Practices

- The following Best Management Practices (BMPs) are recommended by the Oregon State Marine Board (OSMB 2001b) for structures in or adjacent to a reservoir.
- Water depths should be great enough to avoid grounding of floats or boats.
- Minimize environmental and habitat impacts and significant adverse modification of the aquatic system by using the best available technology.
- Projects should be designed to avoid impacts to known wetlands.
- Design facilities to ensure they do not constrict streamflows or serve as barriers to fish passage.
- Consider bioengineering solutions instead of riprap in locations above ordinary high water.

- In-water work should comply with ODFW guidelines on in-water work timing (http://www.dfw.state.or.us/lands/inwater/inwater_guide.pdf) or be conducted at times approved by ODFW and other agencies.
- Conduct work with equipment that has the least impact.
- Conduct work from the top of bank or a floating barge, where practical. Heavy equipment should not be used in the waterway.
- Care should be taken to prevent petroleum products, chemicals, or deleterious materials from entering the water during construction.
- Take all steps practical to control erosion during construction.
- Boat ramp structures should use only steel or concrete.
- In-water structures will not make use of wood treated with oil-borne preservatives such as copper naphthenate or creosote solutions.
- Preferred material for pilings is round steel pipe. Treated wooden pilings should be avoided.

Marine Board Standards for Floatation (OAR 250-14-0030)

The language presented below reflects the regulatory guidance in effect at the time this SMP was produced. Applicants for permits from the Joint Licensees will be expected to adhere to the most recent guidance presented in state statutes.

Materials and Methods of Encapsulation -- New Construction (Stat. Auth.: ORS 830.110 & ORS 830.950)

(1) Effective methods of encapsulation shall completely cover or be a physical barrier between the polystyrene foam floatation and the water. Small gaps up to 0.75 inch diameter ballast holes are permitted in the physical barrier or covering provided they are 0.1% or less of the square footage of the floating structure.

(2) All materials and methods of encapsulation shall meet Environmental Protection Agency (EPA) or approved material testing requirements for use and placement in waterways and shall be effective for a period not less than 10 years. Any fasteners used to hold encapsulation materials together shall be effectively treated or be of such form as to reduce corrosion and decay.

(3) Any polystyrene foam floatation or part thereof installed, removed, replaced or repaired during construction or maintenance activities shall be effectively contained. All unused or replaced polystyrene foam shall be removed from the waters of this state and disposed of in an approved manner at an upland disposal site.

(4) The Board may approve other encapsulation materials, categories or methods, if based on their judgment it meets or exceeds the provision of this rule. The Board shall not approve or endorse specific products of any person or firm.

(5) The following materials or methods of encapsulation are approved:

- (a) Treated dimensional wood, 1.5 inches (actual) or more in thickness. Non-treated dimensional wood 4.0 inches or more in thickness and round wood logs are permitted.
- (b) Treated plywood 0.5 inches or more in thickness. Non-treated marine grade plywood 0.5 inches or more in thickness is permitted.
- (c) Concrete 1.0 inch or more in thickness.
- (d) Galvanized steel 0.065 inch or 16 gauge or more in thickness.
- (e) Liquid coatings, 30 mils or more in thickness, chemically or securely bonded.
- (f) Rigid (hard) plastics, 50 mils or more in thickness.
- (g) Fiberglass and plastic resins, 30 mils or more in thickness, chemically or securely bonded.
- (h) Pliable (soft) plastic sheets, 7 mils or more in thickness, chemically or securely bonded. Multiple layers of single plastic sheets less than 7 mils in thickness are not permitted. The process of using shrink-wrap is permitted.

(6) All fuel floats or floating structures used to store, maintain or repair boat engines shall be encapsulated with materials that are not subject to degradation by fuel oils or products.

Appendix D

Criteria and Principles for Wave Erosion Control Structures

Appendix D

Criteria and Principles for Wave Erosion Control Structures

In applying for a shoreline structure permit for a WEC structure, an applicant may either:

1. make application relying on the criteria listed under Part A, below; or
2. make application relying on the design principles listed in Part B, below.

If an applicant chooses to base the application on Part A, compliance with the criteria spelled out in Part A constitutes a *prima facia* showing that a permit should be issued.

Part A. Criteria for Wave Erosion Control (WEC) Structures for New Development:

- 1) WEC structures shall be oriented parallel to the shoreline. A setback of at least 15 feet from adjacent property lines is required at each end of the structure.
- 2) WEC structures may consist of logs or any floatation device not intended as a dock or for moorage approved by the Oregon State Marine Board and the Licensees.
- 3) Maximum WEC structure length is 70 feet for any given section. To allow navigation, each end of the structure shall be anchored without being attached to any other floating structure.
- 4) No wood at or below the 1945 foot elevation will be taken from the reservoir for WEC/Dock construction, unless it is recycled from an existing structure.
- 5) The minimum distance between a dock and a WEC structure shall be 30 feet.
- 6) The maximum distance, measured perpendicularly from the shoreline to the WEC structure, shall be 100 feet. This distance shall be the average of the two distances measured at each end of the WEC structure.
- 7) For legal parcels held in joint ownership, WEC structures shall be limited to one per 100 feet of shoreline; the maximum structure length is 70 feet, and no two WEC structures shall have less than a 30 foot open space buffer between the structures.
- 8) For legal parcels held in single ownership – one structure is permitted and the maximum structure length is 70 feet.

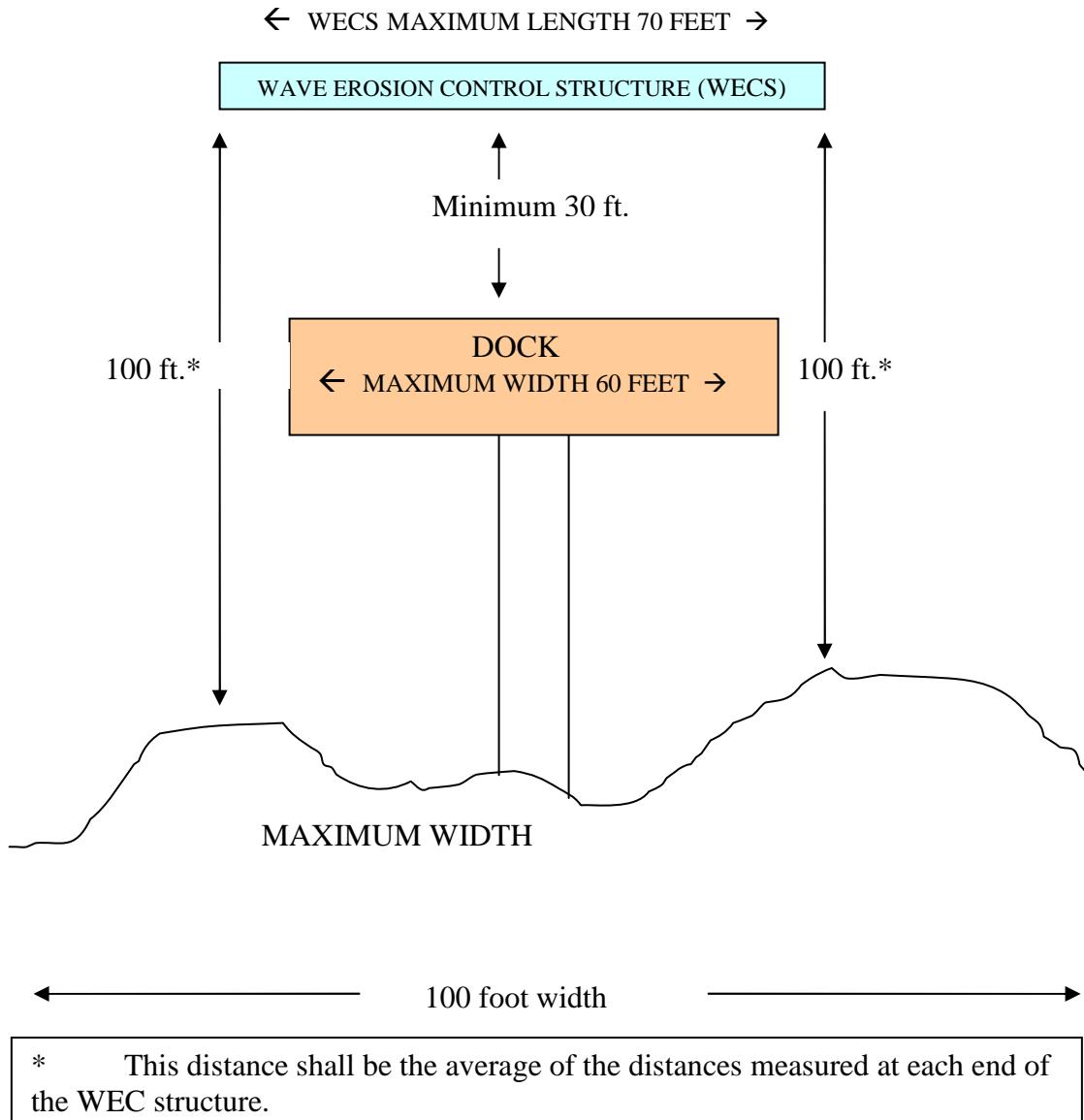
- 9) Variance – If the property owner can demonstrate that due to topography, shallow water depth, or other geographical reasons, the structure cannot comply with the setback requirements, a variance may be granted, unless the variance will negatively impact the neighboring property or obstruct the navigation of the reservoir or its tributaries.
- 10) If shoreline erosion occurs at an area that cannot be protected by the standard WECS, then a variance may be granted for specific areas where a WEC structure may be placed adjacent to the shoreline in that area. Any such structure shall comply with the guidelines set forth in the SMP, and shall extend no further from the shoreline than is allowed by the SMP.
- 11) WECS must be visibly marked with reflective devices.
- 12) WECS shall not create any restriction on public navigational or recreational use of Project waters and shall not be marked or signed in a manner that creates or implies the presence of private enclosures.

