

BEIPC MEETING MINUTES

Basin Environmental Improvement Project Commission
May 16, 2012, 9:30 a.m. - 2:25 p.m.
Coeur d'Alene Inn 506 W. Appleway
Coeur d'Alene, Idaho

Attendees:

Mr. Terry Harwood (Executive Director)

Commissioners Present:

Mr. Jack Buell (Vice-Chair)
Mr. Jon Cantamessa (Chair)
Mr. Phillip Cerner
Mr. Curt Fransen
Mr. Dan Green
Mr. Grant Pfeifer

Alternates Present:

Mr. Dan Olpalski
Mr. Rob Hanson

Staff Present:

Ms. Jeri DeLange
Mr. Dave George
Mr. Ed Moreen
Mr. Bruce Schuld
Ms. Rebecca Stevens

1) Call to Order/Welcome: The BEIPC Chair, Commissioner Jon Cantamessa (Shoshone County) called the meeting to order at 9:35 a.m., followed by the flag salute.

2) Approval of BEIPC Meeting Minutes from February 15, 2012: Commissioner Cantamessa asked if there were any changes or corrections to the minutes. Ms. Jeri DeLange (BEIPC) noted a correction in the last paragraph on page 5. It should read: *(i.e. this would include a State match for O & M)*. He indicated that if the money being invested grows and we manage it well, then we may not have to face these issues. Commissioner Grant Pfeifer (State of Washington) made a motion to approve the minutes as corrected. The motion was seconded by Commissioner Dan Green (Kootenai County) and unanimously approved.

3) Coeur d'Alene Lake Management Plan (LMP): Ms. Becki Witherow (IDEQ) and Ms. Laura Laumatia (CDA Tribe) gave a presentation on the LMP. This included information about nutrient sampling, streambank stabilization, nutrient reduction, water quality monitoring, milfoil location identification and treatment, bank erosion inventory, etc. Additional information about the LMP is posted on Facebook at: <http://www.facebook.com/CdA.LMP>.

4) BEIPC Executive Director Update: Mr. Terry Harwood provided updates on the roads program and remedy protection projects. They will be setting up a board for the paved roads program to work with each of the local road jurisdictions. A list of projects is being developed to remediate paved roads with contaminated material in the subgrade. They have the complete inventory of those roads and are working on coming up with the final allocation of funds for each of the road jurisdictions. The jurisdictions will need to apply for the funding similar to a grant process and it will be dependent upon the life of the existing road surface.

For the unpaved roads (i.e. dirt, gravel, alleys) in the Basin, outside the Box, they are in the process of sampling as some of the roads were built out of contaminated material. Remediation for unpaved roads will be done under the Basin Property Remediation Program. Local jurisdictions will help with the project approval process, but the State of Idaho with funding from the EPA will be performing the work. He is putting together a pilot project for unpaved roads this summer.

In the ROD Amendment, Mr. Harwood noted that EPA recognized the need for remedy protection projects for stormwater control and flooding from side drainages. They have developed a list of projects to protect the remedies in the communities and the investment in the remedy. The program will be starting this year and the work will go on for several years until completed.

He then recognized Mr. Curt Fransen as the new director of IDEQ and the State's new BEIPC Commissioner. Mr. Rob Hanson (IDEQ) will be the State's alternate; and the new Kellogg IDEQ office manager, Mr. Bruce Schuld, will represent the State on the BEIPC staff.

5) Upper Basin ROD Amendment Update: Mr. Bill Adams (EPA) introduced Ms. Beth Sheldrake and said that she is replacing Ms. Cami Grandinetti as EPA Unit Manager. He indicated that EPA Headquarters is reviewing the ROD Amendment and the declaration has been distributed to a number of key stakeholders. EPA will be working on completing responses to public comments. The pre-signature ROD Amendment will tentatively be released in late June followed by the final signature copy in July 2012. The cost estimate is now \$635 million.

