

PacifiCorp Klamath Hydroelectric License
FERC Project No. 2082

License As Issued, with Subsequent Amendments Incorporated

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Please Note: This document does not reflect Amendments to License Exhibits. It treats only Amendments to the text of the license articles, citing the FERC Orders issuing them. Amendments appear in *italics*. Deleted text is retained as ~~Font strikethrough~~. “[]” denote Editor’s Notes.

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**UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION**

PacifiCorp

Project No. 2082

Order Issuing License  
13 FPC 1  
Issued January 28, 1954

***KLAMATH LICENSE PROVISIONS:***

[Please Note: 23 FPC 59 makes substantial changes to (1)(b) of findings. The Order states: “Paragraph I of the September 25, 1957, order issuing the license for Big Bend Project No. 2082 as amended is further amended to include the developments described in Finding (2) herein.”

Finding (2), however, treats the developments only very slightly. The complete wording of this finding is as follows: “The Applicant herein requests further amendment of the license for Project No. 2082 referred to in Finding No. 1 to include in such license the Applicant’s East Side Development, West Side Development, Keno Regulating Dam, Copco No. 1 Development and Copco No. 2 Development, and to authorize the construction of the initial stage of the Iron Gate Development, hereinafter more particularly described.”

In this document, I have included the more particular descriptions from Finding (3). It is my belief that this was the Finding to which FERC meant to reference.]

(1) Proposed Project No. 2082 would consist of:

(a) All lands constituting the project area and enclosed by the project boundary or the limits of which are otherwise defined and/or interest in such lands necessary or

appropriate for the purposes of the project, whether such lands or interest therein are owned or held by the Applicant or by the United States; such project area and project boundary being tentatively shown and described by certain exhibits which formed a part of the *amended* (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957)) application for license and which are designated and described as follows:

.... [Exhibit lists have been omitted for clarity.]

~~(b) Principal structures, comprising a concrete gravity type diversion dam approximately 52 feet high and 310 feet long, with fixed crest at elevation 3,628 feet (U.S.G.S. datum) in SW 1/4 NE 1/4 section 12, T. 40 S., R. 6 E., Willamette meridian; a temporary regulating dam in SE 1/4 section 31, T. 39, S., R. 7 E., Willamette meridian, to provide a reservoir with approximately 1,150 acre-feet of pondage at normal high water elevation 3,793 feet (U.S.G.S. datum); a conduit, partly pipe and partly tunnel, about 4,440 feet long; a surger chamber; a penstock about 600 feet long; a powerhouse with two 25,000-kilowatt generators each connected to a 37,000-horsepower turbine; a substation; a transmission line about one-quarter mile long from the substation to Applicant's 66,000-volt Fall Creek-Klamath Falls line which is under license for Project No. 704; the location, nature and character of which are more specifically shown by the exhibits hereinbefore cited and by certain other exhibits which also formed part of the application for license and which are designated and described as follows: (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))~~

~~(b) All project works consisting principally of a diversion dam about 650 feet long at the previously designated Big Bend No. 1 dam site in the NW 1/4 section 6, T. 40 S., R. 7 E., Willamette meridian, comprised of an earth-filled section about 70 feet high across the stream bed, a concrete gravity gate—controlled spillway section on the left abutment, a conduit intake section, a short concrete gravity abutment section, and a fish ladder section; a reservoir with normal water surface at elevation 3,793 feet (U.S.G.S. datum) and extending upstream about 3 miles to the tailwater of applicant's proposed Keno Development; a conduit about 2 1/4 miles long, partly steel pipe, partly canal and partly flume, extending to a forebay; a forebay; a tunnel about 1,600 feet long; a surge tank; penstocks about 800 feet long; a powerhouse at the previously designated Big Bend No. 2 powerhouse site in the NW 1/4 section 13, T. 40 S., R. 6 E., Willamette meridian, containing two turbines each rated at 56,000 horsepower and driving a 40,000 kilowatt generator and operating under a gross head of 463 feet; transformers; and appurtenant facilities; the location, nature and character of which project works are more specifically shown and described by the exhibits hereinbefore cited and by certain other exhibits which also formed part of the amended application for license and which are designated and described as follows: (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))-(Order Amending License, FERC Project No. 2082, 20 FPC 226 (August 21, 1958))~~

*(b) All project works consisting principally of a diversion dam about 650 feet long at the previously designated Big Bend No. 1 dam site in the NW 1/4 section 6, T. 40 S., R. 7 E., Willamette meridian, comprised of an earth filled section about 70 feet high across the stream bed, a concrete gravity gate—controlled spillway section on the left abutment, a conduit intake section, a short concrete gravity abutment section, and a fish ladder section; a reservoir with normal water surface at elevation 3,793 feet (U.S.G.S. datum) and extending upstream about 3 miles to the tailwater of applicant's proposed Keno Development; a conduit about 2 1/4 miles long, partly steel pipe, partly canal and partly flume, extending to a forebay; a forebay; a tunnel about 1,600 feet long; a surge tank; penstocks about 800 feet long; a powerhouse at the previously designated Big Bend No. 2 powerhouse site in the NW 1/4 section 13, T. 40 S., R. 6 E., Willamette meridian, containing two turbines each rated at 56,000 horsepower and driving a 40,000 kilowatt generator and operating under a gross head of 463 feet; transformers; a 230 kilovolt transmission line (designated transmission line No. 59) 69.9 miles long linking the power plant with the applicant's Lone Pine substation at Medford, Oregon, on its western terminus and with the applicant's Klamath Falls substation at Klamath Falls, Oregon, on its eastern terminus; and appurtenant facilities; the location, nature and character of which project works are more specifically shown and described by the exhibits hereinbefore cited and by certain other exhibits which also formed part of the amended application for license and which are designated and described as follows: (Order Amending License, FERC Project No. 2082, 20 FPC 226 (August 21, 1958) (Order Approving Revised Exhibits, Further Amending the License, and Prescribing Annual Charge, FERC Project No. 2082, 22 FPC 496 (September 15, 1959))*

*(b) All project works consisting principally of a diversion dam about 692.6 feet long at the previously designated Big Bend No. 1 dam site in the NW 1/4 section 6, T. 40 S., R. 7 E., Willamette meridian, comprised of an earth fill section about 70 feet high across the stream bed, a concrete gravity gate controlled spillway section on the left abutment, a conduit intake section, a short concrete gravity abutment section, and a fish ladder section; a reservoir with normal water surface at elevation 3,793 feet (U.S.G.S. datum) and extending upstream about 3 miles to the tailwater of applicant's proposed Keno Development; a conduit about 2 1/2 miles long, partly steel pipe, partly canal and partly flume, extending to a forebay; a forebay; a tunnel about 1,600 feet long; a surge tank; penstocks about 958 feet long; a powerhouse at the previously designated Big Bend No. 2 powerhouse site in the NW 1/4 section 13, T. 40 S., R. 6 E., Willamette meridian, containing two turbines each rated at 56,000 horsepower and driving a 40,000 kilowatt generator and operating under a gross head of 466 feet; transformers; a 230 kilovolt transmission line (designated transmission line No. 59) 69.9 miles long linking the power plant with the Licensee's Lone Pine substation at Medford, Oregon, on its western terminus and with the Licensee's Klamath Falls substation at Klamath Falls, Oregon, on its eastern terminus; a 66 KV tap line from the Licensee's Project No. 704 to the Big Bend switchyard of Project No. 2082; and appurtenant facilities; the location, nature and character of which project works are more specifically shown and described by the exhibits hereinbefore cited and by certain other exhibits which also formed part of the amended application for license and which are designated and described as follows: (Order Approving Revised Exhibits, Further Amending the License, and Prescribing*

Annual Charge, FERC Project No. 2082, 22 FPC 496 (September 15, 1959)) Order Amending License and Revising Annual Charges, FERC Project No. 2082, 13 FERC ¶62,172 (November 18, 1980))

*(b) All project works consisting principally of a diversion dam about 692.6 feet long at the previously designated Big Bend No. 1 dam site in the NW 1/4 section 6, T. 40 S., R. 7 E., Willamette meridian, comprised of an earth fill section about 70 feet high across the stream bed, a concrete gravity gate controlled spillway section on the left abutment, a conduit intake section, a short concrete gravity abutment section, and a fish ladder section; a reservoir with normal water surface at elevation 3,793 feet (U.S.G.S. datum) and extending upstream about 3 miles to the tailwater of applicant's proposed Keno Development; a conduit about 2 1/2 miles long, partly steel pipe, partly canal and partly flume, extending to a forebay; a forebay; a tunnel about 1,600 feet long; a surge tank; penstocks about 958 feet long; a powerhouse at the previously designated Big Bend No. 2 powerhouse site in the NW 1/4 section 13, T, 40 S., R. 6 E., Willamette meridian, containing two turbines each rated at 56,000 horsepower and driving a 40,000 kilowatt generator and operating under a gross head of 466 feet; transformers; a 66 KV tap line from the Licensee's Project No. 704 to the Big Bend switchyard of Project No. 2082; and appurtenant facilities; the location, nature and character of which project works are more specifically shown and described by the exhibits hereinbefore cited and by certain other exhibits which also formed part of the amended application for license and which are designated and described as follows: (Order Amending License and Revising Annual Charges, FERC Project No. 2082, 13 FERC ¶62,172 (November 18, 1980)) (Order Amending License and Revising Annual Charges Under Article 35, FERC Project No. 2082, 99 FERC ¶62,212 (June 19, 2002))*

*(b) All project works consisting principally of a diversion dam about 692.6 feet long at the previously designated Big Bend No. 1 dam site in the NW 1/4 section 6, T. 40 S., R. 7 E., Willamette meridian, comprised of an earth-fill section about 70 feet high across the stream bed, a concrete gravity gate-controlled spillway section on the left abutment, a conduit intake section, a short concrete gravity abutment section, and a fish ladder section; a reservoir with normal water surface at elevation 3,793 feet (U.S.G.S. datum) and extending upstream about 3 miles to the tailwater of applicant's proposed Keno Development; a conduit about 2 1/2 miles long, partly steel pipe, partly canal and partly flume, extending to a forebay; a forebay; a tunnel about 1,600 feet long; a surge tank; penstocks about 958 feet long; a powerhouse at the previously designated Big Bend No. 2 powerhouse site in the NW 1/4 section 13, T, 40 S., R. 6 E., Willamette meridian, containing two turbines, one rated at 75,700 horsepower and the other at 56,000 horsepower, and driving a 40,000-kilowatt generator and operating under a gross head of 466 feet; transformers; a 66 KV tap line from the Licensee's Project No. 704 to the Big Bend switchyard of Project No. 2082; and appurtenant facilities; the location, nature and character of which project works are more specifically shown and described by the exhibits hereinbefore cited and by certain other exhibits which also formed part of the amended application for license and which are designated and described as follows: (Order Amending License and Revising Annual Charges Under Article 35, FERC Project No. 2082, 99 FERC ¶62,212 (June 19, 2002))*

.... [Exhibit lists have been omitted for clarity]

