

# LEWIS RIVER AQUATIC COORDINATION COMMITTEE

Facilitator: ERIK LESKO  
503-412-8401

Location: TEAMS (online)

Date: November 09, 2023

Time: 9:30 AM – 12:00 PM

## AGENDA

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9:30 AM	Welcome <ul style="list-style-type: none"><li>➤ Review and Accept 11/09/2023 Agenda</li><li>➤ Review and Accept 10/12/2023 Meeting Notes</li></ul>
9:40 AM	Public Comment Opportunity
9:45 AM	Decision Template: Proposed Revision to Ground Rules. Vote ( <i>Lesko</i> )
10:30 AM	Study/Work Product Updates <ul style="list-style-type: none"><li>➤ Flows/Reservoir Conditions (<i>Lesko</i>)</li><li>➤ Swift No.1 and No. 2 October outage and monitoring summary (<i>Lesko</i>)</li><li>➤ Yale HPP surveys (<i>Doyle, Holowatz</i>)</li><li>➤ Upstream transport of coho adults into Swift (<i>Karchesky, Lesko</i>)</li><li>➤ Reservoir Shoreline Development Projects (<i>ACC</i>)</li><li>➤ ATS (<i>Karchesky, ATS</i>)</li><li>➤ FPS (<i>Glaser, Karchesky</i>)</li><li>➤ Fish Passage/Operations (<i>Karchesky</i>)</li><li>➤ ACC Distribution List Approval (<i>Lesko</i>)</li><li>➤ Next meeting agenda</li></ul>
12:00 PM	Meeting Adjourn

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Note: all meeting notes and the meeting schedule can be located at:  
<https://www.pacificorp.com/energy/hydro/lewis-river/acc-tcc.html>

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**FINAL Meeting Notes  
Lewis River License Implementation  
Aquatic Coordination Committee (ACC) Meeting  
November 09, 2023  
TEAMS Meeting**

**ACC Representatives and Affiliates Present (15)**

Nina Maas, Anchor QEA  
Christina E. Donehower, Cowlitz Indian Tribe  
Baxter, Anne, Ecology  
Steve Manlow, LCFRB  
Melissa Jundt, NMFS  
Kathryn Blair, NMFS  
Erik Lesko, PacifiCorp  
Jeremiah Doyle, PacifiCorp  
Chris Karchesky, PacifiCorp  
Jeffrey Garnet, USFWS  
Josua Holowatz, WDFW  
Roberts Aaron, WDFW  
Peggy Miller, WDFW  
Keely Murdoch, Yakama Nation  
Bill Sharp, Yakima Nation

**Public:**

None.

**Assignments:**

<b>Assignments from October 12, 2023</b>	<b>Status</b>
Erik Lesko to finalize Northwoods reporting	<b>Ongoing</b>

<b>Assignments from October 12, 2023</b>	<b>Status</b>
Jeffrey Garnett to meet with Bull Trout Recovery Group to discuss increased Coho Salmon transport numbers for this year.	<b>Complete (10/16/23)</b>

<b>Assignments from July 13, 2023</b>	<b>Status</b>
ACC members to review revised Ground Rules Decision Template sent on July 6.	<b>Complete 12/14/2023</b>

**Opening, Review of Agenda and Meeting Notes**

Erik Lesko (PacifiCorp) called the meeting to order at 9:32 a.m. and reviewed the agenda. No revisions to the agenda were made, and the agenda was accepted. Meeting note revisions from October 12, 2023, were reviewed; the notes were approved by representatives present.

## Public Comment Opportunity

No comment.

### Decision Template: Proposed Revision to Ground Rules (Lesko) (Attachment A)

Note: The draft presented during the meeting contained additional comments that were not included in the version sent to the ACC.

Erik Lesko presented the edited Ground Rules document. He reminded the group that the document had been edited numerous times by the ACC. He stated that the intent was to vote on the document today but understood that may not be feasible. Peggy Miller clarified that subcommittees are subject to the Ground Rules, regarding a comment by Lesko; the comment was resolved.

Lesko began discussing the remaining comments. He presented a comment about the term “Members” and expressed concern there was no definition of this term. Miller indicated the definition was included in V. Roles of the Parties Subcommittee(s) section however another definition could also be included. She discussed the differences between representatives and alternates to assist in assigning those roles.

Lesko presented added text for the “subcommittee” section Miller stated that this was discussed during the last ACC meeting with the addition of a sentence that indicates “Subcommittee members (Members)” provides a definition for “Members”. Lesko asked again what the definition of “Members” is, because it is being used in the subcommittee definition. He asked whether the term “Members” should be changed to “Representatives” to be consistent with the Ground Rules. Miller stated that the term “Representative” implies authority given by the Settlement Agreement, and changing the word could be confusing. Miller asked whether the subcommittee votes similar to the ACC. If they do, this would require additional changes in the “Decision Making” section from “Representative” to “Representatives or Members”. Lesko clarified that the subcommittees are generally consensus based without documentation, but may shift to an official voting process in the future. Miller suggested further discussion outside of the ACC meeting. Josua Holowatz stated that he believed the subcommittees to be a recommending body and they do not make decisions. Lesko agreed and asked that terms be defined in the ground rules if not defined in the Settlement Agreement.

Lesko presented another comment regarding the decision-making protocol of the subcommittee. He reiterated that details should be updated or included in the subcommittee charters.

Lesko presented the formal committee decision section that had been added to the Ground Rules. Miller added clarification about the term “consult” and the intend for a 30-day review period. She stated that there is an established 30-day comment period for annual reports that may not require a “Request for Decision” however there are elements within the PacifiCorp annual report that the ACC might discuss and need a decision document. She stated that there should be a distinction for consult between the PacifiCorp annual report and the individual elements within the report. Lesko expressed concern about this edit because definitions for “*Consultation*” or “*Consult*” being used in this section already exist (see Settlement Agreement Definitions section). He was concerned that the consensus process could be delayed in situations where PacifiCorp is obligated to meet specific FERC deadlines, and the process or requiring decision documents may conflict or be inconsistent with the Settlement Agreement. Miller suggested the discussion take place outside of the ACC meeting to resolve this issue. Miller said she has a

different interpretation of the Settlement Agreement definition for “Consultation” or “Consult” than just the 30-day review period for reporting. Lesko stated that the Settlement Agreement defines “Consult” or “Consultation” as requiring a 30-day ACC review, and often requires ‘with the approval of the Services’. Miller asked for additional time to review. Lesko stated that they would discuss outside of the ACC meeting.

Lesko presented the decision-recording section, specifically the differences between formal and informal decisions. Miller asked for clarification on the intent for the Record of Decision and how it will be used. Lesko stated that formal decisions require a decision template, and informal decisions would be documented in the notes. Both formal and informal decisions would be recorded in the Record of Decision that will be posted on our website for reference and use by all representatives.

Lesko stated that the vote on the Ground Rules would not occur during the meeting because numerous questions had not been finalized, but he hoped that the document could be voted on in the December meeting. Miller asked the ACC whether the agreed upon changes could be accepted and redlines removed. Jefferey Garnett stated that he would like to have the changes tracked. Lesko clarified that two versions of the revised Ground Rules document would be provided, a clean version and a version showing all comments and edits. These review drafts will be distributed to the ACC prior to the December ACC meeting.

### Study/Work Product Updates

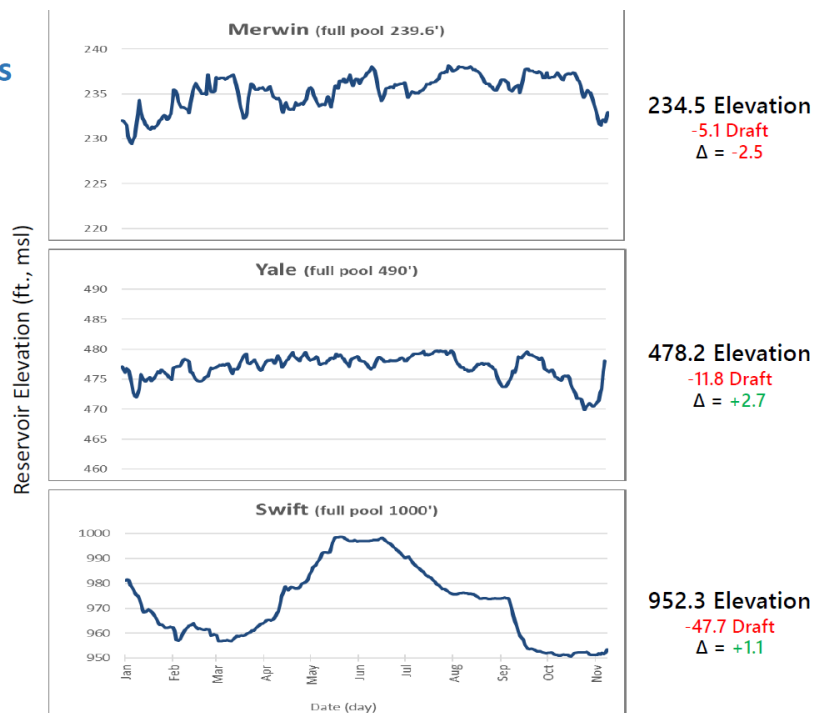
#### Flows/Reservoir Conditions Update (see Attachment B)

Erik Lesko presented the reservoir conditions and mentioned the recent rain event that occurred in October caused reservoir elevations to rise – specifically at Yale. However, total draft for all three reservoirs was little changed from October. Peggy Miller asked whether the rain event flooded the cofferdams at Swift Reservoir, and Lesko said that the cofferdam for the spillgate work remains intact and work was not interrupted.

### Reservoir Elevations

Jan 1 – Nov 8, 2023

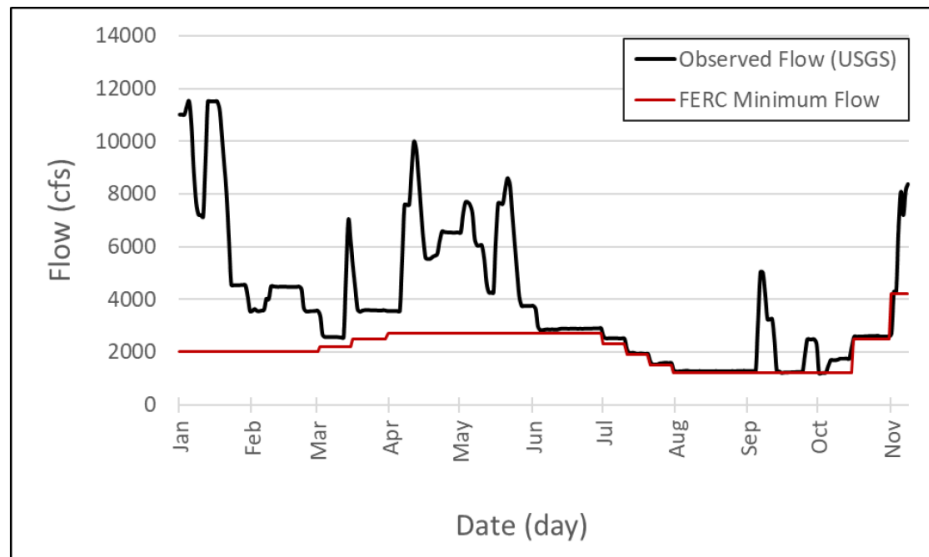
Total Draft = - 64.6  
 (-54.6 with Yale Restriction)  
 Δ since Oct 13 = +1.2



Lesko presented stream flow measurements downstream of Merwin Dam. He explained that on November 6 at 1:10 AM both Yale and Merwin powerhouses experienced outages caused by a transmission line (lake line) fault from a downed tree. Lesko stated that due to the outage, spill was initiated at Merwin to maintain minimum stream flows downstream of Merwin. He stated that the two of the three Merwin generating units were brought back online at approximately 12:15PM on November 6 and that Yale powerhouse remained offline. Josua Holowatz asked what the hydraulic capacity is of each unit at Merwin, Lesko clarified that each of the three units has a capacity of about 3,800 cfs depending on Merwin lake elevation. Holowatz stated that the updates in Lesko’s recent email was confusing to staff because the email stated that natural flow is 15,000 cfs. Crews were concerned flow would increase to 15,000 cfs. Lesko clarified that the natural flow calculation was provided for context only and that there was no further spill forecasted at this time.