EPA First Phase Priority Projects include:

- *Basin Property Remediation*
- *Basin Gravel Roads Pilot*
- *Box & Basin Remedy Protection*
- *Box and Basin Paved Roads Policy*
- *Continued CTP Operations and Plant Upgrades*
- *Repository Design/Construction (Box and Basin)*
- *OU2 Groundwater Collection*
- *Mine and Mill Design/Construction*
- *Progress in Lower Basin – Modeling/Pilot Projects*
- *Coordination on Cleanup/Restoration Actions*

Mr. Adams also provided updates on the cleanup work for 2012. The CDA Work Trust has an \$8.5 million budget this year that includes pre-design investigation work for the Upper Basin East Fork Ninemile sites such as the Interstate Callahan, Tamarack, and impacted East Fork Ninemile floodplain. In the Lower Basin, there is \$3 million planned for data collection and studies.

Commissioner Green inquired about the \$3 million allocated for Lower Basin data collection as it's a large amount and all they do is continue to gather data. Mr. Adams responded that it's primarily for data collection, but there is other design work. He added that the Lower Basin is a large geographic area that is very challenging for gathering the types of data needed for a conceptual understanding of the area.

Commissioner Cantamessa expressed appreciation to Mr. Adams on the progress of the ROD Amendment. He said that Shoshone County is pleased with the changes made and thanked him on behalf of the County.

6) Superfund Job Training Initiative (Super JTI) and Technical Assistance Services for Communities (TASC) Update: Mr. Adams presented a brief update and information on the status of these two programs that EPA is funding in the Basin.

Break

7) Discussion on Anticipated Projects and Costs in the Bunker Hill Superfund Site including Sources of Funding 2012-2022: Mr. Harwood explained the background for this discussion and indicated that there have been questions about the remaining cleanup work and the different sources of funding. In the Box, there still is some work that needs to be completed such as groundwater treatment from OU-2, and the ROD Amendment for the Upper Basin that includes work in OU-3. Funding sources include the settlement from the Asarco bankruptcy and the creation of the CDA Trust and also the Hecla settlement. He wants the public to understand that there is a lot of cleanup work of to do, but that there is little funding from taxpayer dollars appropriated for this work now because of the settlements. The funding is coming from either the Trust or the Hecla settlement at least for the time being.

Mr. Harwood indicated that there was a lot of interest created about where we are going with the cleanup work after Mr. Adams made presentations about various funding scenarios for how to manage the Trust funding to the TLG and BEIPC at earlier meetings this year. Questions were raised about how the money is going to be spent and what are all the sources of money. (The State of Idaho and State of Washington fund some of it as well as the federal government, the Tribe and Natural Resource Trustees Council). He explained that the reason for doing this is to try and figure out everything for this project and the whole Basin, but that the ultimate party responsible for the cleanup is the federal government. They have the authority to make the final decisions on priorities and where the monies are invested. He relayed that the federal government (EPA) made a commitment that they were going to work closely with the Basin Commission on everything and that commitment was made in the draft ROD Amendment. He expressed his appreciation to EPA.

To start the discussion, the BEIPC will begin with a draft list of questions that Mr. Harwood prepared and displayed on flip charts for the meeting. He plans to have a workshop on this at the August Basin Commission meeting. The information will be used to put together a work plan for the next 5-10 years based upon answering these questions and dealing with the issues. This will help him as he has to work with the TLG every fall to develop a one-year and five-year work plan that he presents to the BEIPC in November. He asked Mr. Adams to speak about the settlements since there has been some confusion about the details and the language for what the money may be spent on. Some people had concerns that the funding might be spent somewhere else, rather than in North Idaho.

