

**WHEN RECORDED RETURN TO:**

PACIFICORP - PROP MGMT  
825 NE MULTNOMAH ST, SUITE 1700  
PORTLAND, OR 97232

**DOCUMENT TITLE(S)**

RIGHT OF FIRST REFUSAL AGREEMENT

**REFERENCE NUMBER(S)** of Documents assigned or released:

☐ Additional numbers on page \_\_\_\_ of document.

**GRANTOR(S):**

PACIFICORP, AN OREGON CORPORATION

☐ Additional names on page \_\_\_\_ of document.

**GRANTEE(S):**

CABIN OWNERS OF NORTHWESTERN LAKE ASSOCIATION

☐ Additional names on page \_\_\_\_ of document.

**LEGAL DESCRIPTION** (Abbreviated: i.e. Lot, Block, Plat or Section, Township, Range, Quarter):

T3N, R10E, W.M. SEC. 2: N  $\frac{1}{4}$ , T3N, R10E, W.M. SEC.  
3: NE  $\frac{1}{4}$  & E  $\frac{1}{2}$ , SW  $\frac{1}{4}$

☐ Complete legal on page \_\_\_\_ of document.

**TAX PARCEL NUMBER(S):**

0310020004000, 03100300030006, 03100300030000

☐ Additional parcel numbers on page \_\_\_\_ of document.

The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information.

## RIGHT OF FIRST REFUSAL AGREEMENT

DATE: February 23, 2010 ("Effective Date")

PARTIES: PacifiCorp  
d/b/a Pacific Power  
825 NE Multnomah, Suite 1700  
Portland, Oregon 97232 ("Owner")

Cabin Owners of Northwestern Lake Association ("Grantee")  
PO Box 965  
White Salmon, WA 98672

### RECITALS

- A. Owner is the owner of certain real property located in Skamania and Klickitat Counties, Washington, whereon are located certain recreational cabin sites (the "Cabin Sites") more particularly described in Exhibit A attached to and made a part of this Right of First Refusal Agreement (the "Agreement").
- B. Owner also owns the Condit Hydroelectric project ("Project") on the White Salmon River in Skamania and Klickitat Counties, Washington, consisting of the Condit Dam and a reservoir known as Northwestern Lake, licensed by the Federal Energy Regulatory Commission ("FERC") as Project No. 2432. Owner has entered into a settlement agreement which is expected to result in the removal of the Project.
- C. Grantee is an association of cabin owners organized under the laws of the State of Washington whose membership consists of leaseholders of recreational cabin sites located on Owner's property on Northwestern Lake, on which recreational cabins and associated improvements have been maintained and/or constructed by the leaseholders.
- D. Grantee is interested in acquiring the property on which its members' cabins are located, but Owner is unwilling to sell at the present time.
- F. Owner is willing to grant to Grantee the right of first refusal to purchase the property subject to the terms and conditions contained herein. Owner and Grantee desire to evidence their agreement regarding this right of first refusal.

### AGREEMENT

For good and valuable consideration to Owner, the receipt and sufficiency of which is here acknowledged, Owner and Grantee agree as follows:

- 1. Right of First Refusal.** Owner hereby grants to Grantee a right of first refusal with respect to the property as more particularly described as follows:

**A.** When Owner receives from an arms-length third party (the "Third-Party Offeror") a bona fide offer which Owner reasonably believes the Third Party Offeror has the financial ability to purchase the Cabin Sites for cash or cash equivalent and Owner decides to sell the Cabin Sites under the terms of such offer, Owner shall give Grantee written notice (the "Notice") of the price, terms, and conditions of the offer and deliver a copy of the executed contract evidencing the offer (the "Offer") to Grantee; however Owner may redact the Third-Party Offeror's identity at that party's request.

**B.** When Grantee receives the Notice and a copy of the Offer, Grantee shall have the right to purchase the real property (or the portion of the property covered by the Offer, as the case may be) at the same price and on the same terms and conditions as are contained in the Offer, except: (1) the closing of the transaction contemplated by the Offer shall take place no earlier than 120 days after the date that Grantee elects to exercise the right of first refusal; and (2) Grantee may elect to receive a credit against in an amount equal to One Hundred Seventy-Seven Thousand Dollars (\$177,000.)