**North Fork Lewis River  
Stream flow downstream  
of Merwin Dam**

*Jan 1 – Nov 8, 2023*



Swift No. 1 and No 2 Outage (see Attachment C)

Erik Lesko presented slides in relation to the outage at Swift No.1 and No. 2 projects from October 15 to 26, 2023. He presented a map that displayed the powerhouses, bypass, and constructed reaches. He showed the constructed channel and wasteway (which is used during high-flow events in the canal) and clarified that the wasteway does not affect the constructed channel. He explained that the maintenance activities required PacifiCorp to pass water through the Swift spillway to ensure ongoing spill gate work at Swift could continue uninterrupted. As part of the Swift spilling event, PacifiCorp conducted total dissolved gas (TDG) monitoring. No TDG exceedances were observed and flows in the bypass reach remained above minimum flow requirements. Swift No. 1 was shut down first, and then once maintenance was complete, the Swift No. 2 outage occurred, and work was completed on October 26, 2023. Peggy Miller asked how water was kept in the power canal if Swift No. 1 was down but No. 2 was not. Lesko explained that there is a critical canal elevation for the siphon to function. He stated that during the Swift No.1 work, drafting of the power canal is monitored to meet our flow requirements of both the bypass reach and constructed channel. Also, Swift No. 2 does not operate when Swift No. 1 is offline. Miller confirmed that both were offline at the same time and work was only

being done at one at a time. Lesko said that was correct. Lesko presented photos of a fish survey conducted at the wasteway and constructed channel. Several coho and kokanee were observed in the constructed channel along with one cutthroat.

#### Yale Habitat Preparation Plan

Josua Holowatz said that on October 24, he and Jeremiah Doyle went to numerous Yale tributaries. He noted that at this time 1,600 out of 1,800 hatchery-origin return fish had been moved upstream. They observed the Speelyai Canal and saw fish carcasses, spawning, live fish, and redds. They then went to Siouxon Creek and numerous unnamed creeks and saw redds and/or carcasses in all of them. He stated that while at Dog Creek, they observed three fish carcasses and two redds, but the creek was completely dry. There was evidence of water from the recent rain events. Holowatz noted that the Yale Reservoir that day was at 471 feet, which was lower than the 474-foot elevation the week before. Preliminary downloads of the passive integrated transponder (PIT)-tag array at Cougar Creek showed detections. He reiterated that Coho Salmon can be observed almost everywhere in the watershed, even in small creeks. Doyle stated that there were no Coho Salmon redds in the constructed channel last year during this same time and that the PIT-tag data would be available at the end of month, and there could be a presentation in December or January. Holowatz noted that fish transportation is almost complete. The temporary salmon harvest size restrictions may be ended at the end of the month. Erik Lesko asked whether there had been much enforcement, Holowatz said no.

#### Upstream Transport of Coho

Erik Lesko stated that the purpose of the conversation was to follow up on the discussions of last meeting. He said that a total of 2,000 additional Coho Salmon had been agreed upon by the ACC with input from with the Bull Trout Recovery Group to be moved upstream in 2023. This increased the number of adult Coho from 9,500 to 11,500. Chris Karchesky reiterated that the agreement had been made this year, but there would be discussions again next year for adding an additional 5,000 adults, which would increase the number to 14,500. Karchesky said that approximately 7,000 Coho Salmon had been moved upstream so far and that most of the additional 2,000 fish would be transported upstream in November to take advantage of fish in still good condition that will move throughout the drainage.

#### Shoreline Redevelopment Projects

##### *Buncombe Hollow Creek*

Steve Manlow informed the ACC of a new project at Buncombe Hollow Creek. He stated that a property owner had applied for a hydraulic project approval and water rights to divert water to a natural pond. He believed that there had been work completed without authorization. He mentioned that the property was just upstream of a Family Forest Fish Passage Program site. Holowatz thanked Manlow for his tracking this project and mentioned that Washington Department of Fish and Wildlife (WDFW) had also been tracking this development.

#### Invasive Mussels Monitoring

Erik Lesko asked the ACC whether any monitoring or inspections were being conducted along the Lewis River for quagga mussels. He stated that this was a topic of discussion internally at PacifiCorp. Josua Holowatz said that he heard zebra mussels had been seen in the Snake River.

He stated that there is an aquatic invasive species station at the Ridgefield waystation. He did not know the operational window, although it is likely in the summer. He said WDFW was taking an aggressive approach for monitoring and bringing on additional staff. He said he would bring an update to the following ACC meeting.

#### Aquatic Technical Subcommittee Update

Erik Lesko said the Aquatic Technical Subcommittee is continuing to work on updating the 2024 Annual Operating Plan (AOP). He mentioned there were many topics being discussed by the group that are new for 2024, including a new steppingstone program for late winter steelhead, ongoing genetics monitoring and development of a monitoring strategy to estimate late winter steelhead pHOS and abundance in the lower river. Chris Karchesky stated the integrated population model for Coho Salmon was near finalization, and the group was beginning to think about the modelling efforts for late-winter steelhead.

#### Fish Passage Subcommittee Update

Chris Karchesky stated that the Fish Passage Subcommittee (FPS) toured the upstream and downstream fish passage facilities at the Baker River Project last week. He also mentioned that at the meeting scheduled later that day would include a discussion of the tour to review key infrastructural components of the facility and how they relate to the planned Yale upstream facility. Also, during the meeting, Todd Olson planned to discuss the Elements of Fish Passage document as well as Karchesky planned to discuss the Yale fish behavior study. Peggy Miller stated that at the last meeting (in October), the group discussed changes to the Yale upstream facility design from 30% to 60%, which mainly focused on the barrier/guide net arrangement at the Yale Downstream Facility and the reconfigured entrance of the Yale Upstream Facility. Fish holding capacity was discussed at length for the upstream facilities, and the design would account for a larger capacity overall due to the accommodation of more fish at a lower level. Miller stated that there was discussion about hydraulics and the group was developing a matrix to follow comments as the design progresses.

#### Lewis River Fish Passage (Attachment D)

Chris Karchesky stated that the Swift Floating Surface Collector (FSC) was returned to service in mid-October. Initially about the number of fish collected each day remained low, but with recent high flows into Swift Reservoir daily collection numbers have increased to several thousand a day. He also mentioned that the majority of fish collected were parr. He reminded the group that it was that time of year and that falling leaves and seasonal debris were problematic, as usual. He said that the newly installed sidewalls were operational and that the design engineer was out last week to adjust the baffles to remove areas of deceleration. He reminded the ACC there would be a collection efficiency study would occur this coming spring.

#### ACC Distribution List

Erik Lesko presented the updated ACC distribution list. He stated that this list would be uploaded on the PacifiCorp website without contact emails and updated as needed.



### **Administrative Updates**

Erik Lesko mentioned that Phil Roni called, and the Pine Creek project has been completed. Roni asked whether the ACC would find it valuable to be provided a status update. Lesko agreed to have Phil and his team provide an update during our January ACC meeting.

Peggy Miller stated that the 60% fish passage design would be presented during the December FPS meeting and that the meeting invite should include any ACC representatives not on the FPS distribution.

Miller asked whether the December ACC meeting would be in person. Josua Holowatz said that there is no meeting room booked, but he could arrange that. Chris Karchesky requested that the project manager for the Yale upstream design be consulted first because the 60% design presentation is scheduled for the FPS meeting in December. Karchesky stated that consultation could occur during the meeting that afternoon.

### **Public Comment Opportunity**

None present.

### **Agenda Items for October 12, 2023**

- Decision Document: Proposed Revisions to Ground Rules (Vote)
- Study/Work Product Updates

**Adjourn 11:12 pm**

### **Next Scheduled Meeting**

December 14, 2023
Teams Call and In Person
9:30 a.m.–12:00 p.m.

### **Meeting Handouts and Attachments**

- Agenda from 11/09/2023
- **Attachment A** – Decision Document: Proposed Revision to Ground Rules
- **Attachment B** – Flow/Reservoir Conditions (October 2023)
- **Attachment C** – Swift No.1 and No. 2 Outage Presentation
- **Attachment D** – Lewis River Fish Passage Report (October 2023)
- **Attachment E** – Merwin Adult Trap Collection Report (October 2023)
- **Attachment F** – Swift FSC Facility Collection Report (October 2023)

**Terrestrial and Aquatic Coordination Committees  
Structure and Ground Rules**  
Revised ~~June 2020~~ **November 2023 (for ACC review)**

## I. Introduction

This document has been established to facilitate the purposes of the Lewis River Terrestrial Coordination Committee (TCC), and the Lewis River Aquatics Committee (ACC) ~~and corresponding subcommittees~~, collectively known as the “Committees”. This document does not supersede language in the Lewis River Settlement Agreement or Federal Energy Regulatory Commission (Commission) Licenses issued June 26, 2008, which govern this process. Both Committees reserve the right to amend or modify this document as necessary and upon approval of the other committee.

**Commented [MPA(1):** Explanation for suggested change  
Most of the language in the first part of the doc is copy and paste from the SA with minor changes. The SA language is referring to the ACC and TCC so removed subcommittees from “Committees”.  
See added language about Subcommittees following ground rules.

## II. Purpose

The purpose of the Committees is to coordinate:

- 1) For the TCC, the implementation of terrestrial protection, mitigation, and enhancement (PM&E) Measures described in Section 10 of the Settlement Agreement (Agreement) (including any exhibits, schedules, and appendices related to that Section).
- 2) For the ACC, the implementation of aquatics protection, mitigation, and enhancement (PM&E) Measures described in Sections 3 through 9 of the Agreement (including any exhibits, schedules, and appendices related to that Section). In accordance with Section 14.2.1, of the Settlement Agreement (see **Appendix C**), PacifiCorp and Cowlitz Public Utility District (PUD) have designated Coordinators for the Committees and alternative representatives for membership (see **Appendix A** for a complete list of TCC membership, **Appendix B** for a complete list of ACC membership).
- 3) The Committee Coordinator(s) shall, as their primary responsibilities, oversee the coordination and implementation of the terrestrial and aquatic PM&E Measures that are the responsibility of their respective organizations as provided in the Agreement.
- 4) For purposes of this document, days shall be defined as calendar days.

## III. Roles and Responsibilities (Section 14.2.3 of the Agreement, see Appendix C)

Each Committee has the following responsibilities:

- a. Coordinates and Consults on development of plans by the Licensees as provided in the Agreement;
- b. Reviews information and oversees, guides, and makes comments and recommendations by the date agreed to by the Committees on implementation and monitoring of the terrestrial and aquatic PM&E Measures, including plans and reports;

**Commented [MPA(2):** Explanation for above change  
(removing subcommittee from definition of “Committee”)

a through f is a close copy and paste of SA. They apply to the ACC and TCC however if a subcommittee remains part of “Committees” then these responsibilities could also apply to subcommittees without the ACC identifying the actions as part of the subcommittee function.

