

MISSOURI-MADISON FERC PROJECT 2188

MEMORANDUM OF UNDERSTANDING

2017 thru 2026

FISHERIES, WILDLIFE, HABITAT AND WATER QUALITY
PROTECTION, MITIGATION AND ENHANCEMENT

02/24/2016

Effective as of January 1, 2017

CONTENTS

Purpose	4
Definitions	5
Adaptive Management	5
Technical Advisory Committees (TACs)	6
Adaptive Management Funding Accounts	7
Authority	9
TAC Operations	10
NWE Responsibility	10
TAC Meetings	10
TAC Quorum	11
TAC Meeting Participation	11
TAC Decision-making	11
General Provisions	13
Exhibits	
A. Initial members of the Project 2188 NWE Steering Committee, Agency Coordinators and TAC members	
B. Adaptive Management Fund Accounts: NWE 10-year funding commitment	
C. Conduct of TAC meetings	

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is made and entered into by and between NORTHWESTERN CORPORATION, A DELAWARE CORPORATION D/B/A NORTHWESTERN ENERGY (“NWE”), MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS (“MFWP”), MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY (“MDEQ”), U.S. DEPARTMENT OF INTERIOR BUREAU OF LAND MANAGEMENT (“BLM”), UNITED STATES FISH AND WILDLIFE SERVICE (“USFWS”), UNITED STATES BUREAU OF RECLAMATION (“USBOR”), and the UNITED STATES FOREST SERVICE (“USFS”), collectively the Federal and State agencies, but not NWE, shall be referred to herein as “TAC Agencies”.

WITNESSETH:

WHEREAS, the Montana Power Company, filed an application with the Federal Energy Regulatory Commission (“FERC”) in November, 1992, for a new license for its nine Missouri-Madison hydroelectric facilities (“Project 2188”); and

WHEREAS, the FERC issued a Draft Environmental Impact Statement for Project 2188 in September, 1997; and

WHEREAS, the Montana Power Company received the FERC approval on July 7, 1999 to transfer its License for Project 2188 to PPL Montana; and

WHEREAS, the FERC issued a Final Environmental Impact Statement in September, 1999 and an Order Issuing New License in September, 2000 for Project 2188 (“License”); and

WHEREAS, PPL Montana received the FERC approval on March 25, 2014 to transfer and on November 18, 2014 transferred its License to NWE; and

WHEREAS, the NWE and its predecessors, and TAC agencies have mutually developed and implemented the FERC approved fisheries, wildlife, habitat and water quality plans as required by the License, and

WHEREAS, the Licensees and TAC agencies previously signed and successfully implemented a nine year Project 2188 MOU (2000 thru 2008) and the first seven years (2009 thru 2015) of a ten year Project 2188 MOU (2009 thru 2018) for fisheries, wildlife, habitat and water quality protection, mitigation and enhancement (“PM&E”) measures along the Madison and Missouri Rivers, and

WHEREAS, NWE and TAC agencies agree to early termination of the former ten year (2009 thru 2018) Project 2188 MOU and entry into this, a new ten year (2017 thru 2026) Project 2188 MOU, and

WHEREAS, as the parties hereto acknowledge that the License may be revised from time to time over the term of the MOU, the parties further acknowledge that references herein to the “License” shall refer to the then-effective License for Project 2188; and

WHEREAS, NWE, as licensee for Project 2188, is willing to accept the obligations imposed by the License and understands that implementation of PM&E measures contained in the License shall occur in collaboration with agencies responsible for resource management; and

WHEREAS, the PM&E measures in the License were developed in consultation with agencies and address comprehensive measures for resource management, however unforeseen circumstances may arise that necessitate change; and

WHEREAS, this MOU addresses the implementation of PM&E measures for a new ten-year period beginning January 1, 2017 through December 31, 2026 (renewable at the discretion of NWE and signatory TAC agencies); and

WHEREAS, the parties to this MOU agree to seek cooperation leading to more efficient and effective resource management than could be achieved individually; and

WHEREAS, having voluntarily agreed to enter into this MOU, the parties hereby acknowledge that they do not intend this MOU to create contractual obligations and further acknowledge that this MOU shall not be enforceable by or before any federal or state agency, or any court.

