

**WATER RIGHTS PURCHASE AGREEMENT**

*by and between*

**THE UNITED STATES  
BUREAU OF RECLAMATION**

*and*

**PACIFICORP**

**Relating to the  
Naches River and Naches Drop Hydroelectric Plants,  
and the Wapatox Canal and Dam**

**Dated as of August 21, 2002**

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## WATER RIGHTS PURCHASE AGREEMENT

**THIS WATER RIGHTS PURCHASE AGREEMENT** (this “**Agreement**”), dated as of August 21, 2002, is by and between The United States Bureau of Reclamation, an agency of the Department of the Interior and the Government of the United States (“**Reclamation**”), and PacifiCorp, an Oregon corporation (“**PacifiCorp**”). PacifiCorp and Reclamation are sometimes referred to herein collectively as “**Parties**” and each individually as a “**Party**.”

### 1. RECITALS.

A. PacifiCorp and Reclamation have engaged in discussions concerning activities to improve habitats in the Naches River area, located approximately 15 miles west of Yakima, in the State of Washington, including Reclamation’s proposed purchase (the “**Transaction**”) from PacifiCorp of the water rights and related assets, which would include physical plant, Drop assets, dams, canals and other associated facilities which collectively constitute PacifiCorp’s Naches River and Naches Drop Hydroelectric Plants (the “**Project**”).

B. PacifiCorp currently owns and operates the Project and also owns, or has easements for, and operates the Wapatox Canal and Dam (the “**Canal and Dam**”).

C. The Parties wish to enter into a willing buyer, willing seller agreement governing the Transaction. Transfer of the water rights would increase flows for steelhead, listed as threatened under the Endangered Species Act, and other fish in the Naches River. The Transaction would also benefit PacifiCorp customers by eliminating the future maintenance costs and the potential operational, environmental, and licensing risks and costs associated with continued operation of the Project.

D. Reclamation has the authority to purchase the water rights and associated facilities pursuant to Title XII of Public Law 103-434. Title XII authorizes the Yakima Basin Water Enhancement Program. One of the purposes of the section is “to protect, mitigate, and enhance fish and wildlife through improved water management, improved stream flows, improved water quality, protection, creation and enhancement of wetlands, and by other appropriate means of habitat improvement.”

E. Funding for the purchase of the water rights and associated facilities will come from Reclamation, together with the Washington Department of Ecology (the “**Co-Funder**”). Reclamation will coordinate the funding.

F. The Parties now wish to memorialize their discussions and agreements regarding the Transaction as set forth herein.

2. DEFINITIONS. The following terms used but not otherwise defined in this Agreement shall have the following meanings when used with initial capitalization, whether singular or plural:

2.1 “*Assets*” means the Water Rights, Related Assets, Real Estate and Easements, collectively.

2.2 “*Assumed Liabilities*” shall have the meaning set forth in **Section 3.4** hereof.

2.3 “*Closing Date*” shall have the meaning set forth in **Section 10.1**.

2.4 “*Contracts*” shall have the meaning set forth in **Section 3.4** hereof.

2.5 “*Easements*” means the easements set forth on attached Schedule 2.16.

2.6 “*Environmental Law*” means any federal, state, or local law, rule, order, regulation, ordinance or restriction relating to protection of human health or the environment, and any orders, judgments, decrees, permits, licenses, or other authorization or mandates under such laws.

2.7 “*Excluded Assets*” means the assets and rights set forth on Schedule 2.7 and the following: (a) any assets that the Parties mutually agree in writing to exclude from the Transaction as of the Closing Date; (b) cash; and (c) service marks, trade names, or trademarks owned, used, or held by PacifiCorp or Pacific Power & Light.

2.8 “*Knowledge*” means the actual knowledge of the current officers of a Party.

2.9 “*Necessary Regulatory Approvals*” means:

(a) Approval by the Federal Energy Regulatory Commission (“**FERC**”) pursuant to the Federal Power Act of the sale of the Project under this Agreement, if deemed to be required in the sole discretion of PacifiCorp (the “**FERC Approval**”);

(b) Any required or prudent approval by, exemption from or notice to, the public utility or service commissions, or state legislatures, of the States of California, Idaho, Oregon, Utah, Washington and Wyoming, of the transactions contemplated by this Agreement.

2.10 “*PacifiCorp Mortgage*” means the Mortgage and Deed of Trust from PacifiCorp to The Chase Manhattan Bank (as successor Trustee to Morgan Guaranty Trust Company of New York), dated January 9, 1989, as amended and supplemented to date.

2.11 “*Permitted Encumbrances*” means (a) those items set forth in Schedule 2.11; (b) the contracts and agreements listed on Schedule 3.4, and similar contracts and agreements entered into between the date of this Agreement and the Closing Date in the ordinary course of business in compliance with the terms of this Agreement, and the obligations under such contracts and agreements; and (c) imperfections of title and/or encumbrances that, individually and in the aggregate, do not materially detract from the value or marketability of the Project or interfere with its present use.

**2.12** “*Phase I First Installment Date*” means the date on which the first payment relating to the sale of the Water Rights, Related Assets and Easements is due, which shall in no event be later than September 30, 2002.

**2.13** “*Phase I Second Installment Date*” means the date on which the second payment relating to the sale of the Water Rights, Related Assets and Easements is due, which shall in no event be later than December 15, 2002.

**2.14** “*Phase II Closing/Transfer Date*” means the date on which the Real Estate is transferred to Reclamation, and the Real Estate Price is tendered to PacifiCorp, which shall in no event be later than September 30, 2003.

**2.15** “*Project*” shall have the meaning set forth in Recital A hereof.

**2.16** “*Real Estate*” means the real estate described on attached Schedule 2.16.

**2.17** “*Real Estate Price*” shall have the meaning set forth in **Section 3.3(a)(ii)** hereof.

**2.18** “*Reclamation Regulatory Approvals*” shall mean approvals or consents required under the National Environmental Policies Act, the Endangered Species Act and the Federal Acquisition Requirements, including any required internal PCB certifications from Reclamation and general Congressional appropriations to Reclamation, necessary for delivery of the purchase price hereunder.

**2.19** “*Related Assets*” means the related assets and properties of the Project specifically set forth on attached Schedule 2.19.

**2.20** “*Water Rights*” means water rights as described on attached Schedule 2.20.

### **3. SALE AND PURCHASE OF WATER RIGHTS AND RELATED ASSETS.**

**3.1** *Assets to Be Sold or Assigned.* Subject to all terms and conditions of this Agreement, PacifiCorp agrees to sell and assign, and Reclamation agrees to buy and assume, all of PacifiCorp’s right, title, and interest in the Water Rights, together with the Related Assets and Easements. In addition, PacifiCorp shall sell and Reclamation shall buy, the Real Estate.

**3.2** *Instruments of Conveyance and Transfer.* In accordance with the terms hereof, and at the times described herein, PacifiCorp shall deliver to Reclamation such deeds, bills of sale, certificates of title, endorsements, assignments, consents, realty transfer certificates and other good and sufficient instruments of conveyance and assignment as shall be effective to vest in Reclamation good and marketable title in and to the Assets, subject only to the Permitted Encumbrances, and shall assign to Reclamation PacifiCorp’s interest in all contracts, permits, authorizations, land rights, easements, and rights-of-way listed on Schedules 2.16 and 2.19.



**3.3 Purchase Price; Payment.** The purchase price for the Assets shall be in the amounts set forth below, payable in the following manner:

(a) Sale Price.

(i) The sale price for the Water Rights, Related Assets, Easements and Real Estate is as follows:

<u>Asset</u>	<u>When Transferred</u>	<u>Price</u>
Water Rights, including Related Assets and Easements .....	Phase I.....	\$7,480,000
Real Estate.....	Phase II.....	To be determined pursuant to paragraph (ii) below

(ii) The sale price for the Real Estate will be an amount determined via a fair market value appraisal thereof (the “**Real Estate Price**”). Reclamation and PacifiCorp will engage a mutually acceptable appraiser, and will cooperate to define the scope and procedures for such appraisal, provided that Reclamation will use procedures which meet the Federal Acquisition Requirements.

(b) Payments. Payment will be due in three installments: Payment for the Water Rights, Related Assets and Easements shall be payable at (a) the Phase I First Installment Date in the amount shown below, which payment shall be made no later than the date shown and tendered in immediately available funds to the Escrow Holder, as required due to outstanding Necessary Regulatory Approvals; and (b) the Phase I Second Installment Date in the amount shown below, which shall include all funds available therefor from the Co-Funder. Payment for the Real Estate shall be payable at the Phase II Closing/Transfer. Such payments shall be made on or before the dates shown below. The escrow account will be established by the Parties to hold the Phase I payments until the (Phase I) Closing Date, and shall be interest bearing. All funds paid into escrow prior to these dates shall be released to PacifiCorp no later than the Closing Date or the Phase II Closing/Transfer Date, as applicable, in accordance with the escrow agreement among the parties.

