

Minutes

Basin Environmental Improvement Project Commission 8/10/05 Meeting

Gonzaga Law School, Barbieri-Moot Court Room
721 N. Cincinnati, Spokane, WA

Attendees:

Mr. Terry Harwood (Executive Director)

Commissioners Present:

Ms. Sherry Krulitz (Chair)

Mr. Rick Currie (Vice Chair)

Mr. Chief Allan

Mr. Ron Kreizenbeck

Mr. Jack Buell

Ms. Toni Hardesty

Mr. James McCurdy (Secretary/Treasurer)

Alternates:

Mr. Curt Fransen

Mr. Rene-Marc Mangin

Mr. Jon Cantamessa

Staff Present:

Mr. Ed Moreen

Mr. Rob Hanson

Mr. Philip Cernera

Mr. Dave George

Ms. Jeri DeLange

1) Call to Order and Introductions: The BEIPC Chair, Commissioner Sherry Krulitz called the meeting to order at 9:30 a.m. She welcomed everyone and mentioned that it was the first time a meeting was held in Spokane. Introductions were then made by Commissioner Krulitz followed by a brief overview of the meeting protocols. She also pointed out that there would be opportunities for public comment later in the meeting.

2) Approval of Minutes: Commissioner Krulitz asked if there were any corrections or discussion on the BEIPC minutes from May 11, 2005. Commissioner Rick Currie motioned to approve the minutes as written, seconded by Commissioner Toni Hardesty. The motion was approved unanimously.

3) Alternate Designation: Commissioner Krulitz announced that she had received a letter from Commissioner Ron Kreizenbeck designating Michael F. Gearhardt, Director of the EPA Region

10 Watershed office as his alternate. She indicated that this information would be noted for the record.

4) Presentation of Clarification of BEIPC Motion regarding Phase II of OU2: Ms. Anne Dailey (EPA) and Rob Hansen (IDEQ) made a presentation to clarify the motion passed at the last Basin Commission meeting for the BEIPC to get involved with Phase II of OU2. The EPA and IDEQ staff conferred after the meeting and believed that the BEIPC, Technical Leadership Group (TLG), and Citizen's Coordinating Council (CCC) would benefit from clarification.

Ms. Dailey discussed the background information for the phased approach to implement the OU2 remedy. In Phase I, the focus is on remedial actions. Phase II will be implemented following the completion of source control and removal activities and evaluation of the impacts of these activities in meeting water quality. A handout of the information was provided including an attachment with a brief overview of EPA and IDEQ's concept for how the agencies will jointly move forward in conjunction with the BEIPC to set the stage for the evaluation and potential implementation of an OU2 Phase II remedy. Ms. Dailey indicated that we are still in Phase I and that the attachment was not part of the proposed motion.

In Phase II, Ms. Dailey said that new information and unanticipated changes encountered in implementing Phase I will be considered and will address long-term water quality, ecological and environmental management issues. Both Record of Decision (ROD) and State Superfund Contract (SSC) amendments will be required prior to implementation of any Phase II remedial actions. She explained that EPA and IDEQ will be the responsible parties for modifying the ROD and negotiating a SSC. Remedies would be selected that make the most sense.

The proposed motion for clarification of the BEIPC's involvement in Phase II of OU2 would include that the BEIPC participate in future Phase II activities by:

1. Providing technical input into the remedy alternative development and selection by evaluation of technical reports, pilot studies, and feasibility study documents;
2. Providing public input into the processes associated with ROD modifications; and
3. Educating the community and legislative bodies of the need for funding for the work.

