

Meeting Protocols

(08/05/09)

Priest Rapids Fish Forum

The Priest Rapids Fish Forum (PRFF) is formed pursuant to section 6.2 (4b) of the Final Water Quality Certification (401 Certification) issued by Washington Department of Ecology on April 3, 2007, with modifications filed on March 17, 2008, for the operation of the Priest Rapids Hydroelectric Project. The Federal Energy Regulatory Commission (FERC) issued a license for the Project on April 17, 2008 (FERC 2008). The following protocol is intended to provide a framework for coordinating communications and documenting consultation among the Voting Members of the PRFF. Where possible, protocols were taken directly from the 401 Certification, in order to be consistent with said document.

- I. **Role and Purpose of PRFF-** The PRFF is to serve as the forum to implement section 6.2 of the Certification for non-Covered species (Pacific lamprey, white sturgeon, Bull trout, and native resident fishes) and consider issues that arise as part of implementation. The PRFF will deal primarily with *technical issues* regarding biological objectives, implementation measures, fish management plans, biological status reports, other documents prepared on the non-Covered species, and such matters as Ecology may designate by Order (401 Certification Section 6.0). Policy issues needing clarification or possible change will be referred to the policy representative of each PRFF member for analysis and decision-making. The PRFF is expected to use the most current and best available scientific information analysis as the standard of care for preparing and reviewing documents and implementing Certification (401 Certification Section 6.0e).
- II. **PRFF Voting Membership-** Voting Members (“Voting Members”) of the PRFF include Grant PUD, and the tribes and agencies with fish management authorities for the protection of the non-Covered species (Pacific lamprey, white sturgeon, Bull trout, and native resident fishes). Member entities agree to participate and attempt to resolve issues by consensus. Eligible Voting Members are as follows:
 - **U. S. Fish and Wildlife Service**
 - **Washington Department of Fish and Wildlife**
 - **Yakama Indian Nation**
 - **Confederated Tribes of the Colville Reservation**
 - **Confederated Tribes of the Umatilla**
 - **Grant County PUD**

Ecology will not be a voting member of the PRFF.

Each tribe and agency with fish management authorities will designate a staff representative and alternate to participate in the PRFF as Voting Members. Voting Members shall notify Grant PUD in writing of the names of their designated representatives, alternates and policy representatives. Grant PUD

will provide the names to Ecology and the facilitator to provide updates as the names change.

- III. Other Interested Stakeholders:** Meetings of the PRFF are open to all other interested stakeholders. The stakeholders will be allowed to participate in technical discussions held during the meeting. However, the facilitator will prioritize discussions and comments put forth by the Voting Members.
- IV. Decision Making:** The PRFF shall make decisions by consensus of those Voting Members present in person or by telephone. The 401 Certification defines Consensus as:

Consensus shall mean the unanimous agreement of all [Voting] Members present in person or by phone. Voting shall be recorded and confirmed by meeting notes. [401 Certification 6f]

If a Member cannot be present for an agenda item to be decided upon, they may notify the facilitator, who upon the receipt of such a request, shall delay a decision on the agenda item for up to 10 business days on the specified issues for which a delay is requested. At the end of this period, the facilitator shall convene (in person, phone, e-mail or web conference) the PRFF for decision on the agenda item. A Voting Member may invoke this right only once per delayed item.

For all agenda items where consensus will be required, the process will proceed as follows¹:

Item Discussion: The agenda item will be discussed with the goal of identifying areas of agreement and disagreement and potential proposals for action. Input from both Voting Members and Stakeholders will be solicited at this time. The discussion will occur within the time bounds set in the agenda and enforced by the facilitator.

Formation of a Motion: Based on the discussion, a formal decision motion on the issue will be put forth to the Voting Members by the facilitator. The motion will be seconded by another Voting Member. If the motion is not seconded then the action/issue is tabled. In this instance the proponent may modify the motion for reconsideration or enter the dispute resolution process.

Call for Consensus: For all motions seconded, the facilitator will call for any questions or clarifications on the motion from the Voting Members. After questions have been addressed, the facilitator will call for consensus (vote) of the issue. Each Voting Member will actively state their agreement or disagreement with the proposal by voting yeah or nay. A Member may abstain from the vote by saying abstain, thereby effectively removing the member, and the need for his/her yeah vote to achieve consensus. If consensus is not achieved the process moves to the next step. Voting can take place in person, via phone, web conference or e-mail.

¹ Process is based on consensus model described at:
http://en.wikipedia.org/wiki/Consensus_decision-making

Identification and Addressing of Concerns: The facilitator will ask each dissenter (nay vote) to the motion to clearly articulate their concerns, provide supporting rationale and documentation, and their proposed solution. This may require that the discussion be deferred to the next meeting of the PRFF. The Voting Members will then discuss the concerns in an attempt to reach agreement in a timely manner.