NOW, THEREFORE, the parties agree as follows:

I. Purpose.

A. The purpose of this MOU is to establish the terms and conditions for collaboration between NWE and TAC Agencies in NWE's implementation of PM&E measures for fisheries, wildlife, habitat and water quality resources specified in the License.

B. This MOU provides for the continuing operation of four TACs made up of representatives of NWE and TAC Agencies. These TACs shall function as the means for collaboration on the expenditure of mitigation funds and the implementation of PM&E measures for fisheries, wildlife, habitat and water quality specified in the License.

C. This MOU provides for allocation of annual TAC funds and capital reserve accounts funded by NWE. NWE will bear ultimate responsibility for ensuring that the License conditions and PM&E measures are implemented in a manner consistent with requirements of the License.

D. To the extent consistent with the License, this MOU sets out provisions for adaptive implementation of PM&E measures that may be appropriate due to advancement in technology, project experience that dictates alternative methods of PM&E implementation, and adequate response to unforeseen circumstances or discoveries during the term of the License.

II. Definitions.

A. Resource Management - The term "resource management" used herein shall refer to management of fisheries, wildlife, habitat and water quality resources.

B. Adaptive Management – Adaptive Management is embodied by this MOU through prior consultation with state and federal agencies in preparation of the Project 2188 License Application. Adaptive management is natural resource management where decisions are made as part of an ongoing science-based process. Results are used to modify future management methods and policy. As improved PM&E technologies in fisheries, wildlife, habitat and water quality science become available or new management priorities are collaboratively established, PM&E funds may be redirected to accommodate the changing technology and needs of the resource and the public within the requirements of the License. The adaptive management process emphasizes collaboration but still places ultimate responsibility upon NWE to comply with the License and other applicable laws. NWE believes that this management approach is entirely consistent with the spirit of the Federal Power Act and the interests of the Montana public as expressed through TAC Agencies.

C. Technical Advisory Committees (TACs) – The TACs are made up of representatives from NWE and TAC Agencies as follows:

1. Madison River Fisheries TAC comprised of representatives from NWE, MFWP, USFWS, BLM, and USFS.
2. Missouri River Fisheries TAC comprised of representatives from NWE, MFWP, USFWS, BLM, and USFS.
3. Madison-Missouri River Wildlife TAC comprised of representatives from NWE, MFWP, USFWS, BLM, and USFS.
4. Madison-Missouri River Water Quality TAC comprised of representatives from NWE, MDEQ, MFWP, USFWS, USFS and BLM.
5. Representatives of NWE and TAC Agencies and their replacements shall be determined by each participating agency. Initial (year 2017) members of the TACs are listed in Exhibit "A". At their discretion, NWE and TAC Agencies may replace their representatives from time to time.

The USBOR is a signatory to this MOU by virtue of its coordinated operations (out of Canyon Ferry, Gibson and Tiber Dams) with NWE's nine hydro dams affecting Missouri River flow and due to their shared Missouri River resource conservation projects in partnership with NWE. However, the USBOR does not carry regulatory authority under NWE's Project 2188 FERC License (similar to other state and federal resource agencies) and, therefore, is not a voting member of any TAC under this MOU.

D. Steering Committee. The Project 2188 Steering Committee consists of representatives of NWE listed in Exhibit "A". At its discretion, NWE may replace its representatives from time to time. This NWE Steering Committee will help provide general policy and regulatory guidance to NWE representatives on the TACs.

Adaptive Management Funding Accounts (“AMFA”) – Each of the four TACs will apply the concept of adaptive management where applicable, when determining PM&E priorities and schedules for funds to be paid out of the AMFA. NWE will provide for implementation of PM&E measures in the schedule and amounts in attached Exhibit B. NWE will provide annual funds to the TACs to implement required PM&E measures for ten years beginning January 1, 2017 and will allow the specified maximum of funds to accrue (from unspent annual NWE TAC funds or funds from outside cost share partners) in a reserve account for use by the TACs during this same ten year time period as described in Exhibit “B”.

