

# 10-27-10 Citizen Coordinating Council Meeting

Veterans Memorial Hall, 6:30 PM to 9:00 PM, Kellogg, Idaho

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## ***Attendees (who signed in and/or announced themselves)***

Jerry Boyd  
Jeri DeLange  
David Fortier  
Denna Grangaard  
Terry Harwood

Kenny Hicks  
Troy Lambert  
Ed Moreen  
Andy Mork  
Vera Williams

## ***Meeting Overview***

The October 27, 2010 meeting of the Citizen Coordinating Council (CCC) of the Basin Environmental Improvement Project Commission (Basin Commission or BEIPC) covered the following topics:

- Open Discussion on Basin Cleanup/CCC Issues
- Providing Effective Public Comment
- Basin Commission Updates
- Upper Basin ROD Amendment
- Repository Updates
- Communications Project Focus Team (PFT) Update
- North Idaho Fair Update

CCC Chair Jerry Boyd chaired the meeting.

## ***Open Discussion on Basin Cleanup***

Jerry Boyd, CCC Chair, asked participants to bring up any issues or topics to discuss. He noted that he had heard complaints about the cost of the ROD Amendment and the impact on the community. Kenny Hicks, TLG Vice-Chair, said he had heard similar concerns, as well as concerns about tight regulation of mining.

Kenny Hicks raised the issue of survey markers (e.g., for property corners) being removed during remediation work and not being replaced. He said this is an important issue but could wait to be taken up until after the work on the ROD Amendment is completed. David Fortier, CCC Member, agreed that it was a problem associated with the remediation. Kenny wondered if there were standard operating procedures in place for replacing markers, and he said he had heard there was a pilot project on management of survey markers. Terry Harwood, BEIPC Executive Director, said that the State of Idaho passed a new statute in 2008 for the protection of survey markers that made it clear that all engineering, survey, and other firms needed to protect the markers. IDEQ and Terragraphics undertook a pilot project, and the Idaho Board of Professional Engineers and Professional Land Surveyors visited the Basin and confirmed, by letter to IDEQ, the need to protect markers and asked IDEQ and Terragraphics to implement the practices developed in the pilot. One of the requirements in the statute is that plans for work on property have to be reviewed by a licensed Idaho surveyor to see if there are monuments, and monuments have to be indicated in the drawings that the contractor uses to implement the

remedy. Terry suggested that the Idaho Statue on protection and replacement of survey markers should be considered an Applicable, Relevant, and Appropriate Requirement (ARAR) for remediation work.

## ***Providing Effective Public Comment***

CCC Vice-Chair Vera Williams conducted a mini-workshop on providing effective public comment. The intent of this effort was to educate the interested public on how to provide public comments to government agencies that is informed and effective. The associated handout was prepared by the Communications PFT, in conjunction with the CCC Chair, CCC Vice-Chair, and BEIPC Executive Director, and is available on the Basin Commission website at <http://basincommission.com/docs/BEIPCCCCPublicCommentFAQ.pdf>. The presentation covered the topics below.

Why is public commenting important?

- Public comment is part of the legal record associated with a rule, program, proposed regulation, etc. Having public comments is important for informing the government agency of citizens' concerns.
- Comments demonstrate knowledge and show that citizens are informed about the area, plan, and issues.
- Public comments provide a feedback loop on how the public is perceiving communications from the agency. Public comments help agency staff know how what they are presenting is perceived and where the potential issues are. Often people think they are explaining themselves well, but there are subtle differences in language that can make explanations confusing.
- Making comments demonstrates that a citizen or group of citizens has a commitment to the project, are invested in the community, and plan to stay involved. Agencies often assume that issues are too complex for the public and that the public is not interested in engaging in a constructive way.

How to provide effective public comment:

- Take the time to read the associated document or other materials, perhaps with a group of people, and define terms that are confusing or new.
- Look for dependable research resources. Make an effort to explore different perspectives, but understand the limits of what you are being told; understand that people bring biases to issues.
- Learn about the public comment process and how a citizen can best enter into the overall process. Understand what the steps are of a government agency workplan, and how the agency prioritizes decisions. Learn who the key decision makers are within the agency or group of agencies you are seeking to influence.
- If more comfortable, narrow the focus by choosing a particular issue within the larger issue about which to learn more.
- Don't "shoot the messenger"; question the process, but remember that it is not about the people.

