

Appendix A.
Process Ground Rules & Communication Protocol
Environmental Coordination Committee (ECC)
Bear River Settlement Agreement Implementation

A. PURPOSE

These ground rules make explicit the common expectations and communication protocol for the Environmental Coordination Committee (ECC) for the Bear River License Implementation. They describe how government agencies, tribes, private organizations and PacifiCorp will work together for effective communication, inclusive decision-making, and conflict resolution. The roles and responsibilities of the committee members to one another and their agencies, and the responsibilities of the facilitator are also outlined.

1. Establishment of Committee (SA 1.1)

The Environmental Coordination Committee (ECC) is established to oversee the facilitation and implementation of Protection, Mitigation and Enhancement (PM&E) measures by PacifiCorp for the Bear River Hydroelectric Project (FERC project NOS. 20) pursuant to the 2002 Settlement Agreement resolving issues related to relicensing of the Bear River hydroelectric projects (signed August 28, 2002). Members shall cooperate during the permitting, environmental review and implementation of the Settlement Agreement. Implementation of the Settlement Agreement will not prevent compliance with PacifiCorp's FERC license for the Bear River Hydroelectric Project.

- PacifiCorp will convene an Environmental Coordination Committee (ECC) consisting of one representative from PacifiCorp, each Government Party, the Tribes, and each Non governmental organization (NGO) as defined in the Settlement Agreement (Parties).
- Each Party will designate one representative to the ECC who will participate in decision-making representing the interests and concerns of that entity. The ECC will be informed when changes in a member or alternates are necessary (SA 4.1).
- Other members of Party organizations or agencies that are not the designated representative of the ECC are entitled to participate in ECC meetings but are not included in decisions –making, as described below and outlined in the Settlement Agreement (SA 4.1)

B. ROLES AND RESPONSIBILITIES OF THE ECC

1. Role of the Environmental Coordination Committee

The ECC makes collective decisions while implementing the Settlement Agreement. The structure and process of the ECC is intended to provide a forum to address time sensitive matters, early warning of problems, and coordination of member organization actions, schedules, and decisions to save time and expense (SA 1.1).

2. Responsibilities of the ECC (SA 4.1)

- Identify and prioritize implementation projects.
- Facilitate coordination and consultation between PacifiCorp and the other Parties on plans developed by PacifiCorp for the implementation of PM&E Measures.
- Coordinate and monitor implementation of PM&E Measures and review ongoing monitoring requirements by PacifiCorp.
- Propose and approve PM&E Measures for BCT and other aquatic resources pursuant to the Settlement Agreement and consistent with the RCAS, CTMAPP and other updated documents. Review and comment on the draft annual report of ECC activities and implementation of the PM&E Measures.
- Establish appropriate procedures for conducting its activities consistent with settlement agreement, including protocols for public involvement and community outreach.
- Establish subcommittees as necessary for the purpose of achieving objectives described above and determining size, membership and procedures of such committees.

3. Working Groups and Subcommittees

- Sub-committees and working groups will be formed by consensus of the ECC to undertake a specific task.
- The ECC will define or ratify the scope of work and timeline for work groups and sub-committees. Requests for technical information and research by participants of a work group or sub-committee will also be ratified by the ECC.

- Sub-committees are accountable to the ECC and will be responsible for reporting back on progress.
- Technical experts who are not members of the ECC may be members of a sub-committee or work group pending approval by the ECC.
- New research and data collection involving significant cost or time must be authorized by the ECC.