Part B. Design Principles for Wave Erosion Control (WEC) Structures for New Development:

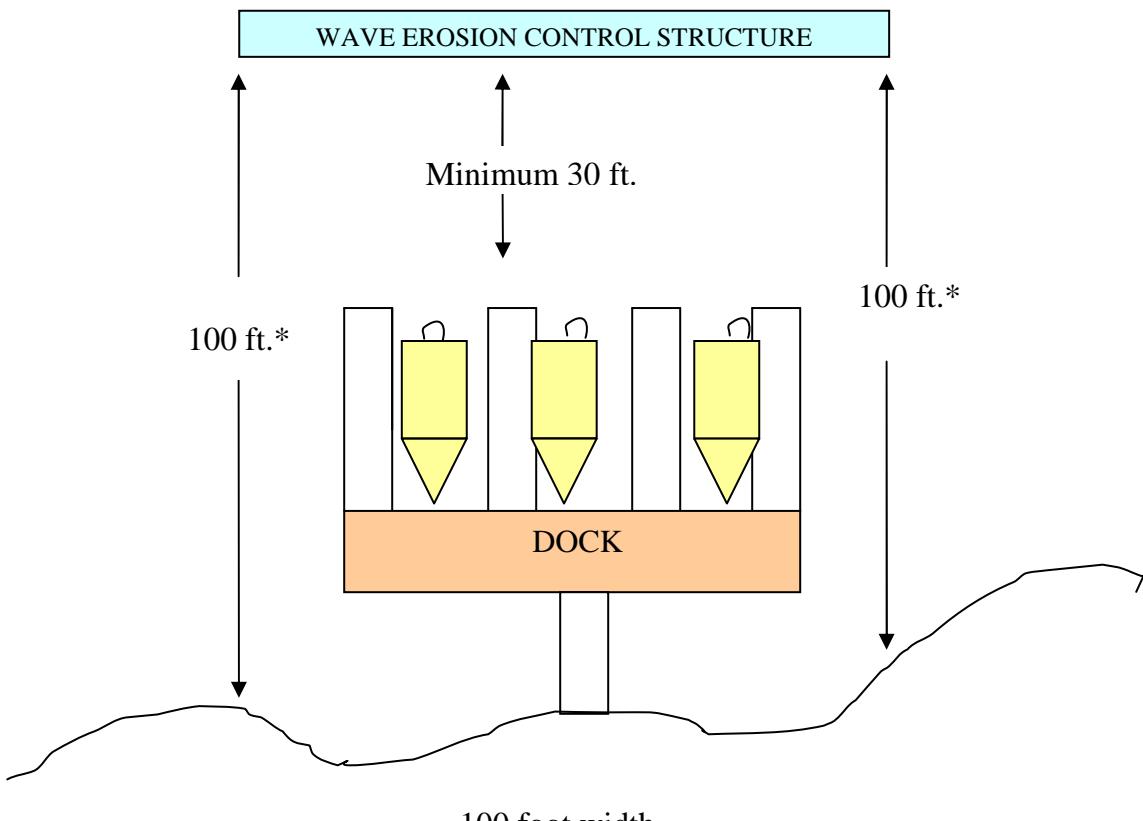
WEC structures will:

1. be of a design appropriate to protect the structures and land the WEC is intended to protect.
2. be oriented so as to maximize the protective effect.
3. not impede navigation
4. not create or imply the presence of private enclosures
5. be appropriately and adequately marked
6. be secured in a manner that minimizes the chance that they will break free
7. not be constructed from logs salvaged from Lake Billy Chinook
8. consist of logs or any flotation device not intended as a dock or for moorage approved by the Oregon State marine Board
9. be as close to shore as possible while still serving their intended protective purposes.
10. not create any restriction on public navigational or recreational use of Project waters and shall not be marked or signed in a manner that creates or implies the presence of private enclosures.

**AN EXAMPLE OF TYPICAL MEASUREMENTS
FOR NEW DEVELOPMENT AFTER THE SMP:**



AN EXAMPLE OF AN INSTALLATION OF A WECS FOR EXISTING DOCK STRUCTURES THAT ARE ALREADY IN PLACE AT THE TIME OF THE SMP AND UTILIZE A “BOW IN” CONFIGURATION:



* This distance shall be the average of the distances measured at each end of the WEC structure.

Appendix E - 1

Form of Application for Shoreline Structure Permit

Pelton Round Butte Hydroelectric Project
FERC Project No. 2030

SHORELINE STRUCTURE PERMIT APPLICATION

For Office Use Only

Casefile Number _____

Date Submitted: _____

Agent/Representative

Applicant

(if owner, write "Same as Owner")

Name: _____

Address: _____

Phone: (____) _____

Fax: (____) _____

Cell: (____) _____

Owner(s): (attach additional sheets if necessary)

(if owner, write "Same as Owner")

Name: _____

Address: _____

Phone: (____) _____

Fax: (____) _____

Cell: (____) _____

Name: _____

Firm: _____

Address: _____

Phone: (____) _____

Fax: (____) _____

Cell: (____) _____

Other: (specify, i.e., engineer, surveyor)

(if owner, write "Same as Owner")

Name: _____

Address: _____

Phone: (____) _____

Fax: (____) _____

Cell: (____) _____

Address of Record

Check to indicate where official correspondence
concerning this application should be addressed:

Owner

Applicant

List the Map and Tax Lots involved in this application:

Assessor Map: _____ Tax Lot Number(s): _____ Size: _____ Zone: _____

List any other contiguous tax lots under identical ownership:

Site Address: _____

Existing Use of Site: _____

Description of Proposal: _____

APPLICATION SUBMITTAL REQUIREMENTS:

Your application should include the following:

1. Completed application form
2. Any supplemental information needed to show that the application complies with all approval criteria and standards.
3. Site plan drawn to scale showing property boundaries, location of all existing and proposed structures within the project boundary.
4. A copy of the most recent deed or other instrument of conveyance.
5. A copy of the tax lot deed record card for each tax lot (available from County Assessor).
6. Signed authorization from all owners of record.

We, the undersigned, hereby authorize the filing of this application and certify that the information contained herein is complete and true to the best of our knowledge. We also authorize the designated Applicant and/or Agent/Representative (if applicable) to act on behalf of the property owner for the purposes of submitting this application.

Applicant	Date	Agent/Representative	Date
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Print Name: _____	Print Name: _____
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Owner	Date	Owner	Date
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Print Name: _____	Print Name: _____
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Appendix E – 2

Form of Application for Mooring Buoy Permit

Pelton Round Butte Hydroelectric Project
FERC Project No. 2030

MOORING BUOY PERMIT APPLICATION

For Office Use Only

Casefile Number _____

Date Submitted: _____

Applicant

(if owner, write "Same as Owner")

Name: _____

Address: _____

Phone: (____) _____

Fax: (____) _____

Cell: (____) _____

Owner(s): (attach additional sheets if necessary)

Name: _____

Address: _____

Phone: (____) _____

Fax: (____) _____

Cell: (____) _____

Agent/Representative

Name: _____

Firm: _____

Address: _____

Phone: (____) _____

Fax: (____) _____

Cell: (____) _____

Other: _____
(specify, i.e., engineer, surveyor)

Name: _____

Address: _____

Phone: (____) _____

Fax: (____) _____

Cell: (____) _____

Address of Record

Check to indicate where official correspondence
concerning this application should be addressed:

Owner

Applicant

List the Map and Tax Lots involved in this application:

Assessor Map: _____ Tax Lot Number(s): _____ Size: _____ Zone: _____

List any other contiguous tax lots under identical ownership:

Site Address: _____

Existing Use of Site: _____

Description of Proposal: _____

APPLICATION SUBMITTAL REQUIREMENTS:

Your application should include the following:

1. Completed application form
2. Site plan drawn to scale showing property boundaries, location of proposed mooring buoy within the project boundary.
3. Descriptive information sufficient to show proposed design of mooring buoy, including, if available, engineering drawings of the proposed design.
4. Letters from the Oregon Department of Fish and Wildlife, the United States Fish and Wildlife Service, and the Branch of Natural Resources of the Confederated Tribes of the Warm Springs Reservation of Oregon confirming that the proposed buoy location will not have an adverse impact on the bald eagle or other protected species.
5. A copy of the most recent deed or other instrument of conveyance.

6. A copy of the tax lot deed record card for each tax lot (available from County Assessor).
7. Signed authorization from all owners of record.

We, the undersigned, hereby authorize the filing of this application and certify that the information contained herein is complete and true to the best of our knowledge. We also authorize the designated Applicant and/or Agent/Representative (if applicable) to act on behalf of the property owner for the purposes of submitting this application.

Applicant	Date	Agent/Representative	Date
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Print Name: _____	Print Name: _____
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Owner	Date	Owner	Date
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Print Name: _____	Print Name: _____
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Owner	Date	Owner	Date
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Print Name: _____	Print Name: _____
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Appendix F-1

FERC Order Approving Shoreline Management Plan (126 FERC ¶ 62,058 (January 27, 2009))

126 FERC ¶ 62,058
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Portland General Electric Company

Project Nos. 2030-112 and
-113

Confederated Tribes of the Warm Springs
Reservation of Oregon

**ORDER AMENDING ARTICLE 402 AND MODIFYING AND APPROVING
SHORELINE MANAGEMENT PLAN UNDER ARTICLE 428**

(Issued January 27, 2009)

On July 11, 2007, Portland General Electric Company and the Confederated Tribes of the Warm Springs (CTWS) Reservation of Oregon (licensees) filed a shoreline management plan (SMP) pursuant to article 428 of the project license for the Pelton Round Butte Hydroelectric Project.¹⁵ Also, the licensees concurrently filed a request to amend article 402 to expand the shoreline management working group (SMWG), defined by that article, to include five representatives of the public. The project is located on the Deschutes River in Jefferson County, Oregon, and occupies 3,503.74 acres of federal and tribal lands administered by the U.S. Forest Service (FS), U.S. Bureau of Land Management (BLM), and U.S. Bureau of Indian Affairs (BIA).

BACKGROUND

Article 402 required the licensees to create the SMWG, which consists of the licensees, and to the extent of their interest in participating, the FS, BIA, BLM, CTWS Reservation Branch of Natural Resources, Oregon Department of Fish and Wildlife (ODFW), Oregon Parks and Recreation Department (OPRD), and Jefferson County.

Article 428 requires the licensees to file an SMP after consultation with the SMWG, established pursuant to article 402, for Commission approval. The SMP is to include standards and guidelines for shoreline development, including the installation of new docks, and modification of existing docks. Also, the licensees are to include in their filing an implementation schedule for the SMP, documentation of consultation, copies of comments and recommendations on the

¹⁵ See Order Approving Settlement and Issuing New License, issued June 21, 2005 (111 FERC ¶ 61,450), and Order on Rehearing, issued October 26, 2006 (117 FERC ¶ 61,112).

completed SMP after it has been prepared and provided to the SMWG, and specific descriptions of how the SMWG's comments are accommodated by the SMP.

