

DRAFT
CHARTER
OF THE
COLUMBIA BASIN FISH AND WILDLIFE AUTHORITY
August 26, 2005

PART I – PREAMBLE

Nineteen federal and state agencies and Indian tribes manage Columbia Basin fish and wildlife resources. Most of the agencies and tribes have management authority over a discrete geographic area of the Columbia Basin that is defined by political boundaries. Management activities are disjointed because no single agency or tribe has authority over habitat necessary for all phases of the life history of a species or over all species within a particular ecosystem. The fish and wildlife managers, however, are united in their desire to establish and maintain a mechanism to coordinate their management activities.

The Columbia Basin Fish and Wildlife Authority (Authority) was established in 1987 as an informal collaborative for the region's fish and wildlife managers. The managers established the Authority to coordinate the efforts of its Members to protect and enhance fish and wildlife resources of the Columbia River Basin through joint planning and action. The Authority provides a forum to facilitate the exchange of information among Members on matters affecting anadromous fish, resident fish, and wildlife resources and their habitat in the Columbia River Basin for informed, coordinated decisions and joint actions by the Members and more effective review of other uses of the Basin in relation to fish and wildlife. The Authority is a consensus-based organization. The Members pledge to cooperate in good faith to participate in the consensus process.

PART II – PURPOSE

Through this Charter, the Authority is established as an association of state and federal fish and wildlife agencies and Indian tribes (Members). The purposes of the Authority are –

- (1) to assure comprehensive and effective planning and implementation of fish and wildlife programs in the Columbia River

Basin, ongoing or proposed, consistent with requirements of applicable law; and

(2) to facilitate discussion among fish and wildlife managers in an effort to find consensus, to improve the quality of fish and wildlife decision-making, and to influence other regional decision-makers.

PART III – OBJECTIVES

Section 301. – Fish and Wildlife Management Coordination

The Authority shall –

(1) Coordinate interagency activities of the Columbia River Basin between the federal and state fish and wildlife management agencies and Indian tribes or their tribal coordinating entity(s);

(2) Establish the necessary committees and panels;

(3) Establish a Directorate and staff;

(4) Support the development and implementation of cost-effective fish and wildlife programs;

(5) Prioritize management needs;

(6) Where relevant and appropriate coordinate subbasin plans and assist in evaluating their implementation;

(7) Provide policy direction for and administration of the Fish Passage Center;

(8) Develop and coordinate mitigation of fish and wildlife losses of the Columbia Basin due to hydroelectric development;

(9) Coordinate the development of cost-effective research, monitoring and evaluation projects to focus on priority issues and avoid redundancy;

(10) Encourage effective communication with and involvement of stakeholders in natural resource decision processes in the Columbia Basin; and

(11) Analyze and facilitate consensus responses where appropriate to proposed state and federal legislation related to fish and wildlife habitat issues.

Section 302. – Columbia Basin Fish and Wildlife Program Coordination

The Authority shall –

(1) Provide a centralized, regional entity for coordinating the Member's role in the design and implementation of the Northwest Power Planning Council's Fish and Wildlife Program.

(2) Provide policy and technical analysis related to the development of measures concerning fish and wildlife and hydropower relationships;

(3) Through the Fish Passage Advisory Committee, provide technical recommendations for operations of the Federal Columbia River Power System that protect and enhance fish and wildlife.

(4) Coordinate development of fish and wildlife habitat restoration measures (natural production); and

(5) Coordinate development and operation of artificial production of anadromous and resident fish measures in the Columbia Basin.

Section 303. – Coordination of Land and Water Management Cooperation

The Authority shall –

(1) Coordinate activities between the Authority and all the water and land planning and management authorities of the Columbia River Basin.

(2) Facilitate the development of fish and wildlife habitat restoration measures;

(3) Ensure coordination of all relevant entities in the fish production planning process;

(4) Coordinate activities to improve production, survival, and harvest in the Columbia Basin considering, when relevant and appropriate, any Comprehensive Management Plan (U.S. v. Oregon); and

(5) Ensure communications between all relevant entities.

PART IV – PARTICIPATION

Section 401. – Authority of Members Preserved

(a) Membership in the Authority is based upon the authorities contained in the treaties, statutes, executive orders, and other legal responsibilities of the respective parties to oversee protection, mitigation, and enhancement of resident fish, wildlife, and anadromous fish.

(b) Neither this Charter nor the operation of the Authority will alter the individual responsibilities and authorities of the parties.