C. ECC MEETINGS

1. Schedule and Agendas

- The ECC will meet regularly (every third Wednesday of each month for the first six months and then as needed) as noticed thirty (30) days in advance, if possible. A copy of meeting notices will be provided to the Bear River Commission, all other parties requesting notice (confirmed annually), and to a representative of each of the Bear River Compact states.
- A Duly Noticed meeting of the ECC is a meeting for which ECC members receive thirty (30) days advance notice. Notice may be provided in writing by U.S. Mail, facsimile, or electronic mail, or other comparable means, and will be effective when provided. Notice of a Duly Noticed ECC meeting will identify the date, time, and location of the ECC meeting.
- Meetings will be task-oriented with specific agendas and will focus on coordinating activities and informing parties on the status and implementation of the PM&E measures.
- ECC Members will receive agendas and other information at least 1 week prior to meetings. It is each member's responsibility to keep abreast of upcoming meeting dates and agenda issues.
- A review of proposed agenda items for the next meeting will be provided at the conclusion of each ECC session.

2. Attendance

- Each Party will designate one representative to the ECC who will participate in decision-making representing the interests and concerns of that entity. Although each party has only one representative for decision-making purposes, ECC members may be accompanied to meetings by other persons from within their agency/ organization.

- Participants who are not designated ECC representatives may address the ECC and/or participate in discussions at the request of their respective member and with the agreement of other ECC representatives.
- Attendance via teleconference is considered present for purpose of decision-making (SA 4.2.3).
- Proxies may be designated in writing (including email) for the purpose of decision-making and representative will be considered present (SA 4.2.4).

3. Record Keeping

- Notes of each ECC meeting will be recorded by PaciCorp's Project Coordinator. Meeting notes will document, at a minimum, members present and decisions made (SA 4.4).
- Meeting notes from the prior meeting will be distributed to ECC members for review with each draft agenda in a timely manner (at least 1 week prior to the next meeting).
- At the beginning of each meeting, the prior meeting's notes will be amended as needed and approved. Meeting notes are working documents until approved by the ECC.
- Final meeting notes containing ECC decisions and directives will be distributed to members. Final meeting notes will be included in the Annual Report and are part of the public record.

D. COMMUNICATION PROTOCOL

Members will act in good faith at all times and work towards understanding and agreement for committee tasks. Good faith also includes making the effort to resolve differences, disclosing problems or issues early in the process, following through on commitments, sharing information on related matters, and characterizing individual or caucus viewpoints fully and accurately.

The ECC does not intend to restrict the free flow of discussion or information, written or verbal, between the members, caucuses, or technical staff as they work to implement the Settlement Agreement. The ECC is a problem-solving group available as needed to assist efficient Settlement Agreement implementation.

1. Communication within the Committee

- The purpose of ECC discussions is to find agreement among the Parties. ECC members will respect the interests of all Parties and will try to incorporate the goals of all Parties into its recommendations. Statements,

positions, and offers made during the ECC process are voluntary and are made only for purposes of the planning process.

- Discussions of substance and development of solutions will focus on interests and concerns rather than positions and demands. ECC members will respect the concerns and interests of others, whether or not they are in agreement. Members will work in the spirit of giving the same priority to solving the problems of others as their own.
- Members will seek commonalities in their respective views and will seek to identify convergences of mission, opinion and values.
- Members will state their own concerns and interests clearly, listen carefully to others, and explore issues from all points of view before forming conclusions.
- Members and their caucus members agree that successful collaboration depends upon individuals who refrain from speaking independently or characterizing the process.
- With regard to internal written material, members agree not to characterize the motivations or positions of any other participant or caucus. All written communication regarding the groups is to be sent to all members of the group.

2. Communication with Constituents

- ECC members are responsible to keep the other members of their organization regularly informed by relaying information, presenting ideas in a fair manner and communicating decisions.
- Decisions will be made by the ECC in a manner that allows time to communicate within constituents. However, once a decision is made, ECC members do not have to wait for approval from the group to communicate with their constituents.

3. Communication with the Public

- If contacted by members of the public or the media, participants agree to speak only for his or her organization on specific elements of implementation, and to forward to the Environmental Coordinator and the other parties inquiries that affect other members of the ECC.
- With regard to those portions of the Settlement Agreement relating to the ECC, participants will not attempt to influence the public, lobbyists or the media unless requested to do so by the ECC. Participants agree not to

reach out as individuals or individual agencies to the public or the media in an effort to influence the ECC process, but to approach the public and media as a collective, collaborative entity.