The project is comprised of the Round Butte, Pelton and Reregulating Developments. The project area consists of approximately 19,300 acres, with about 4,700 acres being occupied by the developments' reservoirs. All of the reservoirs' shorelines are either owned or managed by a variety of federal, tribal, state, county, and private entities. Approximately 85% of these shorelines are owned or managed by public entities, while 15 % are privately owned, or owned by the licensees (table 1).

Table 1- Approximate Percentages of Shoreline Ownership Surrounding the Project's Reservoirs¹⁶

<i>Owner/Manager</i>	<i>Percent of Total</i>
<i>BLM</i>	31%
<i>CTWS</i>	30%
<i>FS: Crooked River National Grassland</i>	13%
<i>Private (excluding the licensees)</i>	10%
<i>State of Oregon</i>	7%
<i>Licensees</i>	5%
<i>FS: Deschutes National Forest</i>	4%

The powerhouses for all three developments are integral with the three project dams. The three project developments are described as follows:

The Round Butte Development is the uppermost development and includes the 4,000-acre Lake Billy Chinook, the project's largest reservoir. The project boundary around the lake is at elevation 1,945 feet mean sea level (msl); much of its 60-mile shoreline is not easily accessible. The surrounding terrain consists of high cliffs that make shoreline-based recreation difficult. In addition, much of the shoreline under CTWS jurisdiction is closed to the public. These areas primarily include the northern shore of the Metolius arm of the lake and the western shore of Lake Simtustus (except an area known as Indian Park Campground).

Approximately 10% of the project's shorelines are occupied by private development and most of this is concentrated in the Metolius arm of Lake Billy Chinook. This development includes homes, private docks, boathouses, boat lifts,

¹⁶ Information provided in licensee's filed SMP. The percentages of land ownership along the project's shorelines reflect approximate ownership within 0.25 mile of the project boundary.

wave-erosion-control structures, decks, commercial marinas and boat rentals, and gas docks, which are generally located on the south bank of the reservoir. In general, the homes are located outside the project boundary, although some may cantilever over the project boundary. This private residential and commercial use is regulated by Jefferson County.

The Pelton Development consists of a 7-mile-long, 540-acre reservoir, known as Lake Simtustus, which begins at the base of Round Butte Dam. The reservoir contains 18 miles of shoreline, is narrow, and is approximately 1,000 feet wide at its maximum point. The project boundary around the lake conforms roughly to elevation 1,580 feet msl. There is a small commercial development on the shore of the lake, but no residential development.

The Reregulating Development is the most downstream development, which was constructed to capture and attenuate the fluctuating flows from the two upstream projects. The water level of this 2-mile-long impoundment fluctuates as much as 15 to 25 feet per day. The CTWS manages the west side of the reservoir as undeveloped open space. The shoreline along the east side is owned by the licensees and the BLM and no public access or development is permitted on either shoreline in this area. For this reason, management of the shoreline of the reregulating reservoir is not addressed in the SMP.

DESCRIPTION OF THE PROPOSED SMP

The purpose of the SMP is to provide a guide for managing the shorelines of Lake Billy Chinook and Lake Simtustus. The goals of the SMP are to manage these shorelines, within the project boundary, in order to: (1) protect public health and safety; (2) assure safe and reliable project operations and protect environmental values; (3) provide an accurate inventory of existing uses and development on project reservoirs; (4) provide consistent and coordinated management of new development on the project's reservoirs; (5) provide consistency with the project's license requirements related to shoreline erosion control, enhancement of shoreline habitat and vegetation, protection of cultural resources, and control of in-water structures; (6) provide a management tool to evaluate proposed shoreline actions in a manner that is consistent across multiple ownership, jurisdictional, and management boundaries, and treats all classes of owners in a consistent manner; and (7) recognize existing uses of the shoreline and achieve a balance among the interests of the licensees and private and commercial property owners and recreational users.

Roles of licensees and agencies

The SMP's provisions are intended to compliment and work in concert with the regulations and procedures of other entities having jurisdiction over lands

surrounding the project's reservoirs, not to replace them. Each of these entities must exercise its authority in accordance with its own regulatory and procedural requirements; however, the project license requires the licensees to regulate land uses within the project boundary. Balancing these roles was a key consideration in preparing the plan.

Under the SMP, the licensees are responsible for controlling development along the shorelines of Lake Billy Chinook and Lake Simtustus. This obligation would be met by: (1) reviewing and permitting all proposed new or altered shoreline development actions within the project boundary; (2) monitoring and identifying permit violations; and (3) coordinating enforcement actions with appropriate jurisdictional agencies. The licensees also have the responsibility to communicate and consult with stakeholders affected by the SMP, and any future modifications of the SMP. If the licensees identify violations of the provisions of the SMP that may also be violations of another jurisdiction's requirements, they would then inform the primary regulatory authority. Subsequently, the licensees would be active participants in bringing the violation into compliance. Below are descriptions of the roles of other entities having jurisdiction over lands surrounding the project's reservoirs.

- (1) The CTWS Reservation Branch of Natural Resources would review any proposed action within the shoreline area of the reservation for compatibility with the Tribal Comprehensive Plan; the Integrated Resource Management Plan of the reservation; and tribal water, zoning, and land use codes.
- (2) With the exception of tribal trust lands and public lands and reservations of the United States (85% of lands around the reservoirs), lands adjacent to project reservoirs are subject to the regulatory jurisdiction of Jefferson County. Jefferson County is responsible for ensuring that construction activities within the project boundary, or in areas adjacent to but outside the project boundary, meet state building codes and local and state land use regulations. The Jefferson County zoning ordinance states that upon receiving an application for development proposed within the project boundary, the County will notify the licensees or other regulating agency. The licensees, however, clearly state that they are ultimately responsible for all activities within the project boundary, as required by the project license.
- (3) Project lands managed by the FS are located within two jurisdictions: the Deschutes National Forest (DNF) and the Crooked River National Grassland (CRNG). Portions of the CRNG that are within Cove Palisades State Park are under a long-term lease to the State of Oregon and managed by the OPRD for developed recreation uses.

- (4) BLM-administered areas are managed for the purposes of grazing and fire control within the project boundary.

Permitting of New and Existing Structures

The SMP describes regulations pertaining to all new and existing shoreline structures at the project. It includes descriptions of natural resources surrounding the reservoirs, including vegetation, riparian areas, and terrestrial wildlife habitat, as well as the general locations of existing private, commercial, and recreational development at the project.

The licensees state that structures that exist within the project boundary, by the date of Commission approval of the SMP, will be inventoried and permitted as existing structures, and will be grandfathered into the permitting program.

Regardless of the issuance of a permit, however, the SMP ensures that a property owner remains responsible for complying with all applicable regulations. Within one year of Commission approval of the SMP, the licensees would contact each landowner with a shoreline structure located within the project boundary and consult with that landowner in confirming and documenting the type and condition of the existing structure(s). During this implementation phase, the licensees would issue a shoreline structures permit (SSP) for all structures within the project boundary, regardless of their existing conditions. While the issue of safety is not specifically mentioned with regard to permitting these existing structures, the licensee does acknowledge the importance of monitoring and reporting unsafe conditions to the appropriate jurisdictional authority and following up with necessary measures. This includes following up on unsafe conditions on licensee-owned land.

The SMP states that properties with permitted existing structures, and their SSPs, may be sold or otherwise transferred, modified, repaired, maintained, and replaced. If an existing structure with an SSP is not used for its intended purpose for 36 consecutive months, the SSP expires. When this occurs, the right to continue using the structure terminates and the structure, and further use of it, must be brought into compliance with the requirements of the SMP that are applicable to new structures. Further, the SMP states that there is no fee for applying for or obtaining a permit for existing or new structures.

The SMP provides guidelines for applying for permits, and what must be included in the application. It establishes three categories of docks, including personal use docks, commercial docks, and private recreational docks. Pages 16 through 19 of the SMP define the differences between these types of docks. Essentially, personal docks are for individual waterfront lot owners, commercial docks are for multiple cluster docks (not to exceed 300 slips for boats 24 feet in

length or less, and a maximum of 100 slips for boats 24 feet in length or more), and private recreational docks are for organizations with 500 or more members.

The standards for new docks set forth in the SMP are intended to be consistent with the general guidelines published by the Oregon State Marine Board (OSMB) for the construction of boating facilities. The standard land use article (license article 443) would be used to determine whether or not an application needs to be filed with the Commission. The SMP provides criteria that apply to personal use docks, such as: length; width; footprint; distance from other docks; permitting of personal docks located on any legal parcel in joint private ownership; treatment of docks on Montgomery Shores; arrangement of docks; treatment of floating docks; and navigability.¹⁷ In addition, the SMP provides specific guidelines for wave-erosion-control structures for new development. The SMP also states that upon issuance of an SSP, an applicant must obtain all other required permits, authorizations, or certifications from the federal, state, county or tribal entities responsible for approving the proposed action, or any component of it.

New docks, wharves, or similar platforms or structures that are intended for commercial docking or mooring of vessels are permitted in the Three Rivers Recreation Area Waterfront Zone (TRRAW). The TRRAW was established by the Jefferson County zoning ordinance to allow commercial uses of a type and scale appropriate to serve the needs of the rural community, water oriented recreation, and limited tourist needs. The SMP states that the issuance of a permit for these types of uses requires prior Commission approval as a non-project use. No new commercial uses would be permitted outside of the TRRAW, as it exists on the date of Commission approval of the SMP. The SMP also provides general criteria that apply to new commercial docks.

Private recreational structures, under the SMP, are described as those structures owned by an organization or land owners association with at least 500 members or owners. These structures are for the purpose of enhancing recreational use and protecting waterfront beach areas from erosion. They may include docks, floating platforms, shoreline stabilization systems, and other structures. Presently, the Three Rivers Landowners Association is the only private recreational development in the project area. The SMP states that the issuance of a permit for a private recreational structure may require prior Commission

¹⁷ For example, while there are exceptions to the standards, the general rule is that a shoreline lot owner is entitled to one dock per 100 feet of shoreline, with a maximum length of 60 feet extending perpendicular into the reservoir and not to exceed a footprint of more than 1,000 square feet. Montgomery Shorelines, a shoreline residential community, has an established set of guidelines that it applies to boat dock development.

approval, and provides general guidelines for these structures such as gangways, floating walkways, and offshore moorages.

The SMP also provides guidelines for floatation materials and dredging activities. It states that the standards for floatation materials in new structures are set forth by the OSMB, which under the SMP, would apply to all development within the project boundary, including, to the extent applicable, repair, replacement, and maintenance activities. OSMB standards are included in the SMP, and the most current requirements under these standards would be implemented, as needed. Development actions involving excavation or filling within the project boundary must comply with current regulatory standards appropriate to the jurisdiction within which the action is proposed.

