

DRAFT

Chehalis River Basin Flood Interlocal Agreement Options

1/5/2011

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The Interlocal Agreement to be negotiated for approval by June, 2011 has five sections that are key. Below we have addressed these sections, which we have already discussed at FA meetings, and offer some options for your consideration that appear to best fit the situation. Each member jurisdiction of the FA will need to address these key sections of the Interlocal before we move ahead with its drafting.

Section 3.1 Formation

Background:

Current legislation to form an intergovernmental FCZD entity through interlocal is flexible regarding formation. No public vote is required to form each county's FCZD or to form the intergovernmental entity comprised of the FCZDs formed by each of the counties. A FCZD has essentially no power unless it levies taxes or imposes rates or assessments for revenue. A public vote is required to issue bonds. The Flood Authority has received public input that a public vote would be desirable. The Flood Authority may choose to hold a public vote at some point in the formation and/or financing of the Chehalis FCZD entity.

Options:

1. Hold a public vote in each jurisdiction as an advisory ballot on formation of a FCZD
2. Hold a public vote on the capital project plan as an advisory ballot of the Chehalis basinwide FCZD entity before proceeding
3. Hold a public vote as an advisory ballot on a property tax, or any revenue package
4. Hold a public vote on the issuance of bonds
5. Hold a public vote to elect the Board of Supervisors
6. No vote

Part of formation is creating a boundary for the entity. To date, the boundary has been presented as the Chehalis River Basin watershed within the three counties. Were this to be the case, the portion of the Chehalis watershed comprised of reservation lands of the Chehalis Tribe could not be inside the

boundary without the Tribe's consent. Another possible variation is the Black Lake area, where the surface water has been stated to drain north out of the Chehalis Basin, but the groundwater drains into the Chehalis Basin. Areas that drain only groundwater, but no surface water, into the Chehalis basin could be exempted. This would also apply to properties the recharge all their surface water runoff. Another variant would be for the boundary to include only properties within the flood plain. This would result in a very small area being within the boundary. Sub-boundaries are also possible. For example, a sub-boundary potentially for rate setting purposes could be established for the flood plain, or for a sub-basin capital project.

Options:

1. Boundary is the entire watershed of the Chehalis within the 3 counties (with the consent of the Chehalis Tribe)
2. Same as #1 but minus the Black Lake area that surface drains north
3. Boundary contains only those properties within the flood plain
4. Retain the potential to create future sub-basins for financing purposes (could be related to Section 7.5.b below)
5. Retain the potential to create future sub-basins for capital project purposes

Section 3.2 Membership

Background:

The existing FCZD statute establishes the Board of County Commissioners as the FCZD's initial Board of Supervisors. If desired, this arrangement can be replaced in the future by directly-elected Board members. The three BoCCs could establish a multi-county FCZD by Interlocal agreement. By interlocal, other members can be added in some cases. If the Board is to be elected, it must conform to the "one man one vote" rule. If the Board is appointed, it does not. There can be ex officio members and an advisory committee.

Options:

1. Board of the entity consists of the three BoCCs for Thurston, Lewis, and Grays Harbor Counties; the Chehalis Tribe joins voluntarily with full member rights, which is true in all following options.
2. As #1 above initially, but goes to a public vote in each county thereafter [may require special precincts be created].
3. Board is appointed by the BoCCs, which Board of Supervisors may include city representatives or citizens
4. Board is formed through interlocal by a member from each county, and the largest city in each county
5. Board is formed through interlocal to replicate the existing Flood Authority structure
6. An addition to each option is potential membership for the State of Washington, *e.g.*, full membership or *ex officio*

7. An addition to each option is a strong advisory committee

Section 4.3 Voting

Background:

Standard Robert's Rules voting is usually the norm. However, other variations can be used such as the voting structure in the current Interlocal Agreement based on consensus. In some cases supermajority, total consensus, virtual bicameral, or proportionate votes are options. Finally, reserving certain votes to the underlying jurisdictions (counties, cities, Chehalis Tribe, State of Washington) may be appropriate.

Options:

1. Standard Robert's Rules of Order
2. Existing Flood Authority Interlocal
3. Voting proportionate to financial contribution
4. Supermajority for financial votes
5. Reserve financial contribution votes for underlying jurisdiction

Section 7.5.b Local flood plain and drainage regulations

Background:

The Regulatory Group made 16 Baseline recommendations that were approved by the Flood Authority in January, 2010 and included in the Flood Plan. An additional 5 "Ideal" recommendations were recommended for consideration. The recommendations generally fall into the broad policy categories of (1) regulations that mitigate damage to structures in the flood plain, or (2) regulations that protect the function of the flood plain. A FCZD does not have land use regulatory authority, which resides with the municipal and tribal jurisdictions.

Options:

In forming a Flood District to finance flood projects, the question is which of these policy categories create or avoid costs for the District? If the purpose of the District is to protect structures within the flood plain from flooding, then policy 1 would create costs for the District. If the purpose of the District is to protect the flood plain function, then policy 2 would create different costs for the District. The more multiple the purposes of the District, the higher the District costs.

The Flood Authority already approved the 16 Baseline recommendations which presumably are the minimum regulations associated with flood plain management, which adoption within a reasonable time frame and implementation could be a condition of the Interlocal Agreement. The District may also choose to create financial contribution differentials associated with differing land use policies, i.e. giving financial incentives to jurisdictions with more protective regulations than the Baseline, such as implementation of the "Ideal" recommendations, or financial penalties for not adopting the Baseline within a given timeframe.