5) Public Comment: Mr. Bill Rust, CCC member (Shoshone County), said that he agreed with the clarification of the proposed motion. However, he does not agree with all of the steps detailed in the attachment. The steps for Phase I look good and make sense to him. In the Phase II steps, Mr. Rust suggested that maybe changes should be made for ground and surface water. The ROD calls for collection and treatment of the sources of contamination in OU2, but there are still contaminated ground water problems. He believes that it would be better to go with the OU2 ROD rather than remedial designs and reports. Mr. Rust mentioned that a similar situation exists in Canyon Creek and the OU3 ROD calls for passive treatment. If passive treatment does not work, then other methods could be looked at and a RI/FS (Remedial Investigation/Feasibility Study) would be required. His other concerns are that the order of the steps should be rearranged, especially the last one in regards to funding sources. Unless that is resolved, he feels that there is no point in doing the rest of it. Mr. Rust recommends the BEIPC come up with a plan so that after the technical work is completed, the funding will be available so the work can move forward.

Commissioner Krulitz asked Mr. Rust if funding for the remediation of the Central Impoundment Area (CIA) seeps was in the OU2 ROD. He answered that it was. She expressed her view that it was originally believed that if issues could be put under the BEIPC's umbrella, then the BEIPC could move them forward faster. Commissioner Krulitz apologized for having to go through an additional motion to clarify the previous motion to become involved with Phase II of OU2. Mr. Rust inquired if it was really necessary to go through all of the process. Ms. Dailey answered that it would still be part of the process whether the BEIPC was involved or not. The CIA seeps are part of the issue and funding for the OU2 work. Commissioner Krulitz suggested that as a courtesy in the future, the maker of a motion be notified in advance of any clarifications to the motion before it is presented to the BEIPC. She then indicated that she was not opposed to the motion.

Mr. Rob Hansen (IDEQ) said that he would like to add to the comments made by Ms. Dailey and Mr. Rust. He reiterated the importance of funding and that one way the BEIPC could help would be to develop a plan for finding funding sources. Commissioner Krulitz expressed her view on whether water quality was going to be a big issue now that blood lead levels are down. She thanked Ms. Dailey and Mr. Hansen for all of the hard work they did clarifying the motion.

Mr. Bret Bowers (CDA Lakeshore Property Owners Association) thanked Mr. Rust for bringing up some good points and for his perspective on doing an additional RI/FS. He said that the lakeshore property owners find it strange that nearly fifteen years after a ROD on this subject, now the idea is to go back and do a RI/FS and find funding for it. Mr. Bowers feels that it puts a spotlight on the issues we are dealing with today regarding human health and the environment; and where we will be ten to fifteen years from now. In addition, he asked whether we will have to find funding for it in the future when it should have been addressed during the 90's.

6) Voting for Clarification of BEIPC Motion Regarding Phase II of OU2: Commissioner Krulitz asked the commissioners for comments and discussion of the motion. Hearing none, she asked if the commissioners were ready to vote. Commissioner Ron Kreizenbeck made a motion to approve the clarification of the motion as it was presented (originally) in the morning. The motion was seconded by Commissioner Hardesty and passed with unanimous approval.

Break

7) National Academy of Science (NAS) Study: Ms. Dailey gave an update of the NAS report briefing for the CDA River Basin. She presented the background information and mentioned that the final report will be out later this year. The study was requested by the State of Idaho's congressional delegation and the scope included health risks, blood lead levels, the IEUBK model, the analysis of remediation objectives and approaches, ecological risk assessment, etc. Ms. Dailey mentioned that the report was conducted as an independent evaluation and went through a rigorous peer review process. She also pointed out that the committee's findings and recommendations reflect unanimous consensus of the NAS. Ms. Dailey said that the EPA is currently conducting a review of the full report and will be revising its Bunker Hill 5-Year Review to acknowledge the NAS findings and recommendations.