### EXISTING DEVELOPMENTS

*East Side Development on Link River consisting of a canal and penstock extending from Link River Dam to the powerhouse containing a 4,250-horsepower turbine driving a 3,200-kilowatt generator; West Side Development on Link River consisting of a canal and penstock extending from Link River Dam to the powerhouse containing a 1,040-horsepower turbine driving a 600-kilowatt generator; Keno Regulating Dam on Klamath River consisting of a wood-bent structure with earth abutments and control works for maintaining the level of Ewauna Lake and Klamath River between Keno and Klamath Falls; Copco No. 1 Development on Klamath River about 31 miles below Keno consisting of a concrete gravity arch dam with tainter gates creative a reservoir about 4 1/2 miles long; penstocks, a powerhouse containing two 18,600-horsepower turbines each driving a 10,000-kilowatt generator, and a substation; Copco No. 2 Development on Klamath River about 1/4 mile below the Copco No. 1 Development consisting of a concrete and earth diversion dam, a conduit composed of two tunnels, a wood-stave pipe and penstocks leading to the powerhouse containing two 20,000-horsepower turbines each driving a 13,500-kilowatt generator, and a substation; and appurtenant facilities; the location, nature and character of which project works are more specifically shown and described by certain exhibits hereinbefore cited and by certain other exhibits which also formed part of the amended application for license or application for amendment of license. (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959); *affirmed* by order on rehearing, Order Adopting Initial Decision of Presiding Examiner, FERC Project No. 2082, 23 FPC 59 (January 13, 1960)) (Order Approving Revised Exhibit L Drawings for Project and Deleting Superseded Exhibits, FERC Project No. 2082, 41 FPC 393 (March 21, 1969))*

*East Side Development on Link River consisting of a canal and penstock extending from Link River Dam to the powerhouse containing a 4,250-horsepower turbine driving a 3,200-kilowatt generator; West Side Development on Link River consisting of a canal and penstock extending from Link River Dam to the powerhouse containing a 1,040-horsepower turbine driving a 600-kilowatt generator; Copco No. 1 Development on Klamath River about 31 miles below Keno consisting of a concrete gravity arch dam with tainter gates creative a reservoir about 4 1/2 miles long; penstocks, a powerhouse containing two 18,600-horsepower turbines each driving a 10,000-kilowatt generator, and a substation; Copco No. 2 Development on Klamath River about 1/4 mile below the Copco No. 1 Development consisting of a concrete and earth diversion dam, a conduit composed of two tunnels, a wood-stave pipe and penstocks leading to the powerhouse containing two 20,000-horsepower turbines each driving a 13,500-kilowatt generator, and a substation; and appurtenant facilities; the location, nature and character of which project works are more specifically shown and described by certain exhibits hereinbefore cited and by certain other exhibits which also formed part of the amended application for license or application for amendment of license. (Order Approving Revised Exhibit L*

Drawings for Project and Deleting Superseded Exhibits, FERC Project No. 2082, 41 FPC 393 (March 21, 1969))

*East Side Development on Link River consisting of a canal and penstock extending from Link River Dam to the powerhouse containing a 4,250-horsepower turbine driving a 3,200-kilowatt generator; West Side Development on Link River consisting of a canal and penstock extending from Link River Dam to the powerhouse containing a 1,040-horsepower turbine driving a 600-kilowatt generator; Copco No. 1 Development on Klamath River about 31 miles below Keno consisting of a concrete gravity arch dam with tainter gates create a reservoir about 4 1/2 miles long; penstocks, a powerhouse containing one 18,600-horsepower turbine and one 21,759-horsepower turbine, each driving a 10,000-kilowatt generator, and a substation; Copco No. 2 Development on Klamath River about 1/4 mile below the Copco No. 1 Development consisting of a concrete and earth diversion dam, a conduit composed of two tunnels, a wood-stave pipe and penstocks leading to the powerhouse containing one 20,000-horsepower turbine and one 26,285-horsepower turbine, each driving a 13,500-kilowatt generator, and a substation; and appurtenant facilities; the location, nature and character of which project works are more specifically shown and described by certain exhibits hereinbefore cited and by certain other exhibits which also formed part of the amended application for license or application for amendment of license. (Order Amending License and Revising Annual Charges Under Article 35, FERC Project No. 2082, 99 FERC ¶62,212 (June 19, 2002))*

#### *IRON GATE DEVELOPMENT*

*A reinforced concrete arch dam in the SW1/4 section 9, T. 47, N., R. 5 W., Mt. Diablo meridian, constructed initially to elevation 2,225 feet (U.S.G.S. datum) with valve controlled discharge and creating a reservoir for regulation of the river below the dam, and associated fish-trapping facilities described in the drawing designated as Exhibit 62-A in the record of the hearing on the application. Ultimately, the development would be completed by increasing the height of the dam and incorporating therein a gated spillway section to create a reservoir with normal water surface at elevation 2,328 feet (U.S.G.S. datum) and extending upstream about 7 miles to Applicant's existing Copco No. 2 Development, and by constructing a short penstock, a powerhouse immediately below the dam containing a single turbine with capacity of about 33,500 horsepower and driving a 25,000 kilowatt generator, a substation adjacent to the powerhouse, a transmission line extending from the substation to the Applicant's existing transmission system at the Copco No. 2 Development, and appurtenant facilities; the location, nature and character of which project works are more specifically shown and described by certain exhibits hereinbefore cited and by certain other exhibits which also formed part of the application for amendment of license. (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959); affirmed by order on rehearing, Order Adopting Initial Decision of Presiding Examiner, FERC Project No. 2082, 23 FPC 59 (January 13, 1960)) (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))*

*An earthfill dam about 173 feet high with crest elevation of 2,338 feet; a concrete chute spillway in the right abutment with a single gated section; a reservoir with normal water surface at elevation 2,328 feet and a capacity of about 58,000 acre feet; a tunnel through the right abutment which will serve as a sluice and diversion during construction; an intake structure; a power conduit through the left abutment; a penstock; a powerhouse with one 25,000-horsepower turbine connected to an 18,000-kilowatt generator installed therein; a substation adjacent to the powerhouse; a 66 kv transmission line extending to Copeo No. 2 Switchyard; a fish ladder and fish trapping facilities; and other appurtenant electrical and mechanical facilities. (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))(Order Approving Revised Project Exhibits and Adjusting Annual Charges, FERC Project No. 2082, 28 FPC 856 (November 21, 1962))*

*An earth-fill dam about 173 feet high with crest elevation of 2,338 feet; a concrete side channel spillway of the overflow type in the right abutment; a reservoir with normal water surface at elevation 2,328 feet and a capacity of about 58,000 acre-feet; a tunnel through the right abutment which will serve as a sluice and diversion during construction; an intake structure; a power conduit through the left abutment; a penstock; a powerhouse with one 25,000-horsepower turbine connected to an 18,000-kilowatt generator installed therein; a substation adjacent to the powerhouse; a 66 kv transmission line extending to COPCO No. 2 Switchyard; a fish ladder and fish trapping facilities complete with appurtenant facilities; and other appurtenant electrical and mechanical facilities. (Order Approving Revised Project Exhibits and Adjusting Annual Charges, FERC Project No. 2082, 28 FPC 856 (November 21, 1962))*

#### *KENO DEVELOPMENT*

*A low, gated concrete diversion dam about 25 feet high and located on the Klamath River at approximately mile 235, with top pool elevation of 4086.5 feet msl; channel improvement in Klamath River from approximately mile 235 to mile 254; and channel improvement in Link River. (Order Further Amending License, FERC Project No. 2082, 34 FPC 1387 (November 29, 1965))*

#### *FALL CREEK DEVELOPMENT*

*(1) a timber-crib diversion dam 80 feet long and 4 feet high; (2) an unlined canal 9 feet wide, 3 feet deep and approximately 4,560 feet long; (3) a forebay and intake structure; (4) a steel penstock 36-30 inches in diameter; (5) an indoor powerhouse containing three generating units with a total capacity of 2,200 kw; (6) three 833 kva outdoor type transformers; (7) a tailrace channel about 500 feet long; (8) a 69 kv transmission line approximately 34 miles long extending from Sec. 30, T. 48 N., R. 4 W., Mt. Diablo Base and Meridian, California, to Sec. 18, T. 36 S., R. 2 W., Williamette Base and Meridian, Oregon, and (9) appurtenant facilities. (Order Amending License and Dismissing Application for New License, FERC Project No. 2082, 44 FPC 1065 (September 25, 1970))(Order Modifying License, Granting Extension of Time to File Revised Exhibits, and Approving Revised Exhibit L, FERC Project No. 2082, 51 FPC 1850 (June 6, 1974))*

~~(1) a timber crib diversion dam 80 feet long and 4 feet high; (2) an unlined canal 9 feet wide, 3 feet deep and approximately 4,560 feet long; (3) a forebay and intake structure; (4) a steel penstock 36-30 inches in diameter; (5) an indoor powerhouse containing three generating units with a total capacity of 2,200 kw; (6) three 833 kva outdoor-type transformers; (7) a tailrace channel about 500 feet long; (8) a 69 kv transmission line approximately 36 miles long extending from Copco No. 1 in Sec. 29, T. 48 N., R. 4 W., to the Fall Creek plant and thence to its connection with the Griffin Creek Substation Tap in Sec. 5, T. 38 S., R1W., and (9) appurtenant facilities. (Order Modifying License, Granting Extension of Time to File Revised Exhibits, and Approving Revised Exhibit L, FERC Project No. 2082, 51 FPC 1850 (June 6, 1974)) (Order Amending License and Revising Annual Charges, FERC Project 2082, 12 FERC ¶62,123 (August 22, 1980))~~

*(1) a timber-crib diversion dam 80 feet long and 4 feet high; (2) an unlined canal 9 feet wide, 3 feet deep and approximately 4,560 feet long; (3) a forebay and intake structure; (4) a steel penstock 36-30 inches in diameter; (5) an indoor powerhouse containing three generating units with a total capacity of 2,200 kw; (6) three 833 kva outdoor-type transformers; (7) a tailrace channel about 500 feet long; (8) a 69 kv transmission line approximately 1.7 miles long extending from Fall Creek Development (§ 30, T. 48 N., R. 4W) to Copco No. 1 development (§ 29, T. 48 N., R. 4W) and (9) appurtenant facilities. (Order Amending License and Revising Annual Charges, FERC Project 2082, 12 FERC ¶62,123 (August 22, 1980))*

~~(e) All other structures, fixtures, equipment, or facilities used or useful in the maintenance and operation of the project and to be located in the project area, including such portable property as may be used or useful in connection with the project or any part thereof, whether located on or off the project area, if and to the extent that the inclusion of such property as a part of the project is approved or acquiesced in by the Commission; also the part or parts of the stream within the project boundary and riparian or other rights, the use or possession of which is necessary or appropriate in the maintenance and operation of the project. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))~~

*(c) All other structures, fixtures, equipment, or facilities used or useful in the maintenance and operation of the project and located on the project area, including such portable property as may be used or useful in connection with the project or any part thereof, whether located on or off the project area, if and to the extent that the inclusion of such property as a part of the project is approved or acquiesced in by the Commission; also all riparian or other rights, the use or possession of which is necessary or appropriate in the maintenance and operation of the project. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))*

(2) The California Oregon Power Company is a corporation organized under the laws of the State of California; is duly authorized to do business in the States of California and Oregon; and has submitted satisfactory evidence of compliance with the requirements of all applicable State laws insofar as necessary to effect the purposes of a license for the

project.

