

Draft

Basin Environmental Improvement Project Commission

Meeting Summary: August 27, 2003

Meeting Location: Dept. Health and Welfare, Kellogg, Idaho

Commissioners Present: Sherry Krulitz, Shoshone County  
Chuck Matheson, CDA Tribe  
Dick Panabaker, Kootenai County  
John Iani, Federal Government  
Steve Allred, State of Idaho  
Jack Buell, Benewah County  
James McCurdy, State of Washington

Commissioners Absent: None

Staff Present: Luke Russell, IDEQ  
Phil Cerna, CDA Tribe  
John Roland, Washington  
Sheila Eckman, EPA

Note Taker: Luke Russell

Summary:

Chairman Krulitz opened the meeting at 9:00 AM with introduction of the board with Commissioner McCurdy absent. Commissioner McCurdy joined the meeting at approximately 9:15AM. Chairman Krulitz thanked those that participated in yesterday's tour and gave a special thanks to Mike and Brenda Schlepp for the bank stabilization tour on their property. She also advised the board that she would vote on motions and not just vote to break a tie vote. In addition, she commented there would be specific opportunities for public comment during the day, but once a motion was introduced the subsequent discussion would only involve the board members.

**Old Business:**

The May 28, 2003 meeting summary was reviewed. It was moved by Commissioner Matheson, seconded by Commissioner Allred to approve the summary as prepared. The motion passed unanimously.

The June 18, 2003 meeting summary was reviewed. It was moved by Commissioner Matheson, seconded by Commissioner Allred to approve the summary as prepared. The motion passed unanimously.

Chairman Krulitz then advised the board on appointed alternates that included: Bud McCall from Benewah County, Gus Johnson from Kootenai County, John Cantemessa from Shoshone County, Curt Fransen with the State of Idaho. Commissioner Matheson indicated the CDA Tribe had appointed Richard Mullen as their alternate, and Commissioner Iani advised that Ron Kreizenbeck would be the Federal Government's alternate to the Board.

Luke Russell with IDEQ provided an update on the status of Board approved projects using Clean Water Act grant funds. He indicated that the Streambank stabilization project design was complete and a construction request for proposal was out to potential bidders. A contractor walk through would be held in early September. The biological assessment was in discussion with the US Fish and Wildlife Service. The IDEQ and the CDA Tribe are jointly managing the Lake Outreach and Education program and have each retained consultant help to assist in this effort. A booth was operated at the North Idaho Fair last week as the first public effort on Lake Education. The contract between the State and CDA Tribe on three-year Lake Monitoring program was complete and the Tribe has subcontracted with the USGS for monitoring that will begin in October. The Mullan I/I work design was complete and contractor bids were received this week. This work should begin in early September. Mr. Russell also advised the Board that the Rose Lake recreational site design was complete to the 95% level and consultation with the Fish and Wildlife Service on endangered species considerations was on going. The IDEQ had completed yard sampling on over 600 properties in the Basin and the yard remediation contract had been awarded to Randall Construction from Kellogg. This work began this week and 80 properties were targeted for completion this year.

Rob Hansen with IDEQ updated the Board on the status of the State Superfund Contract (SSC). Negotiations were nearly complete and he expected this to be signed in the very near future. A key provision in the SSC is EPA and the State will conduct a yearly review on their respective available funding and the ability for the state to provide its 10% match, as well as the operation and maintenance commitments.

Sheila Eckman with EPA advised the Board they now had in the region the \$10.2 million for basin remedial action work. This amount included \$2.0M which were settlement dollars. The total amount available for Box and Basin remedial action work was \$17.2M.

### **New Business:**

#### Board Financial Capacity

Commissioner Allred overviewed the need for the Board to establish its fiscal strategy for implementing the Record of Decision. He suggested the Basin remediation needed a sustaining organization with focus to accomplish the goals over the 30 year clean up period. He briefly summarized the three potential operating structures (contained in the Fiscal Strategy memo in the board's packet) which included: Coordination – where the Board would set priorities with other entities doing the work and the board would have a minimal staff; Directing – where the Board would do most of the remedial work with

more extensive staffing requirements, and the Combined (coordinating/directing) model where the Board and other entities would do work which may provide more flexibility in staffing requirements.