**C.** Grantee shall have 30 days from the date of the Notice to notify Owner in writing that Grantee elects to purchase the property pursuant to the terms of the Offer. If Grantee elects to exercise its right to purchase the property, then, Grantee also shall tender an amount equal to the earnest money deposit, if any, specified in the Offer within such 30-day period, which will be held and used in accordance with the terms of the Offer.

**D.** If Grantee fails to timely exercise its right to purchase the property pursuant to the terms of this Agreement, including failure of Grantee to provide the notice and deposit to Owner as described in Section 1.C., above, then Owner shall be entitled to sell the property according to the terms of the Offer to the Third-Party Offeror, subject to the terms of paragraph 1.E. below.

**E.** If Grantee fails to timely exercise its right to purchase the property pursuant to Section 1(C), and for any reason Owner does not sell or convey the property to the Third-Party Offeror on the terms contained in the Offer then Owner must submit any other offer to Grantee before selling the property, and such offers shall be subject to Grantee's right of first refusal under this Agreement.

**F.** Notwithstanding anything to the contrary contained herein, the right of first refusal granted hereunder shall not apply when Owner is obligated to sell the property or portions thereof in order to fulfill its obligations under settlement agreements entered into prior to the date of this Agreement or in order to satisfy regulatory, legal or statutory requirements.

**2. Term.** The term of this Right of First Refusal commences on the Effective Date of this Agreement and terminates on the earlier to occur of (1) the expiration of 30 years after the Effective Date, (2) the consummation of a sale of the property to a third party within the terms set forth in this Agreement; or (3) sale of the property or a portion thereof to Grantee. Grantee shall cooperate in providing Owner with any instruments that Owner may require for the purpose

of removing from the public record any cloud on title to the property attributable in any manner to the grant or existence of this right of first refusal, pursuant to paragraph 8.

**3. Excluded Transfers.** The right of first refusal created by this Agreement shall not apply to any sale or conveyance of the property by Owner to any partnership, limited partnership, joint venture, corporation, or other entity in which Owner owns and controls at least a 50% ownership interest.

**4. Notices.** All notices required or permitted to be given under this Agreement shall be in writing and shall be deemed given and received five (5) days after deposit in the United States Mail, certified or registered form, postage prepaid, return receipt requested, addressed as follows:

To Owner: PacifiCorp  
Attn: Property Management  
825 NE Multnomah, Suite 1700  
Portland, Oregon 97232

To Grantee: Cabin Owners of Northwestern Lake Association  
PO Box 965  
White Salmon, WA 98672

Notice given in any other manner shall be effective when it is received by the party for whom it is intended. Either party may change its address by giving ten (10) days' advance notice to the other party.

**5. Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the state of Washington.

**6. Binding Effect.** This Agreement shall be binding on and inure to the benefit of the parties and their respective heirs, successors, and assigns. Grantee may freely assign its rights under this Agreement to a successor entity comprised of a majority of cabin owners.

**7. Headings.** The captions and headings used in this Agreement are for reference only and shall not be construed to define or limit the scope or content of this Agreement.

**8. Recording.** On request of Grantee, Owner agrees to join in executing a memorandum of this Agreement, to be filed for record in the Official Records of Skamania and Klickitat Counties, Washington, to give notice to the public of the rights of Grantee under this Agreement. Grantee shall pay the cost of recording the memorandum. The memorandum shall note the date that this Agreement expires and Grantee shall join in executing a termination agreement when this Agreement has expired or terminated, failing which, Owner may execute the termination agreement on behalf of Grantee.

**9. Entire Agreement.** This Agreement contains the final and entire understanding between Owner and Grantee with respect to its subject matter and is intended to be an integration

of all prior negotiations and understandings. Owner and Grantee shall not be bound by any terms, conditions, statements, warranties, or representations not contained in this Agreement. No change or modification of this Agreement shall be valid unless it is in writing and is signed by both Owner and Grantee.