8) Public Comment on NAS Issues: Dr. David Moershel, a Spokane Valley pediatrician and member of the Lands Council, commented that when he looks at the health of children in the Silver Valley, he believes that they are victims of politics and indifference. He thinks the NAS report justifies the argument in regards to people who maintain that there is not a health problem for children because the study (pg. 132) describes the dangers of lead. In addition, he said that people maintain that mine waste is not a source of lead poisoning in the Silver Valley; however the report analyses do provide support for the conclusion that lead associated with mining waste is a significant source of increased blood lead levels (pg. 159). Regarding the issue that blood lead levels have gone down in the Silver Valley, Dr. Moershel believes that there is not good data (pgs. 136-137) and he is concerned that this is a health problem as there were no studies conducted for scientific research (pg. 135). His opinion is that there should be some Idaho politicians who know the difference between incidence and risk. He reported that EPA's policy is to focus protection on the risk for the individual child (pg. 202), but instead the EPA used a community blood lead protection goal. So when people say that the EPA has reached its goal if the incidence goes down 95%, it is not a good comparison because it does not take into account the 5% of children with high levels.

John Osborn, a physician at the Spokane Veteran's Hospital and Sierra Club member, said that he provided a poster to the NAS scientists when they were here conducting their study. The poster was developed for use in schools and addresses the relationship between forests, disturbing activities in the Coeur d'Alene watershed, and mine wastes including the Cataldo Mission site flood plain. To emphasize a point he wanted to make, he showed the commissioners a carafe of water from the Spokane River and mentioned that the decisions made upstream impact the river here both in terms of water quality and water quantity in the community. He indicated that when dealing with watersheds in the CDA National Forest, rain on snow events, etc. in a lead mining district, that it is not surprising there is an increase in metals contamination during flood events. For example, in February 1996, he mentioned that a million pounds of lead were moved in a single day to Coeur d'Alene Lake. He believes that this level of contamination tends to discharge metals into the Spokane River. This is a system-wide problem that should be looked at holistically. Dr. Osborn also mentioned that he deals with patients with chronic disease and high blood pressure in most of his work. He believes that monitoring is key and that there is a need to look at the chronic disease paradigm. He encouraged everyone to review the NAS recommendations.

Brian Cleary, attorney representing the CDA Tribe, wanted to direct a question to EPA regarding various NAS findings. He said that EPA's remedy for OU3 in the Basin excludes the selection of remedial actions in Coeur d'Alene Lake. Because of this, the Lake Management Plan (LMP) would be used to address the lake and would be funded outside the Superfund process by the State, Tribe and various stakeholders. The report states that comprehensive studies of the lake should be given a prime priority to support development of an effective LMP (pg. 306). In addition, the lack of data at this time makes it difficult to conduct a risk assessment of the lake and additional studies will be needed. He asked the EPA if given the recommendations of the NAS, would it change the position of funding lake studies in any way to support an effective joint LMP.

Commissioner Ron Kreizenbeck responded that the EPA would take that point under advisement. He mentioned that the NAS report recommended a database for management. After the TLG reviews this, he believes that they will come up with what the true need is and how to deal with it. This will also help to determine the funding process. Ms. Dailey pointed out that the two PFTs for the lake (lake monitoring and the LMP) will also be involved with this issue. Mr. Cleary made another inquiry about what effect the absence of studies would have on the development of the LMP and deleting the lake. Commissioner Krulitz responded by clarifying that the public comment period should relate to comments only and not to Q&A from the Basin Commissioners.

Mr. Mike Peterson, Director of the Lands Council, commented on the NAS report in regards to the issue of flooding. He believes that extensive logging and other land practices have increased erosion and runoff in the North Fork Basin. This is a substantial problem that has not been addressed in the past for downstream deposition. He said that about 70% of the zinc entering Coeur d'Alene Lake flows through the Spokane River and ends up in Washington. He indicated that he would like to see the Basin Commission hold a workshop and have the Forest Service involved on forestry and land management practices. In addition, he mentioned that the Lands Council hopes the BEIPC takes the findings of the NAS and works with the EPA to develop a plan to mitigate the impacts of flooding. He suggested that they might find partners to help with these efforts including the USFS to improve forest cover. Other potential partners may be the Washington Department of Ecology and wastewater dischargers downstream who are looking for ways to reduce phosphorus in the CDA and Spokane watershed system. Mr. Peterson encouraged the BEIPC to take a leadership role.

