

# LEWIS RIVER TERRESTRIAL COORDINATION COMMITTEE

Facilitator: KENDEL EMMERSON  
503-813-6040; CELL 503-720-9157

Location: Online Teams Meeting

Date: Wednesday February 14, 2024

Time: 9:00 AM –12:00 PM

## Agenda Items

9:00 a.m.	Welcome, <ul style="list-style-type: none"><li>➤ Review and Accept Agenda</li><li>➤ Review and Accept 1/10/2024 Meeting Notes</li></ul>
9:10 a.m.	Public Comment Period
9:15 a.m.	10.3.3 Funding Proposal Form and Process
9:30 a.m.	10-year Summary on Wildlife Forage Monitoring
10:00 a.m.	ACC TCC Ground Rule Revisions – Erik Lesko PacifiCorp
10:15 a.m.	Saddle Dam Trail Expansion Discussion on Next Steps
10:45 a.m.	<b>Confidential Land Acquisition</b>
11:00 a.m.	Villareal Property
11:10 a.m.	WHMP Annual Report Template Review and Proposed Schedule

11:20 a.m.	<b>WHMP Habitat and Management Updates</b> <ul style="list-style-type: none"> <li>➤ Administration</li> <li>➤ Old Growth Habitat</li> <li>➤ Wetland Habitat – Stop log placement.</li> <li>➤ Riparian Habitat</li> <li>➤ Shrubland Habitat</li> <li>➤ Farmland Habitat</li> <li>➤ Orchard Habitat – Speelyai Tree Removal</li> <li>➤ Unique Areas Habitat – Oak Management Documentation</li> <li>➤ Forestland Habitat – Planting and Burning</li> <li>➤ Invasive Plant Species Management</li> <li>➤ Raptor Management</li> <li>➤ Public Access Management – MU 17 trespass</li> </ul>
11:55 p.m.	<b>Next Meeting's Agenda</b> <b>Note: all meeting notes and the meeting schedule can be located at:</b> <a href="https://www.pacificorp.com/energy/hydro/lewis-river/acc-tcc.html">https://www.pacificorp.com/energy/hydro/lewis-river/acc-tcc.html</a>
12:00 p.m.	Meeting Adjourn

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**Final Meeting Notes**  
**Lewis River License Implementation**  
**Terrestrial Coordination Committee (TCC) Meeting**  
**February 14, 2024**  
**Conference Call**

**TCC Representatives Present (7):**

Kendel Emmerson, PacifiCorp  
 Summer Peterman, PacifiCorp  
 Peggy Miller, WDFW  
 Eric Holman, WDFW  
 Erik White, Cowlitz Tribe  
 Adam Rich, USFS  
 Bill Richardson, RMEF

**Guests (2):**

Erik Lesko, PacifiCorp  
 Molly Van Dam, Anchor QEA (notetaker for PacifiCorp)

**Calendar:**

February 14, 2024	TCC Meeting	Teams Call
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<b>Assignments for February 14, 2024</b>	<b>Status</b>
Emmerson: Continue to look into the feasibility of expanded access at Cresap Bay Park.	<b>In Progress</b>

<b>Assignments for December 13, 2023</b>	<b>Status</b>
Emmerson and Peterman: Discuss ideas for reducing the Wildlife Habitat Management Plan (WHMP) Annual Report.	<b>In Progress</b>

<b>Assignments for November 8, 2023</b>	<b>Status</b>
Emmerson and Peterman: Research opportunities for a potential mitigation land acquisition to account for the Saddle Dam Trail Expansion.	<b>In Progress</b>

<b>Assignments for September 13, 2023</b>	<b>Status</b>
Emmerson: Research feasibility of fireweed seeds versus plugs and where to source fireweed seeds/plugs.	<b>In Progress</b>
Emmerson: Discuss implementing a no net gain policy on trails with the recreation department.	<b>Complete</b>

<b>Assignments for August 9, 2023</b>	<b>Status</b>
Emmerson: Discuss Cougar Creek logging possibilities, if logging were to become approved there, with Joe Berry.	<b>In Progress</b>

Kendel Emmerson (PacifiCorp) called the meeting to order at 9:02 a.m. All attendees were acknowledged. There was one change to today's agenda: Summer Peterman will also provide

updates on the WHMP Unique Areas Habitat and WHMP Raptor Management. Emmerson reviewed the January 10, 2024, meeting notes. There were no additional comments, questions, or revisions made to the January meeting notes.

The TCC approved the January 10, 2024, meeting notes at 9:08 a.m.

### **Public Comment Period**

None.

### **10.3.3 Funding Proposal Form and Process**

Kendel Emmerson asked whether there were additional questions on the 10.3.3 funding proposal form because she and Summer Peterman have not received any feedback since the January meeting. Eric Holman clarified that this form is equivalent to the application form, and Peterman agreed. Holman asked for a reminder of when the initial comment period was for this form. Peterman said that she presented the form in December, but that she would send it out for feedback again, and there can be further review in the March meeting.

Holman did have a couple questions he wanted to discuss. This form was modeled off the form that the Aquatic Coordinating Committee (ACC) uses, and ACC projects differ on Evaluation Question No. 14 regarding matching funds. For TCC projects, when requesting and using 10.3.3 funds, equal match is required. Emmerson deleted the words “if applicable,” and Holman agreed that the change made it clearer that matching funds are required and not optional.