Section 402. – Membership

(a) Member Organizations. -- In order to recognize the needs and authorities of the variety of entities involved in fish and wildlife issues in the Columbia Basin, Authority Membership shall include the following entities upon official execution of this Charter:

Burns-Paiute Tribe

Coeur d'Alene Tribe

Confederated Salish and Kootenai Tribes of the Flathead Reservation

Confederated Tribes of the Colville Reservation

Confederated Tribes of the Umatilla Indian Reservation
Confederated Tribes of the Warm Springs Reservation of Oregon
Idaho Department of Fish and Game
Kalispel Tribe of Indians
Kootenai Tribe of Idaho
Montana Department of Fish, Wildlife and Parks
National Marine Fisheries Service
Nez Perce Tribe of Idaho
Oregon Department of Fish and Wildlife
Shoshone-Bannock Tribes
Shoshone-Paiute Tribes
Spokane Tribe of the Spokane Reservation, Washington
U.S. Fish and Wildlife Service
Washington Department of Fish and Wildlife
Confederated Tribes and Bands of the Yakama Nation

(b) Tribal Organizations. – For purposes of sections 404(b) and (d) and 501(b)(2), –

(1) “Columbia River Intertribal Fish Commission” includes the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon the Nez Perce Tribe, and the Confederated Tribes and Bands of the Yakama Nation; and

(2) “Upper Columbia River United Tribes” includes the Coeur d’Alene Tribe, the Kalispel Tribe of Indians, the Kootenai Tribe of Idaho, the Confederated Tribes of the Colville Reservation, and the Spokane Tribe of the Spokane Reservation, Washington.

(c) Members Representation. – Only state agency directors, federal agency regional directors and chairmen of tribal governing bodies, or duly authorized representatives of such directors or chairmen, may serve on the Authority.

Section 403. – Officers

(a) Selection. -- The officers of the Authority shall be a Chairperson and Vice Chairperson. By October 1 of each year, officers shall be selected from a list of Members. Representation shall alternate every other year between state/federal agencies, and Member tribes or designated tribal coordinating bodies.

(b) Duties. – (1) The Chairperson shall –

(A) preside at all meetings of the Authority;

(B) assure that all instructions and statements of the Authority are properly executed;

(C) supervise the Executive Director;

(D) sign those contracts or written statements requiring official signature as determined by the Authority; and

(E) assure distribution of meeting agendas and minutes.

(2) The Vice Chairperson shall be vested with all the powers and perform all the duties of the Chairperson in the absence or disability of the latter. The Vice Chairperson is Chairperson-designate and takes the chair when it is vacant.

Section 404. -- Rules of Procedure

(a) Procedural Guidelines. –

(1) The Members shall provide overall policy directions, through consensus actions, to the Executive Director, the Members ~~Management~~ **Advisory** Group and committees.

(2) The Members shall establish operating guidelines for each committee.

(3) Members shall retain the right to review and approve yearly committee activities.

(4) Members shall retain, assign, or recall issues to the appropriate committee as needed.

(b) Members Meetings. --

(1) The full Authority shall meet no less than ~~once~~ **twice** annually or as necessary to conduct Authority business.

(2) A Members Meeting quorum shall consist of –

(A) one Federal Agency Authority Member;

(B) two State Agency Authority Members, one member each from Idaho or Montana, and from Oregon or Washington; and

(C) three Tribal Authority Members, one each who is a member of the Columbia River Intertribal Fish Commission and the Upper Columbia River United Tribes, and one who is a representative of either the Burns-Paiute, the Salish-Kootenai, the Shoshone-Bannock, or the Shoshone-Paiute Tribes.

(3) All Members meetings shall include time for public comment.

(4) Closed meetings (executive sessions) may be called as necessary to discuss sensitive issues with final action to take place in open session.

(5) Proxy participation is permitted at Members meetings, except for purposes of establishing a quorum under this section. Proxies must be in writing.

(c) Rules of Order. –

The Members shall adopt rules of order to govern business at all meetings and to guide the actions of the Authority.

