

**LAKE SISKIYOU HYDROELECTRIC PROJECT**  
**OPERATION AND MAINTENANCE AGREEMENT**

This Operation and Maintenance Agreement ("AGREEMENT") is made and entered into this 1<sup>st</sup> day of January 2011, by and between the Siskiyou Power Authority ("AUTHORITY") and Northbrook Power Management, LLC, an Illinois limited liability company headquartered in Scottsdale, Arizona ("OPERATOR") for itself and its successors and assigns.

RECITALS:

WHEREAS, AUTHORITY is a public entity duly created pursuant to the Joint Exercise of Powers Act, Government Code § 6500, et seq.; and

WHEREAS, AUTHORITY is empowered by law to acquire, operate, lease and control plants for the generation, transmission, distribution, sale and lease of electric power, and may make any necessary contracts or leases to carry out the purposes of the AUTHORITY; and

WHEREAS, AUTHORITY owns a 5 MW hydroelectric generation facility located at Box Canyon Dam on the Sacramento River, near the City of Mt. Shasta (hereinafter the "Project"); and

WHEREAS, AUTHORITY has entered into a Power Purchase Agreement ("PACIFIC AGREEMENT") with the Pacific Power and Light Company of Portland, Oregon (hereinafter referred to as "PACIFIC") for the sale of electricity generated at the Project; and

WHEREAS, AUTHORITY requires a qualified, competent and experienced OPERATOR to operate, maintain, and manage the Project; and

WHEREAS, AUTHORITY has determined it is in its best interests and in furtherance of the purposes for which the AUTHORITY was formed to enter into a contract for the operation and maintenance of the Project; and

WHEREAS, OPERATOR provides operation, maintenance and management services for hydroelectric generation facilities and has represented to the AUTHORITY that OPERATOR is qualified and competent to operate and maintain the Project; and

WHEREAS, OPERATOR has agreed to provide Services for the Project on the terms and conditions set forth in this Agreement,

NOW THEREFORE, in consideration of the mutual covenants, undertakings and conditions set forth below, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

## ARTICLE 1

### REPRESENTATIONS:

#### Section 1.1 Representations of the Parties.

(A) AUTHORITY hereby represents and warrants to OPERATOR that it has been duly formed and validly exists.

(B) OPERATOR represents and warrants to AUTHORITY that it is a validly existing company authorized to do business in California and that the execution and delivery of and performance by it of this Agreement has been authorized by all requisite company actions and does not violate internal company agreements of OPERATOR, federal, state or local law or any contractual restriction binding upon OPERATOR or its properties.

## ARTICLE 2

### DEFINITIONS

#### Section 2.1. Definitions.

- (a) "Agreement" means this Agreement.
- (b) "Contract Year" means: (i) for the first Contract Year, that period from the date of this Agreement to and including December 31 of such year; and (ii) for each Contract Year thereafter, the calendar year.
- (c) "Emergency" means an unforeseen circumstance or the resulting state that requires immediate action to protect or preserve the Project, personnel, or public health and safety.
- (d) "Fiscal Year" means the twelve-month (12) period from July 1 to June 30 of the subsequent year.
- (e) "Force Majeure Event" means an event, condition or circumstance beyond the reasonable control of, and not due to the fault or negligence of, the party affected, and which could not have been avoided by due diligence and use of reasonable efforts, which prevents the performance by such affected party of its obligations hereunder; provided that a "Force Majeure Event" shall not be deemed to have occurred unless the party claiming Force Majeure complies with

the requirements of Section 12.3. Subject to the foregoing, "Force Majeure Event" shall include, as to either party, acts of God, explosion and fire, civil disturbance, war, insurrection or riot, terrorism or sabotage, actions or failures to act by governmental entities or officials, action or restraint by court order to public or governmental authority, failure to obtain governmental permits or approvals (only if timely application is made therefore and due diligence has been exercised in pursuit thereof) and changes in laws, rules, regulations, orders or ordinances affecting operation of the Project, which events were not pending on the date of this Agreement.

- (f) "Minor Materials" means those supplies incidental to the routine operation and maintenance of the Project, such as cleaning supplies, make-up oil, grease, small nuts, bolts and other hardware, o-rings, sealants, gloves and paper, which in aggregate do not exceed one-thousand two-hundred dollars (\$1,200.00) per year.
- (g) "Prudent Operating Practice" means (i) any of the practices, methods, and acts performed in a manner consistent with industry standards, or (ii) practices, methods and acts that, in the exercise of reasonable judgment on the facts known (or that reasonably should have been known) at the time a decision was made, could have been expected to accomplish the desired result at a reasonable cost consist with good business practices, reliability, safety and expedition.

### ARTICLE 3

#### SERVICES:

Section 3.1 Scope of Services. OPERATOR shall (i) operate, maintain and manage the Project on behalf of AUTHORITY. OPERATOR shall perform the specific duties set forth in this Agreement, if they are not otherwise required by the standards defined in Section 3.3.

Section 3.2. Services. OPERATOR shall provide operation and maintenance services ("Services") to AUTHORITY with regard to the Project as set forth in this Agreement and as required for the operation of the Project upon the terms and conditions set forth herein in accordance with Prudent Operating Practice. Services provided by OPERATOR shall include routine, day-to-day operations and maintenance of the Project, with associated supervision and support. The Services provided by OPERATOR shall include, but not be limited to, the tasks set forth below.

- A. OPERATOR shall employ and supervise qualified plant operators (s) ("Plant Operator"), pursuant to Section 3.4. The Plant Operator shall make a personal site visit each day of the year under normal operating conditions and read meters,

conduct a safety inspection, make any necessary adjustments, and perform any operating and maintenance services as may be necessary or appropriate under Prudent Operating Practice as that term is defined in Section 3.3. Visits shall be documented with the date and time of arrival, name of operator, name of any other personnel accompanying the operator, work performed, comments and log out time. A log book will consist of permanent pages, consecutively numbered. Data entered into the log book shall not be removed, but may be lined out if changes to the original entry are needed. It is anticipated that the Plant Operator shall spend a minimum of 20 man-hours on site each week, not including responding to alarms or other call outs.

B. OPERATOR shall submit plans and reports pursuant to Article 6.

C. OPERATOR shall respond to all alarms, faults, and shutdowns associated with the Project as expediently as possible, and at minimum within sixty (60) minutes of notice of each alarm, fault, and/or shutdown. OPERATOR shall provide this response on a twenty-four (24) hour per day basis, each day of the year, including all weekends and holidays.

D. OPERATOR shall administer on behalf of AUTHORITY all matters with the Federal Energy Regulatory Commission and state and federal resource agencies regarding the Project, including, but not limited to, dam safety and permit compliance.

E. OPERATOR shall perform normal and routine operation and maintenance of the powerhouse, waterways, turbines, generators, auxiliary electrical and mechanical equipment, elevator / tram, maintenance equipment, switchyard and associated equipment, and the transmission line from the power house to the switch yard interface with Pacific Power and Light. Where applicable the operator shall perform said operation and maintenance in accordance with the Operation and Maintenance Manuals for the Lake Siskiyou Hydroelectric Project, Volumes I through VI.

F. OPERATOR shall perform all required lubrication, including grease and oil of all equipment requiring such maintenance.

G. OPERATOR shall maintain all packing glands and seals.

H. OPERATOR shall maintain all control equipment including governors, relays and PLC/micro processor systems.

I. OPERATOR shall develop and implement a security protocol for its operators in order to maintain the security of the Project and the surrounding area in accordance

with Prudent Operating Practice. AUTHORITY acknowledges OPERATOR is not a guarantor of the security of the Project.

J. OPERATOR shall, at AUTHORITY's sole cost and expense, maintain an adequate supply of spare parts, to be stored at the Project, for items that are not readily available ("Spare Parts"). OPERATOR and AUTHORITY shall jointly select said parts and develop a schedule of parts to be updated on a monthly basis.

K. OPERATOR shall oversee maintenance of electrical equipment, including but not limited to switchgear, power cables, bus work and interconnection facilities.

L. OPERATOR shall oversee maintenance and testing of the transformer, including but not limited to oil, gas, and dielectric testing.

M. OPERATOR shall oversee annual inspection, maintenance and calibration of instrumentation and controls.

N. OPERATOR shall provide supervision of the Plant Operator, consultants, contractors, and agents, including backup Operators, and shall be responsible for their respective training and instruction in the operation of the Project.

O. OPERATOR shall prepare a proposed Annual Budget and Project Operating Plan pursuant to Article 6.

P. OPERATOR shall work with AUTHORITY to prepare cost proposals as necessary for all non-routine repairs, replacements and upgrade projects in accordance with Section 4.1.

Q. OPERATOR shall maintain compliance with all permits and licenses, including the filing of routine reports, including, but not limited to reports requested by any federal or state regulatory agency, but excluding payment of fees and third-party costs. AUTHORITY will allow OPERATOR the benefits of all permits and licenses related to the Project as necessary. To the extent legally required for operation of the Project, AUTHORITY will assign such permits and licenses to the OPERATOR for the term of this Agreement.

R. OPERATOR shall conduct periodic inspections of the turbines, generators and governors in accordance with the Annual Budget and Project Operating Plan.

S. OPERATOR shall pay for all Minor Materials, labor, training, supervision, inspection and other accessory services necessary to the routine operation and maintenance of the Project.

T. OPERATOR shall develop a safety program and a safety training program for all operational aspects of the Project. Said programs shall be developed and conducted in accordance with applicable requirements of the State of California Division of Occupational Safety and Health ("Cal OSHA").

U. OPERATOR shall submit to AUTHORITY for its review and approval proposed Standard Operating Procedures for the Project.

V. OPERATOR shall be responsible for the operation and maintenance of future improvements to the Project that may be accomplished during the term of this Agreement.

Section 3.3. Standards for Performance of Services. OPERATOR shall perform the Services required under this Agreement in a prudent, reasonable, safe, and efficient manner and (a) in accordance with all applicable regulatory requirements and applicable laws; (b) in accordance with all operating, maintenance and administrative manuals and procedures at the Project, including equipment manuals; (c) in accordance with the requirements of all Project related insurance policies; (d) in accordance with all warranties applicable to the Project and Project equipment; (e) in accordance with the applicable Annual Project Operating Plan and Annual Budget; (f) in accordance with the provisions of this Agreement; and (g) in accordance with Prudent Operating Practice.

OPERATOR shall use all reasonable efforts to optimize and maximize the useful life of the Project and to minimize reimbursable costs and Project outages or other unavailability. OPERATOR acknowledges and agrees that it is desirable to keep the facility operating at all times to the greatest extent possible so as to maximize the electrical output and availability of the Project consistent with Prudent Operating Practice.

OPERATOR shall be responsible for investigation of, and thorough familiarity with, conditions at the Project.

Section 3.4. Operator's Personnel Standards. OPERATOR shall provide as reasonably necessary all labor and professional, supervisory and managerial personnel as are required to perform the Services. Such personnel shall be qualified to perform the duties to which they are assigned. All individuals employed by OPERATOR to perform the Services shall be employees of OPERATOR and their working hours, rates of compensation and all other matters relating to their employment shall be determined solely by OPERATOR. With respect to labor matters, hiring personnel, and employment policies, OPERATOR shall comply with all applicable Laws. OPERATOR also shall act in a reasonable manner that is consistent with the intent and purpose of

this Agreement and with OPERATOR's acknowledgment that OPERATOR has no authority to enter into any contracts with respect to labor matters that purport to bind or otherwise obligate AUTHORITY.

OPERATOR shall be solely responsible for all matters relating to the payment of any of its employees, vendors or subcontractors including, without limitation, compliance with social security, withholding and similar matters, including those specifically set forth below.

OPERATOR shall consult and confer with AUTHORITY and reasonably cooperate to address any concerns raised by AUTHORITY with respect to any individual rendering Services on behalf of OPERATOR. If any person employed by OPERATOR appears to the AUTHORITY to be incompetent or to act in a disorderly or improper manner, then upon written request of AUTHORITY, OPERATOR shall promptly, but in accordance with OPERATOR's standard employment practices and policies, undertake appropriate discipline for said person.

Section 3.5. Independent Contractor. It is the express intention of the parties that OPERATOR is an independent contractor and not an employee, agent, joint venturer or partner of AUTHORITY. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between AUTHORITY and OPERATOR or any employee or agent of OPERATOR. Both parties acknowledge that OPERATOR is not an employee for state or federal tax purposes. OPERATOR shall retain the right to perform services for others during the term of this Agreement. OPERATOR shall provide AUTHORITY with notice of intent to engage any non-employees to work on the Project in any capacity. Said notice shall be given to AUTHORITY prior to any work commencing by the non-employee.