<u>Event</u>	<u>On or Before</u>	<u>Amount Payable</u>
Phase I First Installment Date.....	September 30, 2002 .....	Not less than \$4,000,000
Phase I Second Installment Date ....	Closing Date .....	Balance, to equal an aggregate of \$7,480,000
Phase II Closing/Transfer (Real Estate).....	September 30, 2003 .....	Real Estate Price

(c) Escrow Holder. The Parties have mutually designated Yakima Title & Escrow (“**Escrow Holder**” or “**Title Company**”) as escrow holder under this Agreement.

Upon execution of this Agreement and delivery of this Agreement to Escrow Holder, the Parties shall direct Escrow Holder to hold and disburse appropriate portions of the Purchase Price pursuant to an escrow agreement to be delivered by the parties prior to September 30, 2002, in form satisfactory to PacifiCorp in its sole discretion.

**3.4 Assumption of Certain Liabilities.** Reclamation shall assume all relevant Project contracts including the contracts with the Wapatox Irrigation Company and the Lower Wapatox Company relating to water conveyance as set forth on Schedules 3.4 and 4.5 (the “**Contracts**”). Reclamation shall further assume all debts, liabilities, and obligations of every kind and nature whatsoever (whether arising from contract or otherwise) existing as of or arising after the Closing Date that primarily relate to the Project or the Assets (excluding income taxes and any employee severance or relocation costs, which shall be obligations of PacifiCorp), including, but not limited to, obligations under any contract, permit, authorization, easement, and right-of-way assigned to Reclamation pursuant hereto (the “**Assumed Liabilities**”).

**3.5 Allocation of Property Taxes.** Real property taxes and personal property taxes prepaid by PacifiCorp shall be refunded to PacifiCorp, or paid by Reclamation, on a prorated, daily basis on and as of the Closing Date based upon best available information or estimates. When final real and personal property tax amounts are determined, an adjustment shall be made in the refund, based upon such actual tax amounts. If real and personal property taxes are prepaid, and any refund is available for the period after Closing, the refund shall belong to PacifiCorp.

**3.6 Sales, Transfer, and Other Taxes.** Any sales, transfer, purchase, use, or similar tax or fees (other than capital gains tax) that may be payable by reason of the sale of all or a portion of the Assets (“**Transfer Taxes**”) shall not be borne by PacifiCorp.

**4. REPRESENTATIONS AND WARRANTIES OF PACIFICORP.** PacifiCorp represents and warrants as follows:

**4.1 Organization and Powers of PacifiCorp.** PacifiCorp is an Oregon corporation, duly organized and validly existing under the laws of the State of Oregon, and is duly qualified to do business in the State of Washington. PacifiCorp has all requisite power and authority to own the Assets and to own, operate, and lease its properties, and to carry on its business as now conducted.

**4.2 Authority Relative to Agreement; Governmental Authorization.** PacifiCorp has the corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated by this Agreement, and this Agreement has been duly and validly authorized and constitutes the valid and binding obligation of PacifiCorp, enforceable in accordance with its terms, except as such enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting the enforcement of creditors’ rights generally and except that the availability of the equitable remedies of specific performance and injunctive relief are subject to the discretion of the court before which any proceeding may be brought.

**4.3 Non-Contravention; Approvals.** Except for the Necessary Regulatory Approvals and the consents and approvals required under the terms of Contracts, permits, authorizations, easements, and rights-of-way included in the Assets, the execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement will not violate, conflict with, or result in a breach of any provision of the charter documents of PacifiCorp.

**4.4 Title to the Assets.** Except as set forth in Schedule 4.4 and other than approvals or consents described in **Section 4.3** above, PacifiCorp has good and marketable title to the Assets.

**4.5 Contracts and Commitments.** Except for the contracts, agreements, and obligations identified on Schedule 4.5 and except for those not primarily related to the Project, PacifiCorp is not a party to or bound by any oral or written (a) express contract for personal services or employment that is not terminable, without liability or expense, by PacifiCorp on notice of ninety days or less; (b) contract or commitment for Project capital expenditures in excess of \$10,000 for any one project or in excess of \$100,000 for all projects; or (c) contract, agreement, or obligation that is material to the business or operation of the Project.

**4.6 Permits, Licenses, and Certificates.** PacifiCorp has all material permits, licenses, certificates, and other governmental authorizations currently required to own the Assets and to operate the Project as presently operated, and, assuming ongoing proper action by the other party thereto or the issuer thereof, all such permits, licenses, tariffs, franchises, certificates, and governmental authorizations are valid and in effect on the date hereof.

**4.7 Tax Matters.** PacifiCorp has duly filed with the appropriate governmental agencies all material tax returns and tax reports due and required to be filed by PacifiCorp with respect to the Assets and the Project, and will have paid or provided for the payment of all such taxes through the Closing Date.

**4.8 Compliance with Laws.** To PacifiCorp's Knowledge, except as set forth in Schedule 4.8, PacifiCorp's ownership of the Assets and the Project has been and is in material compliance with all applicable laws, rules, orders, regulations, or restrictions, except (a) any past noncompliance that has been cured and (b) noncompliance that does not materially interfere with the ownership and use of the Assets and the Project. Except as set forth in Schedule 4.8, PacifiCorp has received no notice of violation or notice of noncompliance relating to the Project with respect to any law, regulation, or governmental restriction applicable to the Assets or the Project.

**4.9 Legal Proceedings.** Except as set forth on Schedule 4.9, there are no material claims, actions, suits, inquiries, investigations, or proceedings pending, or, to the best of PacifiCorp's Knowledge, threatened, relating to the Assets or to the operation of the Project, before any federal, state, or local court or other governmental or regulatory body, or any arbitrator, United States or foreign.

**4.10 No Brokers.** PacifiCorp has not employed any broker or finder in connection with the transactions contemplated by this Agreement, and it has taken no action that would give

rise to a valid claim against any party for a brokerage commission, finder's fee, or other like payment by Reclamation.

**4.11 Condition of Assets.** The Assets will be sold to Reclamation "AS IS, WHERE IS" and with no representations or warranties of any kind or character, including any warranty of quality, merchantability, fitness for a particular purpose, or condition, including environmental condition, except as specifically set forth in this Agreement or in the conveyance document to be delivered to Reclamation at Closing. RECLAMATION ACKNOWLEDGES THAT EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, PACIFICORP HAS NOT MADE, AND PACIFICORP EXPRESSLY DISCLAIMS AND NEGATES, ANY IMPLIED OR EXPRESS WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, RELATING TO THE ASSETS OR THE PROJECT.

**5. REPRESENTATIONS AND WARRANTIES OF RECLAMATION.** Reclamation represents and warrants as follows:

**5.1 Organization and Powers of Reclamation.** Reclamation is an agency of the Department of the Interior and Government of the United States, and has all requisite power and authority to purchase, own and operate the Assets, and to pay the Purchase Price at Closing.

**5.2 Authority Relative to Agreement; Governmental Authorization.** Reclamation has the power and authority to execute and deliver this Agreement and to consummate the transactions contemplated by this Agreement. This Agreement has been duly and validly authorized and constitutes the valid and binding obligation of Reclamation enforceable in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting the enforcement of creditors' rights generally and except that the availability of the equitable remedies of specific performance and injunctive relief are subject to the discretion of the court before which any proceeding may be brought. No declaration, filing, or registration with, or notice to, or authorization, consent, or approval of, any governmental or regulatory body or authority is necessary for the execution and delivery of this Agreement by Reclamation or the consummation by Reclamation of the transactions contemplated by this Agreement. To the knowledge of Reclamation, the Co-Funder has full power and authority to fund its portion of the purchase price, and no restrictions exist which would prevent it from tendering such funding on or prior to the Phase I First Installment Date.

**5.3 Non-Contravention; Approvals.** The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement will not violate, conflict with, or result in a breach of any provision of, or constitute a default under, or result in the termination of any note, bond, mortgage, indenture, deed of trust, contract, lease, or other instrument, obligation, or agreement of any kind to which Reclamation is now a party or by which any of its assets may be bound or affected.

**5.4 No Brokers.** Reclamation has not employed any broker or finder in connection with the transactions contemplated by this Agreement, and it has taken no action that would give

rise to a valid claim against any party for a brokerage commission, finder's fee, or other like payment by PacifiCorp.

**5.5 Sufficient Financial Resources.** Reclamation has, and shall maintain through Closing, sufficient financial resources to close the transactions contemplated by this Agreement provided that funds fully and finally paid into the escrow account by Co-Funder subject to no conditions other than the escrow conditions shall reduce the amount to which this Section refers. As of the date hereof, Reclamation has or has access to firm, committed funds required to cover the Phase I First Installment, and the remainder of the funding for the Purchase Price is contingent only on receipt of Reclamation Regulatory Approvals and Congressional appropriations for FY 2003. No further actions need be taken by Reclamation or to its knowledge, any other body, in order to receive such appropriated funds.

**6. COVENANTS OF PACIFICORP.** PacifiCorp covenants and agrees as follows:

**6.1 Modifications.** PacifiCorp will modify the existing Project substation and controls as required to facilitate the Transaction as set forth in the Joint Transition Plan and will have use and access thereto.