Mr. Adams spoke about the two different settlements from the Asarco bankruptcy and Hecla Mining Company. The money from the Asarco settlement was put into a trust called the Coeur d'Alene (CDA) Work Trust. Mr. Dan Silver is the Trustee and he manages that money which is invested, so that the overall trust can grow over time. Based on EPA's direction, they direct the Trust to do a certain amount of work each year with a certain budget. That money is dedicated to the site and cannot be used anywhere else. The Trust dollars can be used everywhere in the Basin except for the "Box". Because of previous settlements with Asarco, the work in the Box was excluded from the settlement. Mr. Adams said that he has asked Mr. Silver to come to the workshop at the next Basin Commission meeting to talk about how the Trust works, how the money is invested, and investment strategies.

The other settlement is from Hecla and that money can be used anywhere within the Basin. However, that money is the only source of dollars for work in the Box. That's a critical issue, so they need to be careful in meeting the cleanup needs there. The Hecla money came to EPA and was placed in special accounts instead of a trust because there was not a way to set up a similar type of trust with those dollars at the time. The issue with a special account is that it does not earn very much interest and cannot be invested, so it does not keep up with inflation. Mr. Adams noted that they are actually losing money the longer they sit on it, so it needs to be put to work, particularly in the Box. The settlement language specifies that the money is to be used for work in the CDA Basin and cannot be used anywhere else. In addition, a portion of the Hecla settlement was provided for the Natural Resource Trustees. That money was also put in the special accounts, but with the same requirement that it be spent in the CDA Basin.

Mr. Adams conveyed that there is currently about \$460 million in the CDA Trust, but that amount depends upon the investment market. Although the market has not been too good the last few years, the Trust was up by \$26 million in earnings the last quarter. For the Hecla settlement funds, Mr. Adams thought the amount was about \$135 million for use by EPA, but he did not have the actual figures. Mr. Harwood indicated that there were other amounts set aside for management such as the Central Treatment Plant (CTP), so the Hecla settlement is much larger. However, the money EPA has available is about \$135 million as Mr. Adams said.

Commissioner Cantamessa called attention to the concerns of how to spend this money wisely and effectively that works for everybody. Mr. Harwood led the discussion in reviewing the list with the Basin Commissioners and public with BEIPC staff member, Mr. Dave George (WA Dept. of Ecology), taking notes on the flip charts during the discussion. Mr. Harwood will update the list with the changes that were agreed to for preparation of the cost spreadsheet. Then

the spreadsheet will be sent to all of the parties for their information for the August meeting. Once the spreadsheet is completed, it will be able to show the total cost including administrative costs no matter where all the funding comes from.

8) Repository Update: Mr. Don Carpenter (IDEQ) provided an update on repositories and a summary of the April 25th open house. Repository design activities have transitioned to the CDA Trust. Work is moving forward on the design for the Lower Burke Canyon repository and a public comment period will be held in 2013 when the 30% design is completed.

Lunch

9) Lower Basin Update: Mr. Ed Moreen made a presentation on the Lower Basin and provided information on data collection, river bank characterization sampling, modeling, and suspended sediment sampling. During the high water events, he said that the highest particulate loads for lead were coming out of Canyon Creek (12,000 ppm) and Ninemile (8,000 ppm), so the Upper Basin tributaries are still contributing a lot of particulate matter for the whole system. That's why it's important that we move forward with cleanup there.

He also spoke about the results from some of the core samples which indicate a 28.9 ppm lead background level before mining impacts that is seen consistently throughout the Basin. This level was found in bottom riverbank samples between Enaville and Harrison. Typically, it can go from 28 ppm to 60-100 ppm. Mr. Harwood mentioned that it's important to take note of this as some people say this is a highly mineralized area, but 28.9 ppm is the pre-mining lead level.

