

DRAFT
BEIPC MEETING MINUTES
Basin Environmental Improvement Project Commission
May 19, 2010,
9:00 a.m. - 4:00 p.m.
Templin's Resort
414 E. 1st Ave., Post Falls, ID

Attendees:

Mr. Terry Harwood (Executive Director)

Commissioners:

Mr. Jack Buell

Mr. Jon Cantamessa (Chair)

Mr. Rick Currie (Vice-Chair)

Ms. Toni Hardesty

Mr. Dennis McLerran

Alternates Present:

Mr. Phillip Cerner

Mr. Curt Fransen

Mr. Dan Opalski

Mr. Grant Pfeifer

Mr. Rich Piazza

Mr. Vince Rinaldi

Staff Present:

Ms. Jeri DeLange

Mr. Dave George

Mr. Rob Hanson

Mr. Ed Moreen

Ms. Rebecca Stevens

1) Call to Order/Flag Salute: The BEIPC Chair, Commissioner Jon Cantamessa (Shoshone County), called the meeting to order and led everyone in the flag salute.

2) Approval of February 17, 2010 BEIPC Draft Meeting Minutes: Commissioner Cantamessa made a few corrections to the draft minutes. On page 2, a spelling correction for the name of Dr. Ian von Lindern; and on page 1, to add Mr. Dan Opalski (EPA) to the attendee list. Ms. Jeri DeLange (BEIPC) also brought up a spelling correction on page 8 for the name of Derek Forseth. A motion to approve the minutes as corrected was made by Commissioner Toni Hardesty (State of Idaho) and seconded by Commissioner Grant Pfeifer (State of Washington). The motion was approved.

3) Introductions: Commissioner Cantamessa introduced Mr. Dennis McLerran, the new regional administrator for EPA Region 10. He also introduced Mr. Dan Silver, the Trustee for the ASARCO settlement for the CDA Basin.

4) Upper CDA Basin Record of Decision (ROD) Amendment Process Presentation: Mr. Bill Adams (EPA) indicated that the presentation on the ROD Amendment process would include information by various EPA staff on the following:

- New cleanup plan;
- Description of the alternatives;
- Preferred alternative;
- National Remedy Review Board recommendations;
- Implementation plan; and
- Revised schedule.

He also announced that EPA is extending the period of time before they release the proposed plan. (Details will be provided later). He asked people to let him know if they have other ideas or suggestions about the proposed plan before it's released.

The focus of the ROD Amendment will be the Upper Basin. The Lower Basin work will stay in the existing interim remedy. The new cleanup plan intends to address water quality standards in surface water to meet safe drinking water standards for chemical constituents, but they will not be able to meet drinking water standards for groundwater. EPA is taking this action now because: 1) it reflects improved knowledge of the Box and Upper Basin, 2) it addresses NAS recommendations; 3) the interim ROD was never intended to be a complete set of actions to meet water quality standards; and 4) it addresses groundwater and impaired surface water quality in OU-2.

In addition, Mr. Adams said that there are no current actions in the interim ROD to protect remedies from tributary flooding and heavy precipitation runoff. This is a big concern for the community. EPA wants to make sure that the remedial actions for the property cleanup program are protected from tributary flooding and heavy precipitation runoff in this ROD amendment. He clarified that this does not include flood control actions in the larger South Fork Coeur d'Alene (CDA) River or Pine Creek.

5) Remedy Protection Alternatives and Remedial Alternatives: Ms. Anne McCauley (EPA) commented that the remedy protection component of the preferred alternative proposes to enhance the human health remedy selected by the previous ROD. The goals of the preferred remedy protection actions are to further protect human health and the environment and the Superfund investment already in play. EPA and the PRPs (potentially responsible parties) have remediated over 5,000 parcels site-wide to date investing over \$150 million dollars in the human health remedy.

Ms. McCauley also displayed photos of past tributary flooding and heavy precipitation events where damage occurred to remedial action barriers. Benefits of the proposed remedy protection actions include:

- Increased long-term effectiveness;
- Reduced mobility of waste left in place;
- Reduced potential post-flood exposures; and
- Cost effectiveness.

Mr. Harwood commented about his concerns on the remedy being exposed to flooding issues. He appreciates EPA and IDEQ's efforts on this issue. Ms. McCauley said that when they started this process, they started with the work that Mr. Harwood had previously done on local infrastructure needs. She thanked him for all his help on the project.

6) Source Control and Remedial Alternatives: Ms. Anne Dailey (EPA) talked about the many meetings that have been held on the ROD Amendment. There have been over 14 technical meetings with the Upper Basin Project Focus Team (PFT) over the last year and a half. Most of the meetings (except for one) were in the Upper Basin. EPA also had more than 30 other meetings with stakeholder groups, community leaders, etc. to share information while they were building the plan. The remedial action objectives include:

- Final remedy for human health protection for surface water that may be used for drinking water purposes;
- Ecological protection for surface water; and
- Human health and ecological protection for soil, sediments, and source materials in locations where remedial actions are taken.