**6.2 Removal of Asbestos and Lead Paint.** PacifiCorp will remove all chipped, cracked and flaking lead paint not adhered to the exterior of the Project powerhouses and remove and dispose of asbestos-containing materials (wiring, pipe insulation, and transite roof board) in the Project powerhouses, up to a maximum cost to PacifiCorp of \$394,000. The Parties will cooperate in addressing PCB issues, if any. The timing requirements for these matters will be set forth in the Joint Transition Plan and such matters shall be performed by the Phase II Closing/Transfer Date.

**6.3 Joint Transition Plan.** Prior to the Phase I First Installment Date, PacifiCorp will cooperate with Reclamation in jointly developing a transition plan to include modification of the substation, temporary operation and maintenance of the Project, power service for maintenance, assumption of Contracts, identification of the Real Estate, appraisal thereof, and arrangements for the Phase II Closing. Such transition plan shall meet Federal Acquisition Requirements, and shall be completed no later than September 30, 2002.

**6.4 Conduct of Business.** PacifiCorp shall own and operate the Assets and the Project until Closing in accordance with its past practices and shall engage in no material transactions relating to the Assets or the Project out of the ordinary course of business. Notwithstanding any provision in this Agreement apparently to the contrary, PacifiCorp may (i) solicit and accept back-up offers from other potential purchasers of the Assets, in case of Reclamation's default under this Agreement; and (ii) draft and submit materials and transact business concerning all Necessary Regulatory Approvals, as required.

**6.5 Insurance.** Until Closing, PacifiCorp shall continue to self-insure or carry insurance currently in effect related to the Assets, insuring the Assets against loss or damage by fire and other risks, and public liability consistent with and in accordance with its past practices.

**6.6 Conditions and Best Efforts.** Until Closing, and subject to the terms of this Agreement and fiduciary obligations under applicable law, PacifiCorp shall use its reasonable

best efforts to effectuate the transactions contemplated by this Agreement and to fulfill all of the conditions of the Parties' obligations under this Agreement, and shall perform such acts reasonably required to carry out PacifiCorp's obligations under this Agreement and to consummate and complete this Agreement, including, without limitation of the foregoing, promptly making application for Necessary Regulatory Approvals.

**6.7 *Preserve Relationships.*** PacifiCorp will use its reasonable efforts to maintain business relationships with its suppliers and customers until Closing, except for changes made in the ordinary course of business.

**6.8 *Maintain Properties.*** PacifiCorp will maintain the Assets substantially in the same condition as the property is in on the date of this Agreement until Closing, except for obsolescence, ordinary wear and tear, and damage due to casualty.

**6.9 *Notification.*** PacifiCorp will give Reclamation prompt notice of any event or condition of any kind learned by PacifiCorp between the date of this Agreement and the Closing Date pertaining to and adversely affecting the Assets, excepting events or conditions affecting the hydroelectric business generally.

**6.10 *Delivery of Physical Records.*** Upon request by Reclamation at or after the Closing Date, PacifiCorp will tender to Reclamation copies of all real property records and contracts files pertaining to the Assets or the Project. Such records and files shall be delivered at the locations where such records and files are stored by PacifiCorp. PacifiCorp will retain such real property records and contracts files not so requested by Reclamation for a period of one year after Closing; *provided, however*, that PacifiCorp may, at any time, notify Reclamation of its intent to destroy or dispose of real property records and contracts files that PacifiCorp has retained (a "**Destruction Notice**"). If Reclamation has not requested delivery of, and taken delivery of, records and files specified in the Destruction Notice within sixty (60) days after the effective date of such Destruction Notice, PacifiCorp shall thereafter have no obligation to retain such records and files and may destroy them.

**7. COVENANTS OF RECLAMATION.** Reclamation covenants and agrees as follows:

**7.1 *Removal of Power Production Capabilities.*** Reclamation will remove power production capabilities at the Project to the mutual satisfaction of Reclamation and PacifiCorp, or, if the Parties are unable to agree to a mutually satisfactory solution, at a minimum, removal and disposal of the generator rotor and shaft assemblies no later than November 2005. Reclamation shall not engage in any power production activities at the Project or in the Project area, nor shall Reclamation sell or transfer the Project to any person or entity intending to use the Project for such purposes.

**7.2 *Responsibility for Operation and Maintenance.*** On the Closing Date, Reclamation will assume responsibility for operation and maintenance of irrigation facilities including the Canal and Dam, and shall assume all legally binding PacifiCorp obligations to the Wapatox Ditch Company and the Lower Wapatox Ditch Company and all other irrigators authorized by the appropriate water rights adjudication body and currently served by the Canal and Dam to ensure irrigators can divert water from the Canal. Reclamation will assume

responsibility for the Assumed Contracts and (i) decommissioning the power plants, and will indemnify PacifiCorp therefor, (ii) any NEPA requirements, (iii) modification of the Canal to reduce carriage water requirements, (iv) flood control risks resulting therefrom, and (v) providing liaison with the City of Yakima regarding water supply issues.

**7.3 Joint Transition Plan.** Prior to the Phase I First Installment Date, Reclamation will cooperate with PacifiCorp in jointly developing a transition plan to include modification of the substation, temporary operation and maintenance of the Project, power service for maintenance, assumption of Contracts identification of the Real Estate, appraisal thereof, and arrangements for the Phase II Closing. Such transition plan shall meet Federal Acquisition Requirements, and shall be completed no later than September 30, 2002.

**7.4 Conditions and Best Efforts.** Subject to the terms of this Agreement and fiduciary obligations under applicable law, Reclamation shall use its reasonable best efforts to effectuate the transactions contemplated by this Agreement, to secure transaction funding from the Co-Funder, and to fulfill all of the conditions of the Parties' obligations under this Agreement, and shall perform such acts reasonably required to carry out Reclamation's obligations under this Agreement and to consummate and complete this Agreement, including, without limitation of the foregoing, promptly making application for Reclamation Regulatory Approvals.

**7.5 Response to Requests.** Reclamation shall not unreasonably withhold its consent to actions by PacifiCorp which require Reclamation's consent, and shall in any event respond to PacifiCorp's requests for consents within five (5) days of receipt of such requests.

**8. CONDITIONS PRECEDENT TO PACIFICORP'S OBLIGATIONS.** All of the obligations of PacifiCorp to be discharged prior to or at Closing are subject to the fulfillment, prior to or at Closing, of each of the following conditions unless waived, in writing, by PacifiCorp on or prior to the Closing:

**8.1 Representations, Warranties, and Covenants of Reclamation.** All representations and warranties made in this Agreement by Reclamation shall be true and correct in all material respects as of the Closing Date as fully as though such representations and warranties had been made on and as of the Closing Date, except for representations and warranties specifically referring to another date, and except as modified by revised Schedules hereto, dated the Closing Date; and as of the Closing Date, Reclamation shall have complied in all material respects with all covenants made by it in this Agreement.

**8.2 Opinion of Counsel for Reclamation.** Reclamation shall have furnished PacifiCorp with an opinion of the U.S. Department of the Interior, Office of the Solicitor, counsel for Reclamation, dated as of the Closing Date, in form and substance satisfactory to PacifiCorp, to the effect that:

(a) Reclamation is an agency of the Department of the Interior and the Government of the United States;

(b) Reclamation has all requisite power and authority to enter into this Agreement and perform its obligations under this Agreement pursuant to applicable law;

(c) The execution, delivery, and performance of this Agreement have been duly authorized by Reclamation and the person executing this Agreement on behalf of Reclamation has all authority necessary to legally bind Reclamation to the terms of this Agreement; and

(d) This Agreement constitutes a valid and legally binding agreement enforceable against Reclamation in accordance with its terms, except as the foregoing may be limited by (i) general principles of equity; and (ii) bankruptcy, insolvency, reorganization, arrangement, moratorium or laws or equitable principles affecting the enforcement of creditors' rights generally.

**8.3 Necessary Regulatory Approvals.** All Necessary Regulatory Approvals shall have been obtained and be in effect at the Closing Date, all on terms acceptable to PacifiCorp, in its sole discretion.

**8.4 Third Party Consents.** PacifiCorp shall have obtained (a) the release of the Assets from the PacifiCorp Mortgage and any other applicable existing mortgages or deeds of trust, and (b) the written consent of third parties, including government agencies, in form and substance satisfactory to PacifiCorp, necessary for consummation of the transactions contemplated by this Agreement.

**8.5 Litigation.** At the Closing Date, there shall not be in effect any order, decree, or injunction of a court of competent jurisdiction restraining, enjoining, or prohibiting the consummation of the transactions contemplated by this Agreement (each Party agreeing to use its best efforts, including appeals to higher courts, to have any such order, decree, or injunction set aside or lifted), and no action shall have been taken, and no statute, rule, or regulation shall have been enacted or be in effect, by any state or federal government or governmental agency in the United States that would prevent, prohibit, restrict or limit the consummation of such transactions.

