

Meeting Minutes

7/9/2002

Coeur d'Alene Basin Environmental Improvement Project Commission

Meeting Notes: July 9, 2002

Meeting Location: Idaho Health and Welfare building, Kellogg, Idaho

Commissioners present: Steve Allred, DEQ
 Jack Buell, Benewah County
 Sherry Krulitz, Shoshone County
 Chuck Matheson, CDA Tribe

Commissioners absent: Dick Panabaker, Kootenai County

Observers present: Flora Goldstein, Washington DOE
 Sheila Eckman, USEPA

Staff present: Luke Russell, DEQ
 Phil Cerner, CDA Tribe

Note taker: Luke Russell

Notes:

Chairman Krulitz opened the meeting at 1:05 PM with introduction of those at the discussion table and those in the audience.

Old Business

The notes from the June 5, 2002 meeting were reviewed and approved without modification following a motion from Commissioner Allred, seconded by Commissioner Matheson.

New Business

Federal/Washington Representation of the Commission - Commissioner Allred introduced Bill Ross, with Ross and Associates. Mr. Ross reviewed that the enabling statute envisioned that agreements would be entered in with the State of Washington, Federal government, and the Coeur d'Alene Tribe. As the tribe has signed an agreement, he is facilitating the development of an agreement that would bring the representatives from the State of Washington and the federal government to the Commission. He indicated that the key issues in development of this agreement include: the basin commission as an innovative effort to implement a Record of Decision; that the Commission is up and running but is not fully populated with the envisioned membership; and the need to coordinate other local, state and federal authorities in its mission.

Mr. Ross outlined what the Memorandum of Agreement would contain which included the roles and responsibilities of the Commission, the development of annual and long-term work plans, the geographic scope of the Commission activities, that technical and citizen advisory groups would be established, and reservation of rights for other governmental authorities with jurisdiction in the basin. He indicated that the parties are working to finalize this agreement as quickly as possible but getting all the necessary signatures could take some time. He envisioned that there would be broad list of signatures on the agreement, including the county representatives and the Tribe.

Commissioner Krulitz asked if the county representatives would be signing as county commissioners or as basin commissioners. Both Commissioner Allred and Curt Fransen with the Attorney General's office indicated that they would sign as individuals for the basin commission.

Commissioner Allred asked if this agreement would include any side agreements between the other federal agencies or would there be separate agreements. Shiela Eckman with the EPA indicated they were hoping that by having the other federal agencies sign the MOU that only one agreement would be required.

Neil Beaver of the Lands Council asked if NEPA applied to this agreement and was told by Commissioner Allred that this was a state agreement and so NEPA did not apply. He also indicated that CERCLA trumped the need for the NEPA process. Sheila Eckman added that the MOA was only to bring all parties to the Commission and was not directing any clean up action per se.

Bret Bowers of CLEAN asked if this MOA could be successful before the ROD was finalized, and where was the State of Washington in this process. Mr. Ross responded that the MOA and the ROD were being developed so as to come together at about the same time and that this convergence of processes was very important to the ultimate success of the Commission, in his opinion. Ms Flora Goldstein, represented Washington Department of Ecology indicated they were working with this MOA process and that a

couple of names were under consideration for appointment by the Governor. She did not think the appointment would be from the Department of Ecology.

Policy Development – Luke Russell presented an overview of the roles and membership for the Technical Leadership Group and the Citizen Advisory Groups. He also discussed a draft application sheet that had been prepared to obtain information on people with interest in serving on either of these advisory groups. Commissioner Krulitz indicated that smaller project specific work groups could also be established. Mr. Russell indicated that while staff had prepared draft operating policies for the commission they were working to coordinate this effort with the outcome of the Memorandum of Agreement being prepared under the leadership of Mr. Ross, before a formal presentation to the Commissioners.

There was discussion on the application form and staff was requested to modify the form prior to general distribution. However, draft copies were left for those in attendance who might be interested.

There was then a discussion between the audience and the Commission on how these groups would be formed and how they would operate. Comments were offered requesting that the continuity of existing groups, e.g. the CAC, not be lost in the formation of these new groups, that a wide spectrum of interests be represented who can bring common sense to the process, and the process for selecting members be an open process. Commissioner Allred indicated that ultimately the Commission would need to ensure they have confidence in the group's membership and some form of confirmation would be required. Sheila Eckman of EPA offered the assistance of Mr. Ross to help facilitate the initial formation and operation of these advisory groups.

It was moved by Commissioner Allred and seconded by Commissioner Buell to accept EPA's offer of financial assistance and direct staff to work with Mr. Ross in the development of a scope of work for this purpose. The motion carried.