He indicated at the last meeting the Board had authorized him to advance development of an indirect cost recovery rate with EPA, which would be the cognizant federal agency. He advised that EPA headquarters, which doesn't preapprove such a rate, had indicated support for the 2.9% indirect rate based on the pro-forma operating budget discussed at a previous board meeting.

Commissioner Iani responded this issue is where the rubber hits the road for the Commissioner and it was important for the Board to carefully chart its course. While he felt the Board was off to a good start, it needed to demonstrate to the public it had the capacity and infrastructure to manage significant funds and contracts, as well as establish trust with the stakeholders that it is ready to take this step. He expressed concern that the Board not add inefficiency to the process. He also questioned what role and liability the Board would incur by directly managing contracts and work. He felt in developing capacity there were many obstacles that would need to be overcome and an assessment of these should be conducted.

Chairman Krulitz indicated that she favored the Combined model, which allowed for the Board and other entities to perform work. She felt the Board was on plan and was waiting funding which was now coming in. Commissioner Buell noted County Commissions do lots of similar types of work, coordinate with engineers, and many times make better decisions than the engineers do. The Board needed to be involved with the construction work.

Commissioner Panabaker expressed that the memo highlights a process for implementing the models and the decision before the Board today was simply which way should they proceed. Commissioner Allred expressed the Board needs to make decisions. Money was being spent and work was being done using loaned staff. The board needed to take control of this process to provide consistency and accountability.

It was then moved by Commissioner Allred, seconded by Commissioner Panabaker: ***“That the board select the “combined” operating scenario in which the Board and Executive Director have the ability to independently obtain and direct funds and cleanup work consistent with its work plan, as well as approve and coordinate work to be implemented by other governmental agencies. The Executive Director manages the business affairs of the Board, manages staff, and serves as a liaison between the Board and other governmental entities.***

In discussion, Commissioner Matheson indicated the current core staff has been successful in developing organization protocols for the TLG and CCC, coordinating 6 Board meetings, developing a one and five year plan and providing general direction on implementation of the ROD. He recognized the Statute called for an Executive Director but he did not want the core staff to be subservient to this position but continue to

represent their respective agencies before the Board. He felt this was important to maintain the balance before the board so this didn't become just another state run agency.

Chairman Krulitz noted that the Fiscal Strategy memo recommended that the "core staff" concept should continue to function as a communication forum and support the Executive Director. In addition, it sought the commitment from the respective agencies to maintain core staff involvement. She shared Mr. Matheson concerns about the Boards autonomy and felt it was time for the Board to establish its own fiscal infrastructure and move toward hiring an executive director. Commissioner Allred expressed the staff must work for the Board. He felt Mr. Matheson's concern was what was happening now with IDEQ doing much of the support work for the Board. The executive director would be an employee of, and directed by, the Board. However, the Board would need to give staff the authority to operate. The IDEQ could continue to provide support functions to the Board, but the Board would make the decision and set the direction.

Commissioner McCurdy commented that he supported the vision of the board moving to establish its own fiscal capacity but cautioned that history would judge this effort on consensus based clean up and the Board can not fail. He shared Commissioner Ianis' concern and felt it was too early in the game for the Board to do anything other than coordinate with other entities. He commented that by wanting to do something didn't mean the Board was ready to do it. As an example, he noted on yesterday's tour that a lot of Corps of Engineers staff were overseeing work done by their contractors and having such oversight would be critical for the Board to be successful. He questioned what responsibility the Board would be taking on, what would happen to the core staff, what was their fiscal authority as well as that the public had not had time to look at these various models and provide comment. He would hold this decision for more comment and discussion.

Commissioner Panabaker expressed the Board was picking a model and while it would need to follow the steps outlined in the technical memorandum, he found nothing wrong in making this decision today. Commissioner Iani, responding to Mr. Buell's earlier comment and noted county commissions are different than this board which was much more diverse and plowing new ground. While he didn't oppose Commissioner Allred's motion, he felt that in moving through this process it needed to involve the public. In particular he felt it important for the advisory groups (TLG and CCC) to provide comment on the position description of the executive director. Commissioner Panabaker commented that they would advertise for this position but today they were only picking the direction the Board wanted to head. Commissioner Allred commented this was the third meeting that this had been discussed and a public process had been followed. He felt the board needed to make the decisions, not their advisory groups. How the executive director would interface with the advisory groups was another matter. He commented that funding for staff would be similar to other agencies through the indirect rate and would not take away from other entities. He noted there would be many steps along the way but this cannot be done by IDEQ but need to be done by Commission staff.