Compliance with all current regulatory standards must be demonstrated before a permit would be issued by the licensees. The licensees state that they recognize that the standard land use article dictates whether or not an application must be submitted for Commission approval of the intended action.

The SMP provides criteria and approval procedures for variances applicable to permitted structures. Variances would be granted when it can be shown that due to special physical circumstances related to a specific shoreline, or lakebed or streambed profile, strict application of the provisions of the SMP would cause an undue or unnecessary hardship because the proposed structure would be unable to function properly for its intended use. In granting a variance, the licensees may attach conditions deemed necessary to protect the resources of the project and surrounding properties, or which may otherwise be required by the terms of the project license.

Under the provisions of the SMP, an SSP is transferable with title to the property. It is the property owner's obligation to notify the licensees of any change in the identity or address of the owner. In addition, existing structures may be repaired, maintained, or replaced for any reason without a permit from the licensees. However, the structure may not be altered without a licensees permit. If a structure is damaged by fire, other casualty, or natural disaster, it may be repaired, restored, or replaced without a permit from the licensees, when either: (1) such work commences within one year of the damage; or (2) application for a building permit to undertake such repair, restoration, or replacement has been made within one year of the damage. However, alteration of an existing structure would require a permit pursuant to the SMP. If an existing structure is not used for a continuous period of more than three consecutive years, the structure would be considered to be abandoned and must be permitted before any use of it resumes.

Monitoring and Enforcement

The SMP states that all shoreline structures within the project boundary will be monitored annually to ensure compliance. In the case of private property uses inconsistent with an SSP, Jefferson County would be contacted to verify permit conditions. Regardless of whether Jefferson County seeks to enforce County ordinances, the licensees may, if warranted, take action as appropriate pursuant to the terms of the project license to initiate enforcement action pursuant to the SMP. This monitoring practice would begin upon Commission approval of the SMP.

The SMP provides that the licensees are solely responsible for enforcing its terms. These terms collectively comprise all of the commitments made by the licensees in the SMP. If a permittee is in violation of the terms of its SSP, the licensees would then issue a notice of violation. The notice of violation would specify the nature of the violation and a deadline of not less than 60 days in which to take corrective action, provided that a shorter deadline may be specified if the violation presents a hazard to health or safety. The licensees would then notify Jefferson County of all SMP violations being processed. A permittee may, within 30 days of receipt of a notice of violation, request a meeting with the licensees to review the violation and to discuss ways to remedy it. If a violation is not addressed within the time period specified in a notice (the deadline may be extended at the written request of the owner) and has not been appealed per SMP-specified guidelines, the licensees may require removal of non-complying structures and pursue any other available remedies.

The SMWG would meet annually, no later than October 31, to review the previous year's actions under the SMP, discuss the following year's anticipated activities, and identify representatives of the public who would serve as members of the working group for the following year.

Any amendments to the SMP would be submitted to the Commission after consultation with the SMWG. The licensees would include with any proposed amendment, documentation of consultation, copies of comments and recommendations on the proposed amendment after it has been provided to the SMWG, and specific descriptions of how the comments are accommodated by the proposed amendment. The licensees would allow a minimum of 30 days for the SMWG to comment before filing the proposed amendment with the Commission.

Relationship of the SMP with Commission-Approved Project Plans

Certain plans required by the project license overlap with the objectives and provisions of the SMP. The shoreline erosion plan identifies shoreline erosion

sites that will be monitored and treated as necessary.¹⁸ Project-related erosion is primarily addressed through the shoreline erosion plan, while non-project-related erosion (such as that associated with private shoreline development that was permitted prior to the adoption of this SMP) would be assessed on a case-by-case basis under the SMP. Pre-existing and ongoing erosion will also be addressed under the erosion control plan.

The terrestrial resources management plan includes provisions to restore riparian vegetation, where feasible, along reservoir shorelines in the project area.¹⁹ Because of the sensitivity and limited availability of these habitat types at the project, any proposed development within the project boundary in sensitive areas would be required to be consistent with established law and the licensees' terrestrial resource management plan.

The large wood management plan includes measures to anchor large wood in places above Rattlesnake Point in Lake Billy Chinook to minimize bank erosion and improve habitat.²⁰ The integrated interpretation and education plan is designed to, among other goals, facilitate sustainable tourism opportunities, provide interpretation of resource protection, and increase public awareness of project resource management.²¹

The recreation resources implementation plan identifies improvements and maintenance at recreation sites, many of which are in shoreline areas.²² The licensees are undertaking a feasibility study to assess off shore moorage buoys in potentially suitable areas east of Perry South Campground, Big Canyon, Juniper Canyon, and near the Island on the Crooked and Deschutes River arms. Prior to the completion of the study, no permits for buoys would be issued. Following completion of the study, only buoys that are consistent with the results of the study would be permitted. Permission to install any type of buoy other than navigational

¹⁸ See Order Approving In Part the Shoreline Erosion Plan Pursuant to Article 429, issued January 24, 2007 (118 FERC ¶ 62,057), and Order Approving Supplemental Shoreline Erosion Plan Pursuant to Article 429, issued August 09, 2007 (120 FERC ¶ 62,104).

¹⁹ See Order Approving Terrestrial Resources Management Plan Under Article 422, issued November 09, 2006 (117 FERC ¶ 62,143).

²⁰ See Order Approving Large Wood Management Plan Pursuant to Article 434, issued October 31, 2006 (117 FERC ¶ 62,090).

²¹ See Order Modifying and Approving Interpretation and Education Plan Pursuant to Article 427, issued July 1, 2008 (124 FERC ¶ 62,004).

²² See Order Modifying and Approving Recreation Resources Implementation Plan Pursuant to Article 424, issued December 7, 2006 (117 FERC ¶ 62, 217).

buoys would have to be obtained from the licensees. The licensees plan to consult with the SMWG regarding this study.

The SMP does not, in and of itself, propose any ground-disturbing activity that could affect cultural resources. However, the cultural resources management plan,²³ which was made part of the license when the license was issued, addresses how and when protection measures for shoreline cultural resource sites will be developed to address project-related erosion. The licensees plan to inform landowners if their prospective developments could affect known historic or archaeological sites. Any proposed development within the project boundary in culturally sensitive areas would be required to be consistent with applicable laws prior to initiating any ground-disturbing action. If cultural resource materials are discovered during work performed under an issued permit, all work associated with the permitted activity would cease. The licensees would be notified, consultation with the appropriate resource agency or governmental entity would be initiated and completed, and the recommended treatment would be implemented prior to recommencing work.

Development proposals that require Commission approval would require the proponent, through the licensees, to file an application for non-project use. Procedures required under Section 106 of the National Historic Preservation Act would be completed for these site-specific proposals.

AMENDMENT OF ARTICLE 402

The licensees request that article 402 be amended so that the SMWG includes five representatives from the public. The licensees state that there is no formally established group of shoreline stakeholders to select the five representatives. Therefore, the licensees propose that the initial public representatives on the SMWG be the individuals that participated in the development of the SMP, which were selected by a caucus of all private property owners that filed comments on the SMP. This caucus met after three public

²³ On December 6, 2004, the Commission, the Advisory Council on Historic Preservation, the State Historic Preservation Officer, and the CTWS's Tribal Historic Preservation Officer executed a Programmatic Agreement (PA) for managing historic properties that may be affected by the relicensing and continued operation of the Pelton Round Butte Project. Article 432 of the project license requires the licensees to implement the PA, including but not limited to a final Cultural Resources Management Plan (CRMP) for the project. This provides protection for all existing and future cultural resource sites located within the project boundary, and satisfies the Commission's responsibilities under section 106 of the National Historic Preservation Act (16 U.S.C. § 470s).

meetings held by the licensees to initiate the revision of the initial SMP filed June 8, 2006. The licensees state that these five representatives each represent distinct constituencies. The SMP provides that the identities of the representatives would be established at the annual SMWG meeting. Unless a representative of the public identifies a replacement, that member would continue to serve on the SMWG for the following year. If any disputes are raised that cannot be resolved within the SMWG, they would be resolved per conditions set forth in article 402 and the Settlement Agreement on the license.

CONSULTATION

The licensees held four public meetings to identify issues associated with the SMP, and to develop a process by which the SMWG could be expanded to include representatives of the public. The SMWG held five meetings, from March 7, 2007, to May 15, 2007 for the purpose of further discussing and drafting the SMP. A record of consultation is included with the SMP filing, as well as documentation of approval of the SMP from the SMWG members.

On August 2, 2007, the Commission issued a public notice of the proposed SMP, which solicited comments, motions to intervene, and protests. The deadline for filing responses to the notice was September 4, 2007. In response, the ODFW filed on September 4, 2007, a motion to intervene, stating it intervenes for the purpose of becoming a party to the proceeding, and to ensure that its interests are represented in this proceeding. In addition, the U.S. Department of the Interior, in a letter dated September 4, 2007, states that it does not have any comments to offer. No other responses to the notice were received.

The licensees also published notices of the filing of the SMP in *The Oregonian*, *The Madras Pioneer*, and *The Bend Bulletin*, and notified each landowner adjoining the project on record in the Jefferson County tax maps, and each individual that responded to the Commission's public notice of the SMP.

DISCUSSION

The SMP is appropriately based on principles that are consistent with the Commission's regulations, and the project license.²⁴ The SMP states that its

²⁴ The Commission's regulations at 18 CFR, §2.7, state that the Commission encourages licensees to cooperate with federal, state, and local agencies in planning, providing, operating, and maintaining facilities for public recreational use of public lands administered by those agencies adjacent to the project area. In this regard, the proposed SMP is consistent with the intent of the Commission's regulations.

provisions compliment and work in concert with, but do not replace the regulations and procedures in effect for other jurisdictional authorities. This integrated approach conforms to the intent of article 428.