After Vera's presentation, those in attendance discussed how to provide effective public comment, and how the lessons related to the Basin cleanup process. Kenny Hicks said that at

the beginning of the cleanup, there were opportunities for people to come read documents as a group, but that some people tainted the process by how they read and presented the documents. Vera noted that it is important to recognize the perspective of the source. Kenny also noted that the message not to “shoot the messenger” is very important. He said that the comments around this ROD amendment are different from early work on the ROD and that there is not as much “messenger shooting” this time around.

Jerry Boyd asked Ed Moreen, EPA, and Andy Mork, IDEQ, about their thoughts on what makes public comments effective. Ed said that anything that informs the decision or the document itself is helpful. EPA especially wants to know errors in fact or hear suggestions for alternative approaches. It is important for comments to be focused on the issues and decisions at hand. It is helpful to hear what people are concerned about, but even more valuable to hear ideas for improving decisions.

Andy agreed with Ed’s points and said that all of the public comments are important. Andy advised commenters to be concise and to identify issues that are subject to action in the document they are reviewing. He suggested that a commenter state their opinions clearly and specifically. Like Ed, Andy noted that suggestions or alternatives are particularly useful. Andy noted that the question of whether to do the cleanup is no longer on the table; instead the focus is how to do the cleanup. He said comments help the agency understand what issues are important in the implementation of the cleanup and what alternatives should be considered. Vera agreed that it is very important for commenters to understand what decisions are being made, what can be changed, and what cannot.

Troy Lambert, citizen, asked if a citizen is concerned on more than one issue, whether he should submit it all as one document or as several separate comments. Ed said that the commenter should make all issues known and that it is fine to do it in one document for EPA’s purposes.

Ed explained the process that EPA uses for tracking comments for the Proposed Upper Basin Cleanup Plan. Currently, comments are being accepted on the Cleanup Plan through November 23, and these comments are being tracked in a database, along with responses. EPA and consultants will be going through all the comments. In addition to providing specific responses, EPA evaluates comments to see if they should result in a change in the ROD Amendment. Jerry asked whether EPA staff will go back to the commenter for clarification on a comment. Ed responded that for a project of this size, it is not common to go back to the commenters for follow-up.

Ed noted that the handout Vera provided says not to send a form letter for the public comment, and that he agrees. He said that multiple versions of the same letter do not carry much weight, and that to be more effective, a commenter should give his or her own perspectives and information. Vera said that writing your own comment shows a higher level of commitment to the project and thus may have higher impact.

Jerry noted that, for East Mission Flats, when citizens had comments that showed concern with the number of monitoring wells and the height of the repository, the comments were taken seriously and had an impact on the outcome of the project.

David Fortier brought up a concern that the list of sites in the ROD amendment includes sites that do not need to be cleaned up and that it does not list some sites that should be cleaned up. He felt like his previous comments on the list had not been heeded by EPA and wondered whether he should take the time to provide comments again. Terry Harwood noted that he went through all of the documents and all of the projects and made notes concerning various sites. Jeri DeLange, BEIPC, and others emphasized the importance of submitting comments. Jerry Boyd said that comments may spur other citizens to provide related comments. Ed Moreen said that EPA is taking a close look at the list of sites and seeing if there is additional information that would warrant deletions or additions. He said specific information about sites would help the process. He encouraged David and others to submit comments.

The CCC discussed whether the ROD amendment needed to list all of the potential sites or whether there should be an approach that allows EPA to decide what sites to clean up even if the sites aren't specifically listed in the ROD. The current approach seems to be that all sites need to be listed in order to assess costs and to avoid having to reduce the need to do future amendments. However, some felt that this approach puts too much emphasis on getting a complete and accurate list of sites now. Troy Lambert noted that EPA is not saying "we want to remediate all of these sites," but the agency is trying to include all possible remediation sites in the ROD Amendment. David Fortier suggested that EPA have the flexibility to add sites as they learn more information.

