

10-12-05 Citizen Coordinating Council Meeting

Avista Utilities Building, 6:30 PM to 9:00 PM, Kellogg, Idaho

Attendees (who signed in and/or announced themselves)

Jerry Boyd	W.C. Rust
Lloyd Brewer	John Snider
Phillip Cernaera	Rob Spafford
Jeri DeLange	Mark Stromberg
Dave Enos	Kathy Zanetti
Terry Harwood	
Ed Moreen	
Glen Rothrock	

Meeting Overview

The October 12, 2005 meeting of the Citizen Coordinating Council (CCC) of the Basin Environmental Improvement Project Commission (BEIPC) covered the following topics:

1. BEIPC Board Activities Update
2. Lake Management Plan Update
3. National Academies of Science (NAS) Report Follow-up
4. Repositories Update
5. CCC Input on 2006 BEIPC Workplan

Opening

CCC Chair John Snider chaired the meeting. After his opening welcome, John reviewed the agenda. He noted that one of the agenda items for the evening would be comments on the 2006 BEIPC Workplan, and that any additional comments should be sent to Tom Beierle at Ross & Associates (tom.beierle@ross-assoc.com; 206-447-1805).

BEIPC Board Activities Update

BEIPC Executive Director Terry Harwood reviewed activities from the August BEIPC Board meeting, including the BEIPC 5-year Workplan, the National Academies of Science (NAS) report, and the BEIPC Motion Regarding Phase II of OU2.

BEIPC 5-year Workplan

The BEIPC board approved the 5-year Workplan in August. Terry went through some of the highlights in the plan, including proposed work to meet a need for additional repository space and a proposed deadline of December 2006 for establishing an Institutional Controls Program (ICP) for Operable Unit 3 (OU3). He noted that NAS-related work was not described in the 5-year Workplan's summary table, but it was discussed in the narrative (section 1.8), which said that "the BEIPC will review the prepublication report and the final report...and determine if immediate action is required...and determine an appropriate course of action for the BEIPC after the final

report is published.” Terry said that many of the projects and issues listed in the 5-year Workplan are treated in more detail in the BEIPC 2006 Workplan.

Responding to a question about where blood lead testing appeared in the 5-year Workplan, Terry said that it was in the 2006 Workplan instead. Responding to a question about the cost of activities in the 5-year Workplan, Terry said that he took cost information out for all non-Clean Water Act (CWA) projects because it led to the false impression that the BEIPC had control over the funds, when these funds are actually spent at the direction of lead agencies. Financial information about the CWA projects is in the 5-year Workplan because the BEIPC has control over these funds. A CCC member responded that it would be useful to see the dollar amounts for all projects because the dollar amounts indicate the relative magnitude of effort going into the projects.

NAS Report

Terry went through a handout describing issues raised by the NAS report and listing which Project Focus Team (PFT) would help address it, along with the potentially responsible entity for the issue. Terry noted that some recommendations are straightforward, some are already being dealt with (e.g., repositories), and some need more clarification (e.g., universal blood lead screening).

Terry said that he is forming a funding PFT, and its first call will be next week.

BEIPC Motion Regarding Phase II of OU2

Terry reminded CCC members that the Memorandum of Agreement creating the BEIPC allows the BEIPC to get involved in Phase II of the cleanup of OU2 (the “Box” industrial complex/non-populated areas), which mainly deals with water quality issues. Last Spring, the BEIPC board voted to get involved in Phase II, and at the August meeting, the board approved a clarification of what activities it would be involved in. He noted that there are EPA and DEQ activities and targets related to the OU2 Phase II work in the 2006 Workplan (see Section 1.6 of the Workplan).

CCC Vice-Chair Kathy Zanetti said that it would be useful to have some concrete numbers describing the percent of OU2 cleanup that has occurred. Ed Moreen, EPA, said that the “lion’s share” of the work was done. Ed said that he would review the ROD and come up with a more concrete measure of the percentage of work completed.

Lake Management Plan Update

Phil Cerner, representing the Coeur d’Alene Tribes, and Glen Rothrock, representing Idaho DEQ, discussed the state and tribe perspectives on the development of the Lake Management Plan (LMP) for Coeur d’Alene Lake. Phillip said that the tribe and state are preparing to enter into mediation and each has signed off on committing to “good faith negotiations.” The tribe and DEQ have met with representatives of the U.S. Institute for Environmental Conflict Resolution to identify issues and requirements for a mediator.