In their filing, the licensees state that the goals of the proposed SMP are directed at meeting their license obligations and responsibilities, and defining how they would coordinate with agencies having jurisdiction over land use around the reservoir to ensure that such uses are not inconsistent with project purposes. Specifically, the licensees propose to coordinate with local permitting authorities, including Jefferson County, which oversees the majority of privately-owned shoreline around the reservoir, to ensure that shoreline uses are managed consistent with the project's license requirements. The written agreement between the licensees and Jefferson County, filed as part of the proposed SMP, provides for the licensee's full involvement in Jefferson County's existing permitting program with respect to proposed uses within the project boundary. Although, under the agreement, Jefferson County would issue the actual permit for a proposed use, the licensees would have sufficient involvement in the permitting process to review and, essentially, make findings on the proposal to ensure that it is not inconsistent with project operations, purposes, and license requirements. In this regard, we find that the written agreement between the licensees and Jefferson County is sufficient to allow the licensees to meet their responsibilities under license article 5.²⁵

Under the SMP, the licensees would control development along the shorelines of Lake Billy Chinook and Lake Simtustus by: (1) reviewing and permitting all proposed new or altered shoreline development actions within the project boundary; (2) monitoring and identifying permit violations; and (3)

The Commission only has jurisdiction over the licensees, and therefore, it is ultimately the licensees' and the Commission's responsibility to assure that the project is operated in a manner that meets the comprehensive-development and public-interest standards required under the Federal Power Act. That being the case, the Commission must ensure that responsibility for discretionary land use matters remains with the licensees, subject to Commission review. In the SMP, the licensees commit to being responsible for the administration of the SMP, and recognize that certain proposed future actions require the Commission's approval.

²⁵ Article 5 of the project license requires the licensee, in part, to acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of the project. In this regard, the licensee is expected to have sufficient rights to control and supervise non-project uses and occupancies of project lands and waters along the reservoirs' shorelines.

coordinating enforcement actions with appropriate jurisdictional agencies. The licensees also have the responsibility to communicate and consult with stakeholders affected by the SMP, and any future modifications of the SMP. If the licensees identify violations of the provisions of the SMP that may also be violations of another jurisdiction's requirements, they would inform the primary regulatory authority and actively participate in bringing the violating party into compliance. These general provisions meet the Commission's expectations regarding the licensees' basic shoreline management obligations.

The SMP also contains specific guidelines that apply to dock development, including dock length, width, and footprint; distance from other docks; permitting of personal docks on parcels in joint private ownership; arrangement of docks; treatment of floating docks; and navigability. In addition, the SMP provides specific guidelines for wave-erosion-control structures for new development. Also, the SMP states that upon issuance of an SSP, an applicant must obtain all other required permits, authorizations or certifications from the federal, state, county, or tribal entities responsible for approving the proposed action, or any component of it. While these are all essential components of the SMP that will serve to ensure the proper management of the project's shorelines, there are a few elements of the plan that should be addressed further. Each of these items is discussed below.

(1) The SMP contains provisions for continuous review of the plan through annual meetings of the SMWG, but it does not provide a schedule for formal, periodic reviews. A comprehensive review process allows for any changes in project circumstances to be taken into account, including matters pertaining to shoreline activities, resource conditions, study findings, and stakeholder positions. Typically, the Commission requires an SMP to be formally reviewed every five to six years. This SMP should be reviewed every six years, with the results of the process filed with the Commission, for approval, including any proposed revisions to the plan.

(2) Section 4.2.5 of the SMP (Construction Approval) states that the licensees would require the applicant for an SSP to show evidence of prior agency consultation regarding the proposal and provide copies of all necessary permits from the applicable federal, state, county, and tribal entities responsible for approving the proposed action. The licensees would then issue the SSP. However, the SMP also states that if the licensees fail to timely issue an approval, construction may proceed. The licensees should be required to issue an approval prior to start of any construction.

(3) Section 4.2.6 of the SMP (Inspections) states that upon completion of construction, the permittee may request the licensees to inspect the construction. The licensees should be required to make such inspections.

(4) Section 4.3 of the SMP (Variances) states that the licensees may attach conditions to a variance that protects resources of the project and surrounding properties. The licenses should have, at minimum, a set of standard protective conditions that would be attached to variances. Also, all proposed variances to the SMP should be filed with the Commission, for approval.

(5) Section 4.5 of the SMP (Repairs, Maintenance, and Alterations) states that existing structures, may be repaired, maintained, or replaced for any reason without an SSP. However, structural alterations would require a permit under the SMP. The licensees should clearly define each of these activities in order to avoid confusion regarding whether a permit is required, and should inspect all completed work under this section to ensure compliance with this provision.

(6) Section 4.8 of the SMP (Appeals) states that if an applicant appeals the licensees' denial of a request for an SSP, the licensees would reconsider the request, but if again denied, the person could file an appeal with the Commission within 30 days. The licensees should develop a procedure that allows for a follow-up appeal to be presented to a group such as the SMWG. The Commission has approved the use of graduated dispute resolution procedures with regard to SMP matters.²⁶ The procedure should provide for an independent entity, or entities, to be involved in the resolution. The SMP should not provide for such decisions to be appealed, as a matter of practice, to the Commission. In the ultimate event that the dispute cannot be resolved, the Commission would consider the issue.

(7) The SMP does not provide for any reporting on the results of the initial implementation phase of the plan, including the licensees' inventorying and permitting of all existing structures within the project boundary, and any follow-up measures taken to correct unsafe conditions related to these structures. The licensees should be required to annually file with the Commission a progress report describing the status of their efforts to complete the SMP's initial implementation phase. The Commission should reserve the right to require changes to the licensees' implementation efforts, based on the information provided in the reports.

The licensees' proposal to add five members of the public to the SMWG would allow more public input and involvement in the overall management of shoreline uses at the project. The proposal provides for the public members of the

²⁶ See "Order Modifying and Approving Revised Shoreline Management Plan", issued on October 15, 2003 (105 FERC ¶ 62,027); and Appendix O of Final SMP Update, Catawba-Wateree Hydroelectric Project, FERC No. 2232, filed on July 30, 2001.

SMWG to name replacements in the event that current members no longer wish to participate in the SMWG. However, given these members may not consistently be able to find willing replacements over the 50-year term of the license, article 402 should be revised to allow for up to five representatives from the public to be members of the SMWG. This would allow for more flexibility in the future, should the number of representatives need to be adjusted. Because of the public benefit afforded by this proposed amendment, it should be approved as modified.

The licensees' SMP includes the specific elements required by article 428. It is a comprehensive plan that reflects cooperation between the licensees, federal and state agencies, Jefferson County, and the public. Its provisions compliment the existing resource plans for the project, and should adequately provide for the proper use, conservation, and development of the project's shorelines. The SMP should be approved as modified in this order.

The Director orders:

(A) The shoreline management plan for the Pelton Round Butte Hydroelectric Project, filed July 11, 2007, pursuant to article 428 of the project license, is approved as modified by ordering paragraphs (C) through (E), below.

(B) License article 402(d) is amended to allow for up to five representatives of the public to be members of the Shoreline Management Working Group (SMWG). These representatives shall be identified at the annual meeting of the SMWG. Unless a representative of the public identifies a replacement, that member will continue to serve on the SMWG for the following year.

(C) The Licensees, within 30 days of the issuance date of this order, shall file with the Commission revisions to the following sections of the shoreline management plan approved in ordering paragraph (A), above. The revisions shall address the items specified in each section, as discussed in this order. The Commission reserves the right to require further changes to these sections in order to adequately address these items.

(1) Section 4.2.5 (Construction Approval). This section shall be revised to indicate that the licensees must provide written approval prior to start of any construction activities.

(2) Section 4.2.6 (Inspections). This section shall be revised to indicate that the licensees will make at least one inspection of a permitted facility or structure, immediately upon completion of its construction, to ensure compliance with the permit.

(3) Section 4.3 (Variances). This section shall be revised to indicate that the licensees will, at a minimum, attach a set of standard conditions to each granted variance for the protection of project resources and surrounding properties. The licensees shall include these conditions in their revision to this section. This section shall also be revised to indicate that the licensees will file with the Commission, for approval, all requested variances.

(4) Section 4.5 (Repairs, Maintenance, and Alterations). This section shall be revised to clearly define repairs, maintenance, replacements, restorations, and alterations in order to avoid confusion as to whether a permit is required for these activities. This section shall also be revised to indicate that the licensees will inspect all activities completed under this section to ensure compliance with this provision.

(5) Section 4.8 (Appeals). This section shall be revised to describe the procedure to be followed for appealing any denial of a request for a permit. Also, the revision shall specify the entity that is to hear such appeals, and that such denials are not to be appealed to the Commission.

(D) The licensees, by January 31 of each year, beginning January 2010, shall file with the Commission a status report on their efforts to complete the initial implementation phase of the shoreline management plan approved in ordering paragraph (A), above. Each report, at a minimum, shall include detailed descriptions of the licensees' progress in inventorying and permitting all existing structures within the project boundary, and correcting any unsafe conditions related to these structures. The Commission reserves the right to require changes to the licensees' implementation efforts, based on the information provided in the reports. The licensees shall continue to file these reports until the Commission notifies the licensees that the requirements of this paragraph have been met.

(E) The licensees, every six years from the issuance date of this order, shall file with the Commission, for approval, a report providing the results of a comprehensive review of the shoreline management plan (SMP) approved in ordering paragraph (A), above. The report, at a minimum, shall include descriptions of: (1) the review process; (2) the information and issues considered during the review; (3) the entities who participated in the review; and (4) the results of the process, including any proposed revisions to the SMP. The review shall focus on the effectiveness of the SMP in achieving its prescribed goals, particularly with regard to resource protection, permitting, monitoring and enforcement, and coordination with other jurisdictional entities.

The licensees shall include with the filing documentation of consultation with members of the Shoreline Management Working Group (SMWG), as defined

in license article 402, copies of comments and recommendations on the report after it has been prepared and provided to the SMWG members, and specific descriptions of how the SMWG members' comments and recommendations are accommodated by the report. The licensees shall allow a minimum of thirty days for the SMWG members to comment and to make recommendations before filing the report with the Commission. If the licensees do not adopt a recommendation, the filing shall include the licensees' reasons, based on project-specific information.

The Commission reserves the right to require changes to the report. Upon approval of the report, the licensees shall implement any approved revisions to the SMP, including any changes required by the Commission.

(F) This order constitutes final agency action. Requests for rehearing by the Commission may be filed within 30 days from the date of this order pursuant to 18 CFR § 385.713.

Robert J. Fletcher
Chief, Land Resources Branch
Division of Hydropower
Administration and Compliance

Appendix F-2

FERC Order Modifying and Approving Revisions to Modified Shoreline Management Plan (134 FERC ¶ 62,142 (February 15, 2011))

UNITED STATES OF AMERICA 134 FERC ¶ 62,142
FEDERAL ENERGY REGULATORY COMMISSION

Portland General Electric Company
Confederated Tribes of the Warm Springs
Reservation of Oregon

Project No. 2030-211

ORDER MODIFYING AND APPROVING REVISIONS TO APPROVED
SHORELINE MANAGEMENT PLAN

(Issued February 15, 2011)

1. On September 9, 2009, Portland General Electric Company and Confederated Tribes of the Warm Springs (CTWS) Reservation of Oregon (licensees), licensees for the Pelton Round Butte Hydroelectric Project, FERC No. 2030, filed modifications to the project's approved shoreline management plan (SMP).²⁷ The project is located on the Deschutes River in Jefferson County, Oregon, and occupies 3,503.74 acres of federal and tribal lands administered by the U.S. Forest Service (FS), U.S. Bureau of Land Management (BLM), and U.S. Bureau of Indian Affairs (BIA).