- c. Consults with the Licensees on their respective reports prepared under the Agreement and Licenses regarding implementation of the terrestrial and aquatic PM&E Measures as referred to in Section 14.2.6 of the Agreement, (see Appendix C);
- d. Makes decisions, grants approvals, and undertakes any additional duties and responsibilities expressly given to the Committees with respect to the terrestrial or aquatic PM&E Measures;
- e. Establishes, among other things, (i) procedures and protocols for conducting Committee meetings and deliberations to ensure efficient participation and decision making; (ii) rules for quorum and decision making in the absence of any member; (iii) alternative meeting formats as desired, including phone or teleconference; and (iv) the methods and procedures for updating Committee members on interim progress of development and implementation of the terrestrial and aquatic PM&E Measures;
- f. As deemed necessary and appropriate by either Committee, establishes subcommittees to carry out specified Committee functions and responsibilities described in this Section 14.2.3 of the Agreement (see **Appendix C**), and establishes the size -, membership -, and procedures for any such subcommittees; and
- g. Discusses the protocols and the content of public information releases; provided that each Party, speaking only for itself and not the Committees, retains the right to release information to the public at any time without such discussion.

**IV. Comments, Decisions and Recommendations (Section 14.2.4 of the Agreement, see Appendix C)**

Each of the Committees shall make comments, recommendations, and decisions in a timely manner as provided below:

- a. Each Party represented on a Committee will have the authority to participate in all Committee discussions relating to, and to provide input and advice on the date agreed to by the Committees; on decisions regarding implementation of the terrestrial and/or aquatic PM&E Measures. If a Representative requests an extension before the agreed upon due date, Licensees will consider accommodating an extension.
- b. The Committees shall strive to operate by Consensus.
 

*“Consensus” means that all Parties participating in a committee or other decision-making group consent to a decision. Consent does not necessarily imply that a Party agrees completely with a particular decision, just that the Party is willing to go along with the decision rather than block the action.*
- c. Whether or not the Committees have final authority over decisions on PM&E Measures, the Licensees and other Parties may proceed with actions necessary to implement the Licenses or the Agreement, even though Consensus is not achieved; provided that in such cases where “Consultation” is required, the responsible Licensee or Licensees shall provide copies of Committees comments to the Commission and highlight the areas of disagreement. If this circumstance occurs, and the Licensees do

not adopt the recommendations of a Committee member, then the material filed with the Commission will also include the member's comments along with Licensee's reasons for not adopting the recommendations of a Committee Representative, based on Project specific (see Recital A of Settlement Agreement) information, as identified in the definition of consult or consultation in the Agreement and as follows:

*“Consultation” or “Consult” means that the Licensees shall obtain the views of and attempt to reach Consensus among the specified Parties whenever this Agreement requires the Licensees to Consult with one or more of the Parties. When Consultation is required under this Agreement, the Licensees shall allow a minimum of thirty (30) days for the specified Parties to provide comments prior to filing written plans, reports, or other items with the Commission. If Consensus is not reached, the Licensees shall take action according to the schedule provided in this Agreement or the New Licenses and shall describe to the Commission how the Licensees’ submission accommodates the comments and recommendations of the Parties. If the Licensees do not adopt a recommendation, the filing shall include the Licensees’ reasons for not adopting the Parties’ recommendations, based on Project-specific information. The Licensees shall provide the Commission with a copy of the Parties’ comments. Any Party may seek to resolve such disagreements in accordance with the Alternative Dispute Resolution (ADR) Procedures provided under Section 15.10 of the Agreement (see **Appendix C**). The Parties may submit their own comments to the Commission.*

- d. Where one or more Parties have approval authority under this Agreement, Licensees shall notify the Commission of any approvals that were not obtained, include the relevant comments of the Parties with approval authority, describe the impact of the lack of approval on the schedule for implementation of PM&E Measures, and describe proposed steps to be taken to gain the approval, including dispute resolution.
- e. In no event shall the Committees increase or decrease the monetary, resource, or other commitments made by PacifiCorp and the PUD in the Agreement; override any other limitations set forth in the Agreement; or otherwise require PacifiCorp to modify its three Projects’ facilities without PacifiCorp’s prior written consent or require Cowlitz PUD to modify its Project’s facilities without Cowlitz PUD’s prior written consent, which consent may be withheld at the applicable Licensee’s discretion.
- f. At any juncture where Consultation, discussion or other contact with the Committees is required by the Agreement or Licenses, when requested by the “Services” (National Oceanic and Atmospheric Administration National Marine Fisheries Service and US Fish and Wildlife Service) or as required by the Agreement, the respective Committee Coordinator shall schedule an opportunity to discuss the relevant issue with the respective Committee. This event shall consist of either a conference call, in-person meeting, or other appropriate forum to enable full consideration of the issue.

## V. Roles of the Parties

### Interested Parties

Interested parties are those people or entities that are interested in Committee activities, but were not Parties to the Agreement (e.g., general public) or are Agreement Parties that have not designated Committee representatives for membership. To the extent desired by an individual or party, they may receive respective Committee information and attend meetings; however they will not be included in the Consensus process or during confidential sessions. Time will be provided at each meeting for public comment as needed and determined by respective Committees (e.g., 15 minutes before lunch break and 15 minutes at conclusion of meeting).

### Representatives and Alternates ~~Designated Representatives for Membership~~

~~Designated primary and alternate representatives for membership (Representatives), see~~ **Appendices A and B**, are Parties to the Settlement Agreement that have identified (in writing) Representatives to participate in Committee meetings. Representatives, or their designated alternates in the absence of primary Representatives, will have the authority to participate in all respective Committee discussions and to provide input, advice and voting authority on decisions regarding implementation of the terrestrial or aquatic PM&E Measures in the Agreement or Licenses. Representatives are included in the Consensus process. It is expected that TCC Representatives will request to meet in a confidential manner specific to discussions regarding land acquisition interests. Those Representatives wishing to participate in such meetings will be required to sign a Confidentiality Agreement. ~~Since it is unlikely that~~ the ACC ~~will need~~s to conduct confidential discussions, ~~no Confidentiality Agreement has been prepared for ACC Representatives at this time. Committee~~ ~~any~~ ~~Representatives may request a confidential session and the session will~~ ~~shall~~ be identified on the agenda. Efforts will be made to identify a confidential session before the agenda is released. Confidentiality Agreements are not required for confidential ACC discussions unless agreed to by the ACC.

### Proxy Representation

To provide for absentee representation at Committee meetings, a primary or alternate Representative may designate a proxy Representative via written electronic mail notification to the Licensees' Coordinators. If necessary, written proxy designation may be provided to Signatories external to the entity providing the written proxy designation. Written proxy requests should include the designated proxy Representative, affiliation and duration of the proxy authorization.

### Licensees' Coordinators

The Licensees' Coordinator(s) oversee the coordination and implementation of the respective terrestrial and aquatic PM&E Measures that are the responsibility of their respective organizations (PacifiCorp or PUD of Cowlitz County) as provided in the Agreement. The Coordinators may be the Licensees' Representatives if so designated. The Coordinators shall act as full participants in the Committee process and, as appropriate, will take the lead in developing necessary information and preparing formal documents.

**Commented [MPA(3)]:** For Discussion purposes 14.2.2 TCC and ACC Membership. Within 30 days after the Effective Date, or at any time thereafter with 30 days' notice to the Licensees, each Party, at its own discretion and cost, may designate one representative for membership on the TCC and may designate one representative for membership on the ACC and may designate one or more alternates. The Party shall make its designation(s) by notice to the Parties in accordance with Section 16.6. A Party not participating on the TCC, the ACC, or both may request, by notice to the Parties in accordance with Section 16.6, to be placed on a contact list to receive notices of committee meetings and releases of information, including annual reports and other interim reports, that the TCC or the ACC may issue.

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**Commented [MPA(4)]:** Erik, Definition for Representatives. I missed in the first read. Added definition for Subcommittee members (Members) in Subcommittee section below.

**Commented [MPA(5)]:** Erik, see suggested changes. It gets to the intent that ACC confidential discussions don't require a confidentiality agreement.

**Commented [LE(6R5)]:** Looks great

### Chairperson(s)

Generally, the role of the Chairperson is to lead the meetings effectively and ensure the written structure and ground rules are followed. Responsibilities include opening and closing the meetings on time, review and modification of the meeting agenda, introducing the purpose and topics on the agenda, introduce guests, ensure participants are provided equal time when discussing issues, ensure that discussion remains relevant, and call for consensus votes when necessary.

### Consultants

A Consultant will serve as a source of technical expertise to the appropriate task or assignment. A Consultant will not have the authority to participate as a Committee Representative on behalf of or bind any Party unless the Party specifically delegates that authority (in writing) on specific issues and informs the other Representatives about such delegation.

### Facilitator

If deemed necessary by the Licensees or Committees, a facilitator may be utilized during a part or all of the Committee proceedings. The facilitator is an independent third party. The facilitator's role is to help reach Consensus. The facilitator will help the Representatives to identify goals, identify issues, develop and maintain critical paths, accomplish creative problem solving, reach resolution of issues (facilitate and mediate as necessary). The facilitator will also help the Parties to stay organized and keep track of issues, Committee progress, and assignments. The facilitator may assist the development of agendas (for review and input by Representatives) and focus discussions and efforts. If the Committee(s) deems that an outside facilitator is unnecessary at any time, the Licensee(s) Coordinator(s) or any other Representative may assume that role, as determined by the respective Committee.

### Subcommittee(s)

The ACC or TCC may request the formation of subcommittees to carry out specified functions and responsibilities. Subcommittee members (Members) may be Representatives or other technical support staff. The primary role of subcommittees will be to provide recommendations to the ACC or TCC for their consideration and/or approval. A charter for the subcommittee will be prepared outlining the size, membership, roles, and procedures and provided to the relevant Coordination Committee for approval.

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Commented [MPA(7)]: Added a definition for Subcommittee members (Members) here. Added throughout where appropriate.

Commented [LE(8R7)]: Member need to be defined

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## **VI. Ground Rules**

The Committee and subcommittee meetings are ~~a process that is~~ subject to the ~~following ACC and TCC~~ ground rules. These ground rules are not intended to modify or limit any party's legal rights, authorities, or remedies.

## **VII. Meetings**

~~The m~~Meetings will be open to the public, who may observe and provide comment at the appropriate time. Non-member participants (i.e., interested parties) cannot participate in the

determination of Consensus. The Committees [and subcommittees](#) may schedule meetings that are not open to the public or interested parties; confidential or otherwise. Consultants and legal representatives of the Parties shall not act as advocates during Committee meetings unless they have been designated as a Representative for a Party.

The Committees will have the respective meeting times:

- 1) The TCC will meet regularly from 9:00am until 3:00pm on the second Wednesday of each month unless determined otherwise by the TCC.
- 2) The ACC will meet regularly from 9:30am until 3:00pm on the second Thursday of each month unless determined otherwise by the ACC.

In general, Representatives of the Committees shall be given a minimum of thirty (30) days' notice prior to any meeting, unless otherwise agreed to by the Representatives. This does not preclude the Committees from conducting meetings with less notice as needed.