**9. CONDITIONS PRECEDENT TO RECLAMATION'S OBLIGATIONS.** All of the obligations of Reclamation to be discharged before or at Closing are subject to the fulfillment, prior to or at Closing, of each of the following conditions unless waived, in writing, by Reclamation on or prior to the Closing:

**9.1 Representations, Warranties, and Covenants of PacifiCorp.** All representations and warranties made in this Agreement by PacifiCorp shall be true and correct in all material respects as of the Closing Date as fully as though such representations and warranties had been made on and as of the Closing Date, except for representations and warranties specifically referring to another date, and except as modified by revised Schedules hereto, dated the Closing Date; and as of the Closing Date, PacifiCorp shall have complied in all material respects with all covenants made by it in this Agreement.

**9.2 Third Party Consents.** PacifiCorp shall have obtained (a) the release of the Assets from the PacifiCorp Mortgage and any other existing mortgages or deeds of trust, and (b) the written consent of third parties, including government agencies, in form and substance satisfactory to Reclamation, necessary for consummation of the transactions contemplated by



this Agreement. PacifiCorp shall have the right to extend the Closing Date to the extent reasonably necessary to obtain such release and consents.

**9.3 *Litigation.*** At the Closing Date, there shall not be in effect any order, decree, or injunction of a court of competent jurisdiction restraining, enjoining, or prohibiting the consummation of the transactions contemplated by this Agreement (each Party agreeing to use its best efforts, including appeals to higher courts, to have any such order, decree, or injunction set aside or lifted), and no action shall have been taken, and no statute, rule, or regulation shall have been enacted or be in effect, by any state or federal government or governmental agency in the United States that would prevent, prohibit, restrict or limit the consummation of such transactions.

**9.4 *Title Insurance.*** At the Phase II Closing/Transfer Date, Reclamation shall have obtained a commitment from a title insurance company reasonably satisfactory to Reclamation committing to issue a standard policy or policies of title insurance in form reasonably acceptable to Reclamation insuring that, upon closing, (a) Reclamation will own the fee property described in Schedule 2.16 subject only to the usual printed exceptions and Permitted Encumbrances, and (b) Reclamation will hold an easement over PacifiCorp's property for the areas described in Schedule 2.16, subject only to PacifiCorp's dominant estate, the usual printed exceptions and Permitted Encumbrances.

**9.5 *Reclamation Regulatory Approvals Obtained.*** All Reclamation Regulatory Approvals shall have been obtained and be in effect at the Closing Date, all on terms acceptable to Reclamation, in its sole discretion.

## **10. CLOSING.**

**10.1 *Time and Place.*** The Phase I Second Installment Date (which shall be the Transaction's "**Closing Date**") shall take place within 10 days after all Necessary Regulatory Approvals have been obtained (unless the Parties otherwise agree in writing). The transfer of the Water Rights, Related Assets and Easements shall be effective as of 11:59:59 p.m. Pacific Prevailing Time on the Closing Date. The Closing shall be held at the offices of PacifiCorp, or at such other place as the Parties may mutually agree.

**10.2 *Phase II Closing/Transfer – Time and Place.*** The Phase II Closing/Transfer ("**Phase II Closing/Transfer Date**") shall take place no later than September 30, 2003 (unless the Parties otherwise agree in writing). The transfer of the Real Estate shall be effective as of 11:59:59 p.m. Pacific Prevailing Time on the Phase II Closing/Transfer Date. Such closing shall be held at the offices of PacifiCorp, or at such other place as the Parties may mutually agree.

**10.3 *Further Assurances.*** From time to time after Closing, each Party, upon the request of the other Party, shall without further consideration execute, deliver, and acknowledge all such further instruments of transfer and conveyance and perform all such other acts as either Party may reasonably require to more effectively carry out the intent of this Agreement.

## 11. SURVIVAL OF WARRANTIES, REPRESENTATIONS, AND INDEMNITIES.

### 11.1 *Representations, Warranties, and Covenants of the Parties to Be Continuing.*

All representations, warranties and indemnification of the Parties, and all liability therefor, shall survive Closing for a period of one (1) year. All covenants and agreements of the parties set forth in this Agreement shall survive Closing indefinitely until fulfilled, except for those that, by their terms, contemplate a shorter survival period.

**11.2 *Indemnification by PacifiCorp.*** Because Reclamation plans to decommission the Project, and because the environmental risks have been agreed to and monetized in the Purchase Price, PacifiCorp shall not be required to provide any indemnifications to Reclamation.

**11.3 *Indemnification by Reclamation.*** Reclamation shall indemnify and hold harmless PacifiCorp, its officers, directors, employees, affiliated corporations, representatives, and agents, and their respective successors and assigns from and against any claim, demand, obligation, liability, loss, cost, damage, or expense (including interest and penalties, but specifically excluding consequential or indirect damages or lost profits) caused by or arising out of:

(a) The liabilities assumed by Reclamation under **Section 3.4**, and any liabilities arising after the Closing Date with respect to its ownership and operation of the Assets or the Project, including claims relating to flooding, river flows, personal injury or the levy of any real or personal property taxes or Transfer Taxes on PacifiCorp after the Closing Date;

(b) Any breach or default in the performance by Reclamation of any covenant or agreement of Reclamation contained in this Agreement;

(c) Any breach of warranty or representation made by Reclamation in this Agreement or in any schedule to this Agreement, or in any certificate or other instrument delivered by or on behalf of Reclamation pursuant to this Agreement;

(d) Any liability arising out of any and all actions, suits, proceedings, claims, demands, judgments, costs, and expenses incident to any of the foregoing; or

(e) Any liability or obligations arising as a result of the Project becoming listed on any state or federal historic register.

PacifiCorp and its successors and assigns shall promptly notify Reclamation in writing when it or they become aware of any matter arising under the foregoing indemnification provision, including details relating to their claim, cost and involved parties. Reclamation may contest and defend in good faith any claim of third parties covered by this Section, provided such contest is made without cost or prejudice to PacifiCorp, and provided that within ten (10) days of Reclamation's receipt of notice of such claim, Reclamation notifies PacifiCorp of its desire to defend and contest such claim. PacifiCorp shall reasonably cooperate with Reclamation in its investigation and response to any third party claim.

If Reclamation does not notify PacifiCorp of its desire to contest the claim, Reclamation shall reimburse PacifiCorp upon submission of an invoice or other appropriate demand for any payment actually made by PacifiCorp at any time after the Closing Date with respect to any claim, demand, obligation, liability, loss, cost, damage, or expense to which the foregoing indemnity relates. This commitment shall be subject to sufficient general Congressional appropriations.

**11.4 *Exclusive Remedy.*** Reclamation waives all other rights and remedies against PacifiCorp to which Reclamation might otherwise be entitled under any statute, regulation, or ordinance, or other theory of law or equity, including those pertaining to environmental matters or breaches of any Environmental Law, unless otherwise prohibited by law.

**12. TERMINATION.**

**12.1 *Termination.*** This Agreement may be terminated and abandoned at any time prior to the Closing Date if:

(a) The Parties agree in writing to terminate this Agreement by mutual consent; or

(b) Reclamation delivers a written notice to PacifiCorp to the effect that (i) one or more of the conditions to the obligations of Reclamation set forth in **Section 9** (which shall be specified in detail in such notice) cannot be met on or before September 30, 2003 (or such later date to which the term of this Agreement may be extended pursuant to **Section 12.1(f)**), or (ii) PacifiCorp has defaulted in a material respect under one or more of its covenants and agreements contained in this Agreement (which shall be specified in detail in such notice), and such condition or conditions have not been satisfied or such default or defaults have not been remedied (or waived by Reclamation) within thirty (30) days after the date such notice is delivered by Reclamation to PacifiCorp; or

(c) PacifiCorp delivers a written notice to Reclamation to the effect that (i) one or more of the conditions to the obligations of PacifiCorp set forth in **Section 8** (which shall be specified in detail in such notice) cannot be met on or before September 30, 2003 (or such later date to which the term of this Agreement may be extended pursuant to **Section 12.1(f)**), or (ii) Reclamation has defaulted in a material respect under one or more of its covenants and agreements contained in this Agreement (which shall be specified in detail in such notice), and such condition or conditions have not been satisfied or such default or defaults have not been remedied (or waived by PacifiCorp) within thirty (30) days after the date such notice is delivered by PacifiCorp to Reclamation; or

(d) Any governmental or regulatory body the consent of which is a condition to the obligations of Reclamation or PacifiCorp to consummate the transactions contemplated by this Agreement shall have determined not to grant its consent and all reasonable appeals of such determination shall have been taken and have been unsuccessful; or

(e) Any court of competent jurisdiction in the United States or any state shall have issued an order, judgment, or decree (other than a temporary restraining order) restraining, enjoining, or otherwise prohibiting the purchase of the Assets from PacifiCorp by Reclamation and such order, judgment, or decree shall have become final and nonappealable; or

(f) Closing shall not have occurred within fifteen (15) business days after the receipt of all Necessary Regulatory Approvals, or no later than September 30, 2003 (other than by virtue of a default by one of the Parties), or by such later date to which the term of this Agreement may be extended pursuant to mutual agreement of the Parties, and provided that one of the Parties gives notice to the other so terminating this Agreement.

