

"Thompson Ditch Agreement"

Pierce County recording number: 606744

THIS AGREEMENT, made and entered into this 22nd day of July, 1919, by and between Nels Thompson and Gertrude Thompson, his wife and B. A. Haugen and Laura S. Haugen, his wife parties of the first part, and PUGET SOUND TRACTION, LIGHT & POWER COMPANY, Massachusetts Corporation, part of the second part, Witnesseth;

1. That the said Nels Thompson and wife are the owners of the East ½ of the NE1/4 of the SW1/4 and the NW1/4 of the SE1/4 and the SE1/4 of the SE1/4 all in Section 3, Township 20 North; Range 5 East; that the said B.A. Haugen and wife are the owners of the West ½ of the NE ¼ of the SW ¼ of Section 3, Township 20 North, Range 5 East; that the said parties of the first part, claim that their use and enjoyment of a portion of the above described property has been abridged by reason of certain seepage upon said property which the said parties of the first part claim is caused by the impounding and storage of water in Lake Tapps by the party of the second part.

2. The party of the second part in no manner admits that the seepage is so caused or that it is caused by or the result of any act of the said party of the second part whatsoever, nor shall this agreement nor anything herein contained be construed as an admission by the party of the second part, of any liability whatsoever by reason of any such claim by the parties of the first part.

3. In consideration of the release by the parties of the first part of any loss, damage or injury claimed by the parties of the first part, and which may have accrued at the date of the execution of this agreement, the party of the second part agrees to reconstruct a present existing drainage ditch upon the said property in a manner particularly hereinafter described.

4. The party of the second part, agrees that it will at its own sole cost and expense, reconstruct the present drainage ditch as the same is now located beginning at a point in the East ½ of the NE1/4 of the SW1/4 of Section 3, Township 20 North, Range 5, East where the present drainage ditch intersects the County culvert, and running thence in an Easterly direction over and across the SE1/4 of said Section 3, Township 20 North, Range 5 East, and across the SW1/4 of Section 2, said township and range, to its point of discharge into the White River Valley. The ditch shall be so constructed that between April 1st, and November 1st, of each year the surface of the water in said ditch from its intersection with the County Culvert to the East line of the SE1/4 of the SE1/4 of Section 3, Township 20 North, Range 5 East, shall be not less than 30 inches below the general surface of the ground except that for a distance of 175 feet beginning at the intersection of the ditch with the County Culvert, and also for a distance of 175 feet beginning at a point 100 feet East of the intersection of said ditch with the West line of the SE1/4 of the SE1/4 of Section 3, Township 20 North, Range 5, East, the surface of the water in said ditch shall be not less than 24 inches below the general surface of the ground between April 1st, and November 1st of each year. When said ditch shall have been so reconstructed that party of the second part, agrees to maintain it and keep it free from obstruction. The parties of the first part hereby grant, unto the parties of the second part, its successors and assigns forever a right of way 16 feet in

width, to construct and maintain said ditch over, through and across said property, together with the right to maintain a fence on each side of said ditch.

5. All lateral ditches necessary to drain said property shall be constructed and maintained by the parties of the first part. It is the intention of the parties hereto to provide adequate and sufficient drainage so that the land herein described shall not contain any greater amount of moisture during the dry season than it contained prior to the impounding and storage of water in Lake Tapps by the party of the second part. It is not the intention of the parties hereto that the said land will be so drained as not to have water upon the surface thereof during the wet season. If the said ditch as so constructed and maintained by the party of the second part, is not sufficient to accomplish the purpose of the agreement the parties of the first part hereby grant unto the party of the second part, his successors and assigns, the right to enter upon said property and to enlarge said ditch to sufficient size and capacity to accomplish such purpose and the party of the second part agrees to maintain said ditch when so enlarged and to keep it free from obstruction.

6. The party of the second part agrees to commence work upon said ditch within ten days after receiving notice so to do from the parties of the first part, and to prosecute said work with reasonable diligence to completion.