Ed Moreen said that EPA will publish a responsiveness summary for public comments, but decisions had not yet been made about the format and timing of the summary. He said EPA is actively working through comments received to date.

### ***Basin Commission Updates***

Terry Harwood, BEIPC Executive Director, provided updates related to the Basin Commission work.

#### **Basin Commission Work Plans**

Every year, the Basin Commission has 1-year and 5-year plans for its work. Terry first drafts the plans, gets input from the TLG, the CCC, and other sources, and provides the draft plans as proposals to the Basin Commission. The plans include CERCLA projects and all other projects that the Commission has taken on, such as flooding. CCC members are encouraged to submit comments on the work plans to Terry as soon as possible, as he will be providing the draft plans to the Basin Commission on November 3 for their November 17 meeting.

#### **Draft Upper Basin Adaptive Management Plan**

Terry said that EPA has developed a draft Upper Basin Adaptive Management Plan, which describes a process for ongoing remedial action prioritization and implementation sequencing for projects in the Upper Basin. Terry noted that the document described developing 1 year and 5 year plans that will be linked to the Basin Commission Plans.

#### **Flood Control**

Terry is working with the Silver Jackets team of the Army Corps of Engineers to do an analysis of the levee system. However, new projects probably will not be considered by Congress until after the November elections.

In addition, Terry is working with State Senator Broadsword and the Idaho Bureau of Homeland Security on South Fork CDA River and Pine Creek levee and flood issues and how they might be impacted by CERCLA remedies. In addition, the Idaho Governor will be writing a letter to all the Federal Regional Leaders of EPA, Corps of Engineers, NOAA, and FEMA to meet with Idaho agency heads to put together a coordinated approach to levees and flooding, including the impacts of the remedies on flooding.

Denna Grangaard, IDEQ, asked where a citizen in the Silver Valley would go with questions about flooding. Ed Moreen said that people should go to the local flood authority for information.

### ***Upper Basin ROD Amendment***

Ed Moreen, EPA, provided a brief presentation on the Upper Basin ROD Amendment and Proposed cleanup Plan. In October, EPA held two open houses in Wallace and Smelterville and had a tour of the Upper Basin. Feedback from the open houses was good; there were approximately 50 people on the tour and 25 at each of the open houses. The purpose of the tour was to show areas where actions would be taken and some success stories. The public comment period on the proposed plan is closing on November 23.

EPA received a proposed plan from Hecla Mining for a 10 year increment of work. EPA is currently reviewing it and comparing it to the EPA Upper Basin Proposed Plan and Hecla's 2007 work proposal. Ed did not think that the proposal from Hecla was public; anyone interested should ask Hecla for it.

Dave Fortier asked what kinds of issues people had been bringing up on groundwater treatment. Ed said that water treatment brings up lots of issues, including long-term operation and maintenance of water treatment facilities. Ed said that some of the water treatment in the proposed plan is very cost-effective and can capture a lot of the metals loading with water capture at a few discrete places in the Basin. He said he had also heard concerns about piping water from remote areas into the treatment plant. EPA can also think about capturing water in Canyon Creek, which was a concept proposed by TLG Member Bill Rust. David Fortier said that he cannot find documentation to support the proposal in the ROD amendment in terms of the effectiveness of the technology, and that the extraction cannot be done passively. It would need extraction wells he said. Water rights were also discussed by CCC members as a potential issue associated with groundwater treatment. However, there do not seem to be concrete issues associated with the topic.

Denna Grangaard asked whether anyone had heard anything about groundwater "wicking up" (i.e., rising to the soil surface), which may bring contamination to the surface. David Fortier said that he has seen places where ground water wicks up in the Lower Basin. He said that he has seen salts visible on the surface from the wicking action.