**12.2 *Effect of Termination.*** Any termination pursuant to this **Section 12** shall: relieve both the Parties of all of their obligations set forth in this Agreement; constitute a failure of the conditions to the obligations of the Parties to implement this Agreement, except that nothing in this **Section 12** will relieve any Party from liability for any breach of this Agreement; and in such event any funds in the escrow accounts described in **Section 3.3(b)** shall be returned to Reclamation; *provided, however,* that the party asserting termination under **Section 12.1(b)** or **(c)** shall be entitled to recovery of out-of-pocket costs and other remedies available.

### **13. ASSIGNMENT.**

**13.1 *Assignment.*** Neither Party may assign its rights under this Agreement to any third party without the written consent of the other Party; *provided, however,* that PacifiCorp shall have the right to assign this Agreement to an exchange accommodator as required to enable PacifiCorp to acquire replacement property pursuant to a tax-deferred exchange under Section 1031 of the Internal Revenue Code of 1986, as amended. Any assignment in breach of this provision shall be void.

**13.2 *No Discharge.*** No assignment of this Agreement shall operate to discharge the assignor of any duty or obligation under this Agreement without the written consent of the other Party.

### **14. MISCELLANEOUS.**

**14.1 *Allocation.*** The Purchase Price shall be allocated among the Assets in such manner as may be agreed upon by PacifiCorp and Reclamation in accordance with Section 1060 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder; *provided, however,* that if PacifiCorp and Reclamation cannot agree upon such allocation, such allocation shall be as reasonably established by PacifiCorp. Neither PacifiCorp nor Reclamation will take any action that would be inconsistent with the allocation as so established.

**14.2 *Tax-Free Exchange.*** Reclamation will cooperate with PacifiCorp if PacifiCorp elects to sell the Assets as part of a like-kind exchange in accordance with Section 1031 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder; *provided, however,* that PacifiCorp shall hold Reclamation harmless from any cost or liability arising out of any such exchange.

**14.3 *Post-Closing Access.*** Reclamation shall allow PacifiCorp reasonable access after Closing to the Assets and facilities transferred to Reclamation to enable PacifiCorp to retrieve the Excluded Assets and carry out the Joint Transition Plan.

**14.4 *Termination of Use of Name and Logo.*** Immediately after Closing, Reclamation shall cease using PacifiCorp's name or logo or any of PacifiCorp's trade names or trademarks, on stationary, literature, or the like. As soon as practicable after Closing, but in any event within ninety (90) days of the Closing Date, Reclamation shall remove PacifiCorp's logo and name from the Assets purchased by Reclamation.

**14.5 *Amendment.*** This Agreement may be amended only by an instrument in writing executed by the Parties that expressly refers to this Agreement and states that it is an amendment of this Agreement.

**14.6 *Section Headings.*** The section headings contained in this Agreement are for reference only and shall not in any way affect the meaning or interpretation of this Agreement.

**14.7 *Waiver.*** Any of the terms or conditions of this Agreement may be waived at any time and from time to time, in writing, by the Party entitled to the benefit of such terms or conditions.

**14.8 *Choice of Law.*** This Agreement shall be subject to and be construed under the laws of the State of Oregon applicable to contracts made and entered into in the State of Oregon.

**14.9 *Notices.*** All notices, requests, demands, and other communications given by Reclamation or PacifiCorp shall be in writing and shall be deemed to have been duly given when telecopied, when delivered personally in writing, or when deposited into the United States mail, to the following addresses:

If to Reclamation to: United States Department of the Interior  
Bureau of Reclamation  
ATTENTION: James A. Esget, YRBWEP Manager  
Upper Columbia Area Office  
1917 Marsh Road  
Yakima, WA 98901  
Telecopy Number: (509) 454-5611

With a copy to: United States Department of the Interior  
ATTENTION: Duane Mecham, Attorney  
Office of the Solicitor  
Pacific Northwest Regional Office  
500 NE Multnomah, Suite 607  
Portland, OR 97232  
Telecopy Number: (503) 231-2166

If to PacifiCorp, to: PacifiCorp  
ATTENTION: Kenneth I. Andrews  
201 South Main  
Salt Lake City, UT 84140  
Telecopy Number: (801) 220-4648

With a copy to: PacifiCorp  
Legal Department  
ATTENTION: Jeffery B. Erb, Esq.,  
Senior Counsel and Assistant Corporate Secretary  
825 NE Multnomah, Suite 1800  
Portland, OR 97232  
Telecopy Number: (503) 813-7252,

or to such other address as Reclamation or PacifiCorp may designate in writing.

**14.10 Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and both of which shall constitute one and the same instrument.

**14.11 Construction of Agreement.** This Agreement is the result of arms-length negotiations between two sophisticated parties and any ambiguities or uncertainties will not be construed for or against either Party, but will be construed in a manner that most accurately reflects the intent of the Parties when this Agreement was executed.

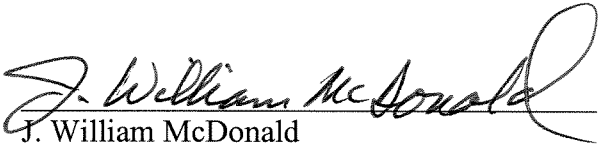
**14.12 Entire Agreement.** This Agreement, when executed, constitutes the entire agreement between the parties and supersedes all prior agreements and understandings, oral and written, including any letter of intent, between the parties with respect to the subject matter of this Agreement.

**[Signature Page Follows]**

**IN WITNESS WHEREOF**, the parties have signed this Agreement as of the date first above written.


**RECLAMATION:**

**THE UNITED STATES BUREAU OF RECLAMATION**, an agency of the Department of the Interior and the Government of the United States

By:   
J. William McDonald  
Regional Director

**PACIFICORP:**

**PACIFICORP**, an Oregon corporation

By:   
Judith A. Johansen  
President and Chief Executive Officer

## **SCHEDULE 2.7**

### **EXCLUDED ASSETS**

The following is a list of real estate, facilities, and equipment which are excluded from the sale and will be retained by the Seller. This list should be considered indicative and is subject to further review and change by PacifiCorp. Changes may be made by mutual agreement of both parties.

#### **REAL ESTATE**

1. Any existing easements owned by or granted to PacifiCorp to maintain PacifiCorp transmission and/or distribution lines.
2. PacifiCorp property identified as the Wasteway (or spillway) from the southern boundary of the Wapatox canal and runs through the Town of Naches.<sup>1</sup>
3. Property on which the houses at the Naches Plant are located (approximately 0.7 acres in size).
4. Property under and around the existing Naches substation, expansion of the existing Naches substation, and associated easement required to access same.

#### **FACILITIES**

1. The Naches Drop Substation including structures, facilities, and equipment located inside the substation. This shall include but not be limited to: towers, poles, deadends, busswork, foundations, fences, generator step-up transformers, circuit breakers, disconnects, switches, and protective and metering equipment.
2. The Naches Plant Substation including structures, facilities, and equipment located inside the substation that shall include but not be limited to: towers, poles, deadends, busswork, foundations, fences, power transformers, circuit breakers, disconnects, switches, and protective and metering equipment.
3. All generator step-up transformers, system protection equipment, batteries, substation control equipment, switchgear and power transmission equipment located inside the Naches Drop powerhouse.
4. All generator step-up transformers, system protection equipment, batteries, substation control equipment, switchgear and transmission facilities in or at the Naches plant. All transmission and distribution lines and equipment.
5. The two houses located at the Naches Plant.
6. The storage shed located at the Naches Plant.
7. The garage facility located at the Naches Plant
8. The meeting room located at the Naches Plant.

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<sup>1</sup> PacifiCorp will grant an easement to Reclamation for the Wasteway as required in order for Reclamation to fulfill its obligations under the assumed contracts listed in Schedule 3.4, until such time as it is determined by Reclamation that such Wasteway is not needed, and/or such property is ultimately conveyed to Reclamation.



## **EQUIPMENT & TOOLS**

### ***Naches Drop Plant***

1. Batteries with charger.
2. One 36" Dayton fan.
3. One long fiberglass switching pole.
4. One lot of miscellaneous hand and lubricating tools.

### ***Naches Plant (Outside)***

1. Massey-Ferguson 394S Tractor with following attachments:
  - A. 72-inch bucket
  - B. Brush Cutter
  - C. 6' Brush Hog
  - D. Back hoe attachment (SN 673081)
  - E. 7 ½ foot snow plow with angle blade
  - F. 13 36KG counterweights and smaller back hoe bucket.
2. One Honda 13 HP pressure washer.
3. One 6.5 HP 60 gallon air compressor.
4. One Ridgid 4 HP drain cleaner with 2 sections of flexible extensions.
5. One lot misc. hand tools.
6. One 3" gas powered water pump
7. One 1980 GMC Boom Dump with 5-ton hoist. 26,000GVW
8. One lot misc. steel, steel pipe, plastic pipe, lumber.
9. One 20' fiberglass extension ladder.
10. One old Ingersoll-Rand portable air compressor.
11. One 250-gallon portable propane tank (on trailer).
12. One 6.3 kW 3 phase propane generator set with 500-gallon tank (SN #405833).
13. One 42" riding lawn mower.