Mr. Bill Rust mentioned that all of the county representatives pushed for more extensive blood lead screening and that EPA and IDEQ agreed to do this. Originally, it was in the 2003 work plan, but there was no funding available to implement it. He then passed out a copy of a resolution that was passed unanimously by the Science Committee of the SNRC (Shoshone Natural Resources Coalition) for universal blood lead testing for children ages 1-4 in the CDA Basin as recommended by the NAS and said that he would like to hear back from anyone who is opposed. The second issue that concerns Mr. Rust is the fact that the Basin Commission is already involved with IDEQ and the Forest Service in a total maximum daily loads (TMDL) implementation plan for the North Fork with CWA grant funding. He said that he does not entirely agree with the Land Council's view about the risk of erosion on the North Fork and explained that it is well known phenomenon that reduction of cover in the woods increases spring runoff. However, most of the flooding events in the CDA Basin are rain on snow events and he pointed out that it does not matter whether trees are there or not as it melts the whole snow pack. Mr. Rust indicated that catastrophic fire would pose a more serious risk problem for erosion and flooding if all the trees were burned. He stated that this is not a simple problem and needs detailed study and careful evaluation of what needs to be done.

Mr. Jim Hollingsworth, WCAC and CCC member, expressed his appreciation and thanked the Basin Commission for coming to Spokane for a BEIPC meeting. He said that all of us live in the same watershed and the Spokane people are just as concerned about the cleanup in the Silver Valley as the people in Idaho. Mr. Hollingsworth commented about the NAS study and said that we have changed the ecology of an entire watershed that will take years to clean up. He believes

the community should take a long-term view of things and not be so hasty to get rid of the EPA, delete the lake, or do anything else that may be efficacious on a short-term basis. In closing, Mr. Hollingsworth said this is a long term problem that will need long term solutions and will not go away with a quick fix.

Mr. Bret Bowers, CDA Lake Shore Property Owners Association, thanked the Shoshone Natural Resource Coalition and Science Committee, the Idaho Congressional delegation, and the NAS committee for the study. He brought up the motion that Commissioner Buell made at the last meeting about becoming involved in Phase II of OU2, and that he along with several others have wondered why the source areas have not been addressed by reopening Phase II of the OU2 ROD. Mr. Bowers then said the motion was changed a little bit this morning in regards to the process of involvement. The reason he brings this up is because it is in the NAS executive summary. He said that NAS is concerned about EPA's adaptive management approach of this site (pg. 8), particularly in regards to performance indicators needed to evaluate projects. He then mentioned that the major portion of dissolved zinc in the Lower Basin is ground water seepage through the Bunker Hill Box; a source that is not addressed in the ROD. Mr. Bowers stated that Commissioner Buell's idea makes a lot of sense, but he is not sure how it got twisted in the revised motion. The NAS report identifies OU2 source areas of concern and recommends that they should be ranked based upon a set of criteria to be established. He agrees with Commissioners Krulitz and Buell about Phase II and agrees that IDEQ and EPA need to figure out funding. In addition, he believes that EPA should also place a high priority on finding effective measures to reduce metal loading in the ground water in the Box as the NAS recommends that the focus should be upstream.

