

elements of the Agreement. It demonstrates that the Agreement serves the public interest, and provides reasons for the Commission to promptly accept the Offer of Settlement.

The Parties respectfully request that the Commission incorporate PacifiCorp's obligations under the Agreement into a new license for the Project ("New License") without material modification. The Parties intend that PacifiCorp's performance of its obligations under the Agreement will be incorporated into the New License and as such will fulfill any obligation PacifiCorp may have to protect, mitigate, and enhance Resident Trout resources in the vicinity of the Project related to ramping, gravel, and large woody debris ("LWD"). In addition, the Parties agree that PacifiCorp should not be required to enlarge its Project boundary to accommodate Agreement measures.

Nothing in this Statement is intended to modify the terms of the Agreement. Any conflict between the language in the Agreement and this Statement should be resolved in favor of the Agreement. This Statement should not be used to interpret Agreement terms.

The Parties hereby request that the Commission accept without material modification the Agreement.

I. PROJECT AND BASIN DESCRIPTION

The Rogue River originates at Boundary Springs in Crater Lake National Park at an elevation of about 5,000 feet above mean sea level. The river flows generally southwest for about 210 miles before entering the Pacific Ocean at Gold Beach. The topography of the basin is generally mountainous, with the exception of the Rogue Valley located in the middle portion of the basin. The total drainage area of the basin is about 5,000 square miles, and the discharge is about six million acre-feet annually. Waters from the river are used for public and private domestic water supply, industrial water supply, irrigation, livestock watering, commercial

navigation and transportation, recreation, fish and wildlife, and hydropower. Specific uses in the Project area in addition to hydropower include domestic water supply, flood control, fire protection, irrigation, fish and wildlife, and road watering for dust control.

The climate of the Project area can be characterized by cool, wet winters and warm, dry summers. The average annual air temperature is 50.9 degrees Fahrenheit, and the annual average precipitation in the Project area is 42 inches, most of which falls between October and March.

Drainage to the Project diversion dams comes from the Cascade Mountain Range. The terrain of the Project is hilly with changes in elevation up to 600 feet in the incised canyons. At the Prospect No. 1 powerhouse (RM 169.4), the Rogue River drains an area of 379 square miles. The floodplain of the Project area is generally limited due to the steep topography.

The Project consists of: (1) a 9-foot-high diversion dam on Red Blanket Creek comprised of a 1,000-foot-long earthen embankment and 150-foot-long concrete overflow spillway; (2) a 10-foot-high, 165-foot-long concrete overflow diversion dam with fish ladder on the Middle Fork Rogue River; (3) a 50-foot-high, 384-foot-long diversion dam that includes a 110-foot spillway section on the Rogue River (North Fork diversion dam); (4) a 260-acre-foot impoundment formed behind the North Fork diversion dam; (5) a 9.25-mile-long water conveyance system composed of concrete and gunite-lined canals, unlined earthen canals, steel flumes, steel tub sections, steel flow lines and penstocks; (6) two forebays (0.2-acre Prospect No. 1 forebay and 2.9 surface-acre Prospect No. 2 forebay); (7) a 48.5-foot-high, 20-foot-diameter steel surge tank elevated 77 feet off the ground by steel towers; (8) three powerhouses with a combined installed capacity of 41.56 MW, of which the Prospect Nos. 1 and 2 powerhouses are located at river mile (RM) 169 on the Rogue River, and Prospect No. 4 powerhouse discharges directly into the Prospect No. 1 powerhouse and is located near the

Prospect operations warehouse; (9) three 69-kilovolt (kV) transmission lines (0.26, 0.28, and 0.31 mile in length) and one 2.3-kV transmission line (0.05 mile in length); (10) a developed recreation area known as North Fork Park; and (11) appurtenant facilities.

PacifiCorp operates the Project run-of-river, and monitors operations real-time from a remote Hydro Control Center (“HCC”) in Ariel, Washington. An operator is on duty at the Project 7 days a week from 8:00 am to 4:30 pm to provide operational response, confirmation of proper equipment operation, and manual adjustments of the HCC’s operations of the powerhouse units. Local operations staff reside on Project to allow for 24/7 response to operational issues.

PacifiCorp diverts water from the Middle Fork Rogue River to the 6-mile-long Middle Fork-to-North Fork (“MFNF”) Canal portion of the water conveyance system. Up to 150 cubic feet per second (“cfs”) of water in the MFNF Canal flows west-northwest from the Middle Fork diversion dam for 0.88 mile and is then joined by up to 150 cfs of water diverted from the South Fork Rogue River by the Prospect No. 3 Hydroelectric Project (FERC No. 2337). From there, the combined flow travels 2.72 miles to the Red Blanket Canal junction where up to 75 cfs from Red Blanket Creek is delivered by the 0.84-mile-long Red Blanket Canal to the flow in the MFNF Canal. The combined flows then continue west-northwest for 2.37 miles to a point just upstream of the east abutment of the North Fork diversion dam, where the canal delivers the flow into the North Fork reservoir.