(3) No conflicting application is before the Commission.

(4) The proposed Big Bend ~~No. 2 project~~ *Development* (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957)) would be located in and along a navigable water of the United States.

(5) The proposed Big Bend ~~No. 2 project~~ *Development* (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957)) would occupy lands of the United States.

(6) Link River Dam is owned by the United States and is, therefore, a "Government dam" within the definition of Section 3 (10) of the Act.

(7) The proposed Big Bend ~~No. 2 project~~ *Development* (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957)) would utilize surplus water from a Government dam within the meaning of Section 4 (e) of the Act.

(8) The issuance of a license, as hereinafter provided, will not affect the development of any water resources for public purposes which should be undertaken by the United States itself.

(9) The issuance of a license for the project as hereinafter provided will not interfere or be inconsistent with the purposes of any reservation or withdrawal of public lands.

(10) The Applicant has submitted satisfactory evidence of its financial ability to construct and operate the proposed project.

(11) Under present circumstances and conditions, and upon the terms and conditions hereinafter imposed, the project is best adapted to a comprehensive plan for improving or developing the water ways involved for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water-power development and for other beneficial public uses including recreational purposes.

(12) No license should be issued for the proposed project without such conditions as will require proof of extension of the present contract between the United States and the Licensee before construction of the project is undertaken, thereby implementing the provisions of Section 27 of the Federal Power Act insofar as they apply to the appropriation under State law of water used in irrigation.

(13) The installed capacity of the proposed project would be ~~67,000 horsepower~~, (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))

~~107,000 horsepower, (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957)) (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959); affirmed by order on rehearing, Order Adopting Initial Decision of Presiding Examiner, FERC Project No. 2082, 23 FPC 59 (January 13, 1960))~~

~~175,000 horsepower, (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959); affirmed by order on rehearing, Order Adopting Initial Decision of Presiding Examiner, FERC Project No. 2082, 23 FPC 59 (January 13, 1960)) (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))~~

~~199,000 horsepower, (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961)) (Order Amending License and Dismissing Application for New License, FERC Project No. 2082, 44 FPC 1065 (September 25, 1970))~~

~~201,930 horsepower, (Order Amending License and Dismissing Application for New License, FERC Project No. 2082, 44 FPC 1065 (September 25, 1970)) (Order Amending License and Revising Annual Charges Under Article 35, FERC Project No. 2082, 99 FERC ¶62,212 (June 19, 2002))~~

~~150,998 kW, (Order Amending License and Revising Annual Charges Under Article 35, FERC Project No. 2082, 99 FERC ¶62,212 (June 19, 2002))~~

and the energy generated would be used on the system of the Applicant.

(14) The amount of annual charges to be paid under the license for the purpose of reimbursing the United States for the cost of administration of Part I of the Act, ~~and for recompensing it for the use, occupancy, and enjoyment of its lands is reasonable, as hereinafter fixed and specified.~~ *is reasonable as hereinafter fixed and specified, and it is desirable to reserve for future determination the amount of annual charges to be paid under the license for the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands.* (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))

(15) ~~The benefits received by the United States under the Link Dam Agreement, dated February 24, 1917, as amended, constitute reasonable compensation for the use of surplus water from the Government dam, and no additional charge therefore should be made under the license during the term of that agreement or extension thereof.~~ (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))

(15) *For the reasons set forth in the Commissions Opinions Nos. 266 and 266-A issues January 28, 1954 and February 28, 1956, respectively, the benefits received by the United States under the Link Dam Agreement, dated January 31, 1956, constitute reasonable compensation for the use of surplus water from that Government dam.* (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))

(16) In accordance with Section 10(d) of the Act, the rate of return upon the net

investment in the project, and the proportion of surplus earnings to be paid into and held in amortization reserves, are reasonable as hereinafter specified.

(17) The exhibits, designated and described in paragraphs (a) and (b) above as part of the application, conform to the Commission's rules and regulations and should be approved as part of the license for the project.

[Order Paragraphs]

~~(A) This license is issued to The California Oregon Power Company, of Yreka, California, under Section 4 (e) of the Federal Power Act for a period of fifty (50) years, effective as of the first day of the month in which the acceptance hereof is filed with the Commission as of the first day of March 1956, for the construction, operation, and maintenance of Project No. 2082, subject to the terms and conditions of the Act which is incorporated by reference as a part of this license, and subject to such rules and regulations as the Commission has issued or prescribed under the provisions of the Act, **Provided, however,** That the acceptance of this license shall be filed within one year from the date of issuance of this order, or within such further period of time as may be granted by the Commission, and **Provided, further,** That with and as a part of the acceptance of this license, the Licensee hereunder shall file conformed copies (in quadruplicate) of the existing agreement between the Licensee and the United States (by the Secretary of the Interior), dated February 24, 1917, as amended, which has been further amended or renewed to cover a time period at least equivalent to the time period of this license, or a new agreement, covering a time period at least equivalent to the time period of this license between the Licensee and the United States, which provides for the storage in and release of water from Upper Klamath Lake in Oregon, and the use thereof by the Licensee for the generation of electric energy under terms and conditions substantially similar to those terms and conditions contained in the existing February 24, 1917 agreement, as amended. (Supplemental Opinion and Order Amending Order Issuing License, FERC Project No. 2082, 15 FPC 14 (February 28, 1956))~~

*(A) This license is issued to The California Oregon Power Company, of Yreka, California, under Section 4 (e) of the Federal Power Act for a period of fifty (50) years, effective as of the first day of March 1956, for the construction, operation, and maintenance of Project No. 2082, subject to the terms and conditions of the Act which is incorporated by reference as a part of this license, and subject to such rules and regulations as the Commission has issued or prescribed under the provisions of the Act, **Provided, however,** That the acceptance of this license shall be filed within one year from the date of issuance of this order, or within such further period of time as may be granted by the Commission, and **Provided, further,** That with and as a part of the acceptance of this license, the Licensee hereunder shall file conformed copies (in quadruplicate) of the existing agreement between the Licensee and the United States (by the Secretary of the Interior), dated February 24, 1917, as amended, which has been further amended or renewed to cover a time period at least equivalent to the time period of this license, or a new agreement, covering a time period at least equivalent to the time period of this license between the Licensee and the United States, which provides for the storage in and release of water from Upper Klamath Lake in Oregon, and the use thereof*

~~by the Licensee for the generation of electric energy under terms and conditions substantially similar to those terms and conditions contained in the existing February 24, 1917 agreement, as amended. (Supplemental Opinion and Order Amending Order Issuing License, FERC Project No. 2082, 15 FPC 14 (February 28, 1956)) (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))~~

*(A) This license is issued to The California Oregon Power Company, of Yreka, California, under Section 4 (e) of the Act for a period of 50 years, effective as of March 1, 1956, for the construction, operation, and maintenance of Project No. 2082 (Big Bend Development), subject to the terms and conditions of the Act which is incorporated by reference as a part of this license, and subject to such rules and regulations as the Commission has issued or prescribed under the provisions of the Act. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))*

~~(B) This license is also subject to the terms and conditions set forth in Form L-6, December 15, 1953, entitled "Terms and Conditions of License for Unconstructed Major Project Affecting Navigable Waters and Lands of the United States," which terms and conditions described as Articles 1 through 27 are attached hereto and made a part hereof; and subject to the following special conditions set forth herein as additional articles: [See Articles 28—37, following the standard Articles 1-27 which comprise Form L-6]. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))~~

*B. This license is also subject to the terms and conditions set forth in [Form L-6](#), December 15, 1953, entitled "Terms and Conditions of License for Unconstructed Major Project Affecting Navigable Waters and Lands of the United States," 16 FPC 1121, which terms and conditions are attached hereto and made a part hereof; and subject to the following special conditions set forth herein as additional articles: [See Articles 28 – 38]. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))*

(C) The exhibits, designated and described in paragraphs (a) and (b) of finding (1) above, are approved as part of this license.

(D) This order shall become final thirty (30) days from the date of its issuance unless application for rehearing shall be filed as provided by Section 313 (a) of the Act.

~~**Article 28.** The Licensee shall not commence construction of the project until its acceptance of the license as outlined in paragraph (A) hereof has been filed; and within one year from the effective date of the license, the Licensee shall commence construction and thereafter in good faith and with due diligence prosecute such construction and shall complete the project works within two years from beginning of construction. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))~~

~~**Article 28.** Having commenced construction of the Big Bend Development on about August 1, 1956, pursuant to pre-license permission, the Licensee shall complete the development on or before December 31, 1958. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957)) (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959))~~

~~**Article 28.** The Licensee shall commence construction of the initial stage of the Iron Gate Development within six months of the date of issuance of this amendment order, and shall complete such construction within one year thereafter. The Licensee shall at such time as the Commission may direct, after notice and opportunity for hearing, complete the construction of the Iron Gate Development to its ultimate stage. (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959)) (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))~~

~~**Article 28.** The Licensee, having commenced construction of the Iron Gate Development, shall continue to prosecute such construction and complete the Iron Gate Development not later than December 31, 1961. (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))~~

~~**Article 29.** The Licensee shall, prior to flooding, clear all lands in the bottoms and margins of reservoirs up to high-water level, clear and keep clear to an adequate width lands of the United States along open conduits, and shall dispose of all temporary structures, unused timber, brush, refuse, or inflammable material resulting from the clearing of the lands or from the construction and maintenance of the project works. In addition, all trees along margins of reservoirs which may die during operation of the project shall be removed. The clearing of the lands and the disposal of the material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))~~

~~**Article 29.** The Licensee shall, prior to flooding, clear all lands in the bottoms and margins of reservoirs up to high-water level, clear and keep clear to an adequate width lands of the United States along open conduits, and shall dispose of all temporary structures, unused timber, brush, refuse, or inflammable material resulting from the clearing of the lands or from the construction and maintenance of the project works. In addition, all trees along margins of reservoirs which may die during operation of the project shall be removed. The clearing of the lands and the disposal of the material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))~~

~~**Article 30.** The Commission reserves the right to determine at a later date the following matters:~~

~~(a) Which additional transmission lines and facilities, if any, shall be included in the license as a part of the project works;~~  
~~(b) Whether or not Project 2082 and other constructed developments operated and maintained by the Licensee on the Klamath River and the Link River shall be encompassed by a single license as being parts of a complete unit of improvement or development;~~  
~~(c) Whether or not such single license, if required, should contain a provision reserving the Commission's authority in the interests of protection of life, health, and property, to require the installation of re-regulating facilities at or near the Iron Gate site on the lower Klamath River, in California, after notice and opportunity for hearing.~~  
~~(Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))~~

~~**Article 30.** *The Commission reserves the right to determine at a later date the following matters:*~~

~~(a) Which additional transmission lines and facilities, if any, shall be included in the license as part of the project works;~~  
~~(b) Whether or not the license for Project No. 2082 shall encompass the proposed and existing facilities included in applications for amendment filed herein on January 11, 1957. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957)) (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959))~~

