

MEMORANDUM

October 2, 2006

TO: Jann Eckman, Columbia Basin Fish & Wildlife Authority
FROM: Jamie M. Morin
RE: Legal Review of Charter Revisions dated August 29, 2006

You asked us to review the recent revisions to the Columbia Basin Fish and Wildlife Authority Charter. Attached to this memorandum is a strikeout version of the revised Charter with clerical corrections. These clerical corrections do not change the operative provisions of the revised Charter. The purpose of this memorandum is to provide comments and recommendations on other provisions of the revised Charter that the Members may want to consider before adoption.

(1) Section 404(E) – Dispute Resolution

Section 404(E)(2) provides for a conference call or special meeting of the Members for expedited resolution of issues as determined by the Chair of the Authority. This expedited review would occur when a response from the membership is required before the next regularly scheduled Members meeting. The revised Charter does not provide a process for calling such a special meeting.

Recommendation: Include a provision in the Charter for calling a special meeting of the Members.

New Section 404(B)(6): “The Chair of the Authority may call for a special Members meeting to address issues requiring expedited resolution in advance of the next regularly scheduled Members meeting. Such as special meeting may be by telephone conference call. Notice of such a special meeting shall be provided to members no later than 10 business days prior to the meeting.”

Or, in the alternative, the Members can adopt a rule regarding procedures for initiating, scheduling and providing notice to the Members about setting up a conference call or calling a special meeting of the Members.

(2) Section 406 – Withdrawal by Members

Section 406 provides that Member withdrawal comes effective 30 days from the date of the notification letter. The revisions to this Section clarify the process for Members to withdraw from membership; however, basing the provision on the date of the notification letter could create an ambiguity that would be avoided by a different means of determining the effective date. For instance, a problem would arise if the letter arrived undated or if the letter arrived more than 30 days after its date.

Recommendation: Revise the effective date of the withdrawal to a ministerial deadline.

Base the effective date of withdrawal “30 days from the date of receipt of the notification letter by the Executive Director” or “30 days from the date of mailing of the notification letter as indicated by the postmark.”

(3) Section 501 – Members Advisory Group

The current Charter revisions do not describe procedural provisions for the Members Advisory Group in the same way those provisions are described for the Members meetings and for the Technical Advisory Committee. Because of this, it is not clear whether Members Advisory Group meetings are open to the public, what the role of Authority staff is in facilitating the meetings, the process for developing and distributing agendas, etc.

Recommendation: Include procedural provisions in the Members Advisory Group Section.

The following are suggested revisions to include procedural provisions in the Section 501 that are consistent with those found in the Members meeting sections and the Technical Advisory Committee sections.

“SECTION 501 – MEMBERS ADVISORY GROUP

(A) There is hereby established a Members Advisory Group to assist the Executive Director in carrying out the regular business of the Authority.

(B) **Membership.** -- Members of the Members Advisory Group shall consist of senior managers active in Columbia Basin management, each appointed by an Authority Member if such Member chooses to have representation, and the chairs of the Anadromous Fish Advisory Committee, Resident Fish Advisory Committee and Wildlife Advisory Committee established under Section 502.

(C) **Guidelines.** -- The Members Advisory Group will operate under the following guidelines:

- (1) Assist the Executive Director in carrying out the policies and goals of the Authority;
- (2) Be issue oriented and consider both proactive and reactive issues;
- (3) Only consider and recommend policy positions to the Members;
- (4) Recommend decisions to the Members when policy guidelines are unclear;
- (5) Assist the Members in their committee oversight responsibilities;
- (6) Recommend agenda issues and develop consent calendars for the Members actions;
- (7) Consider issues brought up by any one of the Members Advisory Group members;
- (8) Schedule meetings for the third Tuesday of each month but will hold meetings only as needed;
- (9) Use telecommunication systems as necessary to allow for participation;
- (10) Document meeting action only through the letters and recommendations agreed to by consensus; and
- (11) Differences unresolved by the Members Advisory Group will be referred to the Members as provided in Section 404(E)(2). ~~forwarded through the Executive Director to Members for resolution.~~

(D) Committee Procedures. --

(1) The chair of the Members Advisory Group shall be selected by the members of the committee.

(2E) The Members Advisory Group shall operate by consensus. A quorum of designated representatives is desirable but not essential to conducting committee business. [What is a quorum for the Members Advisory Group?]

(3F) Proxy participation is permitted at Members Advisory Group meetings.

(4) Regularly scheduled meetings of Members Advisory Committee shall be open to the public. The public shall be provided an opportunity for limited comment. Closed meetings (executive sessions) may be called

as necessary to discuss sensitive issues with final action to take place in open session.

(5) Authority staff shall facilitate Members Advisory Group meetings but not be a part of the decision process. Authority staff will be responsible for the distribution of agendas, reports, etc., as well as meeting arrangements.

(6) The chair or vice chair with the assistance of staff shall prepare a written agenda prior to each meeting with copies sent to each designee, the Executive Director and interested parties no later than one week prior to each meeting.

(7) The chair or vice chair with the assistance of staff shall distribute the action notes agreed to at each meeting to each designee, the Executive Director and interested parties no later than one week after the meeting."

Thank you for the opportunity to review the Charter revisions. Please do not hesitate to call if we can be of any further assistance.