E. Annual funds available to the TACs, beginning January 1, 2018, will be increased at 2.0% against the prior year. All funding accounts will be internally managed by NWE. However, no AMFA funds will be spent without prior approval from the TACs.

1. Annual TAC payments. For the purpose of this MOU, NWE will provide funding for implementation of PM&E measures in the License per the schedule and amounts described in Exhibit “B”. Funding levels are estimated by NWE to be adequate to implement PM&E measures in the License during this 10 year MOU period. However, increases or decreases in MOU funding, provided by NWE, to comply with FERC-mandated PM&E measures in the License can be addressed within provisions of this MOU. Factors such as monitoring or study results, changing technology, or other needs of the resource may necessitate changes in funding amounts and schedules over time. This MOU is not intended to relieve NWE of the obligation to make such funding changes. NWE further anticipates that this MOU may be renewed or revised by the parties after 10 years (i.e. in 2026) of License implementation. MOU renewal (after 2026) with appropriate PM&E funding level commitments will be based on NWE’s then remaining compliance requirements within the License.

2. Water quality management funds. A formal Ten Year Project 2188 Water Quality Monitoring Plan is on file with FERC including results of study data analysis and monitoring program design. Per the Project 2188 License, NWE will file an update to this Ten Year Plan with FERC by December 31, 2022 in consultation with the Madison-Missouri Water Quality TAC. Annual funds for water quality monitoring and 401 Certificate compliance will be determined by NWE in consultation with MDEQ and other TAC Agencies. NWE will prepare an annual internal budget appropriate for these efforts.

3. NWE Steering Committee Funds. NWE will provide the necessary internal FTE's to manage its responsibilities on the TACs, coordinate implementation of License PM&E measures, and facilitate consultation with the FERC, state and federal agencies, and non-governmental organizations ("NGO"). NWE will be responsible for funding these positions to provide assistance required for adequate 2188 project management. NWE will prepare and implement an internal budget appropriate for Steering Committee activities.

4. NWE administrative and other support. NWE will provide reasonable administrative, clerical and support facilities for TACs. NWE will be responsible for preparing proposed agendas, and for the management and preservation of licensing data and studies including the provision of reasonable public access to such data and studies. NWE shall provide assistance to each of the TACs for the purpose of identifying collaborative funding opportunities, application for grants, and assisting with land transactions related to habitat PM&E such as conservation easement or fee title acquisition where needed and practicable.

D. PM&E Measures – PM&E measures referred to herein are a specific reference to those PM&E measures required by the License.

III. Authority.

A. Authority to enter into MOU.

1. NWE has received due corporate authorization to enter this MOU.
2. MFWP is authorized to enter into this MOU under Montana Code Annotated Sections 23-1-102, 23-1-107, and 87-1-201.
3. MDEQ is authorized to enter into this MOU by Montana Code Annotated Section 75-20-204.
4. BLM is authorized to enter into this MOU by Federal Land Policy and Management Act of 1976 (FLPMA), 43 USC, Section 1701.
5. USFS is authorized to enter into this MOU under the Federal Power Act (FPA, P.L. 66-280, 6/5/20), Sec. 4(e); Granger-Thye Act (G-T, P.L. 81-478, 4/24/50), Sec. 5(b); and Federal Land Policy and Management Act of 1976 (FLMPA, P.L. 94-579, 10/21/76) Title III, Sec. 302, Title V.
6. USFWS is authorized to enter into this MOU under the Fish and Wildlife Service Coordination Act (16 U.S.C. 661 et. seq.)
8. USBOR is authorized to enter into this MOU under The Reclamation Act of June 17, 1902 and P.L. 105-277 Title X – Canyon Ferry Reservoir, Montana Act of October 22, 1998, as amended November 29, 1999 and October 27, 2000.

B. Funding, authority, and operating limitations. It is understood that operating plans, procedures, schedules and agreements may be developed, as needed, by the participants to implement the specific objectives of this MOU. Nothing in this MOU or subsequent plans, procedures, or agreements will be construed as affecting the authorities of NWE or participants as binding beyond their respective authorities or

prerogatives for decision-making, or to require any of the participants to obligate or expend funds in excess of appropriated funds.

