

# **10-29-08 Citizen Coordinating Council Meeting**

Spokesman Review Building, 6:30 PM to 9:00 PM, Coeur d'Alene, Idaho

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

Bill Adams	Toni Hardy
Jerry Boyd	Terry Harwood
Serena Carlson	Carrie Holtan
Anne Dailey	Andy Mork
Julie Dalsaso	Ed Moreen
Jeri DeLange	Bill Rust
Bonnie Douglas	Rusty Sheppard
Rog Hardy	Rebecca Stevens
	Mark Stromberg

## ***Meeting Overview***

The October 29, 2008 meeting of the Citizen Coordinating Council (CCC) of the Basin Environmental Improvement Project Commission (Basin Commission or BEIPC) covered the following topics:

- Basin Updates
- EMF Repository and CCC Ideas for Upper Basin Sites
- OU2 Field Activities, Eco-prioritization, and Upper Basin Decision Document
- Draft 2009 and 2009-2013 BEIPC Plans Overview and Discussion
- Open Discussion/CCC Issues

CCC Vice-Chair Jerry Boyd chaired the meeting.

## ***BEIPC Updates***

### **New BEIPC Meeting Guidelines**

BEIPC Executive Director Terry Harwood distributed an amended 5<sup>th</sup> draft of revised language for BEIPC meeting guidelines (including a minority position from Kootenai County). The guidelines were a response to two motions made at the last BEIPC board meeting related to 1) TLG review of technical material presented to the BEIPC and 2) flexibility for the Executive Director in developing BEIPC meeting agendas. Terry said the TLG voted 10-2 to approve the draft language. He emphasized that the text was only a TLG recommendation to the board; it will now go to the BEIPC Commissioners for a vote.

CCC Member Rusty Sheppard explained that Kootenai County was concerned about the phrase stating that the TLG would “review” items of a technical nature because it implied that the TLG may revise these items. Kootenai County’s position, he said, is that the TLG shouldn’t be in the role of telling the public what to say to the BEIPC and how to say it. The minority position therefore prefers that the guidelines say these items will be submitted to the TLG “for information only.” In response to a question from Rusty

about the implications of these procedures for the CCC, Terry clarified that the CCC can always bring a report to the BEIPC board—they have a session to do so at each meeting. Rebecca Stevens, Coeur d’Alene Tribe, clarified that the last sentence of the minority position should read “...overly broad and open to interpretation.”

## **Flooding and Infrastructure**

Terry Harwood gave an update on Silver Valley levee issues and infrastructure funding. Terry distributed a document regarding how levee failures could affect remedies in the Basin. Terry said that an earmark in legislation currently being considered by the Senate includes funding for the Army Corps of Engineers to work with the BEIPC to identify what levee projects would be necessary to protect the remedy. Terry said that representatives from the Corps suggested that the BEIPC move ahead with its analysis now. When funding becomes available, the Corps representatives said, the Corps will accept the data and analysis developed by the BEIPC. In response to a question about the earmark from Andy Mork, Idaho DEQ, Terry said it was for \$360,000 to cover surveying and technical analysis of the levees.

Terry also said that the Department of Homeland Security is doing a LIDAR analysis of the Upper Basin to improve the quality of the FEMA flood maps. He said that accurate maps are very important because they determine whether or not properties need to have flood insurance. Terry noted that levees that don’t meet Corps standards are considered by FEMA as equivalent to having no levee at all when the maps are developed. CCC Member Bill Rust reminded people at the meeting that a LIDAR survey of the Lower Basin was done in the last couple of years. In response to a question from Jerry Boyd, Ed Moreen, EPA, said that the LIDAR survey will not include aerial photos. Jerry said that, based on his litigation experience, it is helpful to have aerial photos to show things like sloughing due to high water events.

Terry then described the infrastructure revitalization plan and handed out a document analyzing potential infrastructure funding sources. Terry said that Senator Crapo requested a list of funding sources, and Terry will share this work with his office. The next step for the infrastructure plan, Terry said, is to work with local governments and others to identify top priority projects.

