

November 26, 2003

Draft

Basin Environmental Improvement Project Commission

Meeting Summary: November 12, 2003

Meeting Location: Post Falls City Hall, Post Falls, 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 10:00 AM with introduction of the board. She introduced Brett Bowers who has been retained to serve as a coordinator for the three counties. Congressional staffers Mark Compton, Dan Whiting and Mitch Silver also were recognized. Commissioner McCurdy recognized Rene-Marc Mangin, Regional Director of the Department of Ecology, Flora Goldstein, Toxics Cleanup Program Section Head, and Steve Thiele with the State of Washington Attorney General office, and Maryann McCurdy with the Washington Governor's office. Commissioner Iani advised the board the EPA new national administrator, Mr. Mike Levitt, wants to be addressed as Mike, former governor of Utah has been confirmed and given a briefing of the Basin Commission. Mr. Iani expects the new administrator to visit the Basin at some point in the future. Chairman Krulitz 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 August 27, 2003 meeting summary was reviewed. Chairman Krulitz identified a few spelling errors and it was then moved by Commissioner Matheson, seconded by

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Commissioner Panabaker to approve the summary as prepared. The motion passed unanimously.

Commissioner Matheson advised the board the Coeur d'Alene Tribe had appointed their Vice Chairman Mr. Richard Mullan to be their alternate to the Commission Board. However, Mr. Mullan has been diagnosed with cancer, which may prohibit his ability to serve. If appropriate a new alternate could be appointed in the future.

Chairman Krulitz then asked for any additions to the meeting agenda. Commissioner Allred requested the board add a discussion on appointment of legal counsel for the board. This was added to the old business agenda.

2003 Work Plan Update

Luke Russell with IDEQ provided an update on the status of Board approved 2003 work plan for both CERCLA and Clean Water Act grant funds. Under human health related actions, he advised the board approximately 59 % of this year's budget was being spent on residential yard sampling and remediation. At the end of October more than 950 properties had been sampled and over 90 had been remediated. The aggressive sampling this year will allow for plot plan development over the winter and for an earlier start in the field next season. He mentioned the Rose Lake recreational site was also a human health response and this work would begin this month and represented approximately 3% of this years work plan.

For environmental projects, the Canyon Creek Phase I treatability study (3% of budget) was in progress by the EPA and their contractor URS Corporation. The Basin Environmental Monitoring program was finalized and work began in October by the USGS. Anne Dailey with the EPA will provide more detail on this monitoring program in the afternoon session. The Mullan inflow and infiltration project (I/I) represented approximately 14% of the Commission budget. Mr. Steve James with JUB engineers provided an update on this work. He presented photos of the two trenchless techniques under study, which included pipe bursting and cast in place pipe. He compared this to conventional pipe replacement which showed the significantly less surface disruption as a result of these trenchless techniques. Commissioner Krulitz commented the board had received a letter from the Mayor of Mullan who was very pleased with this project.

Mr. Russell noted the lake education and ?? program (3% of budget) was being coordinated by both the Tribe and IDEQ and they had a booth at the N Idaho Fair on lake stewardship. A PowerPoint presentation under development is to be given to civic groups and schools. Subsequent to a question from Phil Cernera of the Tribe, the board requested to see a copy of the presentation before this is given to the general public.

Mr. Nick Zilka provided an update to the Board on the status of the bank stabilization project, which was approximately 8% of the commission budget (memo attached). This project is on hold as they were not able to complete the permitting and resolve project

design and location in time to get construction in the field this year. He noted there were several unresolved issues on this project with numerous agency comments coming in on the U.S. Corp of Engineers 404 permit that would require more time to resolve. He identified six key areas where the project focus team needed to reach consensus to move forward which included: a) getting firm agreement from stakeholders on what specific questions the project should be designed to address, b) getting agreement as how detailed and quantitative the answer must be, c) getting agreement on what minimum data collection is required, who is going to collect it, when and at what cost, d) getting agreement on the specific design, e) determining in advance the expectations of the regulatory agencies, f) allowing adequate time for PFT review of design proposals, and , g) seeking consensus on the project location(s).