C. Limitations. Nothing herein shall be construed as obligating any Federal agency to expend or as involving the United States in any contract or other obligations for the future payment of money in excess of appropriations authorized by law and administratively allocated for any work under this MOU. NWE's funding obligations in the context of this MOU will be limited to and governed by the License and NWE's obligation as Licensee. If one or more of the TAC Agencies fails to fulfill any of its commitments made pursuant to this MOU, NWE reserves the right to withdraw from this MOU or to renegotiate the terms set forth herein.

IV. TAC Operations.

A. NWE Responsibility. For each TAC, NWE will be responsible for managing PM&E adaptive management funding accounts and providing technical and regulatory input related to the implementation of PM&E measures for fisheries, wildlife, habitat and water quality resources within the Missouri-Madison River system. NWE will also be responsible for seeing that PM&E funds are authorized and spent for appropriate projects that comply with the intent and scope of the License. In consultation with TAC members, NWE will convene, facilitate and chair TAC meetings to fulfill implementation requirements of the License, and, with regular disclosure to TAC members, manage TAC Adaptive Management Funding Accounts.

B. Meetings. The four TACs will meet on a regularly scheduled basis to develop annual work plans, prioritize the implementation of License PM&E measures, and discuss the annual accounting of how funds have been used to implement PM&E measures and future funding strategies. Although the four TACs will meet independently to address their respective PM&E measures, individual TACs may jointly meet with

other TACs to more efficiently accomplish PM&E measures. A member of the NWE Steering Committee shall chair such combined TAC meetings.

C. TAC Quorum. Decisions of the TACs require a quorum to be present in person or by proxy. A quorum is herein defined as at least one TAC representative from NWE and MFWP and at least one representative from either the USFWS or USFS or BLM for the Missouri River Fisheries TAC, Madison River Fisheries TAC and Missouri-Madison Wildlife TAC. In addition to those previously named, a TAC representative from the MDEQ is necessary for a quorum of the Missouri-Madison Water Quality TAC. No final decisions will be made by these TAC quorums regarding PM&E projects on any state or federal trust lands without a voting representative from the agency responsible for those trust lands being present.

D. Meeting participation. All TAC meetings are open to the public. Subcommittees and working groups may be organized as appropriate. Subcommittees and working groups may include staff personnel of NWE or TAC agencies, outside consultants or others. Any such subcommittees or working groups will be advisory to their respective TACs.

E. TAC decision-making. As Licensee, NWE will bear ultimate responsibility for ensuring that the License conditions and PM&E measures are implemented and funded in a manner consistent with requirements of the License. NWE will seek to attain consensus among the members of each TAC in implementing PM&E measures. Multiple representatives of NWE and TAC Agencies may actively participate in TAC meetings. However, NWE and each TAC agency will designate one person to officially represent their organization as the voting member at each TAC meeting. All parties commit to a good-faith effort to resolve any differences in a timely and cooperative manner. In the event a consensus cannot be achieved, TACs may elect to enter voluntary dispute resolution as set forth below:

Any dispute that arises in the implementation of this MOU and any of the PM&E measures, or in any committees formed under this MOU, shall, in the first instance, be the subject of informal negotiations between the affected parties. If negotiations fail, a party or parties may refer a dispute to the appropriate TAC, along with a written statement outlining the dispute and any areas where the parties are in agreement. The TAC concerned with the particular dispute shall be convened by NWE and, will develop consensus recommendations for the resolution of the dispute. During this informal dispute resolution period, any party may request FERC to participate in the negotiations to assist in resolving the dispute. If no resolution is reached during the informal process, the disputing party or parties shall have thirty (30) days following the notice of the TAC recommendations to refer the dispute to FERC for expedited dispute resolution. All disputes taken to FERC under this MOU shall be governed by the alternate means of dispute resolution contained in FERC's Rules of Practice and Procedure, 18 C.F.R. Section 385.604, as amended from time to time or any succeeding FERC regulations governing alternative means of dispute resolution. The proposed TAC recommendations and all supporting documents may be submitted to the FERC. If a disputing party does not refer a dispute to the FERC within the thirty-day (30) time period, the TAC recommendations will become binding on all parties.