Section 3.6. Withholding for Non-Resident Contractor. Pursuant to California Revenue and Taxation Code Section 18662, payments made to nonresident independent contractors, including corporations and partnerships that do not have a permanent place of business in this state, are subject to seven percent (7%) state income tax withholding. Withholding is required if the total yearly payments made under this Agreement exceed \$1,500.00.

Unless the Franchise Tax Board has authorized a reduced rate or waiver of withholding and AUTHORITY is provided evidence of such reduction/waiver, all nonresident contractors will be subject to the withholding. It is the responsibility of the OPERATOR to submit the Waiver Request (Form 588) to the Franchise Tax Board as soon as possible in order to allow time for the Franchise Tax Board to review the request.

Section 3.7. Compliance with Child, Family and Spousal Support Reporting Obligations. OPERATOR's failure to comply with state and federal child, family and spousal support reporting requirements regarding OPERATOR's employees or failure to

implement lawfully served wage and earnings assignment orders or notices of assignment relating to child, family and spousal support obligations shall constitute a default under this Agreement. OPERATOR's failure to cure such default within ninety (90) days of notice by AUTHORITY shall be grounds for termination of this Contract.

Section 3.8. Public Employees Retirement System (CalPERS). In the event that OPERATOR or any employee, agent, or subcontractor of OPERATOR providing services under this Agreement is determined by a court of competent jurisdiction or the Public Employees Retirement System (CalPERS) to be eligible for enrollment in CalPERS as an employee of the AUTHORITY, OPERATOR shall indemnify, defend, and hold harmless AUTHORITY for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of OPERATOR or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of AUTHORITY. OPERATOR understands and agrees that its personnel are not, and will not be, eligible for membership in, or any benefits from, any AUTHORITY group plan for hospital, surgical or medical insurance, or for membership in any AUTHORITY retirement program, or for paid vacation, paid sick leave, or other leave, with or without pay, or for any other benefit which accrues to an AUTHORITY employee.

Section 3.9. IRS/FTB Indemnity Assignment. OPERATOR shall defend, indemnify, and hold harmless the AUTHORITY, its members, officers, agents, and employees, from and against any adverse determination made by the Internal Revenue Service of the State Franchise Tax Board with respect to OPERATOR's "independent contractor" status that would establish a liability for failure to make social security and income tax withholding payments.

Section 3.10. Compliance. OPERATOR shall comply with all laws, agreements, and authorizations applicable to the performance of the Services. OPERATOR represents that, to the extent Prudent Operating Practice requires, it has reviewed, and is familiar with, all such applicable laws, authorizations, and agreements provided to OPERATOR by AUTHORITY.

OPERATOR shall file such reports, notices and other communications as may, to its knowledge, be required by any government agency regarding the Project within the scope of its services.

Section 3.11. Operator Records and Reports. OPERATOR shall maintain, at the Project and its office in Scottsdale, Arizona, the Project operating logs, records, and reports that document the operation and maintenance of the Project. OPERATOR shall provide AUTHORITY all reasonably necessary assistance in connection with AUTHORITY's compliance with reporting requirements. Such assistance shall include providing reports, records, logs and other information that AUTHORITY may reasonably request as to the Project or its operation and shall include all necessary assistance for

AUTHORITY's timely preparation of the Annual Instrumentation Report, Safety and Surveillance Report, Part 12 Report, Emergency Action Plan, and Annual Inspection Reports.

Section 3.12. No Liens or Encumbrances. OPERATOR shall maintain the Project free and clear of all liens and encumbrances resulting from any action of OPERATOR or work done at the request of OPERATOR or AUTHORITY. AUTHORITY is responsible for the payment of obligations undertaken by AUTHORITY under this Agreement.

Section 3.13. Emergency Action. If an Emergency endangering the safety or protection of persons, the Project, or property located near or downstream of the Project occurs, OPERATOR shall promptly notify AUTHORITY and shall activate the Emergency Action Plan, Box Canyon Hydro Project, FERC Project No. 2796-CA. OPERATOR shall make reasonable efforts to minimize any cost associated with remedial action in case of such an emergency. Within three (3) calendar days of such an emergency OPERATOR shall provide AUTHORITY with a preliminary report on the incident, the actions taken by OPERATOR and the costs incurred.

Section 3.14. Action in Extraordinary Circumstances. In the event that

- (A) The Project or major Project equipment suffers an unplanned outage (or OPERATOR reasonably believes that such an occurrence is imminent), and
- (B) OPERATOR has made reasonable, but unsuccessful, efforts to notify and communicate with AUTHORITY regarding such occurrence or imminent occurrence in accordance with the terms of this Agreement then the OPERATOR shall
  - i. Take all reasonably necessary action to prevent or to reasonably mitigate such unplanned outage in accordance with the terms of this Agreement, taking into consideration the restrictions imposed on OPERATOR pursuant to the terms of subsection (B)iv. below;
  - ii. Make reasonable efforts to minimize any cost associated with such remedial action;
  - iii. Continue to attempt to notify and communicate with AUTHORITY regarding the occurrence and the remedial action; and
  - iv. Shall not expend for such purpose more than an aggregate of twenty-five thousand dollars (\$25,000.00) in any Fiscal Year without prior AUTHORITY approval. To the extent OPERATOR incurs costs pursuant to Section 3.14 during any Fiscal Year, AUTHORITY will seek the consent of its Board to reinstate a full twenty-five thousand dollar (\$25,000.00) limitation with respect to

any subsequent event arising pursuant to Section 3.14 in any such Fiscal Year.

#### ARTICLE 4

##### AUTHORITY RESPONSIBILITIES:

Section 4.1. Non-Routine Maintenance and Capital Improvements. The cost of major equipment replacements, teardowns and overhauls, all capital improvements and costs of materials which are not Minor Materials ("Non-routine Expenditures") shall be the responsibility of AUTHORITY and, except in an Emergency, shall be budgeted and authorized by the AUTHORITY only. OPERATOR shall promptly notify AUTHORITY in writing of any mechanical or electrical problems that may require replacement, teardown and/or overhaul of equipment or capital improvements. To the extent reasonably possible Non-routine Expenditures shall be incorporated into the applicable Annual Budget. If such costs have been incurred in an Emergency or incorporated into the applicable approved Annual Budget, or if AUTHORITY has otherwise consented in writing to reimburse OPERATOR for such costs, OPERATOR shall schedule, coordinate, contract and oversee the performance of such activities. OPERATOR shall obtain prior written approval for budgeted expenditures annually. OPERATOR also shall be responsible for monitoring and exercising due diligence in obtaining contract compliance by the contractor performing such work including taking such steps, short of litigation, to enforce any contract compliance or warranties granted to AUTHORITY by such contractor.

AUTHORITY reserves the right to perform non-routine maintenance projects within AUTHORITY or with other contractors, and in such event OPERATOR shall have no responsibility, unless otherwise agreed to in writing, with respect to such Non-routine Expenditures other than to cooperate with AUTHORITY.

Section 4.2. Non-Routine and Additional Costs. AUTHORITY shall be responsible for paying for prior approved parts, supplies, tools, equipment, utilities, permit fees, repairs and third-party services for the Project.

Section 4.3 Annual Budget and Project Operating Plan. AUTHORITY shall be responsible for approval of the Annual budget and Annual Operating Plan.

#### ARTICLE 5

##### COMPENSATION AND PAYMENT:

Section 5.1. Payments. As compensation to OPERATOR for performance of the Services hereunder, AUTHORITY shall pay OPERATOR the Annual Operating Fee (or a pro rata portion thereof in the case of a Contract Year of less than 12 months) and the Monthly Variable Fee. In addition, AUTHORITY shall either (i) reimburse OPERATOR

for all Reimbursable Costs or pay such Reimbursable Costs directly to the applicable third parties.

Section 5.2. Annual Operating Fee. AUTHORITY shall pay OPERATOR an annual fee of one-hundred-fifty-four thousand seven-hundred and fifty dollars (\$154,750.00), to be paid in eleven (11) monthly installments of twelve-thousand-eight-hundred ninety-five dollars and eighty-three cents (\$12,895.83) and a twelfth (12<sup>th</sup>) installment of twelve-thousand eight-hundred ninety-five dollars and eighty-seven cents (\$12,895.87), payable at the beginning of each month. Beginning on July 1, 2012 and on July 1 of each year thereafter, the Annual Operating Fee (and the corresponding monthly operating fee) shall be increased by a percentage equal to the Consumer Price Index, all urban consumers, U.S. City average, as measured in the month of March, not to exceed three percent (3%) per annum. If the Index is discontinued or revised during the Agreement, such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued.

Section 5.3. Monthly Variable Fee. In addition to the payments described above, AUTHORITY shall pay OPERATOR four percent (4%) of AUTHORITY's monthly gross revenues from the Pacific Agreement or successor or replacement power purchaser. Such payment shall be made monthly to OPERATOR within thirty (30) days after the AUTHORITY receives payment from Pacific or successor or replacement power purchaser.

Section 5.4. Reimbursable Costs. OPERATOR may supply parts, equipment and tools identified in Section 4.2 (Additional Costs) necessary to perform duties or repairs, which said costs plus five percent (5%) of said costs will be considered Reimbursable Costs. OPERATOR may incur up to twenty-five thousand dollars (\$25,000.00) in Reimbursable Costs in any one Fiscal Year, after which no further Reimbursable Costs shall be incurred unless incurred in accordance with (i) the prior written consent of the AUTHORITY, (ii) the applicable Annual Budget, or (iii) Sections 3.13 (Emergency) or 3.14 (Extraordinary Circumstances) of this Agreement.

OPERATOR shall create a master list of all tools owned by the AUTHORITY and shall update the list as tools are purchased.

Section 5.5. Adjustments and Conditions. Notwithstanding the payment of any amount pursuant to the foregoing provisions, AUTHORITY shall remain entitled to conduct a subsequent audit and review of all Reimbursable Costs incurred by the OPERATOR and paid by AUTHORITY and of any supporting documents for a period of two (2) years after the applicable Fiscal Year. If such audit and review shows that any amount previously paid by AUTHORITY to OPERATOR did not constitute a Reimbursable Cost or AUTHORITY underpaid OPERATOR Reimbursable Costs, AUTHORITY may recover such amount from OPERATOR and shall pay to OPERATOR any shortfall in prior

payments to OPERATOR, as the case may be. AUTHORITY shall promptly provide a copy of any such audit to OPERATOR.

Section 5.6. Billing and Payment. Within fifteen (15) days following the end of each month, OPERATOR shall submit the original receipts and disbursements showing Reimbursable Costs for such month. Within thirty (30) days after receipt of any such invoice, AUTHORITY shall pay OPERATOR the sum specified, less any portion of such invoice amount that AUTHORITY disputes in good faith or is permitted to offset under this Agreement. With respect to any disputed portion of such invoice, AUTHORITY shall provide OPERATOR with a written statement explaining, in reasonable detail, the basis for such dispute. The parties shall attempt to resolve any such disputed portion in accordance with Article 11.

Any Reimbursable Costs incurred by OPERATOR and not submitted to AUTHORITY within one year of purchase date or incurrence shall not be eligible for reimbursement.

## ARTICLE 6

### PLANS AND REPORTING:

#### Section 6.1. Annual Project Operating Budget and Plan.

- (a) Proposal. After the effective date of this Agreement, at least 90 days before the beginning of each Fiscal Year, Operator shall prepare and submit to AUTHORITY a proposed annual budget for the Fiscal Year, established on a monthly basis. The proposed annual budget shall include separate operating and capital budgets. The proposed annual budget shall set forth, in detail reasonably acceptable to AUTHORITY, (i) anticipated operations, repairs and approved capital improvements, (ii) maintenance schedules, (iii) planned procurement (including equipment, spare parts, and consumable inventories), (iv) labor activities, (v) administrative activities, and (vi) other work proposed to be undertaken by OPERATOR, together with an itemized estimate of all Reimbursable Costs to be incurred. Each proposed annual budget shall be accompanied by a proposed annual operating plan setting forth the assumptions and implementation plans underlying the proposed annual budget. Any actions to be performed by the OPERATOR under the proposed annual operating plan shall be consistent with OPERATOR's obligations set forth in this Agreement.
- (b) Adoption. AUTHORITY shall review OPERATOR's proposed annual budget and annual operating plan within 45 days following receipt of the proposals. Authority may request changes, additions, deletions, and modification to the proposals. Upon AUTHORITY's adoption of a final budget and plan (the "Annual Budget" and "annual Project Operating Plan," respectively), the AUTHORITY shall approve such plan in writing. Except to the extent that the terms of Section 3.13

and 3.14 permit OPERATOR to take actions which are outside the final Annual Budget without the consent of the AUTHORITY, the final Annual Budget and Annual Project Operating Plan shall remain in effect through the applicable Contract Year, subject to revision and amendments proposed by either party and consented to in writing by AUTHORITY. AUTHORITY acknowledges the Project, as a twenty-five year old hydroelectric generating facility, carries an inherent risk of untimely equipment malfunction and failure. AUTHORITY further acknowledges while the Annual Budget is divided into (12) monthly sub-budgets, OPERATOR's Budget authority shall be on an annual basis and not limited by monthly variations which may exceed monthly sub-budgets.