Commissioner McCurdy questioned the role of the financing authority listed in the technical memorandum. Commissioner Allred noted this function was for managing potential settlement dollars and not the day to day operations of the Board, and that the financial authority had yet been activated, as there was no settlement money available.

Commissioner Buell commented the executive director would be required to coordinate with all parties but it would come back to the Board for decisions.

**The Board then voted on Mr. Allred's motion. The motion passed 6-1 with Commissioner McCurdy voting against.**

Commissioner Allred then requested that staff provide the draft position description for the executive director to the two advisory groups for comment.

Following a break, Commissioner Matheson requested clarification on the last agenda item. He voted yes with the understanding the core staff function would continue and not report to the executive director.

#### Five Year Plan

Phil Cernera, CDA Tribe, presented the proposed five year plan and asked the Board to approve the plan so the TLG could begin work of formulating a more detailed one year work plan. Working with the matrix provided in the plan he indicated the major work areas would include: repositories, human health (residential, recreational, mine and mill sites, and institutional controls program), upper basin and lower basin remedies, basin wide monitoring, Lake Coeur d'Alene study, and Lake Management Plan. He indicated that due to funding considerations and availability, human health actions were prioritized in the Five-year plan. For the Lake Management Plan, he noted IDEQ and the Tribe had prepared responses to public comment on the draft plan and these responses were undergoing internal agency review. There were some issues of disagreement between the two agencies on the preferred path forward and negotiations were on going. He would report back to the Board once the plan had been finalized.

John Snider Chairman of the Citizen Coordinating Council then reviewed citizen comments on the five-year plan. These comments were provided to the Board and were read by Mr. Snider. He noted, among other concerns, the prioritization of human health remedies was not warranted, lack of detail about specific work for the upper and lower basin remedies, as well as a request for additional nutrient monitoring around the Black Lake area. In addition, he reiterated comments from the labor union on establishment of benefit programs for workers, the need for good communications between lead agencies and the public affected by these actions, and concerns about looking at other causes of streambank erosion such as flooding.

Barbara Miller with the Peoples Action Coalition commented health studies suggest elevated blood leads remain a problem in the box, and 1 in 4 children tested in the basin show blood leads greater than 10ug/dl. Their study of 252 participants indicated a high

percentage showed some lead-related problem. She indicated these data are publicly available to the Board.

Jim Hollingsworth, Lands Council, encouraged the Board to coordinate with the numerous studies currently being conducted by Avista in their re-licensing effort, which would be helpful to the Commission, and requested the Board formally invite Avista to the Basin Commission meetings. Lloyd Brewer, City of Spokane and Anne Dailey, EPA responded there was coordination between the Basin Commission TLG and the Avista process as many individuals are involved and/or tracking both efforts. Paul Woods, USGS noted the plans to hold agency technical meetings in the future, which would be good forums for coordination with the Avista re-licensing efforts. Phil Cernera, as chair of the TLG commented he would invite Avista to participate with the TLG, if not as a formal member of the advisory group.

Toni Hardi, Harrison, expressed concern that the UPRR is not part of the Board's scope of work and should be, especially with regard to the certification effort. She felt the incremental approach was double speak for fixing previous mistakes. She noted clusters of health concern along the trail that were not being addressed and questioned why the Carney Pole site in St. Maries, which is less than one acre in size, was getting more attention than the 2 square mile Trail of the Coeur d'Alenes.

Neal Beaver, Lands Council commented he had submitted more comments than were presented in the CCC addendum to the Board and would circulate his entire commentary. He questioned the comments made on the tour yesterday with regard to repositories and the filling of holes for economic development. These sites needed to be managed in perpetuity and even a McDonalds is not a forever thing. He noted that the remediation planned for the recreational sites would only draw more people to already contaminated sites. He felt these were only band-aid approaches and not true fixes.

Rusty Shepherd, River Owners Association, questioned that while human health was a priority for this five year plan, when would money be available for ecological remedies? He felt that the failure to address these concerns left the lake owners in limbo. Sheila Eckman with EPA responded that remedial action (or clean up dollars) were prioritized on a national scale and human health concerns were given highest rankings. It was not clear when and how much funding would be available to address the ecological concerns in the basin.