[Subcommittee meeting times will be established in the charter or determined within the subcommittee. The Committee establishing the subcommittee will be notified of meeting times.](#)

#### Agendas

Agenda items for the following Committee [and subcommittee meetings](#) will be determined ~~by Representatives~~ at the close of each meeting. Agendas will identify when decisions are expected to be made [and if confidential sessions are needed](#). Representatives [or Members](#) may contact the Coordinator(s) at any time to suggest additional agenda items. [Representatives or Members may also request a confidential session and the session shall be identified on the agenda. Efforts will be made to identify a confidential session before the agenda is released.](#) The agenda for each meeting shall be distributed at least seven (7) days in advance of the meeting date. At the beginning of each meeting, the agenda will be reviewed, edited, and amended as necessary by the Representatives [or Members](#). A public comment period will be included in each meeting agenda as needed. The Coordinators shall arrange and provide a draft agenda for any additional Committee or subcommittee meetings formed by the Coordinator or at the request of any two Representatives [or Members](#) on that Committee [or subcommittee respectively](#). The request shall be sent simultaneously to all Representatives [or Members](#) of the respective Committee [or subcommittee](#). (See section 14.2.5 of the Agreement, or **Appendix C**).

#### Meeting Notes

The Coordinators will provide for the preparation, review and distribution of draft meeting notes within seven (7) days following the Committee meeting. Representatives may provide editorial comments directly to the Coordinators by email within ten (10) days prior to the next meeting. Edited meeting notes will be distributed (including attachments) to the Committee with the meeting agenda seven (7) days prior to the next meeting. Substantive comments should be raised during the review of the notes at the next meeting for discussion and resolution, as necessary. Following that meeting, the Coordinators will finalize the meeting

**Commented [LE(9):** 'members' needs a definition. I think this is referring to subcommittees? My thought is that subcommittees have Representatives which would have approval or voting authority. A definition would help if the group wants to include this new term in the ground rules.

**Commented [MPA(10):** Representatives is usually applied to ACC/TCC reps and alternates. Please consider defining before using or changing to Committees and subcommittees when applicable. The heading VIII. Responsibilities of Committee Representatives is likely sufficient from section VIII on.

notes and post on PacifiCorp website ~~distribute to the Representatives~~. Any changes to meeting notes that were suggested by a Representative, but not accepted by the respective Committee for inclusion, will be appended to meeting notes.

**Commented [MPA(11):** Please consider for ACC discussion  
Currently final notes are not distributed to Committee members and are instead posted to the website. Should this be changed to reflect the current process?

For large attachments (e.g., presentations), a link will be provided in the meeting notes directing reviewers to the attachment on the PacifiCorp website. All attachments are considered part of the meeting notes and subject to review.

Subcommittee process for reviewing meeting notes will be established in the charter or determined within the subcommittee. The Committee establishing the subcommittee will be provided the meeting notes and materials. Draft materials will be clearly marked (e.g., watermark).

#### Committee Written Record

~~When a committee has reached Consensus on an action item(s) (See Decision Making below), the decision will be recorded in with a completed "Request for Decision" template and/or and in the notes of the meeting. Meeting notes will be provided to respective committee Representatives for review prior to the following regularly scheduled meeting.~~

**Commented [LE(12):** This seems to be redundant as meeting notes and committee decisions have been updated or added to this revision to include documentation and recording of committee decisions.

### **VIII. Responsibilities of Committee Representatives**

#### Attendance

Representatives and Members will make a concerted effort to attend meetings and inform the Coordinators in advance of any absence at a Committee, or subcommittee meeting or any change in representation. A teleconference line or virtual meeting link will be available at each meeting for Representatives and Members who cannot attend in person.

**Commented [MPA(13R12):** Agree, a completed Request for Decision would be considered an attachment and would be included with the notes however it would be good to also post them separately in an ACC folder with the decision matrix.

If possible, each Representative will have designated one or more alternates who can represent their organization when needed. A teleconference line and/or virtual meeting link will be available at each meeting for Representatives who cannot attend in person. Representatives attending by teleconference ~~remotely~~, or who have designated a proxy (in writing) are considered present at the meeting, and will be included in the Consensus process with voting authority.

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#### Preparation

Representatives and Members will make a concerted effort to complete action items, come prepared for meetings, and review previously distributed material relating to agenda items. If a Representative or Member is new ~~to the Committee~~, the Committee or subcommittee should provide a short introduction briefing during the meeting. If a Representative or Member would like the Committee or subcommittee to consider a specific proposal, that Representative or Member will notify the Coordinator(s) to include the item on the agenda, and prepare and provide a "Request for Decision" template (Appendix D) for distribution to the Committee along with meeting notes and agenda at least seven (7) days prior to the meeting in which the proposal will be discussed. Subcommittees or individual Members may also bring a completed

**Commented [MPA(14):** Erik, Modified the paragraph to separate information for Committee and Subcommittees from those that apply only to ACC/TCC.  
Not sure if entities identify a lead and alternates for subcommittees, require a proxy or use the consensus process.

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[‘Request for Decision’ template to the Committees for their consideration.](#)

Emergent issues (e.g., trap outages, stream flow variations, FERC submittals, etc.) are not subject to the 10-day preparation protocol and may be presented at the meeting without prior notification.

#### Participation

Each Representative [or Member](#) is expected to be a willing contributor at meetings, to communicate actively, to share all necessary factual information, and to strive for Consensus on a timely basis. Each Representative [or Member](#) is expected to be open minded, to listen to others, to respect others’ points of view, to be direct and considerate, to show respect for the other Representatives [or Members](#), to suggest solutions, and to be willing to explain their concerns to others. If a Representative [or Member](#) has a personal communication device, they will strive to limit its use in a manner that is least disruptive to meeting participants (i.e. turn it off or to meeting mode during meetings).

#### Authority

If a Representative [or Member](#) does not have authority to bind its organization, the Representative [or Member](#) will keep its organization briefed on an on-going basis about the activities of the respective Committee [or subcommittee](#), the issues being addressed, and possible solutions to those issues. The Representative [or Member](#) will incorporate the input they have received from their internal discussions into their participation at Committee [or subcommittee](#) meetings.

#### Response Time

Representatives will have at least thirty (30) days unless otherwise agreed to by the Committee Representatives or the period as specified by the Settlement Agreement or Licenses, to review reports, documents, and draft deliverables to be filed with the Commission, so that Representatives can meaningfully participate in the collaborative process. In some instances, additional time will be provided to enable the Representatives’ internal review as agreed to by the Committee Representatives. Specifically, Representatives will have sufficient time for internal review of major policy matters before making decisions on such matters. Future decision points will be noticed in meeting notes.

[Subcommittee process for reviewing reports, documents, and draft deliverables will be established in the charter or determined within the subcommittee.](#)

#### Brainstorming

To allow open discussion and collaboration, Representatives [and Members](#) will be encouraged to “brainstorm” a variety of solutions to specific issues. When a Representative [or Member](#) identifies possible solutions as part of this process it is on behalf of the Committee [or subcommittee](#), not their individual organizations, and a Representative [or Member](#) will not be held to any brainstorming ideas until such time as they have indicated a willingness to agree with

a proposed solution.

### Decision Making

Committees will make decisions by Consensus, as defined in the Agreement and Section IV of this document. With respect to ~~assuring-ensuring~~ that all Representatives have a voice in the Consensus process, the following protocol will be applied:

- 1) Discuss the issue to identify all points of view. Invite everyone to speak.
- 2) The group will decide when there has been enough discussion about a topic and are ready for a decision vote.
- 3) Votes in favor and against shall be tallied from each Representative present, or from Representatives identified through written proxy by absentee Representatives prior to the meeting.
- 4) Those voting in the **minority** get the floor. They're invited to say whatever they want and convince others of the rights of their view by:
  - Adding to the body of information already presented.
  - Clarifying their position.
  - Point out flaws, errors, or deficiencies in the other's point of view.
- 5) Continue to ask those in the minority:
  - Do you think you have now been heard by the others in the group?
  - Is there more you want to say?
  - Are you ready to have the entire group vote again?
- 6) Vote again. Those voting in the **minority** again get the floor.
- 7) Invite them again to voice their argument to try and convince others to agree with their point of view.

This process will continue until those in the minority are able to say: "We are clear about what the majority would like to do. While we personally would not make that choice, we do think the others understand what our alternative is. We've had sufficient opportunity to persuade others to our point of view, and we do think we have been heard."

If agreement is not possible, minority parties may pursue Dispute Resolution (see below), or other agreed upon approach.

To account for the absence of a Representative during a decision making process and for which no proxy is provided, decisions will be considered preliminary ~~informal~~ for a period of seven (7) days, post-decision, unless extended by the Committee. If all Committee Representatives are present or have provided a proxy, the informal-additional review period is not needed. The Coordinators will notify absent parties of the ~~informal~~ preliminary decision

**Commented [MPA(15):** Please verify if the consensus process and this section are applicable to subcommittees. It seems like there may be paragraphs that are not applicable to subcommittees, i.e., Requests for Decision. Please add subcommittees or Members where applicable.

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**Commented [LE(16):** Define informal: those with a decision template

via email promptly after the Committee meeting and request a decision response by the end of the seven (7) day period. If a Representative fails to respond within the seven (7) day period, their silence will be considered as no objection to the decision.

### Documentation of Committee decisions

Representatives or subcommittees requesting review or decision by the Committee, shall complete the 'Request for Decision' template (Appendix D) for distribution to the Committee prior to the meeting as described under 'Preparation'. A completed 'Request for Decision' template shall be attached to the meeting notes for the meeting in which the request was considered. Decisions by the Committee shall follow procedures outlined under "Decision Making".

### Formal Committee Decisions

Not all decisions require a completed template, however, any decisions are considered formal when any of the following conditions are met:

1. ~~that 1) may requires an action that~~ deviates from the Settlement Agreement intent or goals,
2. ~~2) where~~ the Licenses or Settlement Agreement requires Consultation or says "to Consult" with the ACC or TCC; however, the ACC/TCC annual report is exempt from this condition to prepare a Request for Decision, or
3. ~~a3) affects~~ existing recovery goals, ~~or,~~ management goals and or related actions

Formal decisions ~~should~~ shall require presentation of a completed 'Request for Decision' template to the Committee. The Committee, through consensus decision making, may decide not to act or defer action on any requested action or decision. All formal Committee decisions shall be documented in the meeting notes using red bold font, included in the record of decision matrix (Appendix E) and have the completed and final decision template (Appendix D) attached to the notes of the meeting in which the decision was made.

### Informal Committee Decisions

Decisions are considered informal when the decisions does not meet any of the criteria under formal decision. Informal decisions do not require the use of a decision template; however, the use of a Request for Decision template is not precluded and can be considered on a case-by-case basis. The Committee shall make informal decisions following procedures outlined under Decision Making and shall document informal decisions in the meeting notes using red bold font and included in the record of decision matrix (Appendix E).

### Tracking of Committee decisions

The Coordinators will track the progress of the Committees by maintaining an annotated list of issues that identifies specific issues, status of the issues, and resolutions. While a Representative will not be precluded from reopening a resolved issue, the Representatives will make a concerted effort to move forward once decisions have been made and to only request

**Commented [MPA(17):** No changes proposed. This does say "notify absent parties". It doesn't indicate that it should be sent to all the committee members or that it is limited to absent parties. I encourage that it be sent to all committee members so that we may see the response (if they use reply all) of those that were absent.

**Commented [MPA(18):** Please consider for ACC discussion  
Please provide clarification on the intent for the 7-day review process. Not suggesting any text changes.  
Voting is "informal" for 7 days. Does that mean those voting at the meeting have 7 days to change their mind? Later indicates notify absent member of the 7-day decision period. Should the email go to all the ACC or just those that are absent?