Holman said that Evaluation Question No. 17 discusses the ACC’s desire to have a third party endorse a project. Holman feels that the TCC already takes on that role, and that No. 17 does not fit 10.3.3 fund requirements. Emmerson agreed that No. 17 can be deleted. Emmerson said that Evaluation Question No. 18 regarding insurance also appears to be irrelevant to the TCC, so it can be deleted.

Holman asked whether text can be changed or added to make it clearer that some of the current questions are not applicable if the applicant is requesting funding for a land acquisition rather than a project. Emmerson agreed, said that she and Peterman will send a revised form soon for the TCC’s review, and the TCC can vote on it in the March meeting.

### **10-Year Summary on Wildlife Forage Monitoring**

Summer Peterman presented on 10 years of PacifiCorp’s habitat enhancement monitoring project, which ran from 2014 to 2023. In 2013, the Rocky Mountain Elk Foundation (RMEF) provided a grant to PacifiCorp to establish eight 4- by 4-foot exclosures, which were installed in July of 2014. The overall goal was to examine forage seeding and natural shrub regeneration in the absence of herbivory. This monitoring project would determine forage species that were able to establish so that adjustments could be made in future projects. Observations were also made on the effects of scarification techniques on the re-establishment of native shrubs. Without exclosures, herbivory effects are so intense and widespread that it is difficult to determine whether a species is unsuccessful due to preferred selection or the site conditions. Monitoring consisted of observing and recording plants both within and outside of the exclosures, as well as noting forage use.

Sites 113318-1 and 113318-2 can be found in Unit 33. Scarification was completed 1 year post-harvest, and there were few shrubs observed within the logging slash. The species mix was chosen for good winter hardiness and early spring growth. Heavy browsing, as well as regeneration, of both gooseberry and huckleberry was noted. In addition to shrub browsing, some of the noble firs were noted to have been browsed for the first time despite the presence of preferred forage species. Peterman showed photographs of each of the two sites in different stages. Photographs shown from 113318-1 were taken in 2014 and 2022, and photographs shown from 113318-2 were taken in 2015 and 2022. Peterman noted in each location which species persisted throughout the decade and which species were only documented in later years of the monitoring period, and she noted whether species were found within or outside the exclosures. In 113318-2, huckleberry and blackcap raspberry were not originally planted, but they continued to persist.

Sites 133316-1 and 133316-2 are also located in Unit 33. Timber harvest occurred in 2011, and 2 years elapsed before the scarification process occurred. Shrubs were avoided during slash piling post-harvest. These are the highest elevation exclosures at 2900 feet. The seed mix was changed in 2013 to eliminate the fescues and add orchard grass in accordance with selection. Peterman noted in each location which species persisted throughout the decade and which species were only documented in later years of the monitoring period, and she noted whether species were found within or outside the exclosures. Photographs shown from 133316-1 were taken in 2014 and 2023, and photographs shown from 133316-2 were taken in 2014 and 2022. Legumes had trouble establishing in Unit 33.

Sites 112801-1 and 112801-2 are located in Unit 28 at a lower elevation than those in Unit 33. The timber harvest was a conservative modified commercial thin that was intended to release native shrubs in the understory. As a result, there is a well-established conifer overstory. The grass/legume forage is well established with all seeded species. Shading may be affecting some areas and allowing other broadleaf weeds to establish. Browse of shrubs was significant. Bigleaf lupine, bracken fern, and wild strawberry were not planted, but they were found in both sites. The planted rye grass and tall fescue did not survive to 2023. Photographs shown from 112801-1 were taken in 2014 and 2023, and photographs shown from 112801-2 were taken in 2014 and 2022.

Sites 122501 and 122502 are located in Unit 25 in two different harvest units. A resident herd of approximately 20 elk has remained in the area since 2014. White clover appeared to be especially abundant outside the exclosure, as well as abundant throughout the harvest areas. Native trailing blackberry was also found within the exclosures. As of last year, tall orchard grass, perennial rye, and bird's-foot trefoil persisted in both exclosures, although clover did not persist because it was choked out by trailing blackberry. All vegetation was browsed in both of these units.

Some conclusions from this monitoring project were that scarification initially reduces shrubs, but they quickly naturally regenerated. Grasses tended to be grazed early in the season when they were green, and shrubs tended to be grazed more heavily in the fall when grasses are dried out. Clover is unsuccessful in higher elevation sites, although it is particularly prevalent in areas where grazing is high. Small burnet can persist in higher elevation sites, although it does not return every year. Orchard grass, though successful year-round, reduces the success of native grasses and forbs. Shrubs and grasses/forbs have equivalent importance for seasonal forage. In the absence of herbivory, trailing blackberry can overtake grasses and forbs. Most grasses were browsed. All shrubs that were identified (blackcap raspberry, huckleberry, vine maple, baldhip rose, and Oregon

hazel) were browsed. Plants that were consistently not browsed included Himalayan blackberry, sword fern, curly dock, bigleaf lupine, salal, bracken fern, dandelion, velvet grass, red sorrel, geranium, and foxglove. Plants that were intermittently browsed included clover, snowberry, wild strawberry, field mint, and small burnet. Bird's-foot trefoil was consistently browsed. Peterman asked for any questions or input.