Bret Bowers, Lake Owners Association, questioned if waiting on the ecological remedy how would this work be prioritized? Phil Cernera commented that mine sites that had a human health concern were prioritized for actions and detail remediation plans would be developed in the one-year plans. Sheila Eckman noted the ROD identifies these types of sites that were considered to have human health concerns. Mr. Bowers also asked for clarification on the funding available for basin and box remediation. Sheila Eckman noted that 10.2M was available for the basin and in the box \$4.8M was available for yard remediation, \$2.2 M for CTP upgrades, and \$0.2 M for general upkeep in the Box. In addition, EPA would use remedial design money, a separate budget for doing the

necessary design and engineering for ecological projects so we are ready once remedial action funds become available for this type of work.

Ruth Spencer, citizen, noted that sound scientific evidence should drive the clean up and felt human health work should await the results of the National Academy of Sciences review. Randy Siemers with the labor union, commented on the need for both high paying wages and benefits and asked that this be included in the five year work plan. He suggested the Mullan I/I work funded by the Clean Water Act would not pay Davis-bacon wages. He asked if worker protection was not in the five-year plan, could this be codified in the Board's fiscal policies. Luke Russell, IDEQ responded that the Mullan project would pay Davis-bacon wages. Commissioner Matheson responded that he supported worker standards and this should be part of the fiscal policies developed by the Board.

Noel Logar, citizen, commented that Denver Creek was too steep and not a big loader and money could be better spent doing work elsewhere, such as the Highland Creek site. He questioned how local landowners would be involved with remediation planned for their properties. John Roland, State of Washington commented the five-year plan was visionary and detail plans would be forth coming in the one-year plans. Citizens would be asked to comment on these specific project plans. Dave Fortier with the BLM responded that Denver Creek was a significant metal loader but BLM was unable to address private lands along the creek and needed Superfund support to address the drainage.

Toni Hardy, citizen, noted the concern for private landowners in the basin is laudable but this was not a consideration for the UPRR. Rog Hardi added he was aware of a letter sent by Union Pacific that specifically sought to exclude over 900 landowners in the settlement negotiations that lead to the Consent Decree for the trail.

Kathy Zanetti, citizen, asked for clarification on the capacity and ownership of the Big Creek Repository as well as how contaminated construction material disposal would be addressed in the basin. Luke Russell replied depending on the final design the capacity was between 188,000 – 400,000 cubic yards. Commissioner Allred advised the State of Idaho now owned the site. As for other material disposal, a system similar to the box (institutional control program- ICP) was needed for the basin so as to not interfere with commerce. He suggested the box model could be the template for moving forward with an ICP in he basin.

Commissioner Krulitz questioned why no specific performance standards were included in the five-year plan and how were we ensuring the biggest bang for the buck in these projects. Phil Cernera replied that performance standards and bank for the buck assessment would be provided in the more detailed one-year and specific project detailed plans. Sheila Eckman, EPA commented that while the five year plan was big picture, the bang for the buck was a consideration in its development and project selection process.

Commissioner Krulitz asked if all the agency staff was comfortable with the five-year plan or were they too rushed in its development. Phil Cernera commented that while the

plan may not meet everyone's expectations, the human health prioritization and funding considerations were real sideboards that dictated the plan as presented. He felt given these sideboards there had been adequate time to develop this plan.

Commissioner Panabaker commented the plan seemed to have more planning and study than doing real work. In particular he noted no additional bank stabilization work was planned for the next five years. As a county commissioner he was taking pressure on the no wake considerations and what he saw at the Schlepp ranch yesterday suggests to him that more of this type of work would be helpful.

Commissioner Allred questioned that the plan does not appear to deal with the big metal loaders. He felt that water quality is also a human health concern so both human health and ecological projects could be done. In addition, he advised the Board that they needed to keep an eye on the state match money as if the state can't provide the match then EPA cannot spend its Superfund money.

Jessica Furman, Sierra Club, commented that once the human health remedy is completed there would be no money available for the ecological work due to the national backlog of such sites. She encouraged the board to seek reauthorization of the Superfund polluter pays provisions.

John Snider, CCC asked if the Commission had been denied access to state or federal lands for bank stabilization projects. Commissioner Krulitz commented that access had been denied by the Idaho Department of Fish and Game as well as the US Forest Service for bank stabilization work and that is why this years project is planned for the Frank Frutchey property. Linda McFadden with the USFS responded she did not agree with the term denied access. Rather, the USFS did not feel enough information had been presented in the pilot proposal for them to make a decision. She noted if this were the ultimate remedy the USFS would cooperate however it was not prepared to participate in this experimental approach. Christy Reed Johnson, Post Falls added that the ISF&G had expressed concern as rock is not fish friendly and more bioengineering approaches were desired.