**Commented [MPA(19):** Similar comment elsewhere. Suggest Request for Decision documents be posted separately with the matrix.

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**Commented [LE(20):** Tying a Decision Document to all decisions requiring Consult or Consultation will likely result in substantial administration delays which may be inconsistent with the definition of 'Consult' or 'Consultation' in the Settlement Agreement with respect to the Licensees completing their obligations and schedules under the FERC license or SA. If added, we need to also include that a decision template shall not preclude the Licensees from taking action according to schedules in the SA or License.

**Commented [MPA(21):** Please consider for ACC discussion  
Please consider for wordsmithing.  
There are times is "Consult with the ACC" are applied to annual reports and plans that have a 30-day comment period, comments are included as part of the document then submitted to FERC. For these cases a Request for Decision may not be necessary. Other times when the consultation if ...

**Commented [LE(22R21):** I agree with respect to plans and reports that a decision template would not be a requirement and possibly in conflict with FERC license language. For example, Article 401 FERC license: ...The ...

**Commented [MPA(23R21):** See addition. There may be a time when an element within the annual report/plan may require a Request for Decision that would be covered under recovery goals, management goals or related actions.

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**Commented [LE(24):** Proposed additional language.

**Commented [MPA(25R24):** See addition

**Commented [MPA(26):** Please consider for ACC discussion  
What was the intent for an annotated list? What is it, a spreadsheet of progress toward an action (issues status and ...

~~that the group revisits decisions if Representatives wish to discuss information or perspectives not previously shared with the Committee, or if questions arise from implementation of the decision. A record of decisions matrix (Appendix E) shall be maintained to provide a list of both formal and informal Committee decisions. The record of decision matrix shall include for each decision, a unique code, date of the decision, a summary of the decision and where appropriate, a tally of the vote, made each year by the Committees. This While a Representative will not be precluded from reopening a resolved issue, the Representatives will make a concerted effort to move forward once decisions have been made and to only request that the group revisits decisions if Representatives wish to discuss information or perspectives not previously shared with the Committee, or if questions arise from implementation of the decision. The Any record-Record of dDecision made within the reporting period shall be included in the Licensees' ACC/TCC annual report filed with the FERC in April-June of each year and maintained available on the PacifiCorp website.~~

**Commented [MPA(27):** What is the purpose for the unique code?

**Commented [LE(28R27):** This is just the year with sequential number. Over time this may be helpful for identification and sorting

**Commented [MPA(29):** Please consider for ACC discussion  
Is this referring to the annotated list or a different list? Appendix E appears to be for Request for Decision only. The intent for the list in Appendix E was an index of all Requests for Decisions so they would be easy to find.

**Commented [MPA(30):** Erik, what do you mean by accessible? Will the Request for Decision be posted separately from the notes? They could be posted with the matrix on the website so you don't have to look for the Request in the notes.

### Dispute Resolution

The Coordinators or facilitator will use a variety of dispute resolution techniques, including mediation, to work through difficult issues and reach Consensus. If necessary, the Representatives may follow the Alternative Dispute Resolution Procedures as defined in Section 15.10.2 of the Agreement (see **Appendix C**).

### Caucuses

Time will be allowed at each meeting for caucuses, as necessary.

### Information

Representatives and Members will have access to all documents developed during Committee or subcommittee activities. To ensure transparency and inclusion, tThe Coordinators, ~~and all~~ Representatives, and Members will distribute or make available via a website (<http://www.pacificorp.com/es/hydro/hl/lr.html#>) or email necessary information on a timely basis to all the Representatives. Some information (most likely from the TCC) will need to be subject to a Confidentiality Agreement. It is the responsibility of a Representative or Member providing confidential information to ask the group to treat it confidentially. All Representatives and Members will honor the Confidentiality Agreement to the limits defined by the law. To the extent that non- confidential data or information is draft, preliminary or otherwise qualified, if Representatives or Members use such data/information outside of the context of meetings or activities, they will appropriately qualify the data/information.

## **IX. Annual Reports**

The Coordinators for the Committees shall prepare and file with the Commission detailed annual reports on Committee activities, monitoring and evaluations, and implementation of the terrestrial and aquatic PM&E Measures occurring during the prior year, as well as plans for the coming year as required in the Agreement. The annual reports may also include, but not be limited to, plans and reports required pursuant to Sections 4.9.1, 7.7.1 8.2.3, 8.2.4, 10.5, 10.8.3 of the Agreement (see **Appendix C**), and any other applicable sections. Copies of such reports

will be made available to each Party. The annual reports shall be prepared in Consultation with the Committee Representatives and shall be submitted to the appropriate Committee for review each year, ~~commencing after the Effective Date~~ in accordance with the Settlement Agreement. Committee Representatives shall have a minimum of thirty (30) days to review and provide comment on a draft report before a final report is prepared and filed with the Commission. The Licensees shall submit the final report to the Commission not later than thirty (30) days after the close of the comment period. To the extent that comments are not incorporated into the final report, an explanation will be provided in writing, and such explanation shall be included in the report.

## Appendix A

### Representatives and Alternates for Membership on the TCC

Commented [LE(31)]: Same comment below for ACC list

TCC Representative	Organization	Alternate
None designated	American Rivers	None Designated
Public Works Director	City of Woodland	None designated
None Designated	Clark County	None Designated
None Designated	Cowlitz County	None Designated
Nathan Reynolds	Cowlitz Indian Tribe	Erik White
None Designated	Cowlitz-Skamania Fire District No. 7	None Designated
None Designated	Fish First	None Designated
None Designated	Lewis River Citizens at-large	None Designated
Mariah Stoll-Smith Reese	Lewis River Community Council	None Designated
Steve Manlow	Lower Columbia River Fish Recovery Board	Steve West
Joshua Ashline	National Marine Fisheries Service	None Designated
None Designated	National Park Service	None Designated
None Designated	North County Emergency Medical	None Designated
Kendel Emmerson	PacifiCorp (PacifiCorp Co-Chair)	Summer Peterman
Amanda Froberg	PUD of Cowlitz County (PUD Co-Chair)	None Designated
Bill Richardson	Rocky Mountain Elk Foundation	Ray Crosswell
None Designated	Skamania County	None Designated
None Designated	The Native Fish Society	None Designated
None Designated	Trout Unlimited	None Designated
None Designated	US Bureau of Land Management	None Designated
Tim Romanski	US Fish & Wildlife Service	None Designated
Neil Chartier	USDA Forest Service	JD Jones
Peggy Miller	Washington Dept. of Fish & Wildlife	Eric Holman
None Designated	Washington Interagency Committee	None Designated
None Designated	Woodland Chamber of Commerce	None Designated
Bill Sharp	Yakama Nation	Joanna Meninick

## Appendix B

### Representatives and Alternates for Membership on the ACC

**Commented [LE(32)]:** Post this to website to maintain the most current version, provide link here and identify primary and alternates representatives. Erik to have Beth get this posted on ACC website. Erik/Beth to send out current representative list to ACC

ACC Representatives	Organization	Alternate
Jonathan Stumpf	American Rivers	Wendy McDermott
Public Works Director	City of Woodland	To be named
No representative at this time	Clark County	To be named
No representative at this time	Cowlitz County	To be named
Eli Asher	Cowlitz Indian Tribe	Pete Barber
No representative at this time	Cowlitz-Skamania Fire District No. 7	To be named
Jim Malinowski	Fish First	To be named
No representative at this time	Lewis River Citizens at-large	To be named
Mariah Stoll-Smith Reese	Lewis River Community Council	To be named
Steve Manlow	Lower Columbia River Fish Recovery Board	Steve West
Josh Ashline	National Marine Fisheries Service	To be named
No representative at this time	National Park Service	To be named
No representative at this time	North County Emergency Medical	To be named
Erik Lesko	PacifiCorp (PacifiCorp Co-Chair)	To be named
Amanda Froberg	PUD of Cowlitz County (PUD Co-Chair)	To be named
No representative at this time	Rocky Mountain Elk Foundation	To be named
No representative at this time	Skamania County	To be named
Bill Bakke	The Native Fish Society	To be named
Jim Byrne	Trout Unlimited	Brice Crayne
No representative at this time	US Bureau of Land Management	To be named
Tim Romanski	US Fish & Wildlife	Lindsay Wright
Ruth Tracy	USDA Forest Service	To be named
Bryce Glaser	Washington Dept. of Fish & Wildlife	Josua Holowatz ( <del>primary alternate</del> ) Peggy Miller ( <del>secondary alternate</del> ) Aaron Roberts ( <del>tertiary alternate</del> )
Katie Pruit	Washington State Recreation and Conservation Office, formerly known as <i>Washington Interagency Committee for Outdoor Recreation</i>	Kaleen Cottingham
No representative at this time	Woodland Chamber of Commerce	To be named
Bill Sharp	Yakama Nation	No be named

## Appendix C

### Lewis River Hydroelectric Projects Settlement Agreement

*14.2.1 Committee Coordinators. Within 30 days after the Effective Date, PacifiCorp and Cowlitz PUD each shall designate one Committee Coordinator for the TCC and one Committee Coordinator for the ACC. PacifiCorp and Cowlitz PUD shall make their designations by notice to the Parties in accordance with the notice provisions in Section 16.6. The PacifiCorp Committee Coordinator(s) shall be employed or retained by PacifiCorp and may represent PacifiCorp on the TCC and the ACC. The Cowlitz Committee Coordinator(s) shall be employed or retained by Cowlitz PUD and may represent Cowlitz PUD on the TCC and the ACC. The PacifiCorp Committee Coordinator(s) shall, as their primary responsibilities, oversee the coordination and implementation of the terrestrial and aquatic PM&E Measures that are the responsibility of PacifiCorp as provided in this Agreement. The Cowlitz PUD Committee Coordinator(s) shall oversee the coordination and implementation of the terrestrial and aquatic PM&E Measures that are the responsibility of Cowlitz PUD as provided in this Agreement. PacifiCorp and Cowlitz PUD Committee Coordinators together shall oversee the coordination and implementation of terrestrial and aquatic PM&E Measures for which PacifiCorp and Cowlitz PUD have joint responsibility as provided in this Agreement.*

*14.2.3 TCC and ACC Functions. The TCC and the ACC will:*

- a. Coordinate and Consult on development of plans by the Licensees as provided in this Agreement;*
- b. Review information and oversee, guide, and make comments and recommendations on implementation and monitoring of the terrestrial and aquatic PM&E Measures, including plans;*
- c. Consult with the Licensees on their respective reports prepared under this Agreement regarding implementation of the terrestrial and aquatic PM&E Measures as referred to in Section 14.2.6 below;*
- d. Make decisions, grant approvals, and undertake any additional duties and responsibilities expressly given to the TCC or the ACC with respect to the terrestrial and aquatic PM&E Measures;*
- e. Establish, among other things, (i) procedures and protocols for conducting committee meetings and deliberations to ensure efficient participation and decision making; (ii) rules for quorum and decision making in the absence of any member; (iii) alternative meeting formats as desired, including phone or teleconference; and (iv) the methods and procedures for updating committee members on interim progress of development and implementation of the terrestrial and aquatic PM&E Measures;*
- f. As deemed necessary and appropriate by the TCC or the ACC, establish subcommittees to carry out specified committee functions and responsibilities described in this Section 14.2.3, and establish the size of, membership of, and procedures for any such subcommittees; and*
- g. Discuss the protocols and the content of public information releases; provided that each Party retains the right to release information to the public at any time without such discussion.*