### ***Naches Plant (Inside)***

1. One ¾" drive socket set.
2. One 1" drive air impact wrench.
3. One lot misc. hand tools.
4. One oil filter skid on Unit 4.
5. One Miller "The Legend" 200 LE Welder/Genset 5 kW.
6. One small parts washer.
7. One Craftsman roll-away with 10-drawer chest and hand tools.
8. One 25' extension ladder
9. One 6' step ladder.
10. One 4' step ladder.
11. One 2 ton Chance come-a-long.
12. One 1 ½ ton CM come-a-long.
13. One 6 ¼ HP shop-vac.
14. One lot misc. slings, rigging equipment, and safety harnesses.
15. One 8' by 3' rolling scaffolding with outriggers.
16. One 120V battery set with La Marche battery charger.

17. Two PortaPower pumps and jacks.
18. One air compressor.
19. One oil transfer pump with filter.
20. One motor/generator welder.
21. One 5 HP-3 phase 80 gallon Curtis air compressor.
22. One Deere snow blower.
23. One Chevrolet 4X4 (PacifiCorp Vehicle #3336).
24. One 1993 Chevrolet 4X4 (PacifiCorp Vehicle #3205).
25. One 1998 Chevrolet 4X4 (PacifiCorp Vehicle #3459).
26. One lawn mower utility trailer (PacifiCorp ID #94220).
27. Chainsaws (Oil room).
28. One sand/fertilizer spreader (Oil room).
29. One each drill press, anvil, machinist's vice, bench grinder (oil room).
30. One torch set with acetylene tanks.

**SCHEDULE 2.11**

**PERMITTED ENCUMBRANCES**

1. Any liens, encumbrances or other interests disclosed by the real property records relating to the Real Estate.
2. County road rights-of-way not recorded and indexed as a conveyance in the office of the Clerk and Recorder.
3. Any claim arising from the difference in the mean low water line of the Naches River and the meander line as shown by the original government survey.
4. Any claim of the State of Washington, or any party claiming by, through or on behalf of the State of Washington, to the current or former bed or banks of the Naches River.
5. Public rights and easements for commerce, recreation and fishery,

**SCHEDULE 2.16**

**DESCRIPTION OF REAL ESTATE**

See attached Schedule 2.16.

DESCRIPTION OF REAL ESTATE

Any and all the items listed hereon which are also listed in Schedule 2.7 shall be Excluded Assets as defined in the Agreement, and shall NOT be sold or transferred to Reclamation

PCORP Parcel # or ID#	Rights Acqd	Approx. Area of Fee property (acres)	Township	Range	Section	Grantor	Grantee	Dated	Recording Date	Book/Vol	Page	Taxlot
WAWA-0001	Quitclaim Deed		15N	16E	36	Edmund G. Tennant ET UX.	Pacific Power and Light Company	6/20/12	7/23/12	Book 132	14	16153624010-24011
2	Statutory Warranty Deed		15N	16E	36	James & Marlene Ryno	Pacific Power and Light Company	7/22/92	8/11/92	Volume 1388	1965	
5	Deed	1.5	15N	16E	36	Northern Pacific Railway Co.	Pacific Power and Light Company	8/14/22	9/22/22	Volume 219	208	
3	Warranty Deed		15N	16E	36	Key & Mary England	Pacific Power and Light Company	4/19/34	11/29/34	Volume 311	209	
4	Deed to Roadway 15' Wide		15N	16E	36	Elijah & Jessie Yeates	Pacific Power and Light Company	4/28/05	6/10/05	Volume 36	341	
1	Deed to Roadway 15' Wide		15N	16E	36	Edmund & Maud Tennant	Pacific Power and Light Company	4/7/15	4/8/15	Volume 151	470	
6	RW 2 Drains		15N	16E	36	E.G. & Maud Tennant	Pacific Power and Light Company	9/30/13	10/29/13	Volume 141	233	
7	RW Easement		15N	16E	36	Naches-Selah Irrigation District	Pacific Power and Light Company	4/27/34	11/29/34	Volume 311	210	
8	RW Easement		15N	16E	36	Carol R. Fish	Pacific Power and Light Company	7/27/92	?	Volume 1366	576	
WAWA-0003	Deed		14N	17E	13	Yakima-Pasco Power Company	Pacific Power and Light Company	7/29/10	8/8/10	Book 105	555	17141333001
11	Quitclaim Deed		14N	17E	13	Alexander & Mina McWhirter	Pacific Power and Light Company	6/9/11	7/8/11	Volume 118	178	
13	Warranty Deed	5.4	14N	17E	13	Alexander & Mina McWhirter	Pacific Power and Light Company	7/3/05	7/5/05	Volume 34	490	
12	RW		14N	17E	13	Alexander & Mina McWhirter	Northwest Light and Water Co.	7/3/05	10/5/05	Volume 37	426	
WAWA-0004	Deed	8.4	14N	17E	13	Yakima-Pasco Power Company	Pacific Power and Light Company	7/29/10	8/8/10	Book 105	555	17141333001
WAWA-0005	Deed	2.2	14N	17E	13	J.MadPhee & Helen Ferguson	Pacific Power and Light Company	2/10/13	3/27/13	Volume 134	428	17141333001
WAWA-0022	Warranty Deed		14N	17E	3	Henry & Sarah Sedge	Pacific Power and Light Company	3/19/13	3/27/13	Volume 134	422	17140341001
14	Bargain & Sale Deed	3.6	14N	17E	3	Naches Presbyterian Church	Pacific Power and Light Company	1/23/13	5/3/13	Volume 136	263	
15	Deed		14N	17E	3	Naches Presbyterian Church	Northwest Light and Water Co.	10/25/05	11/19/08	Volume 67	401	
WAWA-0023	Deed	2.6	14N	17E	2	Sein & Anna Brown	Pacific Power and Light Company	4/9/13	4/4/13	Volume 135	423	1714039998-41001
17	Deed		14N	17E	2	W. J. & Laura Parmentier	Northwest Light and Water Co.	10/19/05	11/13/05	Volume 38	241	
18	RW Easement		14N	17E	2	A.M. & Sadie Ohio	Pacific Power and Light Company	2/26/14	3/11/14	Volume 140	397	
WAWA-0026	Warranty Deed	0.4	14N	17E	13	J.N. & Nellie Kincaid	Pacific Power and Light Company	1/12/16	3/10/16	Volume 166	14	17141333001
WAWA-0029	Quitclaim Deed	13	15N	16E	35&36	Selah Development Company	Pacific Power and Light Company	9/29/16	10/13/16	Volume 167	402	16153623002
19	Quitclaim Deed		15N	16E	35&36	Selah Ranch Company	Pacific Power and Light Company	9/29/16	10/13/16	Volume 167	401	16153514004
WAWA-0077	Deed		14N	17E	3	W.D. Thompson	Northwest Light & Water Co.	11/10/05	11/13/05	Volume 38	234	
WAWA-0077-1	Deed		14N	17E	3	Naches Presbyterian Church	Pacific Power and Light Company	4/12/13	5/3/13	Volume 136	263	
WAWA-0077-2	Deed		14N	17E	3	George & Madora Denton	Northwest Light & Water Co.	10/19/05	10/31/05	Volume 37	627	
WAWA-0077-3	Deed		14N	17E	3	Selah Water Users Association	Pacific Power and Light Company	9/30/13	11/8/13	Volume 138	433	
WAWA-0077-4	Deed	20.3	14N	17E	2,3	Henry & Sarah Sedge	Northwest Light & Water Co.	11/10/05	11/13/05	Volume 38	236	
21	Deed		14N	17E	3	Selah Water Users Association	Pacific Power and Light Company	8/8/12	9/14/12	Book 133	128	
22	Warranty Deed		14N	17E	3	Ahner & Lucy Sinclair	Northwest Light & Water Co.	11/28/05	12/11/05	Volume 38	471	
23	Deed		14N	17E	3	W.D. & Mary Thompson	Pacific Power and Light Company	5/22/13	6/9/13	Volume 138	48	
24	Quitclaim Deed - Water Rights		14N	17E	3	Henry & Sarah Sedge	Pacific Power and Light Company	6/27/17	6/27/17	N/A	N/A	
WAWA-0078-3	Deed		14N	17E	3	T.E. & Bessie Forsyth	Pacific Power and Light Company	10/30/13	11/14/13	Volume 139	471	
WAWA-0078-4	Deed		14N	17E	3	Ahner Sinclair & Lucy A. Sinclair	Northwest Light & Water Co.	11/28/05	3/12/06	Volume 38	471	
WAWA-0078-5	Deed	11.1	14N	17E	3	Ahner Sinclair & Lucy A. Sinclair	Northwest Light & Water Co.	3/7/06	3/12/06	Book 39	205	
27	Bargain & Sale Deed		14N	17E	3	Ahner & Lucy Sinclair	Northwest Light & Water Co.	11/28/05	12/11/05	Volume 38	469	
WAWA-0078-1	Warranty Deed		14N	17E	3	Ahner & Lydia Penney	Northwest Light & Water Co.	8/10/05	8/14/05	Volume 36	622	
WAWA-0078	RW		14N	17E	4	Alfred & Lydia Penney	Northwest Light & Water Co.	8/10/05	8/14/05	Volume 36	610	
WAWA-0078-2	RW		14N	17E	3	Ahner & Lucy Sinclair	Northwest Light & Water Co.	8/10/05	8/14/05	Volume 36	610	
WAWA-0084	Special Warranty Deed		15N	16E	36	Seattle Trust & Savings Bank, Trustee	Pacific Power and Light Company	6/28/78	8/8/78	Volume 1026	1317	16153624420
WAWA-0084-1	Special Warranty Deed		15N	16E	36	Seattle Trust & Savings Bank, Trustee	Pacific Power and Light Company	6/30/78	8/8/78	Volume 1028	1314&1315	16153624424