- F. Conduct of Meetings. Guidelines for the conduct of TAC meetings are attached in Exhibit "C" as may be amended from time to time by mutual consent of NWE and TAC agencies.

V. General provisions.

A. Re-openers – The parties to this MOU generally agree they will not invoke or rely upon any re-opener clause contained in the License with respect to any matter covered by this MOU unless the party determines that new information reasonably demonstrates that applicable provisions of this MOU are then inconsistent with the public interest and affords the appropriate TAC, at least ninety (90) days to consider the new information and that party's position. Said party shall not be required to comply with this ninety (90) day notice provision if it believes an emergency situation exists, or is necessary to comply with the Endangered Species Act. Notwithstanding the provision of this paragraph, the parties agree that a TAC Agency may seek re-opening of the License as necessary to comply with any state or federal law and implementing regulations not pre-empted by the Federal Power Act, but this provision shall not be deemed to represent NWE's or other parties consent to any such request by a TAC agency. In addition, the USFWS may seek re-opening of the License pursuant to its authority under Section 18 of the Federal Power Act, but this provision shall not be deemed to represent NWE's or other parties consent to any such request by the USFWS.

B. Cooperate in Studies – The parties to this MOU agree to cooperate in conducting studies and monitoring activities implemented pursuant to the License and in providing reasonable assistance in any approval or permitting process that may be required for implementation of or specific PM&E measures; provided that any of TAC Agencies are not, by this commitment compromising or relinquishing any legal authority they may have in those situations where they may be the permitting agency.

C. Separate agreements. For each PM&E measure implemented pursuant to this License, the parties understand and agree that separate agreements between NWE and participating agencies may be executed as necessary to complete that project.

D. Term.

1. Duration. This MOU shall be effective upon execution by all parties and shall remain in effect until the earlier of:

- a. December 30, 2026 or
- b. Termination of the License.

2. Renewal or modification of MOU. This MOU may be renewed or modified in writing by mutual consent of NWE and TAC Agencies.

E. Termination of the MOU. This MOU may be terminated at any time by mutual written agreement of all parties.

F. Binding effect. As set forth herein, this MOU shall inure to the benefit of, and shall be binding upon the respective successors and permitted assigns of the parties hereto.

G. Assignment. The parties hereto may not assign this MOU without consent of other parties and provided that NWE may assign its rights and obligations hereunder to any other entity that becomes licensee of Project 2188 under the License.

H. Modification. This MOU may be modified only in writing by mutual agreement of all the parties; provided that such consent will not be unreasonably withheld.

I. Execution in counterparts. This MOU may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be one and the same instrument.


J. Precedent. Parties to this MOU understand and agree that this MOU establishes no principles or precedence with regard to any issue addressed herein or with

regard to any party's participation in any future proceeding and that none of the parties to this agreement will cite either this MOU or its approval by FERC as establishing any principles or precedents except with respect to matters to which the parties have herein agreed.

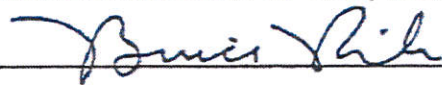
K. NWE will keep the TACs reasonably informed of the status of License compliance filings and, in the event that any such filing is disputed, NWE shall notify all parties of the dispute and make copies of its filing available to all parties.

IN WITNESS WHEREOF, the parties have executed this new Ten Year (2017 thru 2026) Project 2188 MOU by signature below.

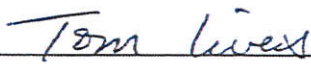
NORTHWESTERN CORPORATION A DELAWARE CORPORATION D/B/A NORTHWESTERN ENERGY

By 
Its Robert C. Rowe
CEO + President
Date March 1, 2016


MONTANA DEPARTMENT OF FISH, WILDLIFE AND PARKS

By 
Its FISHERIES DIVISION ADMNR
Date 2/11/16

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY


By 
Its Director
Date 2/16/16

UNITED STATES FISH AND WILDLIFE SERVICE


By 
Its Field Supervisor, MT Ecological Service Office
Date 1/7/2016

IN WITNESS WHEREOF, the parties have executed this new Ten Year (2017 thru 2026)
Project 2188 MOU by signature below.

