

## **BEIPC MEETING MINUTES**

Basin Environmental Improvement Project Commission

August 17, 2011, 9:00 a.m. - 4:00 p.m.

Wallace Inn (Gold Room), 100 Front St.

Wallace, ID

### Attendees:

Mr. Terry Harwood (Executive Director)

### Commissioners Present:

Mr. Jack Buell

Mr. Jon Cantamessa (Chair)

Mr. Phillip Cerner

Mr. Curt Fransen

Mr. Dan Green

Mr. Grant Pfeifer

Ms. Michelle Pirzadeh

### Alternates Present:

Mr. Vince Rinaldi

### Staff Present:

Ms. Jeri DeLange

Mr. Dave George

Mr. Rob Hanson

Mr. Ed Moreen

Ms. Rebecca Stevens

1) Call to Order/Welcome: The BEIPC Chair, Commissioner Jon Cantamessa (Shoshone County) called the meeting to order at 9:05 a.m. He welcomed everyone and noted that Ms. Michelle Pirzadeh (EPA) was filling in for Commissioner Dennis McLerran. Commissioner Cantamessa then led everyone in the flag salute.

2) Approval of BEIPC Meeting Minutes from May 18, 2011: Commissioner Cantamessa asked if there were any changes or corrections to the draft meeting minutes for May 18, 2011. Commissioner Grant Pfeifer (State of Washington) made a motion to approve the minutes as written. The motion was seconded by Commissioner Dan Green (Kootenai County); and unanimously approved.

3) Special Announcements: The EPA Region 10 Deputy Administrator, Michelle Pirzadeh, made a few special announcements. First, she expressed Dennis McLerran's regrets that he was unavailable for today's meeting due to another commitment. Then she conveyed EPA staffing changes for the CDA Basin project. She is pleased to announce that Mr. Bill Adams is the new CDA Basin team leader as Ms. Angela Chung has moved to a new position within EPA. Ms. Anne Dailey will be taking some time away from the project for one year to work on a special

detail in Washington D.C. Ms. Cami Grandinetti has been promoted to a program manager position and will be supervising all of EPA's remedial Superfund cleanup units in Region 10. Ms. Beth Sheldrake will be the new unit manager overseeing this particular project, so Mr. Adams will be reporting to Ms. Sheldrake. Commissioner Cantamessa thanked Commissioner Pirzadeh for the updates and congratulated Mr. Adams on his promotion. He said that it's good to have someone elevated to the head of the project that we have been working with and know, especially for those who have been here for a while.

Mr. Adams replied that he's looking forward to working with everyone. He thinks that we have a real opportunity to move forward as we have a lot of resources to work with now. He thanked Commissioner Cantamessa and said that he also wants to make an effort to help improve EPA's relationships with all of the stakeholders and communities. This will be one of his big emphases.

4) Upper Basin ROD Amendment and CDA Work Trust Update: Mr. Adams presented an update on the ROD Amendment work for the following items:

- What EPA is doing to be responsive to the proposed plan comments;
- Focused characterization sampling;
- Aquatic benchmarks;
- South Fork project review;
- Potential adjustments to the plan and schedule; and
- Moving forward with Hecla and the CDA Work Trust.

He noted that EPA is making good progress on the ROD Amendment. Most of the major sections have been drafted and are now going through internal review. EPA is also evaluating a number of changes to the cleanup plan. For site characterization, they are evaluating data for some of the technical changes and the process they have to go through in the focused feasibility study which then supports the ROD Amendment. This was a pilot effort to look at a number of sites where the available information would suggest very little mining activity and that maybe they did not warrant being on the cleanup list. The Wallace Mining Museum helped EPA with reviewing historical information to identify candidate sites. Next, field investigation work was conducted by the IDEQ, BLM, CH2M Hill, and U.S. Forest Service. They are still waiting for the sampling results to evaluate the information and determine if a certain percentage of the sites may be taken off the cleanup list. If so, EPA will do that now and it will be reflected in the ROD Amendment.

Mr. Harwood suggested that you can use the process developed for the pilot project as you move forward with the rest of the work for evaluating other sites. Mr. Adams agreed. He said that EPA is devoting a certain level of effort to try and winnow the list down from the other end. They will not be able to do this prior to the ROD Amendment, but it does provide a process for looking at these sites and continuing to trim the ones that should not be on the list. It could also identify sites that may be a higher priority for cleanup as they get more information. The plan would be to do this on an annual basis.

Commissioner Curt Fransen (State of Idaho) asked if the ROD Amendment would recognize that this process is out there for the sites that have not been evaluated. Mr. Adams replied

affirmatively; and said that it would be part of the implementation planning. For sites with contingent actions, EPA will continue to evaluate these as they have more information.

In regards to water quality, EPA recognizes that it will take a long time to reach the target and there may be improvements along the way. So they are working with the U.S. Fish & Wildlife Service (USFWS) on aquatic benchmarks. These will be used to evaluate the potential improvements for water quality, sediment, and habitat to show progress including how quickly aquatic invertebrates and fisheries come back. EPA is building this into the ROD Amendment as these things will be seen a lot sooner than ultimately achieving the water quality goal.

Mr. Adams then pointed out that the conceptual design in the proposed plan for the South Fork CDA River bank stabilization work was basically the establishment of riparian habitat because this structure is more desirable for fisheries. However, they have been working with Mr. Bill Rust who identified that it's not appropriate to be building these kinds of features in particular areas. So EPA is working on changes that will be reflected in the ROD Amendment to redefine some of the conceptual designs and also build in more flexibility in some of these areas that take into consideration current and future conditions.