Land Transfer

Mr. Russell then advised the Board that the Bunker Hill land transfer between EPA and the State was complete. A portion of these lands would in turn be transferred to the City of Kellogg where the current IDEQ office is and to the Eagle Crest Development for a potential redevelopment project. These subsequent transfers are not yet complete. Commissioner Allred commented that under both transfers from the State, the receiving parties would be requested to commit funds to the long-term operation and maintenance of the Box remedy. The city of Kellogg has made a payment in the amount of \$5,750 that Mr. Allred indicated would be given to the Basin Commission for use in future operation and maintenance activities.

Lake Management Plan

Phil Cernera then gave an update on the Lake Management Plan revisions. The State and Tribe have developed draft responses to the public comments received on the Lake Management Plan addendum and have developed an outline for how to proceed. Several issues in the addendum and public comments received will require direction from the policy makers from both organizations. The current thinking is in lieu of issuing revisions to the addendum this would remain as a critique of the original 1995 Lake Management Plan. The tentative step forward will be to develop an "implementation plan" for the lake that brings forward the work group action tables from the original LMP, finalize these action tables, and develop a specific list of non point source projects that should be implemented to further protect the lake. The tribe and state will look to retain staff as Lake Coordinators to oversee the implementation of these actions. The role of the Basin Commission was not yet clear, however Mr. Cernera envisioned quarterly reports to the Board by these coordinators as quasi audits of the progress of implementation. The implementation plan would include the responses to public comment as well as the three-year lake study and future lake monitoring plans. While no definitive timeline to complete the implementation plan was given Mr. Cernera noted he is aggressively working to complete the tribal sections.

Toni Hardy, CCC member from the audience asked how the Tribal Lake Board would be integrated and links into the lake implementation plan. Mr. Cernera replied this has not yet been determined.

Neal Beaver, Lands Council and CCC member questioned the role of the state of Washington in the implementation plan given the memorandum of agreement (MOA) signed between the state and EPA. Commissioner Allred responded the State of Idaho and the Tribe will need to adopt the plan and the State of Washington had opportunity to comment on its development. Commissioner Panabaker asked what role the counties would have in final approval of the plan. Commissioner Allred noted there is a MOA between the counties and State to ensure county input on the final plan.

Legal Representation

Commissioner Allred then raised the issue of the Board's legal representation. He noted Curt Fransen of the Idaho Attorney Generals office was providing legal guidance, however going forward the Board may want a different arrangement for legal advice. Commissioner Panabaker asked why a change would be necessary. Mr. Allred noted Mr. Fransen is also a board alternate. However, if the Board desired Mr. Allred was willing to approach the Attorney Generals office on behalf of the board to seek another legal representative. Discussion followed but the issue was tabled until a future board meeting.

New Business:

Executive Director and Fiscal Path Forward

Luke Russell noted at the last board meeting the Commission selected a combined fiscal model wherein they would seek to independently direct work as well as coordinate with other agencies performing work consistent with the Board's work plan. In advancing this model, some key considerations include Commission staffing and personnel policies, development of the fiscal management system, procurement procedures as well as funding streams and predictability.

In advancing this strategy an important step would be the retaining of an Executive Director. The IDEQ has agreed to provide \$150,000 in start-up money to the Commission to assist in getting the Director on board and the necessary support facilities.

Mr. Russell presented on behalf of core staff an overview of the position description for the Executive Director. The key aspects would include implementation and coordination of Commission affairs. He reviewed the key skills desired in the areas of technical knowledge, technical skills, and interpersonal and management. He reviewed the breadth of responsibility and the necessary physical requirements of the position.

Mr. Russell reviewed steps for retaining the Director proposed by the interim core staff that included advertising and selection - with the recommendation the Board consider

utilizing a recruiting firm to assist in the advertising and initial selection with the full board conducting interviews and final selection.

An office location is needed and core staff recommended it develop options, costs and locations advantages/disadvantages and report back to the Board at its February meeting. Chairman Krultiz asked if this decision was needed before moving forward. Mr. Russell replied it was his opinion that advising potential candidates the location would be in the Basin would be sufficient to begin the process.