Peggy Miller said that it was a great presentation. Bill Richardson agreed the presentation was interesting, and he said that it seems as though one of the major lessons is that orchard grass can be a double-edged sword—it is beneficial for browse, but it can outcompete other species, so Peterman should potentially look to adjust seed mixes for that. He then asked whether Peterman thought the exclosures were big enough. Peterman replied that they were not, although she said that she did see a difference in browsing. With bigger exclosures, they may have been able to capture more diversity on the inside, though that will be captured with the shrub plots. Peterman's main concern is that vegetation was shaded out. Even if a species was not browsed, it still could not grow because of the shading, so they were removed from the study early on. Richardson asked whether adaptive management could be used to plant certain areas with more forbs or potentially adjust when shrubs are present. Peterman said that her next round of grass seed mix will take that into consideration, and there will not be any shrubs added. She noted that small burnet persisted in higher elevations but does not return every year, and she does not know whether that was because it was browsed first or shaded out. Kendel Emmerson said that small burnet can also be found some years in Unit 10 but not every year. Richardson asked whether that could be a result of hard seed, where the seed can lie dormant for a while before germination. Peterman agreed that was a possibility and noted that in the beginning of the study, bare ground was not measured, although toward the end of the study, orchard grass would choke out other species and then die back, creating more bare ground. Richardson asked for this presentation to be shared with RMEF because they are always interested in the results of long-term studies, and it can help inform their practices and recommendations. Eric Holman asked whether this information can be relayed in their annual plan so that their seeding practices can continue to improve, and he thanked Peterman for the presentation and RMEF for contributing.

### **ACC/TCC Ground Rule Revisions – Erik Lesko**

Kendel Emmerson presented the proposed ground rule revisions. Erik Lesko, the ACC coordinator for PacifiCorp, joined the call. Lesko explained that the first revision to the Ground Rules document was in 2020, and the ACC began this process in earnest in the summer of 2023. The decision document that Emmerson previously sent out to the TCC specified the primary changes of the document and the clarification of terms used (such as “interested parties” and “subcommittees”). The document was streamlined, and all tables denoting committee participants were removed because participants typically change on a monthly basis now. The most noteworthy change was that the ACC defined what decision templates are and when they will be used. The ACC approved the Ground Rules revisions in December, so that document has been passed on to the TCC for input and approval.

Peggy Miller is also on the ACC, and as such, was heavily involved in the revisions made to the Ground Rules for both the ACC and the TCC. She explained the changes made to the document to the TCC, beginning with how the language “and corresponding subcommittees” was removed from the introductory paragraph because subcommittees are recommending bodies to the ACC, and the ACC makes the decisions. Eric Holman asked whether the TCC retained the ability to form

a subcommittee if they wished to. Miller confirmed that they do. Lesko explained that the ACC has two subcommittees. One is a technical subcommittee, and the other is a fish passage subcommittee. They are recommending bodies that have specific authorities under the Ground Rules, although they do not vote, and any decisions that affect the implementation of the settlement agreement is made by the ACC. Holman asked whether the ACC subcommittees were formed because the ACC is a larger group with the need for more focused teams to discuss aquatic challenges. He noted that the TCC is a smaller group that participates on whatever is laid out before them and asked why subcommittees were needed for the ACC. Lesko replied that the biggest reason is that by policy, technical staff do not typically attend ACC meetings. The technical subcommittee provides an opportunity for technical staff to have input on topics such as hatchery transition programs and fish passage programs.

Under Section V. Roles of the Parties, Miller wanted it to be clear to the TCC that interested parties are not signatories on the settlement agreement. Interested parties are people or entities that want to participate in the comment periods of committee meetings. Next, the document details confidential discussions and the need for TCC representatives to sign a confidentiality agreement if they wish to participate in meetings with confidential topics. The ACC so far has not taken up a confidentiality agreement, although they may in the future. A subsection defining subcommittees in Section V was added in order to make it clearer what subcommittee roles and responsibilities were, so a clear distinction could be made between the subcommittees making recommendations and the ACC making final decisions. Throughout the document, “Members” is used to refer to individuals participating on subcommittees.

The ACC has a more formal decision-making process compared to the TCC, which Miller said is fine as long as the TCC reaches consensus on decisions. Language was added to define the timelines for preliminary and additional review. If a committee representative is missing from a meeting, decisions are considered preliminary. After a 7-day review period, if a representative fails to respond, decisions become final.

Miller said that there is language in the settlement agreement that calls for consultation with the ACC or the TCC and a record of that consultation, as well as the recommendations or decisions made by the committees. A decision template is the place to memorialize decisions made. However, this is not a requirement for every decision; decision templates are only used if the ACC or TCC recommends it. Emmerson asked whether the subcommittee charter will be accepted by the corresponding group, and Lesko replied yes, that it would go to either the corresponding ACC or TCC. Lesko reiterated that there is some flexibility as to when the decision template is required. The annual report was exempted from the need to have a decision template because if any report has a decision template, PacifiCorp will need to submit that to meet a Federal Energy Regulatory Committee (FERC) deadline regardless of the decision template. As it stands, it is beneficial to not mandate decision templates but to allow for the ACC and TCC to decide when to use them. Lesko said that decision templates were requested by the ACC because there was difficulty among committee members determining how or why decisions were made, and these documents provide a process for finding them. Each decision template is also attached to their corresponding notes, and the decision matrix will record each decision every year, which will be submitted as part of the annual report. Emmerson agreed that the TCC has the same issue regarding finding when decisions were made.

