

Meeting Minutes

6/5/2002

Coeur d'Alene Basin Environmental Improvement Project Commission

Meeting Notes: June 5, 2002

Meeting Location: CDA Ranger District, Silverton, Idaho

Commissioners present: Steve Allred, DEQ

 Jack Buell, Benewah County

 Sherry Krulitz, Shoshone County

 Chuck Matheson, CDA Tribe

 Dick Panabaker, Kootenai County

Observers present: Tony Grover, Washington DOE

 Sheila Eckman, USEPA

Staff present: Luke Russell, DEQ

 Phil Cerner, CDA Tribe

Note taker: Tracie Peyer

Notes:

Chairman Krulitz opened the meeting at 10:35 AM with introduction of those at the discussion table and those in the audience.

Old Business

The notes from the May 3, 2002 meeting were reviewed and approved without modification following a motion from Commissioner Allred, seconded by Commissioner Matheson.

New Business

Commissioner Roles – Curt Fransen of the Idaho Attorney General Office reviewed the legislative history of SB 256 the enabling legislation of the Commission. Specifically he discussed section 39-8104(4) which provides for veto authority of the county commissioners acting as a group. He indicated that the original version of the bill did not have this provision, and was amended during legislative development. In the amendment process, however, section 39-8106 (9) of the bill was not similarly amended and on its face excludes the commissioners representing the counties from voting on the annual budgets and priorities. He indicated that he believed the intent of the legislation was to be inclusive of the county commissioners in the establishment of annual budgets and priorities.

To address this matter Mr. Fransen recommended the Commission 1) either adopt a resolution or memorandum of agreement, wherein the existing commissioners from Idaho and the Tribe agree to share their authority in the establishment of annual budgets and priorities; and 2) seek to amend the statute during the next legislative session. The statute could be amended in 39-810 (9) by changing commissioners to “commission” and striking “representing the state of Idaho, and in the event of participation through agreement or compact, the commissioners representing the United States of America, and the Coeur d’Alene tribe”, from this section.

Commissioner Panabaker provided a memorandum from county attorney Erika Ellingsen and suggested language of either a memorandum of agreement or resolution for consideration by the commission. After discussion on the wording and best approach, a five minute recess was called to allow Curt Fransen and Howard Funky representing the tribe to review the proposed language.

The Commission reconvened and a motion was made by Commissioner Matheson, seconded by Commissioner Allred to adopt the MOA as proposed by Commissioner Panabaker as a resolution of the commission. Chairman Krulitz then read the memorandum of agreement language into the record and called the question. The motion passed unanimously. A copy of the executed memorandum of agreement is attached to these meeting notes.

Sheila Eckman of the EPA noted that when the federal representative and state of Washington representatives officially joined the commission, this agreement would need to be re-ratified.

It was decided that original commission documents be stored for the time being at the DEQ offices in Kellogg.

There was discussion on the memorandum of agreement entered into between the state of Idaho and Coeur d’Alene Tribe. Commissioner Matheson questioned if the commission could act before the federal and state of Washington representatives were appointed to

the Commission. Commissioner Allred indicated that the commission was formed on the basis of this agreement, as well as the \$ 2 million dollars provided by EPA to the commission, and that the commission was officially able to operate, and make decisions. He also indicated that progress was being made at the White House, and the governor's office to make a federal appointment to the commission. Tony Grover indicated that discussions were moving on the Washington appointment but nothing had been finalized. Matt Ellsworth with Senator Crapo's staff indicated they would do whatever they could to coordinate with the White House and the governor's office to help get the federal appointment made to the commission.

Project List - Commissioner Allred provided a letter from DEQ to the commission wherein the state withdrew its recommended list of projects proposed at the last meeting in support of the grant application to EPA for \$2 million. He indicated, and was supported by Sheila Eckman, that the commission had until June of 2003 to request the grant money and then had an additional 5 years to actually spend the money. However, Mr. Allred indicated that any future congressional appropriations could be deferred until the commission had used this initial funding. He then suggested the commission advance the formation of the technical and community advisory groups to assist in the development of the commissions initial work plan. He stressed, that the money may need to be obtained later this year to facility getting work done in the spring of 2003.

Mr. Dale Lavigne presented a letter to the commission with recommended projects developed by the SNRC science committee. He suggested the commission look at all potential sources of lead, not just yard soils. Ron Roizen asked, that if the DEQ was withdrawing its proposal to the commission, would it also withdraw its plans for yard work using state money this year? Commissioner Allred responded that it was the states charge to address human health issues, especially if requested by homeowners to do so on a voluntary basis. Mr. Roizen then questioned if the states effort somehow conflicted with the commission's authorities on basin remedial actions. Curt Fransen responded that the commission did not supplant any other agency authorities or responsibilities. Sheila Eckman noted that EPA had been doing similar yard work in the basin using its removal action authority and the state would be doing its work under this same authority.

There was discussion on whether the commission should do yard work in the "box". Commissioner Allred indicated while there was a Record of Decision for the box residential areas, there was also a court order for the mining companies to do yard remediation it the box. Thus, he questioned whether the commission should use its resources to do work that had been ordered of others to do by the courts.

Luke Russell provided an updated on the states planned activities in the basin, which includes a bank stabilization project on the south fork and yard sampling and remediation of up to 15 properties.

There was discussion that the Commission desired to do some work this year and the Rex Mine site was discussed as a possible project. Discussion was had in regard to commission doing work on private lands with a potential benefit to the private

landowner. Kathy Zanetti asked how this work would differ from doing yard remediation? Commissioner Allred responded that a yard owner was likely not considered a potentially responsible party and so public funds could be used for this purpose. If there was a potential responsible party, the question is whether the commission, or the PRP should be doing work on their own property.

Commission staff was asked to come to the next meeting with a scope of work and cost estimate for the Rex mine project. The owner of the private land involved with this project, Mr. Chris Pfahl was asked to be invited to this meeting.

Federal/Washington Representatives - Phil Cernera updated the commission on the process that is on-going to develop a memorandum of agreement between the state of Idaho, federal government and the state of Washington to bring these representatives to the commission. Bill Ross is facilitating this process.

Sheila Eckman with the EPA offered the services of Mr. Ross to the Commission to assist in other formational issues of the Commission if desired. No action was taken on this offer.

Advisory Group Process - There was discussion on establishment of advisory groups to support the basin commission. Luke Russell presented a summary from contacts made with local citizens, and citizens groups on what has worked and not worked with advisory groups in the past. From this input, he presented a conceptual organizational structure, which included both technical and citizen advisory groups, as well as focus teams to work on specific remedial projects. Lee Haynes suggested that there be a peer review step in the remedial design process. Commissioner Allred suggested that the Commission seek qualified candidates for the advisory groups and requested staff to develop a one-page application for parties to express their interest and background for commission consideration.

A timeline for establishment of advisory and fiscal policies was reviewed and staff was requested to have at least rough drafts of such policies for commissioner's review in advance of their next meeting.

Next Meeting – The next meeting will be at the Idaho Health and Welfare office in Kellogg on Tuesday July 9 beginning at 1:00 PM

There being no other business the meeting adjourned at 12:55 PM.