A compensation and benefits package is also needed. Mr. Russell recommended core staff develop this package for the Board consideration in February. Mr. Russell then went through a tentative schedule for selection of the Executive Director that included finalization of the position description in November, retaining a recruitment service to help advertise and screen potential applicants, begin advertising in December as well as advance the development of the office location assessment, compensation package as well as the fiscal management system (accounting, procurement, etc) for the Board. In February the short list of top candidates could potentially be presented to the Board with interviews to follow. In March the Board could finalize the office location, act on completing the interview process, and pursue the selection of the Director.

Commissioner Iani questioned if staff felt an executive director would be needed under any operating structure (coordination, combined or directing). Mr. Russell replied yes while Mr. Roland and Mr. Cerner commented the Commissions originating statute envisions an executive director, which was the premise for creating the position.

Commissioner Allred commented that IDEQ was providing many of the services the Director and Commission staff should ultimately provide and it was important for the Board to retain its independent director. Chairman Krulitz commented on the value of the interim core staff and the need to continue the coordination with it after the Director was brought on board. Mr. Allred commented the Board needed to be realistic in its expectation for this position. Based on the description it was likely not possible to find someone that met all these expectations.

Toni Hardi from the audience suggested the position description include additional requirements for communication with the public at large. Neal Beaver with the Lands Council questioned how the Board would pay for the Director and Mr. Allred responded IDEQ was providing \$150,000. Jim Hollingsworth, also with the Lands Council commented it was important to be clear that this position would report to the Board as a whole and there was a need to create a firewall between the Director and the IDEQ. In addition, he suggested the Board open formal dialogue with the Washington legislature to get additional funding for the Board and increase the Washington's representative stature on the Board. Mr. Allred replied Washington was invited to participate on the Basin Commission in a reciprocal relationship with Idaho and they declined. Terry Harwood, from the audience suggested a formal MOA be created to clarify roles between the staff and funding and how it would be used. Mr. Allred noted the Board had already acted by resolution to use the IDEQ as its interim fiscal agent.

At 12.30 PM the Board then took a lunch break.

At 1:15 the board reconvened and continued discussion on the position description for the Executive Director. Commission McCurdy presented proposed revisions to the description. **It was then moved by Commissioner Allred, seconded by Commission Buell to accept the position description as amended by Commissioner McCurdy.** In discussion Commissioner Iani wanted to clarify the Director would report to the Board and add a bullet under the Breadth of Responsibilities to make this clear. Commissioner Matheson commented that we are talking about a separate payroll and benefits for this position from association with the IDEQ. Commissioner Allred indicated the Director may qualify for the State of Idaho retirement program but the position would be independent. He further commented he objected to the criticism that staff was not adequately representing the Board but rather the agency. **The motion passed unanimously.**

2004 Work Plan Proposal

Phil Cernera with the CDA Tribe then presented an overview of the proposed 2004-work plan for the Board. He presented Table 1-1 in the work plan that outlined each project area, funding source, objective, lead planning agency and estimated cost. He noted over 86% of the work (\$8.2 M) proposed would be active remediation or work on the ground, 5.2% (\$500,000) for design for active remediation, 2.5% (\$236,000) for demonstration/pilot projects, 3.1% (\$300,000) for monitoring, and 2.7% (\$256,000) for studies to support further decisions. Using Superfund dollars the work plan envisioned activity with regard to the big Creek Repository, pursuing development of additional repositories, basin institutional control program, residential yard remediation, drinking water supply replacement, completion of remediation at the Thompson Lake boat ramp, performance of a preliminary evaluation of water treatment technologies for Canyon Creek, basin wide environmental monitoring, developing designs for the Rex, Constitution and Golconda mine and mill sites, and pursuing the development of a sequencing plan for lower basin ROD or future CWA actions.

Using the Clean Water Act funding, approximately \$500,000 worth of projects were presented which included upgrade and monitoring of the Success pilot treatment system and Nine mile creek, investigation of recontamination issues at Meyer Creek in Osburn, revegetation pilot techniques on East Fork Pine Creek, evaluation of metal removal technologies at the Page treatment plant, and evaluation of groundwater/surface water interactions in Canyon Creek. Mr. Cernera noted the Board had access to approximately \$1.8 M in CWA money. However, the TLG had not yet reached consensus on other work proposed and they would continue to work on additional project proposals for the Board's February meeting.