BACKGROUND

2. The Pelton Round Butte Project includes three developments on the Deschutes River in central Oregon. The Round Butte Development is the uppermost development and includes the 4,000-acre Lake Billy Chinook, the project's largest reservoir. The project boundary around the lake is at elevation 1,945 feet mean sea level (msl). The Pelton Development consists of a 7-mile-long, 540-acre reservoir, known as Lake Simtustus, which begins at the base of Round Butte Dam. The project boundary around the lake conforms roughly to elevation 1,580 feet msl. The Reregulating Development is the most downstream development constructed to capture and attenuate the fluctuating flows from the two upstream developments. There is no public access or development permitted on the shoreline of the reregulating reservoir, thus management of the shoreline is not addressed in the SMP.

²⁷ See Order Amending Article 402 and Modifying and Approving Shoreline Management Plan Under Article 428, issued January 27, 2009 (126 FERC ¶ 62,058).

3. Ordering paragraph (C) of the order Modifying and Approving the Shoreline Management Plan issued January 27, 2009, requires the licensees to file the following revisions to the approved SMP:

- (1) Section 4.2.5 (Construction Approval) is to be revised to indicate that the licensees must provide written approval prior to start of any construction activities.
- (2) Section 4.2.6 (Inspections) is to be revised to indicate that the licensees will make at least one inspection of a permitted facility or structure, immediately upon completion of its construction, to ensure compliance with the permit.
- (3) Section 4.3 (Variances) is to be revised to indicate that the licensees will, at a minimum, attach a set of standard conditions to each granted variance for the protection of project resources and surrounding properties. The licensees shall include these conditions in their revision to this section. This section is also to be revised to indicate that the licensees will file with the Commission, for approval, all requested variances.
- (4) Section 4.5 (Repairs, Maintenance, and Alterations) is to be revised to clearly define repairs, maintenance, replacements, restorations, and alterations in order to avoid confusion as to whether a permit is required for these activities. This section shall also be revised to indicate that the licensees will inspect all activities completed under this section to ensure compliance with this provision.
- (5) Section 4.8 (Appeals) is to be revised to describe the procedure to be followed for appealing any denial of a request for a permit. Also, the revision shall specify the entity that is to hear such appeals, and that such denials are not to be appealed to the Commission.

DESCRIPTION OF PROPOSED PLAN REVISIONS

4. The licensees filed a revised SMP containing revisions to the approved SMP. The revised SMP is the same as the approved SMP, with the exception of the sections identified in ordering paragraph (C) of the Commission's January 27, 2009 order. The licensees prepared the revisions in consultation with the members of the Shoreline Management Working Group (SMWG).²⁸ The proposed revisions to the approved SMP are described below.

²⁸ The SMWG includes: The licensees, FS, BIA, BLM, CTWS Reservation Branch of Natural Resources, Oregon Department of Fish and Wildlife (ODFW), Oregon Parks and Recreation Department, Jefferson County, and five public representatives.

5. Section 4.2.5 has been revised to require that construction cannot begin until the construction approval notice from the licensees has been received. Section 4.2.6 includes a revised statement that the licensee would inspect the approved facility, at least once upon completion, to ensure compliance with the construction approval. Section 4.3 has been revised to indicate in Section 4.3.2 that the licensees will file with the Commission, for approval, all requested variances and in Section 4.3.3 that the licensees will include standard conditions to each granted variance for the protection of project resources and surrounding properties. Section 4.5 has been modified to clarify the different types of changes allowed for existing structures and whether or not a permit is required for such changes. Finally, Section 4.8 has been revised to describe procedures for appealing any permit request denial, however continues to state that the aggrieved party may bring the unresolved issue to the attention of the Commission.

AGENCY CONSULTATION

6. The licensees consulted with the SMWG allowing them a 30-day review period to submit comments on the revised SMP. The licensee included in the revised SMP a table summarizing the comments received on the revised SMP. The ODFW was the only agency from the SMWG to file a comment, stating its approval of the revised SMP. The licensee stated that no other comments from the SMWG were filed in response to this revision of the revised SMP.

DISCUSSION

7. In general, the proposed revisions to the approved SMP satisfy the requirements of ordering paragraph (C) of the Commission's January 27, 2009 order. However, the proposed revisions to Section 4.5 require further revision in order to clarify the provisions and fully meet the licensees' obligations for oversight of changes to existing shoreline structures. Specifically, the section does not address all modifications to existing facilities, which, according to the definition of "modification" in the approved SMP, may include up to a 20 percent increase in structure size or height. While most modifications to existing structures, involve minor changes, such as the use of new or replacement materials, other modifications are more significant and have the potential to result in adverse impacts to the surrounding area. These more significant modifications would require additional review and oversight. Therefore, the provisions of Section 4.5 should be changed to further address significant modifications.

8. Specifically, the revised section should be changed to add provisions that would require landowners follow the procedures described in Section 4.2 (Shoreline Structure Permitting Process) of the plan for all proposed modifications of existing structures that would result in the relocation, major reconfiguration, or an increase the overall square footage or height of a structure. Further, the

landowner may not implement these proposed changes without prior Licensee authorization.²⁹

9. The proposed revisions to approved SMP, as modified above, meet the requirements of ordering paragraph (C) of the Commission's January 27, 2009 order. While the licensees filed a revised SMP containing these revisions, we hereby approve only the proposed revisions required under ordering paragraph (C) and not the entire revised SMP. These revised sections supersede the applicable sections of the approved SMP.

The Director orders:

(A) The revisions to Sections 4.2.5, 4.2.6, 4.3, 4.5, and 4.8 to the approved Shoreline Management Plan for the Pelton Round Butte Hydroelectric Project, filed on September 9, 2009, pursuant to ordering paragraph (C) of the Commission's January 27, 2009 order, as modified by ordering paragraph (B), is approved.

(B) Revised Section 4.5 (Repairs, Maintenance, and Alterations) of the approved plan shall be modified to add provisions that would require landowners follow the procedures described in Section 4.2 (Shoreline Structure Permitting Process) of the plan for all proposed modifications of existing structures that would result in a relocation, major reconfiguration, or an increase the overall square footage or height of a structure. Further, the provisions shall all indicate that the landowner may not implement these proposed changes without prior licensee authorization.

(C) This order constitutes final agency action. Requests for rehearing by the commission may be filed within 30 days of the date of issuance of this order, pursuant to 18 C.F.R. §385.713.

Robert J. Fletcher
Chief, Land Resources Branch
Division of Hydropower
Administration and Compliance

²⁹ In accordance with approved SMP and other applicable license requirements, the licensees would also be expected to obtain prior Commission approval for such changes, as appropriate.

Appendix G - 1

Criteria for Mooring Buoy Permits:

Section 5.1 of

**Offshore Moorage Buoy Analysis:
Technical Feasibility and Recommendations**

(filed August 18, 2008)

CRITERIA FOR MOORING BUOY PERMITS

This section presents the Licensees' criteria for issuing permits for mooring buoys. These guidelines pertain to all shoreline areas within the Project Boundary surrounding Lake Billy Chinook. These permits are issued pursuant to Articles 428 and 443 of the Project License. Specifically, Article 428 requires the Licensees to develop standards and guidelines for new shoreline development. Article 443 authorizes the Licensees to grant permission for certain types of use and occupancy of Project lands and waters, and describes the Licensees' responsibilities to supervise and control uses for which they grant permits, and to ensure that facilities are maintained in good repair and comply with applicable state and local health and safety requirements.

No permit applications will be accepted and no mooring buoy permits will be issued before completion of the inventory of shoreline structures pursuant to the revised SMP.

State mooring buoy standards are established by the Oregon State Marine Board (“OSMB”) in OAR 250-010-0205 and pertain to all Project waters. Pursuant to the criteria established by the OSMB, mooring buoys shall not be mistaken for navigational aids. Mooring buoys shall be white with a blue band clearly visible above the water line, except those in officially designated mooring areas. As noted below, mooring buoys must comply with all applicable governmental regulations.

The following criteria apply to mooring buoy permits:

1. The term of a mooring buoy permit will be ten years, unless the buoy is required to be removed sooner because its presence or use is demonstrated to have an adverse environmental impact. Permits issued to OPRD for buoys that replace existing buoys will not have a ten-year term.
2. Mooring buoys and their use shall not interfere with Project operations, the normal public navigational use of the lake, or ingress and egress or other rights of property owners or the public.
3. To maintain a navigable corridor/passage in areas of constricted width, such as Street Creek, Fly Creek, and Juniper Canyon, no mooring buoys may encroach on an area that is 25 feet to each side of the center line of the body of water.
4. An application for a mooring buoy permit must be prepared, submitted, and processed according the following requirements:
 - a. The owners of all property adjacent to the area affected by a mooring buoy, including any boat proposed to be moored to it, must join in the application.³⁰

³⁰ The area affected by a mooring buoy is the area within a circle around the proposed buoy site, the size of which is defined by the size of the houseboat to be moored and the anchoring system to be employed. For example, as described in the *Engineering Feasibility Study* (page 8), a 60' houseboat moored to a buoy with two anchors would be considered to be adjacent to 260 feet of shoreline. Owners of all 260 feet of shoreline would have to sign the permit application.

- b. The design of proposed buoys must either (i) be consistent with the recommended design standards described in the technical feasibility report attached to this report, or (ii) comply with an alternative design proposed by the applicant and approved by the Licensees.³¹
 - c. The applicant must provide a written determination by ODFW, CTWS BNR, and US FWS that the proposed buoy location will not have an adverse impact on the bald eagle or other protected species.
 - d. The applicant may include comments from adjacent landowners, including the USFS and BLM.
5. The Licensees will conduct a two-stage review of each permit application.
 - a. During the first stage, the Licensees will obtain a written confirmation by ODFW, CTWS BNR, and US FWS that the proposed buoy location will not have an adverse impact on bald eagles or other protected species.
 - b. During the second stage, the Licensees will, after receipt of an application fee, subject the application to technical review by an engineer.
 6. Before starting construction, the applicant must obtain and provide the Licensees with copies of any other permits and land use authorizations required to place a mooring buoy, including but not limited, as applicable, to the approval of OSMB, Jefferson County, the USACE, and DSL.
 7. The applicant must agree to comply with all regulations governing the use of mooring buoys.