Commissioner Phillip Cernera (CDA Tribe) inquired what EPA's thoughts are on improving water quality or the connectivity between the toxic sediments and the water in these areas because it's his understanding that EPA is moving away from the liner. Mr. Adams answered that this does not mean there would not be some cleanup done as the changes would just be for areas where you need to get the water and fish through. Mr. Harwood said for example, that some buildings in Wallace would need to be removed to rehabilitate some of the channels, but they are not going to do this. So the fish will need to travel through a corridor in some areas to get back into the good habitat.

Commissioner Cernera said that he understands you might be able to place some boulders to allow the fish to rest when moving through an area, but asked whether they will be digging out the channel and then keeping it in the same alignment or taking the banks out to deal with the contamination issue. Mr. Adams replied that it's going to be site specific in terms of design for these particular stretches as there are very few options through Wallace. He thinks that EPA will be working with the City on what can feasibly be done for remediation. There will probably be some cleanup along the banks that needs to occur and some sediment issues through this stretch, but they will be limited in what they can do.

Commissioner Fransen asked about the interaction between EPA and the Natural Resource Trustees regarding remedial/restoration style and the dividing line for remediation in the stream channels. Mr. Adams said that he is not sure there is a dividing line. He thinks that it will be a joint effort as they will have to work closely together so cleanup can occur. Restoration is considered part of this, but it's not entirely clear for what's appropriate in specific areas. Mr. Harwood suggested that this can be worked out as they do not want to dig up an area to remediate it and then come back to dig it up again for restoration.

Commissioner Cernera brought up the criterion which has been developed for sediment and banks that allow for healthy environments. He can see the Natural Resource Trustees coming in and doing riparian work for an approach that provides for some soils that are healthy. However, if bank sediments are contaminated at a level not conducive for that, he does not think Natural Resource Trustees will provide vegetation to allow a hostile environment to exist that could potentially harm wildlife. That's an example of site specific that they would have to work out.

Mr. Harwood noted an example at the mouth of Ninemile Creek of a culvert that spills through a bridge abutment, so there is no way that it can be a fish passage structure even if habitat work is done upstream. He stressed that everyone will have to work together on all of the segments for the various projects to end up with remedy protection that will pass for flood control and will also deal with natural resource concerns.

Mr. Adams thinks that this is important as there will be a number of options for these areas that are not spelled out specifically. By working in coordination with the community and the Natural Resource Trustees, we can come up with a solution. These areas will probably be done later in the cleanup process given that we have a lot of other areas further upstream in Ninemile and Canyon Creek to address before we can start to tackle these specific areas without them being recontaminated.

Regarding potential ROD Amendment adjustments, Mr. Adams said that he talked about some of this information to the Basin Commission and other stakeholders, and briefed EPA headquarters on these changes; and so far they are supportive of them. However, realizing that until it's done, EPA cannot say what they are planning. They have talked about removing the stream liner for the South Fork of the CDA River from Osburn through Elizabeth Park and this takes out about \$300 million dollars from the cleanup plan. This is still what EPA is looking at, but they also want to provide more definition in terms of where we start, how the cleanup will proceed, the time periods (i.e. five year increments), etc. There will also be an implementation plan which will be discussed in the ROD Amendment in a separate plan that will be updated on an annual basis.

EPA will form the basis for the development of the work plans for the Basin Commission's approval as well as direction for the CDA Trust work. This will be spelled out in more detail in the ROD Amendment. As the ROD Amendment will not be in place prior to the development of the Basin Commission's 2012 work plan, there will have to be an amendment to the work plan to reflect any additional work in the ROD Amendment that we would like to do next year. Mr. Adams noted that EPA is making good progress on the response to comments and planning investigation work in late 2011. He thinks that at the next Basin Commission meeting, EPA may be able to provide more detail of what is in the ROD Amendment such as sites taken out and what the total costs are.

Mr. Adams also mentioned that the consent decree has been lodged for Hecla and there was a 30-day comment period. The public hearing was on August 1<sup>st</sup> in CDA. The Department of Justice (DOJ) is leading the response to comments and EPA will be working with them on some of these. The court hearing date is set for September 8th. The settlement will provide \$263.4

million over several years. It identifies protocol for EPA to work with Hecla in terms of areas where both EPA and Hecla are doing work and how they can coordinate together. There is also a requirement for an annual meeting to talk about plans, work that's underway, and how we work together. Another part carves out the Lucky Friday complex from the Superfund cleanup decision document in the proposed plan, so that's taken out including the costs associated with that.

Commissioner Cernera brought up a point relating to what Mr. Harwood said previously about coordination among remedy and restoration. In the consent decree, the Natural Resource Trustees are also at the table for being able to look at all the work plans, being involved in the annual meetings with Hecla, understanding what they're planning on doing, having access to their properties, and all the things that EPA has written into the consent decree. The State of Idaho is included.

Mr. Adams relayed that EPA gave the CDA Work Trust direction in terms of what work they wanted this year using a certain level of the Asarco bankruptcy settlement funding. The activities included construction of the remedy at the U.S. Bureau of Mines site in Osburn and mine/mill site characterization in the East Fork of Ninemile Creek. They have been doing borings in this area and sampling. Most of this work has helped EPA define the locations and volumes of materials in these areas, so that they can start to develop designs for the sites at Success, Interstate, Tamarack, and Callahan. They are looking for repository locations in these areas as they do not want to transport the contaminated material anywhere else. They did a little work at the Gem site in Canyon Creek because the Trust owns a piece of property in this location.

To gain access to the Success site, the Trust did some road repair work due to a washout. A temporary bridge crossing was placed over the damaged culvert and will be replaced this fall once the water goes down. They also want to identify a location where they can re-establish a crossing on the East Fork and get that done next year, so that you do not need to come in from Dobson Pass. The crossing was taken out a number of years ago during a previous cleanup removal action through this area. They may be looking at more of a temporary crossing until they look at the remedial design for the Success site. Mr. Harwood added that access up the East Fork in Ninemile is very important to the local folks, especially if there is a wildfire.