Modification of Motion: The motion will then be amended to address the concerns of the dissenters, to the extent possible. The facilitator will again call for consensus and the process repeated until consensus is reached. If consensus cannot be reached during the time allowed for at the meeting, Voting Member(s) have the option to continue discussion at a future PRFF meeting or enter the dispute resolution process.

All actions/issues agreed upon by consensus will be sent to Ecology for review for consistency with 401 Certification. The Ecology representative to the PRFF will report back to the Voting Members in writing within 30 days confirming that the action/issue is consistent with 401 Certification. If an action is found by Ecology to be inconsistent, Ecology will describe the inconsistency and provide a solution or a range of solutions for the PRFF to consider. The PRFF will then work through the process until an acceptable solution is found using PRFF protocols.

If the Voting Members cannot reach agreement for an action/issue, then upon written request by any Voting Member to the facilitator, that issue shall be referred to Dispute Resolution.

- VI. **Dispute Resolution:** The Voting Member(s) raising the issue shall provide in writing to the facilitator, a description of the issue, a proposed solution, data and scientific rationale supporting the solution (if applicable), and benefits compared to the original proposal. If the issue involves a study methodology or measure, information will be presented by the objecting Member on the likelihood of biological success of the proposed solution; 2) time required to implement; and 3) its cost effectiveness (401 Certification 6.2 subsection 6e).

Within 10 days of receipt of such notice, the facilitator will refer the issue to a subcommittee of PRFF Voting Members or their representatives, as defined by the PRFF. Stakeholders may be assigned to the committee at the discretion of the Voting Members by Consensus Vote. The subcommittee will operate under specific criteria developed by consensus of the PRFF as noted in Attachment A to this document. The facilitator shall, notify Ecology in writing of the request of a Voting Member to use the Dispute Resolution Process². This process is based on that found in the Salmon Settlement Agreement, which Ecology has agreed to respect (401 Certification 6.1 subsection 4).

Within thirty (30) days of receipt of notice of a dispute the subcommittee shall seek to agree upon a resolution of the dispute. The time frame may be altered

² Priest Rapids Project Salmon and Steelhead Settlement Agreement (FERC Project No. 2114). Dated 12/13/2005.

by Consensus of the PRFF to meet FERC or Ecology imposed deadlines for the license, or for other reasons defined by the PRFF. Subcommittee participants shall endeavor in good faith to reach a resolution of the dispute using the best available scientific information.

At the end of the thirty (30) day period, the subcommittee shall provide a report to the facilitator of the PRFF describing the outcome of its efforts under the section above. The facilitator shall promptly distribute the report to the Voting Members of the PRFF and Ecology. The report shall describe any proposed solution, the data and scientific rationale for the proposed solution, its benefits over alternative solutions, and such additional information as may be necessary to support the proposed solution. In the alternative, the report shall describe the remaining issues in dispute, the efforts to resolve them, and any additional information that may be suitable to assist in resolving the outstanding issues in a timely manner.

Upon receipt of a report under the section above, the Voting Members shall, within thirty (30) days (or as otherwise agreed to) approve or disapprove the proposed resolution. Approval will require Consensus of the PRFF. In the event that it approves the proposal, the Voting Members will implement the resolution as accepted. In the event that the resolution requires the regulatory approval of FERC, Ecology or another regulatory entity, Grant PUD, with the support of the Voting Members, shall seek prompt resolution by FERC and/or Ecology, or the relevant regulatory authority and shall proceed with its implementation upon receipt of the required approval.

If a subcommittee is unable to resolve a dispute referred to it, PRFF Voting Members shall have (30) days to seek agreement on the disputed matter. The Voting Members may elect to extend or shorten the time period for resolving the matter as it may judge appropriate prior to the referral of an issue to the Policy Representatives of the Voting Members, as described below.

In the event that the Voting Members fail to agree to a resolution of a disputed issue, the facilitator shall within five (5) business days notify the Policy Representative of each Member and Ecology of the existence of the continuing dispute and to request that they convene to resolve the dispute. The Policy Representatives shall have sixty (60) days from the receipt of such notice to resolve the dispute. This period may be extended by the Policy Representatives at their discretion.

If, by the end of the sixty (60) day period (or the period otherwise agreed to), the Policy Representatives have not resolved the dispute, any Voting Member may petition FERC, Ecology or other appropriate regulatory authorities with responsibility over the matter to resolve the issue as may be appropriate under existing law.