³¹ The *Engineering Feasibility Study* assumes a 60' houseboat with a loaded weight of 52,000 pounds and a two-point anchoring system with a calculated wind load appropriate to a 60' houseboat. The specific design proposed in a mooring buoy permit application might reflect a different size houseboat.

Appendix G - 2

Mooring Buoy Permitting Process:

Sections 5.1 to 5.4 of

**Offshore Moorage Buoy Analysis:
Technical Feasibility and Recommendations**

(filed August 18, 2008)

MOORING BUOY PERMITTING PROCESS

This section describes how to apply for a mooring buoy permit, the permit review process, and the general information that must be included in an application.

Step 1: Permit Application

Applicants may contact the Licensees by telephone, mail, email, fax or in person to request a mooring buoy application package to place a mooring buoy in Lake Billy Chinook. Requests for application packages should be addressed as follows:

- By telephone: Property Services – (503) 464-8118
- By mail: Property Services
Portland General Electric Company
121 SW Salmon Street
1 WTC 0401
Portland, OR 97204
- By email: property.services@pgn.com
- By fax: (503) 464-2863
- In person: 121 SW Salmon Street, 3 World Trade Center – 4th Floor

The form of application for a permit is attached to this SMP as Appendix E-2.

Step 2: First-Stage Review

During first-stage review, an applicant must submit (1) a site plan that identifies the location of proposed mooring buoy within the project boundary; and (2) letters from ODFW, CTWS BNR, and US FWS stating that the proposed buoy location will not have an adverse impact on the bald eagle or other protected species. The Licensees will compare the site plan with known sensitive resources maps contained in other plans prepared pursuant to the license, including the TRMP, SEP, LWMP, and CRMP, and will contact ODFW, CTWS BNR, and US FWS to obtain a written confirmation from each agency that the proposed buoy location will not have an adverse impact on the bald eagle or other protected species. The first-stage review will be completed and a written response will be provided to the applicant by certified mail within 60 days of receipt of the mooring buoy permit application, if the agencies contacted respond within 30 days. The written response will specify whether the proposed buoy is consistent or inconsistent with other approved plans and acceptable to ODFW, CTWS BNR, and USFWS. If the Licensees receive confirmation from ODFW, CTWS BNR, and US FWS that the proposed buoy location will not have an adverse impact on the bald eagle or other

protected species, the Licensees will inform the applicant that it can proceed to the second-stage review.

Step 3: Submit and Process the Mooring Buoy Permit Application

Applicants must submit the mooring buoy application package to the Licensees by mail, email, or in person. Applications should be addressed as follows:

- By mail: Property Services
Portland General Electric Company
121 SW Salmon Street
1 WTC 0401
Portland, OR 97204
- By email: property.services@pgn.com
- In person: 121 SW Salmon Street, 3 World Trade Center – 4th Floor

A completed mooring buoy permit application must include:

- A. A signed original application and two copies.
- B. Two copies of design plans for the proposed mooring buoy.
- C. An application fee of \$500.00.

Upon receipt of a complete application, the Licensees will process the permit request within 60 days. Notice of issuance or denial will be provided in writing to the applicant by certified mail. If the application is granted, the approval may include conditions to ensure that the proposed structure is consistent with all applicable license requirements. If the application is denied, the Licensees will explain in detail why the application was denied. If the permit is denied or contains conditions that are not acceptable to the applicant, the applicant may request reconsideration or appeal as provided in Section 5.5.

Step 4: Other Required Permits

Upon issuance of a mooring buoy permit, the applicant must obtain all required permits, authorizations or certifications from the county, state, or federal agencies responsible for approving the proposed action or any component of it. The applicant is responsible for determining which agency permits, authorizations, or certifications are required, but the Licensees expect that an applicant will, at a minimum, need to contact the OSMB, DSL, Jefferson County, and the USACE.

Step 5: Permission to Proceed

New construction may not commence on a mooring buoy without evidence of consultation and compliance with applicable county, state, federal or Tribal laws and regulations. Copies of all approved permits must be provided to the Licensees, after which the Licensees will issue permission to proceed with construction by certified mail within 15 days of receiving notice of all other approvals. Construction may not proceed until the notice to proceed has been received. Issuance of permission to proceed notice does not constitute a determination by the Licensees that all necessary permits have been obtained, and it remains the responsibility of the applicant to ensure that all necessary permits have been obtained and remain in effect at all times during installation and maintenance of the mooring buoy.

Step 6: Inspection and Approval

A representative of the Licensees may inspect the buoy site during construction and may inspect the completed buoy. Upon completion of construction, the owner must notify the Licensees that the mooring buoy has been completed. The Licensees will inspect the completed installation.

If the Licensees find after an inspection that the owner has not complied with permit conditions, written notice of noncompliance will be issued to the permittee by the Licensees by certified mail at the address of record for the applicant. The notice of noncompliance will specify a deadline of not less than 60 days for bringing the mooring buoy into compliance, provided that a shorter deadline may be specified if the violation presents a hazard to health or safety. The owner may, within 30 days of receipt of the notice, request a meeting with the Licensees to review the noncompliance and to discuss ways to remedy it. If remedial efforts fail or corrective action is not taken within the time specified in the notice (as such deadline may be extended at the written request of the owner) or the matter is not appealed within 60 days of receipt of the notice, the Licensees may pursue corrective action at the owner's expense, in collaboration with the federal/tribal land manager or County, provided that the Licensees will take no action until the completion of any appeals process. If the mooring buoy passes final inspection, written notice of the completed inspection will be provided by the Licensees.

The mooring buoy will be issued for a term of ten years, or until the expiration of the current FERC license, which expires on May 31, 2055, whichever is less.

MONITORING

The Licensees will monitor all mooring buoys within the Project boundary annually to assure compliance with the terms of the mooring buoy permit and to verify that the mooring buoy has not been altered and does not present a hazard to public health and safety of Project operations. In addition, the TRWG will review the impact of mooring buoys on the bald eagle and any other protected species pursuant to the strategies included in the TRMP.

As described in Section 5.4, the Licensees will contact, by certified mail, any permittee whose mooring buoy is not consistent with the permit terms and conditions, or which poses a threat to public health and safety or to the safe operation of the Project. If the TRWG determines that a mooring buoy is having an adverse impact on the bald eagle or any other protected species, the Licensees will contact the permittee by certified mail and notify the permittee whether the mooring buoy must be removed or its use altered in order to eliminate the identified adverse impact. If the Licensees determine that the mooring buoy must be removed, the permittee will be allowed to retain the mooring buoy until the commencement of the reservoir's seasonal drawdown at the end of the then-current recreation season. The Licensees may, if warranted, take action as appropriate pursuant to the terms of the FERC license to initiate enforcement action pursuant Section 5.4.

ENFORCEMENT

The Licensees are solely responsible for enforcing the terms of mooring buoy permits. If the Licensees determine that a permittee is in violation of the terms of its permit, they will issue a notice of violation to the permittee by certified mail. The notice of violation will specify the nature of the violation and a deadline of not less than 60 days in which to take corrective action, provided that a shorter deadline may be specified if the violation presents a hazard to health or safety. The owner may, within 30 days of receipt of the notice of violation, request a meeting with the Licensees to review the violation and to discuss ways to remedy it. If the violation is not addressed within the time period specified in the notice (as such deadline may be extended at the written request of the owner) and has not been appealed as provided in Section 5.5, the Licensees may require removal of non-complying structures and pursue any other available remedies.

APPEALS

[See Section 4.8 of the Shoreline Management Plan]

Appendix H

FERC Letter Approving Mooring Buoy Study (January 27, 2009)

FEDERAL ENERGY REGULATORY COMMISSION
Washington, D. C. 20426

OFFICE OF ENERGY PROJECTS

**Project No. 2030-166 — Oregon
Pelton Round Butte Hydroelectric Project
Portland General Electric Company and
Confederated Tribes of the Warm
Springs Reservation of Oregon**

January 27, 2009

**Ms. Julie A. Keil
Director, Hydro Licensing and Water Rights Portland
General Electric Company
121 S.W. Salmon Street
Portland, OR 97204**

Subject: Lake Billy Chinook Mooring Buoy Study

Dear Ms. Keil:

This letter refers to the Pelton Round Butte Hydroelectric Project, FERC Project No. 2030. On August 18, 2008, you filed the Lake Billy Chinook Mooring Buoy Study, as required by ordering paragraph (B) of the December 7, 2006 order modifying and approving recreation resources implementation plan under article 424.

Ordering paragraph (B) of the December 7, 2006 order requires that, after consultation with the project's Recreation Resources Working Group, an evaluation of the technical feasibility of implementing an off-shore boat moorage program at Lake Billy Chinook, along with any recommendations for the installation and maintenance of up to 50 offshore moorages in Lake Billy Chinook, be filed by December 31, 2008.

As required, the study evaluates the technical feasibility of implementing an offshore boat moorage program at Lake Billy Chinook, and provides recommendations for the installation and maintenance of offshore moorages in Lake Billy Chinook. The study determined where mooring buoys might be located, how many could be accommodated in Lake Billy Chinook, and how they should be designed. The licensees concluded that a program of mooring buoys installed and maintained by the licensees is neither feasible nor desirable, due to potential adverse environmental impacts associated with the buoy locations, and due to the land management agencies finding no

environmental reason that would justify the shoreline closures needed to make a buoy program effective.

The study concluded that the licensees should adopt a limited mooring buoy permit program to provide for the issuance of permits to Oregon Parks and Recreation Department, or to private individuals seeking to install mooring buoys for houseboats. The program would be administered by the licensees in parallel with the permit program established under the revised SMP. The licensees would monitor all mooring buoys within the project boundary annually to assure compliance with the terms of the mooring buoy permit and to verify that the mooring buoy has not been altered, and does not present a hazard to public health and safety of project operations. In addition, the Terrestrial Resources Working Group (TRWG) would review the impact of mooring buoys on the Bald Eagle and any other protected species pursuant to the strategies included in the terrestrial resources management plan.

Thank you for filing the Billy Chinook Mooring Buoy Study. This filing fulfills the requirements of ordering paragraph (B) of the December 7, 2006 order modifying and approving recreation resources implementation plan under article 424. If you have any questions regarding this matter, please contact me at (202) 502-8674.