(d) Consensus Decision Making. –

(1)(A) The Executive Director shall circulate a draft consent agenda and a regular business agenda for each Members meeting no later than 10 business days prior to the meeting. The Executive Director shall place any item on the consent agenda when directed to do so by the Chair or at the request of any Member. ~~The Executive Director also may seek a decision of the Members by consent mail delivered no later than 5 business days prior to the date a decision is requested.~~

(B) Any member must object in writing to an item on a properly circulated consent agenda ~~or which was the subject of a consent mail request.~~ A written objection to consensus on a consent agenda item ~~or consent mail request~~ must contain the reasons for the objection. An objection need not be in writing if the consent agenda is circulated less than 10 business days prior to a meeting, ~~or if a consent mail request is delivered less than 5 business days prior to the date on which a decision is requested.~~ An objection received by the Executive Director regarding an item for which consent approval is requested shall be considered an objection to consensus on that item, and the item shall be removed from the consent agenda ~~or withdrawn from consent mail.~~

(C) At the request of any Member, the Executive Director may place an item for which consensus was not achieved on the regular business agenda for a subsequent Members or Members **Management Advisory** Group meeting.

(D) A Member must be physically present or represented at a Members or Members **Management Advisory** Group meeting to object to consensus on a business agenda item if the item previously was removed from the consent agenda ~~or a consent mail request~~ but was placed on the regular business agenda for a subsequent Members or Members **Management Advisory** Group meeting.

(2) Following coordination on all issues, consensus positions will be sought pursuant to subsection (d)(1) before Members actions are communicated under Authority letterhead. When consensus is not attained on an issue requiring external communication, and on a motion approved by a majority of the participating Members, Authority letterhead will be used to advise whomever it may concern that consensus was attempted and to set forth the differing positions of the Members, provided that the motion is supported by –

(i) one Federal Agency Authority Member;

(ii) two State Agency Authority Members, one member each from Idaho or Montana, and from Oregon or Washington; and

(iii) three Tribal Authority Members, one each who is a member of the Columbia River Intertribal Fish Commission and the Upper Columbia River United Tribes, and one who is a representative of either the Burns-Paiute, the Salish-Kootenai, the Shoshone-Bannock, or the Shoshone-Paiute Tribes.

(3) Any Member may abstain or be absent from the consensus process without it becoming a dissenting opinion.

(4) A Member who chooses not to participate in the consensus process, either by objecting to a consensus decision in writing under subsection (d)(1)(B), or in person under subsection (d)(1)(D), shall be deemed to have abstained from the decisionmaking process.

(e) Dispute Resolution. –

(1) If consensus cannot be achieved within a Committee established under Section 502 on an issue before the Committee, the Committee chair or vice-chair shall submit majority and dissenting positions to the Members Management **Advisory** Group established under Section 501 for resolution by that group. Any remaining unresolved differences shall be raised by the Members Management **Advisory** Group to the Authority Members for resolution.

(2) The form of referral by the Members Management **Advisory** Group to the Members shall be determined by the need for timely resolution of the issue. Issues requiring expedited resolution shall be referred via conference call, ~~consent mail~~, or special meeting as determined by the Chair of the Authority. Other issues shall be placed on the agenda for consideration at the next regularly scheduled Members meeting.

(f) Funding. –

(1) Bonneville Power Administration funding will be used to carry out all Authority activities described in Section 302. Annual membership fees of \$750 shall be paid by each Member. Such funds will be used only on activities described in Section 301 and Section 303.

(2) The Authority staff shall prepare for review and approval by the Members an annual work plan and budget that identifies sources and amounts of funds.

(3) The Columbia Basin Fish and Wildlife Foundation (CBFWF), established by the Members in October 1993 as a non-profit corporation under Oregon Law and a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code, will serve the contractual and fiscal functions of the Authority. The Executive Director of the Authority also shall serve as the President and Chairperson of the Board of Directors of the CBFWF.

Section 405. – Charter Amendments

This Charter may be amended by consensus of the Members.

Section 406. – Duration

Any Member may withdraw from the Authority by 90-day written notification to all of the Members.

PART V – ADMINISTRATION

Section 501. – Members Management *Advisory* Group

(a) There is hereby established a Members Management *Advisory* Group ***to assist the Executive Director in carrying out the regular business of the Authority.*** All functions previously served by the Members Steering Group under Administrative Decision 87-3 and the Liaison Group under Administrative Decision 87-5 are transferred to the Members Management Group, established under this Section, except that all references in Administrative Decision 87-5 to the “Members Steering Group” shall be considered references to “the Authority Members”. Except as provided in subsection (b), the structure of the Members Management Group shall be the same as the structure of the Liaison Group under Administrative Decision 87-5.

(b) Members of the Members Management *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) 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 MAG 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.

