

2-1-06 Citizen Coordinating Council Meeting

Post Falls Library, 6:00 PM to 8:30 PM, Post Falls, Idaho

Attendees (who signed in and/or announced themselves)

Jerry Boyd
Phillip Cernera
Roland Craft
Jeri DeLange
Jack Domit
Dave Enos
Bob Flagor
Terry Harwood

Mike Mihelich
Charles Miller
Glen Rothrock
W.C. Rust
Mark Stromberg
Kathy Zanetti

Meeting Overview

The February 2, 2006 meeting of the Citizen Coordinating Council (CCC) of the Basin Environmental Improvement Project Commission (Basin Commission) covered the following topics:

1. BEIPC and other updates;
2. Lake Management Plan mediation update; and
3. Discussion of remaining items for 2006 workplan (blood lead testing and Institutional Controls Program).

Opening

CCC Vice-Chair Kathy Zanetti chaired the meeting. After her opening welcome, all participants introduced themselves, and Kathy reviewed the agenda.

BEIPC and Other Updates

2005 Accomplishments Report

BEIPC Executive Director Terry Harwood provided a brief overview of the BEIPC 2005 Accomplishments report, which he handed out to those participating in the meeting.

Clean Water Act Projects: End of Year Financials

Terry handed out a summary of the financial status of the Clean Water Act projects, which listed the total funds for the project and the remaining balance. He said that he has hard copy reports for each of the completed projects in his office, and anyone is welcome to look at them. Because of their size, producing electronic copies is not practical.

Terry noted that federal agency projects may look like they have very large remaining balances compared to other projects. The reason is that federal rules require federal agencies to have all project funds available before they can contract out work.

Kathy Zanetti requested extra copies of the Clean Water Act financials and the 2005 accomplishments report to provide to the Shoshone Natural Resources Coalition (SNRC).

2006 Construction Season Work

Mark Stromberg, DEQ, described the main accomplishments of the 2005 year cleanup season, including 340 properties remediated by DEQ in Operable Unit 3 (the Basin) at a cost of \$8 million, and 192 properties remediated by the Upstream Mining Group in Operable Unit 1 (the Box). He said that the target for 2006 in Operable Unit 3 is 400 properties. Mark said that, according to a survey, around 245 jobs have been provided, and 87% are local hires. He said that 66,000 cubic yards of material was removed and transported without any serious accidents. In a follow-up survey of people who had cleanups done, 81% of respondents gave the effort a four or a five on a five-point scale (where five is the most positive response); Mark noted that there were some people who gave the cleanup a “1” as well.

The “emergency contracts” for yard work that were let this summer will be up on June 30, 2006. DEQ is planning on releasing RFPs for the work soon.

When asked about the progress of cleanup in Mullan and Wallace, Mark said that there were 344 properties in Mullan that have not been cleaned up (some of these have been tested and some not) and 566 of these types of properties in Wallace. He estimated that 75% of these will probably need to be remediated. Between Mullan and Cataldo, there are 3,000 properties that haven’t been remediated, which suggests many more years of yard work will be needed. The plan is to finish Mullan and Wallace and keep moving west.

Kathy Zanetti said that Ed Moreen, EPA, had given her a list of activities that remained to be done in the Box. They were:

- ROD capping areas;
- Low hillsides adjacent to remediated areas;
- Sweeney area remediation (mouth of Government Gulch);
- Area 14 remediation;
- Phase 1 evaluation (groundwater) before going to Phase II;
- CTP upgrade and infiltration minimization (Minewater ROD); and
- Resolution of CTP operations and maintenance long-term.

Mica Creek

Terry Harwood discussed activities related to the Mica Creek Clean Water Act project, which is focused on restoring the course of the Creek to some version of its earlier path. One landowner is interested in participating and two more may be somewhat supportive. He described two possible outcomes for the project. In the first scenario, many landowners participate, and the project is completed, although for quite a bit more money than the CWA allocation. (Meeting participants discussed the quality of some of the cost estimates.) In the second, there is little landowner interest and the project doesn’t go

forward. In the second case, Terry would like to be able to redirect the money to other CWA activities.