An RFP has been issued for a mediator, and responses are due October 21. The mediation process will probably begin with a kick-off meeting with all of the parties followed by private sessions with the mediator shuttling back and forth between parties to define areas of agreement. The process is expected to go into the spring, resulting in a plan in April.

Phillip said the LMP would cover:

- Recommendations listed in an addendum to the most recent LMP;
- Public comments;
- EPA/CERCLA requirements;
- Changes that have occurred in the status of the lake since the most recent LMP was developed;
- NAS-related issues (e.g., a monitoring plan); and
- Cost-related information.

Glen Rothrock introduced himself as the new lake manager for Coeur d'Alene Lake, and said that he began in August with specific funding for one full time staff dedicated to lake management. He is based out of Coeur d'Alene and has experience working on lake management for many areas in northern Idaho, particularly the community relations aspect of lake management plan implementation. He noted the importance of public "buy in" to the LMP because there isn't regulatory authority for many LMP related activities, such as using best management practices on lands in the watershed. Glen was involved with DEQ's update of the Coeur d'Alene LMP in 2004. In addition to working on the LMP, Glen will be involved with issues related to total maximum daily loads (TMDLs) in area water bodies and a CWA-funded project on auditing lake management practices around Coeur d'Alene Lake. In a question about TMDLs, Glen said that the state is only involved in TMDLs for stream segments that are outside of tribal boundaries.

A number of CCC members raised the question of whether stakeholders other than the tribe and state —such as the counties and the public—would be involved. Phillip and Glen explained that the decision about how counties will come into the process is up to the state of Idaho, which has an agreement with the counties that is separate from the state-tribal agreement on lake management. According to Glen, the state view is to have only the state and tribe involved in the initial meetings. If it looks like these two parties have room for a deal, other stakeholders, such as the counties, would be brought in. Glen said that the decision of who to include in the mediation is a very high-level one, and noted that the funding for the mediation was increased specifically to cover the costs of including stakeholders.

CCC Chair John Snider said that involving the counties is important because they have enormous responsibility on issues that impact the lake. Jerry Boyd added that not including the counties risks having the tribe and the state come to agreement based on false premises. Similarly, CCC members made the point that the more people that are informed about the ongoing mediation, the more trust will be generated. CCC Chair John Snider requested that Phillip keep the CCC updated on what is going on in the mediation

process. Phillip agreed. Phillip also noted that there would be public comment on whatever agreed-to plan emerged from the process.

NAS Report Follow-up

Executive Director Terry Harwood went into further detail on how issues raised in the NAS report would be followed up on by PFTs and responsible agencies.

On one of the issues, flooding, CCC member Bill Rust said that at a recent Federal Emergency Management Agency meeting, there was talk of setting up a flood control district in the Basin. He recommended that the BEIPC get involved in the issue. Dave Enos noted that flood control would probably be part of the institutional controls program (ICP) because it would protect some of the cleanup remedies. Terry agreed.

On the blood lead issue, Terry said there was much discussion about what the NAS' recommendation for "universal" testing meant. The 2006 BEIPC Workplan says that the BEIPC will follow up with NAS to get clarification.

On the issue of an ICP, it was noted that this will be a big area of activity in the coming year, but that there is no ICP PFT. Terry suggested that such a PFT may need to be created. Mark Stromberg, from Idaho DEQ, clarified that DEQ and the Panhandle Health District (PHD) will work with EPA to develop the ICP.

Repositories Update

Ed Moreen gave an update on the status of current and future repositories for soil removed as part of the cleanup, noting that plans for repositories in 2006 are outlined in Section 1.2 of the 2006 BEIPC Workplan. The current repository, at Big Creek, is expected to be filled by 2007. Ed said there is an urgent need to site more repositories, and he asked the CCC for help in identifying appropriate locations. Efforts are ongoing to investigate whether a repository can be sited at Mission Flats, and there are preliminary investigations into using a tailings pond site in Osburn for a repository. Ed said there would be a repository PFT meeting in late fall.

CCC members discussed a few ideas offered by members for dealing with cleanup-related waste, such as inserting waste back into the mines or reusing low-contamination waste in industrial areas governed by an institutional controls program. Other CCC members suggested that the mine openings weren't big enough to accept waste and that reusing the waste may create the kind of problems that the cleanup is now trying to solve. Bill Rust asked about a DEQ estimate that 7.9 million yards of waste would ultimately have to be placed in a repository; Mark Stromberg, Idaho DEQ, said that this reflected a long-term (20 years) estimate of activity, including waste generated as a result of the ICP.