(11) differences unresolved by the MAG will be forwarded through the Executive Director to Members for resolution;

~~(2) A quorum shall consist of representatives of—~~

~~(A) one Federal Agency Authority Member;~~

~~(B) two State Agency Authority Members, one member each from Idaho or Montana, and from Oregon or Washington; and~~

~~(C) three Tribal Authority Members, one each who is a member of the Columbia River Intertribal Fish Commission and the Upper Columbia River United Tribes, and one who is a representative of either the Burns-Paiute, the Salish-Kootenai, the Shoshone-Bannock, or the Shoshone-Paiute Tribes.~~

~~(3d) The Authority Chair, or a designated representative, shall serve as Chair of t~~**The *chair of the* Members Management *Advisory* Group *shall be selected by the members of the committee.* The Executive Director of the Authority shall facilitate meetings of the Members Management Group.**

(e) The MAG shall operate by consensus. A quorum of designated representatives is desirable but not essential to conducting committee business.

(4f) Proxy participation is permitted at Members Management Group meetings, except for purposes of establishing a quorum under this section. Proxies must be in writing.

Section 502. – Technical Advisory Committees

(a) Composition. – The Members are hereby authorized to establish technical ***advisory*** committees by Administrative Rule.

(b) Committee Functions. –

(1) Policy assignments from the Members to *the Members Advisory Group shall be by consensus of the Members.* Assignments to any *technical advisory* Committee shall be by consensus action of the Members or Members Management *Advisory* Group, and submitted through the corresponding chair.

(2) The Members and Members Management **Advisory** Group can make technical requests of the committees. Any recommendations or range of options developed by the committee must be sent back to the body making the request for deliberation.

(3) Committee analyses and recommendations shall –

(A) account for where the assignment has come from;

(AB) account for all applicable information and prior research;

(BC) address practicable alternatives; and

(CD) account for risk and uncertainty.

(4) When evaluating projects, committees will first develop specific evaluation criteria through consensus agreement that reflect established policies and priorities of the Members.

(c) Committee Procedures. –

(1) Each committee will operate **on a standardized charter** ~~based on a Charter approved by the Members. A The Committee Charter may contain special conditions other than those specified in this section.~~ **describes how the committee operates, how the committees relate to each other, and ensures that the committee's purpose is consistent with and supports the mission of the Authority.**

(2) Committees shall be composed of qualified representatives designated by each interested Member. A quorum of designated representatives is desirable but not essential to conducting committee business. Each committee recommendation will include a list of designated representatives who participated. Committees shall operate by consensus. A designated representative may abstain or, subject to timely notice regarding consideration of the issue, be absent from the consensus process without the position of that representative becoming an assenting or dissenting opinion.

(3) Regularly scheduled meetings of committees shall be open to the public. The public shall be provided an opportunity for limited comment. Agendas will be distributed one week prior to the meetings to designated representatives, to each Authority Member and to other interested parties who have made a request to attend a specified committee proceeding. Closed meetings (executive sessions) may be called as necessary to discuss sensitive issues with final action to take place in open session.

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

(5) 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

Members ~~Management~~ **Advisory** Group, the Executive Director and interested parties no later than one week prior to each meeting.

(6) The chair or vice chair with the assistance of staff shall distribute the action notes agreed to at each meeting to each designee, Members ~~Management~~ **Advisory** Group, each ~~executive~~ **committee**, Executive Director and interested parties no later than one week after the meeting.

(7) Committees shall meet at the request of the chair or vice chair or at the request of a majority of the committee members.

(8) The chair or vice chair or a person designated by the chair or vice chair shall attend all Members ~~Management~~ **Advisory** Group and Authority Members meetings ~~as necessary~~.

(9) All costs involved in committee participation are the responsibility of each member unless otherwise provided for.

(10) Proxy participation is permitted at committee meetings, except for purposes of establishing a quorum under this section. Proxies must be in writing.

(d) Communications. –

(1) The Members shall release upon request any data or information provided to them by a committee or Authority staff person that is cited by a Member agency or tribe as the basis for an operational action or otherwise cited as support for a public recommendation.

(2) The committees shall not communicate statements of Authority policy positions or results of policy or technical analyses to nonmember entities unless previously approved by the Members or the Members ~~Management~~ **Advisory** Group. Determination of position statements shall not be delegated by the Members to any committee.

Section 503. – Administrative Decisions

The Members shall, as necessary, make Administrative Decisions, as addenda to the Charter to be identified by serial numbers in the year the action is taken (e.g. 87-1).

Section 504. – Executive Director

(a) Selection. –

The Executive Director will be selected by a consensus of the Authority Members or removed by agreement of a majority providing that a majority of the tribes and a majority of the agencies are included in that majority.