Additionally, there will be reductions in contributions of contaminated groundwater to surface water, reductions of groundwater metals levels, and reductions of particulate lead in the CDA River. She indicated that EPA looked at the 2001 OU-3 Ecological Feasibility Remedial Actions when evaluating remedial alternatives (for the Upper Basin), but only alternatives 3 and 4 met the threshold criteria to meet the standards they wanted to achieve. EPA used those and made changes to them to build the alternatives for the ROD amendment.

Per a request by Commissioner Cantamessa, Ms. Dailey gave a brief overview of the six alternatives: 1) no action; 2) contain/stabilize with limited removal and treatment; 3) extensive removal disposal and treatment; 4) maximum removal, disposal and treatment; 5) State of Idaho plan; and 6) mining company plan.

Ms. Dailey also provided information on the five alternatives for OU-2, the non-populated area of the Box where the South Fork of the CDA River passes through. These include: a) minimal stream lining; b) extensive stream lining; c) French drains; d) stream lining/French drain combination; and e) extensive stream lining/French drain combination. Upgrades to the Central Treatment Plant (CTP), will include expansion from 5,000 gallons per minute (gpm) to 33,000

gpm depending on the alternative, and a discharge pipeline to the South Fork. The expansion could be done in phases as source areas are connected. EPA is also taking a hard look at new technologies.

Overall, EPA believes that Alternative 3 + (d) provides the best balance of tradeoffs in looking at the time to achieve compliance with standards, the availability of materials to get the cleanup done, repository requirements, long-term management costs, and socio-economic impacts on the community. The remedial actions for preferred Alternative 3 + (d) consist of:

- Extensive removal, disposal, and treatment in OU-3 (including 345 mine/mill sites in the floodplain areas of the Upper Basin); and
- Stream lining/French drain combination in OU-2 (to address water quality issues for surface and groundwater).

Ms. Dailey said that there will be a lot more information in the draft proposed plan that will go out for public comment. There will also be other meetings planned for this period of time. Components of the preferred alternative include:

- 59 miles of pipeline;
- 67,000 feet of French drain and stream liner;
- 6.1 million cubic yards of contaminated soils, sediments, and tailings consolidated largely on site, or in repository;
- 16,900 gpm of water (average) treated at the CTP; and
- 47 miles of stream and riparian cleanups.

The estimated cost of the proposed plan is \$1.28 billion; and the timeframe is 50-90 years depending upon funding. Key benefits recapped from the preferred alternative and remedy protection will be the: achievement of surface water standards in the CDA River; reduction of dissolved metals concentrations in the River; improved conditions for fish and other aquatic life; reduction in particulate lead in surface water associated with soils and sediment moving downstream in the River during high flow and flooding events; reduction in exposure and potential for recontamination that will enable cleanup work in the Lower Basin to proceed more effectively; reduction in direct contact of heavy metals in mine waste to humans and wildlife; and reduction in dissolved metals in surface and groundwater to protect the existing remedies from damage of tributary flooding or high precipitation events.

7) National Remedy Review Board Recommendations: Mr. Adams explained that the Remedy Review Board is an internal EPA technical and policy review group. It consists of EPA representatives from all regions and headquarters. They evaluate remedies for high cost cleanups above \$25 million to ensure that the proposed remedies are consistent with law, regulation, and policy. EPA Region 10 will have the final decision. The recommendation memo is posted on the EPA website.

Some of the recommendations pertained to sediment transport issues in the Lower Basin. Mr. Adams said that Mr. Ed Moreen (EPA) is leading the effort to help refine the conceptual model and address these issues. It's unclear if that will lead to a ROD Amendment for the Lower Basin, but they are diligently working on it and trying to get a better understanding of the recontamination potential issues before they take any action in that area. The EPA review board also supported the adaptive implementation approach and recommended description of the uncertainties, repository siting approach, community involvement process, how the information will be given out in terms of how the plan is put together, and how it will be used into the future.

Mr. Adams clarified that they will not be putting the priority projects in the implementation plan for the ROD Amendment because they want those to be separate. It's a living document and will change continuously as they collect more information. However, they will explain within the ROD Amendment, the process and the overview of how they will be making those decisions. Another recommendation was to identify Institutional Control Program (ICP) requirements, but for mine/mill sites, it is not clear what the institutional controls would be. They are developing them now by working within the greater ICP. The EPA will also continue to work with the State of Idaho to reach an agreement on funding as this is a critical point of focus for moving this forward.