- Members agree to only represent positions of the ECC that have been agreed upon and to present those positions fully and accurately, including any formal dissent.
- A Communication Subcommittee will be designated as needed whose responsibility will be to communicate information to the public and media. However, any member of the ECC may speak to the public regarding group decisions if they feel comfortable and able to do so.

E. DECISION-MAKING PROTOCOL (SA 4.2)

Members agree to work cooperatively to fulfill the responsibilities assigned to the ECC as established by the Settlement Agreement (4.2). No decisions will be adopted unless there is consensus among the ECC members or by majority vote as described below.

1. Decision Scope

A decision can include but is not limited to establishing priorities for implementing projects or actions, allocating funds, approving or modifying the implementation schedule, approving written products of the ECC for general circulations such as annual reports, evaluations and monitoring assigned to the ECC in the Settlement Agreement, public information material, or other actions of the ECC required to carry out its roles and responsibilities.

- Decisions of the ECC will not usurp the authority of the individual parties.
- ECC members' decisions will not be arbitrary, but will be based on the best available information.
- The ECC cannot increase the monetary, resource or other commitments made by PacifiCorp in the Settlement Agreement; override other limitations set forth in the Settlement Agreement; or require PacifiCorp to decommission or modify project facilities without PacifiCorp's written consent.
- The ECC will endeavor to conduct its business by consensus of the Parties. Each party present at Duly Noticed meetings will have one (1) vote of equal weight.

2. Consensus

Consensus is defined in terms of agreement along a continuum. Committee members will communicate the degree of their agreement with language from the first four columns:

5	4	3	2	1
Endorse	Endorse w/ Minor reservations	Neutral	Major Reservation	<i>Formal Disagreement</i>
“I like it and it represents my interests”	“I have a few points of reservation but I can live with it.”	“I can live with it”	“I don’t like this and want my objection noted in writing but I’ll support the decision”	<i>“This decision does not represent any of my interest and I can’t live with it”</i>

- Any of the four columns to the left are considered “agreement by consensus”. (2 or higher)
- The purpose of the position statements in the first four columns to the left side of the chart is to share information with other ECC about degree of support.
- “Major Reservation” (2) is a position intended to note a member organization’s dissent with the decision, yet allow it to concede that the decision is the best way to proceed to implement the Settlement Agreement. The rationale for the major reservation will be put into writing by the member and facilitator, agreed to by the ECC, and included in the description of the ECC decision.
- “Formal Disagreement” (1) is not acceptable for consensus and requires that the ECC revisit the language of the proposed decision to attempt to meet the interests of the party so registering.

2. Majority Voting

When consensus may not be reasonably reached by revisiting the language of the proposed decision, decisions of the ECC shall require both:

A majority vote (51%) of the representatives present at a Duly Noticed meeting of the ECC where voting was scheduled on the meeting agenda; and

Unanimity of the representatives present of the USFWS, IDFG, and IDEQ. If measures under consideration would occur within lands administered by USFS, BLM, or the Tribes, unanimity of each entity in addition to the USFWS, IDFG, and IDEQ is required. Unanimity of IDPR is required for measures under consideration for pertaining to white water flows in Black Canyon. In instances that the unanimity requirement is not met in a majority vote, the agency will provide clarification as to its reasoning that required voting against the decision.

3. Elevation of Decision-making (SA 4.2.2)

The ECC will refer an issue to the appropriate policy-level designated by each party when:

Either PaciCorp or at least two representatives of the ECC determine that a vote has resulted in a decision, which is inconsistent with the Settlement Agreement; or

The ECC cannot reach consensus on any issue not decided by vote and at least three parties believe the issue should be elevated.

If policy-makers are unable to resolve an issue by consensus within 30 days after referral, disputes will be resolved in accordance with the established dispute resolution process.