~~**Article 30.** *The Commission reserves the right to determine at a later date after notice and opportunity for hearing, the following matters:*~~

~~(a) Which additional transmission lines and facilities, if any, shall be included in the license as part of the project works;~~  
~~(b) Whether the Licensee for Project No. 2082 shall construct, operate and maintain a fish hatchery and appurtenant facilities. (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959)) (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))~~

~~**Article 30.** *The Commission reserves the right to determine at a later date which additional transmission lines and facilities, if any, shall be included in the license as part of the project works. (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))*~~

~~**Article 31.** *Upon completion of the project, the Licensee shall file Exhibits F and K for the project including transmission facilities revised in accordance with the Commission's rules and regulations. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))*~~

~~**Article 31.** *Upon completion of the project, the Licensee shall file Exhibits F and K for the project including transmission facilities revised in accordance with the Commission's rules and regulations. (Order Further Amending Order Issuing License, FERC Project*~~

No. 2082, 18 FPC 364 (September 25, 1957)) (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959))

~~**Article 31.** *The Licensee shall file, in conformity with the Commission's rules and regulations, revised Exhibits F and K for the existing developments within one year from the date of acceptance of this amendment of license and for the initial stage of the Iron Gate Development upon completion of construction of the development. (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959)) (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))*~~

**Article 31.** *The Licensee shall file for Commission approval revised Exhibits F and K for the Iron Gate Development within one year following completion of construction of such development. (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))*

~~**Article 32.** *The Licensee shall construct, operate, and maintain fishways at the diversion dam and the temporary regulating dam, and screens at the intake for the Big Bend No. 2 conduit. Plans for fishways and screens shall be submitted in advance of construction of these facilities for approval by the Commission with Advice of the Secretary of the Interior and the Oregon State Game Commission. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))*~~

**Article 32.** *The Licensee shall construct, operate and maintain fishways at the Big Bend diversion dam, screens at the intake for the Big Bend conduit, and deer escape facilities in and around the open portions of the Big Bend conduit. Plans for fishways, screens and deer escape facilities shall be submitted in advance of construction of these facilities for approval by the Commission with advice of the Secretary of the Interior and the Oregon State Game Commission. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))*

~~**Article 33.** *The Licensee shall replace the egg-taking station on the Klamath River at the mouth of Spencer Creek as may be prescribed hereafter by the Commission upon the recommendation of the Oregon State Game Commission. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))*~~

**Article 33.** *The licensee shall replace the egg-taking station on the Klamath River at the mouth of Spencer Creek as may be prescribed hereafter by the Commission upon the recommendation of the Oregon State Game Commission. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))*

~~**Article 34.** *The Licensee shall for the protection of fishlife maintain in the natural channel of the Klamath River immediately below the diversion dam a reasonable minimum flow consistent with the primary purpose of the project to be fixed hereafter by the Commission after notice to interested parties and opportunity for hearing. (Order*~~

Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))

**Article 34.** *The Licensee shall for the protection of fishlife maintain in the natural channel of the Klamath River immediately below the diversion dam a reasonable minimum flow consistent with the primary purpose of the project to be fixed hereafter by the Commission after notice to interested parties and opportunity for hearing. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))*

**Article 35.** The Licensee shall pay to the United States the following annual charges:

~~(a) For the purpose of reimbursing the United States for the costs of administration of Part I of the Act, one (1) cent per horsepower on the authorized installed generating capacity (67,000 horsepower), plus two and one half (2 1/2) cents per 1,000 kilowatt-hours of gross energy generated by the project during the calendar year for which the charge is made; (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))~~

~~(a) For the purpose of reimbursing the United States for the costs of administration of Part I of the Act, one (1) cent per horsepower on the authorized installed generating capacity (107,000 horsepower), plus two and one half (2 1/2) cents per 1,000 kilowatt-hours of gross energy generated by the project during the calendar year for which the charge is made; (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957)) (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959))~~

~~(a) Effective as of March 1, 1956, for the purpose of reimbursing the United States for the costs of administration of Part I of the Act, one (1) cent per horsepower on the authorized installed generating capacity (175,000 horsepower), plus two and one half (2 1/2) cents per 1,000 kilowatt hours of gross energy generated by the project during the calendar year for which the charge is made; (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959)) (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))~~

~~(a) Effective as of January 1, 1961, for the purpose of reimbursing the United States for the costs of administration of Part I of the Act, one (1) cent per horsepower on the authorized installed generating capacity (199,000 horsepower), plus two and one half (2 1/2) cents per 1,000 kilowatt hours of gross energy generated by the project during the calendar year for which the charge is made. (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961)) (Order Amending License and Dismissing Application for New License, FERC Project No. 2082, 44 FPC 1065 (September 25, 1970))~~

~~(a) [Effective January 1, 1963] For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable annual charge as determined by the Commission in accordance with the provisions of its regulations, in effect from time to time. The authorized installed capacity for such purpose shall be 201,930 horsepower. (Order Amending License and Dismissing Application for New License, FERC Project No. 2082, 44 FPC 1065 (September 25, 1970)) (Order Amending License and Revising Annual Charges Under Article 35, FERC Project No. 2082, 99 FERC ¶62,212 (June 19, 2002))~~

~~(a) For the purpose of reimbursing the United States for the cost of administering Part I of the Federal Power Act, a reasonable amount as determined in accordance with the provisions of the Commission's regulations in effect from time to time. The authorized installed capacity for that purpose is 150,988 kW, effective the issuance date of this order. (Order Amending License and Revising Annual Charges Under Article 35, FERC Project No. 2082, 99 FERC ¶62,212 (June 19, 2002))~~

~~(a) For the purpose of reimbursing the United States for the cost of administering Part I of the Federal Power Act, a reasonable amount as determined in accordance with the provisions of the Commission's regulations in effect from time to time. The authorized installed capacity for that purpose is 161,338 kW, effective the issuance date of this order. (Order Amending License and Revising Annual Charges under Article 35; Klamath Hydroelectric Project, FERC No. 2082; 112 FERC ¶62,063; July 21, 2005)~~

~~(a) For the purpose of reimbursing the United States for the cost of administering Part I of the Federal Power Act, a reasonable amount as determined in accordance with the provisions of the Commission's regulations in effect from time to time. The authorized installed capacity for that purpose is 168,973 kW, effective May 31, 2005 (date of commencement of construction of the upgrade). (Order Amending License and Revising Annual Charges under Article 35; Klamath Hydroelectric Project, FERC No. 2082: 117 FERC ¶ 62,252; December 19, 2006)~~

~~(b) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands exclusive of those used for transmission line right-of-way, \$2,530.00; (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))~~

~~(b) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands, exclusive of those used for transmission line right-of-way, an amount to be hereafter determined; (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957)) (Order Approving Revised Exhibits, Further Amending the License, and Prescribing Annual Charge, FERC Project No. 2082, 22 FPC 496 (September 15, 1959))~~

~~(b) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands, exclusive of those used for transmission line right-of-way, \$456.64; (Order Approving Revised Exhibits, Further Amending the License, and~~

Prescribing Annual Charge, FERC Project No. 2082, 22 FPC 496 (September 15, 1959))  
(Order Approving Project Exhibits and Adjusting Annual Charges, FERC Project No.  
2082, 27 FPC 1366 (June 21, 1962))

*(b) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands, exclusive of those used for transmission line right-of-way, \$532.80, effective as of March 1, 1956; (Order Approving Project Exhibits and Adjusting Annual Charges, FERC Project No. 2082, 27 FPC 1366 (June 21, 1962))) (Order Approving Revised Project Exhibits and Adjusting Annual Charges, FERC Project No. 2082, 28 FPC 856 (November 21, 1962)))*

*(b) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands, exclusive of those used for transmission line right-of-way, \$847.22 effective as of January 13, 1960. (Order Approving Revised Project Exhibits and Adjusting Annual Charges, FERC Project No. 2082, 28 FPC 856 (November 21, 1962))) (Order Approving Revised Project Exhibits and Adjusting Annual Charges, FERC Project No. 2082, 30 FPC 1154 (October 30, 1963)))*

*(b) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands, exclusive of those used for transmission line right-of-way, \$841.30; (Order Approving Revised Project Exhibits and Adjusting Annual Charges, FERC Project No. 2082, 30 FPC 1154 (October 30, 1963))) (Order Further Amending License, FERC Project No. 2082, 34 FPC 1387 (November 29, 1965)))*

*(b) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands, exclusive of those used for transmission line right-of-way, \$1,043.62. (Order Further Amending License, FERC Project No. 2082, 34 FPC 1387 (November 29, 1965)))*

*(c) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands used for transmission line rights of way only, an amount to be hereinafter determined, if any; (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))*

*(c) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands used for transmission line right of way only, an amount to be hereinafter determined, if any; (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))) (Order Approving Revised Exhibits, Further Amending the License, and Prescribing Annual Charge, FERC Project No. 2082, 22 FPC 496 (September 15, 1959)))*

*(c) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands used for transmission line right-of-way, \$140.16. (Order Approving Revised Exhibits, Further Amending the License, and Prescribing Annual Charge, FERC Project No. 2082, 22 FPC 496 (September 15, 1959))) (Order Approving Revised Project Exhibits and Adjusting Annual Charges, FERC Project No. 2082, 28*

FPC 856 (November 21, 1962))

~~(c) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of its lands, used for transmission line right-of-way, \$145.15 effective as of January 13, 1960. (Order Approving Revised Project Exhibits and Adjusting Annual Charges, FERC Project No. 2082, 28 FPC 856 (November 21, 1962))-(Order Amending License and Dismissing Application for New License, FERC Project No. 2082, 44 FPC 1065 (September 25, 1970))~~

~~(c) For the purpose of recompensing the United States for the use, occupancy and enjoyment of its lands used for transmission line right of way, \$208.75. (Order Amending License and Dismissing Application for New License, FERC Project No. 2082, 44 FPC 1065 (September 25, 1970))-(Order Amending License and Revising Annual Charges, FERC Project No. 2082, 12 FERC ¶62,123 (August 22, 1980))~~

~~(c) Effective January 1, 1980, for the purpose of recompensing the United States for the use, occupancy, and enjoyment of 218.09 acres of its lands for transmission line right-of-way, a reasonable amount as determined in accordance with the provisions of the Commission's Regulations in effect from time to time. (Order Amending License and Revising Annual Charges, FERC Project No. 2082, 12 FERC ¶62,123 (August 22, 1980)) (Order Amending License and Revising Annual Charges, FERC Project No. 2082, 13 FERC ¶62,172 (November 18, 1980))~~

~~(c) Effective January 1, 1981, for the purpose of recompensing the United States for use, occupancy, and enjoyment of 5.75 acres of its lands for transmission line right-of-way, a reasonable amount as determined in accordance with the provisions of the Commission's regulation in effect from time to time. (Order Amending License and Revising Annual Charges, FERC Project No. 2082, 13 FERC ¶62,172 (November 18, 1980))~~