Up to 1,050 cfs from the North Fork reservoir, which includes water from the MFNF Canal and the North Fork Rogue River, is drawn through an intake located at the west abutment of the North Fork diversion dam. The intake directs the water into the North Fork Canal, which conveys the water southwest about 1.4 miles to the Prospect No. 2 forebay. From the Prospect No. 2 forebay, the water travels south 0.6-mile through two steel flowlines to a surge tank. At

the surge tank, the water may be bifurcated depending upon generation needs and availability of water. One route is through two penstocks which convey water to the Prospect No. 2 powerhouse generating units, whereupon the water is discharged to the Rogue River. The second route is through a flowline a short distance to the Prospect No. 4 powerhouse. Water then discharges from the powerhouse to a short flowline which then conveys the water a short distance to the Prospect No. 1 forebay. From the forebay, the water is directed into a penstock and then travels about 1,000 feet to the Prospect No. 1 powerhouse, whereupon the water discharges to the Rogue River about 400 feet downstream of the Prospect No. 2 powerhouse.

II. BACKGROUND OF THE SETTLEMENT

The Project's 25-year license expired on July 1, 2005. Prior to its expiration, on June 27, 2003, PacifiCorp filed an application for a new major license to continue operating the Project. The Commission issued its draft environmental assessment pursuant to the National Environmental Policy Act on November 18, 2005. PacifiCorp and ODFW subsequently entered into discussion to reach an agreement in principle pursuant to which the Parties agreed to work diligently to reach settlement on several issues related to Resident Trout. The Parties have since decided to narrow the focus of settlement to the issues of ramping below Project facilities, gravel augmentation, and LWD.

Rainbow trout and coastal cutthroat trout (referred to collectively in this Statement and the Agreement as "Resident Trout") are native to the Rogue River basin. Rainbow trout are more prevalent in the Project area, inhabiting all reaches sampled by PacifiCorp on the Rogue River, Middle Fork Rogue River, and Red Blanket Creek. Coastal cutthroat trout were not found in surveys of Project area waters, but are understood to occur in the basin based on data

previously collected by ODFW biologists. Resident Trout in the Project area have the potential to be exposed to some Project-related effects over the course of a year.

III. RATIONALE BEHIND SETTLEMENT COMPONENTS

The Agreement commits PacifiCorp to adopt three sets of measures designed to address the needs of Resident Trout, measures for maintenance of LWD, measures related to gravel augmentation in the North Fork Rogue River, and measures related to ramping rates for Project facilities.

A. Large Woody Debris

Pursuant to the Agreement, PacifiCorp will prepare a LWD plan in consultation with ODFW governing periodic flow releases through the Project's several Tainter gates at the North Fork Dam for purposes of passing LWD. PacifiCorp sluices the North Fork reservoir annually during high flow events in order to pass stored sediment and LWD that has collected near the dam face and to allow natural LWD transport to occur. Most LWD that enters North Fork reservoir collects near the dam and is sluiced by PacifiCorp operations staff during high flows, which typically occur between November and March. The LWD plan will describe the conditions under which LWD will be sluiced and the timing and duration of such sluicing, thus ensuring the consistent and regular management of LWD past the diversion.

On rare occasions, some LWD entering the reservoir is too large to pass through the gates and is removed with a tractor and cable or other mechanical device and dragged to the shore of the reservoir. If, at PacifiCorp's discretion, it removes large woody debris from above the Project dams, PacifiCorp shall place that large woody debris below the dam if practicable. In placing any large woody debris below a dam, PacifiCorp shall place it in locations that, during high flow events, could reasonably be expected to result in its movement.

B. Gravel Augmentation

ODFW and PacifiCorp agree that PacifiCorp should not be required under the New License to augment gravel in the bypassed reaches below the Project dams. Under PacifiCorp's current operations, operators sluice sediment from the North Fork dam during high annual flow events by opening the three Tainter gates at the dam and allowing high flows to transport sediment. PacifiCorp proposes to continue this practice of sediment sluicing under a New License.

PacifiCorp analyzed the sediment storage capability of the North Fork impoundment in 2003 as part of the Commission's relicensing process. The report concluded that the narrow, short reservoir behind North Fork Dam does have the potential to store sediment that otherwise would be transported during high annual flow events. Analysis of sediment samples collected from the top 18 inches to 3 feet indicated that the North Fork impoundment contains primarily sand and fine gravel deposits. It appears from the samples collected that the supply of gravel-sized particles from the North Fork Rogue River watershed upstream from the impoundment seems to be limited by lack of that particular size of sediment in the watershed (dominated by pumice and sand) and the low gradient in upstream reaches.