7. If the party of the second part, shall at any time in the future desire to confine the surface waters lying in the portions of Section 3, 4 and 10 all in Township 20 North, Range 5 East, by means of channels, ditches, or pipes and permit them to flow across the property of the parties of the first part, into and through the ditch mentioned in this agreement, permission is hereby given by the parties of the first part, but only under the following express terms and conditions:

(a) Should the party of the second part, desire to drain such waters across the property of the parties of the first part, in an open ditch, said ditch shall be parallel to and adjoining the County road from the South line to the West line of the SE1/4 of the SE1/4 of Section 3, Township 20 North, Range 5 East, running thence parallel to and adjoining the West line of the SE1/4 of the SE1/4 of said Section 3, to the intersection with the present ditch. The parties of the first part hereby grant unto the party of the second part, the right to construct and maintain a fence on each side of said ditch, the distance between fences to be approximately 16 feet.

(b) In the event that any other route be taken across such property, the party of the second part, shall install a closed culvert or pipe of ample size to carry said water from the point of its entrance on said property to the point of discharge into the present ditch, said culvert or pipe to be so constructed that the top shall be not less than 24 inches below the surface of the ground and the party of the second part shall maintain such culvert or pipe and keep the same from obstruction.

(c) Should the flow of water in the present ditch be so increased by reason of the construction of such ditch, culverts or pipes that the said ditch will not provide adequate and sufficient drainage as specified in paragraphs (4) four and (5) five of this agreement, the party of

the second part, agrees to enlarge said ditch to sufficient size, for such distance as necessary to conform with the terms of this agreement.

8. The party of the second part, shall have the right at any time to install a closed culvert or pipe in place of and of the ditches theretofore constructed over and across the said property, which said culvert or pipe shall be of sufficient size and capacity and be so placed that the top thereof shall be not less than 24 inches from the surface of the ground.

9. The party of the second part shall have the right to enter upon the property of the parties of the first part, for the purpose of constructing, enlarging and maintaining the ditches, culverts, pipes or fences specified herein, but shall perform such work at such times and in such manner as not to damage the growing crops of the parties of the first part.

10. The parties of the first part reserve the right to construct and maintain bridges over any and all ditches mentioned in this agreement.

11. For and in consideration of the construction of the ditches as specified herein, the parties of the first part, hereby release and forever discharge the party of the second part, from any loss, damage or injury which the parties of the first part may have sustained by the reason of the seepage of such waters on their property up to and including the date of the execution of this agreement; provided however, this release shall not operate as a bar to the recovery of any future damage which the parties of the first part, may sustain by reason of any acts of the party of the second part, if such ditches shall prove inadequate for the purpose intended, but the party of the second part, shall have the right to enlarge said ditches if it so desires. Nothing in this agreement shall be construed as an admission by the party of the second part that such excess moisture has in any manner been caused by any acts or omission upon its part nor as an admission of any liabilities or recognition of any claim whatsoever.

12. The parties of the first part, do not assume any responsibility for the drainage from these ditches flowing over the (A.W.L.N.T. B.A.H.) ~~property of the Indian Reservation~~ SW1/4 of Sec 2 Twp 20 North, Range 5 East W.M. If the party of the second part is unable to obtain authority to construct and maintain the ditches or ditch on the (A.W.L. N.T. B.A.H.) ~~Indian Reservation~~, SW1/4 of Sec 2, Twp 20 N, Range 5 E.W.M., or should be prevented from constructing and maintaining such ditch or ditches this agreement shall terminate and shall be of no further force or effect, and the parties shall thereupon be remitted to their original legal rights.

13. All conditions of this agreement shall run with the land and shall be binding upon the heirs, successors and assigns, of the parties of the first part.

IN WITNESS THEREOF, the parties of the first part, have hereunder set their hand and seals and the party of the second part, has caused this agreement to be executed by its duly authorized, officers the day and year in this agreement first above written.

Puget Sound Traction Light & Power
Company, Corporate Seal, Massachusetts 1912

Nels Thompson.
Gertrude Thompson.
B.A. Haugen.
Laura S. Haugen.

PUGET SOUND TRACTION LIGHT &
POWER COMPANY.

By A.W. Leonard Prest.