8) Implementation Plan: Mr. Adams said that the implementation plan will be year-to-year, based on five and ten year increments of what work will be done, what they will be learning, and how to adapt to that information as they move forward. It will help define a process for managing the uncertainty about the remedial effects estimates; and also coordinate work for a variety of stakeholders such as the Natural Resource Trustees for restoration activities, and future land use by land owners or mining companies. They will be using several tools to help sort the sites and predict the effectiveness of the actions. Next steps will include writing the text for the plan, and development of the refined strawman (dependent upon the amount of funding) at the next Upper Basin PFT meeting in June.

9) ROD Amendment Schedule: Mr. Adams gave an overview of the schedule for the Focused Feasibility Study (FFS). The draft FFS was built with the Upper Basin PFT and shared for comment in February to early March. EPA is addressing comments received and revising the FFS. The draft final FFS will be available during the proposed comment period. The Implementation Plan will be worked on during the next few months. On June 17, an Upper Basin PFT meeting has been scheduled during the day. They are also looking at scheduling a public meeting the evening of June 17 for another opportunity to provide more general information.

Mr. Adams relayed that the proposed comment period will be for a 45-day period. He asked EPA Administrator McLerran if he could respond about the delay in the release of the proposed plan. Commissioner McLerran said that he was glad to be a new member of the Basin Commission. He mentioned that he had an opportunity six weeks ago to visit the Basin and attend a listening session with local elected officials arranged by U.S. Congressman Minnick on some water issues. He also noted that he had received a request from Governor Otter,

Congressman Minnick, U.S. Senator Crapo, and the County Commissioners to delay the release of the proposed plan by an additional 90 days.

After consultation with his staff and other State folks, he decided to delay the issuance of the proposed plan by 45 days and add an additional 15 days to the normal 30-day public comment period, so that people would have a 45-day public comment period. EPA is anxious to balance the interest on this. They want there to be an opportunity for people to have time to be ready to respond to the proposed plan, but they also want to get the plan out there so that people can see the details. So EPA is providing a 60-day delay, rather than the requested 90-days.

Mr. Adams pointed out that with the delay, EPA will be releasing the proposed plan on July 12 and the proposed comment period will end on August 25. EPA will set up a workshop and public meeting sometime in August. He also suggested that it will probably be the focus of the BEIPC meeting in August. In addition, EPA will be setting up a number of other community meetings as well. He reiterated that if there are other things that EPA could be doing during this period of time before the proposed plan is released, to let him know, so that they can better inform people.

EPA will be evaluating and considering the public comments in fall 2010, but will continue to work on the development of the implementation plan. The goal is have the implementation plan done by the time the ROD is signed, so that they will have a listing of the work, a decision document to allow them to take the action, and a plan in terms of which actions come first. Then in late fall or early winter, the ROD Amendment will be issued.

Commissioner Cantamessa thanked the EPA for their presentation. He said that he thinks that everyone is interested in the details. Shoshone County has had concerns all along about the size of the project. He struggles with the cost of the \$1.28 billion project and the proposed 90 years of implementation. He believes that there should be another amendment, or an adjustment for a shorter term project, rather than 50 to 90 years.

Commissioner Rick Currie (Kootenai County) said that he echoes Commissioner Cantamessa's concerns. He asked whether the \$1.2 billion included the ongoing costs involved for the State. Mr. Adams replied that the cost estimate did include Operation & Maintenance (O & M) factored in. However, if the work was being done through the ASARCO Trust, then the O & M would not be factored in the State's obligation.

Commissioner Phillip Cernera (CDA Tribe) thanked the EPA. He said that he applauded the EPA's effort for looking at a more comprehensive approach towards cleanup. The Tribe was contemplating a far more aggressive cleanup. He indicated that the cost and timeframe were not surprising to him as it took 100 years to pollute the Basin, and that it would probably take several hundred years to clean up the Basin. He asked EPA about the ROD Amendment's focus being entirely on the Upper Basin and expressed concerns that there would be nothing going on in the Lower Basin. How will they incorporate some Lower Basin work such as demonstration projects when the modeling is complete? Will EPA need to do another ROD Amendment? The Tribe is very concerned that the Lower Basin will be left out and then there will be no funding

available. Commissioner Cernera pointed out that contamination continues to move downstream into Lake CDA.

Mr. Adams responded that they have flexibility within the existing remedy to do pilot studies and investigative work. They are moving forward in collecting additional data and doing the modeling work. The strawman that was developed for implementation made some assumptions that EPA would be continuing a number of things and that the Lower Basin work was one of them. One of the issues that they are looking at in the Upper Basin is the zinc loading and particulate lead, so that they can start to identify those sites that contribute the most and can start to cut those off and get to actions in the Lower Basin sooner than later. Then they may need to figure out whether they need a ROD Amendment in the Lower Basin.