- VII. **Immediate or Urgent Near Term Action:** If, at any time, a member of the PRFF determines that immediate or urgent new term action is needed by Grant PUD for protection of an aquatic resource affected by the Project, they may contact Ecology in writing or by e-mail. The Member may contact Ecology or any other member of the PRFF, as well. Once notified by Ecology,

Grant PUD shall contact the other Voting Members of the PRFF and facilitator within 48 hours to notify them of the request and ask for comment and/or recommendations. Grant PUD shall provide such information to Ecology immediately upon receiving any comments of recommendations. Grant PUD shall also provide information about any potential conflicts of any proposed actions with other state, federal or tribal laws or license obligations. If, based on the information available, Ecology determines that immediate action is needed to protect the resource, and such action does not conflict with another law or license obligation, Grant PUD shall immediately perform such action.

- VIII. **Meeting Facilitation:** Grant PUD shall provide sufficient facilitation, administrative, and clerical support to the PRFF as is reasonably needed. The facilitator shall be chosen by consensus of the PRFF.

The facilitator will act as a neutral third-party for the PRFF. All Voting Members of the PRFF will be treated as equals by the facilitator in the performance of his/her duties. At each PRFF meeting, the facilitator will be responsible for moving through the agenda on time, and ensuring that the Voting Members adhere to the mutually agreed upon mechanics of the consensus process. The facilitator will help prioritize discussions and comments with and between Voting Members. Stakeholder input at the meetings will be actively sought but not at the expense of reducing input from the Voting Members. Voting Members, at their discretion, may ask that communications with the facilitator on any topic be privileged and therefore not shared with other Voting Members or Stakeholders.

Facilitation duties shall include preparation of meeting notices, meeting agendas, meeting minutes, and assisting the PRFF in areas as required for advancing the decision-making process. The facilitator shall be the official contact person of the PRFF Voting Members to the stakeholders. The facilitator shall provide draft notes of each meeting for comment to PRFF Voting Members, and incorporate comments provided by reviewers into the final meeting notes as described in the 401 Certification.

- IX. **Regular PRFF Meetings:** Meetings of the PRFF will be held on the first Wednesday of each month or shall be held whenever consultation is required or requested by any member of the PRFF. Except for issues needing immediate attention or action by the PRFF, Voting Members will be given at least 30 days notice of scheduled meetings. These meetings may be held in person, by phone or web-conferencing. Unless otherwise agreed to by the PRFF, agendas will be provided to all interested Voting Members at least 10 days prior to scheduled meetings. Members and stakeholders may ask that additional items be added to the agenda, or that an item be deferred, consistent with the timelines identified in the protocols.

Short breaks for the purpose of a caucus can be requested at any time by any Voting Member or the facilitator. (Voting Members may caucus at any other time outside the regularly scheduled meetings.) Because the PRFF is a technical rather than a policy team, caucuses are expected to occur infrequently.

A distribution list, compiled by Grant PUD, will be maintained to identify other interested stakeholders. The distribution list will include the address, phone number, fax number and e-mail address for each interested stakeholder. The distribution list will be used to notify interested stakeholders about any meetings that will be held, as well as notice of the availability of information for review.

Meeting Preparation: Voting Members and interested stakeholders will read background materials and be prepared for all meetings. Sufficient lead time will be allowed for planning meetings (at least 30 days advance notice). Meeting locations will be in Grant County, Grant PUD's satellite office at SeaTac or other locations selected by consensus of the Voting Members in advance. Once a meeting place, time or location is established, it can only be altered by consensus of the Voting Members. Written materials that also need to be reviewed prior to the meetings will be provided to Voting Members and other interested stakeholders at least 10 days prior to scheduled meetings, or action on such items may be delayed until the next scheduled meeting upon request by a PRFF Voting Member. A Voting Member can only ask for an issue to be delayed once; a further delay requires a consensus vote of the PRFF.

- X. **Meeting Minutes:** Within 10 days following each meeting, the facilitator shall distribute draft meeting notes to PRFF Voting Members and other stakeholders identifying attendees (present either in person or by phone) and summarizing discussions, listing any decisions made at that meeting, and listing any new action items. Attendees may provide corrections to the facilitator, who may either amend the document or attach the proposed corrections, and then distribute the final document with any attachments to Ecology, PRFF Voting Members and interested stakeholders within 30 days following the meeting date (401 Certification 6f). Meeting minutes will not go through a formal final approval process by the PRFF.
- XI. **Written Communications :** All written or electronic communications which any Member or interested stakeholder intends to become part of the administrative record should be sent to Tom Dresser, Manager of Fish, Wildlife, and Water Quality, Grant PUD, PO Box 878, Ephrata, Washington 98823 (tdresse@gcpud.org). If possible, all correspondence should be sent in electronic format so that it can be posted on Grant PUD's Web or FTP site. Grant County staff will inform the PRFF and facilitator via e-mail when documents have been posted.
- XII. **Teleconference Communications:** Periodic teleconference calls provided by Grant PUD between Voting Members or Voting Members and interested stakeholders may occur on an "as-needed basis." The facilitator, or other designated party, will be responsible for recording and distributing teleconference minutes to call participants within 10 business days of the call. Comments on the call minutes by call attendees must be submitted within 10 business days upon receipt of the draft minutes. Any comments received, together with final versions of such minutes, will be approved (by conference

attendees) and finalized within 30 business days of the call and included in the Grant PUD's website.