## **Recreation Sites**

Terry Harwood gave an update on the work of the Recreation Areas PFT and handed out the latest recreation areas inventory. This inventory covers all recreation areas in the 100 year floodplain starting at Long Lake in Washington and going up the watershed; it includes public and private developed sites and areas of “dispersed recreation.” In addition to working on the inventory, the PFT is working to figure out how to coordinate efforts to deal with re-contamination of recreation sites (e.g., sediment deposition after high water events). CCC Member Rog Hardy said that responsibility for the recreation sites did not rest with the PFT but with the land management agencies responsible for the sites (e.g., Idaho Parks and Recreation). Rebecca Stevens agreed and said the coordination work of the PFT is similar to a “phone tree,” where agencies can communicate about what work needs to be done, who should take the lead, etc.

There are two upcoming meetings related to flood deposition and the recreation PFT:

- November 24<sup>th</sup>: Flood deposition meeting
- November 25<sup>th</sup>: Recreation PFT meeting

Rog Hardy said that the work on flood deposition is being done by agencies outside of the Recreation Area PFT, the TLG, and the Basin Commission. Rebecca Stevens said maybe the relationship between the flood deposition work and the Recreation Area PFT should be clarified. Terry Harwood felt that as long as progress was being made and people were communicating with each other, we should leave issues of institutional arrangements “well enough alone.” He also said that he was at the most recent flood deposition meeting representing the Basin Commission.

Rog said that he went to Harrison Beach in response to a news article that said the area “tested clean.” DEQ provided him with test results that sediment at the boat launch had 728 ppm lead. The boat launch is next to the beach, so a “clean beach” next to a boat launch is implausible, Rog said. He found out that the article referred to water testing, not sediment testing. Rog felt that Panhandle Health should take into consideration the sediment that toddlers play in before they certify a beach clean, not just the water (which was sampled, he noted, in deep water away from the shoreline). The Union Pacific Railroad was responsible for testing the beach sediments in a timely fashion after a high water event, and turning over the results to DEQ, Rog said. They hadn't done the testing when he called. DEQ and/or Panhandle Health are responsible for certifying the beach as clean.

Rog went on to say that agencies can coordinate better through the Basin Commission and that there has been a lot of work in the Lower Basin happening outside of the Basin Commission—work that is not being brought forward to be reviewed by the TLG. Rebecca Stevens offered to bring up the issue of clarifying the relationship between the Recreation PFT and the flood deposition work at the next TLG teleconference. Jerry Boyd asked that Rebecca or someone else from the TLG report back to the CCC on this issue.

Bill Rust said that he works with the North Fork Watershed Advisory Group and that recreation is a big issue. They are looking at developing a recreation management plan that will, among other things, allow them to apply for grants. Bill said that coordinating the advisory group’s planning effort with the work of the Recreation PFT would be helpful

## **Lake Management Plan**

Rebecca Stevens gave an overview of Lake Management Plan (LMP) development, progress on the lake audit, and information on how to access USGS data on the lake.

On the LMP, Rebecca said that the Idaho DEQ and the Coeur d’Alene Tribe are currently working on a response to comments. It addresses comments from 31 entities that came in during the comment period (whether or not to address comments submitted after the

comment period is under consideration). All of the comments are available on the web at:

- [www.deq.state.id.us/water/data\\_reports/surface\\_water/water\\_bodies/cda\\_lake\\_mgmt\\_plan.cfm](http://www.deq.state.id.us/water/data_reports/surface_water/water_bodies/cda_lake_mgmt_plan.cfm) (IDEQ website)
- <http://www.cdatribe-nsn.gov/lake/comments.shtml> (Coeur d'Alene Tribe website)

Rebecca said the State and Tribe will meet in November or December to discuss plan revisions and probably finalize the plan in January or February. No fixed dates have been set. She said that they would like to have the response to comments done before the holidays. It will be mailed first to the entities that commented and then made available on the web. Rebecca said that the State and Tribe are having phone discussions with those that provided comments and recently met with Senator Crapo. She said that DEQ is also meeting with the counties about the plan.

Rebecca relayed that the USGS report is done, and a presentation on it will be given at the November 19 BEIPC board meeting. It is posted on the USGS website. (Rebecca said she would get Terry an electronic copy). Rog Hardy asked whether the USGS report would affect the content of the LMP. Rebecca said that the USGS report is being reviewed by limnologists at the State and Tribe, but she said there doesn't seem to be anything in the report that wasn't already anticipated, and they don't anticipate any changes to the LMP as a result.