Miller reiterated that the membership list was removed from the revised Ground Rules document because committee members can frequently change. Committee membership lists that only include names and affiliations are posted separately on the PacifiCorp website.

Lesko said that the decision template was used by the ACC a couple times in 2023. The template itself is still a work in progress and can be changed if there are thoughts on improvements that can be made. Emmerson said that each decision template could potentially have a cover sheet with the original document and any revisions made. Lesko replied that it could potentially be an executive summary, and Summer Peterman said that there could be a link added that points to the corresponding meeting minutes.

Miller asked whether a page was missing on the decision template that was being shown because she did not see the voting box. Lesko agreed that it was missing. Miller explained that the voting box is likely specific to the ACC for the moment, but that it should be reviewed to see whether the TCC also needs to have a voting box on their decision templates. Emmerson clarified whether any vote would be captured on this form, and Miller replied that it would likely only be necessary for more major decisions, such as a land acquisition or mitigation approval, but not the composition change of a grass seed mix for example.

The TCC adjourned for a 5-minute break, and Adam Rich left the meeting.

### **Saddle Dam Trail Expansion Discussion on Next Steps**

Kendel Emmerson displayed on the screen a map of the proposed Saddle Dam trail impacts. Using the Desjardin et al. (2022) report discussed in January's TCC meeting, three different wildlife buffers were placed around the proposed trail—a 276-meter (m) buffer, a 547-m buffer, and a 750-m buffer. Buffers were not placed around the existing trails that were a part of the settlement agreement. These buffers use almost the entire unit that was originally purchased, as well as part of the Saddle Dam management portion of the land. Mitigation cannot be much larger than the project itself, so PacifiCorp questioned whether Saddle Dam was the best location for the license obligated recreation after all.

The original license obligated recreation option was a 12-mile path on the IP road, which then became a 6-mile trail throughout Saddle Dam, which then became a 3-mile trail throughout Saddle Dam. An option that PacifiCorp is currently exploring is expanding access to recreation in Cresap Bay Park and Cresap Nature Trail in Unit 8. Cresap Nature Trail predates the license and was built in the early 1990s when the campground was built. An option would be to add interpretive features to the Cresap Nature Trail so that trail users can identify unique features, plants, and timber harvests; however, this is only a 1.6-mile trail, which would be a significant reduction from the original 12-mile IP trail. In order to increase recreational opportunities, PacifiCorp is exploring the idea of opening up the day-use area in Cresap Bay Park, which would allow year-round access to swimming and kayaking, and another boat ramp year-round, which would provide more relief in the spring time to the boat ramp at Speelyai Bay Park. Although the seasonal restriction would be lifted, the Cresap Bay Park accessible hours would likely be restricted to 5:00 a.m. to 9:00 p.m., which are the same as Speelyai Bay Park. The roads accessing WHMP lands would remain gated and closed to vehicles. Emmerson asked whether there were any questions.



Eric Holman asked whether this option needs to be posed to the PacifiCorp Recreation Committee as well as FERC, because it is very different from the original IP trail. Emmerson said that FERC is typically approves if all the settlement agreement parties agree. If the recreation committee agrees with the year-round enhanced experience at Cresap in lieu of a longer trail, will be submitted to FERC and all settlement agreement parties would have 90 days to submit comments. Emmerson would like to hear from the TCC whether this is a viable option that PacifiCorp should continue to look further into so that the license obligation can be fulfilled.

Holman asked whether the Cresap accessibility expansion could be paired with addressing and removing some of the user-built trails near Saddle Dam so that recreation can stay focused around locations that already have campgrounds and boat ramps, and the trail footprint in WHMP lands can be reduced. Emmerson said that if that were to happen, it would likely have to be done with WHMP funds. It would be possible, but the TCC might have to build a fund for it over a few years. Nearly all the trails at Saddle Dam are already in use, and if the recreation committee removes a trail on the advice of the TCC, the cost would be associated with WHMP. Holman said that he is concerned that the cost would come out of WHMP funds rather than trail funds, but that perhaps it is too early in the discussion to talk about where the funds would come from. Emmerson replied that there are not any trespass trails in the Cresap unit. Holman said that he was thinking of removing trespass trails that go off of WHMP lands by Saddle Dam. He agrees that realistically the equestrian usage was already existing at the time of the settlement, but that there are a lot of other trails in the area, formal and informal, that disturb wildlife. Bill Richardson agreed with Holman. Emmerson said that in theory, it is possible that if Cresap access was expanded, some users that use Saddle Dam trails may choose to go to Cresap instead, although it is difficult to predict whether that were to be the case. Peggy Miller asked whether equestrians would use Cresap Bay Park, and Emmerson said likely not. There is boat trailer parking that could be used for horse trailers, but the location is not designed for horse use. Connecting points to Cresap Nature Trail through the park are on an asphalt road, and shod horses do not go on asphalt because it is too slippery.

Holman asked whether Cresap Bay Park would be free to access from Labor Day through Memorial Day, and Emmerson agreed that it would likely be in line with Speelyai Bay Park, where that is the case. Jessica Kimmick did not think they would be able to charge for usage during the off season. Holman said he is not initially strongly opposed to this option and is curious what other members of the TCC think. Richardson agrees that he is in line with Holman's thoughts, and he thinks the expanded Cresap access seems to be a better alternative to the impacts at Saddle Dam if trails were to be expanded there. He also agrees that he is concerned about user-built trails at Saddle Dam and is interested in reducing impacts in that unit, particularly to elk. Emmerson said that the few times she went to Cresap, she did not see any elk pellets because the inner portion of the unit is fairly mucky. Elk generally stay north of Cresap Creek, and that herd now has a decreased population because they are infected with hoof disease. Osprey Meadow in Unit 7 to the northwest of Cresap Bay Park looked as though it had been grazed recently, although she did not see any elk there either; it may explain why Cresap does not get as much use from the elk.