~~(d) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of Link Dam, the consideration and benefits set forth in the Link Dam Agreement, as amended, are reasonable and adequate during the term of the agreement. Upon termination of the Link Dam Agreement other reasonable annual charges may be fixed with the approval of the Secretary of the Interior for the use of Link Dam under this license and the charges may be further readjusted from time to time, as provided in the first proviso of Section 10 (e) of the Act. (Supplemental Opinion and Order Amending Order Issuing License, FERC Project No. 2082, 15 FPC 14 (February 28, 1956))~~

~~(d) For the purpose of recompensing the United States for the use, occupancy, and enjoyment of Link Dam, (1) the annual benefits set forth in the 1917 Link Dam agreement, as amended, are reasonable and adequate during the term of that agreement; and (2) the annual benefits set forth in the new Link Dam agreement dated January 31, 1956, are reasonable and adequate commencing with the date on which the new Link Dam agreement supersedes the 1917 agreement. (Supplemental Opinion and Order Amending Order Issuing License, FERC Project No. 2082, 15 FPC 14 (February 28,~~

~~1956)) (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))~~

~~*(d) The annual benefits to the United States under the Link Dam Agreement dated January 31, 1956, are reasonable and adequate for the purpose of recompensing the United States for the use of surplus water from Link Dam. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))*~~

*(d) For the purpose of recompensing the United States for the East Side and West Side developments' use of surplus water or water power from Link River Dam, a reasonable amount as determined in accordance with the provisions of the Commission's regulations in effect from time to time. (Order Establishing Annual Charges, Amending License, and Giving Notice of Headwater Benefits Investigation; Klamath Hydroelectric Project, FERC No. 2082: 115 FERC ¶61,104: April 25, 2006)*

~~**Article 36.** The authorization herein for the temporary regulating dam and reservoir shall terminate without expense to the United States or its licensee for Big Bend No. 1 development when and in the event the development of Big Bend No. 1 site is subsequently authorized. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))~~

***Article 36.** The Big Bend Development shall be so operated as to increase or decrease gradually the rise or fall of the river at a rate not to exceed nine (9) inches per hour at a point one-half (1/2) mile below the Big Bend powerhouse, subject to conditions beyond the control of the Licensee; **provided, that** the permissible limits and rate of change will be subject to review and adjustment by the Commission from time to time, after notice and opportunity for hearing. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))*

~~**Article 37.** The Licensee shall guarantee continuing access to and across lands of the United States within the project area for legitimate business and shall allow the use by any agency of the United States or its permittees of any access road or roads, constructed in connection with the project for the purpose of removing forest products with the understanding that the user of such road or roads for such purpose shall make appropriate arrangements with the Licensee to provide for any extraordinary road maintenance, that would be required as a result of that use. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))~~

***Article 37.** The Licensee shall guarantee continuing access to and across lands of the United States within the project area for legitimate business and shall allow the use by any agency of the United States or its permittees of any access road or roads, constructed in connection with the project for the purpose of removing forest products with the understanding that the user of such road or roads for such purpose shall make appropriate arrangements with the Licensee to provide for any extraordinary road maintenance, that would be required as a result of that use. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))*

~~**Article 38.** No Klamath water as defined in the contract dated January 31, 1956 between the licensee and the United States of America, and filed herein pursuant to the second proviso of paragraph (A) of this license, shall be used by the licensee when needed or required for use for domestic, municipal or irrigation purposes on lands other than "project land," as defined in said contract, within the Upper Klamath River basin as that basin is defined in said contract; **provided, that** nothing herein shall curtail or interfere with the water rights of the licensee having a priority earlier than May 19, 1905; provided further, that all drainage and return flows from lands in the Upper Klamath River basin, other than those lands defined as "project land" in said contract shall be returned to the Klamath River above Keno. (Supplemental Opinion and Order Amending Order Issuing License, FERC Project No. 2082, 15 FPC 14 (February 28, 1956)) (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))~~

**Article 38.** No Klamath water as defined in the contract dated January 31, 1956, between the Licensee and the United States of America, and filed herein on February 13, 1956, shall be used by the Licensee when needed or required for use for domestic, municipal or irrigation purposes on lands other than "project land", as defined in said contract, within the Upper Klamath River Basin as that basin is defined in said contract; **provided, that** nothing herein shall curtail or interfere with the water rights of the Licensee having a priority earlier than May 19, 1905; provided further, that all drainage and return flows from lands in the Upper Klamath River Basin, other than those defined as "project land" in said contract shall be returned to the Klamath River above Keno. (Order Further Amending Order Issuing License, FERC Project No. 2082, 18 FPC 364 (September 25, 1957))

~~**Article 39.** Upon completion of transmission line No. 59, no clearing operations, except for maintenance of normal operations, shall be undertaken by the Licensee on rights-of-way across lands of the United States under the jurisdiction of the Department of the Interior without prior written approval from the District Manager, Bureau of Land Management. (Order Amending License, FERC Project No. 2082, 20 FPC 226 (August 21, 1958)) (Order Amending License and Revising Annual Charges, FERC Project No. 2082, 13 FERC ¶62,172 (November 18, 1980))~~

**Article 40.** Except for conditions beyond the control of the Licensee, the initial charge of Iron Gate Development shall be so operated that the rate of fluctuation of flows in the river below the dam shall not exceed 250 cubic feet per second of water per hour and that the change in river stage or elevation shall not exceed three (3) inches per hour as measured at a gate located not more than one-half (1/2) mile downstream from the dam, whichever produces the least amount of fluctuation; and Licensee shall release over, around or through said Iron Gate Development a minimum flow of not less than 710 cubic feet per second of water into the natural channel of Klamath River, for the protection and preservation of fish and wildlife; (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959)) (Order Further Amending License, FERC Project No. 2082, 25

FPC 579 (March 27, 1961))

*Article 41.* After completion of the ultimate stage of Iron Gate Development and except for conditions beyond the control of the Licensee, licensee shall release over, around or through Iron Gate Development a flow of not less than 710 cubic feet per second of water into the natural channel of Klamath River and shall not fluctuate the flow of said river below the Iron Gate Development in any manner or at all. (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959))-(Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))

*Article 42.* The Licensee shall, concurrently with the construction of the first stage of Iron Gate Development, construct permanent fish trapping and egg collecting facilities at or near and downstream from Iron Gate Development, the type of such facilities to be generally in accordance with plans approved by the Commission upon recommendations of the Secretary of the Interior and the Department of Fish and Game of the State of California. (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959))-(Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))

*Article 43.* The Licensee shall construct, maintain and operate, or shall arrange for the construction, maintenance and operation of such fish ladders, fish traps or other fish handling facilities, or fish protective devices, for the purpose of preserving the fishery resources at the Iron Gate Development, and comply with such reasonable modification of the project construction and operation in the interest of fish life as may be prescribed, after notice and opportunity for hearing, by the Commission upon its own motion, or upon the recommendations of the Secretary of the Interior and the Department of Fish and Game of the State of California. (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959))-(Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))

*Article 44.* Prior to the construction and operation of the first stage of the Iron Gate Development, the Licensee shall, to the extent of conditions within its control, operate its existing Copco No. 1 and Copco No. 2 plants so as to limit fluctuation of the surface of the Klamath River at a recording station located one-half (1/2) mile below the lower of said plants to a maximum of nine (9) inches per hour increase or decrease, and so that the minimum flow of said river at said point is 500 cubic feet per second. (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959))-(Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))

*Article 44.* Prior to the construction and operation of the Iron Gate Development, the Licensee shall, to the extent of conditions within its control, operate its existing Copco No. 1 and Copco No. 2 plants so as to limit fluctuation of the surface of the Klamath River at a recording station located one-half (1/2) mile below the lower of said plants to

*a maximum of nine (9) inches per hour increase or decrease, and so that the minimum flow of said river at said point is 500 cubic feet per second. (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))*

**Article 45.** *The Licensee shall communicate with the California Archeological Surveys, Department of Archeology, University of California, Berkeley, California, to determine the most satisfactory means of accomplishing any necessary archeological reconnaissance and salvage at the Iron Gate site. (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959))*

**Article 46.** *The Licensee shall consult with the California Department of Natural Resources, Division of Beaches and Parks, Sacramento, California, to determine means for protecting and enhancing recreational values at the Iron Gate site. (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959))*

**Article 47.** *The actual legitimate original cost, estimated were not known, and the accrued depreciation of the parts of the project completed prior to the effective date of the license shall be determined by the Commission as of such effective date, in accordance with the Act, and the rules and regulations of the Commission, and such cost less such accrued depreciation, so determined, shall be the net investment in the project as of such effective date. (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959))*

**Article 48.** *The actual legitimate original cost of the parts of the project to be completed after the effective date of the license, and of any addition to or betterment of the project, shall be determined by the Commission in accordance with the Act and the rules and regulations of the Commission thereunder. (Decision Upon Application for Amendment of License Under Federal Power Act, FERC Project No. 2082, 23 FPC 59 (September 23, 1959))*

~~**Article 49.** *The Licensee shall construct, maintain, and operate or shall arrange for the construction, maintenance, and operation of artificial propagation facilities and such other permanent fish facilities and protective devices including, but not limited to, fish-hauling trucks, fish screens or ladders, and comply with such reasonable modifications in project structures and operation in the interest of fish life as may be prescribed hereafter by the Commission upon the recommendation of the Secretary of the Interior and the California Department of Fish and Game, after notice and opportunity for hearing. (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))*~~  
~~**Article 49.** *(Opinion and Order on Petition to Require Licensee to Construct, Operate, and Maintain a Fish Hatchery, Amending License, and Directing Revised Filings, FERC Project No. 2082, 29 FPC 478 (March 14, 1963))*~~

**Article 49.** *The Licensee shall construct or arrange for the construction, at its expense, of a fish hatchery at Iron Gate Development, together with supplemental structures and*

~~ancillary equipment as detailed in the agreement filed with the Commission on August 17, 1962, by the State of California Department of Fish and Game and the Licensee, of a size and capacity to annually hatch and rear 200,000 yearling steelhead trout to a total weight not to exceed 20,000 pounds, 75,000 yearling silver salmon to a total weight not to exceed 5,000 pounds, 6,000,000 fingerling king salmon to a total weight not to exceed 20,000 pounds, and 5,500,000 king salmon swim-up fry; provided not more than 12,800,000 king salmon eggs shall be required to be accommodated in any year. Plans for the aforesaid facility shall be prepared by Licensee, in cooperation with the State of California Department of Fish and Game and the U.S. Fish and Wildlife Service, Department of the Interior, and shall be submitted to the Commission for approval within 60 days of the issuance of this order. The facility shall be constructed within one year from the date of approval of the plans by the Commission. (Opinion and Order on Petition to Require Licensee to Construct, Operate, and Maintain a Fish Hatchery, Amending License, and Directing Revised Filings, FERC Project No. 2082, 29 FPC 478 (March 14, 1963)) (Opinion and Order on Rehearing and Denial of Motion for Stay, FERC Project No. 2082, 30 FPC 499 (August 19, 1963))~~