Regarding the zinc loading and cleanup in the Box mentioned previously, Commissioner Cantamessa inquired whether EPA would reduce the loading from 2,122 lbs. down to 812 lbs. per day. He also asked how EPA would equate that to what the two operating mines are contributing with zinc loading from their NPDES permits. Mr. Adams answered that he did not know the amount. Commissioner Cantamessa said that he believed it was 2 lbs. per day for each of the mines.

For the Lower Basin, Mr. Harwood emphasized that he does not want people to think that we need to do another ROD Amendment before any work can be done. There is an interim ROD for OU-3, so they can implement some work in the Lower Basin. Mr. Adams agreed that this was absolutely correct.

Break

10) Update on Bunker Hill Five-Year Review: Ms. Cami Grandinetti (EPA) said that she would be making a presentation on behalf of Ms. Angela Chung. She provided an update on the Bunker Hill Five-Year Review and indicated that it would be done in October. EPA will be having an open house this summer and they will let people know what issues have been raised during the review of the information. They will also be issuing fact sheets. If anyone has questions, please contact Mr. Bill Ryan at 206-553-8561 or toll free 800-424-4372. His email address is: ryan.william@epa.gov. Copies of past Bunker Hill five-year reviews are available on the EPA website.

11) ASARCO Settlement Update: Ms. Grandinetti then gave an update on the ASARCO settlement. EPA received \$494 million from the settlement, but she pointed out that it will not go very far to address all of the cleanup work. They will still need more funding. Because of this (as Mr. Adams mentioned), they will need to be working very closely with everyone, so that they are in agreement about what actions to take first to move forward with the cleanup.

With respect to the Trust, EPA is working on setting up roles and responsibility for at least the first year. For out years, EPA will work with the Basin Commission as it has in past years, to develop one-year and five-year work plans for cleanup. This will be what they work with the

Trustee in having their annual work plan followed. Although EPA will not be telling the Trustee what to do in any given year, it will be based on those one- and five-year work plans.

The Trustee will submit his plan annually and then EPA will approve it. She noted that it's important as the Trustee will not be able to work on anything not codified in the decision document. As EPA works on the ROD Amendment, one of their goals is to make sure they keep it moving forward, so the Trust is not idle. The main goal is to have a consistent, steady piece of work that everyone can rely on and predict what the cleanup will be, what jobs will be created, and what the community can expect to see as far as cleanup goes.

Commissioner Cantamessa told Ms. Grandinetti that he was happy to hear about the Basin Commission's involvement because the BEIPC sees this evolution as an opportunity to be more involved and come up with better projects and better results. He brought up that she also talked about the inadequacy of the ASARCO settlement and that he has heard conversation that has been a concern to him; that this possibly gives EPA the chance to reduce their budget and just utilize this funding. He would urge them not to do this and stressed the need to keep the budgets intact. Ms. Grandinetti said that EPA went to D.C. to plead their case. This year, they did not receive the larger sum of funding to do cleanup work, so they will be tapping into their separate account funding that they received as part of the settlement to pay for the property cleanup program. She mentioned that there are other potentially responsible parties they hope to pursue.

Mr. Harwood said that he wanted to clarify that there are certain funds in the Trust. Funds were received by the Natural Resource Trustees from the settlement, and EPA also received about \$40 million in funding that they are going to use for the property remediation program. Ms. Grandinetti confirmed this was correct. Mr. Harwood expressed his appreciation and thanks.

Commissioner McLerran also clarified that they benefitted from having some Recovery Act funding (stimulus) that allowed more to be spent in the Basin last year, but that there does not appear there will be more Recovery Act funding available going forward. However, it was a substantial boost for the property cleanup. Going forward, they will be looking at the funding in the Trust, and will continue to make trips to D.C. to ask for more and they will be pursuing potentially responsible parties as well. Commissioner Cantamessa was not sure if the Shoshone County Commissioners or some members of the BEIPC could be helpful in any way, but said that it's important to keep funding coming, especially with the long-term budget that EPA is projecting as well as with the other funds.

12) Lower Basin Enhanced Conceptual Site Model (ECSM) Update: Mr. Ed Moreen (EPA) gave an update on the status of the ECSM for the Lower Basin. At the last BEIPC meeting, they presented a synopsis and executive summary. After they finalize the technical memos, they will be making them available on CD. They will continue monitoring and are also trying to seek resources to develop a sediment transport model. Mr. Moreen displayed some slides of the Lower Basin information that they are collecting.