*14.2.4 TCC and ACC Decision-Making Process and Limitations. The TCC and the ACC shall make comments, recommendations, and decisions in a timely manner as provided below:*



a. Each Party represented on the TCC and the ACC will have the authority to participate in all committee discussions relating to, and to provide input and advice on, decisions regarding implementation of the terrestrial or aquatic PM&E Measures;

b. The TCC and the ACC shall strive to operate by Consensus. Whether or not the TCC or the ACC has final authority over decisions on terrestrial and aquatic PM&E Measures, the Licensees and other Parties may proceed with actions necessary to implement the New Licenses or this Agreement, even though Consensus is not achieved; provided that in such cases the responsible Licensee or Licensees shall notify the Commission of the comments of the ACC or TCC members and the areas of disagreement. If the TCC or ACC does not reach Consensus, then any member of the TCC or ACC, respectively, may initiate the ADR Procedures as provided in Section 15 below.

c. Where one or more Parties have approval authority under this Agreement, Licensees shall notify the Commission of any approvals that were not obtained, include the relevant comments of the Parties with approval authority, describe the impact of the lack of approval on the schedule for implementation of PM&E Measures, and describe proposed steps to be taken to gain the approval, including dispute resolution.

d. In no event shall the TCC or the ACC increase or decrease the monetary, resource, or other commitments made by PacifiCorp and Cowlitz PUD in this Agreement; override any other limitations set forth in this Agreement; or otherwise require PacifiCorp to modify its three Projects' facilities without PacifiCorp's prior written consent or require Cowlitz PUD to modify its Project's facilities without Cowlitz PUD's prior written consent, which consent may be withheld in the applicable Licensee's discretion.

e. At any juncture where discussion or other contact with the ACC or TCC is required by this Agreement, when requested by the Services or as required by the Agreement, the ACC or TCC Committee Coordinator, respectively, shall schedule an opportunity to discuss the relevant issue with the ACC or TCC. This event shall consist of either a conference call, in-person meeting, or other appropriate forum to enable full consideration of the issue.

14.2.5 TCC and ACC Meetings. Commencing in the first year after the Effective Date and each year thereafter for the terms of the New Licenses, the TCC and ACC Committee Coordinators shall arrange and provide an agenda for an annual meeting of their respective committees. The TCC and ACC Committee Coordinators also shall arrange and provide an agenda for any additional meetings deemed necessary by either coordinator for a committee or at the request of any two Parties on that committee, which request shall be sent simultaneously to all members of that committee. Members of the TCC and the ACC shall be given a minimum of 30 days' notice prior to any meeting, unless otherwise agreed to by the members of the applicable committee.

14.2.6 TCC and ACC Reports. The Committee Coordinators for the TCC and the Committee Coordinators for the ACC shall prepare and file with the Commission detailed annual reports on the TCC and ACC activities, monitoring and evaluations under the M&E Plan, and implementation of the terrestrial and aquatic PM&E Measures occurring during the prior year, as well as plans for the coming year as required in this Agreement. The annual reports may also include plans and reports required pursuant to Sections 4.9.1, 7.7.1, 8.2.3, 8.2.4, 10.5, and 10.8.3. Copies of such reports will be made available to each Party. The annual reports shall be prepared in Consultation with the TCC and ACC committee members and shall be submitted to the committees for review each year, commencing after the Effective Date. Committee members shall have a minimum of 30 days to review and provide comment on a draft report before a final report is prepared and filed with the Commission. The Licensees shall submit the final report

to the Commission not later than 30 days after the close of the ACC and TCC comment periods. To the extent that comments are not incorporated into the final report, an explanation will be provided in writing, and such explanation shall be included in the report.

#### 15.10 Alternative Dispute Resolution

15.10.1 General. The Parties intend that disputes under this Agreement be resolved as expeditiously and informally as possible, and that issues within the scope of the TCC and the ACC be discussed in those committees before being referred to the ADR Procedures. All remaining disputes among the Parties regarding the obligations of the Parties under this Agreement shall, at the request of any Party, be the subject of nonbinding ADR Procedures among the disputing Parties. Each Party shall cooperate in good faith promptly to schedule, attend, and participate in the ADR Procedures. The Parties agree to devote such time, resources, and attention to the ADR Procedures as are needed to attempt to resolve the dispute at the earliest time possible. Each Party shall implement promptly all final agreements reached through the ADR Procedures, consistent with the Party's applicable statutory and regulatory responsibilities. Nothing in Sections 15.10.1 through 15.10.2 is intended or shall be construed to affect or limit the authority of the Commission, the Agencies, or any other agency with jurisdiction over the Projects to resolve a dispute brought before it in accordance with its own authorities and procedures, or to alter the statute of limitations or other requirements for Appeal of any action.

15.10.2 ADR Procedures. A Party claiming a dispute shall give notice of the dispute within 60 days of the Party's actual knowledge of a dispute, event, or omission that gives rise to the dispute, unless this Agreement provides otherwise. If a Party communicates with another Party informally and believes that the dispute is being resolved, the time for notice will not commence until it has been determined that such informal efforts have failed to resolve the dispute. Notification under Section 16.6 shall constitute actual knowledge. At a minimum, in any dispute subject to the ADR Procedures, the Parties shall hold two informal meetings within 30 days after notice, to attempt to resolve the disputed issue or issues. If, within 15 days after the second meeting or any meeting thereafter, a Party notifies the other Parties that such informal meetings failed to resolve the dispute, the Parties may agree to attempt to resolve the dispute using a neutral mediator. The agreement to use a neutral mediator will address allocation of costs and the scope of the dispute. The neutral mediator will be selected by the Parties participating in the mediation. Upon selection, the mediator will mediate the dispute for 60 days. Any of these time periods may be reasonably extended or shortened by agreement of the Parties, or as necessary to conform to the procedure of an agency or court with jurisdiction over the dispute. Unless otherwise agreed among the Parties, each Party shall bear its costs for its own participation in the ADR Procedures. Pending resolution of any dispute under the ADR procedures, and subject to the authority of the Commission or other agency with jurisdiction to order otherwise, PacifiCorp and Cowlitz PUD may continue operating their respective Projects in the manner of their operation prior to the point at which the dispute arose.

15.10.3 Enforcement of Agreement After ADR Procedures. Any Party may seek specific performance of this Agreement by any other Party at the Commission or in a court of competent jurisdiction after compliance with the ADR Procedures, where required, and, to the extent allowed by applicable law, may seek to recover its costs and fees associated with bringing such action. No Party shall be liable in damages for any breach of this Agreement, except that a Party may seek monetary penalties under applicable law. Nothing in Sections 15.10.1 through 15.10.3 is intended or shall be construed to affect or limit the jurisdiction of any agency or court as established under applicable law.

## RECITAL A

*“Project” and “Projects” - The Lewis River Hydroelectric Projects consist of the Merwin Project (Project No. 935), Yale Project (Project No. 2071), Swift No. 2 Project (Project No. 2213), and Swift No. 1 Project (Project No. 2111) (each individually referred to as a “Project” and collectively as the “Projects”) and associated powerhouses, transmission facilities, recreational facilities, hatcheries, reservoirs, canals, and lands within the Projects’ Boundaries and wildlife lands managed outside the Project Boundaries. PacifiCorp owns the Merwin Yale and Swift No. 1 Project, while Cowlitz PUD owns the Swift No. 2 Project (the combined Projects of Swift No. 1 and Swift No. 2 are referred to collectively as the “Swift Projects”). Construction of the Projects began with the Merwin Dam in 1929 and was completed with the construction of Swift No. 1 and Swift No. 2 ending in 1958. The Federal Power Commission issued the first license for Merwin on November 29, 1929, which expired on November 29, 1979. That license was renewed on October 6, 1983 and was originally due to expire on April 30, 2009 but was accelerated by a Commission Order and now expires on April 30, 2006. The original license for Yale was issued on April 24, 1951 and expired on April 30, 2001. The original license for Swift No. 1 was issued on May 1, 1956 and expires on April 30, 2006. The original license for Swift No. 2 was issued on November 29, 1956, effective May 1, 1956, and expires on April 30, 2006.*

## **Appendix D**

### **Request for Committee Decision Template**

**Request No.** [yyyy – #]  
**Request Date:** [mm-dd-yyyy]

## North Fork Lewis River Project Request for Decision Template [Project Title]

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### **Part A –Decision Summary** (to be completed after decision is made)

Date of Decision: [mm-dd-yyyy]  
Expected Implementation Date of Action (if applicable): [mm-dd-yyyy]  
Expected completion date of action (if applicable): [mm-dd-yyyy]

- **Decision Summary** (brief summary of decision or action made by Committee)

### **Part B –Decision Request** (to be completed by Representative(s) requesting decision)

#### **1. Representatives and Affiliations**

- List all Representatives and Affiliations requesting Committee decision

#### **2. Description and Justification of Request**

- **Requested Action:** What specifically is the Committee to decide?
- Introduction and background
- Justification for requested action

#### **3. FERC or Settlement Agreement Requirement(s)**

- What relevant FERC or SA articles justify this action? [Articles xx]
- Are there any other regulatory requirements to support the requested action?

### **Part C – Committee Decision** (to be completed by Committee)

#### **4. Committee Decision**

- Was the decision made by consensus (as defined in the Committee ground rules)?
- Document voting record and tally (if applicable)

#### **5. Justification for Committee Decision**

- What information (i.e. empirical data) and how was this information used to inform decision?

#### **6. Contingencies or Conditions of the Decision**

- Is decision contingent on other actions or information?
- Is implementation of decision contingent on specific actions or information?
- Are there any conditions attached to this decision?

#### **7. Additional Information or Notations**

## Appendix E

### Record of Decision Matrix

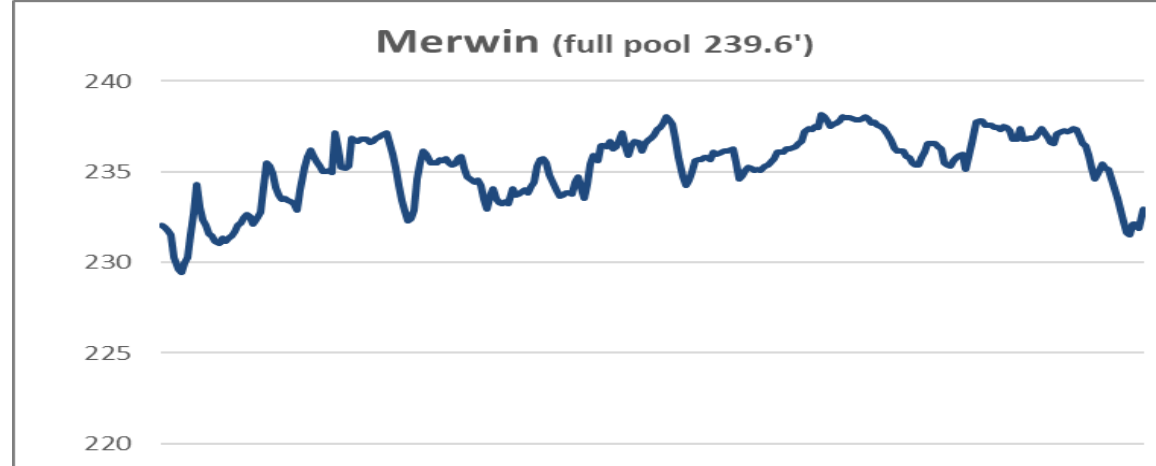
Request No	Request Date	Representative(s) and Affiliation(s)	Title of Request	Requested Action (from decision template)	FERC License or Settlement Agreement Reference	Vote Tally	Description and Justification of Decision	Contingencies for Decision	Date of Decision
2020-XX	mm-dd-yyyy								mm-dd-yyyy