**Article 49.** *The Licensee shall construct or arrange for the construction, at its expense, of a fish hatchery at Iron Gate Development, together with supplemental structures and ancillary equipment as detailed in the agreement filed with the Commission on August 17, 1962, by the State of California Department of Fish and Game and the Licensee, of a size and capacity to annually hatch and rear 200,000 yearling steelhead trout to a total weight not to exceed 20,000 pounds, 75,000 yearling silver salmon to a total weight not to exceed 5,000 pounds, 6,000,000 fingerling king salmon to a total weight not to exceed 20,000 pounds, and 5,500,000 king salmon swimup fry; provided not more than 12,800,000 king salmon eggs shall be required to be accommodated in any one year at the Iron Gate hatchery facility; and provided further that if the total number of king salmon eggs taken at the Iron Gate egg collection facility in any one year is equal to or less than 15,800,000, the fish hatchery facilities described herein shall not be required to accommodate more than 81 percent of the total king salmon eggs taken during the year. Plans for the aforesaid facility shall be prepared by Licensee, in cooperation with the State of California Department of Fish and Game and the U.S. Fish and Wildlife Service, Department of the Interior, and shall be submitted to the Commission for approval no later than October 15, 1963. The facility shall be constructed within one year from the date of approval of the plans by the Commission. (Opinion and Order on Rehearing and Denial of Motion for Stay, FERC Project No. 2082, 30 FPC 499 (August 19, 1963))*

**Article 50.** ~~*The Licensee shall construct, concurrently with the construction of Iron Gate Dam, and thereafter operate and maintain permanent fish trapping, collecting, holding, and spawn-taking facilities and appurtenances at or near and downstream from Iron Gate Dam as may be prescribed hereafter by the Commission upon the recommendation of the Secretary of the Interior and the California Department of Fish and Game, after notice and opportunity for hearing. (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961)) (Opinion and Order on Petition to Require Licensee to Construct, Operate, and Maintain a Fish Hatchery, Amending License, and Directing Revised Filings, FERC Project No. 2082, 29 FPC 478 (March 14, 1963))*~~

**Article 50.** Licensee shall reimburse the State of California Department of Fish and Game for 80 percent of the combined annual cost of operation and maintenance of the facilities and appurtenances constructed pursuant to Article 49 and of the permanent fish trapping, collecting, holding, and spawn-taking facilities and appurtenances constructed at Iron Gate Dam. Should Licensee and the State of California Department of Fish and Game fail to agree on the amount to be paid by the Licensee for this purpose, the Commission reserves the right to determine the amount of such annual payment, after notice and opportunity for hearing. (Opinion and Order on Petition to Require Licensee to Construct, Operate, and Maintain a Fish Hatchery, Amending License, and Directing Revised Filings, FERC Project No. 2082, 29 FPC 478 (March 14, 1963))

**Article 51.** The Licensee shall, concurrently with or prior to the construction of Iron Gate Development, construct temporary fish and wildlife protective facilities and devices together with appurtenant works including, but not limited to, those required to trap and transport adult and young of both salmon and steelhead trout past the dam site or otherwise accommodate such fish during the construction period, the type of such facilities and devices to conform to plans and specifications as prescribed hereafter by the Commission upon the recommendation of the Secretary of the Interior and California Department of Fish and Game, after notice and opportunity for hearing. (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))

**Article 52.** The Licensee shall release to the streambed below Iron Gate Dam not less than the flows specified in the following schedule:

| <b>Periods</b>       | <b>Flows, second-feet</b> |
|----------------------|---------------------------|
| September 1-April 30 | 1,300                     |
| May 1-May 31         | 1,000                     |
| June 1-July 31       | 710                       |
| August 1-August 31   | 1,000                     |

Provided that Licensee shall not be responsible for conditions beyond its control nor required to release more water than it has lawful right to use for hydroelectric purposes, and Provided further that Licensee shall restrict the changes of release rates to not more than 250 second-feet per hour or a 3-inch change in river stage per hour whichever produces the least change in stage as measured at a gage located not less than 0.5 mile downstream from Iron Gate Dam. (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))

**Article 53.** The Licensee shall construct, maintain, and operate, or shall arrange for the construction, maintenance, and operation of permanent wildlife facilities and protective devices including, but not limited to, deer protective fences, and comply with such reasonable modifications in project structures and operation in the interest of wildlife as may be prescribed hereafter by the Commission upon the recommendation of the Secretary of the Interior, and the California Department of Fish and Game, after notice and opportunity for hearing. (Order Further Amending License, FERC Project No. 2082, 25 FPC 579 (March 27, 1961))

*Article 54. The construction, operation, and maintenance of the project and any work incident to additions or alterations shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, San Francisco, California, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of the project. Construction of the project works or any feature thereof shall not be initiated until the program of inspection for the project works or any such feature thereof has been approved by said representative. The Licensee shall also furnish to said representative such further information as he may require concerning the construction, operation, and maintenance of the project, and of any alteration thereof, and shall notify him of the date upon which work will begin, and as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall allow him and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. (Order Further Amending License, FERC Project No. 2082, 34 FPC 1387 (November 29, 1965))*

*Article 55. The Licensee shall enter into a formal agreement with the United States Bureau of Reclamation for the purpose of regulating the level of Lake Ewauna and the Klamath River between Keno Dam and Lake Ewauna, and in the event that the Licensee and the Bureau fail to reach agreement, the Commission will prescribe the terms of such regulation after notice and opportunity for hearing. (Order Further Amending License, FERC Project No. 2082, 34 FPC 1387 (November 29, 1965))*

~~*Article 56. In order to prevent, or to minimize to the extent reasonably possible, deleterious effects to fish and wildlife caused by construction activities during the construction of the first stage of the Keno development, the Licensee shall, in consultation with the Oregon State Game Commission and the Bureau of Sport Fisheries and Wildlife, schedule and supervise the construction activities so as to: (a) minimize turbidity, siltation or other water pollution, (b) prevent the destruction of waterfowl nesting areas from deposition of spoil from channel improvement activities, and (c) avoid disturbing waterfowl nesting areas during the nesting season: **Provided, That the Commission, on its own motion or upon motion of the Oregon State Game Commission or the Bureau of Sport Fisheries and Wildlife, may prescribe measures reasonably necessary to accomplish these objectives.** (Order Further Amending License, FERC Project No. 2082, 34 FPC 1387 (November 29, 1965)) (Order Approving Revised Exhibit L Drawings for Project and Modifying License, FERC Project No. 2082, 41 FPC 824 (June 20, 1969))*~~

*Article 56. In order to prevent, or to minimize to the extent reasonably possible, deleterious effects to fish and wildlife caused by construction activities during the*

*construction of the first stage of the Keno development, the licensee shall, in consultation with the Oregon State Game Commission, Oregon State Sanitary Authority, the Bureau of Sport Fisheries and Wildlife, and the Federal Water Pollution Control Administration, schedule and supervise the construction activities so as to: (a) minimize turbidity, siltation or other water pollution, (b) prevent the destruction of water-fowl nesting areas from deposition of spoil from channel improvement activities, and (c) avoid disturbing water-fowl nesting areas during the nesting season: **Provided**, That the Commission on its own motion or upon the motion of the Oregon State Game Commission, the Oregon State Sanitary Authority, the Bureau of Sport Fisheries and Wildlife and the Federal Water Pollution Control Administration may prescribe measures reasonably necessary to accomplish these objectives. (Order Approving Revised Exhibit L Drawings for Project and Modifying License, FERC Project No. 2082, 41 FPC 824 (June 20, 1969))*

***Article 57.** The Licensee shall, prior to construction of Stage 2 of the Keno development, cooperate with the Oregon State Game Commission, U.S. Forest Service, and Bureau of Sport Fisheries and Wildlife in conducting additional studies to determine effects construction of the second stage of the Keno development would have on fish and wildlife resources. The Licensee shall incorporate into project plans measures found necessary to mitigate and compensate for the loss and damage to existing fish and wildlife resources. Cost of such measures shall be borne by the Licensee. (Order Further Amending License, FERC Project No. 2082, 34 FPC 1387 (November 29, 1965))*

***Article 58.** The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance, and operation of such facilities and comply with such reasonable modifications of the project structures and operation as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior, Oregon State Game Commission, or California Department of Fish and Game, after notice and opportunity for hearing and upon findings based on substantial evidence that such facilities and modifications are necessary and desirable, reasonably consistent with the primary purpose of the project, and consistent with the provisions of the Act. (Order Further Amending License, FERC Project No. 2082, 34 FPC 1387 (November 29, 1965))*

***Article 59.** Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of Licensee's lands and interest in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be prescribed by the Commission, reasonably consistent with the primary purpose of the project, in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license. (Order Further Amending*

License, FERC Project No. 2082, 34 FPC 1387 (November 29, 1965))

***Article 60.** The Licensee shall, within one year from the date of the Commission order authorizing the construction of the Keno development, file with the Commission for approval an Exhibit R conforming to Section 4.41 of Commission Regulations under the Federal Power Act. The plan shall be prepared after consultation with appropriate Federal, State, and local agencies, and shall include recreational improvements which may be provided by others in addition to the improvements the Licensee plans to provide. (Order Further Amending License, FERC Project No. 2082, 34 FPC 1387 (November 29, 1965))*

***Article 61.** The Licensee shall construct, maintain and operate or shall arrange for the construction, maintenance and operation of such recreational facilities including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities and utilities, as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal and State agencies, after notice and opportunity for hearing and upon findings based upon substantial evidence that such facilities are necessary and desirable, and reasonably consistent with the primary purpose of the project. (Order Further Amending License, FERC Project No. 2082, 34 FPC 1387 (November 29, 1965))*

***Article 62.** So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and recreational purposes, including fishing and hunting, and shall allow to a reasonable extent for such purposes the construction of access roads, wharves, landings, and other facilities on its lands the occupancy of which may in appropriate circumstances be subject to payment of rent to the Licensee in a reasonable amount: **Provided, that** the Licensee may reserve from public access, such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property and **Provided further,** that the Licensee's consent to the construction of access roads, wharves, landings, and other facilities shall not, without its express agreement, place upon the Licensee any obligation to construct or maintain such facilities. These facilities are in addition to the facilities that the Licensee may construct and maintain as required by the license. (Order Further Amending License, FERC Project No. 2082, 34 FPC 1387 (November 29, 1965))*

*~~**Article 63.** No lease of the project or any part thereof whereby the lessee is granted the occupancy, possession, or use of the project, or any part thereof, shall be made without prior written approval of the Commission; and the Commission may, if in its judgment the situation warrants, require that all the conditions of license, of the Act, and of the rules and regulations of the Commission shall be applicable to such property so leased to the same extent as if the lessee were the Licensee: **Provided, that** the provisions of this article shall not apply to leases of land or buildings or other property while not required to achieve the purposes of the license. (Order Further Amending License, FERC Project~~*

No. 2082, 34 FPC 1387 (November 29, 1965)) (Amendment of License for Project No. 2082 by Adding Article 73 and Deleting Article 63, Klamath Project No. 2082, Letter from Licensee for Project No. 2082 to FERC (March 19, 1981))