**10. Waiver.** A failure by Owner or Grantee to enforce any right under this Agreement shall not be deemed to be a waiver of that right or of any other right.

**11. Attorney Fees.** If litigation is instituted with respect to this Agreement, the prevailing party shall be entitled to recover from the losing party, in addition to all other sums and allowable costs, its reasonable attorney fees, both in preparation for and at trial and any appeal or review, such amount to be set by the court that hears the matter.

**12. Counterparts; Pronouns.** This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall be effective when one or more counterparts have been signed and delivered by Owner and Grantee. With respect to any pronouns used herein, each gender used shall include the other gender and the singular and the plural, as the context may require.

**13. Time Is of the Essence.** Time is of the essence regarding this Agreement.

**14. Authority to Execute.** Each person executing this Agreement on behalf of Owner and Grantee, respectively, warrants his or her authority to do so.

**15. Representations.** Owner represents to Grantee that (1) Owner owns fee title to the Property; and (2) Owner has the authority to execute this Agreement, and executing it does not violate any agreement to which Owner is a party or any covenant by which the Property is bound.

Executed in duplicate as of the day and year first above written.

OWNER:

\_\_\_\_\_

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

Name: Stuart Kelly

Title: Managing Director of Construction and Support Services

GRANTEE:

\_\_\_\_\_

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

Name: ALAN GREENWOOD

Title: CHAIRMAN, CONLA

Attachments: Exhibit A—Cabin Sites

EXHIBIT A  
CABIN SITES

That portion of the following tax lots comprised of existing cabin sites, the landscape band for each site (a 30 foot band around the outer walls of each cabin) and access to each site from a public road.

Klickitat County Tax Lot 03100300000100  
Klickitat County Tax Lot 04103500009900  
Klickitat County Tax Lot 03100200100000

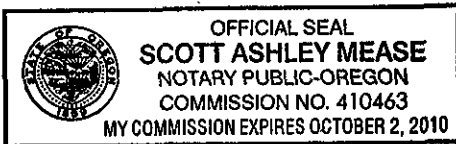
Skamania County Tax Lot 03100200040000  
Skamania County Tax Lot 03100300030006  
Skamania County Tax Lot 03100300030000


# ACKNOWLEDGEMENT

STATE OF OREGON                   )  
   ) ss.  
 COUNTY OF MULTNOMAH )

On this day personally appeared before me Stuart Kelly, to me known to be the Managing Director, Construction and Support Services of PacifiCorp, the corporation which executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the use and purposes therein mentioned.

Given under my hand and official seal this 23<sup>rd</sup> day of FEBRUARY, 2010.

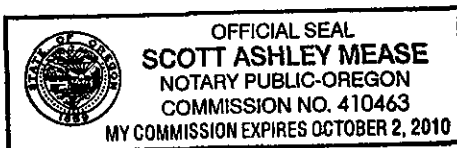


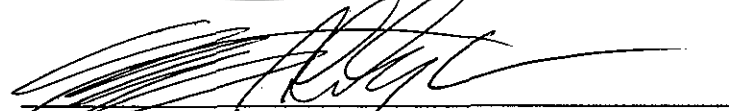
  
 NOTARY PUBLIC in and for the State of Oregon  
 Residing at MULTNOMAH COUNTY  
 My Commission Expires 2 OCTOBER MMX

STATE OF OREGON                   )  
   ) ss.  
 COUNTY OF MULTNOMAH )

On this day personally appeared before me Al Greenwood, to me known to be the Chairman of Cabin Owners of Northwestern Lake Association of the association which executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said association for the use and purposes therein mentioned.

Given under my hand and official seal this 2nd day of MARCH, 2010.



  
 NOTARY PUBLIC in and for the State of Oregon  
 Residing at MULTNOMAH COUNTY  
 My Commission Expires 2 OCTOBER MMX