Commissioner Cantamessa inquired about aquatic benchmarks as to what changes EPA expects in water quality at various points to see what has actually been accomplished and what is naturally occurring. Mr. Adams indicated that aquatic benchmarks will be written into the monitoring program to evaluate the effectiveness of remedial actions and recovery. Monitoring is going to be key to help measure progress and help make decisions as we go along. Commissioner Cantamessa said that his specific comment goes not only for monitoring, but for writing an expectation of what you think is going to happen before you even start monitoring because he believes that if you look back at those expectations, you will learn a lot more from your monitoring than you would learn if you just monitor and see what's happening.

5) BEIPC Executive Director Update: Mr. Terry Harwood provided an update on Basin Commission activities starting with Flood Control and Remedy Protection. For the remedies in the South Fork of the CDA River, he thinks that we have a good coordination process set up now. So when EPA proposes remedies for the South Fork, those remedies will be evaluated for hydraulic connectivity to prevent problems downstream. He has been working with the EPA, Bill Rust, Shoshone County, Panhandle Health District (PHD), and the Corps of Engineers (COE) on flooding problems. They took a field trip to look at projects and figured out what could be done to deal with some of the flooding and erosion issues and where you could stockpile contaminated materials.

Mr. Harwood brought up that the State of Idaho asked for some additional assistance from his office and the BEIPC approved of it. One thing that he was asked to do was to manage the Big Creek and EMF repositories. Construction of the north expansion of Big Creek is almost complete and they are in the process of rip rapping the face. This increased capacity by 116,000 cubic yards (cy). Commissioner Cernera asked what will keep the material from leaking out. Mr. Harwood answered that there is about 30 feet of material on top and it's encapsulated underneath, plus the rip rap. He then noted that all of the clearing material that came off the Big Creek north face and the expansion of EMF was hauled to the Page repository and the State of Idaho ground it up instead of disposing it by burning or some other method. This produced about 6,000 cy of mulch for compost as the CDA Work Trust has been looking at some kind of wood fiber material for rehabilitation and restoration work. They will keep doing this and send all of the clearing debris to Page for this purpose. At EMF, Mr. Harwood said that IDEQ started property remediation work first in the Lower Basin this spring as it was drier. He is building a levee into the new expanded area at EMF that will be completed about mid-September.

The State also asked Mr. Harwood to help out with remedy protection projects in the ROD Amendment. Some of the remedy protection projects for urban areas will be in the ROD Amendment as Mr. Adams mentioned, and the side drainage ones will be added later. They have preliminary ideas for 14 projects in the cities of Mullan, Wallace, Silverton, Osburn, Pinehurst, Kellogg, Smeltonville and Wardner. All of these communities will have some work under the remedy protection projects. The projects are being developed to pass the 50-year flood and prevent damage to remedies. The list of side drainage project proposals should be completed by the end of the year and then it can be added to the work for next year. There is about \$34 million estimated for remedy protection work in the urban areas and side drainages. They will be sharing the side drainage work proposals with the local folks as they did with the urban projects.

Mr. Harwood also noted that he is working on a plan to complete the property remediation program. They have developed a map of geographical areas in the Basin, and he is asking for input from people on this. If this is agreed to, then we will sit down and figure out where we are in each geographical area, how many more properties need to be sampled, how many remediated, and what we are going to do to try and get it all done. He has talked to some of the mayors who have said it would be nice to get some of the towns done. One of the biggest problems is that it's difficult to locate some of the property owners to be able to ask their permission to sample the property. If you cannot find them, you cannot get permission.

For roads, he is working on a program to remediate the roads in the Basin and the Box that serve as a barrier for the contaminated subgrade underneath the surfacing. The road issue was addressed in the OU-3 ROD and is not part of the ROD Amendment. The program will be separated into two types of roads: 1) unsurfaced (gravel or dirt); and 2) paved. He will be presenting the proposal to the local road jurisdictions starting next week. Regarding the new flood gate for Rose Creek, the gate will be installed this fall to make sure that the CDA River does not backup into Rose Lake again. Commissioner Green asked if the operation will be dependent upon the local folks. Mr. Harwood answered that the local water district has agreed to operate and maintain it. Commissioner Green requested a copy of the agreement.

Mr. Harwood then indicated that he will send the request for the one-year and five-year work plan information to all the agencies that are involved in the Basin Commission earlier than normal with the understanding that it will be amended in February 2012.

6) Lake Management Plan (LMP) Update: Ms. Rebecca Stevens (CDA Tribe) provided an update on LMP activities. In July, the Tribe installed a buoy profiler at station C5 which is south of Harrison. The device allows for real time data collection and will allow the Tribe to provide a huge amount of data to truth the ELCOM-CAEDYM model. In June, the State installed a weather station at Loff's Bay. This provides mobilized weather data, so they do not have to rely on the Tribe's weather stations or the CDA airport station. Field work that's going on includes IDEQ conducting aquatic plant inventories on the Lake. The Tribe is working on the diver suction dredge in the St. Maries and St. Joe Rivers for Eurasian milfoil and other treatments. Both the Tribe and State are doing monthly water quality sampling. For outreach this summer, they developed a water quality educational curriculum for Camp Cross, and participated with the CDA Chamber's Leadership Class for education outreach on the Lake. The Lake\*A\*Syst materials are being revised and they will have more about this in November. The Tribe, Basin Commission, IDEQ and EPA staff have been working on a joint fair booth.

Ms. Stevens also announced that she will be transitioning into a new position with the Tribe as Restoration Coordinator and moving away from some of the Lake management plan work. She will be working closely with the interagency restoration coordinator, Mr. Jeff Johnson (BLM). They will be writing an environmental impact statement/restoration plan for the Basin as they move forward in restoration implementation directed by EPA's remedies. She will still be involved with BEIPC staff and TLG.