Rebecca reported that the lake audit work will be done by December 30 and will be provided to the CCC, TLG and BEIPC board on or before the February BEIPC meeting. The audit results will be included in the final LMP.

Rebecca closed her presentation by sharing information from Art Bookstrom at USGS about how to access a recent PowerPoint presentation given at the Basin Information Forum (BIF) on the USGS work (go to <ftp://ftpext.usgs.gov/pub/wr/wa/spokane/abookstrom/> and click on "08CdAsedrate.ppt"). Terry said he will have the presentation available at his office. One of the topics that came up in the USGS presentation at the BIF was that riverbank erosion contributes only about 4% of contaminated sediment to the floodplain. Terry Harwood said that people were surprised at the meeting that the riverbanks contributed this small a share. Rog Hardy asked what was in the Record of Decision on this topic, and Ed Moreen said that the ROD is consistent with the finding reported by USGS. Rog said that these results for metal loadings from riverbanks make intuitive sense based on his understanding, but he also cautioned that riverbank erosion can have other impacts, such as nutrient loading and filling in stream and river beds.

In response to questions from Jerry Boyd and Rusty Sheppard, Rebecca and Terry clarified that the USGS work includes data from 2004 to 2006. Rebecca said that other agencies did high water sampling this year. Anne Dailey, EPA, added that USGS did some other water sampling this year, and the data would be available on the USGS website. Rusty noted that water samples taken in the Spokane River are showing good water quality.

## Communications PFT

Jeri DeLange, Communications PFT Chair, gave an update on the PFT's work. After giving background on the origins of the PFT, which was created in response to a February 2008 vote by the BEIPC board, she described work to date and plans for upcoming work. Highlights of accomplishments included:

- A brochure on the Basin Commission and the CCC, which was used at this summer's East Mission Flats Repository open house;
- Training on "Building Trust and Resolving Differences" for the public and agency staff;
- Review and suggestions for the Basin Commission website;
- Encouraging involvement of local legislators in the BEIPC field trip this summer; and
- Articles in the Basin Bulletin.

Potential upcoming work includes an audience analysis for the BEIPC brochure, risk communication training for PFT members, and offering to assist BEIPC members and staff with public presentations.

Rog Hardy asked how many of the people signed up for the "Building Trust and Resolving Differences" training were members of the public vs. agency staff. Jeri said she thought there were probably more agency people. Anne Dailey said that EPA staff had held off signing up for the training to help ensure there was space for members of the public that wanted to be trained. Rusty Sheppard asked what "assistance" the PFT would provide to BEIPC members and staff for public presentations. Jeri responded that the PFT had not yet defined what assistance would be provided, but said she would share the information once the PFT had discussed it in more depth. She said that the PFT did not have any recommendations for the CCC at this time, but that she would appreciate feedback on the PFT's work.

CCC Member Toni Hardy, referencing recent draft Communications PFT meeting notes, asked what presentation Terry Harwood and Phil Cerner (Coeur d'Alene Tribe) had given at Gonzaga Law School (the presentation was described in the notes). Terry clarified that this was an incorrect reference to a presentation that he and Phil had given two years ago to students at the University of Idaho Law School; it was used at the PFT meeting as an example of the kind of presentations that the PFT might assist with. Toni asked that the notes describe the correct date and place. Jeri said she would correct the draft notes. Terry said that he frequently gives talks about the Basin Commission, and Rebecca Stevens said it would be nice to have updates on what presentations have been given. Terry said he tracks these presentations and reports them to the Basin Commission. He said he could also provide updates to the CCC.

Toni Hardy said that the brochure should be posted on the website and said she was disappointed that good ideas for improving the website from CCC and PFT Members Bonnie Douglas and Brian Walker haven't yet been implemented. She said people "laugh at the website." Bonnie Douglas said there would be a meeting the next day on the website. Jeri said that it takes some time to get changes made on the website.