# Reservoir Elevations

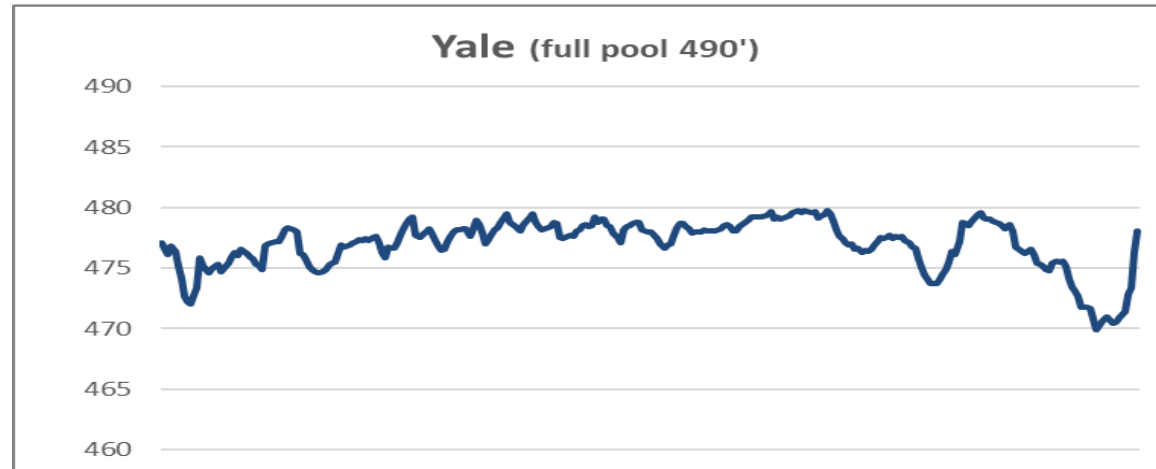
Jan 1 – Nov 8, 2023

Total Draft = -64.6  
(-54.6 with Yale Restriction)  
 $\Delta$  since Oct 13 = +1.2

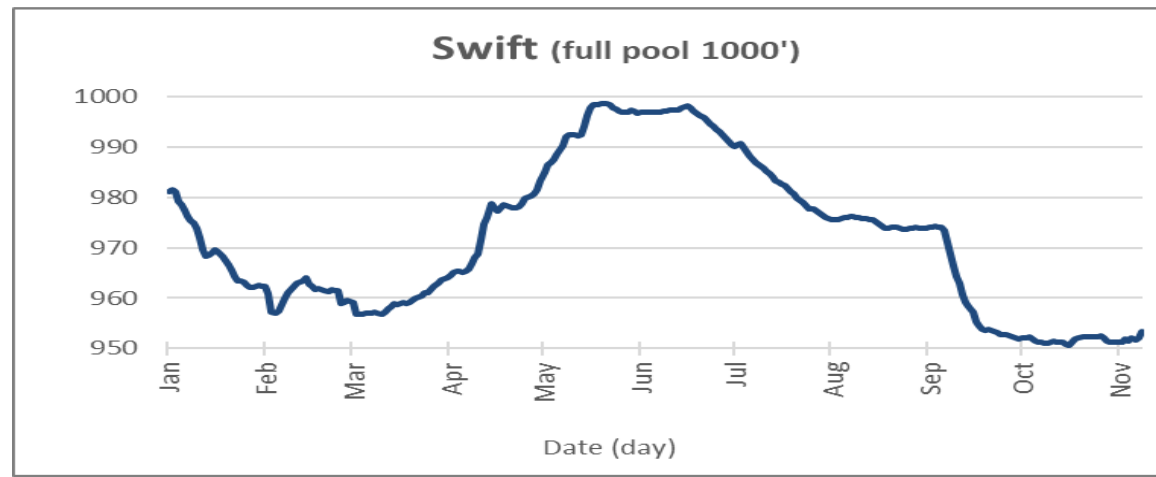
Reservoir Elevation (ft., msl)



234.5 Elevation  
-5.1 Draft  
 $\Delta = -2.5$



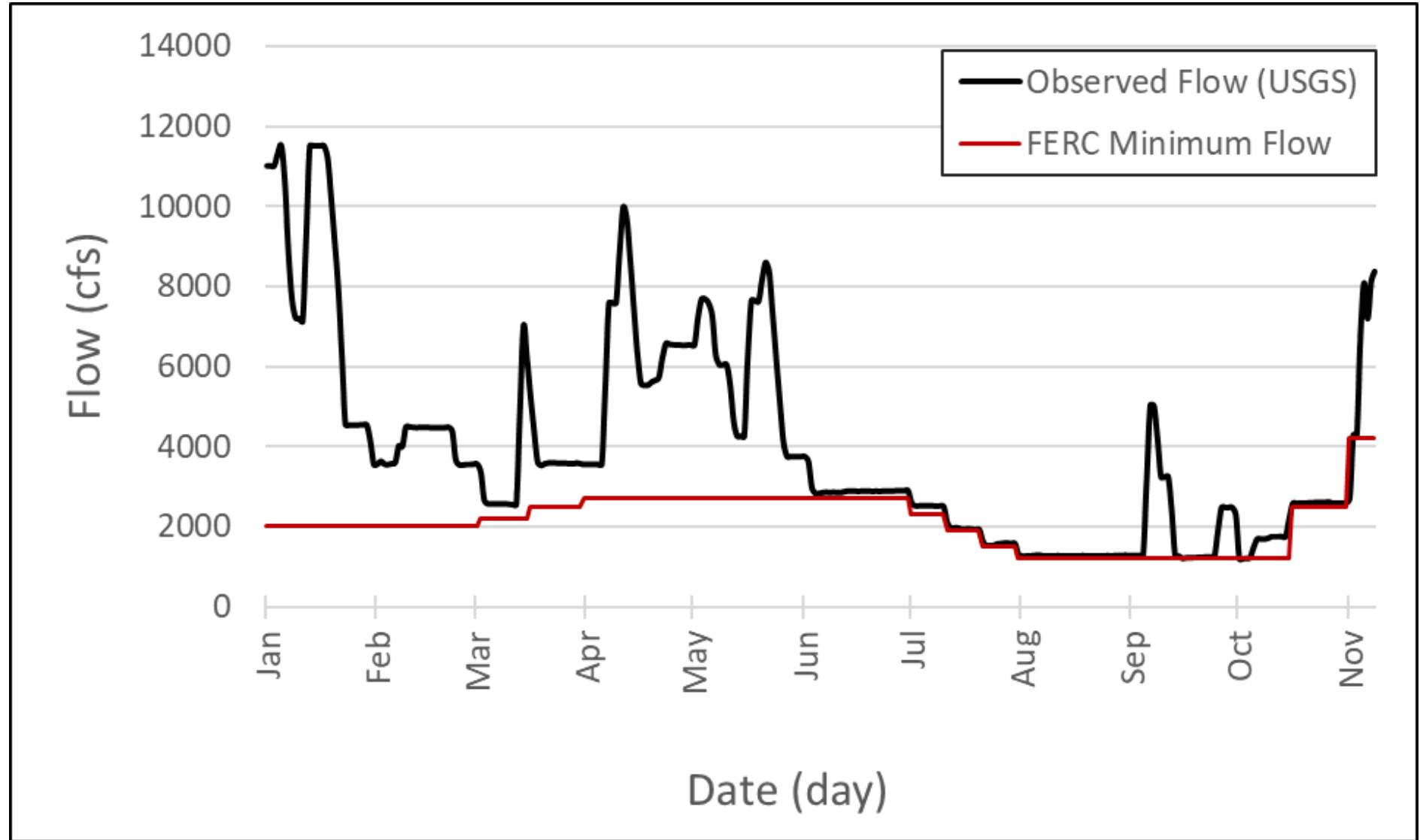
478.2 Elevation  
-11.8 Draft  
 $\Delta = +2.7$



952.3 Elevation  
-47.7 Draft  
 $\Delta = +1.1$

**North Fork Lewis River  
Stream flow downstream  
of Merwin Dam**

*Jan 1 – Nov 8, 2023*





# Swift No. 1 and No. 2 Outage

October 15 – 26, 2023



Swift No. 2 PH

Constructed Channel

Wasteway

Swift No. 1 PH

Yale Reservoir

Swift Power Canal

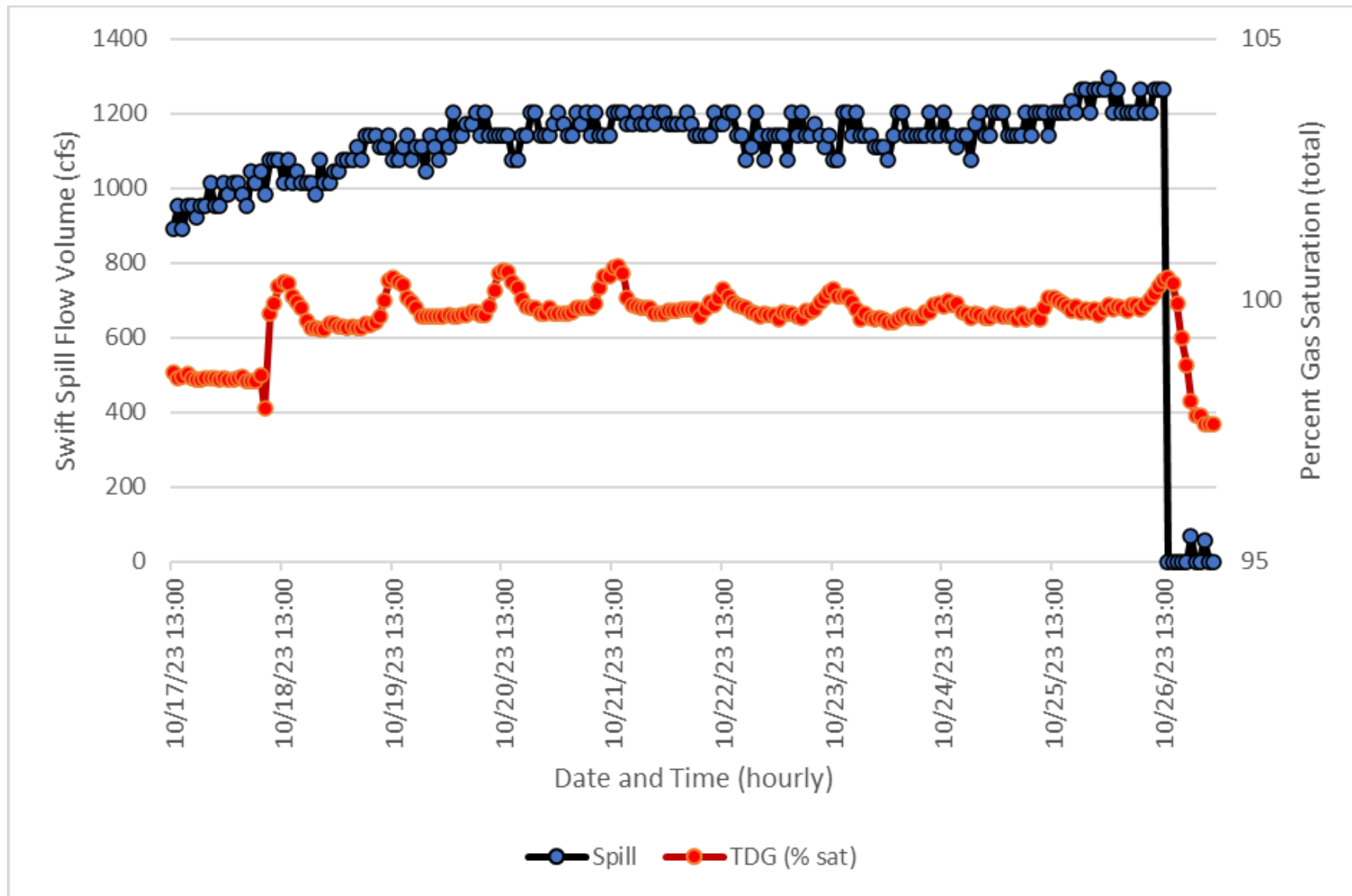
Bypass Reach Siphon

Swift Spillway

Old Lewis River Channel (bypass reach)



Swift No. 1 Spill and measured total dissolved gas downstream of plunge pool: October 17 – 26, 2023.