DESCRIPTION OF REAL ESTATE

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PCORP Parcel # or ID#	Rights Acqcd	Approx. Area of Fee property (acres)	Township	Range	Section	Grantor	Grantee	Dated	Recording Date	Book/Vol	Page	Taxlot
WAVA-0084-2	Quitclaim Deed		15N	16E	36	Security Pacific Inc.	Pacific Power and Light Company	7/24/78	8/6/78	Volume 1028	1316	16153624426
WAVA-0084-3	Quitclaim Deed	1.2	15N	16E	36	F.N. Halverson	Pacific Power and Light Company	10/3/78	10/5/78	Volume 1031	2135	16153624421-24422
WAVA-0084-4	Statutory Warranty Deed		15N	16E	36	William Ford Scott & Lenore Cooper Scott	Pacific Power and Light Company	7/13/78	7/14/78	Volume 1027	439	16153624423
WAVA-0084-5	Statutory Warranty Deed		15N	16E	36	MRS. Helen Savage	Pacific Power and Light Company	6/27/78	7/5/78	Volume 1026	1655	16153624425
WAVA-0084-6	Statutory Warranty Deed		15N	16E	36	John J. Parker	Pacific Power and Light Company	8/28/78	9/5/78	Volume 1029	2511	16153624427
WAVA-0085	Quitclaim Deed	10.9	15N	16E	36	State of Washington	Pacific Power and Light Company	10/16/78	10/23/78	Volume 1032	2298&2299	16153623003
	Deed		15N	16E	36	Edmund & Maud Tennant	Pacific Power and Light Company	4/7/75	4/8/75	Volume 151	469	
WAVA-0086	Quitclaim Deed		14N	17E	2	Baugh M. Harlan	Pacific Power and Light Company	11/9/79	11/13/79	Volume 1055	1377	
	Deed	1.7	14N	17E	2	Wallace & Nancy Goodsell	Pacific Power and Light Company	4/19/73	5/14/73	Volume 137	394	
34	Deed		14N	17E	2	Leonard & Willis Slump	Pacific Power and Light Company	3/21/73	3/27/73	Volume 134	423	
35	Deed		14N	17E	2	Leonard & Willis Slump	Pacific Power and Light Company	5/11/71	5/24/71	Volume 118	9	
36	Deed		14N	17E	2	Thomas & Margaret Allan	Pacific Power and Light Company	10/21/25	12/2/25	Volume 244	343	
38	R/W Easement For Drain Pipe		14N	17E	2	Thomas E. Vernier & Dolores I. Vernier	Pacific Power and Light Company	9/15/80	11/13/80	Volume 1073	247	
WAVA-0088	Quitclaim Deed	0.4	14N	17E	13	Thomas E. Vernier & Dolores I. Vernier	Pacific Power and Light Company	4/23/10	11/18/13	N/A	N/A	
40	R/W Fee	Unknown	15N	17E	31	Hilda & C.E. Maysite	Northwest Light and Water Co.	11/1/05	11/13/05	Volume 38	230	
41	R/W Fee	4.1	15N	17E	31	L.E. & Julia Wilder	Northwest Light and Water Co.	11/1/05	11/13/05	Volume 38	232	
43	R/W Fee	1	15N	17E	31	F. & Mary Launberson	Northwest Light and Water Co.	12/19/05	12/21/05	Volume 40	55	
44	Warranty Deed	5.5	15N	17E	32	O.A. & Gertrude Fechter	Northwest Light and Water Co.	10/9/05	11/13/05	Volume 38	243	
45	R/W Fee	0.7	15N	17E	32	Frank Marcellus	Northwest Light and Water Co.	8/8/05	8/14/05	Volume 36	614	
46	R/W Fee	2.2	15N	17E	32	Leroy & Jennie Pease	Northwest Light and Water Co.	8/8/05	8/9/05	Volume 36	581	
47	R/W Fee	2.8	15N	17E	32	W.S. & Elizabeth Clark	Northwest Light and Water Co.	8/10/05	8/14/05	Volume 36	617	
49	R/W Fee	2.5	15N	17E	33	Samuel & F. Shaaks	Northwest Light and Water Co.	8/10/05	8/14/05	Volume 36	617	
50	R/W Fee	2.5	15N	17E	33	A.A. & Hannah Raley	Northwest Light and Water Co.	8/10/05	8/14/05	Volume 36	612	
51	R/W Fee	3.1	15N	17E	33	G.W. & Elizabeth Hught	Northwest Light and Water Co.	8/10/05	8/14/05	Volume 36	619	
53	Quitclaim Deed	9	14N	17E	13	Alexander & Mina McWhirter	Northwest Light and Water Co.	2/6/07	4/9/07	Volume 55	443	
54	R/W Fee	0.8	14N	17E	12	Wallace & Nancy Goodsell	Pacific Power and Light Company	5/11/11	5/24/11	Volume 118	8	
66	Deed	1.2	14N	17E	12	Mary Mason	Pacific Power and Light Company	6/20/17	7/21/17	Volume 171	492	
68	Deed	0.9	14N	17E	12	Kirley & May Sinclair	Pacific Power and Light Company	2/28/13	3/22/13	Volume 134	427	
69	Quitclaim Deed	Unknown	14N	17E	13	Samuel Kincaid	Pacific Power and Light Company	5/23/11	6/20/11	Volume 115	484	
70	Deed	Unknown	14N	17E	13	Northern Pacific Railway	Northwest Light and Water Co.	2/1/09	2/20/09	Book 81	401	
79	Deed	Unknown	14N	17E	13	Alexander & Mina McWhirter	Pacific Power and Light Company	4/9/07	N/A	N/A	N/A	
80	Quitclaim Deed	2.8	14N	17E	13	Thomas & Dolores Vernier	Pacific Power and Light Company	9/15/80	11/13/80	Volume 1073	247	
56	R/W Fee	0.8	14N	17E	11	Martha Kincaid	Pacific Power and Light Company	3/4/13	3/27/13	Volume 134	425	
60	R/W Fee	3.7	14N	17E	11	Harry & Nora Parler	Northwest Light and Water Co.	10/18/05	10/31/05	Volume 37	625	
61	R/W Fee	0.9	14N	17E	11	Edward & Hatie Keck	Pacific Power and Light Company	4/11/13	5/11/13	Volume 134	564	
62	R/W Fee	Unknown	14N	17E	11	William & Ida Steinweg	Pacific Power and Light Company	11/14/11	11/21/11	Volume 121	330	
63	R/W Fee	2.8	14N	17E	11,12	Homer & Fanny Gray	Northwest Light and Water Co.	11/23/05	12/1/05	Volume 38	473	
64	R/W Fee	0.3	14N	17E	11	J.D. Keck	Pacific Power and Light Company	2/26/13	3/27/13	Volume 134	426	
67	R/W Fee	2.7	14N	17E	12	Kirley & May Sinclair	Northwest Light and Water Co.	10/9/105	10/31/05	Volume 37	623	
57	R/W		14N	17E	11	Walter & Jesse Rowe	Pacific Power and Light Company	10/29/25	12/2/25	Volume 244	345	
58	R/W		14N	17E	11	William & Margaret Allen	Pacific Power and Light Company	11/13/25	12/2/25	Volume 244	344	
59	R/W		14N	17E	11	Herbert & Mary Squire	Pacific Power and Light Company	11/13/25	12/2/25	Volume 244	343	
84	Permit		14N	17E	12	Pacific Power and Light Company	Alex & Dorothy Allen	2/15/60	N/A	N/A	N/A	