Emmerson asked what further information the TCC would like to receive about this recreation option. Richardson would like a statement from FERC that trails will not be developed in Unit 10 (Saddle Dam). Holman would like to discuss addressing unwanted trails in Unit 10 and a way to offset them. He would like to be positive that expanding the use of Cresap Bay Park is not a

violation of the settlement agreement because he thought that the seasonal nature of Cresap Bay Park was a requirement. Emmerson said that she would double check the guidelines behind any required seasonal use at Cresap and which documents that was outlined in. She said she knows it is in the PacifiCorp WHMP Standards and Guidelines, but she is not sure whether that was detailed in the settlement agreement. Miller said she does not believe it is in the settlement agreement but that it is supposed to be documented in the Unique Habitats section of the WHMP. Emmerson said she would put together her findings for the March TCC meeting.

Holman asked whether there is a wintering concentration of eagles near Cresap that may be disturbed by year-round use of the park. Emmerson said that the Cresap Nest territory, is not active every year and may be outside of the disturbance from the trail. . There are some nests in the Hanley-Curry Road area, and there are definitely eagles winter roosting in the narrows between Canyon Creek and Yale Dam. Cresap Creek is a fish-bearing stream and used to be considered an eagle foraging area, although there is no evidence of eagle use for the area. . Emmerson has never seen an eagle in the cove to the north of Cresap Nature Trail, so the area is not necessarily prime forage. Holman clarified that there is no winter roost in the Cresap Bay Park area, only one in the Narrows, and Emmerson agreed.

Holman asked how people can be prevented from traveling north across Cresap Creek and along the 800 road through more sensitive habitats. This circles back to the question of roads versus trails and when recreation is okay. Emmerson said that the area near Leach Field Meadow is used occasionally by recreationists walking, and there is some hunting pressure in the area. There is a private home north of Leach Field Meadow that has a foot path, but their usage is low. Summer Peterman noted that even in the summer when the campground is in use, she has never seen users walking on the 800 road. Emmerson said that she has seen a couple users walking on the 800 road, but it does not receive high pressure. Peterman said that Unit 8 does not have the same homeowner access that Unit 10 does, but there is occasionally a car parked at the gate, and it is likely a local during the off season. Holman asked whether there was already parking access for walkers during the off season, and Emmerson agreed that there is space for maybe three cars. Holman said that because there is already some minor use of the area, he would like to minimize that becoming more popular. Emmerson said that where Cresap Nature Trail crosses the 800 road, they can add signage that only foot traffic is allowed. Holman asked what Kimmick thinks of this plan and whether she thinks it is viable. Emmerson said that Kimmick does have some concerns about the original 12-mile trail being reduced to less than 2 miles. Since the license, PacifiCorp has had increasing recreational demands that will not go away, which is something that other agencies, such as U.S. Forest Service, are struggling with as well. Another concern is that the original IP trail was part of the Yale license, and expanded access to Cresap would be on Merwin Reservoir.

Holman asked whether the recreation committee ever looked at the idea of a trail connecting Beaver Bay Campground through Cougar to the Yale boat launch. Emmerson said that there is already a trail from Beaver Bay to Cougar Campground, which is part of the settlement agreement license from 10 years ago, but that PacifiCorp ownership gets narrow near Dog Creek, and a trail there is not likely. Emmerson said what drew Kimmick and the recreation committee to Unit 10 was that there were already existing trails and a trailhead, and there has been substantial scoping in other areas. Holman asked whether Emmerson was able to come up with a value for any potential Saddle Dam mitigation from the mitigation matrix if trail expansions were to occur in Unit 10. Emmerson said that since the buffers would eliminate the entire unit, it would exceed the price of

the project and the cost of the land, so it is not a viable option, which Holman agreed made sense. Peterman wanted to clarify that the TCC would prefer the Cresap expansion alternative to any trail expansions in Saddle Dam. Miller asked whether there would be any potential mitigation for the elimination of the off-season closure at Cresap and whether that could be applied to decommissioning some of the trails in Unit 10. Erik White agreed with Miller and said that he is still thinking about this option, but it would be beneficial to focus the recreation activity to Cresap Bay Park and the Cresap Nature Trail south of Cresap Creek.

