

**Terrestrial and Aquatic Coordination Committees  
Structure and Ground Rules  
Revised March 2024**

**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), 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.

**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).
- 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.

**III. Roles and Responsibilities (Section 14.2.3 of the Agreement, see Appendix A)**

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;
- 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 A**).
- 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 A**), 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 A)**

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 A**). 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 primary and alternate representatives for membership (hereafter referred to as Representatives), 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. If the ACC needs to conduct confidential discussions, any Representative may 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. Confidentiality Agreements are not required for confidential ACC discussions unless agreed to by the ACC.

Links to the most current ACC and TCC Representative list is provided on the PacifiCorp website at: [ACC Representatives](#) and [TCC Representatives](#).

## 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.

## 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 (hereafter referred to as Members) may be Representatives or other technical support staff of the Agreement Parties. The primary role of subcommittees will be to provide recommendations to the ACC or TCC for their consideration or approval. A charter for the subcommittee will be prepared outlining the size, membership, roles, and procedures and be provided to the relevant Coordination Committee for approval.

## **VI. Ground Rules**

The Committee and subcommittee meetings are subject to the ACC and TCC ground rules. These ground rules are not intended to modify or limit any party's legal rights, authorities, or remedies. For purposes of this document, days shall be defined as calendar days.

## **VII. Meetings**

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.

Additional meetings may be requested outside the regular meeting times as needed.

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 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.

### 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 notes and post on PacifiCorp website. 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.

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).

## **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.

If possible, each Representative will have designated one or more alternates who can represent their organization when needed. Representatives attending 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.

### 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, 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 (see **Appendix B**) 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 'Request for Decision' template to the Committees for their consideration.

Emergent issues (e.g., trap outages, stream flow variations, FERC submittals, etc.) 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 shall be established within the charter of each 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 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 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 additional review period is not needed. The Coordinators will notify absent parties of the preliminary decision 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.

The process by which Subcommittees make decisions shall be established within the charter. The level of the decision making authority granted to the subcommittee by the ACC/TCC shall be established within the charter.

### Request for Decision

The Request for Decision template (see **Appendix B**) is designed to describe the outcome and justification for major Committee decisions. Guidelines for determining a major decision include but are not limited to:

1. Clarification of actions associated with the Settlement Agreement intent or goals.
2. Documentation of ACC or TCC *Consultation* when the license or Settlement Agreement identifies *Consultation* or to *Consult* with a Committee.
  - a. For example, where the Settlement Agreement requires *Consultation* with the ACC and final approval of the Services.
  - b. Exceptions may include *Consultation* for ACC or TCC annual reports that require a minimum of thirty (30) day comment period (see Section IX or **Appendix A** 14.2.6).

3. Key recommendations from subcommittees presented to Committee for decision.
4. Approval of subcommittee charters.

The determination for a major decision and the use of a 'Request for Decision' template will be made by the respective Committee on a case-by-case basis.

A completed 'Request for Decision' template shall be presented to the Committee for their approval. The Committee, through *Consensus* decision making, may decide to act, not to act or defer action on any requested action or decision.

Representatives or subcommittees requesting review or decision by the Committee, shall complete the 'Request for Decision' template (see **Appendix B**) 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".

#### Documentation of Committee Decisions

All Committee decisions (Major or otherwise) shall be documented in the meeting notes using **red bold font**, and included in the record of decision matrix (see **Appendix C**). Completed and final 'Request for Decision' templates (see **Appendix B**) shall be attached to the notes of the meeting in which the decision was made.

A record of decisions matrix (see **Appendix C**) shall be maintained to provide a list of 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. 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.

Decisions made within the reporting period and included on the record of decisions matrix shall be included in the Licensees' ACC/TCC annual report filed with the Commission in June of each year and maintained available on the PacifiCorp website: [ACC and TCC Documents](#)

#### 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 A**).

#### 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, the Coordinators, Representatives, and Members will distribute or make available via PacifiCorp website: [Lewis River \(pacificorp.com\)](http://Lewis River (pacificorp.com))

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 A**), 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, 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

### 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 B**

### **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 C

### 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