## **Yard Cleanup: Report on 2008 Season**

Mark Stromberg, Idaho DEQ, gave an update on the 2008 yard cleanup season. He presented a map of Mullan, showing yards that had been remediated and those where owners refused remediation. Mark said that DEQ hopes to finish Mullan next year. Mark said the goal was to do 360 addresses this year. DEQ, he said, currently has invoices in for 351 addresses, and he expects 30 or so more to come in this year. DEQ tracks progress as “yard equivalents,” which are based on square footage. Mark said they have done 382 yard equivalents this year. Seven hundred and fifty yards have been sampled as well.

Mark said that the new gate and pass system at the Big Creek Repository seems to be working as intended. There is less non-ICP waste coming, and it is easier to track inappropriate waste. Mark said that the new system had recently allowed Panhandle Health District, which manages the site, to identify a person that dumped debris from a demolished building at the site on a weekend.

Carrie Holt, Coeur d’Alene Tribe, asked whether there was some opportunity for the Communications PFT to help out when a property owner refuses to have his or her yard cleaned up. Mark said that DEQ has found it useful to work with mayors and local officials to encourage residents to do sampling and remediation. Jerry Boyd said that some people find government intervention threatening.

CCC Member Julie Dalsaso asked whether there has been any analysis to see whether yard cleanup is resulting in lower lead levels in children. Mark said that the Panhandle Health District and DEQ have done follow-up sampling (e.g., of dust in homes) to see if lead exposure is being reduced. He also pointed out that there is voluntary blood lead testing in the Basin. Overall, he said, they are seeing good downward trends in lead exposure and blood lead levels.

Jeri Delange asked whether it would be useful for the Communications PFT to do a “lead forum.” Mark said that there were a number of such forums in the earlier years of the cleanup. He thought that it would be helpful to have some communication or education about the importance of testing children for lead in their blood.

## ***Repository Update and CCC Ideas for Upper Basin Sites***

Ed Moreen introduced the session on repositories and then turned to Andy Mork to provide information about progress at East Mission Flats and the investigation of new repository space in the Upper Basin.

Andy highlighted some recent activities at East Mission Flats, including:

- 420 trees planted to screen the site from I-90. He noted that an archeologist was on-site to investigate whether holes dug for trees exposed any cultural artifacts (no such artifacts were found).
- Completing the 60% design document and presenting it to members of the public at an open house at Canyon School in July. He said that people provided good input on site design and operations at the meeting and that a response to

suggestions was posted on October 6 on the web (see: <http://www.basincommission.com/EastMissionFlatsRepositoryInfo/60%25%20Design%20RTC%20Final.pdf>.)

- Conducting groundwater sampling in August, which showed no detection of metals above EPA primary and secondary drinking water standards.
- Working on the 90% design, which is due for EPA review by the end of the year. This will include a revised approach to fill phasing in which small loads of ICP waste will still be deposited on the east side of the site, but large loads coming in by truck will be deposited on the west side via a new bridge being constructed from Exit 39 off of I-90. This approach was developed in response to concerns raised by the Eastside Highway District about wear and tear on the access road to the west side of the EMF site.

Andy said that the EMF repository would not be accepting waste during the winter due to seasonal inundations. Instead, people seeking permits for ICP waste will be directed to take waste to Big Creek repository. Bonnie Douglas asked how snow mobiles and off-road vehicles will be kept off of the EMF site. Andy said that barbed wire fences would be installed next year.

Looking to the future, Andy said there is a need to have more repository space in the Upper Basin. Big Creek is expected to be full in 2011 or 2012. At the beginning of the new year, Andy said, the Repository PFT will meet to discuss ideas for new sites in the Upper Basin. Currently, there is a list of over 250 potential sites identified in screening studies performed in 2002 and 2005. Andy encouraged CCC members and the broader public to offer ideas for repository sites in the Upper Basin.

Toni Hardy asked what is going on with the Inspector General investigation of the EMF repository process. She said that she had been given some dates for information releases, but they were at home. Ed Moreen said that the Inspector General's office is holding information about the investigation very close, and he didn't have information on any release dates. Bonnie Douglas asked about expansion of the Page Repository. Andy pointed out that the Page Repository is a "Box" issue not a Basin issue, and that he and Ed are therefore not as involved. Ed said that Potentially Responsible Parties (PRPs) have ongoing future responsibilities at Page and are looking to expand it or find new repository space to accommodate future ICP waste.