U.S DEPARTMENT OF INTERIOR BUREAU OF LAND MANAGEMENT

By 
Its for State Director
Date February 4, 2016

UNITED STATES BUREAU OF RECLAMATION

By 
Its MONTANA AREA MANAGER
Date 2/17/2016

UNITED STATES FOREST SERVICE

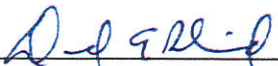
By 
Its DAVID E. SCHMED, DRF
Date 2/24/16

EXHIBIT "A"

Initial (Year 2017) Project 2188 NWE Steering Committee, Agency Coordinators and Technical Advisory Committee (TAC) members:

NWE Steering Committee

Jon Jourdonnais (NWE, Chair)
Mary Gail Sullivan (NWE)
John Tabaracci (NWE)
Brent Mabbott (NWE)
Andy Welch (NWE)
Steve Leathe (NWE)

Agency Coordinators

Joe Meek (MDEQ)
Don Skaar (MFWP)
Mike Philbin (BLM)
Jodi Bush (USFWS)
Scott Barndt (USFS)
Tom Swatzke (USBR)

Madison River Fisheries TAC

Brent Mabbott (NWE, Chair)
David Moser (MFWP)
Don Skaar (MFWP)
Bruce Roberts (USFS)
Travis Lohrenz (MFWP)
Dale Olson (USFS)

Jon Jourdonnais (NWE)
James Boyd (USFWS)
Darin Watschke (USFS)
BLM (to be determined)
Andy Welch (NWE)

Missouri River Fisheries TAC

Steve Leathe (NWE, Chair)
Jon Jourdonnais (NWE)
James Boyd (USFWS)
George Liknes (USFS)
Eric Roberts (MFWP)
Anne Tews (MFWP)

Brent Mabbott (NWE)
Jason Mullen (MFWP)
Don Skarr (MFWP)
Grant Grisak (MFWP)
Jody Peters (BLM)

Madison-Missouri Wildlife TAC

Steve Leathe (NWE, Chair)
Katherine Wightman (MFWP)
Jodi Canfield (USFS)
James Boyd (USFWS)

Jon Jourdonnais (NWE)
BLM (to be determined)
Jason Brey (USFS)

Madison-Missouri Water Quality TAC

Andy Welch (NWE, Chair)
Joe Meek (MDEQ)
Brent Esmoil (USFWS)
USFS (to be determined)

Jon Jourdonnais (NWE)
Trevor Selch (MFWP)
BLM (to be determined)

EXHIBIT “B”

Adaptive Management Fund Accounts*
NorthWestern Energy 10 Year (year 2017-2026) Commitment

NorthWestern Energy Steering Committee -FERC licensing administration
-interagency TAC management
-PME compliance & implementation
-agency and NGO cost share programs

**2188 MOUTAC funding 2017 thru 2026
(2.0% increase in annual funding post 2017)
MOUTAC funding begins January 1, 2017**

Project 2188 TAC	2017	2018	2019	2020	20121	2022	2023	2024	2025	2026
Madison Fisheries Budget (\$) (fund License Articles 408, 409, 412 Plan)	395981	403901	411979	420218	428623	437195	445939	454858	463955	473234
Missouri Fisheries Budget (\$) (fund License Articles 414, 416, 417 Plan)	609201	621385	633813	646489	659419	672607	686059	699780	713776	728052
Mad-MSO Wildlife Budget (\$) (fund License Articles 411, 418, 421, 423, 424 Plan)	365521	372831	380288	387894	395652	403565	411636	419869	428266	436831
Total Annual funding for 3 TACs (\$) (promote cost sharing between TACs)	1370703	1398117	1426079	1454601	1483693	1513367	1543634	1574507	1605997	1638117
TAC Reserve Account Maximums ^										
Madison River Fisheries TAC	\$ 250,000									
Missouri River Fisheries TAC	\$ 250,000									
Madison-Missouri River Wildlife TAC	\$ 250,000									

^Includes unspent TAC funds from prior year(s) and/or cost share funds deposited by an outside (non NWE) agency or NGO. Any end of year (December 31) reserve account funds in excess of \$250,000 revert back to NWE.