Commissioner Cernera asked if they were planning on doing any quantification of bed load movement or potential bed load erosion. Mr. Moreen replied that there are a number of ways to

do this and that they would like to do some coring to get a better quantification. However, they do not have any planned in the near term monitoring schedule. Commissioner Cernera questioned what they would understand better, and what sort of action it may lead them to, if it's apparent what's going on. He commented that the Tribe would like to get on with looking at the very upper end of the Lower Basin and move forward with work on the ground.

Mr. Moreen responded that one of the key concepts they need to understand better is lead and sediment budgets. They do not have the full range for sediment transport, but they have been able to piece together some of the information. They would like to have a better understanding to better predict what may happen if they try to move materials. They also want to be selective and prioritize effectively what actions should be taken first.

Commissioner Cantamessa said that they are supportive of that strategy as long as it does not keep them from doing any work. The banks continue to erode while they are being studied and bed load continues to move contaminated materials. Shoshone County has been studying streambank erosion for many years and they have found only two things that are effective: 1) rock; and 2) lay the bank back to a 45 degree angle and let the stream widen it out a little, and in most cases, you will avoid some sediment transport that way. He feels that there has been too much studying and nothing is getting done. Commissioner Cantamessa repeated Commissioner Cernera's question about when they expect to begin construction.

Mr. Moreen said that he did not have an answer for him, but that if it were up to him, it would be very soon. He pointed out that the bed itself is a great source of lead and the floodplain is another source. To be effective, you want to make sure that you do rip rap if that is the remedy you choose. They also need to know what they are doing to the bed, what's happening to the floodplain, and what's causing other releases that may not be occurring before. He indicated that it's a complex system (38 miles of River).

Commissioner Cernera suggested that if they start doing work, then they will be able to understand the effects of what they are doing versus the ECSM. He sees the Lower Basin as one unit in total, so it's not going to be a piecemeal fix if you start at the very end of it and work down. They have been waiting a long time, so if they have to wait another year for the modeling results, so be it. However, he agrees with the County Commissioners and would like to see some work done sooner than later.

13) Wallace Yard and Spur Line Cleanup Update: Mr. Moreen gave a brief update on the status of the Wallace Yard and Spur Line cleanup. The work began in April and will be completed this construction season.

14) Update on CWA Projects: Mr. Harwood gave an update on the CWA projects. The BEIPC is at the end of the three-year grant process. There is one active project for the South Fork Sewer District (SFSD) for effluent work. Mr. Harwood will work with the SFSD to get all of the remaining funding of \$22,000 obligated before June 30; and the SFSD will make their final report to the BEIPC in August. The executive summaries of completed CWA projects are posted on the BEIPC website.

15) Update on Flood Control Issues: Mr. Harwood said that the Basin Commissioners asked him last year to get involved in flooding and drainage control issues in the main South Fork CDA River channel and Big Pine Creek. He noted that in the ROD Amendment, they are also going to have remedy protection for stormwater runoff in the side drainages and minor drainages covered by the ROD. They have a real problem with the South Fork and Pine Creek with the potential for flooding. FEMA has remapped the whole area, but none of the levees can be certified. He has been working with the Silver Jackets who deal with flooding issues to set up a field trip this summer.

Mr. Harwood indicated that the Silver Jackets consist of FEMA, Idaho Bureau of Homeland Security, Idaho Dept. of Water Resources, National Weather Service, USGS, and the Corps of Engineers (COE). He is also working with the COE offices in Seattle, Walla Walla, and Boise as their jurisdictions overlap each other. Each of the Counties in the State of Idaho has had to put together a hazard mitigation plan. The State of Idaho is also developing a statewide hazard mitigation plan. The Bureau of Homeland Security is going to ensure that the flooding issues of the Upper Basin will be included in the statewide hazard mitigation plan.

Another project that he worked on was to develop a tool for flood control work, so that it could be used with the Drainage Control Infrastructure Revitalization Plan (DCIRP) for the Upper Basin. He worked with IDEQ (Ms. Toni Hardesty and Mr. Rob Hanson) who provided funding to produce maps from Cataldo to Shoshone Park of all the remediated properties, new FEMA flood maps, levees and whether they are a COE levee or community levee. He is going to use this information with the Silver Jackets, so he is making headway.

Lunch

16) Management of CDA Trust: Mr. Harwood introduced Mr. Dan Silver, the new Trustee for the ASARCO settlement. Mr. Silver expressed his appreciation to the BEIPC for the opportunity to speak. He then explained the Trust process. The Trust is not created by EPA, but by the private party, who in this case is ASARCO. The major challenge will be for the Trust and EPA to figure out their roles and responsibilities. This will take a few years as EPA cannot tell the Trust what to do. On the other hand, the Trust cannot do anything without a work plan.