## ***OU2 Field Activities, Eco-prioritization, and Upper Basin Decision Document***

Anne Dailey, EPA, and Bill Adams, EPA, presented information on OU2 field activities, prioritization of ecological cleanup projects, and the Upper Basin Decision Document. They led things off by describing field activities in OU2. Highlights included:

- Focus areas and sampling strategies for better data on contaminant nature and extent, release mechanisms, groundwater flow, and groundwater/surface water interaction (e.g., in Osburn Flats, Eastern OU2, Bunker Creek, and Page Ponds);

- Collection of new soil cores and installation of piezometers to study groundwater and surface water interactions;
- Development of groundwater flow models for the Upper Basin;
- A pilot study on reducing surface water losses from Bunker Creek, where clean discharge water is being re-contaminated as it filtrates through subsurface soils;
- Low and high flow sampling at sources areas (e.g., adits, mine and mill sites);
- Groundwater/surface water investigation in Osburn; and
- Tools to collect and present information (e.g., mapping, survey data, photos) of key project areas.

In response to a question from Andy Mork, Bill Adams said they are not modeling sediment transport at this time; instead, they are focusing on surface water flows. Mark Stromberg asked whether the field work could include GPS readings on railroad remnants in Nine-mile Creek and/or Canyon Creek (no such survey data exists). Ed stated that it is probably more appropriate for the railroads to fund such work. Bill Rust suggested that EPA sample drainage from Black Hawk and Grouse Gulch, which is coming out yellow and orange.

Bill Adams then presented on an approach for prioritizing eco-remedy work in the Upper Basin. He said that there are around 300 sites identified in the ROD for cleanup but that they need to be prioritized. The Mine and Mill Sites PFT has prioritized a number of sites using factors such as human health exposure via recreational use, impacts on water quality in the upper end of priority drainages, and others. He said that it is more difficult for the PFT to prioritize the remaining large list of sites that are primarily a risk to the environment. Bill described prioritization tools that EPA has developed to help prioritize sites, including a “simplified tool” that can predict water quality improvements (for zinc and lead) and a “decision model” that helps weigh factors such as cost of cleanup, proximity to residential areas, etc. Bill said that they would be seeking input from the TLG, CCC, and others on what factors are important and how to weigh them. The results of the prioritization process will ultimately be incorporated into a Record of Decision (ROD) amendment.

Jerry Boyd asked Bill whether EPA can place a lien on properties after they have been cleaned up. Bill answered that they can put a lien on properties. In the case of public properties, he said, the managing agency typically maintains the remedy. For private properties, maintenance arrangements are negotiated. Rog Hardy asked how much TLG, PFT, or other “outside the agency” input there had been on developing the criteria, weighting factors, etc. Bill said that EPA has not yet gone into detail on the tools with the TLG or others; he said that they would roll the tools out to the TLG and PFT after EPA had updated data in the tools (they currently use 1997 data).

Anne Dailey presented information on the future Bunker Hill/CdA Basin Decision Document. The purpose of the document is to 1) address recommendations from the National Academies report, 2) present a better and more comprehensive cleanup plan for the Upper Basin that draws on knowledge developed to date, and 3) focuses on Phase II of the OU2 cleanup (focused on groundwater and surface water). The prioritization

process that Bill Adams discussed will be included in the decision document, Anne said. The focus will be on selecting additional cleanup actions in the Box and Upper Basin—not the Lower Basin. Anne also discussed a proposed ROD amendment focused on reducing surface water and groundwater contamination to eventually achieve ambient water quality criteria in the Upper Basin. Such amendments, she said, are part of the normal cleanup process. The amendment would go through the public comment process, etc. EPA will come to the Basin Commission Board, TLG, and CCC for input and review of straw proposals over the next 6-8 months. Anne said she would provide Tom Beierle with the dates, times, and topics of upcoming meetings.