### **Moss Cave Land Acquisition Appraisal and Fair Market Value Approval (CONFIDENTIAL)**

*Moss Cave Acquisition – Due to confidential information details of this portion of the meeting have been omitted from these meeting notes.*

### **Villareal Property**

Kendel Emmerson said that she was contacted by the PacifiCorp property department a few months ago because a woman who lives off of Hanley-Curry Road adjacent to WHMP Unit 12 said that Clark County staff will not let her pave her driveway without the consent of PacifiCorp. After investigating, it appears as though PacifiCorp never noticed that her current driveway does extend onto PacifiCorp WHMP land. Emmerson played a video that shows it is a standard driveway mixed with forest, and that the property owner has lived there a long time, has not modified any vegetation, and has been respectful of PacifiCorp property. This has been in place for more than ten years and PacifiCorp is working to appease all parties involved and get her legal access. PacifiCorp staff will survey the driveway and give the property owner a life of license road-use agreement. This agreement will not be transferable with ownership and will need to be approved again at the time of a new license. Peggy Miller asked whether PacifiCorp can ask the property owner to pave her driveway with permeable asphalt. Emmerson said she is not sure whether they can ask for that in the road-use agreement, but she can look into it and asked whether that would be a dealbreaker for Miller. Miller said it is not a dealbreaker, but it would be more beneficial for habitat. Eric Holman said that the property owner has obviously been using this road for a long time, and he does not have any particular concerns. Bill Richardson and Eric White agreed that they do not have any concerns either.

### **WHMP Annual Report Template Review and Proposed Schedule**

Summer Peterman will present a rough draft of what she and Emmerson are proposing as a replacement for the full annual report. As an example, Peterman took the invasive species section from the original annual report and translated that information into a spreadsheet with an attached document that goes into more detail about what was and was not completed for various invasive species treatment projects. Details will be captured in the overall project planning documents, so this template will cut down on the length that used to be presented in the annual reports. Peterman said that if the TCC is open to this, they could write the report in the presented format this year as a draft, and after the TCC reviews it, they can answer any questions that are presented and make any changes to the report's format for next year.

Peggy Miller said that her initial thought is that this format is viable, and as long as the TCC has the opportunity to ask for additional information, if necessary, in next year's report, she is comfortable with the current format. Peterman and Kendel Emmerson agreed that changes can be made if requested by the TCC. Eric Holman agreed that Peterman and Emmerson can proceed with

this formatting for this year's report, but he asked whether the cost of projects can be added to this condensed report as well. Peterman said that they can absolutely show associated expenses for each line item and include comments on why budgets were under or over the actual cost. Holman asked whether the TCC would still be able to see the overall table that reviews what all the costs from the whole year were. Peterman clarified that the table she is presenting is a condensed version of the table Holman is thinking of. She said that Appendix A of the annual report typically contains that full table, and their thought is that moving forward, this proposed format will be the same information but in a streamlined summary. Emmerson added that as an example, wetland-associated work is a task that PacifiCorp does twice a year and is rarely deviated from, so there is not much to discuss in a larger summary. Holman agreed that the summarization makes sense. Miller asked for the document to include an explanation of how to read the tables within the report.

Peterman said that they are hoping to have a draft completed by March 7, so that it can be reviewed during the March 13 meeting and wrapped up by April 7.

### **WHMP Habitat and Management Updates**

- Administration
  - This topic has been covered with the discussion of the changes to the annual report.
- Old Growth Habitat
- Wetland Habitat
  - Stoplogs are currently halfway placed in wetland habitats and will be fully installed this week. PacifiCorp's goal is to complete stoplog installation in time for the amphibian breeding season at the end of February. Peggy Miller asked whether Summer Peterman can provide an update on the protocol for surveying for bullfrogs and information on whether the draining of wetlands is reducing bullfrog populations. Peterman said that she can provide a summary of that information in midsummer after all the surveys have been completed.
- Riparian Habitat
- Shrubland Habitat
- Farmland Habitat
- Orchard Habitat
  - Peterman said that PacifiCorp staff is working on tree removal in Buncombe Hollow Orchard along Merwin Reservoir today. She flagged branches for removal or limbing, and she noted exclosures that need to be repaired. The same process should be completed in Speelyai Bay Orchard next week. Peterman's request to the TCC is for approval to open up the Speelyai Bay Orchard by removing some trees. It is currently too shaded to allow orchard trees to thrive. She conducted a field visit to note which trees need to be removed to let in the most light, and she showed photographs of the trees she had flagged for removal. A concern that Peterman has is that one of the trees that is causing orchard trees to struggle by blocking light is a wildlife habitat tree next to a dense shrubland. She is hesitant to cut it because of its role as a habitat tree, but the goal of this area is a thriving orchard, so she is looking for

the TCC's input. One option is to limb the tree instead, but the limbs are very small, it would have to be limbed very high up, and other trees nearby will be removed. Miller asked whether the TCC can view this tree in person, and Peterman agreed that this can occur during the March meeting. The high-quality wildlife habitat trees are on the northern edge of the site, so they are not particularly affecting the shade problem. Eric Holman noted that other low-elevation sites they could see during the March meeting include the stoplogs in wetland habitat and Cresap Campground. Emmerson added that the TCC can also view some proposed harvest sites near Cresap.