Sincerely,

**Shana C. High
Outdoor Recreation Planner
Division of Hydropower
Administration and Compliance**

Appendix I

Documentation of Consultation

Appendix I **Documentation of Consultation**

Article 428 of the FERC License Order requires this Shoreline Management Plan to be developed in consultation with the Shoreline Management Working Group. Membership in this Working Group is defined in Article 402 (d) and is made up of the following organizations:

Licensees
US Forest Service
Confederated Tribes of the Warm Springs Reservation
Bureau of Land Management
Jefferson County
Oregon Parks and Recreation Division
Oregon Department of Fish and Wildlife
Bureau of Indian Affairs

As discussed in Section 1.2, the SMWG was expanded to include five representatives of the public.

This appendix summarizes the record of consultation for the SMP filed in June 2006, as well as the revised SMP filed in July 2007, and this second revision of the SMP. Table I-1 summarizes formal consultation on the June 2006 SMP. Table I-2 lists meetings held during preparation of the revised SMP; and Table I-3 summarizes formal consultation on the revised SMP. The CD attached to the revised SMP contained the transcript of the public meetings held on January 30 and 31, and February 6, 2007. Table I-4 summarizes the SMWG meeting and formal consultation on the second revision of the SMP.

Table I-1. Summary of Consultation Pertinent to Original SMP.

Date	Agency / Tribe / NGO Involved	Summary
7/14/05	CTWS, PGE, BIA, USFS, BLM, ODFW, Jefferson County	Meeting to initiate post-licensing consultation and compliance planning.
12/08/05	CTWS, PGE, BIA, ODFW, USFS, BLM, Jefferson County	SMP discussed by SMWG.
1/6/06	CTWS, PGE, BIA, ODFW, USFS, BLM, Jefferson County	First draft SMP distributed to SMWG for review.
1/12/06	CTWS, PGE, BIA, ODFW, USFS, BLM, Jefferson County	Verbal update presented to SMWG on the draft SMP.

Date	Agency / Tribe / NGO Involved	Summary
4/13/06	CTWS, PGE, BIA, ODFW, BLM, USFS, Jefferson County	Second draft of the SMP was distributed for review to the SMWG.
4/19/06	CTWS, PGE, ODFW, USFS, BLM	Revised draft of the SMP was discussed in SMWG meeting.
4/24/06	PGE, Jefferson County	Phone conversation to obtain comments on second draft of SMP.
5/1/06	CTWS, PGE, BIA, ODFW, USFS, BLM, Jefferson County	Final draft of the SMP distributed for 30-day SMWG review.
5/2/06	Email from OPRD	Comments: Minor technical corrections on Table 2: inquiry whether offshore moorages are covered under this plan. Licensees' response: Technical corrections made; clarification by phone that the SMP does not apply to offshore moorages.
5/31/06	Letter from ODFW	Comments: Suggests Licensees consider using GPS and photography as management tools. Licensees' response: Integrated as an option under Section 4.0.
5/31/06	Letter from USFS and BLM	Plan endorsed.

Table I-2. Summary of Meetings During Preparation of Revised SMP.

Date	Location	Type	Comments
Jan. 30 ,2007	Madras	Public Comment	Transcript included in attached CD
Jan. 31, 2007	Redmond	Public Comment	Transcript included in attached CD
Feb. 8, 2007	Portland	Public Comment	Transcript included in attached CD
Feb. 28, 2007	Madras	Issue Scoping	
Mar. 7, 2007	Madras	Drafting	
Mar. 22, 2007	Madras	Drafting	
Apr. 9, 2007	Madras	Drafting	
Apr. 16, 2007	Madras	Drafting	
May 15, 2007	Madras	Drafting	Final Review Meeting

Table I-3: Summary of Consultation Pertinent to Revised SMP

Date	Agency / Tribe / NGO Involved	Summary
6/4/07	Expanded SMWG, FERC Commenters, Property Owners	Consultation draft of SMP distributed for formal 30-day consultation.
6/6/07	Email from ODFW	Revised SMP approved.

Date	Agency / Tribe / NGO Involved	Summary
6/7/07	Email from USFS/BLM	Revised SMP approved.
6/14/07	Letter from Jefferson County Counsel	Revised SMP approved.
6/19/07	OPRD	Revised SMP approved.
6/20/07	CTWS	Revised SMP approved.
6/20/07	Ty Peters (Montgomery Shores)	Revised SMP approved.
6/21/07	Don Colfels (Three Rivers Landowners Association)	Revised SMP approved.
6/21/07	Gary Popp (Lake Billy Chinook Houseboats, Inc.)	Revised SMP approved.
6/23/07	Wayne Purcell (PPO Representative)	Revised SMP approved.
7/3/07	BIA	Revised SMP approved.

Table I-4: Summary of Consultation Pertinent to Second Revision of the SMP

Date	Agency / Tribe / NGO Involved	Summary
5/28/09	Expanded SMWG	Review meeting with SMWG in Madras, Oregon.
7/17/09	Email to SMWG	Consultation draft of SMP distributed for formal 30-day consultation.
7/20/09	Email from CTWS	Clarifying question regarding dock length.
8/3/09	Email from CTWS	Second revision of SMP approved.
8/17/09	Letter from ODFW	Second revision of SMP approved.

No comments on the second revision of the SMP were received from other members of the SMWG. Consultation correspondence pertinent to the second revision of the SMP follows.

The Licensees initiated consultation on July 17,, 2009 with the following message:

From: Scot Lawrence

Sent: Friday, July 17, 2009 8:31 AM

To: Michael.W.Gauvin@state.or.us; lskelton@fs.fed.us; cunningham@cgorge.net; Bill.Crawford@state.or.us; don@nwnetmedia.com; thecurls@hwy97.net; billychinook@hughes.net; typeters@comcast.net; wpurcell@bendcable.com; Julie Keil; wayne@riverhouse.com; terryluther@crestviewcable.com; susanna.julber@co.jefferson.or.us

Cc: Robert.Dach@BIA.gov; cpenhollow@wstribes.org; Deb Schallert; Tony Dentel; Thomas Mark; J_Manion@wspower.com; rbrunoe@wstribes.org; Mike Livingston
Subject: Article 428 - Shoreline Management Plan - 30-day Review Draft

Attachments: 20090715 Revised SMP 30-day Review Draft.doc
Dear Shoreline Management Working Group,

Attached to this email for 30-day review is the revised draft of the Shoreline Management Plan that was reviewed at our May 28, 2009 SMWG meeting.

Please return your edits & comments to me by the end of business Monday, August 17, 2009.

Feel free to contact Deb Schallert at 503.464.7619 or me if you have any comments or questions.

Thanks,

Scot

Scot Lawrence
Project Manager
Hydro Licensing
Portland General Electric
503.464.7361
scot.lawrence@pgn.com

The following exchange between the Licensees and CTWS regarding dock length took place August 3, 2009:

From: Terry A. Luther [terryluther@crestviewcable.com]
Sent: Monday, August 03, 2009 1:46 PM
To: Scot Lawrence
Subject: Re: Article 428 - Shoreline Management Plan - 30-day Review Draft
Scot
OK - just wanted to be sure - I have no problem with that. Thanks for the reply. Terry

----- Original Message -----

From: [Scot Lawrence](#)
To: [Terry A. Luther](#)
Cc: [Clay-p](#) ; [Deb Schallert](#) ; [Tony Dentel](#)
Sent: Monday, August 03, 2009 10:38 AM
Subject: RE: Article 428 - Shoreline Management Plan - 30-day Review Draft

Hi Terry,

Just back from 2-week road trip and getting back to emails. In answer to your question, yes, in the case of Montgomery Shores, it is our intention of a maximum parallel length of 50 feet per dock.

Scot

From: Terry A. Luther [mailto:terryluther@crestviewcable.com]
Sent: Monday, July 20, 2009 9:25 AM

To: Scot Lawrence
Cc: Clay-p
Subject: Re: Article 428 - Shoreline Management Plan - 30-day Review Draft

Scot

I have reviewed the SMP document and have only one comment.

In 3.2 Structural Guidelines section under Personal Use Docks #2 and #3 require dock lengths not to exceed 60 feet. However, in #4 for Montgomery Shores the criteria is (a maximum length parallel to the shoreline of 50 feet) is that what you intended?

Thanks and Regards, Terry

----- Original Message -----

From: [Scot Lawrence](#)

To: Michael.W.Gauvin@state.or.us ; lskelton@fs.fed.us ; cunningham@gorge.net ; Bill.Crawford@state.or.us ; don@nwnetmedia.com ; thecurls@hwy97.net ; billychinook@hughes.net ; tpeters@comcast.net ; wpurcell@bendcable.com ; Julie Keil ; wayne@riverhouse.com ; terryluther@crestviewcable.com ; susanna.julber@co.jefferson.or.us

Cc: Robert.Dach@BIA.gov ; cpenhollow@wstribes.org ; Deb Schallert ; Tony Dentel ; Thomas Mark ; J_Manion@wspower.com ; rbrunoe@wstribes.org ; Mike Livingston

Sent: Friday, July 17, 2009 8:31 AM

Subject: Article 428 - Shoreline Management Plan - 30-day Review Draft

Dear Shoreline Management Working Group,

Attached to this email for 30-day review is the revised draft of the Shoreline Management Plan that was reviewed at our May 28, 2009 SMWG meeting.

Please return your edits & comments to me by the end of business Monday, August 17, 2009.

Feel free to contact Deb Schallert at 503.464.7619 or me if you have any comments or questions.

Thanks,

Scot

Scot Lawrence
Project Manager
Hydro Licensing
Portland General Electric
503.464.7361
scot.lawrence@pgn.com

The following email approving the SMP was received from ODFW August 17, 2009:

From: Jack Williamson [Jack.D.Williamson@coho2.dfw.state.or.us]
Sent: Monday, August 17, 2009 2:44 PM
To: Scot Lawrence; Deb Schallert

Cc: Brett Hodgson

Subject: Revised SMP for Pelton Round Butte Project--FERC Project

Number 2030

Dear Scot and Deb,

As a member of the Shoreline Management Working Group, ODFW approves of the Revised Shoreline Management Plan dated April 2009. It applies the modifications requested by FERC on January 27, 2009 and conforms with the goals of the Shoreline Management Working Group (May 28, 2009). It is an improvement over the 2008 version.

Thank you for the opportunity to meet and provide comments.

Sincerely,

Jack

J.D. Williamson

Oregon Department of Fish and Wildlife

Ph. 541.388.6350 extension 224