Under present operating conditions, the three 34-foot wide Tainter gates are typically opened annually during peak flows to facilitate sediment transport past the North Fork dam. As indicated in the study some of the sediment is deposited in the lee of boulders and other channel obstructions and may possibly provide small amounts of fine gravel deposits in this high gradient bypass reach. Fish and macroinvertebrate sampling indicated that abundance and diversity downstream of the dam is similar to that upstream, suggesting that any interruption of sediment movement by the North Fork dam does not result in an altered aquatic environment downstream

of the dam due to the physical habitat differences (i.e., steep gradients, lack of LWD, and flow modifications below the dam).

At the Middle Fork diversion dam, PacifiCorp periodically dredges sediments deposited behind the dam placing them on the downstream side, thus ensuring the continued transport of gravels and other materials and making no further gravel measures necessary to protect, mitigate or enhance resources affected by gravel below the dam. In Red Blanket Creek, the available supply of gravel is limited and the bedload is dominated by pumice, sands and other fines in the reach upstream of the diversion dam. Furthermore, the elevation of the river bed immediately upstream of the diversion is nearly at the crest of the dam allowing these materials to be readily mobilized during high flow events and distributed throughout the bypass reach. Therefore, gravel augmentation is not necessary.

C. Project Ramp Rates

The Agreement sets forth agreed-upon ramping rates for the North Fork bypassed reach and full-flow reach below Prospect No. 2 Powerhouse, as well as for the Middle Fork and Red Blanket bypassed reaches.

(1) Ramping in North Fork Bypassed Reach and Full-Flow Reach Below Prospect No. 2 Powerhouse. In the North Fork bypassed reach and full-flow reach below Prospect No. 2 Powerhouse, the Agreement requires PacifiCorp to target a ramp rate of 100 cfs increase or decrease per 30 minute increment and to not exceed a ramp rate of 130 cfs per 30 minute increment. The Parties agree that ramping rates will be measured at gauging locations established as close as practicable to the head of the North Fork bypass reach and at a location within the Prospect No. 2 penstocks using generator-based output. The specific gauging location

and procedures will be established through the flow monitoring plan developed in consultation with ODFW within six months of the Commission's issuance of the New License.

The ramp rate for the North Fork Rogue bypassed reach was based on observations made by PacifiCorp, ODFW and the United States Fish and Wildlife Service ("USFWS") during a down-ramp evaluation using the existing Tainter gates to ramp the bypassed reach. Each 34-foot wide gate can be lowered in two-inch increments, resulting in a downramp in the bypassed reach of approximately 100 - 130 cfs, depending on the reservoir elevation. We noted during the evaluation that there was only minimal change in the wetted stream width and very little margin habitat became exposed during the down ramp event at those rates. The reach between the Project diversion downstream to the upper end of the Avenue of the Boulders is dominated by a bedrock shelf and a trench cut into the shelf by the river. Due to the unique characteristics of the reach there appears to be minimal impact to aquatic habitat under a ramp rate of 130 cfs per 30 minute increment. The Parties agreed that this same ramp rate would also be suitable for the full-flow reach below the Prospect No. 2 powerhouse since the habitat is similar and constrained in a canyon that would not be affected by moderate down-ramping. To be conservative, however, the Parties agreed that PacifiCorp will "target" a ramp rate of 100 cfs per 30 minute increment, although this target rate will not be used for purposes of measuring compliance with or exceedance of ramp rates.

(2) Ramping in the Middle Fork and Red Blanket Bypassed Reaches. In the Middle Fork and Red Blanket bypass reaches, the Agreement requires PacifiCorp to target a ramp rate of 1 inch per hour and to not exceed a ramp rate of 2 inches per hour during the period of May 1 through September 30 each year. The Agreement requires PacifiCorp to target a ramp rate of 2 inches per hour and to not exceed a ramp rate of 3 inches per hour during the period of October 1

through April 30 each year. The Parties agree that ramping rates will be measured at gauging locations established as close as practicable to the head of each bypassed reach, with specific gauging locations established through a flow monitoring plan that PacifiCorp will develop in consultation with ODFW after the New License is issued.

The ramp rates of 2 inches from May through September and 3 inches from October through April at the Middle Fork and Red Blanket bypass reaches were based on the operational capabilities of each project and the need to protect aquatic resources found within these reaches. Similar ramp rates are typically used in river reaches where juvenile anadromous salmonids are present, and are expected to provide similar protection to fry and juvenile lifestages of Resident Trout in the Red Blanket and Middle Fork bypassed reaches. To be conservative, however, the Parties agreed that PacifiCorp will “target” a ramp rate of 1 inch per hour from May through September and 2 inches per hour from October through April, although those target rates will not be used for purposes of measuring compliance with or exceedance of ramp rates.

IV. CONCLUSION

For the reasons set forth in this Statement and in the Agreement, the Parties believe that the Agreement is fair, reasonable, and in the public interest. The Parties therefore request that the Commission incorporate without material modification into the New License for the Project PacifiCorp’s obligations related to the ramping and LWD Resident Trout protection, mitigation and enhancement measures contained in the Agreement. In addition, the Parties request that the Commission not require gravel augmentation as a condition of the New License, and refrain from enlarging the Project boundary to accommodate Agreement measures incorporated into the New License.

