

EASEMENT

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Vol. 146, Page 883

STATE OF OREGON-BOARD OF FORESTRY

TO

PORTLAND GENERAL ELECTRIC COMPANY

THIS AGREEMENT, made in duplicate this 26th day of July, 1965, by and between the STATE OF OREGON, acting by and through its Board of Forestry, hereinafter called "GRANTOR", and PORTLAND GENERAL ELECTRIC COMPANY, an Oregon corporation, hereinafter called "GRANTEE",

WITNESSETH:

In consideration of the faithful performance of all the covenants and agreements to be performed by GRANTEE, as herein contained, and subject to the following conditions, the State of Oregon, acting by and through its Board of Forestry, GRANTOR, pursuant to a resolution of said board duly passed on the 9th day of June, 1965, does hereby grant an easement and right of way of one hundred and fifty (150) feet in width unto the Portland General Electric Company, GRANTEE, which easement and right of way is more particularly described in Exhibit A and attached hereto.

TO HAVE AND TO HOLD the said easement and right of way unto the GRANTEE for the purposes hereinafter set out and subject to the following:

(1) PURPOSES: The grant herein shall be for the purposes of the right of GRANTEE to enter and erect, operate, maintain, repair, rebuild, and patrol one or more electric power transmission lines and appurtenant signal lines, poles, towers, wires, cables, and appliances necessary in connection therewith, in, upon, over, under, and across the said easement and right of way described in Exhibit A.

(2) ROAD CONSTRUCTION: GRANTEE hereby shall have the right to construct, reconstruct, repair and maintain a patrol road on and over said easement and right of way for the purposes stated herein, and further, for the exercise of other rights herein granted GRANTEE, including the performance of obligations required herein; GRANTOR hereby shall have the right of ingress and egress over and across such road insofar as the same extends across the land of the GRANTOR covered by this easement and right of way, said right of the GRANTOR to be exercised in a manner that will not interfere with the use of the road by GRANTEE.

(3) INGRESS AND EGRESS: GRANTEE hereby shall have the right of ingress and egress over and across lands of the GRANTOR adjacent to said easement and right of way for the purposes stated herein, and, for the purposes of GRANTEE complying with the requirements hereof; provided, however, that prior to such use of adjacent lands, the GRANTEE first shall notify the GRANTOR and obtain therefrom a road use permit, and thereafter, comply with the requirements and conditions of such permit.

(4) RIGHT-OF-WAY CLEARING: GRANTEE hereby shall have the right to clear said easement and right of way and to keep the same clear for all purposes and obligations described herein; such right shall include the removal and disposal of debris, brush, timber, structures and fire hazards; provided, however, GRANTEE first shall obtain from the State Forester, and thereafter comply with the terms and conditions thereof, the right of way clearing permit required by Oregon law; should GRANTOR exercise its express and reserved right to use said easement and right of way or to plant, manage and harvest forest crops thereon or therefrom, the right and obligation of GRANTEE herein shall be so limited thereby.

(5) DANGER TREES: In addition to the grant of said easement and right of way herein, GRANTEE hereby shall have the present and future right to top, limb, fell and remove all growing trees, dead trees or snags (collectively called "danger trees") located on the lands of GRANTOR adjacent to said easement and right of way which could fall upon or against said transmission and signal line facilities; provided, however, such right is upon the condition that the GRANTOR be first notified in writing, and GRANTOR thereafter agrees in writing said trees are danger trees; payment for danger trees shall be made as provided herein; the above requirements as to notice shall not apply to danger trees which are an immediate threat to the facilities of GRANTEE on said easement and right of way.

(6) PAYMENT FOR TIMBER: GRANTEE shall not cut, remove, or destroy any timber (including trees herein designated as "danger trees") not previously purchased on lands of the GRANTOR, without first making payment to GRANTOR therefor; such payment shall be the current market value based upon the estimated volume of stumpage as determined by the GRANTOR.