- (c) Changes. OPERATOR shall promptly notify AUTHORITY of any significant deviations or discrepancies from the projections contained in the Annual Budget or Annual Project Operating Plan. This notice shall be sent via electronic mail or nationally recognized overnight courier service.

Section 6.2. Operating Data and Records. OPERATOR shall monitor and record all operating data and information which AUTHORITY must report to any government agency or other person or entity under applicable Laws or that AUTHORITY reasonably requests. Operating data to be reported includes operating logs, meter and gauge readings, flow rates and amounts, and maintenance records.

Section 6.3. Accounts, Reports, Inspection.

- (a) Monthly Reports. Within ten (10) Business Days following the last day of each calendar month, OPERATOR shall submit: (i) a progress report, in reasonable detail acceptable to AUTHORITY, covering all activities during such month with respect to operations and maintenance (including information regarding the amount of electric energy generated (actual vs. budget), hours of operation, outages, accidents, and emergencies), metered generation revenue, details of any significant events, the status of repairs, capital improvements (including replacements and upgrades), labor relations, including employee injuries, other significant matters, and Services. The monthly report shall include a brief summary of major activities planned for the next reporting period and a statement setting forth all Reimbursable Costs paid or incurred in such month.
- (b) Litigation, Permit Lapses. Upon obtaining knowledge thereof, OPERATOR shall promptly notify AUTHORITY in writing of (i) any litigation, claims, disputes or actions, threatened or filed, concerning the Project or Services; (ii) any refusal or threatened refusal to grant, renew or extend (or any action pending or threatened that might affect the granting, renewal or extension of) any license, permit, warranty, approval, authorization or consent relating to the Project or the Service;

and (iii) any dispute with any governmental authority relating to the Project or Services.

- (c) Other Information. OPERATOR shall promptly submit to AUTHORITY any material information concerning new or significant aspects of the Project's activities and, upon, AUTHORITY's reasonable request, shall promptly submit any other information concerning the Project or Services.
- (d) Joint Inspection. At least once each month, OPERATOR and AUTHORITY will at their election conduct a joint inspection of the Project and the existing dam. OPERATOR shall document these inspections in the Monthly Reports and shall include in said reports OPERATOR's and AUTHORITY's discussions regarding the results of these inspections. It is understood that appropriate State and Federal agencies may also wish to inspect said facilities, and OPERATOR and AUTHORITY shall jointly accompany said agencies on their inspections.

## ARTICLE 7

### TERM AND TERMINATION:

Section 7.1. Term. The term of this Agreement shall be from January 1, 2011, to and including December 31, 2020. This Agreement is subject to earlier termination pursuant to Sections 7.2 and 7.3.

Section 7.2. Immediate Termination by Authority. AUTHORITY may terminate this Agreement immediately upon the Bankruptcy of OPERATOR. If the Agreement is terminated by AUTHORITY pursuant to this Section, OPERATOR shall be compensated for all Reimbursable Costs incurred by OPERATOR and all unpaid Annual Operating Fees to and including the date of such termination under this section.

Section 7.3 Termination Upon Notice By Authority. Beginning January 1, 2012, AUTHORITY may terminate this Agreement without cause with ninety (90) days prior written notice to OPERATOR.

- (a) If AUTHORITY terminates this Agreement pursuant to this Section, OPERATOR shall be compensated for all Reimbursable Costs incurred by OPERATOR, a prorated share of the Monthly Variable Fee, and all unpaid Annual Operating Fees to and including the date of such termination under this section.
- (b) If AUTHORITY terminates this Agreement pursuant to this Section during the limited time period of January 1, 2012, through December 31, 2015, without providing OPERATOR with twelve (12) months prior written notice, which notice in any event shall not be deliverable to OPERATOR prior to January 1,

2012, then AUTHORITY shall also pay to OPERATOR, in addition to the amount set forth in Section 7.3(a), a fifty-thousand dollar (\$50,000.00) fee for the reimbursement of OPERATOR's investment expenses.

Section 7.4. Project Condition at End of Term. Upon the expiration or termination of this Agreement, OPERATOR shall remove its personnel from the Project. OPERATOR shall leave the Project in as good condition or better condition as it was on the Effective Date, in accordance with its maintenance duties under this Agreement, normal wear, tear and casualty excepted. OPERATOR shall be paid all unpaid Reimbursable Costs. All special tools, improvements, inventory of supplies, spare parts, safety equipment, Operating manuals and Procedures Manual, operating logs, records and documents maintained by Operator pursuant to this Agreement and any other items furnished on Reimbursable Cost basis under this Agreement shall be returned to the possession of the AUTHORITY. OPERATOR shall use commercially reasonable efforts to cooperate with AUTHORITY or a succeeding operator to assure that the operation, maintenance and management of the Project are not disrupted.

## ARTICLE 8

### INSURANCE:

#### Section 8.1. Coverage.

- (a) Operator's Obligation to Obtain and Maintain. OPERATOR shall obtain and maintain from and after the date of this Agreement the insurance described below with insurance companies reasonably acceptable to AUTHORITY and with limits and coverage not less than the limits of coverage provisions set forth below (which coverage may include blanket coverage carried by OPERATOR with respect to this Project and other projects, so long as this Project is specifically identified in such coverage):
- i. General Liability Insurance: Liability insurance on an occurrence basis against claims for personal injury (including bodily injury and death) and property damage in the amount of one million dollars (\$1,000,000.00) per occurrence, two million dollars (\$2,000,000.00) per year.
  - ii. Automobile Liability Insurance: Automobile liability insurance against claims for personal injury (including bodily injury and death) or property damage arising out of the use of all owned, leased, non-owned and hired motor vehicles, including loading and unloading, and containing appropriate no-fault insurance provisions where applicable in the amount of one million dollars (\$1,000,000.00).

- iii. Workers' Compensation Insurance: Workers' compensation insurance as required by applicable laws, including employers liability insurance for all employees of OPERATOR working at the Project.
- iv. Excess Liability Insurance: Excess liability insurance on an occurrence basis covering claims in excess of the underlying insurance described in the foregoing subsections (i), (ii) and (iii) up to an aggregate (inclusive of amounts set forth in (i) and (ii) above) of five million dollars (\$5,000,000.00).

(b) Additional Insured. OPERATOR shall name AUTHORITY as an additional insured for at least three (3) years after the completion of the Services to be rendered under this Agreement.

(c) Endorsements and Certificates. OPERATOR shall furnish to the AUTHORITY certificates of insurance and policy endorsements evidencing the coverage required pursuant to this Agreement and evidencing that AUTHORITY is an additional insured on the OPERATOR's required policies.

(d) Notice of Reduced Coverage. If subsequent to OPERATOR furnishing valid certificates of insurance as required in subsection 8.1(c), the amount of insurance held by OPERATOR is reduced, OPERATOR shall immediately notify AUTHORITY in writing of such reduction.

## ARTICLE 9

### INDEMNIFICATION AND LIABILITIES:

Section 9.1. Indemnification by Operator. OPERATOR shall indemnify, defend and hold harmless AUTHORITY, members thereof, and the respective officers, directors, employees, agents, affiliates and representatives of the AUTHORITY and its member entities (the "Owner Indemnified Parties"), from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonably attorneys' fees) occurring or resulting, or alleged to be occurring or resulting to any and all persons, firms, or corporations furnishing or supplying work, services, materials, or supplies in connection with OPERATOR's performance of its obligations under this Agreement, unless such claims, liabilities or losses arise out of the sole negligence or willful misconduct of AUTHORITY. "OPERATOR's performance" includes OPERATOR's action or inaction and the action or inaction of OPERATOR's officers, employees, agents and subcontractors.

It is understood that the duty of OPERATOR to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by AUTHORITY of insurance certificates and endorsements required under this Agreement does not relieve OPERATOR from liability or limit OPERATOR's liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, OPERATOR acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

AUTHORITY agrees to first look to insurance provided by OPERATOR for payment; however, if payment is denied, AUTHORITY may look to OPERATOR for such indemnity. OPERATOR's duty to indemnify shall be limited to five million dollars (\$5,000,000.00), inclusive of any amounts recovered by AUTHORITY from OPERATOR's insurer. This limit as to indemnity amount does not apply to fines, penalties or assessments by federal or state regulatory or enforcement agencies.

If any term, provision or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any other term or provision of this Indemnification Agreement and such other terms and provisions.

Section 9.2. Indemnification by AUTHORITY. AUTHORITY shall indemnify, defend and hold harmless OPERATOR, its officers, directors, employees, and agents, from and against any and all suits, actions, liabilities, legal proceedings, claims, demands, losses, costs and expenses, including, but not limited to, attorneys' fees and expenses, for injury to or death of persons, or loss of or damage to property arising out of the willful misconduct or sole negligence or sole omission(s) of AUTHORITY, except to the extent caused by acts or omission of OPERATOR outside the scope of this Agreement.

Section 9.3 Environmental Liability.

- (a) Operator Liability. OPERATOR shall not be responsible for claims directly or indirectly related to hazardous materials present at the Project before the date of this Agreement or hazardous materials present at the Project subsequent to the date of this Agreement not arising as a direct result of OPERATOR's failure to perform its obligations under this Agreement, except to the extent OPERATOR acted with respect to such materials in a grossly negligent manner. AUTHORITY shall defend, indemnify and hold OPERATOR harmless against such claims, except to the extent such claims arise from OPERATOR's grossly negligent or intentional acts.
- (b) Authority Liability. AUTHORITY shall not be responsible for claims directly related to hazardous materials at the Project arising out of the grossly negligent

or intentional acts of OPERATOR. This provision of the Agreement shall not be construed to require OPERATOR to take corrective action with respect to any hazardous materials at the Project before the date of this Agreement or hazardous materials present at the Project subsequent to the date of this Agreement not arising as a direct result of OPERATOR's failure to perform its obligations under this Agreement.

Section 9.4. Survival. Notwithstanding any provisions herein to the contrary, the parties agree the waivers and disclaimers of liability, indemnities, release from liability, and limitations on liability expressed in this Agreement shall survive the expiration or termination of this Agreement, and shall apply at all times (unless otherwise expressly indicated), regardless of fault, negligence, strict liability, or breach of warranty of the party indemnified, released or whose liabilities are limited, and shall extend to the members, partners, principals, officers, employees, controlling persons, executives, directors, agents, authorized representatives, and affiliates of such party. This provision shall remain in effect for three (3) years after the date of the expiration or termination of this Agreement.

## ARTICLE 10

### TITLE, DOCUMENTS AND DATA:

Section 10.1. Materials and Equipment. Title to all materials, equipment, tools, supplies, consumables, spare parts and other items purchased or obtained by OPERATOR on a Reimbursable cost basis hereunder shall pass immediately to and vest in AUTHORITY upon passage of title from vendor or supplier thereof, provided, however, that such transfer of title shall in no way affect OPERATOR's obligations as set forth in this Agreement.

Section 10.2. Documents. All materials and documents prepared or developed by OPERATOR, its employees, representatives or contractors in connection with the Project or performance of the Services, including all manuals, data, drawings, plans, specifications, reports, and accounts, shall become AUTHORITY's property when prepared and OPERATOR, its agents, employees, representatives, or contractors shall not use such materials and documents for any purpose other than performance of the Services, without AUTHORITY's prior written approval. All such materials and documents, together with any materials and documents furnished to OPERATOR, its agents, employees, representatives, or contractors by AUTHORITY, shall be delivered to AUTHORITY upon expiration or termination of this Agreement and before final payment is made to OPERATOR. AUTHORITY shall have access to all such materials and documents at any reasonable time upon AUTHORITY's request.

Section 10.3. Retention of Records: OPERATOR shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or

documents evidencing or relating to charges for services or expenditures and disbursements charged to the AUTHORITY for a minimum of five (5) years, or for any longer period required by law, from the date of final payment to OPERATOR under this Agreement. Any records or documents required to be maintained shall be made available for inspection, audit and/or copying at any time during regular business hours, upon not less than two (2) business days prior oral or written request of the AUTHORITY.