Relating to the discussion of Mica Creek, Roland Craft said that he had recently been at Mica Bay during heavy rainfall, when the whole wetland was under water, and he noticed high levels of silt, probably from home development in the area. The silt at the boat launch was like syrup, he said. Meeting participants suggested that Roland contact Kootenai County about the issue because it falls under the county's site disturbance ordinance.

Lake Management Plan Mediation

Phillip Cernera, representing the Coeur d'Alene Tribes, and Glen Rothrock, representing Idaho Department of Environmental Quality (DEQ) provided information on the process and status of the lake management plan (LMP) mediation between the tribe and the State. Phillip outlined the background and current status of the mediation and informed the CCC that Mike Hardy had been contracted by the U.S. Institute for Environmental Conflict Resolution to be the mediator.

The mediation will proceed in two phases. The first phase will involve discussions with each party and will end with a determination of whether mediation is possible and, if so, what points need to be mediated. As part of the first phase, the tribe is developing a draft plan describing what it would like to see in an LMP and will share it with the state by the end of the week (the state has already developed such a plan). Phillip outlined some highlights of the tribe's preferred plan:

- It takes a "watershed approach" to actively controlling nutrients throughout the watershed;
- It provides background on lake management, including significant changes since the 1996 plan;
- It proposes using a model of "adaptive management," where new information is collected and incorporated into an evolving understanding of the lake, which, in turn, is used to make lake management decisions;
- It outlines a 30 year program of lake and watershed monitoring;
- It outlines specific implementation needs, including staffing needs for the tribe and state and a set of actions that need to take place, such as an audit of the use of best management practices, public outreach, monitoring, modeling, etc.; and
- It includes a section on cost and schedule.

After DEQ reviews the tribe's preferred plan, the mediator will make a determination of whether mediation can help the parties come to agreement. The actual mediation will be the second phase of the effort.

Responding to a question about where there are gaps between the tribe and state positions, Glen Rothrock said that the gap was wide a year and a half ago, but some things have changed since then, such as a new DEQ director and the mediation process. Possible points of tension mentioned by Phillip and Glen are:

- The level of staffing the two parties can realistically agree to;
- The management response if trends show declines in lake quality; and
- The level of evidence needed to start the process of de-listing the lake.

Glen said that, as part of the second phase of the mediation, the Institute for Environmental Conflict resolution had compiled a list of stakeholders (including some on the CCC as well as county commissioners, agency contacts, etc.). If the mediator determines that there is value in moving forward with mediation, he plans to get the views of these stakeholders on the issues. Kathy Zanetti said that using this process to help get community buy-in into the plan is a good idea and will likely make the plan more successful.

As a point of clarification about the role of water quality standards in the plan, Glen Rothrock said that these standards are stand-alone laws. Although the LMP may reference them, the standards are not set by the plan and the plan is not needed for them to be in force.

Responding to a question about the status of public comments on tribal standards, Phillip noted that comments are currently being reviewed and it would be a few months before the tribe would have its response ready. He said that there are only minor differences from current standards in areas of temperature, mixing zones, and dissolved oxygen at the lake bottom.

Phillip said the tribe has pledged \$5 million for the lake work and has asked the state and federal government to match that amount. He said that ten cents for every gallon of gas sold on the reservation will go toward lake management.

Glen Rothrock said that the LMP will encompass all drainages into the lake, an issue that the state and the tribe agree on. The state has to develop TMDLs for all of the drainages and it doesn't make sense to separate that process from the LMP work.

Kathy Zanetti asked if all of this work could actually be done given the magnitude of the number of impaired streams. Glen and Phillip said that it would be a very long term process, but there were opportunities to address the worst issues first and chip away at the effort through many possible funding sources. Kathy said that she knows that the process has to start somewhere, but such a large open-ended effort with very uncertain funding was hard to sell to the community. Bill Rust said that setting unattainable goals makes it hard to get money.

Bill Rust said that many stream segments in the Basin have been designated as impaired because of a lack of data. Glen Rothrock responded that there is actually a lot of sampling behind the impairment designations. Each stream segment, he said, has been sampled at least once. Glen went on to describe ongoing work on Yellow Dog Creek.