(a) GRANTEE hereby agrees to pay GRANTOR the sum of One Thousand, One Hundred and Ninety-five Dollars, (\$1,195.00) within thirty days of the date of this instrument for timber to be cut, removed or destroyed by GRANTEE on said easement and right of way.

(b) The amount stated in subdivision (a), above, was determined as of the date of this instrument and pursuant to the procedures required by Paragraphs (4) and (6), hereof.

(c) Payment of said amount shall be made to GRANTOR at its address designated in Paragraph (23), hereof.

(7) UNAUTHORIZED CUTTING: GRANTEE shall neither cut, damage nor destroy any of GRANTOR'S timber, or timber managed by GRANTOR, without the permission of GRANTOR in writing; the cutting, damaging or destroying of any such timber shall be considered wilful trespass and GRANTEE shall be liable to GRANTOR therefor in a sum equal to three times the damage sustained by GRANTOR on account of the cutting, damaging or destroying of such timber; "timber" shall include trees of all ages; provided, however, this paragraph does not apply to timber growing on said easement and right of way, pursuant to paragraph 19, hereof, which is over fourteen (14) feet in height.

(8) SOIL CONSERVATION: GRANTEE hereby covenants to and with GRANTOR to so use the easement and right of way in such a manner as will adequately provide for the conservation of soil and for the prevention of soil erosion.

(9) NOXIOUS WEEDS: GRANTEE hereby covenants to and with GRANTOR to so use said easement and right of way in a manner as will comply with the provisions of Oregon law relating to the destruction of, or prevention of, the spread or seeding of noxious weeds.

(10) PREVENTION AND SUPPRESSION OF FIRE: In consideration of the rights and privileges granted herein to GRANTEE, and of the additional fire hazard the lands of the GRANTOR are exposed to by reason of the erection, maintenance and operation of high voltage electrical transmission lines and facilities therefor, which additional hazard would not exist were such lines and facilities not installed, maintained or used, GRANTEE hereby covenants to and with the GRANTOR to:

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(a) Dispose of all slashings and debris created by GRANTEE on lands of the GRANTOR in a manner satisfactory to the GRANTOR; and

(b) Maintain said easement and right of way, and said patrol road, reasonably free of inflammable debris; and

(c) Take all reasonable precautions to prevent forest, brush and grass fires and endeavor with all available personnel to suppress any fire originating on or threatening said easement and right of way; and

(d) Do no burning on or near said easement and right of way without first obtaining a burning permit from the State Forester or his designated representatives during seasons that such permits are required by Oregon law; and

(e) Immediately notify GRANTOR and the nearest State Fire Warden upon discovery of fire in the vicinity of said easement and right of way.

(11) MATERIALS AND LABOR: GRANTEE will fully pay for all materials joined or affixed to said easement and right of way, and pay in full all persons who perform labor upon said easement and right of way, and will not permit or suffer any mechanics' liens or materialmen's liens of any kind or nature to be enforced against said easement and right of way for any work done or materials furnished thereon at GRANTEE'S instance or request.

(12) INDEMNITY: GRANTEE shall, and hereby expressly agrees to, indemnify and save harmless the GRANTOR, its officials, employees and contractors, from all suits or actions of every name and description brought for or on account of any damage, injury, loss, expense, inconvenience or delay received or sustained by any person, or damage caused to any property, which damage, injury, loss, expense, inconvenience or delay may have been caused by or may have resulted from the carrying out of the purposes of this agreement, or from any act, omission or neglect of the GRANTEE, its officials, employees or agents; for the purposes of this agreement, all persons, except the parties hereto, using said easement and right of way under authority of GRANTEE shall be deemed an agent of GRANTEE.

(13) LIABILITY OF GRANTEE: GRANTEE shall be liable to GRANTOR for all loss or damage to or destruction of the property of GRANTOR, not herein authorized (including amounts expended by GRANTOR for fire-fighting purposes or paid to fire-protective organizations or like organizations), which loss or

damage is the proximate result of any negligent act or omission of such GRANTEE, unless such loss or damage is a direct result of negligence or other fault of GRANTOR.