Break

7) Communications PFT Update: Ms. Jeri DeLange (BEIPC) provided an update on the activities of the Communications PFT. They are working on a joint fair booth for public education and outreach with the BEIPC/CCC, IDEQ, CDA Tribe, and EPA. The North Idaho Fair will be August 23<sup>rd</sup> through the 27<sup>th</sup> in Coeur d'Alene.

8) EPA and IDEQ Plans for Management of the Work in 2012: Mr. Rob Hanson (IDEQ) said that the 2012 work for the Basin Property Remediation Program (BPRP) is going to be continued by IDEQ. He estimated that it will be about two-and-a-half to three years before the program is

going to be finished. The unpaved road remediation will probably not start in 2012. They need to get the sampling figured out along with the contracting and funding, so it will probably start in 2013. Depending upon EPA's ROD Amendment, there will probably be some design work for the remedy protection and maybe some mine/mill work design. The CDA Trust will continue design for mine/mill sites that are in the Ninemile Creek drainage. They will also be looking for waste consolidation areas in Ninemile Creek. Then he pointed out, as Mr. Adams mentioned previously, that Hecla's work at the Star site may change that schedule and some of the priorities in order to keep out of each other's way.

Until the ROD Amendment is released, they don't really know yet what work will be called for. The general funding (CDA Trust) can only be used in the Basin. The pending Hecla settlement, they hope will be entered this fall, will put about \$200 million into the cleanup. That money will be largely used in the Box as the CDA Trust money cannot be used in the Box. So the priorities will probably be to spend that money in the Box. He noted that one of the issues they heard loud and clear from the public was to get the cleanup done and get out of town. On the other hand, the funding they have from the settlements may very likely be the only funding they receive for many years with the budget issues at headquarters. There is also another side, to just spend the interest and not dip into principal which would then extend that money. With the settlements that have occurred, it gives them the opportunity to have some knowledge about what money is available once the ROD Amendment is done. They will know what work is being called for, then the agencies will know who is doing what, and the Basin Commission will be involved in the five and ten year plans. They will also do the restoration plan with the Natural Resource Trustees that they are working on.

The Basin Commissioners then discussed various issues pertaining to what the funding could be used for from the settlements. Mr. Adams commented that whether it's Trust funding or settlement funds from Hecla, it's still going to go through the same process in terms of work plan developments, and going to the Basin Commission for approval.

9) Medimont Boat Launch Rehab Project and TLG Request for Consideration and Vote for Endorsement by the BEIPC: Ms. Rebecca Stevens (TLG Chair) said that Ms. Claire Pitner (USFS) made this presentation at the July 7<sup>th</sup> TLG meeting and the TLG thought it would be beneficial for the Basin Commission to see it. After Ms. Pitner presented the information, Ms. Stevens indicated that the TLG voted to make a recommendation to the BEIPC to investigate various funding opportunities among the agencies to see if there may be some creative ways to do this. She pointed out that federal dollars from EPA could not be part of the funding source, but there are other funding sources that may be used for it.

Mr. Harwood explained that what the TLG is looking for is the Basin Commission to endorse it. If they can get the BEIPC's endorsement, then maybe they can figure out ways to help the project get funded. He brought up that people recreating on this site are being exposed to high levels of contamination and suggested that it may be as high as 5,700 ppm for lead. Commissioner Cernera said that before any sort of motion is put forth, he agrees with the concept about dealing with the remedy and protecting human health. However, he does not know if he can wholeheartedly agree with the notion of docks. He suggested that if there were to

be a motion, in principle, he would hope that the motion would be vague enough to allow the BEIPC to endorse it without fully endorsing the details of what was shown today.

After additional discussion by the Basin Commissioners, a motion was made by Commissioner Buell (Benewah County) to endorse the concept with the caveats that Commissioner Cerna raised. The motion was seconded by Commissioner Fransen; and unanimously approved. Commissioner Cantamessa thanked the BEIPC for their endorsement and Ms. Stevens for bringing forward the TLG's recommendation.

## Lunch

10) Citizens Coordinating Council (CCC) Comment and Presentation: Mr. Jerry Boyd (CCC Chair) provided information from the CCC meeting on July 13<sup>th</sup> and noted that it's also included in the board packets. For the election of CCC officers, he and Troy Lambert (CCC Vice-Chair) were the only volunteers, so they were re-elected for the same positions. He mentioned that Ms. Julie Dalsaso commented on some information that was provided concerning the dredge in the area of the EMF and some of the issues that we have had going back a few years. Even though that information was out there, the public probably was not fully aware of some of the mining activities and the dredge in the Cataldo Flats area. She found that very interesting and he suspects that a lot of other people would have a better understanding of why EMF is what it is with that information. Mr. Boyd noted that the biggest discussion at the CCC meeting had to do with the Lower Basin Collaborative and that the discussion is captured in the notes. He then gave a brief overview of the other information presented at the meeting.

11) Discussion on Lower Basin Collaborative (LBC) and CCC Protocols Amendment: Mr. Boyd indicated that there is an explanation in the materials about the proposed amendment. It's a good outline of why some people feel that the collaborative would be beneficial to the process. He thinks that what it would do, primarily, is to provide a more focused opportunity for those who have a particular interest in the Lower Basin activities to get together and discuss those activities. He has been assured that the LBC will be open to anyone who wishes to attend those meetings. He will let the people who are more involved in the collaborative process talk about that.