## ARTICLE 11

### RESOLUTION OF DISPUTES:

Section 11.1. Resolution through Discussion. If any dispute or difference of any kind (a "Dispute") arises between AUTHORITY and OPERATOR in connection with, or arising out of, this Agreement, the AUTHORITY and OPERATOR within thirty (30) DAYS shall attempt to settle such Dispute in the first instance through discussions. The designated representatives of AUTHORITY and OPERATOR shall promptly confer and exert their best efforts in good faith to reach a reasonable and equitable resolution of such Dispute. If the representatives are unable to resolve the Dispute within ten (10) Business Days, the Dispute shall be referred within two (2) Business Days to the responsible senior management of each party for resolution. Neither party shall seek any other means of resolving any Dispute arising in connection with this Agreement until the responsible senior management of AUTHORITY and OPERATOR have had at least ten (10) business days to resolve the Dispute following referral of the Dispute to them. If the parties are unable to resolve the Dispute using the procedure described in this section, either party may take other appropriate action in each party's sole discretion.

Section 11.2. Continued Performance. Subject to all applicable regulatory authority, all parties will utilize their best efforts to continue operations of the hydroelectric facilities during any dispute or following any mechanical malfunction of the facilities. Accordingly, in the event of such dispute or failure or malfunction of the unit, AUTHORITY and OPERATOR will utilize their commercially reasonable efforts to continue operations and no party will, unless in accordance with Prudent Operating Practice, engage in any act of self-help which prevents operation, repair or restarting of the unit. During the pendency of any dispute, OPERATOR and AUTHORITY shall continue to perform their obligations under this Agreement.

Section 11.3. Fees and Costs to Prevailing Party. In the event that either party should bring any action or proceeding in connection with this AGREEMENT it is agreed that the prevailing party in any such action or proceeding shall recover reasonable attorney's fees and costs incurred from the other, the same to be fixed by the Court and included in the prevailing party's recovery therein, or, at the option of the prevailing party, added as part of the prevailing party's costs of suit.

## ARTICLE 12

### MISCELLANEOUS PROVISIONS:

Section 12.1. Assignment. OPERATOR understands that this AGREEMENT is entered into by AUTHORITY in reliance on the unique expertise and experience of OPERATOR. OPERATOR shall not assign this AGREEMENT or transfer any interest herein without the express written consent of the AUTHORITY, nor shall OPERATOR permit anyone other than itself or its employees or customer to occupy or use said leased premises. AUTHORITY's consent shall not be unreasonably withheld to any proposed assignee. OPERATOR will remain responsible to carry out the terms of this AGREEMENT, unless specifically released by AUTHORITY.

Section 12.2. Access to Project.

- (a) OPERATOR agrees to access and use the Project for the sole purpose of operating and maintaining a hydroelectric facility which will not involve the use of the hydroelectric facility premises by the general public and OPERATOR shall permit no other use of the premises.
- (b) OPERATOR shall be allowed access to the hydroelectric facility premises from existing roads which are located on the Siskiyou County Flood Control and Water Conservation District's ("DISTRICT") property pursuant to an access agreement executed between DISTRICT and AUTHORITY. OPERATOR will utilize these roads in a manner so as to not unreasonably impede AUTHORITY, DISTRICT or campground operations and will promptly repair any road damage caused solely by its activities and not within the normal wear and tear arising from the scope of performance of OPERATOR's obligations under this Agreement.

Section 12.3. Force Majeure. If either AUTHORITY or OPERATOR is rendered wholly or partly unable to perform its obligations under this Agreement because of a Force Majeure Event, the party affected by such Force Majeure Event, provided that the affected party, upon learning of such Force Majeure Event and ascertaining that it will affect its performance hereunder (i) gives notice to the other party within forty-eight (48) hours, which notice shall state the nature of the Force majeure Event, its anticipated duration, and any action taken to avoid or minimize its effect and (ii) uses its reasonable commercial efforts to remedy its inability to perform. The suspension of performance shall be of no greater scope and no longer duration than that which is reasonably necessary. No obligations of either party which arose before the occurrence causing the suspension of performance and which could and should have been fully performed before such occurrence shall be excused as a result of such occurrence. The burden of proof shall be on the party asserting excuse from performance due to a Force Majeure Event.

Section 12.4. Amendments. No amendments or modifications of this Agreement shall be valid unless evidenced in writing and signed by duly authorized representatives of both parties.

Section 12.5. Governing Law/Venue. This Agreement shall be interpreted and enforced according to the laws of California. Any legal action sought to enforce this Agreement shall be brought in the Superior Court of the State of California in and for the County of Siskiyou, or in the U.S. District Court, Eastern District of California.

Section 12.6. Binding Nature. This Agreement shall bind and benefit the successors and permitted assigns of each of the parties. All assignees of the Agreement will be subject and subordinate to each and every term of this Agreement.

Section 12.7. No County Obligations. This Agreement is not and shall not be deemed to create any obligation of the County of Siskiyou, California, and the County of Siskiyou, California shall under no circumstances be liable hereon.

Section 12.8. Compliance with Power Purchase Agreement. In OPERATOR's performance of this Agreement, the OPERATOR shall operate the Project consistent with any applicable terms and provisions of the Pacific Agreement, attached hereto as Exhibit A, excepting therefrom payment of penalties for the failure to deliver Base Net Metered Output (as defined in the Pacific Agreement) and Article XII obligations of the AUTHORITY thereunder, which costs shall be AUTHORITY's. Except for the costs of Minor Materials, all out of pocket costs incurred by OPERATOR in accordance with its obligations pursuant to Section 12.8 hereof shall be Reimbursable Costs, and to the extent known in advance, be included in the Annual Budget.

Section 12.9. Compliance with Fish and Game Agreement. In OPERATOR's performance of this Agreement, OPERATOR shall operate the Project consistent with all provisions of the Fish and Game Agreement, attached hereto as Exhibit B, relating to the Project and the maintenance of water quantity and quality standards, utilizing Prudent Operating Practice to meet required dissolved oxygen levels and temperatures. Except for the costs of Minor Materials, all out of pocket costs incurred by OPERATOR in accordance with its obligations pursuant to Section 12.9 hereof shall be Reimbursable Costs, and to the extent known in advance, be included in the Annual Budget.

Section 12.10. Condition of Premises and Equipment. OPERATOR agrees, throughout the term of this Agreement, to keep and maintain the premises and equipment in a safe, clean, and proper condition and state of maintenance in accordance with Prudent Operating Practice. Spare Parts, old equipment, new equipment, and Project related documents shall be stored and maintained in a proper and safe storage area.

Section 12.11. Notices. All notices and other communications (collectively "Notices") required or permitted under this Agreement shall be in writing and shall be given to each party at its address or fax number set forth below, or at such other address or fax number that a party has most recently specified in written notice to the other party. All Notices shall be (i) delivered personally or (ii) sent by fax or electronic mail, or (iii) sent by a nationally recognized overnight courier service. Notices shall be deemed to be given (A) when transmitted if sent by fax or electronic mail (provided the transmittal is confirmed) and is promptly followed by written notice delivered by first class mail or (B) upon receipt by the intended recipient if given by any other means. Notices shall be sent to the following addresses:

Operator:

Northbrook Power Management, LLC  
14550 N. Frank Lloyd Wright Blvd, Suite 210  
Scottsdale, AZ 85260  
Attn: John C. Ahlrichs  
Tel: (480) 551-1771  
Fax: (480) 551-1991  
Email: [cahlrichs@nbenergy.com](mailto:cahlrichs@nbenergy.com)

With copy to:

Ungaretti & Harris LLP  
3500 Three First National Plaza  
Chicago, IL 60602  
Attn: James B. Smith, Esq.  
Tel: (312) 977-4413  
Fax: (312) 977-4405  
Email: [jbsmith@uhl.com](mailto:jbsmith@uhl.com)

Authority:

Siskiyou County Power Authority  
P.O. Box 1127  
Yreka, CA 96097  
Attn: Executive Officer  
Tel: (530) 842-8250  
Fax: (530) 842-8288  
Email: [bmcdermott@co.siskiyou.ca.us](mailto:bmcdermott@co.siskiyou.ca.us)

With copy to:

Siskiyou County Counsel  
P.O. Box 659  
Yreka, CA 96067  
Attn: County Counsel  
Tel: (530) 842-8100  
Fax: (530) 842-7032  
Email: tguarino@co.siskiyou.ca.us

Section 12.12. Fines and Penalties. If any governmental or regulatory authority or agency assesses any fines or penalties against OPERATOR or AUTHORITY arising from OPERATOR's sole failure to operate and maintain the Project in accordance with applicable laws, such fines and penalties shall be the sole responsibility of OPERATOR and shall not be deemed a Reimbursable Cost.

Section 12.13. Waiver. In the event that either AUTHORITY or OPERATOR shall at any time or times waive any breach or default of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement whether of the same or any other condition or obligation.

Section 12.14 Entirety of the Agreement. This Agreement, constitutes the entire agreement and understanding of the parties as to the subject matter of this Agreement, and supersedes all prior agreements, statements, promises, and understandings whether oral or writing, with respect to is subject matter, which are not embodied herein.

Executed in Yreka, California, on the date and year first written above.

Northbrook Power Management, LLC,  
an Illinois limited liability company

By: \_\_\_\_\_

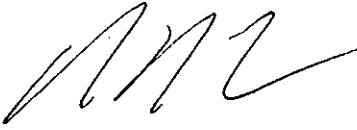
Name and Title JOHN C. AHLRICH, PRESIDENT 11-22-10

Siskiyou Power Authority

By: \_\_\_\_\_

Brian McDermott, Executive Officer

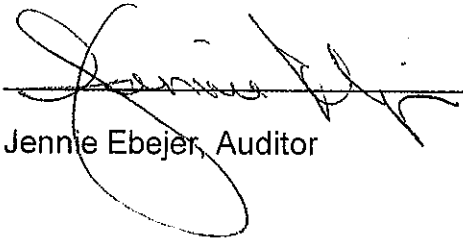
APPROVED AS TO LEGAL FORM



Thomas P. Guarino, County Counsel

APPROVED AS TO ACCOUNTING FORM: TBD

Fund \_\_\_\_\_ Organization \_\_\_\_\_ Account \_\_\_\_\_



11/29/10

Jennie Ebejer, Auditor

APPROVED AS TO INSURANCE REQUIREMENTS



Rose Ann Herrick, Risk Management

# ATTACHMENT

A

POWER PURCHASE AGREEMENT

BETWEEN

SISKIYOU COUNTY  
FLOOD CONTROL AND WATER CONSERVATION DISTRICT

AND

PACIFIC POWER & LIGHT COMPANY

THIS AGREEMENT, entered into on this 14<sup>th</sup> day of March, 1983, is between Siskiyou County Flood Control and Water Conservation District, hereinafter referred to as "Seller," and Pacific Power & Light Company, a Maine corporation, hereinafter referred to as "Pacific."

RECITALS:

Seller will own and operate a 5,000 kilowatt (kW) hydroelectric facility for the generation of electric power at the Box Canyon Dam on the Sacramento River, near Mt. Shasta, California ("Facility"); and

Seller wishes to sell, and Pacific wishes to purchase, the Net Metered Output from the Facility. The average annual energy production is estimated to be 21,600,000 kilowatt-hours (kWh).

NOW, THEREFORE, the parties hereto mutually agree as follows:

ARTICLE I: DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings:

(A) "Base Net Metered Output" means the minimum amount of Net Metered Output Seller shall deliver to Pacific each month of each Contract Year pursuant to Article III(D).

(B) "Commercial Operation Date" is the date, after the start-up testing of the Facility is completed, that Pacific receives a written statement from a licensed professional engineer certifying that the Facility is able to generate electric power reliably;

(C) "Contract Year" is a calendar year commencing at 12:01 a.m. on January 1 and ending at 12:00 p.m. on December 31;

(D) "Deficiency Energy" means the amount of Base Net Metered Output which Seller, pursuant to Article III, covenants to deliver during any Contract Year, but fails to deliver in that Contract Year. The calculation of Deficiency Energy, if any, shall be made at the conclusion of each Contract Year.

(E) "Demonstrated Capacity" is the actual demonstrated ability of the Facility to generate and deliver electric power, expressed in kW, useful to Pacific in meeting its capacity requirements, less Facility use and less transmission and transformation losses, if any, to the Point of Delivery. The Demonstrated Capacity shall be determined at the end of the first 12 months of deliveries hereunder. For each month thereafter, the Demonstrated Capacity shall be determined using the current month and the 11 immediately preceding months. The Demonstrated Capacity shall be the lesser of:

(1)  $\frac{\text{kWh of Net Metered Output per 12 months}}{8760 \times 0.70}$

or

(2) the average rate of delivery (kW) during the highest consecutive 24-hour period of kWh deliveries of Net Metered Output in 12-month period.