***Commissioner Matheson then made the motion, seconded by Commissioner Allred, to approve the five-year plan as presented.***

Chairman Krulitz asked for assurance that the benefits and performance standards be included in the one-year plans. Commissioner Allred noted the five year plan establishes broad goals, and is the first effort of its kind by the TLG, but in the future he would also like to see more detail on expected results, (e.g. load reduction) in the plans, and this was absolutely needed in the one year plan.

Commission Buell questioned why they were going forward with a five year plan if the executive director has not yet been retained who may have valuable insight into these plans. Commissioner Allred indicated this is a rolling five-year plan that will be reviewed and updated as a living document. Commission Iani noted she supported the

motion and work completed by the TLG and CCC. He considered this as a blueprint and the one-year plans would be change orders to that plan.

Chairman Krulitz added that future plans should also address local hire and how labor is treated. Commissioner Allred replied that the state and federal procurement requirements inhibited some of these considerations as the labor requirements were dictated by the funding source. The Basin Commission could have its own procurement policies but they would still need to meet the funding source standards. Chairman Krulitz commented that local control and local labor was a key concern and one reason they were is the table. Commissioner Allred replied that these issues are better addressed in the Boards' fiscal policies than within the five-year or one year work plans.

**The Board then voted on the five-year plan motion, which passed 4-3 with Commissioners Krulitz, Panabaker and Buell opposing.**

A question was then raised from the audience if this constituted a veto by the three county commissioners. The commission took a quick recess after which the three county board members confirmed this vote did not constitute their exercise of a veto.

Commissioner Krulitz then opened the floor for Public Comment. Toni Hardi, citizen noted the UPRR issue was not addressed by the board and no one seems willing to talk about this issue. Commissioner Buell replied that Benewah County was also not involved in the trail decision.

Neal Beaver, Lands Council commented the Board had yet to prove its trustworthiness to assume fiscal responsibility for clean up work. He felt the work proposed was little more than band-aid attempts.

Kathy Zanetti, citizen sought clarification that the five year plan was not written in stone and would change as additional information is obtained. The board concurred. In addition she sought clarification on the authority of the executive director. The Board confirmed the Director would report to and take direction from the Board.

Jim Hollingswoth, Lands Council, suggested the board package be made available in advance, perhaps on the web page, as well as the draft board meeting minutes.

The Board then took a lunch break and reconvened at 1:20 PM.

Bank Erosion Institutional Control

Luke Russell, IDEQ presented a staff response to Commissioner Allred's previous request to explore options available to the board to further address bank erosion from boat wakes. Mr. Russell noted that several erosion studies had been conducted along the lower CDA river which suggested boat wakes were a contributor to bank erosion. He noted that Kootenai County had "no wake zone" ordinances along the lower CDA River to address this concern, but enforcement was not considered feasible. The Board did have

authority to work with other governmental entities to help address this concern. He then identified several possible options available to the board to help on this issue such as posting additional signs, conducting trial enforcement studies, and conducting additional assessment of the boat wake contribution to bank erosion.

Commissioner Buell commented that taking motor boats off the CDA River would only shift the pressure and impacts to the St Joe River. Commissioner Allred commented that he doesn't like additional regulations but this should be a tool in their toolbox to help address the bank stabilization issue. He did not support doing additional study, as we know this is a problem. He suggested education along with additional signage as well as selective enforcement could help reduce boat wake induced erosion, especially in sensitive areas.

Commissioner Panabaker noted the ordinances are in place but the problem is in enforcement. They do not have the staff or resources to enforce. He added this is a very emotional issue with boaters but he would not be opposed if this were proven to be necessary and could effectively be enforced.

Christy Reed Johnson, Post Falls suggested additional boater access might reduce boating trips to desired locations, and reduced motor sizes may be helpful. Jim Hollingsworth suggested conducting a monitoring trial along the Schlepp ranch area, where stabilization has occurred, and non-stabilized areas. In addition, he suggested reducing motor size allowed on the lower river, and perhaps a small boat rental service at the mouth as an economic development opportunity.