Then he reviewed the suggested changes to the CCC protocols which would accommodate having a LBC. The idea is that with these changes, the LBC would work through the CCC and the TLG and make recommendations to the Basin Commission. Regardless of whether there are specific recommendations, it gives an opportunity for more discussion among the people who are involved in it. Under Subgroups in the CCC protocols (pages 3-4), one suggestion he wanted to make (on page 4) as a proposal to this is in the last paragraph, second line, after the words "*recommendations to be*" instead of "*available to the Basin Commission*", it would be "***recommendations to be presented to the CCC, TLG and the BEIPC***". This change would make it clear that the collaborative will be working through or with the CCC and the TLG in putting together any recommendations they would wish to propose.

Mr. Boyd suggested that in light of the fact that we have not had a lot of participation at the CCC meetings, he would recommend that we make these changes in trial as he does not see any harm

in it personally. However, he knows that there is not complete agreement among everybody on the proposal. Mr. Harwood explained that they needed to come to the Basin Commission board with the proposal to make the changes in the protocols for the CCC because only the board can approve of changes in the protocols for the BEIPC, TLG and CCC.

Ms. Susan Mitchell (Citizen) said that she wanted to address a few points before the discussion and voting by the board. The first is the concern about why the CCC is not enough. Her own feeling is that the CCC serves some specific functions, which the LBC would not. First and foremost is that the CCC is focused on Superfund cleanup in both the Upper and Lower Basins. The LBC would focus only on the Lower Basin. The CCC provides a clearinghouse of information for what's going on with cleanup in both those areas; and citizens also have an opportunity to be informed about basic information as well as a level of technical information that you cannot readily get. The LBC would provide that level of education and input through relationships among PFT members and the collaborative members, so that we can really give input in that technical arena. Which as a citizen (she saw at EMF) was one of the frustrations that you don't know enough or you don't understand well enough what's going on to give valuable input sometimes.

The other thing about the CCC is that citizens can come and speak out on a single issue. For herself, she feels that she could be there one time and then never have to show up again if her issue is addressed. Within the LBC, they are really asking for commitment and there are specific membership commitments that people will have to make, so that their participation is intended to be long-term and ongoing. The LBC is also citizen driven. As a citizen, this is extremely important to her. Within the larger community, she sees that there is a great need to find a structure which she thinks the collaborative provides where citizens can be engaged from the start and not after decisions are made. They all believe that this will bring a greater sense of buy-in for citizens. This has been a big difficulty so far in terms of cleanup.

Another point she wants to address is around exclusiveness. One of the concerns having had this steering committee for the last year is that perhaps we were already starting to address the issues and we were not including everybody. She apologizes for how this appears. She does not know if there would have been another way. When they first met about 15 months ago, this was a group of citizens, IDEQ and EPA. At that point, they did not know if they could sit in the same room together. They did not start with an idea for a collaborative. They started trying to figure out if they could be in relationship. This was an outcome of EMF, so they have come a long way. They believe that they have a structure that has the potential to work. She thinks that they can possibly make it more successful given that they want to bring into this group people from all different facets of the Lower Basin such as industry, business, recreation, community groups, property owners associations, etc. Out of this, they will then create a network of communication where those people communicate with the people they are connected with in the community, so that they can start doing greater bridging. She said that the Lower Basin is more difficult than the Upper Basin in terms of communication because there is no central place and it's very splintered. Her hope is that the board will approve the proposal. If this happens, they plan to have their first public meeting at the end of September. She mentioned that they have begun outreach and provided the names of some citizens who were interested.

Commissioner Green commented that it already seems like there is an opportunity for people to participate (in the Basin Commission). He has not heard that people are not encouraged to participate or that their comments were stifled; that would bother him. He said that Ms. Mitchell talks about it being a much broader base and that she mentioned five people who may be interested, but they are not committed. So it seems like a small start right out of the chute. In regards to the list that Mr. Harwood provided to the Basin Commissioners about the meetings that have been happening for the LBC, it seems like most of these meetings (whether in person or by phone) are agencies, except for Ms. Mitchell, Mr. Terry Harris, and once in a while he sees another name he does not recognize. He has to be convinced that somehow the CCC under its current structure has limited participation and suggested that maybe it could be the leadership, or when he hears that they had an election and there were only two volunteers, that this is one statement that people aren't more willing to participate at that level when the mechanism is there. The perception he sees is that they want to go out and start their own thing. He watched the same issue as the County developed the comprehensive plan. People participated in the process for a few years, and then at the bottom of the ninth, they wanted to do something different because they didn't always get the answer that they liked. But the opportunity to participate was already in place; and he does not see a lot of difference in this scenario with the LBC right now.

Ms. Mitchell said that there are a couple of points she would like to address. First, they did have a larger citizen group when they started out, but now there are six for various reasons such as some people moved away. She indicated that the point is well taken, but that it's very hard to get citizen engagement. The other thing is that there is such a large sense of alienation and disenfranchise from the cleanup process. She realizes that they have an enormous task ahead of them in terms of engaging people at least in the Cataldo to Rose Lake area because these are people who went through EMF. As the cleanup goes down the Basin, she thinks that one of the big issues is lack of information where people don't realize that cleanup is coming to their area and there seems to be a gap there. She does not wish to offend anybody, but suggested that the agencies have a big credibility problem and that people don't believe that they will be listened to. They don't feel that there are avenues to be heard. She feels that they need something that is really citizen driven, that in some way appears new, has another name, even though it's part of the CCC (if approved), and its two major qualities are that it's collaborative based with a structure and citizen driven.

Commissioner Green remarked to Ms. Mitchell to not take this wrong please, but you started with six people and you are having trouble getting those people even to commit. It does not seem to be so citizen driven as Susan Mitchell driven. If there is a lack of information, he does not know if it's something that the Basin Commission or the PFTs have not done a good job of distributing the information. He suggested that maybe that's where we should be addressing our efforts on how to reach out more because he knows that he wants people to participate. If he understands this collaborative process right, it's going to have the agencies involved that you don't trust right now and you don't think listen to you. Ms. Mitchell answered that she is not speaking about herself. The agencies are engaged, but are not really members. Commissioner Green asked what prevents her now from organizing her neighbors to be active and even addressing or adopting her as their spokesperson to be more active in the CCC.