10) Update on NRDA Trustee Council Activities: Commissioner Cernera provided a brief update. With the final two natural resource damage settlements, there is significantly more money for restoration. They have recently formalized coordination efforts as a restoration team. The Natural Resource Restoration Trustee Council is formed with representatives from the:

- Dept. of the Interior - Ms. Kathleen Moynan (USFWS)
- Coeur d'Alene Tribe - Mr. Phillip Cernera
- Dept. of Agriculture - Mr. Bob Kirkpatrick (USFS)
- State of Idaho - Mr. Chip Corsi (IDFG)

Restoration team staff members under the Trustee Council consist of several folks such as Ms. Rebecca Stevens (CDA Tribe) and Mr. Jeff Johnson (BLM). The Trustees have tried to bring in-house expertise from the various governments in the immediate term to develop a restoration plan or programmatic environmental impact statement (EIS). This will be sort of an umbrella of what the Trustees would plan on doing in a general sense in coordination of what EPA is doing in remedial work. They are anticipating that the planning process will take two to three years and will be following NEPA requirements that require rigorous public scoping and participation. Information will be provided to the BEIPC as they move forward with this process, but the Trustees will be holding their own public scoping process. Their mission is to restore, acquire, and rehabilitate the natural resources that have been injured as a result of the release of hazardous substances. The MOA (Memorandum of Agreement) has been signed by all parties.

Commissioner Curt Fransen (State of Idaho) provided additional information on the State's past settlements of natural resource damage lawsuits over the last 20 years. Last year, Governor Otter appointed the Director of Environmental Quality and the Director of Fish & Game as the Trustees for the CDA Basin Restoration Project for planning efforts. In turn, those Trustees appointed staff members to participate on the team and they are Mr. Dave Leptich (IDFG) and Ms. Kajsa Stromberg (IDEQ).

10) Citizens Coordinating Council (CCC) Presentation: Mr. Jerry Boyd made a presentation on the CCC meeting held on April 18. He noted that there was a detailed report included in the board packet information. On April 25, the CCC helped to sponsor the repository open house in Wallace. The CCC is also involved in the Lower Basin Collaborative (LBC) and he attended the LBC meeting on May 2 in Medimont. He indicated that the LBC person who was formerly leading the group cannot do so due to family issues and suggested that the LBC may need help from others.

11) Public Comment: Mr. Rob Hanson made an announcement that the State will be providing free pool passes this year in addition to the \$20 incentive in the Basin to help increase the number of children participating in blood lead testing.

Mr. Bill Rust (Shoshone County TLG Rep.) brought up the sewer issue in Canyon Creek. Most of the problem for developing a sewer collection line is burying the line down the Canyon and is related to costs, etc. If he's not mistaken, part of the ROD Amendment is to build a water line down the canyon to collect mine water. He suggested that maybe you can solve some other problems by combining the two for about the same price. Related to that, he had a conversation a few weeks ago with the South Fork Sewer District (SFSD). The SFSD received a notice of intent to sue from an environmental group concerning their discharge permit, so they are looking at what they need to do to update and get a final discharge permit. One of the issues is going to be the discharge limits that right now are based on river water quality, etc. When they install the CTP and get it up and running, they are going to be dumping tons of lime into the river above the SFSD discharge point. The discharge limits on zinc are related to the hardness of the river water, so implementing the CTP remedy is going to affect the discharge limits for the sewer treatment plant. He suggested that there is going to need to be some kind of consideration for those kinds of changes. You don't want to spend \$13 million to meet a discharge limit, then implement the CTP project and find out that you didn't need to do it.

Commissioner Opalski responded that EPA will take this issue back and talk to folks. He's interested in helping as much as possible.

Mr. Shane Garner (U of I Student) asked for some contact information from the BEIPC. Mr. Harwood suggested that he first check the Basin Commission website and contact him with any questions.

Ms. Rebecca Stevens commented that she and Jeff Johnson have heard a disconnect with the public regarding Superfund and NPDES permitting and all the dischargers in Basin. She suggested that it may be good to get NPDES permitting staff out into the public a little more

because when they are in settings where they are talking about cleanup and restoration, folks ask them about wastewater treatment discharge limits.

Mr. Bill Adams replied that one of the new EPA unit managers is Ms. Tracy Chellis from the water program. He has asked her to engage with that program and to talk with people about what is being done on these specific issues.

12) Adjourn: As there was no further business, Commissioner Cantamessa adjourned the meeting early at 2:20 p.m.