Chairman Krulitz noted the Board had received a letter from Mayor Bloem from Coeur d'Alene along with other mayors supporting work in the Canyon Creek drainage. She noted in the workplan at page 16 a comment in regard to integration of the Canyon Creek

CWA work with Superfund. Mr. Cerna explained that EPA is currently looking at obtaining Superfund money to conduct an initial groundwater geohydrological review that would be consistent with the work proposed under the Clean Water Act Grant. If this funding becomes available then the \$35,000 proposed for this work under the Clean Water funding could be made available for other projects.

Commissioner Allred questioned why no additional infrastructure (e.g. inflow and infiltration) work was being proposed. Mr. Russell replied that under the CWA this work needed to be demonstrative in nature rather than simply fixing a known problem. However, the Meyer Creek project was an investigation that could lead to infrastructure improvement in that city. Mr. Allred questioned if Superfund could then be used to address this issue in the future.

Jim Hollingsworth (Lands Council) questioned in lieu of yard remediation if property buy-outs could be an option. Sheila Eckman, EPA commented entire towns would need to be bought out as children move within the community and simply purchasing one property would not be adequate. Chairman Krulitz noted the tax implication with buyouts to the cities and county. Commissioner Panabaker noted the hardships on those being bought out made this difficult. Commissioner Allred noted the high percentage of right of ways and driveways that are contaminated that would still need to be addressed.

It was moved by Commissioner Iani, seconded by Commissioner Panabaker to approve the 2004-work plan as presented by staff. Commissioner Allred disclosed he was on the board of the University of Idaho Research Foundation and that one of the work proposals was to use a U of I patented technology. He noted he could still vote on the workplan but needed to disclose this potential conflict. **The motion then passed 5-0 with Commissioners McCurdy and Matheson out of the room.**

Basin Environmental Monitoring Plan

Anne Dailey with EPA presented an overview of the Basin Environmental Monitoring Plan that was included in the 2004-work plan. She reviewed the collaborative development, which included numerous state, federal and tribal agencies as well as the Technical Leadership Group, Monitoring Project Focus Team and the Citizen Coordinating Council.

The goals of the monitoring are to assess the status and long term trends of surface water, soil, sediment, and biological resource conditions in the Basin and provide data necessary of the CERLCA required five-year reviews. She noted groundwater cleanup is not specifically addressed in the ROD however groundwater monitoring will be a component of remedial action specific activities. She also noted the relationship of the basin monitoring to other monitoring activities in the Basin which included the lake management plan monitoring, State of Idaho BURP monitoring, etc). The BEMP is anticipated to evolve over the 30-year remedy implementation. An adaptive management component of the five-year reviews will be used to guide future refinement and improvement of the BEMP.

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At 2:30 PM Commissioner Allred noted he needed to leave to catch a plane.

Lead Health Summary and Lead Paint Grant

Ian Von Lindern with Terragraphics Engineers presented an overview of the 2003 blood lead testing results for the box and basin. For the box he noted the average blood leads were around 2.2 ug/dl which compared to 2.5 ug/dl as the national average. He felt they could declare victory in the box.

For the basin the 2003 testing involved 75 children age 0-6. Fixed site testing stations were established and a \$20.00 incentive was paid to those being tested. Of the 75 tested in the basin 3 or 4% exceeded 10 ug/dl and 2 or 2.7% exceeded 15 ug/dl.

Brenda Schlepp, ranch owner and CCC member questioned if the 2 lower basin children that tested high could this be from recreational activity. Jerry Cobb with the Panhandle Health District replied that it could. Ms. Schlepp then noted a recently printed map for the Trail of the Coeur d'Alenes appeared to be encouraging users to go off the paved area into side trails that had extremely high lead levels and were not remediated areas. Chairman Krulitz noted this was an important topic but requested it be held for discussion later in the meeting so Mr. Von Lindern could finish his presentation.

Neal Beaver (Lands Council) questioned what % of the kids in the box had been tested. Mr. Von Lindern replied it was approximately 50-60% of the eligible kids, but a much lower percentage for the basin. So, for the basin he felt not enough kids were actually being tested.

Toni Hardi (CCC member) noted the testing is not looking at the UPRR trail impacts on blood lead.