Ms. Mitchell stated that speaking for herself she's an obstacle because she does not see that structure as the structure that is going to work, so she does not want to put all her energy there. She is happy to go to CCC meetings and she benefits from them in terms of information that she does not have. However, it does not provide the medium for what she is after. She wants active citizen involvement with the agencies ongoing as early as possible, so that they can really be an engaged part of it, not as an afterthought. She mentioned that EPA meets the letter of the law in terms of community involvement by meeting certain criteria, but she does not feel that it's adequate.

Commissioner Cernera said that we're at a point in time where there still is a lot of information being gathered in the Lower Basin. So, he thinks that the timing may be right for the collaborative to become involved at an early stage as the Lower Basin model is being developed and we all start understanding more about it. He has been involved in the CDA Basin for twenty years and a lot has evolved. The former citizen's group was revamped into the BEIPC process as the CCC for citizen outreach. So, he's not against the evolution of whatever might take place in the future. There has been a lot of change that they went through and he thinks they have a good Commission formed now that provides for better participation for all people. Regarding the LBC, he thinks that it's a good thing. He also heard the CCC Chair recommend it. He's not the type to micromanage, so the more approaches that people can bring to this table to allow for participation, the better. He suggested that this may be good for the whole commission process.

Commissioner Jack Buell asked where the failure is in the Commission. Ms. Mitchell said that if she had answered this a few years ago, she would be lumping the commission with the EPA and IDEQ as she could not distinguish one from the other. As a citizen, she does not understand how the BEIPC works. Commissioner Buell said that he's one of the oldest members on the board, and what's sad about this is that it's a very functional board. However, it wasn't years ago. They had a lot of trouble and could not work together. This has changed. Anyone can be involved and they talk to everybody. He feels in his own mind, that the collaborative is coming in after the fact and that they could be involved right now with the BEIPC.

Ms. Mitchell said that when she looks at the BEIPC, she can see that it's functional. There's no question in her mind and she has heard stories about the past. For her, one of the things that was difficult was to figure out where the line of entry was and she didn't have any background. The first meeting she attended was the infamous Canyon School meeting that was sponsored by the CCC and she did not understand the CCC, BEIPC, and all the acronyms. The BEIPC looked like the EPA and IDEQ to her. She did not understand it at all. She has only just begun to kind of get it. She's sorry, and she realizes that the State of Idaho felt the same way when the Commission was established; they wanted a voice. They wanted to be the voice of the people who were involved in the Basin Superfund cleanup. She would like the opportunity to be a part of this, and the steering committee thinks that they have a good way to do it.

Commissioner Fransen said that his perspective is a little different than Ms. Mitchell's as he does think there is an opportunity available to participate in the Basin Commission process. He briefly mentioned the various groups that were set up including the CCC and TLG, so that

people could participate. He also indicated that it's available on paper. It took a lot of effort to push that together to make it available. But he will concede that for whatever reason, in looking at the CCC minutes for the last several years, that there has not often been a lot of citizen participation. It's a struggle to get citizen participation here. So, his general perspective is that he's willing to be open and even supportive of efforts by citizens to create forums to plug into the existing forums that we have and try to improve the situation. However, he does not know if Toni Hardesty would agree. He does not think this is the bottom of the ninth as it's early in the game for the Lower Basin and that we have a long ways to go.

He added that in his observation, as Commissioner Green said, you go through these elaborate processes and then at the bottom of the ninth, people do show up. They finally get engaged and upset. They have seen this happen over and over with the RODs in the Basin. He knows from looking at the list of people who have been attending the LBC meetings is that these meetings are not the collaborative. They are just about how to get the collaborative going, and he applauds Ms. Mitchell on trying to figure out how to plug into the Basin Commission. He thinks that's great, and that they absolutely have a right to do this on their own. However, he thinks that one challenge is going to be how to make it diverse and bring people in that have very different viewpoints than you, or Kootenai Environmental Alliance (KEA), or somebody else about what should go on in the Lower Basin. That's going to be a big challenge. If Ms. Mitchell cannot do this, then he thinks she will fail, but he's willing to let her fail. Ms. Mitchell said that she agrees.

Commissioner Cantamessa said that Superfund began in 1980 and the Superfund came to Shoshone County in 1983. So, the EPA and Superfund in a sense cut their teeth on this Basin beginning in 1983. He was aware of this in 1983, and he's been here ever since. In 1983, he was 39 years old. He says this because he thinks you have to stop and think of how much time that covers and what is involved in that period of time. He can tell you early on in the process that this room would have been overflowing with citizens who were very concerned and very involved in this whole process. Through the course of time, the CCC has had a struggle getting people to attend the meetings. Now that we're moving to the Lower Basin, there's more interest and he applauds that. But there is a lot of background knowledge that all of you who are getting involved now have not been involved in. It's always interesting to him, that when he sees the passion that grows from the Lower Basin and from the areas downstream, very rarely do people come to him or to the Basin Commission to ask what's gone on. He brings this up because he would like to see this experiment develop very structurally along those lines and not have to learn the things that we have learned over the last 30 years. He suggested that it would be more productive to the whole process as you go along.

Commissioner Cantamessa also pointed out Ms. Mitchell's comment that the LBC would be a process only for the Lower Basin because it concerns only the Lower Basin. This bothers him to a degree because the Basin is the Basin and whatever comes out of the Upper Basin is going that direction. He thinks that getting citizens involved is very important because only if citizens get involved will they understand and be able to participate. However, there are also a lot of agency people involved. So what the collaborative has created right now is more work for the agencies to come to one more meeting, and try to present the information one more time on all the things

that you want to know, and that they need to present to you. He can see from the list of meetings that the LBC has had, that this is what happened. In most cases, there have been a lot more agency people than citizens who are interested, even over the course of more than a year.