The Trustee performs two functions: 1) manages assets; and 2) does remediation. The Trust has two assets (money and property). The Trust has more money than what it started out with as the money is invested. The money is placed in three different accounts; and it is expressly forbidden to mix the accounts. While the Trust is responsive to the EPA, it does not decide what sites are going to be cleaned up. If the Trust agreement needs to be changed, then it is sent back to the court. Mr. Silver clarified that he will select for value as he wants to ensure that he gets the most value for the money.

17) Update on Property Remediation: Mr. Dan Meyer (IDEQ) made a presentation on the property cleanup program. Last year, they had a record program thanks to the influx of stimulus funding. They were able to remediate more properties than what had ever been done before in

one year. He provided some history of the program which began in 1986 in the Box. The Basin Property Remediation Program (BPRP) began in 1997. To date, over 5,600 properties have been cleaned up in the Bunker Hill Superfund site, and over \$150 million worth of work has been done. Mr. Meyer pointed out that this is exactly what they are trying to protect with remedy protection (as Ms. McCauley indicated previously). This year, they started work on May 17 and will continue through October. The goal is to do 350 properties.

18) Communications PFT Update: Ms. Jeri DeLange gave a brief update on the Communication PFT. The PFT will be participating in a joint fair booth with IDEQ for public education and outreach at the North Idaho Fair in August. Ms. DeLange mentioned that Ms. Denna Grangaard (IDEQ) is coordinating the efforts for the joint booth. The PFT's Recreation Education Subcommittee chaired by Ms. Tina Elayer (IDEQ) is also gearing up for the fair.

19) Repository Program Update: Mr. Andy Mork (IDEQ) made a presentation on the repository program and the four projects that he has been working on.

- Upper Basin Repository Site Selection Process;
- Big Creek Repository Expansion Evaluation;
- East Mission Flats Repository; and
- Community Fill Plan.

Mr. Mork said that they have identified two suitable Upper Basin repository sites: 1) Osburn Tailings Impoundment; and 2) Star Tailings Impoundment. The next steps will be to post the response to comments on the EPA and BEIPC websites; and work with the current landowners to acquire the sites. Then they will begin site investigations at both sites this summer. They plan to proceed with the Osburn design in advance of the Star design and they hope to have a 30% design by next spring 2011. Commissioner Cantamessa commented that Shoshone County is pleased with this process and that they think they have two excellent potential sites.

20) Public Comment: Idaho State Representative, R. J. "Dick" Harwood (Dist. 2) read his comments in a letter dated May 18, 2010 to the CDA Basin Commission; and then requested that the letter and attached Senate Concurrent Resolution (SCR) 127 be entered into the public record. (See Attachments #A and #B).

Mr. Bret Bowers (CDA Lakeshore Property Owners Association) commented that he was glad to hear that Commissioner McLerran (EPA) had the opportunity to visit the Basin previously and that he understands ecological issues and cultural sensitivities. Ten years ago, he mentioned that some of the people in this room went to great lengths to ensure that the proposed plan for the 2002 ROD did not become an overkill project. There was a lot of disagreement with EPA in terms of community unrest over the \$1.3 billion plan that was proposed. It was difficult because EPA said that they were not proposing a \$1.3 billion plan. He reiterated that it was ten years ago; and that it is ironic that this is the number that EPA is talking about now. However, instead of 30 years, they are talking about 100 years.

Mr. Bowers pointed out that in the 2002 ROD, it says that 16% was the expected outcome had the 2002 ROD been complete for reduction in overall metals concentrations in the water coming out of the CDA Basin into the Spokane River. This was one of the things he questioned the National Academy of Science (NAS) and the remedy review board about. He is glad to hear that the Basin Commission will be involved in the process. They ask that EPA be mindful of the community impacts that took place up there in the previous RODs, and not make things worse. They ask that all the cleanup be done upstream, and to please not alarm the public about benthic flux and the uncertainties of it in the Lake. They do not believe that remedial actions are warranted in the Lake and they support water quality improvements upstream.

Mr. Terry Harris (Kootenai Environmental Alliance, CDA) wanted to express some of their preliminary concerns about the ROD, and their continuing concerns about the public process. They share concerns with the Tribe on the Lower Basin. The proposed plan is for 50-90 years and costs \$1.2 billion, but it still does not meet water quality standards. He feels that there is no opportunity for cleanup of the Lower Basin to start. People need to remember that the Lower Basin still needs to be cleaned up.

Some other concerns were in regards to remedy protection and the two alternatives presented (i.e. no action versus an action). He suggested that it was not clear. If the alternatives would not solve the remedy problem, then maybe a third alternative was needed. He believes that if we're doing these remedies, let's do them and be done with them. He also suggested that the remedy review board recommendations be embedded in the ROD Amendment, so that those concerns are addressed correctly.

