



Here for Oregon. Here for Good.

## FUND AGREEMENT

### Penstemon Fund

The Oregon Community Foundation ("OCF"), an Oregon nonprofit corporation, and the undersigned organizations hereby agree to create a charitable fund with the proceeds of a lump sum distribution of cash for beneficial environmental projects payable by Portland General Electric Company pursuant to the Consent Decree in *Sierra Club, et. al v. Portland General Electric Co.*, subject to the following conditions:

1. Any and all assets transferred to OCF under this agreement shall be designated by OCF as the Penstemon Fund (the "Fund"), after the beautiful native wildflower. Endemic species of penstemon can be found throughout Oregon and Washington, with several species native to Hells Canyon, the Eagle Cap Wilderness and the Columbia River Gorge. In Greek, penstemon means five stamens, reflecting the cooperation of the five plaintiff organizations in *Sierra Club, et. al v. Portland General Electric, Co.*

2. The assets of the Fund may be commingled with other OCF property for investment purposes.

3. The Fund is intended to be and shall be administered as a component fund of OCF and shall be subject to OCF's articles of incorporation and bylaws, as amended from time to time (including without limitation the provisions thereof authorizing OCF to vary or modify restrictions or conditions that it believes are unnecessary, incapable of fulfillment, or inconsistent with the charitable, educational, and scientific needs of the state of Oregon), and the terms of this agreement shall be construed and applied in all respects in a manner not inconsistent with OCF's articles of incorporation and bylaws. The assets of the Fund shall be held and owned by OCF in its corporate capacity and shall not be deemed to be held by OCF as trustee of a separate trust for any beneficiary.

4. OCF shall allocate the lump sum payment described above as 40 percent to the Columbia Gorge Land and Restoration Subfund, 25 percent to the Hells Canyon and Eagle Cap Land and Restoration Subfund, 20 percent to the Pacific Northwest Community Clean Energy Subfund, and 15 percent to the Air Pollution Reduction Subfund (individually, a "Subfund," and collectively, the "Subfunds"). OCF shall distribute the income and principal of each such Subfund to qualified charitable organizations for the charitable purposes and subject to the conditions described below. The assets of each such Subfund shall be distributed in full within 10 years after its initial funding. For purposes of this paragraph, "qualified charitable organization" means an Oregon tax-exempt charitable organization or non-federal governmental unit described in Internal Revenue Code section 509(a) (1), (2), or (3).

### Columbia Gorge Land and Restoration Subfund

A. Grants from the Columbia Gorge Land and Restoration Subfund shall be made to assist in either: (1) the purchase of interests in land in the Columbia River Gorge area to protect clean air and provide for habitat protection; or (2) habitat restoration projects on federal or state land in the Columbia River Gorge area to improve native plant and animal

habitat. The Columbia River Gorge area includes the Columbia River Gorge National Scenic Area and lands in close proximity to its boundaries.

B. Grants should be made to maximize environmental benefits. To increase the proportion of funds available for larger-scale acquisitions and projects, OCF and the Advisory Committee established pursuant to paragraph 8 should consider larger, and in turn fewer, grants.

C. Grants should be made only to projects identified as yielding significant benefits to the quantity and quality of protected habitat in the Columbia River Gorge area.

D. Up to 50 percent of the grants may be used to support projects in Washington.

#### **Hells Canyon and Eagle Cap Land and Restoration Subfund**

A. Grants from the Hells Canyon and Eagle Cap Land and Restoration Subfund shall be made to assist in either: (1) the purchase of interests in lands in Union or Wallowa Counties in Oregon to protect clean air and provide for habitat protection; or (2) habitat restoration projects in the Eagle Cap or Hells Canyon Wilderness Areas to improve native plant and animal habitat.

B. To increase the proportion of funds available for larger-scale acquisitions and projects, OCF and the Advisory Committee established pursuant to paragraph 8 should consider larger, and in turn fewer, grants.

C. Grants should be made only to projects identified as yielding significant benefits to (1) the quantity and quality of protected habitat in Union or Wallowa Counties on (2) the restoration of native plant and animal habitat in the Hells Canyon or the Eagle Cap Wilderness Areas.

#### **Pacific Northwest Community Clean Energy Subfund ("Clean Energy Subfund")**

A. Grants from the Clean Energy Subfund shall be made to assist in community-based distributed renewable energy generation projects in Oregon and southern Washington.

B. Grants should be made to maximize environmental benefits.

C. Grants should be made only to projects that result in the installation of distributed renewable generation projects in Oregon and southern Washington communities that generate electricity or heat to be used in that community, are open to public inspection, and can be replicated in other communities.

D. Up to 50 percent of the grants may be used to support projects in the following Washington counties: Clark, Skamania, Klickitat, Yakima, Benton, Franklin, Walla Walla, and Columbia Counties, Washington.