He has been to citizen meetings all over the Basin and listened to lots of people and the same passion is seen everywhere. Some people will keep a strong passion and some will waiver. But there is a lot of past knowledge that he thinks should be part of this process. If you involve only citizens from the Lower Basin, and you don't actively participate in the CCC and the things that are going on in the Upper Basin; and if you don't get citizens and citizen's input from both places, then he's not sure what you are gaining. He would go back to what Commissioner Green said, that while you're very passionate about what you want to do, that you're coming in at a different point of time than people who have been coming for 30 years. He does not say all these things to discourage your process, but to try and help that process proceed because in his mind, we don't need this either. But he is willing to allow it to try and pull things together along the Lower Basin. He pointed out that the people who have had consistent interest for the Lower Basin in this process have been the people that live on the water, either the Lakeshore property owners or primarily people that live on the Spokane River. They have been the ones who consistently all along have had an interest, while others not on the water have had an occasional interest. So again, he apologizes for speaking so long, but he probably has more Superfund background in this than most people do. Ms. Mitchell thanked him and said that she will be in touch.

Commissioner Pirzadeh indicated that she wanted to make a few comments on behalf of EPA. She agrees with a lot of the comments that have been said from all the different perspectives. From EPA's perspective, they want to promote more involvement and inclusiveness. She thinks that the comments about making sure that this is part of the Basin Commission and that everyone is open to participate, even if they are from different parts of the area, is really important and not creating a divide. She understands that the issues are different and some of the remedies will be different in various places of the process. She does not want to repeat things that have already been said because she does agree with a lot of them, but she is willing to give the recommendation a try. She would like to invite the LBC, the CCC and others to help EPA engage citizens. She has spent at least 25 years at EPA trying to involve communities, not just in this Basin, but all over the region. They always hear that they do not do enough for public involvement and that they only do what is required. She does not want to be defensive, but EPA does a lot more than what is required. She commended Ms. Mitchell her for her level of commitment and engagement. It's hard for people to stay the course on these long term projects and stay engaged unless it has a direct impact on their daily life because people are so busy. She is open to hearing what EPA could do better. If it's not enough, then what is it? She thinks that's where EPA needs assistance, so she would ask that it be a part of the work of the group as it goes forward.

Commissioner Green added that this is his third Basin meeting, and that he is not convinced that what we have doesn't work.

12) Public Comment: Mr. Bret Bowers (CDA Lakeshore Property Owners Association) remarked that he heard great comments across the board. From his perspective, he said that what he's going to say is no disrespect, but that he found it odd back in February, that the LBC was not on the agenda that day and he asked Ed Moreen of the EPA about whether the agencies had been meeting at all with other parties. That's how it got on the table that afternoon. Then Ms. Mitchell showed up and there was nothing said about it. Now, we're hearing that you have been meeting for 15 months, and here we are about to change the rules. These are rules that all of us have tried to abide by along the way. He mentioned that he wholeheartedly supports the Basin Commission and public comment.

He then brought up that Commissioner Cantamessa made a good comment about how many meetings there are already. So, Ms. Mitchell, if you're relying on people to go to one more meeting or have their own meeting, and yet you're hoping in terms of what he saw in the proposal that they have to have some kind of attendance record to keep them engaged when the cleanup is going to be bouncing around in the Lower Basin, that from his experience it's hard to keep people engaged. Those who do show up in the bottom of the ninth are very passionate. He respects every comment he heard today from each of the BEIPC board members and noted that it has been interesting to watch this process unfold for all of us who have been a part of the process now for many years.

Mr. Larry Yergler (Shoshone County Commissioner) said that his only caution is in the language of collaboration. He has been involved in several other meetings (i.e. collaborative) and the problem is that there are no majority rules. So, he cautions the Basin Commission and the collaborative that if something cannot be passed by simple majority, then it may change the way you do business. He suggested that you study the language of collaborative, and that's his main concern.

Mr. Rusty Sheppard (Kootenai County TLG rep.) said that he thinks he is one of the longest associated people with the BEIPC. To put forth some history, the collaborative as he understands it, is a group formed for consensus. They already went through this in the 1990s in that IDEQ formed a committee he thinks had many names, but ended up being the CAC (Citizens Advisory Committee). The main charter of that group was to write the Lake Management Plan (LMP) and it was a consensus oriented group. They spent approximately 3-4 years drafting what they called the LMP and that was issued by this group about 1996. That consensus, which all the people in the CDA River corridor agreed to, sat on the shelf until about 2004 (about 8 years). From that time, it was so contentious, that EPA had IDEQ and the Tribe went to conflict resolution. The only way that the LMP came about was through the EPA's direct involvement in this conflict resolution situation. Now what he envisions is a similar happening with this collaborative group. It may go down the road for 5-6 years. The people on the collaborative group are the same people that he understands are also on the TLG, the Lower Basin PFT, and the Upper Basin PFT. So if he would be a member of the collaborative, he would still be talking to the same people, only under a different roof. He has a very difficult time understanding how a "consensus group" can be integrated into a non-consensus group which we have two of (with the TLG and CCC). If the board desires to try this even though

we've been over this ground already, he would not have much hope for it, but there's always a chance.

Mr. Terry Harris (Kootenai Environmental Alliance) said that he thinks Ms. Mitchell did a good job in explaining how the LBC came about and why. As somebody who was involved in the 15 months with the collaborative, he wants to give some of his perspectives as well. He is unburdened about the 30 years of cleanup. He has been to about 5 meetings. He is also a scholar of public participation and has been involved in environmental justice campaigns on the east coast. In earlier (i.e. Basin related) meetings, the agencies asked why people were yelling at them. The community and environmental groups asked the agencies why they were not listening. It took 15 months to figure out that the process wasn't working. You just have to go back to the public involvement processes that we went through that consisted of meetings going on for several hours and people yelling into a microphone for the Upper Basin ROD.