(14) INSURANCE: GRANTEE shall, before commencing the use of said easement and right of way for the purposes stated herein, at its own cost, procure insurance acceptable to the GRANTOR in insurers acceptable to the GRANTOR, covering its operations in the use of said easement and right of way and insuring it against liability for personal injury and property damage for all sums for which it may by law become liable to pay by reason of accidents or occurrence, with limits not less than \$100,000 in excess of \$25,000 for injury to one person and \$250,000 in excess of \$25,000 for injury to two or more persons, and \$250,000 in excess of \$25,000 for damage to property; GRANTEE, before commencing use of such easement and right of way, shall furnish GRANTOR with a copy of such policy or policies of insurance, which shall bear an endorsement requiring the insurer to give ten (10) days' prior written notice to GRANTOR of any intended or proposed cancellation or qualification of obligation of such insurance; copies of all subsequent endorsements thereto shall also be furnished GRANTOR upon execution.

(15) PERFORMANCE BOND: GRANTEE shall obtain and maintain during the construction period of the electric power transmission lines granted herein, a performance bond issued by a surety company acceptable to GRANTOR in the amount of Five Thousand Dollars (\$5,000) as security for the performance of all the obligations to be performed hereunder by the GRANTEE; the GRANTEE shall be and remain liable for any deficiency and for all amounts which may be due GRANTOR by reason of any default hereunder after the application of said performance bond.

(16) COMPLIANCE - LAWS AND REGULATIONS: GRANTEE hereby agrees to comply with all laws and regulations, federal, state and local, applicable to the use of said easement and right of way, including, but not limited to, those relating to the prevention, suppression and control of fire, and all valid orders of federal and state officials pertaining thereto.

(17) ASSIGNMENT: GRANTEE shall not assign nor transfer this agreement in whole or in part without the written consent of GRANTOR first had and obtained.

(18) FAILURE, NEGLIGENCE AND REFUSAL: If GRANTEE shall fail, neglect or refuse to keep, observe or perform any of the conditions, covenants or agreements herein contained, for a period of 30 days after having been given written notice to comply therewith, GRANTOR may terminate this agreement by written notice to GRANTEE, and thereupon all rights hereby given shall forthwith cease and determine.

(19) RESERVATION BY GRANTOR: GRANTOR hereby expressly reserves the right to go upon, over and across the strip of land described herein, and to make such use of said land that is not inconsistent with the rights herein granted as the GRANTOR may desire; such reservation, upon written notice to the GRANTEE of its intention to exercise such right, shall include, but not be limited to, the planting, growing, thinning and harvesting of forest crops to a height of not more than fourteen (14) feet.

(20) COSTS AND FEES: In case GRANTOR shall bring suit to compel performance of, or to recover for breach of, any covenant, agreement or condition herein written, GRANTEE shall and will pay to GRANTOR reasonable attorney's fees in addition to the amount of judgment and costs.

(21) TERMINATION: All rights of the GRANTEE hereunder shall cease automatically:

(a) If for a continuous period of five (5) years GRANTEE shall fail to use said easement and right of way for the purposes stated herein;

(b) Immediately upon insolvency, adjudication of bankruptcy or appointment of a receiver for the property of GRANTEE, or failure strictly to comply with the terms and conditions of Paragraph 10, hereof;

(c) Upon receipt of written notice of termination as provided in Paragraph 18; provided, however, termination of this agreement shall not prejudice the right of GRANTOR to damages theretofore or thereafter accruing on account of breach by GRANTEE of any condition, covenant or agreement hereof.

(22) STRICT CONSTRUCTION: This agreement shall be binding upon the executors, administrators, successors and assigns of the parties hereto, and the words and phrases hereinabove used, particularly those of indemnification,

are to be strictly construed, that is to say, the same are to be given their full, exact and technical meaning and shall not be extended by implication beyond the literal meaning thereof.