### ***Repository Updates***

Andy Mork, Idaho IDEQ, provided updates on the repositories. For the Osburn and Star Pond repository sites, IDEQ is currently in the investigation phase. As part of the investigation of these sites, IDEQ is conducting surveys for cultural resources, threatened and endangered species, wetlands, geophysics, and visual impacts. At Osburn, staff is looking at areas east of the existing tailings ponds for remedial action and ICP waste. For the Star site, they have identification a target of opportunity on the Hecla Mining and Bureau of Land Management (BLM) lands, but have not gotten access to the Hecla part of the site yet. Following the initial investigation, IDEQ will do floodplain analysis, seismic evaluations, geotechnical investigations, well installations, and groundwater sampling. Multiple Upper Basin sites will be needed, but they do not need to open at the same time. Following the close of investigations, the Osburn site will be developed first, followed by the Star Ponds site. For the Osburn site, in December 2010, IDEQ will publish the Access Roadway Design Report. For this road, IDEQ will do the design work, and U.S. Silver, which will also use the road, will build it. In the Summer of 2011, IDEQ will publish the 30% Design Report for Osburn.

Kenny Hicks asked whether the design report will include an assessment of the bridge at Two Mile Road. Andy said that the bridge had not yet been evaluated, but will be evaluated during the access assessment. Jerry Boyd asked whether there will be meetings on the 30% design. Andy responded that IDEQ will present at CCC meetings on the work, will work with the Repository PFT, and will have a full public meeting when the design report is released. David Fortier asked what the relationship is between doing a feasibility study and getting the properties. Andy said that IDEQ will work with BLM to transfer what property is needed at Star Ponds; for Hecla properties, the process has not yet been worked out.

At the Big Creek Repository, IDEQ is working to increase capacity by extending the repository to the north toward the Trail of the Coeur d'Alenes. Expansion will allow for the acceptance of more remedial action and ICP waste. The design analysis indicates that the repository could accept another 130,000 cubic yards of capacity. Because infrastructure (e.g., roads, decontamination facilities) are already at the site, the expansion is cost effective. The evaluation has shown that it is safe to have a 2:1 slope at the toe of the repository, which allows for the acceptance of more material (normally, there is a 3:1 slope). The slope will be covered by a vegetated geotechnical barrier. The expansion will protect the existing monitoring wells. A Supplemental Site Characterization Report will summarize all the analytical information (e.g., cultural resources, geotechnical engineering, wetlands evaluation, etc.).

Vera Williams asked whether the repository will need all 130,000 cubic yards of space; Andy responded in the affirmative. Jerry asked where the buffer is; the buffer is a 25 foot buffer before the trail and Country Club Road.

Kenny noted that material at a repository is easily mobile in normal storm events and that IDEQ will get success in revegetation if they break up the slope lengths with straw wattles; this technique is working at East Mission Flats.

Denna asked whether the work will generate any business for local contractors. Andy said that TerraGraphics in Kellogg is doing the planning work on this project, and they have capacity in house to do this work. IDEQ does not dictate to TerraGraphics who their subcontractors are. During the construction phase, work will go to local contractors; this phase has the bulk of the

opportunity for work. Ed noted that when people are looking for work and have skills, they should contact the local lead contractors, such as TerraGraphics.

### ***Communications Project Focus Team (PFT) Update***

Jeri DeLange, Communications PFT, provided an update on the Communications PFT work in recent months. In August, the Communications PFT had a booth at the North Idaho Fair. In September, the PFT started producing the FAQ sheet for public commenting, which was available at the EPA Open Houses in October, and available at this CCC meeting tonight. The mini-workshop that Vera presented to the CCC was a joint effort by the Communications PFT. If there is interest from the public, the PFT can hold other workshops on this topic or on other topics.

The Communications PFT is also working on finalizing the questions for the CCC survey. This survey will go to Jerry and Vera for review, and then will be put on the Basin Commission website and distributed to CCC members. Jeri will tabulate results and share them at a future meeting.

Tina Elayer, IDEQ, is chairing the Recreation and Education Subcommittee. She's working on adopting "Riley Raccoon" for more general purposes. Riley is the Panhandle Health District's mascot and is used to educate children on the dangers of lead and playing safe near potential high-lead sites.