CCC Input on Draft 2006 BEIPC Workplan

TLG Chair Phillip Cerner gave an overview of the draft 2006 BEIPC Workplan, saying that he, John Snider, and Terry Harwood would go through comments after the CCC meeting and decide on a final version of the plan to go to the BEIPC board for its November 9 meeting. CCC comments that come in after the draft 2006 Workplan is prepared for the BEIPC board will be included in CCC material for the board.

CCC comments are listed below.

ICP Program (Section 1.3.1)

- Paragraph 3 makes it appear that only three entities (EPA, IDEQ, and PHD) will be involved in developing the ICP; more stakeholders should be involved (Snider).
- Paragraph 3 makes it sound like PHD is setting the ICP rules, and the reference to “temporary ICP rule” is not necessary (Snider).
- There are a number of problems in using the ICP program from the Box for OU3 (Rust, Zanetti, and others). These include the fact that many ICP-related activities that are the responsibility of PHD within the Box (e.g., storm water rules, site disturbance, etc.) are currently done by the counties in OU3.
- Instead of the OU3 ICP being similar to the Box ICP, the OU3 ICP could “provide the same level of health protection” as that in the Box (Boyd).
- The BEIPC should approve the ICP before it goes to the state legislature (Snider).
- Language in the 2006 Workplan that says that ICPs may apply in cases where the remedy is not yet in place is inconsistent with previous explanations that ICPs would only be applied to maintain the integrity of a remedy (Snider). Applying ICPs to non-remediated areas—e.g., contaminated yards that haven’t been cleaned yet—puts the responsibility on landowners (Rust). This is even more problematic given the lack of repository capacity to accept waste generated as a result of ICP requirements (Zanetti).
- Rusty Sheppard submitted the following comment in an email presented at the meeting: The Lakeshore Owners/Spokane River Associations SIG takes issue with paragraph 1.3.1 Institutional Control Program (ICP) of the BEIPC 2006 Year program. It is our position that paragraph 1.3.1 be amended to change it into being a description of the procedure to be used in developing an OU3 CDA Basin ICP program. The way it currently reads is that it develops an ICP program. Additionally, the paragraph should also be amended to include pertinent stakeholders at the start, thru to the end in the preparations of the ICP rules. It is our position that the proposed ICP rules be submitted to the BEIPC prior to submittal to the Idaho State Legislature in 2007 for their incorporation into law.

To deal with all of these issues, there was general agreement that the ICP section should be made more general and procedural; it should set a target data and leave details to the process of actually creating an ICP, including work by a PFT. There was also general agreement that the BEIPC should approve the ICP before it goes to the state legislature, and that the rules will not be final until approved by the state legislature.

Blood Lead Testing (Section 1.3.5)

- There was general CCC agreement that increased blood lead testing was a good goal, but the 2006 Workplan shouldn't go into detail on how it should be accomplished.
- The 2006 Workplan should say the approach for lead screening is "pending" and will be taken up by the Human Health PFT (Snider, Brewer).
- Section 1.3.5 should just be the first two paragraphs and the last paragraph (Rust).
- It is important to emphasize the voluntary nature of the blood lead testing program (Snider).
- CCC members came up with ideas for lead screening such as requiring that all children's blood to be tested should get tested for lead.

Terry said he would come up with new language on blood lead testing and talk to Phil Cernera and John Snider about it when they went through CCC comments and developed the draft 2006 Workplan that would go to the BEIPC board.

Lake Management Plan activities (Section 1.9)

- Rusty Sheppard submitted the following comment in an email presented at the meeting: The Lakeshore Owners/Spokane River Associations SIG takes issue with paragraph 1.9 Lake Management Plan Activities of the BEIPC 2006 Year program. As currently written, the stakeholders enter into the revision process at the discretion of DEQ and the CDA Tribe. It is our position that the stakeholders enter the revision process at the beginning and continuing thru to its conclusion.

General

- From the write-ups in Part 2, you can't tell what grant money has already been spent vs. what is available to spend on the "work to be performed in 2006" (Boyd).

November BEIPC Board Meeting

The next Basin Commission Board Meeting will be held on November 9, 2005 at the Coeur d'Alene Resort at Second and Front Streets in Coeur d'Alene. Check the Basin Commission website, www.basincommission.com, for additional details.