- Unique Areas Habitat
  - Washington Department of Fish and Wildlife recently published a document detailing best management practices (BMPs) for mitigating impacts to Oregon white oak priority habitat. Peterman said it was good to see that PacifiCorp was already implementing most practices that were recommended, but going forward PacifiCorp will expand the 50-foot buffers around oak trees to 100-foot buffers. Oak habitat is a priority in PacifiCorp's management plan.
- Forestland Habitat
  - Kendel Emmerson said that they are continuing to use internal BMPs for burning slash. They receive approval before ignition to confirm that weather conditions are fire friendly, and a monitor looks at the piles every day for 10 days after burning. The Elmer Fudd timber unit did not receive the entire 10 days of observation because it was snowed out. The Eagle Cliff timber unit was lit last Thursday under great conditions.
  - PacifiCorp is about to start planting in some units, and they have been tubing trees. A mix of deciduous trees will be replacing pockets where trees were affected by root rot in Unit 6, and western hemlock and Douglas fir will be planted in the Unit 20 timber harvest area. Near Eagle Cliff, they will be planting hardwoods, including cottonwood and red alder, and potentially some dogwood.
- Invasive Plant Species Management
- Raptor Management:
  - Peterman said that PacifiCorp has received their first request for a drone study during raptor nesting season. They will be using Light Detection and Ranging and conducting their work near Yale Dam and Swift Canal in Units 24/25. There are three potentially impacted bald eagle nests that PacifiCorp are concerned about. Canyon Creek Nest near Yale Dam on Merwin Reservoir is a roosting area in a very steep location, and Swift 2 Powerhouse Nest and Jon's Nest are along the Swift Canal. Peterman provided some stipulations to the drone team, including that the drone operator must implement the PacifiCorp UAS Working with Wildlife document, provide a flight plan to PacifiCorp, retain a biologist on site during the survey to take notes on eagle behavior, wait to conduct their survey until at least 2 hours after sunrise so that the eagles are given time to eat, keep the drone below the height of the nests if possible, and

retain a spotter on site other than the biologist and the drone operator. If the drone team observes any disturbance other than curiosity, they must stop and contact Emmerson and Peterman. Peterman said that she does plan to check on the three nests before the surveys occur so that she has a better understanding of current eagle activity. Peterman requested that they provide PacifiCorp the data that their biologist gathers. Miller asked whether the biologist will be familiar with birds, and Peterman noted that she specifically asked for a wildlife biologist familiar with bird behavior.

- Public Access Management
  - There has been a private landowner expanding into PacifiCorp's property in MU 17. The PacifiCorp property department will be pursuing this issue, and Emmerson and Peterman will keep the TCC updated as they receive more information.

*Virtual Meeting Adjourned at 11:53 pm*

**Administrative**

The March 13, 2024, meeting will occur at the Merwin Hydro Control building and include a full day of site visits.

**Agenda items for March 13, 2024**

- Review February 14, 2024, meeting notes
- Discuss the possibility of expanded access to Cresap
- Vote on 10.3.3 funding proposal form
- Discuss the annual report
- Field visits to Speelyai Bay Orchard, MU 8 2024 timber harvest, Saddle Dam, and Cresap Bay

**Next Scheduled Meeting**

March 13, 2024
Merwin Hydro Control/Teams

**Attachments:**

- ACC TCC revised ground rules redlined version
- Saddle Trail Buffer Map
- Management Unit 8 Cresap Creek Nature Trail
- Villereal Driveway

**Terrestrial and Aquatic Coordination Committees  
Structure and Ground Rules  
Revised December 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), 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;

**Commented [MPA(1)]:** Note for final editing: When do words need quotes (“ or ’)? It’s inconsistent throughout the doc.

- 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:

### 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.

**Commented [MPA(2)]:** Clarifies the need (or lack thereof) for an ACC Confidentiality Agreement and process for identifying a confidential session on the agenda.

**Commented [LE(3)]:** Provide valid links during technical editing

### 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.

**Commented [MPA(4):** Definition for Members, i.e., individuals participating on a subcommittee.

## **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.

**Commented [MPA(5):** The intent of this section is criteria for calling an additional meeting and when. This information was revised and added with regular meeting times.

#### 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**).

**Commented [MPA(6):** New: Replaces formal and informal decisions. Establishes guidance for when to prepare a Request for Decision rather than hard requirements.

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.

**Commented [MPA(7):** Moved from Formal Committee Decisions.

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”.

**Commented [MPA(8):** Moved from Documentation of Committee Decisions.

#### Documentation of Committee Decisions

**Commented [MPA(9):** Combined Documentation of Committee Decisions and Tracking of Committee Decisions under 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](#).

**Commented [LE(10):** Provide link during technical editing

#### 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 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 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