4. Dispute Resolution Process (SA 5.3)

- The first avenue for resolving differences is through the ECC. Members will work directly with the ECC representative rather than seeking resolution with outside entities.
- If policy-level representatives are unable to resolve an issue within 30 days after referral, participants will use alternative dispute resolution (ADR) processes to handle all conflicts as described in the Settlement Agreement (SA 5.6).
- Each party will cooperate in good faith to schedule, attend and participate in the ADR.
- Each party agrees to devote time, resources and attention to the ADR as need to resolve the dispute.

F. PRODUCTS (SA 4.6)

- The annual report will be prepared, outlining the activities of the ECC and the implementation of the PM&E measures during the previous year. The annual report will be transmitted to the members by January 15 of each year. A 30-day review period will be provided prior to approval by the ECC not later than February 20 of each year. If comments are not received by February 20, the Annual Report will be considered approved.
- If additional written products and reports are agreed upon, there will not be minority reports. A single report encompassing both issues on which there is agreement and issues on which there are differing perspectives will be reviewed and approved by the ECC. Such additional products and reports will be included in whole or as reference in the Annual Report.

G. PUBLIC INFORMATION

- The ECC will provide public information as often as possible within the context of its responsibilities to speak as a group with consensus. The ECC will seek public involvement through public meetings, and/or other means of communication as agreed upon (such as a newsletter). At these times it will consult with the public about matters under discussion and receive suggestions.
- Public information through the ECC is separate from and in addition to public information through the site-specific National Environmental Policy Act process undertaken by public agencies.

H. ROLES AND RESPONSIBILITIES OF THE ENVIRONMENTAL COORDINATOR (SA 4.4)

PacifiCorp will designate an Environmental Coordinator (EC) in consultation with the Parties to oversee the coordination and implementation of PM&E measures. The EC will be under the employ of PacifiCorp. However, the cost to PacifiCorp of maintaining the EC will not exceed the cost of one (1) full time employee and associated administrative costs. Any additional required costs will be provided through funding as described in SA 3.1.4 and 3.1.5. The EC and will act as PacifiCorp's representative to the ECC and will be responsible for the following tasks.

- Provide reasonable administrative and clerical support to the ECC
- Function as a point of contact for the ECC.
- Seek additional funds through grant writing when appropriate

- Attempt to identify willing landowners for implementation of SA 3.1.5
- Apply for permits required to carry out the actions that PacifiCorp has agreed to take under the Settlement Agreement
- Act as a public advocate (when appropriate) for ECC activities and decisions

I. ROLES AND RESPONSIBILITIES OF THE EC PROJECT COORDINATOR

To support the position of the EC, PacifiCorp will provide a Project Coordinator (PC) to assist with administrative tasks for implementation of the Settlement Agreement. Tasks are outlined below:

- Assist in the coordination, distribution of meeting announcements, agenda preparation of ECC meetings.
- Attend ECC meetings, compile an attendance record, take notes distribute draft-meeting notes for comments by attendees, and finalize notes for distribution.
- Assist in the preparation of scopes of work and contract administration, as necessary, for activities agreed upon by the ECC
- Assist the EC in the preparation of an Annual Report summarizing activities and accomplishments of the year. Distribute draft report to the ECC members for comments, address comments with the EC and prepare and distribute the final Annual Report to the ECC.

J. ROLE AND RESPONSIBILITIES OF THE FACILITATOR

- The facilitator is an impartial individual who guides the process and does not represent the interests of any individual Party. The facilitator chairs the ECC meetings, prepares agendas, and coordinates logistics.
- The facilitator will keep the ECC focused on the mission, agenda, and agreed-upon tasks. She may suggest alternative procedures, and will encourage participation by all members.
- The facilitator may communicate between meetings with individual members and caucuses, and assist the free movement of ideas between members and caucuses.

- The members by consensus may change the facilitator's duties, replace the facilitator, or may choose to operate without a facilitator.