He explained that the idea with the LBC is to not have that happen again. The idea is that there's going to be a Lower Basin ROD. We know that it's coming and relatively soon. He believes that it would be good to set up a structure specific to that so people can be engaged. But engagement is not the "be all" and "end all" here. The be all and end all is meaningful involvement by citizens, so that they feel like what they say actually matters and has an impact on what the agencies are doing. This is what has been missing all along. In the past, it was shouting into a microphone and no one appeared to be listening.

He knows that collaboration can work because it works for the Forest Service, and there is a collaborative in Shoshone County, Clearwater, and the Owyhees where it has been broad based, consensus based collaboration bringing more to the table, but also sorting through problems that otherwise are impossible to solve and they get solved. It's a model that is being replicated across the country. It could and should work here. You have multiple agencies, multiple stakeholders, multiple interests, and you need to figure everything out. So the idea is to try something different. It might be that there is no down side to this. They could fail, but he does not think they are going to. He thinks there are enough models around and there are enough people in Idaho experienced with these models, and he knows that the congressional offices are experienced with these models, so it should work.

After additional discussion by the BEIPC, Commissioner Cernera expressed his view that he's not really confident at the moment that a vote should be taken. His recommendation is to table this to think about it and maybe engage in a little more dialogue.

Mr. Harwood commented that he was not going to say anything today about the LBC, but that he thinks if the vote is postponed, then you have basically voted no. These folks have worked a long time. He does not support this as he thinks that we already have a working process, but if you want to let the collaborative do this within the Basin Commission process, then you need to make a decision. Otherwise, you're telling them that nothing is going to happen for 3 to 4 months. He brought up that the BEIPC has to put a work plan together for the November meeting and that will take time to review and discuss.

Mr. Harris reiterated some of his previous comments and that he believes the collaborative can work if you get the right people around the table.

Mr. Ed Moreen (EPA) said that he thinks he should speak because he was one of the agency staff members originally contacted by Ms. Mitchell. She was frustrated and wanted to talk about how these things happen when people are left out of the process. Not only did she come up with ideas for this process, but she was willing to help try and do this in a better way. He asked the Basin Commissioners to please consider this. If it doesn't help in the end, then we're out the same energy and resources that we would be putting into outreach anyway, and then we'd have a better informed community. He thinks that we should give Ms. Mitchell the respect to try and make this work.

Commissioner Cantamessa closed the public comment session and opened it to further discussion among the Basin Commissioners.

13) Basin Commission Discussion on the LBC: Commissioner Pfeifer said that he agrees with Commissioner Cernera that this has been a very engaged conversation at the table. He really appreciates it. Normally this would be a very easy thing for him to vote and endorse. However, he especially appreciates the reservations expressed about a disconnect with the hard learning that has taken place in the Upper Basin over such a length of time, and understands that the Upper Basin may be nervous about a disconnect by having a separate group further downstream not having the benefit of this history. He has concern about setting up a citizen group that comes to an agreement that describes just by the fact, is an agreement; has more power, inappropriately more power in it, and would set the technical deliberative process back a bit. That's one of the cautions that he's nervous about.

He is also appreciative of how difficult it is to track everything that is going on in the Basin given the immense geography and the different timeframes for specific work. He understands and appreciates the challenges there. He would say that he is satisfied with the language that is crafted in the CCC amendment, but that this group will have another opportunity to make sure that the communications are solid before they approve the procedures. He wants to thank everyone for expressing their views and listening to his.

Commissioner Green said that he agrees with Mr. Harwood that by putting this off, we will have this same conversation in another quarter. So, he's in favor of making a decision now, one way or another. In his mind, there is a mechanism that allows for participation and it's not like there is not an option. He thinks that the BEIPC is a viable option. If the CCC amendment is not endorsed or adopted, then the LBC can still participate in the BEIPC process on this basis.

Break

Upon reconvening, Commissioner Cantamessa remarked that this was one of the most spirited discussions they have had in a long time. They had some very frank and open discussion and it went very well. He appreciates that too. From the perspective of the collaborative, he is going to suggest that we table this until the next meeting and make a decision at that time. The reason

is that there are 3 counties represented on the Basin Commission and some of the other County Commissioners are not here today. While they can make a decision today, he's convinced that the decision would not be unanimous. He thinks that we need time as he would not want to make a decision today and feel badly about it. The people who have been working on the LBC have been doing so for 15 months, so one more meeting is not going to cause long-term damage. His advice as the BEIPC Chair is to table this today.

Commissioner Green made a motion to continue this discussion at the next Basin Commission meeting in November. The motion was seconded by Commissioner Buell; and unanimously approved.

Commissioner Cantamessa then reiterated that the Basin Commission merely needs more time for deliberation. He thanked everyone. Commissioner Fransen asked people to let him know if they have suggestions between now and then. Commissioner Pirzadeh suggested that it would be advantageous to take steps to broaden this group and try to address some of the feedback.

14) Repository Update: Mr. Andy Mork (IDEQ) provided an update on repositories. The 30% design report for the Osburn repository site is currently in progress. The document will contain an executive summary and technical design report. There will be a 30-day public comment period after it's released. He then provided information on the EMF Environmental Performance Summary. The report concludes that EMF is performing as designed and is safely containing waste.

Mr. Mork announced that he will be leaving IDEQ for another job. He thanked everyone and said that it has been a tremendous learning process with the Basin Commission and citizens. Commissioner Cantamessa thanked him and expressed his best wishes.

15) Adjourn: As there was no further business, Commissioner Cantamessa adjourned the meeting early at 3:25 p.m.