Swift  
Wasteway  
October 24, 2023



Constructed Channel Survey October 24, 2023



Coho carcass and cutthroat

1	Cutthroat Carcass
57	Live Coho
24	Coho Carcasses
40	Coho Redds
1,150	Live Kokanee



# Lewis River Fish Passage Report

## October 2023

### Merwin Upstream Collection and Transport Facility and General Operations

During the month of October, 9,316 fish were collected at the Merwin Upstream Collection and Transport Facility (MUCTF), which was slightly more than the September total of 8,083. Early coho (n= 7,684) were the most prevalent species collected, followed by late coho (n= 1,276), summer steelhead (n= 145), fall Chinook (n= 136), Cutthroat (n= 39), and winter steelhead (n= 36). The number of NOR coho collected at the MUCTF to-date in 2023 continues to outpace the 2014-2022 average (Figure 1).

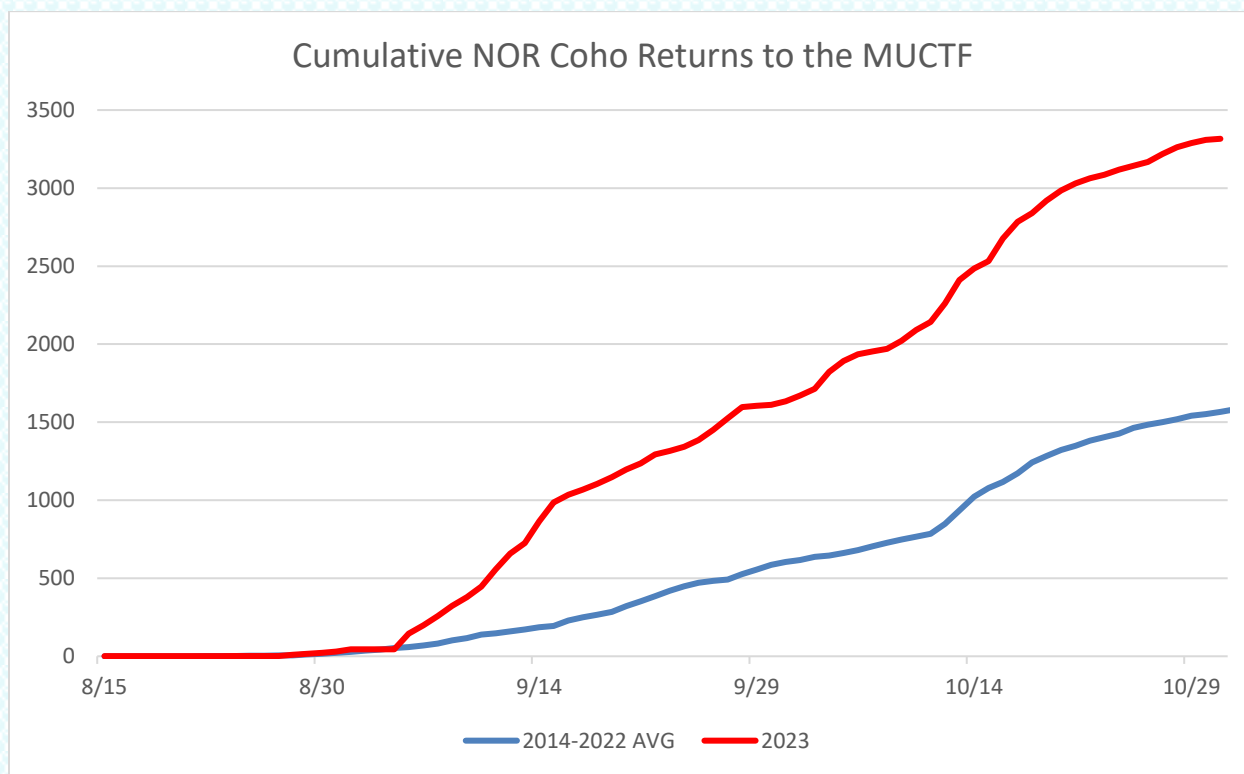


Figure 1. Cumulative number of Natural origin (NOR) coho collected at Merwin Adult Fish Collection Facility in 2023, relative to the 2014-2022 average.

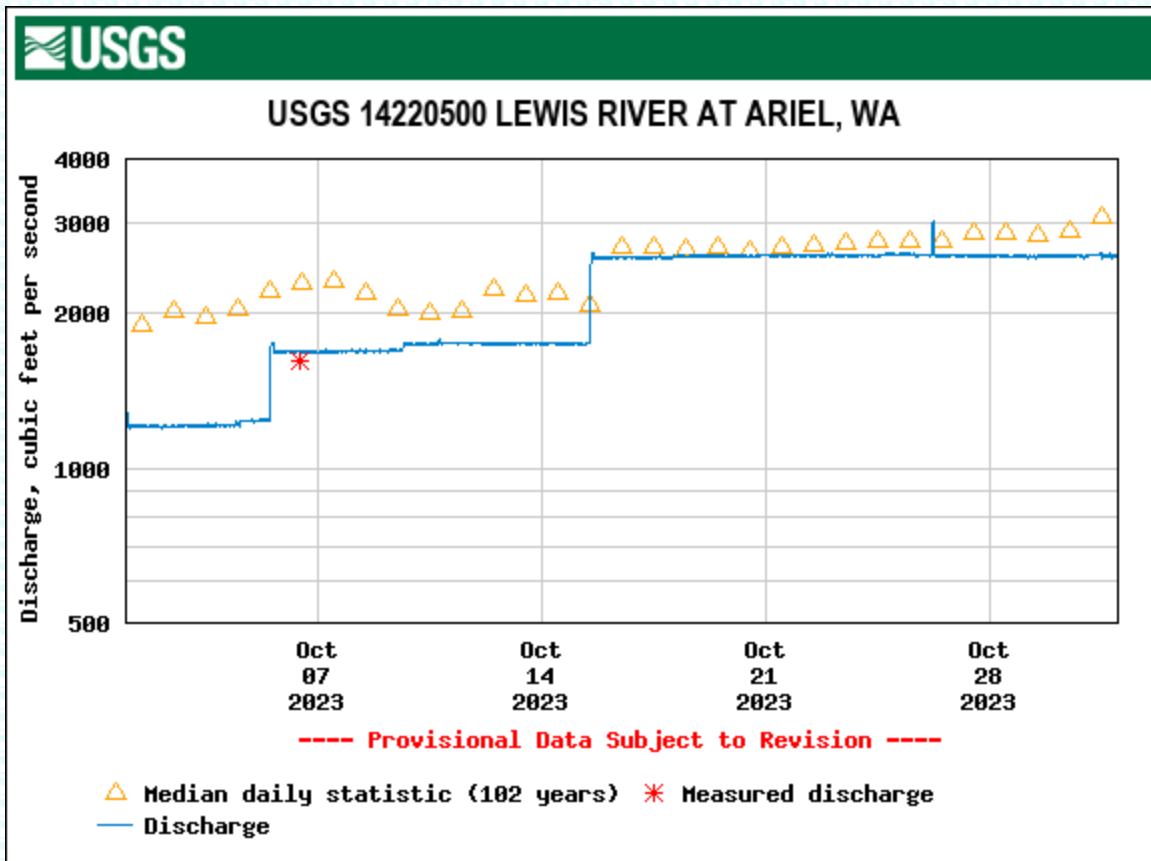


Figure 2. Flow in cubic feet per second recorded at the USGS Ariel, WA gauge (14220500) located immediately downstream of Merwin Dam.

The MUCTF ran continuously for during the month of October. Flows below Merwin Dam ranged from approximately 1,200 and 2,600 cubic feet per second (Figure 2).

Forty-three (43) coho and three (3) of the cutthroat collected at the MUCTF in October had been previously PIT tagged. All of these fish had been previously PIT tagged in the Lewis River Basin. For calendar year 2023 to-date, a total of 123 previously PIT tagged fish have been collected at the MUCTF (80 natural origin coho, 32 winter steelhead, nine cutthroat trout, and two spring Chinook). Tagging history and detections of PIT tagged fish passing through the Lewis River Fish Passage Facilities are available through Columbia Basin PIT Tag Information System (PTAGIS).

### Upstream Transport

The number of fish transported above Swift Dam in October was slightly greater the number transported in September (3,750 and 3,196, respectively). Coho accounted for the overwhelming majority of the fish transported upstream (n= 3,709). Cutthroat trout (n= 39) and wild winter steelhead (n= 2) made up the balance of fish transported upstream in October. So far in 2023, a total of 1,855 spring Chinook (1,594 HOR and 261 NOR), 810 winter steelhead (631 BWT and 179 NOR), 6,222 early run coho (3,229 NOR and 2,993 HOR), 780 late run coho (351 NOR and 429 HOR), and 82 cutthroat trout have been transported upstream of Swift Dam. An additional 1,790 HOR coho have been transported into Yale Reservoir, as part of the Yale Habitat Preparation Plan.



### **Swift Floating Surface Collector (FSC)**

The Swift Reservoir Floating Surface Collector (FSC) was returned to service on October 16, 2023, following the summer maintenance outage. A total of 1,297 fish were collected in October. The majority of fish collected were coho (n= 782), followed by Chinook (n= 502), steelhead (n= 8), cutthroat trout (n= 4), and Bull Trout (n= 1). The Bull Trout (600 mm fork length) was subsequently returned to Swift Reservoir.



**Fish Facility Report**  
**Swift Floating Surface Collector**  
**October 2023**

Day	Coho			Chinook			Steelhead				Cutthroat		Bull Trout	Planted Rainbow	Total	
	fry	parr	smolt	fry	parr	smolt	fry	parr	smolt	kelt	fry	<13 in				> 13 in
1																
2																
3																
4																
5																
6																
7																
8																
9																
10																
11																
12																
13																
14																
15																
16																
17	3	87	0			29			1					0	0	120
18	1	91	0			49			0					0	0	141
19			92			73			0					0	0	165
20		7	97			35			1					0	0	140
21		3	77			40	1		1			1		0	0	123
22			33			18			0					0	0	51
23		5	23			22			0					0	0	50
24		7	32			20			0					0	0	59
25			26		2	26			1					0	0	55
26			24			16			0					0	0	40
27			29			37			2					1	0	69
28			47			32			0					0	0	79
29			53			34			0			2		0	0	89
30		10	14		1	36			0			1		0	0	62
31		21	0		1	31			1					0	0	54
<b>Monthly</b>	4	231	547	0	4	498	1	0	7	0	0	4	0	1	0	1297
<b>Total</b>	337	5371	64261	233	221	3085	4	43	4330	31	0	515	48	12	2035	80526