

TLG CONFERENCE CALL SUMMARY
April 6, 2006

Participants:

Brian Spears (Chair)
Anne Dailey
Terry Harwood
Rog Hardy
Rusty Sheppard

Dave Fortier
Lloyd Brewer
Nick Zilka
Jeri DeLange (Note Taker)

This summary provides the salient issues. These notes are intended to capture key topics, conclusions, and next steps and not the nuances of the discussion.

Agenda Items: Draft Five-Year Work Plan

Brian Spears informed everyone that comments on the draft five-year work plan are due to Terry Harwood by tomorrow, April 7.

Harwood said that he talked with Commissioner Sherry Krulitz on the work being done by the Human Health PFT for the Basin ICP. He indicated that EPA and IDEQ prepared a draft boundary map regarding the jurisdiction of the ICP. Harwood pointed out that the legal narrative, map, and who the enforcing entity would be (possibly PHD) all need to be included in the legislative rule-making process. In addition, he suggested that everything should be coordinated with the planning and zoning commissions for the rules already in place in the counties.

Harwood said that Commissioner Krulitz would like to see more of a completed document on the ICP presented to the BEIPC; and that she suggested postponing the May 24 meeting to June 21. Harwood added that Commissioner Michael Bogert and Commissioner Rick Currie would also like the TLG to recommend an ICP that could be agreed upon. Harwood suggested that the TLG work through the recommendations to complete a finished document, if possible.

Spears asked how much discussion on the ICP would be political and what amount technical. Harwood answered that most of the discussion would be political, although there would be some technical in the process of writing the law. Rog Hardy commented that the TLG is political as well as technical. He suggested that the criteria for the boundaries should be consistent and that this will get into technical issues. Spears indicated that he would like the Basin Commission to first outline the technical issues on the ICP in order for the TLG to address it appropriately.

Harwood pointed out that the BEIPC wants the best effort in whatever agency implements the ICP. He suggested that the implementing agency staff be involved in the process of drafting and coordinating the ICP because it is a legal document. The EPA and IDEQ will review it to determine if it fulfills the requirements of the ROD; and then the attorneys will have the final say. Harwood believes that it is a unique job for the TLG as the BEIPC is very concerned about the substantial amount of information involved and that it will be difficult to try and incorporate all of the comments to cover every contingency.

Spears mentioned that everyone realizes the ICP is a big issue and also two-sided (political and technical). He stated that he is not sure which side drives the document and reiterated that he would like someone from the Basin Commission to outline the technical issues to be discussed so that those could be focused on by the TLG.

Harwood said that the PFT came up with nine items to address if the PHD (Panhandle Health District) is the entity chosen to administer the program. He indicated that a strawman was written last year and suggested that the TLG review it to see how things are written and if it addresses both political and technical concerns. Hardy suggested reviewing each item in the strawman to outline the percentages involved as to whether they are technical or political for the body as a whole. Spears agreed this was a good idea.

Rusty Sheppard asked why the agencies are not doing their work on the ICP. He suggested that Shoshone and Kootenai counties, along with the PHD, work out problems related to intermingling the authority and responsibility under the law. He indicated that up to now, they have not been able to. He also believes that the TLG does not have the right people at the table. Harwood pointed out that may not be the case. He said that he could take the map that John Snider has and talk with people, but that he does not want to step on toes. However, he may be able to walk it through.

Anne Dailey feels that Sheppard is right about the county and agency people as they are the ones to enforce the ICP. Sheppard indicated that it is difficult to talk to the planning people as there are a limited number. Dailey suggested that Sheppard and Snider make time to talk to Commissioner Currie and then it will be his responsibility to direct the planning department to do the work related to the ICP.

Hardy recommended getting the Army Corps of Engineers involved because the TLOP (Trail Long-Term Oversight Plan) process has been ongoing since 2001. Sheppard pointed out that FEMA may need to be involved as they have rules set for floodplains. Harwood indicated that FEMA has no authority unless there is a flood. He does not want the ICP process to get out of proportion because all efforts should dovetail.

Harwood stated that he is not convinced the first step will be taken in a timely manner and would like some assurance that it will take place. He would like to resolve the issue and have it completed by June 9. Fortier feels that the county people will not be able to have buy in by that date. Lloyd Brewer asked if there was concern on the part of the PFT for the PHD being the lead. Harwood replied that there was not total agreement that the PHD should be implementing the ICP. He indicated that ICP rules and county permit rules do overlap and would need to be coordinated on who implements.

Fortier brought up that there should be willingness to participate on the part of the entities needed to carry out the authority. Brewer commented that part of that answer was political. Harwood replied that the decision on the implementing authority may need to be discussed by the BEIPC and voted upon. He said that he spoke with the Mayor of Kellogg and the PHD at

last night's PFT public meeting and they informed him on how they have taken the requirements of various parties to dovetail and coordinate the ICP for the Box.

Spears said that he would be surprised if a draft plan for the ICP could be completed by June 21 and that he feels it is not a TLG issue to take care of it. He suggested that the State, EPA, or county commissioners should be the ones to start the process rolling. Brewer indicated that the TLG would need an answer to the structure first before the ICP could be addressed.

Fortier suggested that the TLG could look at the maps to see if they cover the areas of contamination and review the existing ICP to see how contamination issues are taken care of. Then, the TLG could compare the effectiveness of the mechanisms in place with the strawman in order to make general recommendations for the Basin ICP. Harwood said that he appreciated the discussion and mentioned that the PFT is working hard to reach agreement on the issues. After the PFT is finished, he indicated that he could forward the information to the TLG. Sheppard suggested that he would like to have something in hand when he meets with Commissioner Currie and the county planning people, otherwise it may be difficult to reach agreement.

Harwood brought up that there are letters of agreement from cities in Shoshone County (Osburn, Wallace, Mullan) that dovetail with the PHD in the process; however, he said this is a much bigger issue in Kootenai County. He pointed out that the planning people for Kootenai County probably do not know about this.

Spears proposed a plan of action for next week with Harwood first talking to the PHD about the strawman; then forwarding the strawman to the TLG to review. Spears said that Hardy had a good idea about also providing the position documents from Benewah, Kootenai, and Shoshone counties. Harwood indicated that he would send all four documents at the same time after he talks to Rob Hanson and Angela Chung for agreement on the issues by the PFT.

Harwood reminded everyone that he needs comments on the draft five-year work plan by tomorrow. He also mentioned that he will hold off on moving the BEIPC meeting to June 21 until he hears back from people.

Round Table: No time for discussion.

Schedule: The next TLG conference call will be scheduled 4/13/06.

Thank you for your participation.