(F) "Facility" is the 5,000 kW hydroelectric facility for the generation of electric power, including the dam, penstock, powerhouse, turbine, generator, and Seller's Interconnection Equipment.

(G) "Net Metered Output" is all energy and capacity produced by the Facility, less Facility use, as determined at the Point of Delivery;

(H) "Point of Delivery" is the location where Pacific's and Seller's electrical facilities are connected on support structure inside Seller's transformation substation.

(I) "Scheduled Maintenance Periods" are those times during which the Facility is shut down for routine maintenance with the advance approval of Pacific as provided in Article XV(A) hereof;

(J) "Seller's Interconnection Equipment" is all equipment and facilities not owned by Pacific located on Seller's side of the Point of Delivery required to be installed solely to interconnect and deliver power from Seller's Facility to Pacific's system including, but not limited to, connection, transformation, switching, and safety equipment.

#### ARTICLE II: TERM

Subject to the provisions of Article XXIII, this Agreement shall become effective when executed by both the parties hereto, and shall end on December 31, 2020.

#### ARTICLE III: DELIVERY OF POWER

(A) Commencing on January 1, 1986, and for the term of this Agreement, Seller shall make available from the Facility a minimum of 4,320,000 kWh of Net Metered Output during each Contract Year, provided, however, that such minimum for the first Contract Year shall be reduced pro

rata to reflect the Commercial Operation Date. Subject to Article XVI, Seller shall make available and Pacific shall purchase all Net Metered Output from the Facility.

(B) Seller shall deliver to Pacific the amounts of Base Net Metered Output for the contract years set forth in subparagraph (D), below and, commencing on the Commercial Operation Date, Pacific shall pay Seller therefor the prices specified in Article IV regardless of whether such deliveries actually are made during such Contract Year; provided, however, that should Seller deliver less than 50 percent of the annual Base Net Metered Output in four consecutive Contract Years, Pacific may suspend its payment obligation to Seller under this Paragraph.

(C) Should Seller fail to deliver in full the amount of Base Net Metered Output specified in subparagraph (D) below, in any Contract Year, Seller shall deliver such Deficiency Energy at no charge to Pacific during the first portion of the following Contract Year. Deliveries of Deficiency Energy shall not be included in determining Seller's deliveries of Base Net Metered Output in any Contract Year. In the event that the amount of Deficiency Energy from any immediately prior Contract Year is not delivered in the following Contract Year, the amount of any Deficiency Energy remaining at the end of such following Contract Year shall become overdue and shall be carried forward to the succeeding Contract Year, and Seller shall deliver 114.9 percent of the overdue Deficiency Energy in the first Contract Year thereafter in which it is possible to deliver the overdue Deficiency Energy (subject to the condition that all energy delivered shall be credited first to make up any overdue Deficiency Energy), provided,

however, that Seller shall have the option to pay Pacific for any overdue Deficiency Energy at the price shown in Article IV(C) for the Contract Year next following the Contract Year in which such Deficiency Energy was accumulated. In the event that Seller elects to pay Pacific for the Deficiency Energy accumulated in any Contract Year, such Contract Year shall not be considered in the suspension of Pacific's payment obligations pursuant to subparagraph (B) above.

(D) The amount of Base Net Metered Output required for each month of each Contract Year are set forth below:

<u>Contract Year</u>	<u>Monthly Base Net Metered Output (kWh)</u>	<u>Contract Year</u>	<u>Monthly Base Net Metered Output (kWh)</u>
1986	1,691,000	2003	1,261,000
1987	1,671,000	2004	1,231,000
1988	1,650,000	2005	1,200,000
1989	1,627,000	2006	1,170,000
1990	1,607,000	2007	1,139,000
1991	1,583,000	2008	1,109,000
1992	1,560,000	2009	1,078,000
1993	1,535,000	2010	1,047,000
1994	1,509,000	2011	1,016,000
1995	1,484,000	2012	986,000
1996	1,458,000	2013	956,000
1997	1,431,000	2014	924,000
1998	1,404,000	2015	895,000
1999	1,377,000	2016	865,000
2000	1,349,000	2017	835,000
2001	1,320,000	2018	806,000
2002	1,290,000	2019	777,000

#### ARTICLE IV: PRICES

The following prices are established for all deliveries of energy and capacity hereunder; provided, however, that nothing in this subparagraph shall be construed as affecting or limiting the Seller's

Revised 2/16/83

obligation to make deliveries in each Contract Year as established in Article III hereof.

(A) Nonfirm Energy

Prior to the later of the Commercial Operation Date or January 1, 1986, Pacific shall pay Seller for all deliveries of Net Metered Output Pacific's then effective price for nonfirm energy.

(B) Capacity Prices

Commencing upon the later of Commercial Operation Date or January 1, 1986, and for each Contract Year thereafter, Pacific shall pay \$7.94 per month for each kW of Demonstrated Capacity. Subject to change by mutual agreement of the parties hereto based upon the actual performance of the Facility, the Demonstrated Capacity for the first 12 months of deliveries hereunder is assumed to be 3,522 kW. If after the first 12 months of deliveries hereunder the calculated Demonstrated Capacity is greater or less than the Demonstrated Capacity assumed for the first 12 months of deliveries, all previous capacity payments which were determined by using such assumed Demonstrated Capacity shall be adjusted retroactively to reflect underpayments or overpayments, and shall include interest at the monthly prime rates published by the Morgan Guaranty Trust Company of New York for the months in which such overpayments or underpayments were made.

(C) Energy Prices

Commencing upon the later of the Commercial Operation Date or January 1, 1986, Pacific shall pay for each kWh of Net Metered Output the energy prices for the Contract Years set forth below:

<u>Contract Year</u>	<u>Energy Price Cents/kWh</u>
1986	6.90
1987	6.98
1988	7.07
1989	7.17
1990	7.26
1991	7.37
1992	7.48
1993	7.60
1994	7.73
1995	7.86
1996	8.00
1997	8.15
1998	8.31
1999	8.47
2000	8.65
2001	8.84
2002	9.04
2003	9.25
2004	9.48
2005	9.72
2006	9.97
2007	10.24
2008	10.52
2009	10.82
2010	11.14
2011	11.48
2012	11.83
2013	12.21
2014	12.62
2015	13.04
2016	13.49
2017	13.97
2018	14.48
2019	15.02
2020	15.59

ARTICLE V: PAYMENTS AND COMPUTATIONS

(A) Pacific shall provide Seller with computations of Net Metered Output on a monthly basis and shall concurrently therewith make

payments therefor in accordance with the terms and conditions of Article IV, at the address specified in Article VI, below.

(B) Seller shall pay Pacific for Pacific's costs incurred hereunder, at the address specified in Article VI, below, within thirty (30) days of receipt of Pacific's written statement. When incurring such costs, Pacific shall proceed consistent with its own standards and practices. Should Seller fail to pay in full statement(s) from Pacific within thirty (30) days, Pacific may offset future payment(s) to Seller hereunder by such amount(s).

#### ARTICLE VI: NOTICES

All written notices under this Agreement shall be directed as follows, and shall be considered delivered when deposited in the U.S. Mail, return receipt requested:

To Seller: Director of Public Works  
Siskiyou County  
305 Butte Street  
Yreka, CA 96097

To Pacific: Vice President, Power Resources  
Pacific Power & Light Company  
920 SW Sixth Avenue  
Portland, OR 97204

The parties may change their addresses by providing notice thereof as specified in this Article.

#### ARTICLE VII: FACILITY DESIGN AND CONSTRUCTION

(A) Seller shall design, construct, install, own, operate, and maintain the Facility. Seller shall provide Pacific with electrical data concerning its Facility sufficient to allow Pacific to make stability and protection studies. All specifications and changes in specifications, including new or additional equipment, shall be subject to Pacific's

acceptance. Pacific's acceptance of Seller's specifications shall not be construed as confirming nor endorsing the design, nor as a warranty of safety, durability, or reliability of the Facility. Pacific shall not, by reason of any review, acceptance, or failure to review, be responsible for the Facility, including but not limited to the strength, details of design, adequacy or capacity thereof, nor shall Pacific's acceptance be deemed to be an endorsement of the Facility.

(B) At the request of Pacific, Seller shall provide Pacific, prior to the initial delivery of Net Metered Output, with a statement from a licensed professional engineer certifying that the Facility can reasonably be expected to generate capacity and energy in the amounts set forth herein for the duration of this Agreement.

#### ARTICLE VIII: INTERCONNECTION

(A) Seller shall install all Seller's Interconnection Equipment. Seller's Interconnection Equipment shall be of a size to accommodate the delivery of the Net Metered Output under this Agreement. Seller shall allow Pacific to review the adequacy of all protective devices, and to establish requirements for settings and periodic testing; provided, however, that neither such action nor inaction by Pacific shall be construed as warranting the safety or adequacy of Seller's Interconnection Equipment. All such equipment installed hereunder shall conform with the Required Equipment Standards established in Schedule A, attached hereto. Seller shall reimburse Pacific for Pacific's cost associated with such periodic testing.

(B) Connection of Seller's Interconnection Equipment to

Pacific's system shall be by or under the direction of Pacific.

(C) In the event that it is necessary for Pacific to perform any services or install any facilities and equipment on Pacific's system to accommodate Seller's deliveries, or to reinforce Pacific's system for purposes of this Agreement, Seller shall reimburse Pacific for all of Pacific's costs associated therewith, in accordance with the rules for repayment established by the appropriate state regulatory commission having jurisdiction. Seller shall also reimburse Pacific for Pacific's operation and maintenance costs resulting from Pacific's installation of facilities and equipment under this Paragraph.

#### ARTICLE IX: SYSTEM EMERGENCY

In the event of a System Emergency, as defined in 18 C.F.R. Part 292, Pacific may require Seller to curtail its consumption of electricity purchased from Pacific in the same manner and to the same degree as other customers within the same customer class who do not own facilities for generating electricity.

#### ARTICLE X: OPERATION, PROTECTION, AND CONTROL

(A) The Facility shall meet the requirements of all applicable state and local laws. Prior to commencement of generation, and at completion of any major changes, the Facility shall be inspected and approved by the appropriate state and local officials.

(B) Seller shall operate and maintain the Facility in a safe manner and in accordance with the National Electric Safety Code currently in effect.

(C) Seller may operate the Facility in parallel with Pacific's system, but subject at all times to Pacific's operating instructions and any and all other conditions established by Pacific in its sole discretion.

(D) Seller shall operate the Facility in such a manner as not to affect adversely Pacific's system and to be compatible with Pacific's system voltage level, fluctuating voltage guidelines (Engineering Bulletin No. 02.14), and voltage regulation at the Point of Delivery during all times that Seller's Facility is connected and operating in parallel with Pacific's system.

(E) Pacific may, upon one hundred eighty (180) days' notice to Seller, change its nominal operating voltage level at the Point of Delivery, in which case Seller shall modify Seller's Interconnection Equipment as necessary to accommodate the modified nominal operating voltage level.

(F) Seller shall remedy any demonstrated harmonic distortions on Pacific's system attributable to the operation of the Facility which result in objectionable service to Pacific's other customers. Should Seller's actions to remedy such harmonic distortions be inadequate, Pacific may without liability disconnect the Facility from Pacific's system. During such period of disconnection, Pacific's obligation to make payments to Seller shall be suspended.

(G) Seller agrees that in the event of and during a period of a shortage of energy or capacity on Pacific's system as declared by Pacific

in its sole discretion, Seller shall, at Pacific's request and within the limits of reasonable safety requirements as determined by Seller, use its best efforts to provide requested energy or capacity, and shall, if necessary, delay any Scheduled Maintenance Periods.

(H) Seller shall furnish and install on the Seller's side of the Point of Delivery a disconnect switch which shall be capable of fully disconnecting the Facility from Pacific's system. The disconnect switch shall be of the visible-break type in a metal enclosure which can be secured by a padlock and shall be accessible to Pacific's personnel at all times. Pacific shall have the right to disconnect the Facility from Pacific's system at the disconnect switch when necessary to maintain safe electrical operating conditions or, if in Pacific's sole judgment, the Facility at any time adversely affects Pacific's operation of its electrical system or the quality of Pacific's service to other customers.