Lastly, he shares concerns with Commissioner Cantamessa and Shoshone County about adaptive management. If the ROD Amendment launches a 50-90 year project, then they have continuing concerns about the public involvement process. It appears that there is a 45-day public comment period for a 50-90 year project. He wants to point out to EPA that in their slides for adaptive management, the terms - "public" or "community" appear nowhere. He thinks that EPA and the BEIPC need to solve the public input problem to make meaningful, collaborative decisions, rather than defend what's going to happen.

21) Repository Program (continued): Mr. Mork finished his presentation on the repository program. This included information on the Big Creek expansion and an update on the construction planned this summer at East Mission Flats.

22) Community Fill Plan Update: Mr. Mork gave a brief update on the Community Fill Plan. This is an initiative to allow the local authorities flexibility in the disposal of metals contaminated waste. It would also be an alternative to hauling the material to a repository. The disposal methods would be guided by the ICP which is an existing rule under Idaho law. They hope to have the plan in place in 2010. Commissioner Cantamessa expressed appreciation for the plan which was requested by the community.

23) Update on CDA Lake Management Plan (LMP) Implementation: Ms. Rebecca Stevens (CDA Tribe) said that she was going to introduce the consultant that the IDEQ and Tribe

selected for their needs assessment. His name is Bill Robinson of Robinson Research, but that he was not available for the meeting. She explained that the needs assessment was something that came about in the response to comments period for the LMP. Instead of moving forward with a public education/outreach program, the community wanted them to do a needs assessment to see if there was a need for the program. They hope to get the information back from the consultant this fall.

Ms. Stevens provided a demonstration on her laptop of a new tool that they are putting together. They are calling it the Interactive Map Tool, but it's still under development. The tool will essentially allow the LMP process to map ongoing activities and projects in the Basin that may, or may not, impact water quality. It will also allow them to follow-up to check on the process.

For LMP updates, Ms. Stevens reported that Lake monitoring is still ongoing by the State and Tribe. Sampling is also being done by the Tribe on the St. Joe and St. Maries watersheds. The Tribe recently completed an erosion inventory assessment on the St. Joe River corridor, and IDEQ is working on a prospective erosion control project on the St. Joe River.

24) Citizens Coordinating Council (CCC) Comment and Presentation: Mr. Jerry Boyd (CCC Chair) made a presentation on the April 21 CCC meeting. The CCC tried something different at the meeting this time. Rather than public comment at the end of the meeting, they had a citizen's comment and questions period at the beginning of the meeting as well as at the end. He thinks that for those who were there, they appreciated making comments at the beginning. His recommendation is to continue doing it this way. However, they did not have a big turnout for the meeting. His experience is that unless you have a focused issue for the meeting, not many people turn out. He then reported on some of the comments found in the back of the CCC meeting summary. He also announced that Ms. Vera Williams (Surface Water Solutions) was elected to serve as the new Vice-Chair to replace Ms. Bonnie Douglas who resigned.

25) Public Comment: Mr. Harwood commented that he wanted to make some observations. They have spent considerable time working on the ROD amendment; and that it has not been done in a vacuum. He appreciates the EPA's efforts to present the information at a number of meetings. It has not been kept a secret from the public. He suggested that if people want to know about what's going on, then they need to come to the meetings. To a certain extent, he suggested that some people may not come, so that they may complain later that they did not have any say in anything. He encouraged people to come and that everyone is welcome. However, it does not mean that the agencies are going to accept all of your positions, but they will listen. If you don't come, then nobody knows what you want. Mr. Harwood indicated that some of the information gets a little technical, but you can ask questions. It's all open, so please come. Find out what's going on and give input because it's not fair to complain later. We need to be fair in the process as well.

Ms. Denna Grangaard (IDEQ) said that she wanted to comment on Mr. Harwood's remarks. She works in the Kellogg office as the DEQ public outreach coordinator. What she has noticed when people call into the office, is that someone will say that their comment speaks for the citizens, or my comment speaks for everyone here. She hears this repeatedly. So if you're not coming to the

meetings to represent your ideas, someone else is representing their ideas and saying they're yours. So please come.

26) Adjourn: Commissioner Cantamessa thanked everyone for attending and adjourned the meeting at 2:25 p.m.



House of Representatives State of Idaho

May 18th, 2010
CDA Basin Commission:

As a member of the Idaho State Legislature, I am writing to express my deep concerns regarding the current effort of United States Environmental Protection Agency (EPA) to amend the 2002 Record of Decision for the Bunker Hill Superfund Site/Coeur d'Alene Basin as proposed in the draft Focused Feasibility Study (FFS). If allowed to occur as written, it will stand as a gross abuse of the agreed upon process for the ongoing clean up effort in the region as well as serving to severely undermine economic recovery in the area over the next century.