(23) NOTICE: All notices or other communications provided for herein may be served personally or by certified mail addressed to the parties to be served as follows; either party may change its address or designated authorized representative by written notice:

(a) GRANTEE: Portland General Electric Company
621 S. W. Alder Street
Portland, Oregon 97205

(b) GRANTOR: Oregon State Board of Forestry
c/o State Forester
2600 State Street
Salem, Oregon

IN WITNESS WHEREOF, The parties hereto have executed this agreement in duplicate as of the day and year first hereinabove written.

STATE OF OREGON
acting by and through its
Board of Forestry

By *W. H. Heston*
State Forester
GRANTOR

PORTLAND GENERAL ELECTRIC COMPANY

By *Waldemar Seton*
Waldemar Seton, Vice President

ATTEST

By *Clarence D. Phillips*
Clarence D. Phillips, Secretary

ATTEST: *Walter J. Adams*
REGISTER - CLERK & LAND

W. Heston

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ACKNOWLEDGMENT

STATE OF OREGON }
County of Marion } ss.

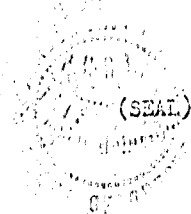
On this 26th day of July, 1965,

before me appeared D. L. Phipps, to me personally known, who
being first duly sworn, did say that he, the said D. L. Phipps,
is the Secretary of the Oregon State Board of Forestry and that
the within instrument was signed for and by authority of said
Board, and said D. L. Phipps acknowledged said instrument to be
the free act and deed of said Board, acting for and in behalf
of the State of Oregon.

IN TESTIMONY WHEREOF, I have hereunto set my hand and
affixed my official seal this day and year last above written.

Samuel L. Miller
Notary Public for Oregon

My Commission expires: April 22, 1966



ACKNOWLEDGMENT

STATE OF OREGON)
COUNTY OF Multnomah) ss:

On this 30th day of July, 1965, before me appeared Waldemar Seton and Clarence D. Phillips, both to me personally known, who, being duly sworn, did say that he, the said Waldemar Seton, is the Vice President, and he, the said Clarence D. Phillips is the Secretary of Portland General Electric Company, the within-named corporation, and that the said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said Waldemar Seton and Clarence D. Phillips acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal the day and year last above written.



W. M. Burham
Notary Public for Oregon

My Commission expires: 4-11-69

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EXHIBIT A

38 S-12 E-5

The easterly 150 feet of the following-described 300-foot strip
of land:

That portion of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 5, Township 38 South,
Range 12 East, Willamette Meridian, Klamath County, Oregon, which lies
within a strip of land 300 feet in width, the boundaries of said strip
lying 75 feet distant westerly from, and 225 feet distant easterly
from, and parallel with, the survey line for the United States of America,
Bonneville Power Administration's Grizzly-Malin transmission line, as
now located and staked on the ground over, across, upon, and/or adjacent
to the above-described property, said survey line being particularly
described as follows:

Beginning at survey station 7581 + 56.0, a point in the north
line of Section 28, Township 37 South, Range 12 East, Willamette
Meridian, said point being S. 88° 28' 00" W. a distance of 938.4 feet
from the northeast corner of said Section 28; thence S. 21° 33' 50" W.
a distance of 8072.2 feet to survey station 7662 + 28.2; thence S. 22° 18' 10" W.
a distance of 14,654.1 feet to survey station 7808 + 82.3, a point in the
line common to Sections 8 and 17, Township 38 South, Range 12 East,
Willamette Meridian, said point being N. 87° 47' 20" E. a distance of
1248.2 feet from the southwest corner of said Section 8.

STATE OF OREGON, COUNTY OF KLAMATH, ss.

Filed for record at request of Portland General Electric Co.

this 16 day of August A.D. 1965 at 5:50 o'clock A. M., and

duly recorded in Vol. E-65 of Deeds on Page 883

Fee \$15.00

DOROTHY ROGERS, County Clerk
By Jane Hester