Bill Rust (TLG from Shoshone County) commented he believed a comprehensive blood lead-testing program was needed. However he had been advised no funding was available for such a test. He felt the lower basin recreational users might be missed in the blood testing.

Mr. Beaver questioned if any adults were being tested. Mr. Von Lindern noted in 1996 adults had been tested (600-700) but very few had blood lead levels that would pose health consequences.

Roger Hardi (TLG Benewah County) questioned if declining blood leads could be due to people moving away from the area. Mr. Von Lindern noted in the box approximately 1/2 of the kids were new to testing each year. They were not necessarily new to the area. However, the population of the Silver Valley is highly mobile. Mr. Hardi then commented that Harrison Beach, now remediated, was at one time highly contaminated and many kids learned to swim there. What happened to them? He suggested a registry of those people should be created and tracked.

HUD Grant

Mr. Von Lindern then noted that the Panhandle health District had received a grant from the Department of Housing and Urban Development to conduct a study to evaluate house dust and lead characterization techniques. The purpose will be assist in potentially reducing the need for lead paint abatement and/or interior house cleaning to further reduce risks to elevated blood lead. He noted that 30% of the elevated blood leads could potentially be attributed to lead paint in the basin. The study will be conducted over the next two years and compare the Box and basin to a rural area background area unaffected by mining.

CCC Report

John Snider chair of the CCC then made his report. He reviewed the CCC comments on the proposed 2004-work plan, which supported doing upper basin projects and linking projects where possible to save money. For example, they support combining the CWA proposals for the Success Mine and the Nine-Mile Creek water quality monitoring. The CCC was also concerned about developing adequate repository capacity and concerned with potential recontamination from infrastructure projects if repository space is not available to contractors. The CCC also encouraged the Board to look at in-situ treatment techniques to bind up metals and to develop and finalize an institutional controls program for the basin.

Mr. Snider then reviewed the October 8 CCC meeting wherein they adopted their operating protocol. The CCC felt the Commission web site calendar should be expanded to better display meetings of Commission related activities. Mr. Snider noted the current administrative support from Ross and Associates would be ending at the end of the year and requested the Board include this support in its operating budget plans for the future. The CCC believes this is a critical service to keep the CCC functional and the Board needed to provide similar support. Terry Harwood of the CCC noted the importance of this function as a clearinghouse for information transfer. Bill Rust noted the fine work that Anne Dettelbach with Ross and Associates had been doing. Chairman Krulitz noted the Board should seek to address this issue before its next meeting in February.

Jim Hollingswoth (Lands Council) noted the Board had representatives working on both the CCC and TLG and felt this to be inappropriate. He also requested a recent article be entered into the Board record that reported on the Idaho Governor's participation in the 100th anniversary of the Idaho Mining Association. Roger Hardi, TLG representative for Benewah county and participate on the CCC noted he speaks his mind and does not feel beholden to Benewah County.

Chairman Krulitz then outlined board-meeting dates for the 2004, which would be:

February 18

May 12

November 26, 2003

August 18
November 10

At 3.45 Commissioner McCurdy excused himself from the meeting.

Public Comment

Brenda Schlepp returned to the topic of the recent UPRR trail map and the concern of leading people to both contaminated areas and on to private lands. Considerable discussion followed on who authorized the map, who paid for it, what the map really showed, etc.

Next, Chairman Krultiz asked about the EPA Tag grant and the confusion with the recently created Basin Clean-up Coalition to manage this grant. Mr. Russell commented he understood there was some EPA investigation about the BCC organization and the Coeur d'Alene Chamber of Commerce that was managing the grant may back out as a result. The funding would likely be returned to EPA.

Jim Hollingsworth (Lands Council) read from a recent news article where the Governor of Idaho participated in a celebration of the 100th anniversary of the Idaho Mining Association. He noted this illustrates the close relationship between industry and the Governors office.

Roger Hardi (TLG) noted the Memorandum of Agreement for the Basin Commission excluded the UPRR as part of the Commission focus. However he objects to this as the UPRR is an attractive nuisance, Harrison beach is contaminated and the UPRR should be brought under the scope of this Commission.

At 4:00 PM there being no further business the meeting was adjourned.