#### ARTICLE XI: METERING

(A) Flows to Pacific shall be measured by meters to be equipped with detents so that the record of those flows will not be affected by flows to Seller. Flows to Seller shall continue to be metered separately in accordance with the terms of the service agreement, if any, existing between the parties, and/or otherwise in accordance with tariffs filed and approved by the regulatory authority having jurisdiction.

(B) Pacific shall provide, install, own, and maintain meters to record flows to Pacific. Such meters shall be located at a mutually agreed upon designated location(s) and shall record and indicate the

integrated demand for each sixty (60)-minute period, and shall also measure kWh. Pacific shall also provide, install, own, and maintain meters for measurement of reactive volt-ampere hours. Pacific may also, in its sole discretion, install additional metering devices at a location within Seller's Facility, agreed upon by both parties, to enable Seller to transmit information and data. All acquisition, installation, maintenance, inspection, and testing costs relating to all metering devices installed to accommodate Seller's generation shall be borne by Seller.

(C) All meters and metering equipment shall be operated and maintained by Pacific at Seller's expense, and shall be sealed by Pacific. The seal shall be broken only upon occasions when the meters are to be inspected, tested, or adjusted and representatives of both Pacific and Seller shall be present upon such occasions. The metering equipment shall be inspected and tested periodically by Pacific and at other reasonable times upon request therefor by Seller. Any metering equipment found to be defective or inaccurate by an error in registration of more than plus or minus two percent (2%), at light load or at heavy load, shall be repaired, readjusted, or replaced.

(D) If any of the inspections or tests provided for herein disclose an error exceeding two percent (2%), either fast or slow, proper correction, based upon the inaccuracy found, shall be made of previous readings for the period of three (3) months immediately preceding the removal of such meter from service for test, or from the time the meter was in service since last tested, but not exceeding three (3) months, in the amount the meter shall have been shown to be in error by such test. Any

correction in billing resulting from a correction in the meter records shall be made in the next monthly bill rendered, and such correction, when made, shall constitute full adjustment of any claim between Seller and Pacific arising out of such inaccuracy of metering equipment.

#### ARTICLE XII: LIABILITY AND INSURANCE

(A) Seller agrees to protect, indemnify, and hold harmless Pacific, its directors, officers, employees, agents, and representatives, against and from any and all loss, claims, actions, or suits, including costs and attorneys' fees, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction of property belonging to Pacific or others, resulting from, or arising out of or in any way connected with the Facility, including all facilities on Seller's side of the Point of Delivery, or Seller's operation and/or maintenance, excepting only such injury or harm as may be caused solely by the fault or negligence of Pacific, its directors, officers, employees, agents, or representatives.

(B) Prior to connection of Seller's generation to Pacific's system, Seller shall secure and continuously carry, in an insurance company or companies acceptable to Pacific, insurance policies for bodily injury and property damage liability. Such insurance shall include: provisions or endorsements naming Pacific, its directors, officers and employees as additional insureds; provisions that such insurance is primary insurance with respect to the interest of Pacific and that any insurance maintained by Pacific is excess and not contributory insurance with the insurance required hereunder; cross-liability or severability of insurance interest clause; and provisions that such policies shall not be canceled or their

limits of liability reduced without thirty (30) days' prior written notice to Pacific. A copy of each such insurance policy, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of Pacific, in lieu thereof, a certificate in form satisfactory to Pacific certifying to the issuance of such insurance, shall be furnished to Pacific. Initial limits of liability for all requirements under this Section (B) shall be \$1,000,000 single limit, which limits may be required to be increased by Pacific's giving Seller two years' notice. Such increase shall not exceed fifteen percent (15%) per year.

(C) Prior to connection of Seller's generation to Pacific's system, Seller shall obtain insurance acceptable to Pacific against property damage or destruction in an amount not less than the cost of replacement of the Facility. Seller shall promptly notify Pacific of any loss or damage to the Facility. Unless the parties agree otherwise, Seller shall repair or replace the damaged or destroyed portion or portions of the Facility. Except as provided in paragraph (A) of this Article XII, Seller agrees to waive its insurers' rights of subrogation regarding Facility property losses.

(D) Prior to connection of Seller's generation to Pacific's system, Seller shall provide Pacific copies of all insurance policies at the address listed in Article VI.

#### ARTICLE XIII: LAND RIGHTS

Seller hereby grants to Pacific for the term of this Agreement all necessary rights of way and easements to install, operate, maintain, replace, and remove Pacific's metering and other facilities necessary or useful to this Agreement, including adequate and continuing access rights on property of Seller. Seller agrees to execute such other grants, deeds

or documents as Pacific may require to enable it to record such rights of way and easements. If any part of Pacific's facilities is installed on property owned by other than Seller, Seller shall, if Pacific is unable to do so without cost to Pacific, procure from the owners thereof all necessary permanent rights of way and easements for the construction, operation, maintenance, and replacement of Pacific's facilities upon such property in a form satisfactory to Pacific. At Seller's request, Pacific shall, to the extent it is legally able, acquire such rights of way at Seller's cost.

#### ARTICLE XIV: COMMUNICATIONS

Seller shall at its expense maintain appropriate communication facilities, as determined by Pacific, with Pacific's dispatcher.

#### ARTICLE XV: MAINTENANCE

(A) Seller may shut down the Facility for Scheduled Maintenance Periods not to exceed thirty (30) days each Contract Year at such times as are approved in advance by Pacific. Seller shall propose to Pacific Scheduled Maintenance Periods for each Contract Year by the preceding February 1, and within sixty (60) days of Pacific's receipt of such proposal, Pacific shall inform Seller of the acceptability or unacceptability of the proposed periods.

(B) In the event the Facility must be shut down for unscheduled maintenance, Seller shall notify Pacific immediately of the necessity of such shutdown, the time when such shutdown has occurred, or will occur, and the anticipated duration of such shutdown. Seller shall take all

reasonable measures and exercise its best efforts to avoid unscheduled maintenance and to limit the duration of such shutdowns.

#### ARTICLE XVI: CONTINUITY OF SERVICE

Pacific may require Seller to curtail, interrupt, or reduce deliveries of energy or capacity in order to construct, install, maintain, repair, replace, remove, investigate, or inspect any of Pacific's equipment or any part of its system or if Pacific determines that curtailment, interruption, or reduction is necessary because of emergencies, operating conditions on its system, or as otherwise required by prudent electrical practices. In such circumstances, Pacific shall not be obligated to accept deliveries of energy or capacity hereunder.

#### ARTICLE XVII: QUALIFYING FACILITY STATUS

Seller covenants that the Facility is and shall continue to be a "qualifying facility," as that term is used and defined in 18 C.F.R., Part 292, for the term of this Agreement. Pacific may, in its discretion, require certification by the Federal Energy Regulatory Commission of qualifying status under 18 C.F.R., Part 292.207(b).

#### ARTICLE XVIII: FORCE MAJEURE

As used in this Agreement, "Force Majeure" means unforeseeable causes beyond the reasonable control of and without the fault or negligence of the party claiming Force Majeure, and specifically excludes non-availability of streamflows to operate Seller's Facility. If either party is rendered wholly or partly unable to perform its obligations under this Agreement because of Force Majeure, that party shall be excused from

whatever performance is affected by the Force Majeure to the extent so affected, provided that:

(A) the non-performing party, within two weeks after the occurrence of the Force Majeure, give the other party written notice describing the particulars of the occurrence;

(B) the suspension of performance be of no greater scope and of no longer duration than is required by the Force Majeure;

(C) no obligations of either party which arose before the occurrence causing the suspension of performance be excused as a result of the occurrence, and

(D) the non-performing party use its best efforts to remedy its inability to perform.

#### ARTICLE XIX: LIABILITY; DEDICATION

Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a party to this Agreement. No undertaking by one party to the other under any provision of this Agreement shall constitute the dedication of that party's system or any portion thereof to the other party or to the public, nor affect the status of Pacific as an independent public utility corporation, or Seller as an independent individual or entity.

#### ARTICLE XX: SEVERAL OBLIGATIONS

Except where specifically stated in this Agreement to be otherwise, the duties, obligations, and liabilities of the parties are intended to be several and not joint or collective. Nothing contained in this

Agreement shall ever be construed to create an association, trust, partnership, or joint venture or to impose a trust or partnership duty, obligation, or liability on or with regard to either party. Each party shall be individually and severally liable for its own obligations under this Agreement.

#### ARTICLE XXI: WAIVER

Any waiver at any time by either party of its rights with respect to a default under this Agreement, or with respect to any other matters arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default or other matter.

#### ARTICLE XXII: CHOICE OF LAWS

This Agreement shall be construed and interpreted in accordance with the laws of the State of California, excluding any choice of law rules which may direct the application of the laws of another jurisdiction.

#### ARTICLE XXIII: GOVERNMENTAL JURISDICTION AND AUTHORIZATION

(A) This Agreement is subject to the jurisdiction of those governmental agencies having control over either party or this Agreement. This Agreement shall not become valid until all required governmental authorizations and permits are first obtained and copies thereof are submitted to Pacific.

(B) This Agreement shall not become effective until the Public Utilities Commission of the State of California approves all terms and

provisions hereof without change or condition and declares that all payments to be made hereunder shall be allowed as prudently incurred expenses for ratemaking purposes.

ARTICLE XXIV: SUCCESSORS AND ASSIGNS

This Agreement and all of the terms and provisions hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto. Excepting assignments by Pacific to Bonneville Power Administration ("BPA"), no assignment hereof by either party hereto shall become effective without the written consent of the other being first obtained and such consent shall not be unreasonably withheld. Nothing in this Agreement shall be construed as limiting or restricting Pacific's right to enter into arrangements with BPA whereby BPA acquires the output of the Facility or Pacific takes a billing or energy credit therefrom.

ARTICLE XXV: MODIFICATION

No modification of this Agreement shall be effective unless it is in writing and signed by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their respective names as of the date first above written.

SISKIYOU COUNTY FLOOD CONTROL  
AND WATER CONSERVATION DISTRICT

PACIFIC POWER & LIGHT COMPANY

By [Signature]  
CHAIRMAN OF THE BOARD OF SUPERVISORS  
Title SISKIYOU COUNTY, CALIFORNIA

By [Signature]  
Vice President

This instrument  
correct copy of the original  
on file in this office

ATTEST: MAR 18 1993

NORMA PRICE  
County Clerk and ex-officio Clerk of  
the Board of Supervisors and for  
the County of Siskiyou.

SCHEDULE A  
REQUIRED EQUIPMENT STANDARDS

In the event that Seller's Facility incorporates a synchronous generator, Seller shall furnish, install, and maintain equipment necessary to establish and maintain synchronism automatically with Pacific's system.

Seller shall not employ anything other than three phase generators without first obtaining express written permission from Pacific.

In order to protect the Facility, Seller's Interconnection Equipment, and Pacific's system from property damage, to minimize the likelihood of injury to operating personnel, and third parties, and to allow Pacific to provide service to its non-generating customers in the event Seller's Facility or Seller's Interconnection Equipment encounters operating difficulties, Seller shall provide, install, and maintain the following equipment:

1. A lockable main disconnect switch which allows isolation of Seller's generation from Pacific's system;
2. An automatic disconnecting device to be used in conjunction with relaying devices;
3. An overcurrent device to be used in conjunction with the automatic disconnecting device required under Paragraph 2;
4. Underfrequency and overfrequency relays to be used in conjunction with the automatic disconnecting device required under Paragraph 2;
5. A dedicated voltage transformation, with ground source as required by Pacific, for Seller's generation and load; and
6. Undervoltage and overvoltage relays.

AMENDMENT NO. 1 TO POWER PURCHASE AGREEMENT

BETWEEN

BOX CANYON LIMITED PARTNERSHIP

AND

PACIFIC POWER & LIGHT COMPANY

THIS AMENDMENT NO. 1 is entered into this 20th day of December, 1990. Siskiyou County Flood Control and Water Conservation District ("District") and Pacific Power & Light Company ("Pacific") previously have entered into a Power Purchase Agreement dated March 14, 1983 ("Agreement"). Subsequently, the Agreement was assigned by District to the Siskiyou Power Authority, which later assigned the Agreement to Box Canyon Limited Partnership ("Seller"). Pacific and Seller amended the Agreement by a Letter Agreement dated January 12, 1987 ("Letter Agreement"). Pacific and Seller wish to amend the Agreement to incorporate the terms of the Letter Agreement and to make other changes.