Rog Hardy asked Anne about her comment that the decision document would not focus on the Lower Basin. He asked whether contracts had already been let for the Enhanced Conceptual Site Model (ECSM) for the Lower Basin (Ed Moreen answered that the contracts had been let). Rog said that the Lower Basin PFT should be involved in the ECSM development. If the ECSM is moving forward, then it is “past the time” the PFT should have been involved, said Rog. Anne said that there is a plan to involve the Lower Basin PFT. Rog said that he has not received responses from EPA regarding his questions about the ECSM. He stated that there is a lot of work going on in the Lower Basin that is not being brought to the TLG or the PFT’s. Rog asked whether EPA is considering any of the cleanup to be “brownfields” work. Anne said “no” and that brownfields are mainly a non-Superfund concept.

Bill Rust asked whether there would be specific meetings with PFTs about the decision document. Anne said that, because many different PFTs focus on these issues, it is more appropriate to go directly to the TLG and then invite PFT and CCC members to the meetings. Rusty Sheppard said that a special effort needs to be made to get all TLG members to the meetings. Anne said she is talking to Terry Harwood about meeting with Upper Basin mayors and other community leaders as well. Rusty said the Basin Commissioners need to get involved as well. Rog Hardy said that, based on the experience of the Clean Water Act project prioritization effort, it will be important to leave much time for the TLG and others to contribute to the decision document.

### ***Draft 2009 and 2009-2013 BEIPC Plans Overview and Discussion***

Terry Harwood gave an overview of the draft 2009 BEIPC work plan and the draft 2009-2013 five year plan. He said that both were based on input from agencies, PFTs, and others on the work they were doing and planned to do. Terry said that the only section that is still under active discussion is Section 3.2 “Lake Management Activities.” Terry said that, although he is open to more comments, it is very difficult to incorporate them at this point because of the need to negotiate the changes with everyone involved (he said that minority positions are always an option). Terry stated that the TLG and CCC have an obligation to give the BEIPC board a finished product. He reminded everyone that the workplan language is not binding on agencies; it mainly reflects the BEIPC’s role as a coordinating body. Bill Rust said that one of the functions of the process is to get comments registered. Rusty Sheppard submitted written comments on behalf of the

Coeur d'Alene Lakeshore Property Owners on the Lake Management Plan section of the work plans (these are incorporated into the CCC comments from this meeting).

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

Rog Hardy quoted two sections of the draft 2009 workplan that illustrated, he said, how the BEIPC process in the Lower Basin is broken. First was the discussion of the ECSM, which says that a “technical memorandum will be presented to the BEIPC” but doesn't say the TLG or Lower Basin PFT will be involved. This section also says that the PFT and TLG will provide project ideas, but, Rog said, they can't do this without working with EPA and its contractors on the ECSM. The second issue raised by Rog was text that said the trustees would coordinate work with the BEIPC. Rog said he has not seen any information on NRDA trustees (USFS, USFW, BLM, and the Tribe) coordinating work with the BEIPC in the Lower Basin. Terry said that it has been difficult to coordinate work with the trustees in some cases, and he asked for ideas on how to get the trustees more involved in the TLG and other aspects of the BEIPC. Terry commended Rebecca Stevens, Coeur d'Alene Tribe, for her efforts to support coordination between the BEIPC and trustees. Terry said he is going to bring up the issue of trustee coordination and involvement with the Basin Commission Board. Anne Dailey noted that coordination is important because trustees can't do restoration until remediation has happened.

Rusty Sheppard said that a big issue for counties is erosion of the tax based through some projects sponsored by federal agencies that lower the tax revenues from the project areas. Rog said that some of the projects undertaken by the trustees are high-risk and expensive; the TLG could help with more innovative solutions, he said.

Ed Moreen asked whether having the trustees share straw proposals with the TLG would help resolve the issue. Terry and Rog said that it would, and Ed said that he would share this feedback with the trustees. Rog noted that nutrient balance is a big new issue. A new concern, he said, is how trustees' projects would affect nutrient balance.

Carrie Holtan, Coeur d'Alene Tribe, commended the group for the good discussion during the meeting.

Julie Dalsaso said that she had an ethical concern about the letter from the Coeur d'Alene Lakeshore Property Owners submitted by Rusty Sheppard and the way it described “local waterfront property owners and governments.” She said that property owners are a special interest group that should be distinguished from lakeshore governments. It is confusing who the Lakeshore Property Owners are representing, she said.

### ***Next Meeting/Upcoming Events***

The next BEIPC Board meeting will be held on November 19, 2008.