### ***North Idaho Fair Update***

Denna Grangaard, IDEQ, provided an update on the North Idaho Fair. The booth was a joint venture between IDEQ, Basin Commission, the CCC, and the Coeur d'Alene Tribe. The booth had lots of information to offer, and had about 1,500 people stop by. A "wheel of fun" had trivia questions, which was a draw and conversation starter. Next year, the Communications PFT will work with partners on the visual for the booth; there is lot of information and it can be overwhelming to visitors.

### ***Continue Open Discussion/CCC Issues***

At the end of the meeting, participants were asked to raise any other issues. Kenny Hicks noted that the boundary of the Box seems to hamper efficient and cost-effective implementation. Ed noted, that part of the reason for the difference between work inside the Box and outside of the Box is that there are different settlement agreements with responsible parties, and some pertain only to the Box. Jerry suggested that there could be some combination of settlements, with separate accounting inside and outside of the Box.

### ***Next BEIPC Meeting***

The Basin Commission Board will hold its next meeting on November 17 in Hayden, ID. It is open to the public.

### ***Adjourn***

The CCC meeting was adjourned at 9:00 PM.

# ***Presentation of Citizen Comments to the Basin Commission Board***

***October 27, 2010***

## **Written Comments**

No written comments were provided at the CCC meeting

## **Verbal Comments**

Verbal comments provided at the October 27, 2010 CCC meeting are reflected in the CCC meeting summary and paraphrased below.

<b>Comments</b>	<b>Commenter</b>
Removal of survey markers during remediation is a big problem and needs to be addressed (although not until after the ROD Amendment is completed).	<i>Kenny Hicks, TLG Vice Chair</i>
Monument removal is a major problem with remedial activities in the Basin. In many areas, monuments have been knocked out. They need to be protected and replaced after remediation. Monuments are important for protecting private property rights. Monuments are expensive to go back in and replace.  <i>For the above two remarks, Terry Harwood, BEIPC Executive Director, suggested that Idaho Statute on protection and replacement of survey markers should be considered an Applicable, Relevant, and Appropriate Requirement (ARAR) like any other for remedial activity.</i>	<i>David Fortier, CCC member</i>
At East Mission Flats, when citizens had comments that showed concerned with the number of monitoring wells and the height of the repository, the comments were taken seriously and had an impact on the outcome of the project.	<i>Jerry Boyd, CCC Chair</i>
The message not to “shoot the messenger” when making public comments on agency documents is very important. The tone of involvement in this ROD Amendment is different from early work on the ROD. There isn’t as much “messenger shooting” this time around.	<i>Kenny Hicks, TLG Vice Chair</i>



**Comments****Commenter**

<p>I have a concern from the Focused Feasibility Study. There are some significant sites that aren't included, and there are lots of sites with little to no contamination. One of the sources map they are using is one that I put together years ago, and I think there are problems with how it is being used. For example, there are 30-50 more mill sites than what we mapped. I have found about 10 of them. A lot of them haven't been researched or sampled because most people don't know they existed. We gave EPA records on Canyon Creek, and they didn't know about the sites. Consultants are trying to work with limited information. I don't know if they are working with the information we've given them on Canyon Creek or Orange Gulch. Today I was going to through a museum collection of pictures on old mill sites. There are pictures of some sites that aren't on the list.</p>	<p><i>David Fortier, CCC member</i></p>
<p>For people commenting on the ROD Amendment, it would be helpful to have a spreadsheet with all of the sites, to make it easier to work from.</p>	<p><i>David Fortier, CCC member</i></p>
<p>I cannot find documentation to support the groundwater treatment proposal in the ROD amendment in terms of the effectiveness of the technology.</p>	<p><i>David Fortier, CCC Member</i></p>
<p>The ROD amendment should allow EPA to add or delete sites from the list as more information is collected.</p>	<p><i>David Fortier, CCC member</i></p>
<p>The mining museum has a database of 2,100 maps - there is a lot of information out there. We have the production data going back to the 1880's. We have the history on any significant mine site in the area.</p>	<p><i>Troy Lambert, citizen</i></p>