The proposed FFS escalates the clean up costs and term from roughly \$350 million over 30 years to over \$2 billion over 100 years. This is accomplished through poorly conceived and unsubstantiated measures that would be instituted with little or no objective review and in direct opposition of views expressed by the public, local businesses and elected officials. I am hard pressed to identify any example of a more misguided undertaking or chilling abuse of power by EPA than the current situation. The FFS proposes measures that are not justifiable in term of a demonstrated need and are completely ridiculous from a cost perspective. In addition, it fails to address much of the recommendations offered by the National Academy of Science in their review of the project.

We must give a clear message this is 'wrong' and unacceptable and the State of Idaho will not be bullied into a course of action that will eliminate the potential for continued mining in the Silver Valley and move forward with unwarranted measures at such egregious cost. I believe it is imperative that the entire FFS be subjected to a thorough 'Value Engineering' exercise by a mutually agreed upon objective third party before any changes are enacted. Further, the Idaho State Legislature through Senate Concurrent Resolution 127 specifically asserts the right and obligation to review any amendments to the ROD with cost implications prior to any changes being made.

I request this letter and the attached SCR127 be entered into the public record..

Sincerely,

A handwritten signature in black ink, appearing to read "Rep. R. J. Harwood".

Representative RJ Dick Harwood

IN THE SENATE

SENATE CONCURRENT RESOLUTION NO. 127

BY FINANCE COMMITTEE

A CONCURRENT RESOLUTION

1 STATING THE FINDINGS OF THE LEGISLATURE AND RESOLVING THAT THE CITIZENRY
2 AND THE STATE OF IDAHO HAVE AMPLE OPPORTUNITY TO PROVIDE SUBSTANTIVE
3 REVIEW AND COMMENT ON ANY RECORD OF DECISION OR AMENDMENT PROPOSED BY
4 THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY FOR THE BUNKER HILL
5 SUPERFUND SITE.
6

7 Be It Resolved by the Legislature of the State of Idaho:

8 WHEREAS, the United States Environmental Protection Agency issued
9 Records of Decision in 1991 and 1992 related to the 21 square mile Bunker Hill
10 Superfund Site Box and issued an Interim Record of Decision in 2002 for the
11 site which was expanded to the Coeur d'Alene Basin; and

12 WHEREAS, the State of Idaho has certain financial obligations related
13 to the cost of the cleanup under the Records of Decision; and

14 WHEREAS, the Idaho State Legislature is responsible for appropriating
15 funds to provide for the State of Idaho's contribution to the cleanup effort;
16 and

17 WHEREAS, the Idaho State Legislature recognizes and acknowledges that
18 citizens, businesses and local governmental entities of the Coeur d'Alene
19 Basin are directly impacted by cleanup activities in the region under the
20 Records of Decision; and

21 WHEREAS, the federal Comprehensive Environmental Response, Compensa-
22 tion, and Liability Act (CERCLA) mandates a substantial role of the state,
23 and those members of the public impacted by CERCLA activities, and the State
24 of Idaho is committed to the continuance of these efforts using best manage-
25 ment practices for positive long-term outcomes; and

26 WHEREAS, documented progress continues to be made with respect to im-
27 proving environmental quality and public health in the region under the ex-
28 isting remedies; and

29 WHEREAS, the Environmental Protection Agency is proposing to amend the
30 existing Records of Decision; and

31 WHEREAS, any amendments to the existing Records of Decision will have
32 direct and significant impact on the citizens, businesses and local communi-
33 ties in the area and the Environmental Protection Agency may seek additional
34 financial commitments from the State of Idaho; and

35 WHEREAS, the Idaho State Legislature desires to ensure cleanup efforts
36 in the Coeur d'Alene Basin under any proposed amendments to prior Records of
37 Decision proceed only after the State of Idaho has an adequate opportunity
38 to review and analyze the impacts of the proposed amendments on the State of
39 Idaho, its businesses, its local communities and its citizens.

40 NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular
41 Session of the Sixtieth Idaho Legislature, the Senate and the House of
42 Representatives concurring therein, that citizens, business owners and
43 local governmental entities within the Coeur d'Alene Basin and the State

1 of Idaho should have ample opportunity to review and provide substantive
2 comments on any proposed amendments to the existing Records of Decision.

3 BE IT FURTHER RESOLVED by the Second Regular Session of the Sixtieth
4 Idaho Legislature that the Idaho Legislature have an opportunity to consider
5 any amendments to the existing Records of Decision prior to the State of
6 Idaho entering into any commitments for additional funding over and above
7 historic appropriation levels for the Bunker Hill Superfund Site.