(b) General Duties. --

(1) The Executive Director and Authority staff shall be guided in their actions by the Members and shall receive direct supervision as determined by the Members.

(2) The Executive Director shall –

(A) serve as Chief Administrative Officer of the Authority;

(B) facilitate discussion among Authority Members in an effort to find consensus;

(C) ensure the timely completion of the draft annual implementation work plan;

(D) prepare CBFWA annual operating budgets for Member review and approval;

(E) procure services, supplies and equipment when required to effect the work of the Authority; and

(F) perform such other duties as are set forth in this Charter or directed by the Chairperson.

(3) The Executive Director shall deliver a draft of each meeting agenda to the Members not less than ten working days prior to the meeting.

(4) The Executive Director shall record and distribute meeting minutes to all Members not more than ten working days following the meeting.

(5) The Executive Director of the Authority shall facilitate meetings of ~~the Members Management Group.~~ ***all committees either personally or by staff appointment.***

(c) External Communications. –

(1) The Executive Director may, at the direction of the Authority chairperson and with no objection by any Member, --

(A) represent the Authority at meetings and public hearings to carry out policy directions from the Members; and

(B) maintain liaison between the agencies and tribes and the natural resource interest groups to provide information necessary for the support of effective resource management.

(d) Supervision of Staff. –

(1) The Executive Director shall prescribe the duties and direct the Authority staff. The Executive Director shall assure that Authority staff represent all Members equally and perform duties with competence and initiative but within limits prescribed by Authority's positions and charter.

(2) The Executive Director shall be responsible for maintaining high standards of ethical conduct among the staff.

(e) Fish Passage Center Participation. – The Executive Director shall provide oversight for the Fish Passage Center Manager and shall serve as an ex-officio member of the Fish Passage Center Board of Directors.

Section 505. – CBFWA Staff

(a) Selection. -- The Executive Director shall advertise vacant staff positions with notices to all the entities involved in the fish and wildlife activities of the Basin. A notice period of at least one month will be used. A representation of three Members Management **Advisory** Group members (federal, state, Tribal) shall, through a process of resume reviews and personal interviews, prepare a short list of at least three top candidates. The list will be reviewed by the full Members Management **Advisory** Group and forwarded with any comments to the Executive Director. The Executive Director is the selecting official and will be responsible for the final selection.

(b) Conditions of Employment. –

(1) All employees of the Authority shall recognize the staff function they perform for the Authority on behalf of its Members and that the authority for action remains with the Member entities.

(2) No employee of the Authority shall be deprived of employment, position, work, compensation, or benefit provided for or made possible through Authority employment on account of any political activity or lack of such activity in support of or in opposition to any candidate or any political party in any national, state, county, or municipal election or on account of his/her political affiliation.

(3) Working for employers other than the Authority, although not encouraged, is not prohibited so long as the Executive Director is informed and it does not, in the discretion of the Executive Director and the Members, create a conflict of interest or conflict with regular or special hours or work required of the employee by the Authority, or until the effects of such outside employment become apparent in reduced efficiency and work performance.

(4) Employees of the Authority shall perform their duties and dress in a professional manner appropriate for the business at hand.

(5) Additional conditions of employment will be stated in the adopted Personnel Handbook.

(c) Communications. --

(1) Employees of the Authority shall maintain open communication with all Members and committees and keep the Executive Director briefed on significant issues.

(2) Employees of the Authority are not to advocate any one position to the detriment of another Member's views if consensus is not achieved on policy positions or technical statements of Members.

(3) Employees of the Authority shall communicate written statements to nonmembers only as determined by the Members of the Authority.

(d) Standards of Conduct. –

No employee of the Authority shall –

(1) use his or her official authority or influence derived from his or her position with the Authority for the purpose of influencing or affecting the result of an election to or nomination for any national, state, county, or municipal elective office;

(2) pay, or offer, or promise, or solicit, or receive from any person, firm, or corporation, either as a political contribution or a personal emolument, any money, or anything of value in consideration of either support, or the use of influence, or the promise of support, or influence in obtaining for any person, any appointive office, place or employment under the Authority;

(3) have a direct or indirect financial interest that conflicts with the fair and impartial conduct of his or her Authority duties;

(4) use or allow the use of, for other than official purposes, information obtained through or in connection with his/her Authority employment which has not been made available to the general public;

(5) engage in criminal, infamous, dishonest, notoriously immoral, or disgraceful conduct prejudicial to the Authority; or

(6) use Authority or Member property on other than official business. Such property shall be protected and preserved from improper or deleterious operation or use.

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