Kathy Zanetti questioned if individual property owners could post their property as a no wake zone. Mike Schlepp replied that while county ordinances are required an owner could post their property but the signs would not last and would generally be ignored. Neal Beaver commented that it is flooding that brings sediment to Lake Coeur d'Alene and we needed to fix that problem first.

Commissioner Allred commented that no formal board action was required today, but he would ask staff to take into consideration both structural and non-structural controls as part of the Commission's tool bag to address bank erosion problem.

### TLG Report

Phil Cernera, TLG chairman, commented on the lake monitoring memos contained in the Board packets. He noted that when the Board approved the three-year monitoring plan there was a desire by the TLG to also present additional commentary for the context of this monitoring program. At that time however, consensus had not been reached on the memo. While it had been hoped to have a consensus memo for this meeting, this was not possible and so two memos are presented. One from the lake monitoring project focus team and one from the minority PFT representatives. Mr. Cernera noted that both memos have merit and identify issues for further consideration, some of which include more

policy than technical matters. He commented that no board action was required on these memos.

Mr. Cernera also commented on the number of man-hours spent in trying to reach consensus on this issue but ultimately this was not possible. Commissioner Allred noted that the TLG influence is greatest when it can come to a consensus but when this is not possible, he appreciates receiving other viewpoints as well. Commissioner's Iani and McCurdy encouraged the efforts to come to consensus and that this is a process that takes time. Commissioner Panabaker commented the board needs the best information and getting the divergent view points can be helpful to them in better understanding the issues.

### CCC Report

John Snider then provided a review of the general concerns and observations of the CCC on the five-year plan. He noted that labor comments had already been discussed. He then raised an issue before the board on a local contractor being denied an opportunity to bid on a project in the basin. Commissioner Allred noted that bidder qualifications are typically specified in the procurement process but all contractors should be allowed to at least bid. Kathy Zanetti, then commented that the contractor that originally raised this issue to the local SIG representative, who then made several calls, was ultimately contacted to make a bid on this project. So, the process seemed to work.

At 2:20 PM Steve Allred left the meeting and was replaced by his alternate Curt Fransen.

Mr. Snider continued. Citizens also commented the UPRR should be part of the Basin ROD and scope of the Commission, that additional nutrient monitoring near Black Lake was requested by Mr. Bob Martinson. Bill Rust then noted that some contractors are restricted on bidding due to conflict of interest simply by working for a PRP. Curt Fransen replied this is a case by case determination. Toni Hardy commented she was concerned with the earlier discussion on consensus and felt this excluded the minority voice from being heard. Christy Reed Johnson commented there were two key issues that included movement of metal sediments and movement of water-soluble metals. These issues did not seem to be prioritized in the five-year plan. In addition, she felt that water quality should be considered a human health issue and she sought a better balance in the remedial action projects funded.

Commissioner Buell questioned if nutrient monitoring was being conducted at the outlet of lake Coeur d'Alene. Paul Woods with USGS replied that monitoring of metals and nutrients was being conducted at this location as well as the mouth of the St Joe and CDA rivers. Monitoring was also being conducted at Post Falls and the state line but at differing frequencies. Rusty Shepherd questioned how the Spokane River below the lake was being treated. Was it part of the lake or part of the river as this would affect how this portion of the system would be treated in a lake delisting record of decision. Shelia Eckman with EPA replied that nothing has been determined for the boundary of any delisting action. Bret Bowers requested that EPA provide updates on the lake delisting

status and process. In addition, he requested the Board to look at box issues such as the CIA seepage. He further commented that the basin ROD is part of the Bunker Hill site and is not a Coeur d'Alene site. The citizens are very sensitive to the use of the name of Coeur d'Alene in relation to this site.

Rog Hardi commented the Trail is central to the basin. He provided an example of field pumping near Black Lake that is influenced by remediation of the trail and failure to contain seepage. Thus, much more pumping of nutrients into Black Lake is occurring as a result of this action on the trail. In addition, one third of the stream banks are part of the rail right of way. Thus, the systems are integrally linked in his opinion and present both metal and hydraulic issues of concern. He added the board should be looking at all sources of potential funding. He cited the UPRR was a very deep pocket and should be pulled back to the table. In particular there is \$4M in resource restoration funds available from a trust established by the railroad and enforcement of potential penalty provisions of the consent decree could also provide additional funds for cleanup.

At 2:30 PM the meeting adjourned.