**Article 64.** *On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall, after notice and opportunity for hearing, permit such reasonable use of its reservoirs or other project works or parts thereof as may be ordered by the Commission in the interest of comprehensive development of the waterway or waterways involved and the conservation and utilization of water resources of the region for water supply for steam-electric, irrigation, industrial, municipal or similar purposes, consistent with the primary objective of the project. The Licensee shall receive such reasonable compensation as may be appropriate for use of its reservoirs or other project works or parts thereof for such purposes, any such compensation to be fixed either by Commission approval of an agreement between the Licensee and the party or parties benefiting or by the Commission in the event the parties are unable to agree. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidenced cannot be submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters. (Order Further Amending License, FERC Project No. 2082, 34 FPC 1387 (November 29, 1965))*

**Article 65.** *The Licensee shall install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so, after notice and opportunity for hearing. (Order Further Amending License, FERC Project No. 2082, 34 FPC 1387 (November 29, 1965))*

**Article 66.** *The Licensee shall submit in accordance with the Commission's rules and regulations, revised Exhibit L drawings showing final design for channel improvement in the Klamath River from river mile 236 to 254, inclusive, and shall not begin construction of such work until the Commission approves the exhibit. (Order Further Amending License, FERC Project No. 2082, 34 FPC 1387 (November 29, 1965))*

**Article 67.** *Licensee shall remove the existing Keno Regulating Dam as soon as the new Keno Dam to replace it is in service and Licensee shall request the exhibits which show the existing Keno Regulating Dam and the description of same to be eliminated from the license. (Order Further Amending License, FERC Project No. 2082, 34 FPC 1387 (November 29, 1965))*

**Article 68.** *Licensee shall rehabilitate the Fall Creek diversion dam within one year from the date of issuance of this amendment of license. (Order Amending License and Dismissing Application for New License, FERC Project No. 2082, 44 FPC 1065 (September 25, 1970))*

**Article 69.** *Licensee shall discharge a minimum flow of 0.5 cfs at all times from the Fall*

*Creek diversion dam into Fall Creek, and shall maintain a 15 cfs continuous flow in Fall Creek (or a quantity equal to the natural flow of the stream, whichever is less) at the outlet of the powerplant tailrace: **Provided, that** such flows may be modified by operating emergencies and other emergencies beyond the control of the Licensee, and for short periods of time in the interest of recreation and protection of fishery resources upon mutual agreement between the Licensee and appropriate State(s) conservation departments: **Provided, further** that such flows may be adjusted by further order of the Commission upon its own motion or upon recommendation of the appropriate State(s) conservation departments, the Secretary of the Interior, or Licensee, after notice and opportunity for hearing. (Order Amending License and Dismissing Application for New License, FERC Project No. 2082, 44 FPC 1065 (September 25, 1970))*

***Article 70.** The Commission reserves the right to determine at a later date what, if any, additional facilities shall be included in the license as part of the Fall Creek Development. (Order Amending License and Dismissing Application for New License, FERC Project No. 2082, 44 FPC 1065 (September 25, 1970))*

***Article 71.** Licensee shall file, within one year from the date of this order, revised Exhibits F, J, K, and M showing the 69 kv transmission line for the Fall Creek Development. (Order Amending License and Dismissing Application for New License, FERC Project No. 2082, 44 FPC 1065 (September 25, 1970))*

***Article 72.** Pursuant to Section 10(d) of the Act, a specified reasonable rate of return upon the net investment in the project shall be used for determining surplus earnings of the project for the establishment and maintenance of amortization reserves. One-half of the project surplus earnings, if any, accumulated in excess of the specified rate of return per annum on the net investment, shall be set aside in a project amortization reserve account at the end of each fiscal year. To the extent that there is a deficiency of project earnings below the specified rate of return per annum for any fiscal year the amount of that deficiency shall be deducted from the amount of any surplus earnings subsequently accumulated, until absorbed. One-half of the remaining surplus earnings, if any, cumulatively computed, shall be set aside in the project amortization reserve account. The amounts established in the project amortization reserved account shall be maintained until further order of the Commission.*

*The annual specified reasonable rate of return shall be the sum of the annual weighted costs of long-term debt, preferred stock, and common equity, as defined below. The annual weighted cost for each component of the reasonable rate of return is the product of its capital ratio and cost rate. The annual capital ratio for each component of the rate of return shall be calculated based on an average of 13 monthly balances of amounts properly includable in the licensee's long-term debt and proprietary capital accounts as listed in the Commission's Uniform System of Accounts. The cost rates for long-term debt and preferred stock shall be their respective weighted average costs for the year, and the cost of common equity shall be the interest rate on 10-year government bonds (reported as the Treasury Department's 10-year constant maturity series) computed on the monthly average for the year in question plus four percentage points (400 basis points).*

(Amendment of License Article No. 24 and Addition of Article No. 72 to the License for Project No. 2082, Klamath Project No. 2082, Letter Order for Project No. 2082 (October 21, 1976))

***Article 73.** (a) In accordance with the provisions of this article, the licensee shall have the authority to grant permission for certain types of use and occupancy of project lands and waters and to convey certain interests in project lands and waters for certain types of use and occupancy, without prior Commission approval. The licensee may exercise the authority only if the proposed use and occupancy is consistent with the purposes of protecting and enhancing the scenic, recreational, and other environmental values of the project. For those purposes, the licensee shall also have continuing responsibility to supervise and control the use and occupancies for which it grants permission, and to monitor the use of, and ensure compliance with the covenants of the instrument of conveyance for, any interests that it has conveyed, under this article. If a permitted use and occupancy violates any condition of this article or any other condition imposed by the licensee for protection and enhancement of the project's scenic, recreational, or other environmental values, or if a covenant of a conveyance made under the authority of this article is violated, the licensee shall take any lawful action necessary to correct the violation. For a permitted use or occupancy, that action includes, if necessary, canceling the permission to use and occupy the project lands and waters and requiring the removal of any non-complying structures and facilities.*

*(b) The type of use and occupancy of project lands and water for which the licensee may grant permission without prior Commission approval are: (1) landscape plantings; (2) noncommercial piers, landings, boat docks, or similar structures and facilities that can accommodate no more than 10 watercraft at a time and where said facility is intended to serve single-family type dwellings; and (3) embankments, bulkheads, retaining walls, or similar structures for erosion control to protect the existing shoreline. To the extent feasible and desirable to protect and enhance the project's scenic, recreational, and other environmental values, the licensee shall require multiple use and occupancy of facilities for access to project lands or waters. The licensee shall also ensure, to the satisfaction of the Commission's authorized representative, that the use and occupancies for which it grants permission are maintained in good repair and comply with applicable state and local health and safety requirements. Before granting permission for construction of bulkheads or retaining walls, the licensee shall: (1) inspect the site of the proposed construction, (2) consider whether the planting of vegetation or the use of riprap would be adequate to control erosion at the site, and (3) determine that the proposed construction is needed and would not change the basic contour of the reservoir shoreline. To implement this paragraph (b), the licensee may, among other things, establish a program for issuing permits for the specified types of use and occupancy of project lands and waters, which may be subject to the payment of a reasonable fee to cover the licensee's costs of administering the permit program. The Commission reserves the right to require the licensee to file a description of its standards, guidelines, and procedures for implementing this paragraph (b) and to require modification of those standards, guidelines, or procedures.*

*(c) The licensee may convey easements or rights-of-way across, or leases of, project lands for: (1) replacement, expansion, realignment, or maintenance of bridges and roads for which all necessary state and federal approvals have been obtained; (2) storm drains and water mains; (3) sewers that do not discharge into project waters; (4) minor access roads; (5) telephone, gas, and electric utility distribution lines; (6) non-project overhead electric transmission lines that do not require erection of support structures within the project boundary; (7) submarine, overhead, or underground major telephone distribution cables or major electric distribution lines (69-kV or less); and (8) water intake or pumping facilities that do not extract more than one million gallons per day from a project reservoir. No later than January 31 of each year, the licensee shall file three copies of a report briefly describing for each conveyance made under this paragraph (c) during the prior calendar year, the type of interest conveyed, the location of the lands subject to the conveyance, and the nature of the use for which the interest was conveyed.*

*(d) The licensee may convey fee title to, easements or rights-of-way across, or leases of project lands for: (1) construction of new bridges or roads for which all necessary state and federal approvals have been obtained; (2) sewer or effluent lines that discharge into project waters, for which all necessary federal and state water quality certification or permits have been obtained; (3) other pipelines that cross project lands or waters but do not discharge into project waters; (4) non-project overhead electric transmission lines that require erection of support structures within the project boundary, for which all necessary federal and state approvals have been obtained; (5) private or public marinas that can accommodate no more than 10 watercraft at a time and are located at least one-half mile from any other private or public marina; (6) recreational development consistent with an approved Exhibit R or approved report on recreational resources of an Exhibit E; and (7) other uses, if: (i) the amount of land conveyed for a particular use is five acres or less; (ii) all of the land conveyed is located at least 75 feet, measured horizontally, from the edge of the project reservoir at normal maximum surface elevation; and (iii) no more than 50 total acres of project lands for each project development are conveyed under this clause (d)(7) in any calendar year. At least 45 days before conveying any interest in project lands under this paragraph (d), the licensee must submit a letter to the Director, Office of Hydropower Licensing, stating its intent to convey the interest and briefly describing the type of interest and location of the lands to be conveyed (a marked Exhibit G or K map may be used), the nature of the proposed use, the identity of any federal or state agency official consulted, and any federal or state approvals required for the proposed use. Unless the Director, within 45 days from the filing date, requires the licensee to file an application for prior approval, the licensee may convey the intended interest at the end of that period.*

*(e) The following additional conditions apply to any intended conveyance under paragraph (c) or (d) of this article:*

*(1) Before conveying the interest, the licensee shall consult with federal and state fish and wildlife or recreation agencies, as appropriate, and the State Historic Preservation Officer.*

*(2) Before conveying the interest, the licensee shall determine that the proposed use of the lands to be conveyed is not inconsistent with any approved Exhibit R or approved report on recreational resources of an Exhibit E; or, if the project does not have an approved Exhibit R or approved report on recreational resources, that the lands to be conveyed do not have recreational value.*

*(3) The instrument of conveyance must include covenants running with the land adequate to ensure that: (i) the use of the lands conveyed shall not endanger health, create a nuisance, or otherwise be incompatible with overall project recreational use; and (ii) the grantee shall take all reasonable precautions to insure that the construction, operation, and maintenance of structures or facilities on the conveyed lands will occur in a manner that will protect the scenic, recreational, and environmental values of the project.*

*(4) The Commission reserves the right to require the licensee to take reasonable remedial action to correct any violation of the terms and conditions of this article, for the protection and enhancement of the project's scenic, recreational, and other environmental values.*

*(f) The conveyance of an interest in project lands under this article does not in itself change the project boundaries. The project boundaries may be changed to exclude land conveyed under this article only upon approval of revised Exhibit G or K drawings (project boundary maps) reflecting exclusion of that land. Lands conveyed under this article will be excluded from the project only upon a determination that the lands are not necessary for project purposes, such as operation and maintenance, flowage, recreation, public access, protection of environmental resources, and shoreline control, including shoreline aesthetic values. Absent extraordinary circumstances, proposals to exclude lands conveyed under this article from the project shall be consolidated for consideration when revised Exhibit G or K drawings would be filed for approval for other purposes.*  
(Amendment of License for Project No. 2082 by Adding Article 73 and Deleting Article 63, Klamath Project No. 2082, Letter from Licensee for Project No. 2082 to FERC (March 19, 1981))

**TERMS AND CONDITIONS OF LICENSE  
FOR UNCONSTRUCTED MAJOR PROJECT AFFECTING  
NAVIGABLE WATERS AND LANDS OF THE UNITED STATES  
12 FPC 1267 (1953)**

**Article 1.** The entire project, as described in the order of the Commission, shall be subject to all the provisions, terms, and conditions of the license.