**DESCRIPTION OF REAL ESTATE**

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PCORP Parcel # or ID#	Rights Acqgd	Approx. Area of Fee property (acres)	Township	Range	Section	Grantor	Grantee	Dated	Recording Date	Book/Vol	Page	Taxlot
85	Permit		14N	17E	3	Pacific Power and Light Company	Town of Naches	7/1/83	N/A	N/A	N/A	
86	Permit		N/A	N/A	N/A	RE: Dept. of the Army	Pacific Power and Light Company	3/27/78	N/A	N/A	N/A	
39	R/W		15N	17E	31	Hilda & C.E. Maystre	Northwest Light and Water Co.	10/24/05	11/10/05	Volume 38	183	
71	R/W		14N	17E	13	Alexander & Mina McVehrer	Northwest Light and Water Co.	7/3/05	10/12/05	Volume 37	426	
76	R/W		14N	17E	13	J. MacPhee & Helen Ferguson	Pacific Power and Light Company	1/23/13	N/A	N/A	N/A	
42	R/W Agreement		15N	17E	31	L.E. & Julia Wilder	Northwest Light and Water Co.	11/30/04	10/4/05	Volume 37	419	
55	R/W Agreement		14N	17E	2, 11	J.W. & Martha Kincaid	Northwest Light and Water Co.	12/2/04	9/5/05	Volume 37	90	
52	R/W Easement		15N	17E	33	Floyd & Dorothy Hager	Pacific Power and Light Company	7/9/64	7/14/64	Volume 654	513	
65	R/W Easement		14N	17E	12	Daniel & Mary Mason	Northwest Light and Water Co.	3/13/13	4/5/13	Volume 136	172	
72	R/W Easement		14N	17E	13	Alfred H. Sindlar	Pacific Power and Light Company	3/16/27	3/29/27	Volume 259	176	
73	R/W Easement		14N	17E	13	J. MacPhee & Helen Ferguson	Pacific Power and Light Company	6/21/28	6/27/28	Volume 257	489	
74	R/W Easement		14N	17E	13	Nelle Kincaid	Pacific Power and Light Company	6/5/29	6/22/29	Volume 277	148	
77	R/W Easement		14N	17E	13	J.N. & Nelle Kincaid	Pacific Power and Light Company	4/5/11	5/24/11	Book 114	630	
78	R/W Easement		14N	17E	13	Nelle Kincaid	Pacific Power and Light Company	5/13/39	5/18/39	Volume 343	197	
81	R/W Easement		14N	17E	13	J. MacPhee & Helen Ferguson	Pacific Power and Light Company	9/30/09	N/A	N/A	N/A	
82	R/W Easement		14N	17E	13	W. & Jeannie Bailey	Pacific Power and Light Company	5/1/28	5/4/28	Volume 267	335	
48	R/W Easement for 6" Drain		15N	17E	32	W.S. & Elizabeth Clark	Pacific Power and Light Company	12/5/14	2/17/15	Volume 148	249	
100	R/W Joint Ownership		N/A	N/A	N/A	Salah Development Company	Northwest Light and Water Co.	4/19/07	3/22/23	Volume 222	385	
75	Water Rights		14N	17E	13	Alexander & Mina McVehrer	Northwest Light and Water Co.	4/3/06	4/7/06	Volume 43	90	
102	Water Rights		14N	17E	3	Henry & Sarah Sedge	Pacific Power and Light Company	1/31/01	5/22/17	Volume 134	422	

## SCHEDULE 2.19

### DESCRIPTION OF RELATED ASSETS, EXCLUDING REAL ESATE AND EASEMENTS

This list should be considered indicative and is subject to further review and change by PacifiCorp. Changes may be made by mutual agreement of both parties.

#### FACILITIES

1. Naches River Wapatox concrete dam, splash boards, and supports.
2. Naches River Wapatox Diversion structure including screens and gates.
3. Wapatox Canal flow control structure (radial arm gates) and return spillway.
4. Wapatox Diversion Fish Screens and return line.
5. Wapatox Canal including flumes, tunnel, drains, and irrigation water boxes.
6. Naches Drop Plant forebay.
7. Naches Drop 340' Penstock.
8. Naches Drop Powerhouse including Drop Plant 1,400 kW turbine generator, exciter, auxiliary transformer and equipment for lighting, house power, valve control, available heating and cooling, lubrication, and ancillary pumps, fans, and equipment.
9. Naches Drop Tailrace.
10. Naches Plant Forebay.
11. Naches Plant Forebay Warming Hut.
12. Naches Plant 545' steel Penstocks (2).
13. Naches Plant Powerhouse including Unit 2 (3,000 kW) & Unit 4 (3,370 kW) turbine generators, exciters, auxiliary transformer and equipment for lighting, house power, available heating and cooling, valve control, lubrication, and ancillary pumps, fans, and equipment.
14. Naches Plant Tailrace.
15. One share water (20 inches) in the Wapatox Ditch Company.

#### EQUIPMENT & TOOLS

##### *Diversion Structure*

1. One 2-ton Cyclone hand operated chain fall
2. One Yale hand operated chain fall
3. Two 2-ton power operated headgate hoists
4. One electric heater
5. One 100-gallon stock tank used for water heater
6. One lot of various ice punching tools
7. One Atlas Polar trash rack and fish screen
8. One stationary backhoe used for cleaning river intake.
9. Pressure washer in canal gage house.
10. Electric gate drive motor.



***Naches Drop Forebay***

1. One small Berkley water pump for plant lawn irrigation.
2. One Yale hand operated chain hoist.
3. One Harrington 2-ton power operated chain hoist for tainter gate operation.
4. One stock tank for water heater
5. One lot of various ice punching tools.

***Naches Drop Plant***

1. One spill clean-up kit.
2. Two 220V electric heaters
3. One 5 ft wooden step ladder
4. One portable eye wash station
5. One Sensaphone 1104 equipment monitoring system

***Naches Plant Outside***

1. One 10-ton electric chain fall and 2-ton at forebay.
2. One box of rubber canal liner.
3. One lot of gabion baskets.
4. One 3-ton portable adjustable gantry crane with 12'beam.

***Naches Plant Inside***

1. Two Patton 1 HP 4-foot air circulating fans.
2. One Yale Electric 5-ton chain hoist.
3. One Yale Electric 25-ton trolley on manual bridge.
4. Three spill clean up kits.
5. Four shoring jacks.
6. Four miscellaneous propane heaters.
7. Eight large screw jacks
8. One cement mixer (PacifiCorp ID #92170).

<b><u>Claim No.</u></b>	<b><u>Priority Date</u></b>	<b><u>Flow Rate in cfs</u></b>	<b><u>Volume Acre-feet/Yr.</u></b>
Court Claim No. 00496  RCW 90.14 Claim No. 200114	October 3, 1904	300 cfs minimum, 450 cfs maximum; Reclamation may permit more when flows are available and senior rights would not be impacted	Not limited beyond flow rate in cfs

## **SCHEDULE 2.20**

### **WATER RIGHTS**

All of the Naches River Hydroelectric Project (“Project”) Wapatox Power Plant water right held by PacifiCorp, doing business as Pacific Power & Light Company (“PacifiCorp”), for continuous (year round) power generation use in, at and for the Project, with an October 4, 1904 date of priority, including without limitation that water right confirmed by that certain December 14, 1995 Conditional Final Order, Subbasin No. 19 (Lower Naches River) issued by the Superior Court of Washington State for Yakima County in the case styled In the Matter of the Determination of the Rights to Use of the Surface Waters of the Yakima River Drainage Basin, In Accordance with The Provisions of RCW 90.03, Revised Code of Washington, No. 77-2-01484-5, all subject to the limitations of use section for this water right, as outlined in the court’s December 14, 1995 Conditional Final Order for Subbasin No. 19.

## SCHEDULE 3.4

### ASSUMED CONTRACTS

1. Several agreements for construction and future O & M of concrete measurement boxes.
2. The following contracts to which PacifiCorp or its successors are party:
  - Between Lower Wapatox Ditch Company and Pacific Power & Light Co., dated January 6, 1930
  - Letter Agreement between the City of Yakima and Pacific Power & Light Co., dated June 26, 1968
  - Between Wapatox Ditch Company and Northwest Light & Water Co., dated March 18, 1905
  - Between Lower Wapatox Ditch Company and Northwest Light & Water Co., dated February 15, 1908
  - Between E.G. Peck and Northwest Light & Water Co., dated June 11, 1904,

*except that* Reclamation shall not assume obligations thereunder to the extent disputed by PacifiCorp as evidenced by PacifiCorp correspondence present in the PacifiCorp Naches Data Room on the date hereof.

## **SCHEDULE 4.4**

### **EXCEPTIONS TO TITLE**

- Assets are encumbered by the PacifiCorp Mortgage as defined in the Agreement.
- Necessary Regulatory Approvals and state statutes prohibit transfer of title to Assets until appropriate approvals, consents or exemptions are obtained.

### **Schedule 4.4**

**SCHEDULE 4.5**

**MATERIAL CONTRACTS**

Schedule 3.4 is incorporated herein by reference.

**Schedule 4.5**

**SCHEDULE 4.8**

**COMPLIANCE WITH LAWS**

- The Federal Energy Regulatory Commission has investigated whether the Project would require licensing if the Naches River were deemed a navigable body. FERC may impose licensing on the Project if it were to continue to operate as a hydro generation facility.
- Reference is made to the two environmental reports furnished to Reclamation by PacifiCorp prior to the date hereof.

**SCHEDULE 4.9**

**LEGAL PROCEEDINGS**

None.