Kathy suggested that the map of impaired stream segments be broken out to categorize impairments by whether they are related to sediment, nutrient problems or other problems

(e.g., cobbles). Dave Enos said that more people might get behind the LMP effort if there was a clearer problem statement about the consequences of the lake's pollution, such as health effects or algal blooms.

Discussion of Remaining Items for 2006 Workplan

Blood Lead Testing

Terry Harwood handed out the TLG's proposed 2006 workplan language on blood lead testing. The key points, he said, are some of the commitments that various groups have pledged to make:

- Human Health PFT: will explore alternative approaches for integrating universally available blood lead testing into the regular health care services received by Basin children aged 1-4 with a goal of crafting a two year pilot program.
- EPA, IDEQ, IDOH, and PHD: continue to offer a universally available blood lead screening program in 2006
- Idaho Department of Health and Welfare, Division of Medicaid: work with participating physicians in the Basin to comply with requirements to perform blood lead screening during "well child checkups" as required by Medicaid.

Terry mentioned that he is looking into funds that would allow paying a substantial sum to parents for each child tested. PHD estimated that \$400,000 would cover around 900 children. Participants discussed whether such a program was likely to generate a representative sample of blood lead results, although Bill Rust noted that getting 900 children tested would cover a relatively large percentage of the child population.

Institutional Controls Program (ICP)

Terry Harwood described some of the work to date on the ICP for OU3. He handed out the ICP rules for OU1 (the Box), which are to be a model for OU3. Some of the big issues for the ICP are:

- What kind of institutional controls will be in place?
- How will it be managed?
- What areas will it apply to?
- Who will pay?
- Where will repository capacity come from?

Terry said that at a January 30 Human Health PFT meeting, EPA and DEQ presented a map of proposed boundaries for the ICP. There is only one map, and it was given to TLG member Ron Roizen to share with residents of the Silver Valley. The map sparked controversy and resulted in a Shoshone county proposal to limit the ICP to areas that had been remediated or that had been identified for remediation and a Benewah county proposal that calls for the ICP to be coordinated with the Institutional Controls portion of the UPRR Trail of the Coeur d'Alenes Trail Longterm Oversight Plan (TLOP) and states

that all aspects of the trail management plan (TLOP and ICP) must be developed in an inclusive, public process. Kootenai County was reportedly not happy that the map included the Spokane River.

Meeting participants discussed the question of whether or not the ICP should apply to property that has not yet been tested, including cases where landowners chose not to participate in the cleanup process. Some CCC members said that a mandatory ICP makes the cleanup process non-voluntary, which amounts to a violation of the commitment that cleanup under the ROD would be voluntary. Other CCC members said that the ICP should be mandatory, covering all contaminated areas.

Dave Enos said that he wanted to be on the record with the view of one of his Washington State SIG members that he feels strongly that the ICP not be voluntary, and that it be implemented on all contaminated property.

Bill Rust made a number of points in support of focusing the ICP on cleaned up property:

- It is already illegal to transport contaminated materials, so that is not an issue;
- Any ICP similar to that in the Box essentially dumps the remedy on the landowner because the ICP could force remediation if a landowner wants to undertake any significant activity;
- On the issues of contaminated land eroding onto a neighbor, the state is the biggest concern in this regard and it has unremediated land (Terry said that agencies would fall under the ICP, however); and
- Implementing an ICP in the OU3 would create a much larger bureaucracy and cost an additional \$300,000 to \$400,000 per year.

Jerry Boyd asked whether there is a process to get excluded from the ICP (for example if all contaminants from a property have been removed). Bill Rust noted that, in the Box, moving a cubic yard of any dirt requires an ICP permit.

Kathy Zanetti clarified that the BEIPC would not be making any decisions about the ICP at its next meeting except for approving the 2006 workplan language. Terry related that the BEIPC board may require a special session to address the ICP.

Next Meeting/Upcoming Events

The Next BEIPC board meeting will be held on February 22, 2006.