**Article 2.** No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: Provided, however, that if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval amended, supplemental, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

**Article 3.** Said project works shall be constructed in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, no substantial alteration or addition not in conformity with the approved plans shall be made to any dam or other project works under the license without the prior approval of the Commission; and any emergency alteration or addition so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in the project works or divergence from such approved exhibits may be made if such changes will not result in decrease in efficiency, in material increase in cost, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may from time to time prescribe for the protection of life, health, or property.

**Article 4.** The construction, operation, and maintenance of the project and any work incident to additions or alterations, whether or not conducted upon lands of the United States, shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The licensee shall furnish to said representative such information as he may require concerning the construction, operation, and maintenance of the project, and of any alteration thereof, and shall notify him of the date upon which work will begin, and as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any

suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall allow him and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties.

**Article 5.** Upon the completion of the project, or at such other time as the Commission may direct, the Licensee shall submit to the Commission for approval revised maps, plans, specifications, and statements insofar as necessary to show any divergence from or variations in the project area and project boundary as finally located or in the project works as actually constructed when compared with the area and boundary shown and the works described in the license or in the maps, plans, specifications, and statements approved by the Commission, together with a statement in writing setting forth the reasons which in the opinion of the Licensee necessitated or justified variations in or divergence from the approved maps, plans, specifications, and statements. Such revised maps, plans, specifications, and statements shall, if and when approved by the Commission, be made a part of the license under the provisions of Article 2 hereof.

**Article 6.** For the purpose of determining the stage and flow of the stream or streams from which water is to be diverted for the operation of the project works, the amount of water held in and withdrawn from storage, and the effective head on the turbines, the Licensee shall install and thereafter maintain such gages and stream-gaging stations as the Commission may deem necessary and best adapted to the requirements; and shall provide for the required readings of such gages and for the adequate rating of such stations. The Licensee shall also install and maintain standard meters adequate for the determination of the amount of electric energy generated by said project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission and may be altered from time to time if necessary to secure adequate determinations, but such alteration shall not be made except with the approval of the Commission or upon the specific direction of the Commission. The installation of gages, the ratings of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of said project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient record of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

**Article 7.** So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and recreational purposes, including fishing and hunting, and shall allow for such purposes the construction of access roads, wharves, landings, and other facilities on its lands the occupancy of which may, in appropriate circumstances, be subject to payment of rent to the Licensee in a reasonable amount: Provided, that the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of

life, health, and property and Provided further, that the Licensee's consent to the construction of access roads, wharves, landings, and other facilities shall not, without its express agreement, place upon the Licensee any obligation to construct or maintain such facilities.

**Article 8.** In the construction and maintenance of the project, the location and standards of roads and trails, and other land uses, including the location and condition of quarries, borrow pits, spoil disposal areas, and sanitary facilities, shall be subject to the approval of the department or agency of the United States having supervision over the lands involved.

**Article 9.** Insofar as any material is dredged or excavated in the prosecution of any work authorized under the license, or in the maintenance of the project, such material shall be removed and deposited so it will not interfere with navigation, and will be to the satisfaction of the District Engineer, Department of the Army, in charge of the locality.

**Article 10.** In the construction and maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines, and telegraph, telephone, and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling and obstructing traffic and endangering life on highways, streets, or railroads.

**Article 11.** The Licensee shall make provision, or shall bear the reasonable cost, as determined by the agency of the United States affected, of making provision for avoiding inductive interference between any project transmission line or other project facility constructed, operated, or maintained under the license, and any radio installation, telephone line, or other communication facility installed or constructed before or after construction of such project transmission line or other project facility and owned, operated, or used by such agency of the United States in administering the lands under its jurisdiction. None of the provisions of this article is intended to relieve the Licensee from any responsibility or requirement which may be imposed by other lawful authority for avoiding or eliminating inductive interference.

**Article 12.** The Licensee shall clear such portions of transmission line rights-of-way across lands of the United States as are designated by the officer of the United States in charge of the lands; shall keep the areas so designated clear of new growth, all refuse, and inflammable material to the satisfaction of such officer; shall trim all branches of trees in contact with or liable to contact the transmission line; shall cut and remove all dead or leaning trees which might fall in contact with the transmission line; and shall take such other precautions against fire as may be required by such officer. No fires for the burning of waste material shall be set except with the prior written consent of the officer of the United States in charge of the lands as to time and place.

**Article 13.** Timber on lands of the United States cut, used or destroyed in the construction and maintenance of the project works or in the clearing of said lands shall be paid for in accordance with the requirements of and at the current stumpage rates applicable to the sale of similar timber by the agency of the United States having jurisdiction over said lands; and all slash and debris resulting from the cutting or destruction of such timber shall be disposed of as the officer of such

agency may direct.

**Article 14.** The Licensee shall do everything reasonably within its power and shall require its employees, contractors, and employees of contractors to do everything reasonably within their power, both independently and upon request of officers of the agency of the United States concerned, to prevent, make advanced preparations for suppression, and suppress fires on or near lands occupied under the license.

**Article 15.** Whenever the United States shall desire to construct, complete, or improve navigation facilities in connection with the project, the Licensee shall convey to the United States, free of cost, such of its lands and its rights-of-way and such right of passage through its dams or other structures, and permit such control of pools as may be required to complete and maintain such navigation facilities.

**Article 16.** The Licensee shall furnish free of cost to the United States power for the operation and maintenance of navigation facilities at the voltage and frequency required by such facilities and at a point adjacent thereto, whether said facilities are constructed by the Licensee or by the United States.

**Article 17.** The operation of any navigation facilities, which may be constructed as a part of or in connection with any dam or diversion structure constituting a part of the project works, shall at all times be controlled by such reasonable rules and regulations in the interest of navigation, including the control of the level of the pool caused by such dam or diversion structure, as may be made from time to time by the Secretary of the Army. Such rules and regulations may include the construction, maintenance, and operation by the Licensee, at its own expense, of such lights and signals as may be directed by the Secretary of the Army.

**Article 18.** The United States specifically retains and safeguards the right to use water in such amount, to be determined by the Secretary of the Army, as may be necessary for the purposes of navigation on the navigable waterway affected; and the operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Secretary of the Army may prescribe in the interest of navigation, and as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes; and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Secretary of the Army may prescribe in the interest of navigation, or as the Commission may prescribe for the other purposes hereinbefore mentioned.

**Article 19.** The Licensee shall interpose no objection to, and shall in no way prevent, the use by the agency of the United States having jurisdiction over the lands of the United States affected, or by persons or corporations occupying lands of the United States under permit, of water for fire suppression from any stream, conduit or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license, or to the use by said parties of water for sanitary and domestic purposes from any stream or body of water, natural or artificial, used

by the Licensee in the operation of the project works covered by the license.

**Article 20.** The Licensee shall be liable for injury to, or destruction of, any buildings, bridges, roads, trails, lands, or other property of the United States, occasioned by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto under the license. Arrangements to meet such liability, either by compensation for such injury or destruction, or by reconstruction or repair of damaged property, or otherwise, shall be made with the appropriate department or agency of the United States.

**Article 21.** The Licensee shall allow any agency of the United States, without charge, to construct or permit to be constructed on, through, and across the project lands, conduits, chutes, ditches, railroads, roads, trails, telephone lines, and other means of transportation and communication not inconsistent with the enjoyment of said lands by the Licensee for the purposes stated in the license. This article shall not be construed as conferring upon the Licensee any right of use, occupancy, or enjoyment of the lands of the United States other than for the construction, operation, and maintenance of the project as stated in the license.

**Article 22.** There is reserved to the appropriate department or agency of the United States, or of the State or county involved, the right to take over, maintain, and supervise the use of any project road after construction of the project works is completed.

**Article 23.** The actual legitimate original cost of the original project, and of any addition thereto or betterment thereof, shall be determined by the Commission in accordance with the Act and the Commission's rules and regulations thereunder.

**Article 24.** After the first twenty (20) years of operation of the project under the license, six (6) percent per annum shall be the specified rate of return on the net investment in the project for determining surplus earnings of the project for the establishment and maintenance of amortization reserves, pursuant to Section 10 (d) of the Act; one-half of the project surplus earnings, if any, accumulated after the first twenty years of operation under the license, in excess of six (6) percent per annum on the net investment, shall be set aside in a project amortization reserve account as of the end of each fiscal year, provided that, if and to the extent that there is a deficiency of project earnings below six (6) percent per annum for any fiscal year or years after the first twenty years of operation under the license, the amount of such deficiency shall be deducted from the amount of any surplus earnings accumulated thereafter until absorbed, and one-half of the remaining surplus earnings, if any, thus cumulatively computed, shall be set aside in the project amortization reserve account; and the amounts thus established in the project amortization reserve account shall be maintained therein until further order of the Commission. *This Article is effective through July 12, 1976. (Amendment of License Article No. 24 and Addition of Article No. 28 to the License for Project No. 2071, Yale Project No. 2071, Letter Order Project No. 2071 (November 3, 1976))*

**Article 25.** No lease of the project or part thereof whereby the lessee is granted the exclusive occupancy, possession, or use of project works for purposes of generating, transmitting, or distributing power shall be made without the prior written approval of the Commission; and the Commission may, if in its judgment the situation warrants, require that all the conditions of the

license, of the Act, and of the rules and regulations of the Commission shall be applicable to such lease and to such property so leased to the same extent as if the lessee were the Licensee: Provided, that the provisions of this article shall not apply to parts of the project or project works which may be used by another jointly with the Licensee under a contract or agreement whereby the Licensee retains the occupancy, possession, and control of the property so used and receives adequate consideration for such joint use, or to leases of land while not required for purposes of generating, transmitting, or distributing power, or to buildings or other property not built or used for said purposes or to minor parts of the project or project works, the leasing of which will not interfere with the usefulness or efficient operation of the project by the Licensee for such purposes.

**Article 26.** The Licensee, its successors and assigns will, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and that none of such properties necessary or useful to the project and to the development transmission, and distribution of power therefrom will be voluntarily sold, transferred, abandoned, or otherwise disposed of without the approval of the Commission: Provided, that a mortgage or trust deed or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article. In the event the project is taken over by the United States upon the termination of the license, as provided in Section 14 of the Act, or is transferred to a new licensee under the provisions of Section 15 of the Act, the Licensee, its successors and assigns will be responsible for and will make good any defect of title to or of right of user in any of such project property which is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and will pay and discharge, or will assume responsibility for payment and discharge, of all liens or incumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: Provided, that the provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear, or to require the Licensee, for the purpose of transferring the project to the United States or to a new licensee, to acquire any different title to or right of user in any of such project property than was necessary to acquire for its own purposes as Licensee.

**Article 27.** The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.