### **Air Pollution Reduction Subfund**

A. Grants from the Air Pollution Reduction Subfund shall be made to assist in reducing emissions of air pollution, or reducing the deleterious impacts of air pollution on public health and the environment in Oregon and southern Washington.

B. Grants should be made only to projects that result in the actual, measurable and measured reductions in air pollution, or reduction of the deleterious impacts of air pollution on public health and the environment, or both. Grants that will result in reduced emissions should be favored over those that provide for the mitigation, monitoring or studying of, or public education about, air pollution, though projects accomplishing the latter goals can be funded through the Air Pollution Reduction Fund.

E. Up to 50 percent of the grants may be used to support projects in Clark, Skamania, Klickitat, Yakima, Benton, Franklin, Walla Walla, and Columbia Counties, Washington.

5. In no event shall grants be made to or for the benefit of any of the following organizations or their officers, employees, agents, successors, or assigns:

Sierra Club  
Friends of the Columbia Gorge  
Columbia Riverkeeper  
Northwest Environmental Defense Center  
Hells Canyon Preservation Council  
Oregon Environmental Council  
Northwest Energy Coalition  
Renewable Northwest Project  
Citizens' Utility Board of Oregon  
Portland General Electric  
Pacific Environmental Advocacy Center

6. Eligible organizations may apply annually for grants from any one or more of the Subfunds.

7. Grants shall not be used for litigation, but may be used for participation in local, state, regional and national policy-making, negotiation, rulemaking, and permitting.

8. Before making any charitable distribution from the Fund, OCF shall consult with and seek the advice of the Penstemon Advisory Committee (the "Committee") comprised of persons selected by OCF. Each of the following organizations may suggest one or two advisors to serve five year, renewable terms on the Committee: Columbia Riverkeeper, Friends of the Columbia Gorge, Hells Canyon Preservation Council, Northwest Environmental Defense Center, and Pacific Environmental Advocacy Center. OCF shall ask the advisory committee for recommendations regarding distributions pursuant to the Subfunds. Recommendations shall not include any pledge, obligation, or membership subscribed to by an advisor, or any purpose for which an advisor receives benefit. Recommendations and advice by the committee shall be acted upon by the OCF board of directors after the OCF staff has determined that the recommended organizations so qualify and are serving their stated purposes and that the recommendations are consistent with the purposes of OCF and with the needs deserving of support by OCF as determined by its board and enumerated in its distribution guidelines. If OCF questions the tax-exempt status of a recommended organization, its ability to perform its stated

purposes, or the consistency of a recommendation with the purposes of OCF or the needs deserving of support by OCF, the Committee shall be so informed and given the opportunity to correct any misunderstanding or recommend an alternate distribution.

9. OCF shall appropriately memorialize the Fund for as long as the Fund remains in existence.

10. Unless OCF receives instructions to the contrary, all charitable distributions from the Fund shall be identified to the beneficiaries as coming from the Fund, the appropriate sub-fund and OCF.

11. If any assets remain in the Fund after all grants are made in year nine of the ten-year grantmaking period, the remaining assets of the Fund shall be combined and used for grants in year ten from any of the Subfunds.

12. If at any time the total value of a Subfund is less than \$5,000, the remaining assets of the Subfund shall be transferred to one or more of the other Subfunds.

13. OCF shall make every reasonable effort to distribute the assets of the Fund in full within nine years, to avoid invoking paragraph 11.

14. If any assets remain in the Fund after all grants are made in year ten of the ten-year grantmaking period, the remaining assets of the Fund shall be distributed to one or more qualified charitable organizations, after consulting with and seeking the advice of the Committee. However, if at any time the total value of the Fund is less than \$5,000, the remaining assets of the Fund shall be distributed to OCF's Oregon Fund.

15. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all counterparts together shall constitute but one and the same instrument.

DATED July 15, 2011.

SIERRA CLUB

By: \_\_\_\_\_  
Bill Corcoran, Western Director, Beyond Coal Campaign

NORTHWEST ENVIRONMENTAL DEFENSE CENTER

By: \_\_\_\_\_  
Mark Riskedahl, Executive Director

FRIENDS OF THE COLUMBIA GORGE

By: \_\_\_\_\_  
Michael Lang, Conservation Director

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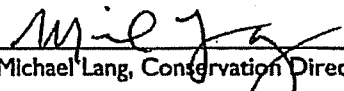
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COLUMBIA RIVERKEEPER

By: \_\_\_\_\_  
Brett VandenHeuvel, Executive Director

HELLS CANYON PRESERVATION COUNCIL

By: Brian Kelly  
Brian Kelley, Restoration Coordinator

THE OREGON COMMUNITY FOUNDATION

By: \_\_\_\_\_  
Gregory A. Chaillé, President

OCF may not provide tax or legal advice. All donors are encouraged to consult with their own tax and legal advisors.



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