Phone calls or meetings for the purpose of a caucus among various Voting Members or Stakeholders may be summarized for the official record by participants in the call. Within 10 business days of the call, teleconference minutes will be distributed to all participants on the call for review and comment. A final approved version of the minutes will be sent by call participants to Grant County for posting on their web site.

- XIII. Document Preparation and Review:** For all documents that Grant PUD is required to prepare for the PRFF and for proposals for modifications or additions to Biological Objectives, Grant PUD shall prepare a draft of the report or proposal and submit it to all PRFF Voting Members and interested parties for review and comment. Grant PUD shall prepare the documents sufficiently in advance to allow adequate time for review in order to meet the timelines of the 401 Certification or FERC license. Any documents developed in association with the documents identified above shall also be provided in a timely manner. In scheduling for member review of the draft final Biological Objectives Status Reports, the review period shall be up to 60 days, with an option for a 5-day extension (determined by the PRFF), with the final report due 120 days after the draft was released.

Voting Members of the PRFF (including Grant PUD) are expected to use the most current and best available scientific information and analysis as the standard of care for preparing and reviewing documents and implementing this Certification. The documents, or presentations of these documents, will include a rationale outlining how best available science/information was incorporated therein. In the event that Voting Members advocate two or more alternatives to a study methodology or measure, the Voting Members are expected to evaluate and select the action based on the following criteria: 1) likelihood of biological success; 2) time required to implement; and 3) cost effectiveness of solution, but only where the parties agree that two or more alternatives are comparable in their biological effectiveness.

After completion of discussions on a document required under this Certification, Grant PUD shall submit the final document to Ecology. If consensus was not reached, the document shall include all comments and alternative recommendations from PRFF Voting Members. Grant PUD shall provide additional existing documentation to Ecology, upon request.

Grant PUD shall provide PRFF Voting Members copies of all submissions made to Ecology.

- XIV. Duration and Termination:** The Meeting Protocols shall remain in effect for the duration of the existence of the PRFF, except as amended periodically as determined by the PRFF.

Attachment A: Subcommittee Specific Criteria

Role: A Subcommittee may be established through consensus of the PRFF Voting Membership to address issues sent to dispute resolution. The Subcommittee will be responsible for developing a resolution to the issue in dispute and present their findings and recommendations to the PRFF for approval.

Membership: The Subcommittee will consist of a subset of the PRFF members or their designated representatives. The exact number of Subcommittee members will be determined for each issue by consensus vote of the PRFF. Stakeholders may also participate in a Subcommittee.

Issue Identification: For each Subcommittee formed, the PRFF will provide the Subcommittee with a clear description of the issue in dispute and supporting rationale. This information will come from the PRFF member that has raised the issue and submitted it for dispute resolution. This member will supply in writing to the facilitator, (who in turn will submit it to the Subcommittee) a document that has the following information:

1. a description of the issue, a proposed solution, data and scientific rationale supporting the solution (if applicable), and
2. the identification of the benefits compared to the original proposal that resulted in the dispute.

If the issue involves a study methodology or measure, information will be presented by the objecting PRFF member on the likelihood of biological success of the proposed solution; 2) time required to implement; and 3) its cost effectiveness (401 Certification 6.2 subsection 6e).

The PRFF will identify a series of questions the Subcommittee will need to address to resolve the issue. The PRFF will define “biological success” for each issue. The answers to these questions will form the Subcommittee’s report back to the PRFF.

The PRFF will also identify the time period for when the Subcommittee report will be submitted to the PRFF.

Issue Resolution: The Subcommittee will have thirty days, or another time period defined by the PRFF, to answer the questions submitted by the PRFF. At the end of the thirty day period, the Subcommittee shall provide a report to the facilitator of the PRFF describing the outcome of its efforts. The facilitator shall promptly distribute the report to the voting members of the PRFF, stakeholders and Ecology. The report shall provide answers to all PRFF questions. Where applicable, the report shall describe the proposed solution, the data and scientific rationale for the proposed solution, its benefits over alternative solutions, and such additional information as may be necessary to support the proposed solution. In the alternative, the report shall describe the remaining issues in dispute, the efforts to resolve them, and any additional information that may be suitable to assist in resolving the outstanding issues in a timely manner by the PRFF.

As the Subcommittee is not a decision making body, consensus as to the proposed solution will not be required to submit the report to the PRFF. Disagreements between Subcommittee members regarding findings will simply be documented in the report.

DRAFT