Now, THEREFORE, the parties agree to amend the Agreement as follows:

ARTICLE I: DEFINITIONS

Paragraph (A) is amended to read in its entirety as follows:

"(A) "Base Net Metered Output" means the minimum amount of Net Metered Output Seller shall deliver to Pacific pursuant to Article III(B);"

Paragraph (G) is amended to read in its entirety as follows:

"(G) "Net Metered Output" is all energy and capacity produced by the Facility as determined at the Point of Delivery and less a reduction as provided in Article V(A) for transformer losses."

ARTICLE III: DELIVERY OF POWER

Paragraphs (B), (C) and (D) are deleted in their entirety and replaced by the following new paragraph (B):

"(B) This paragraph shall become effective beginning with Contract Year 2011, provided that after January 1, 2011, the District may make a one-time election to cancel the provisions of this paragraph for the full Contract Year in which such election is made and all subsequent Contract Years by providing written notice to Pacific not later than January 31, 2011, or January 31 of any subsequent Contract Year.

- AVERAGE?*
- (1) Seller shall deliver to Pacific the amounts of Base Net Metered Output for the Contract Years set forth in subparagraph (3), below, and Pacific shall pay Seller therefore the prices specified in Article IV regardless of whether such deliveries actually are made during such Contract Year; provided, however, that should Seller deliver less than 50 percent of the annual Base Net Metered Output in four consecutive Contract Years, Pacific may discontinue its payment obligation to Seller under this paragraph.

*WHAT DOES THIS MEAN?*

- (2) Should Seller fail to deliver in full the amount of Base Net Metered Output specified in subparagraph (3) below, in any Contract Year, Seller shall deliver such Deficiency Energy at no charge to Pacific during the first portion of the following Contract Year. Deliveries of Deficiency Energy shall not be included in determining Seller's deliveries of Base Net Metered Output in any Contract Year. In the event that the amount of Deficiency Energy from any immediately prior Contract Year is not delivered in the following Contract Year, the amount of any Deficiency Energy remaining at the end of such following Contract Year shall become overdue and shall be carried forward to the succeeding Contract Year, and Seller shall deliver 114.9 percent of the overdue Deficiency Energy in the first Contract Year thereafter in which it is possible to deliver the overdue Deficiency Energy (subject to the condition that all energy delivered shall be credited first to make up any overdue Deficiency Energy), provided, however, that Seller shall have the option to pay Pacific for any overdue Deficiency Energy at the price shown in Article IV(C) for the Contract Year next following the Contract Year in which such Deficiency Energy was accumulated. In the event that Seller elects to pay Pacific for the Deficiency Energy accumulated in any Contract Year, such Contract Year shall not be considered in the discontinuance of Pacific's payment obligations pursuant to subparagraph (1) above.

*WHAT HAPPEN 2 50%?*

- (3) The amount of Base Net Metered Output required for each month of each Contract Year are set forth below:

<u>Contract Year</u>	<u>Monthly Base Net Metered Output (kWh)</u>
2011	1,016,000
2012	986,000
2013	956,000
2014	924,000
2015	895,000
2016	865,000
2017	835,000
2018	806,000
2019	777,000

- (4) Seller shall pay Pacific not later than December 31, 2020, for any Deficiency Energy which has not been delivered to Pacific, or for which Seller has not paid Pacific, at the price shown in Article IV(C) for Contract Year 2020."

#### ARTICLE V: PAYMENTS AND COMPUTATIONS

Paragraph V(A) is deleted in its entirety and replaced by the following:

(A) Pacific shall provide Seller with computations of Net Metered Output within 30 days of Pacific's monthly meter reading and shall concurrently therewith make payments therefore in accordance with the terms and conditions of Article IV, to the address specified in Article VII(C) below. Such computations of Net Metered Output shall include a reduction of 0.70 percent (Energy Loss Adjustment Factor), to give full effect for transformer losses described in Article I(G) herein, effective January 1, 1991. No sooner than January 1, 1994, at the request of either Pacific or Seller, the Energy Loss Adjustment Factor may be recalculated using the methodology set forth in Exhibit A attached hereto. Within sixty days following the recalculation of the Energy Loss Adjustment Factor, such factor will be provided to both parties and will be used for computing future values of the Net Metered Output, effective with the next subsequent monthly meter reading. Subsequent recalculations, if any, of the Energy Loss Adjustment Factor will be made no sooner than 5 years following the last date for which the Energy Loss Adjustment Factor became effective. The cost of recalculating the Energy Loss Adjustment Factor will be paid by the party requesting the recalculation. Any recalculation will be provided to the party not requesting the recalculation.

ARTICLE VI: NOTICES AND DIRECTION OF PAYMENTS

The names and addresses of the parties to which written notices shall be directed and mailed are amended as follows:

To Seller: Box Canyon Limited Partnership  
c/o Synergics, Inc.  
191 Main Street  
Annapolis, Maryland 21401; and

Box Canyon Limited Partnership  
c/o Trust Company of the West, as Trustee  
101 California Street, Suite #3275  
ATTN: Susan Morse  
San Francisco, CA 94111

To Pacific: Manager, Small Power Acquisitions  
Pacific Power & Light Company  
920 S.W. Sixth Avenue  
Portland, Oregon 97204

Payments for energy and capacity delivered under this Agreement shall be mailed to:

Box Canyon Limited Partnership  
c/o Synergics, Inc.  
191 Main Street  
Annapolis, Maryland 21401

ARTICLE VIII: INTERCONNECTION

1. Paragraph (C) is deleted in its entirety and replaced by the following:

*WILL  
CAND  
TAK  
Be?*

"(C) As of the date of this Amendment Seller has reimbursed Pacific for all of Pacific's current costs associated with services and the installation of facilities and equipment on Pacific's system to accommodate Seller's deliveries, and to reinforce Pacific's system for the purposes of this Agreement. In the event that it becomes necessary for Pacific to perform any additional services or install any additional facilities or equipment on Pacific's system to accommodate Seller's deliveries, or to further reinforce Pacific's system for purposes of this Agreement, Seller shall pay Pacific for all of Pacific's costs associated therewith."

2. The following Paragraph (D) is added:

"(D) The ownership of the transmission facilities between Seller's transformation substation and Pacific's 69 kV COPCO 2-Delta transmission line, including the assignment of associated right-of-way, has been transferred by Seller to Pacific. As of March 19, 1990, Seller's obligation to make payments to Pacific for Pacific's operation and maintenance shall cease and Pacific shall assume such obligation thereafter for such transmission facilities."

3. The following Paragraph (E) is added:

"Seller's Interconnection Equipment shall include a line relay control cabinet, which shall be locked by Pacific and accessible only to Pacific or to Seller upon Pacific's approval."

#### ARTICLE XII: LIABILITY AND INSURANCE

1. Paragraph (D) is deleted in its entirety and replaced by the following:

"(D) Seller shall provide Pacific with a copy of each insurance policy required under this Article, certified as a true copy by an authorized representative of the issuing insurance company or, at the discretion of Pacific, in lieu thereof, a certificate in a form satisfactory to Pacific certifying to the issuance of such insurance. Seller shall submit such documents at the address listed in Article VI prior to connection of the Facility to Pacific's system and at all other times such insurance policies are renewed or changed."

2. A new Paragraph (E) is added as follows:

"(E) In the event that Pacific performs any tasks hereunder by a separate or ancillary agreement, Pacific may require additional indemnification and liability release from Seller."

#### ARTICLE XVI: CONTINUITY OF DELIVERIES

The last sentence of Article XVI is deleted in its entirety and replaced by the following:

"In such circumstances, Pacific shall notify (1) Seller's monitoring operator at (916)926-6836; if no answer, Pacific will then contact (2) Seller's alternate monitoring operator at (916)926-5682 or (916)926-8116; if still no answer, Pacific will proceed to take action as necessary as described herein. Phone numbers can be changed by Seller by giving written notice to Pacific. Pacific shall not be obligated to accept deliveries of, or pay Seller for, Net Metered Output that otherwise would have been delivered during such period of curtailment, interruption, or reduction.

ARTICLE XXIII: GOVERNMENTAL JURISDICTION AND AUTHORIZATION

Paragraph (B) is deleted in its entirety.

In addition to the amendments of the Agreement as provided above, Pacific and Seller release each other from any and all claims that it might have as of this date against the other arising out of any acts or omissions in connection with delivery of or payment for Net Metered Output under the Agreement or arising from the cost of interconnection facilities.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 1 to be executed in their respective names as of the date first above written. This Amendment No. 1, together with the Agreement, constitute the full agreement of the parties and supercedes the Letter Agreement.

BOX CANYON LIMITED PARTNERSHIP  
By Synergics, Inc.,  
its General Partner

By: [Signature]

Title: Vice President

PACIFIC POWER & LIGHT COMPANY

By: [Signature]

Vice President

*MHP*  
*9/15*

The undersigned hereby acknowledges and consents to the foregoing Amendments. This acknowledgement and consent shall not be construed as requiring any further acknowledgement or consent to any other waiver or amendment of the Agreement.

SISKIYOU POWER AUTHORITY

By: Roger Zwanziger

Title: \_\_\_\_\_

Exhibit A

Calculation of the Energy Loss Adjustment Factor

The following calculation shows the methodology for determining the Energy Loss Adjustment Factor associated with the power flows to Pacific's 69 kV Transmission System from the Lake Siskiyou Power Project pursuant to the March 14, 1983 Power Purchase Agreement as amended on September \_\_, 1990.

Lake Siskiyou Generator Output Information

Average Energy = 15,100,000 kWh 8,760 Hours

Input At: Lake Siskiyou Meter

Demonstrated Capacity = 5,000.00 kW  
Power Factor = 90.00%  
Load Factor = 34.47%  
Loss Factor = 18.66%

Lake Siskiyou 69-4.16 kV Transformer Losses

No Load Loss = 8.66 kW  
Full Load Loss = 28.72 kW  
% Excitation Current = 0.30%  
% Impedance = 7.70%  
Nameplate Rating = 16,000 kVA

At Lake Siskiyou Transformer 4.16 kV bus:

Lake Siskiyou Transformer Input =  
5,000.00 kW + j 2,421.61 kVAR = 5,555.56 kVA

Transformer Rated Losses

Fixed = 8.66 kW + j 15.78 kVAR  
Variable = 28.72 kW + j 461.11 kVAR

Lake Siskiyou Transformer Losses

Fixed = 8.66 kW + j 15.78 kVAR  
Variable = 24.62 kW + j 395.32 kVAR

At Lake Siskiyou 69 kV bus:

Lake Siskiyou Transformer Output =  
4,966.72 kW + j 2,010.51 kVAR = 5,358.21 kVA

Demand Adjusting Factor = 0.9933

Lake Siskiyou Transformer Monthly Energy Input = 1,258,333 kWh  
Lake Siskiyou Transformer Monthly Energy Loss = 9,676 kWh

Energy Adjusting Factor = 0.9923

Energy Loss Adjustment Factor =  $1 - 0.9923 = 0.0077$

# ATTACHMENT

**B**

AGREEMENT BETWEEN THE SISKIYOU COUNTY FLOOD CONTROL AND  
WATER CONSERVATION DISTRICT  
AND THE CALIFORNIA DEPARTMENT OF FISH AND GAME

This agreement is made this 23rd day of Feb., 1983, between the Siskiyou County Flood Control and Water Conservation District, hereinafter called "District" and the People of the State of California acting by and through the California Department of Fish and Game, hereinafter called "Department."

W I T N E S S E T H

WHEREAS, the District proposes to add a hydropower generation facility to the constructed Box Canyon Project on the upper Sacramento River in the vicinity of the City of Mt. Shasta, and

WHEREAS, the District has applied for and received from the Federal Energy Regulatory Commission an "Exemption for Small Hydroelectric Power Project of 5 MW or less Capacity" for the Lake Siskiyou Power Project, FERC No. 2796, and

WHEREAS, the District is required, under the terms of said exemption, to comply with conditions imposed by the Department for the protection of fish and wildlife;

NOW, THEREFORE, it is hereby agreed by and between the District, its successors or assignees, and the Department as follows:

1. Flow Releases:

- a. Amount - The District will release into the stream channel immediately below the Box Canyon Power House the total inflow to the reservoir subject only to retention of such quantities of water necessary to replenish incidental domestic use of water in conjunction with recreational use of the reservoir and evaporative losses. Under no circumstances will the flow release be less than 40 cfs, irrespective of inflow, provided active storage is available in the reservoir to regulate the flow.
- b. Temperature - The District will operate the dam and powerhouse facilities in such a manner as to optimize water temperatures for trout in the stream below the dam. Monthly temperature goals are as follows:

<u>Month</u>	<u>Temperature (°F)</u>	<u>Dam Operation</u>
October-May	Maximize release temperature	Withdraw from reservoir surface layer
June	55°±	Mix release levels
July-August	Minimize release temperature	Withdraw from lowest level
September	55°±	Mix release levels

The Department of Fish and Game may change these temperature goals by notifying the District in writing.