*Adequate to fund measures per formal PM&E resource plans approved by agencies and the FERC. Internal NWE Water Quality TAC funds will be determined annually by NWE per Article 404 plan in consultation with agencies.

EXHIBIT "C"

CONDUCT OF TAC MEETINGS

- I. Agendas. Agendas for TAC meetings will be developed and distributed by NWE in consultation with agency TAC members.

- II. Meeting Summaries. NWE may prepare and distribute TAC meeting summaries. Such summaries would identify action items and decisions reached by the TAC and would be sent to TAC members as a mechanism for information exchange and coordination.

- III. Open Meetings. Non-TAC members (general public) can attend and observe Project 2188 TAC meetings in progress. However, only a designated portion of each TAC meeting will be open to comments from non-TAC members.

- IV. Caucus. Any TAC member may declare a caucus break. Caucus members will be asked to conclude their discussions in a timely manner so as not to unduly restrict the completion of the scheduled meeting agenda. Caucusing may continue as needed outside of and independent of TAC meetings.

- V. Good Faith. TAC members agree to act in good faith with respect to the concerns of the others to reach an agreement within this consultation process. Proposals, positions taken, written statements, and materials used will not be considered as TAC commitments unless TAC agreement is achieved. TAC members agree to participate in a free, open, and mutually respectful exchange of ideas, views, and information in attempting to achieve agreement. Personal attacks and prejudicial statements will not be tolerated. All TAC participants will be given an equal opportunity to be heard.

- VI. Public Statements. TAC members may describe proposals under discussion and develop positions in consultation with constituencies as required by respective agency process. A participant may make such public statements, including to the press,

describing topics under discussion and their own views about these topics. No TAC member will describe or characterize the position of any other party in public statements or in the discussions with the press. As an exception, in any statements that a TAC member makes in an open public meeting to inform its governing entity, that member may describe the position of other participants. In doing so, participants shall consult those other participants and make a good faith effort to accurately describe their positions. TAC members agree not to seek to place blame on any other party, even if that party withdraws from the process or the process is discontinued. TAC members shall maintain as confidential information that is entitled to confidentiality under state or federal law.

VII. Rights in Other Forums. Participation in a TAC does not limit the right or obligations of any individual or organization. Members will make a good faith effort to notify one another in advance, if litigation, administrative proceedings or other action outside the committee process will be initiated, which will affect the terms of agreements or actions being taken by the committee.

VIII. Meeting Process. TAC meetings will be chaired and facilitated by NWE. NWE may also provide a meeting facilitator to conduct the meetings. NWE or facilitator will work to ensure that the TAC consultation process runs smoothly. The role of NWE (or its designated facilitator) includes developing agendas, chairing meetings, working with TAC members both at and between meetings to resolve questions and to encourage and assist progress in accomplishing TAC goals, resolving any impasses that may arise, preparing meeting summaries, assisting in the location and circulation of background materials and materials prepared by participants, and other functions at the request of TAC members. In the event an outside facilitator is used, NWE will pay for facilitation services with Steering Committee funds.

IX. FERC Communication Process. NWE will, in consultation with TAC agencies, maintain appropriate correspondence and consultation with FERC staff and make required written filings with the FERC regarding implementation of, and any

amendments to, the License. TAC agencies also have an equal right to consult with FERC on Project 2188 issues within the discretion of their respective agency and FERC rules governing consultation.

X. Public Participation. Each TAC meeting agenda will provide a specific time period for public comment. Members of the public will be able to observe TAC meetings in progress and offer comments during a specified public comment period at the invitation of TAC member(s). TACs may form subgroups to work on specific PM&E items and may choose to include members of the public in the subgroup process. TAC members representing public agencies will be expected to reflect, take actions, and represent positions that reflect their respective public involvement responsibilities. Further, TAC members will assume responsibility as appropriate for directing public comment and public participation through appropriate forums within their respective agencies.