Record of Decision Update – Sheila Eckman provide an update on the progress in development of the ROD. She indicated that drafts were being reviewed by the agencies and that formal responses to public comments were being prepared. EPA was targeting late July or early August for the ROD to be finalized.

She also mentioned that EPA Administrator Whitman would be in the area on August 13. The Commission agreed to invite the Administrator and would host an information meeting if possible. Commissioner Allred and Commissioner Krulitz offered to make this invitation through both the Governors office and our federal delegation. It was moved by Commissioner Allred and Seconded by Commissioner Buell to formally invite Ms Whitman to a Commission hosted meeting. Motion carried.

Bret Bowers of CLEAN asked how EPA would respond to the public comments received on the ROD. Sheila Eckman replied that the ROD would include a section on how the comments were addressed in the ROD and this would come out with the ROD.

Lake Management Plan – The EPA ROD is expected to defer any CERCLA related action on the lake. Phil Cernera provided an update on the status of revising the Lake Management Plan using non-CERCLA authorities. He indicated that several meetings were being held this week to address revisions to the management strategies for the lake. The work product will be an addendum to the existing plan with updates on the scientific understanding and where management needs to go from here. He suggested that the current thinking is that the updated lake management plan should be included in the Basin Commission's short and long-term work plans. The work group is targeting the end of July to complete this work. Ed Tullock with the Id DEQ added that they would be consulting with the commissioners from Shoshone, Kootenai and Benewah over the next couple of weeks on the draft updates and recommendations.

Bret Bowers with CLEAN asked what the process would be, and when could it start, for deletion of the lake from any CERCLA designation. Phil Cernera replied that once the lake management plan update is completed and both the state and tribe concurred that it would be implemented, then EPA would prepare a Proposed Plan for no-CERCLA related action for the lake. This would go through a public comment period and EPA would then develop a Record of Decision. Once the ROD was signed then they would begin the formal rule making to delete the lake with a Federal Register notice of intent to delete. He added, that this process does not need to wait for EPA to complete its first 5-year review.

Rex Project - Following a 10 minute break, Luke Russell then provided an overview of the Rex Mine and Mill project preliminary remediation design and cost estimate. The site is of mixed ownership with both federal and private lands involved. Dave Fortier of the BLM provided an update on the ownership history of the site. He also indicated that development of the plans had taken some time but that this time was necessary to obtain the necessary technical information to complete the design and that the design was now very close to being complete to meet their needs. Chris Pfahl the private owner described some of the benefits to the remediation of this site which included both water quality and dam stability improvement.

There was then discussion on when this project could start. Commissioner Allred indicated that construction this season was not really viable, but that this project could serve as the foundation of an application to EPA for a portion of the \$2 million dollars available to the Commission for an early start on construction next year. It was moved by Commissioner Buell and seconded by Commissioner Allred that an application be made to EPA to fund this project, as well as some additional funds for Commission administrative support. In addition, DEQ would serve as the fiscal agent for this grant request. The motion carried. Staff was directed to bring a completed application to the next commission meeting.

Zinc/Cadmium Conference – Paul Wichlacz with the INEEL provide an overview of a conference on Zn/Cd that will be held at Coeur d’Alene Resort on September 9-11 and invited the Commission’s participation at the conference. Commissioner Allred supported the concept behind the conference as water treatment and maintenance will be major issues going forward in the basin. He also plans to participate in the conference.

Box Developments - Commissioner Allred and Curt Fransen with the Attorney General’s office updated the Commission on a recent dispute settlement with the Upstream Mining Group to perform work in the box this season. They indicated that due to the current financial condition of the mining companies they were unable to meet the consent decree required level of work in the box. The settlement would include the mining companies and the government doing yard remediation to complete a full schedule of work in the box this year.

Mr. Fransen indicated that the expected ruling on the mining companies liability for work under the consent decree was being delayed until the Record of Decision was out for the basin.

Public Comment – Commissioner Krulitz then opened the floor for comments from the audience. Comments and discussion followed on the status of the interim ombudsman tour to the basin next week, and on how EPA would respond to public comments on the ROD. Sheila Eckman with EPA indicated that they were not expecting any report from the interim Ombudsman before the ROD was issued, and that the ROD would include a section on how the public comments were addressed in the ROD.

The next meeting was then scheduled for September 10 at 2:00 PM at the Kootenai County Courthouse, 451 Government Way in Coeur d’Alene.

There being no other business the meeting adjourned at 4:15 PM