- c. Dissolved oxygen concentration - The District will maintain a dissolved oxygen concentration of not less than 7.0 mg/l in the release water at all times.

## 2. Minimum Pool:

The District will maintain the following minimum pools in Box Canyon Reservoir subject only to such reduction as necessary to meet fishery releases set forth in paragraph 1:

- a. ~~March 15 to October 10~~ - The reservoir will be maintained at normal water surface elevation (Elevation 3181).
- b. ~~October 10 to March 15~~ - The reservoir water level will be drawn down to an elevation of 3176 to provide 2000 acre-feet of reserved storage capacity for flood control purposes.

The District will maintain and operate the reservoir, so far as is feasible, at the levels specified above, providing they do not conflict with requirements of paragraph 5 (Operational Criteria). Reservoir levels will not be varied to meet the District's power generation requirements.

## 3. Reservoir Outlet Locations:

Reservoir outlets will be located so as to meet the following objectives:

- a. To provide optimum water temperatures for trout in the stream below the dam.
- b. ~~To provide D. O. concentrations not less than 7.0 mg/l in the release water immediately below the dam.~~
- c. To minimize discharge of turbid release water.

## 4. Monitoring:

- a. The District will establish and operate a gaging and recording station at a location acceptable to the Department. Release flows and water temperatures at said station will be recorded continuously. Daily maximum, minimum and average reservoir water surface elevations, release flows and temperatures will be available in published form annually. Unpublished records will be made available to interested agencies on request.
- b. Dissolved oxygen concentrations of the release water will be monitored at the gage according to a schedule determined by the Department of Fish and Game. If D. O. values below 7.0 mg/l are found, power plant operation will cease until corrective measures return the D. O. value to 7.0 mg/l or above. Monitoring of D. O. may be discontinued when, at the discretion of the Department, it is found to consistently exceed 7.0 mg/l.
- c. The District will bear all costs of establishing, operating and maintaining the gage and recording facilities, and the reporting of records.

## 5. Operational Criteria:

- a. Adjustments in Flow Releases - The District will adjust reservoir releases as necessary to meet criteria for flow release rates, temperature, dissolved oxygen, and reservoir water surface elevations under Sections one and two.

- b. Flood Flows - flood flows discharged over the spillway are excluded from the requirements of this paragraph. Decreases in release flows following drawdown for flood control reservation or following release of flood flows will not exceed 10 percent of the initial flow per hour. Decreases will be no more than 50 percent of the initial flow for any twenty-four hour period.
- c. Increases in Flow Releases - increases in flow releases during drawdown of the flood pool or for release of flood flows will be at a rate that will not endanger fishermen or other river users.
- d. Adjustments to Agreement - Should the District need to accomplish maintenance or additional construction that would alter the streambed or create the possibility of preventing the provisions of this agreement from being fully met, the District will first notify the Department of Fish and Game and execute an agreement under Fish and Game Code Sections 1600-1606.

#### 6. Public Access:

- a. Free public access for fishing purposes will be permitted to all project lands and waters insofar as this is consistent with safety and project operational requirements. The District will take measures necessary to ensure continued free public access to at least four miles of the Sacramento River immediately below Box Canyon Dam which will be considered part of the project recreational area to be maintained by the District or its designated agents.
- b. The District will grade the road to the Department of Fish and Game's fishing access site on the south side of the Sacramento River below the Box Canyon Dam at Ney Springs Creek. The District will not be responsible for extraordinary road maintenance, snow removal, trash pick-up or any other activities at this site.

#### 7. Wildlife Mitigation:

- a. To mitigate the loss of deer habitat which was inundated at Box Canyon Reservoir, the District will make available to the Department for wildlife management purposes that tract of approximately 500<sup>±</sup> acres of land designated as the North Shore Wildlife Mitigation Area. The District will restrict or preclude all activities on or use of said tract which, in the opinion of the Department of Fish and Game are inconsistent with wildlife management purposes for which said tract is hereby reserved. The District will specifically prevent vehicle access to the meadow area through appropriate measures, including fencing, as necessary.
- b. The District will, during each calendar year for the life of the project, reimburse the Department of Fish and Game for the actual cost of maintaining wildlife habitat on said tract up to but not exceeding \$2,100 per year or, at the District's option, perform the work required by the Department. Reimbursement shall be made by the District within 30 days after billing by the Department.
- c. Transmission lines will be designed and constructed in such a way that they are not a hazard to raptors.

8. Post Project Studies:

- a. Experimental Flow Releases - The District will, in cooperation with the Department of Fish and Game, conduct experimental flow releases using the multiport intakes, to determine operating criteria for maintaining optimum conditions for trout in the stream below the dam while meeting the 7.0 mg/l standard for dissolved oxygen concentration. Criteria will vary seasonally as inflow and water temperature conditions change within the reservoir.
- b. Fish Entrainment - To compensate for losses of fish entrained through the powerhouse, the District will, within 30 days following the submission of a statement of costs, pay for the stocking of 2,000 pounds of trout per fiscal year in Lake Siskiyou. The cost to the District of such trout shall not exceed the then prevailing statewide average cost to the Department of Fish and Game for the production and distribution of 2,000 pounds of catchable trout. The size, numbers and species of trout to be planted and the times and frequency of planting shall be as determined by the Department.
- c. Cost of Studies and Mitigative Measures - The cost of studies and mitigative measures including those incurred under paragraph 8 (b) above, will be funded by the District. Such costs, funded by the District, will not exceed the amount of \$10,000 (1982 dollars) per year, exclusive of the requirement under 7 (b) above, and will not be incurred by the District without prior consultation and agreement.
- d. Modifications - If unforeseen damages occur to fish or wildlife because of project construction and/or operation, District will modify project facilities or operations as deemed necessary by the Department.

9. Conditions for Water Rights:

The District and the Department agree to recommend to the State Water Resources Control Board that those terms of this agreement which are within the jurisdiction of the Board be included, by reference or otherwise, as conditions of any permit issued pursuant to Water Application 25309.

10. Exclusions:

This agreement supersedes all other agreements between the Department and District relating to the Box Canyon Dam Project. The term of the agreement is for the life of the project unless both parties mutually agree to a change.

This instrument is a  
correct copy of the original  
as file in this office.

ATTEST: MAR 24 1983

NORMA PRICE

County Clerk and ex-officio Clerk of  
the Board of Supervisors in and for  
the County of Siskiyou.

By Glenn Lacey  
Deputy

Norma Price  
Siskiyou County Flood Control and Water  
Conservation District

FC [Signature]  
California Department of Fish and Game

FIRST ADDENDUM

This is an addendum to the agreement entered into on the 23rd day of February, 1983, by and between SISKIYOU COUNTY FLOOD CONTROL & WATER CONSERVATION DISTRICT and the CALIFORNIA DEPARTMENT OF FISH & GAME.

W I T N E S S E T H

WHEREAS, the parties desire that certain changes be made with regard to the aforesaid agreement; and,

WHEREAS, the parties have discussed the desired changes; and,

WHEREAS, the parties desire to formalize the said changes.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the County and Department hereby agree that Paragraph 2 will be revised to read as follows:

2. Minimum Pool:

The District will maintain the following minimum pools in Box Canyon Reservoir subject only to such reduction as necessary to meet fishery releases set forth in Paragraph 1.

a. March 15 to November 16 - The reservoir will be maintained at normal water surface elevation (Elevation 3181).

b. November 16 to March 15 - The reservoir water level will be drawn down to an elevation of 3176 to provide 2000 acre feet of reserved storage capacity for flood control purposes.

c. During the construction of the hydropower generation facility at Box Canyon, the District shall be allowed to extend the period of draw down to an elevation of 3176 from October 10 to March 15.

The District will maintain and operate the reservoir, so far as is feasible, at the levels specified above, providing they do not conflict with requirements of Paragraph 5 (Operational Criteria). Reservoir levels will not be varied to meet the District's power generation requirements.

IN WITNESS WHEREOF, the parties hereto have set their hands this 13<sup>th</sup> day of December, 1983.

SISKIYOU COUNTY

SEP 27 1971

SURVEYOR

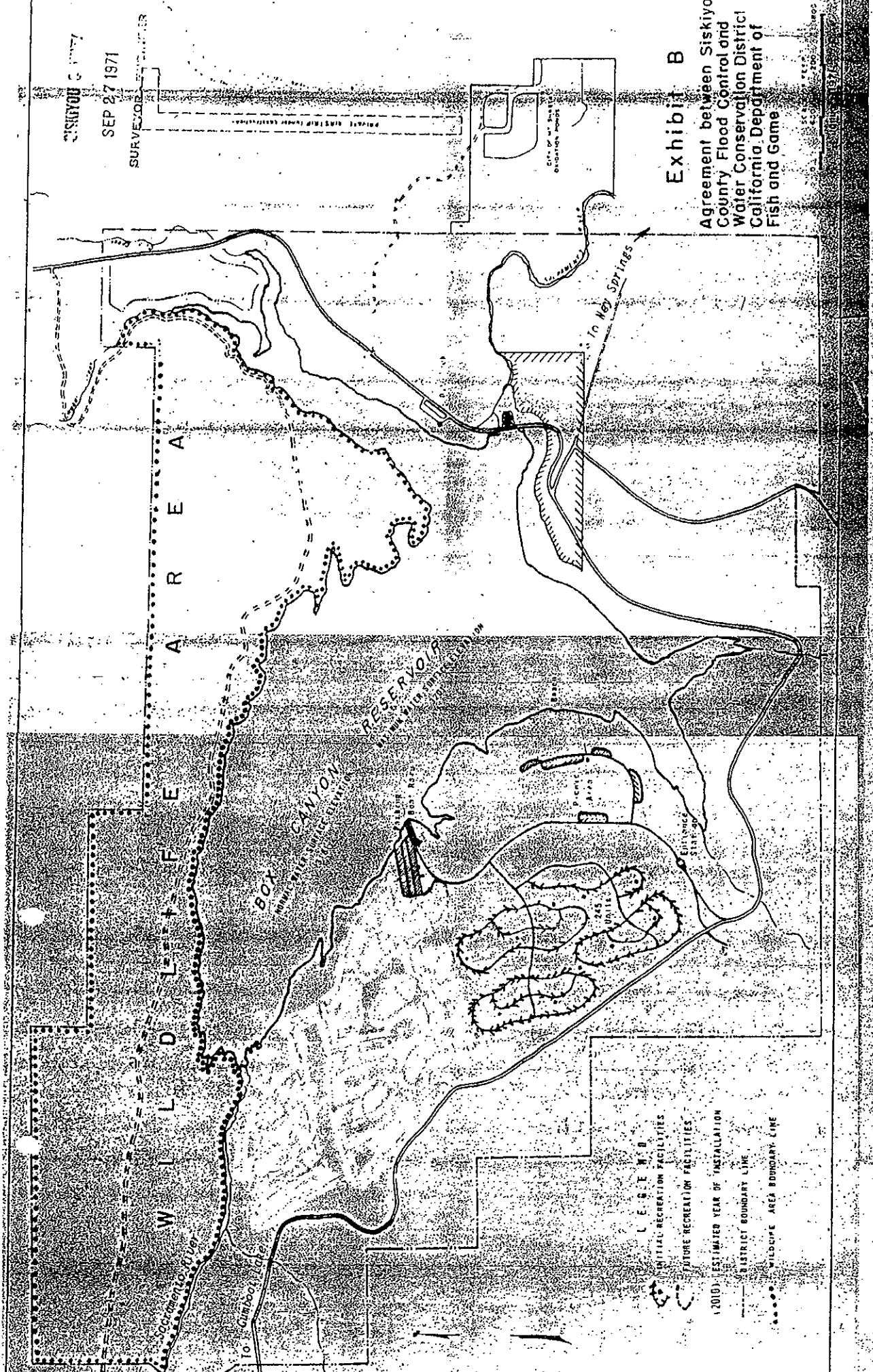
W I L D L A N D

A R E A

BOX CANYON RESERVOIR  
MAY SPRINGS DIVISION  
SISKIYOU COUNTY

Exhibit B

Agreement between Siskiyou  
County Flood Control and  
Water Conservation District  
California Department of  
Fish and Game



L. E. E. N. B.  
 INITIAL RECREATION FACILITIES  
 FUTURE RECREATION FACILITIES

1:2000 ESTIMATED YEAR OF INSTALLATION  
 DISTRICT BOUNDARY LINE  
 WILDLIFE AREA BOUNDARY LINE

1971  
 1971