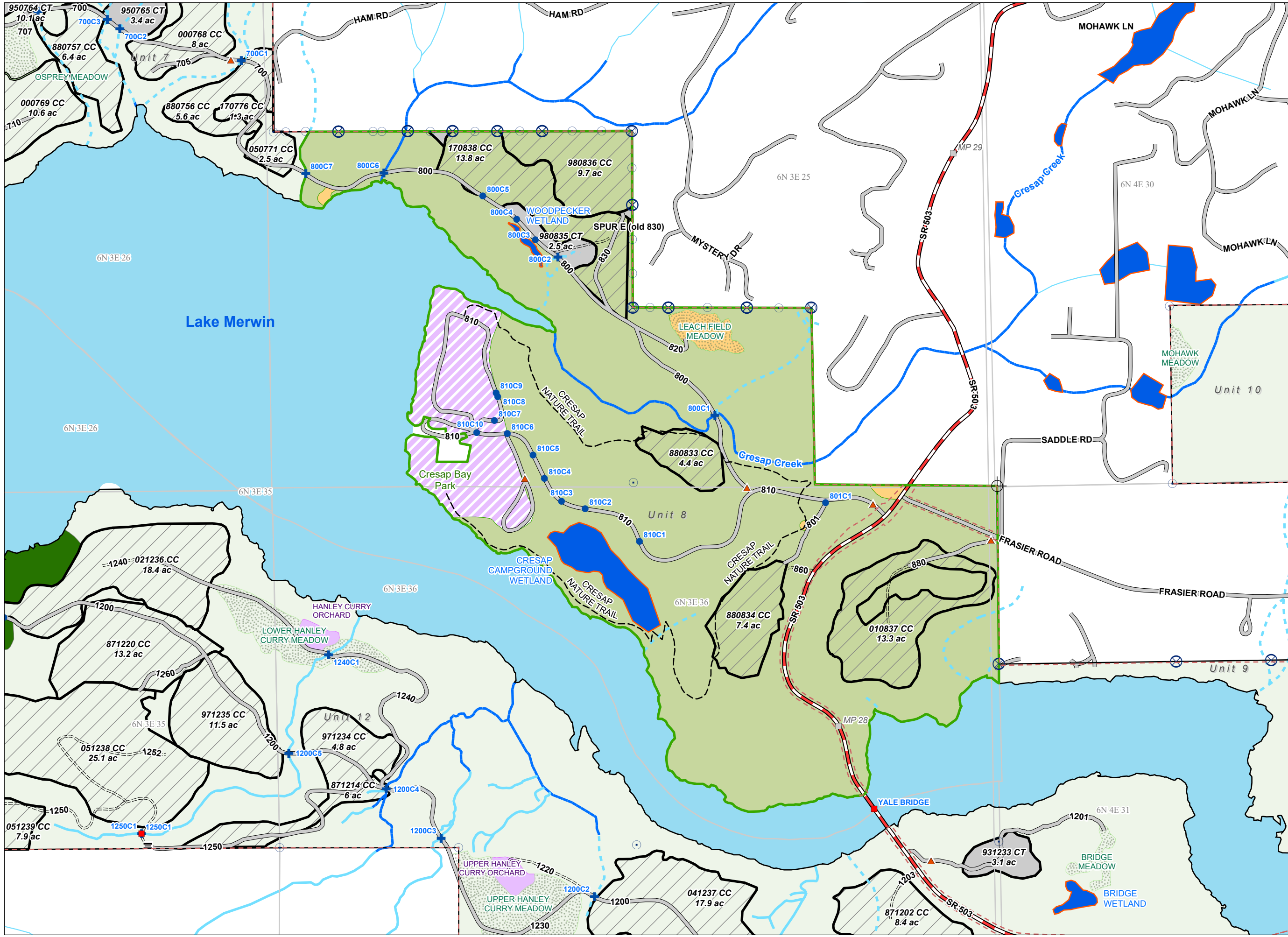
shall provide a copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, to PacifiCorp.

[CONTRACTOR] shall require subcontractors who perform work at the Project to carry liability insurance (auto, commercial general liability and excess) workers' compensation/ employers' or stop gap liability and professional liability (as required) insurance commensurate with their respective scopes of work. [CONTRACTOR] shall remain responsible for any claims, lawsuits, losses and expenses including defense costs that exceed any of its subcontractors' insurance limits or for uninsured claims or losses.

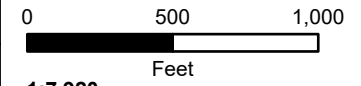
PacifiCorp does not represent that the insurance coverage's specified herein (whether in scope of coverage or amounts of coverage) are adequate to protect the obligations [CONTRACTOR], and [CONTRACTOR] shall be solely responsible for any deficiencies thereof.



# Lewis River 2023 Wildlife Habitat Management Area MERWIN Unit 8



- Surveyed Section Corner
- Surveyed Property Corner
- Other Surveyed Corner
- PacifiCorp Transmission Pole
- PacifiCorp Transmission Line
- FERC Boundary
- Management Unit
- PacifiCorp Ownership
- Section
- Farmland/Meadow
- Oak
- Old Growth
- Orchard
- Shrubland
- Water Body
- Wetlands
- WHMP Land (in current Unit)**
- Primary
- Secondary
- Seasonal
- WHMP Easement
- Harvest Area**
- Clear Cut
- Commercial Thin
- Fish Stream
- Non-fish Perennial
- Non-fish Seasonal
- Other Stream
- Secondary Highway
- Abandon/Orphan Road
- Road
- Closed Trail
- Trail
- Proposed Trail
- Special Projects
- Rock Pit
- Gate
- Road Block
- Ford
- Bridge
- Ditch Culvert
- Stream Culvert






















1:7,920  
**PACIFICORP**

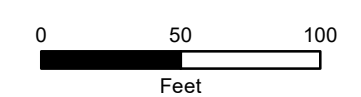
Data is projected in UTM Zone 10, NAD83, meters.  
U:\Projects\Hydro\Lewis\WHMP Map Book\ArcGIS Pro MapBooks.mxd  
03/17/2023 p36722 gisdept@pacifiCorp.com



# Lewis River

## Legend

-  Transmission Pole
-  Transmission Line
-  Road
-  Abandon/Orphan
-  Major Streams
-  Fish Stream
-  Non-fish Perennial
-  Non-fish Seasonal
-  Other Stream
-  Wetland (Point)
-  Wetland (Polygon)
-  Water Body
-  Easement
-  In Grant
-  Out Grant
-  ROW
-  County Parcels
-  PacifiCorp Land
-  PacifiCorp Land



1:825



PacifiCorp makes no representations or warranties as to the accuracy, completeness or fitness for a particular purpose with respect to the information contained in this map. PacifiCorp shall have no responsibility or liability to any person or entity resulting from the use of any information furnished in this map.