Mr. Rog Hardy, TLG member (Benewah County), mentioned that the NAS update presented by Ms. Dailey was an overview of conclusions and issues. He pointed out that the NAS committee had substantial concerns in regards to EPA decision making for environmental protection, particularly regarding the effectiveness and protection of the selected remedy. He feels that long term support of an ICP should be provided to maintain the integrity of remedies in protecting and guarding against recontamination. Mr. Hardy said that he has seen the Basin ICP drag in EPA; and the Trail Long-Term Operating Plan (TLOP) for the Trail of the Coeur d'Alenes is still not done although the Trail has been open for a few years. He mentioned that he and his wife see all kinds of abusive use on the Trail. In regards to other issues, he believes that the characterization by the NAS did not adequately address groundwater. In addition, potential long-term effectiveness of proposed remedial actions are severely limited by frequent flooding. He would like to point this out and stress that the EPA should consider more thoroughly the potential for recontamination on the Trail where the rails and ties have been removed. Mr. Hardy suggested that the EPA proceed to those remedies that may be successful and durable because the long-term process is unrealistic to develop comprehensive remedial schemes and access areas by priorities. He believes that a phased approach to cleanup, definition of goals and monitoring, evaluation of criteria and an adaptive management approach are warranted.

Mr. Cass Davis mentioned that he grew up in the Silver Valley. He said that he was about ten years old in 1974 when the smoke stack brushes burnt down and a toxic lead plume was released and fell on children at that time. He indicated that he had a friend with behavioral problems and he also pointed out personal health problems of his own. Mr. Davis believes that heavy metal

exposure may have had an effect on the body chemistry of children in the Silver Valley. He reiterated the need to address health concerns and to look at the subtle effects of lead exposure to mental behavior. Mr. Davis also feels that we should start looking at ourselves because we are part of our environment. He believes that we need to do what is best for future generations by examining science and that we should quit listening to industry.

Mr. Steve Barbieri mentioned that he grew up in Spokane and he thanked the Commissioners for coming. He said that when he was growing up, he swam in the rivers and lakes in the summer. However, he will not allow his daughter to swim in the river now because he is concerned about pollution. Mr. Barbieri said that he feels our waters are places where communities meet and he wants to urge the Basin Commission to clean up the entire system that has been affected by decades of mining waste. He suggested that the BEIPC not be short sighted and to respect the responsibility to pass this asset to many generations beyond. Mr. Barbieri remarked that he was encouraged by the NAS study because it says that it is a system and you cannot deal with it in pieces. He stated that the contamination clearly extends beyond the Box and that he is amazed at the number of people who kayak, canoe, swim, fish, bird watch, bike, hike, and picnic along the river. For these people, the holistic health of this water is a quality of life issue. Mr. Barbieri truly believes we live in one of the most beautiful places on earth, but that these contaminants will threaten current and future water users. In closing, he reiterated that we should deal with the problem now and manage it for future users.

Dr. Dave Moershel made one last comment about the NAS study and the number of recommendations dealing with human health in the Silver Valley (pgs. 158 & 160). He encouraged the Basin Commission to take a lead in the efforts and suggested that the BEIPC be an advocate for those recommendations by publishing an open letter that would show support.

Mr. Rog Hardy thanked the BEIPC for allowing him to make additional public comment. He mentioned that the EPA recently released a quarterly Basin bulletin and that it defines the NAS recommendations for addressing public health remedies in the Lower Basin recreational areas. He indicated that there is some funding available for agencies like the Idaho Dept. of Parks and Idaho Fish & Game to use on camping and development. Mr. Hardy feels that there is a move to black top the Lower Basin and cater to the non-hunter /fisher/bird watcher. He said that they all deserve a place for recreational opportunities, but he believes the facilities are already there. The CWA has some long-term projects to look at the whole Basin and he would like to resist efforts to create any new recreational areas in the Lower Basin until those projects are done. He feels that there is a push to get this funding and that it is not good in the long term. Mr. Hardy then commented on lead testing and that no lead was found in the town of Harrison because it is situated uphill. However, he indicated that one of the most contaminated areas in the Basin is the Harrison beach and that neither the children nor the beach were tested. Mr. Hardy gave an example of some children who had played at the Rainy Hill beach area during the summer and were found to have elevated blood lead levels. Mr. Hardy reminded everyone that it is not just where you live, but where you play and he asked the BEIPC to keep that in mind also.

9) Partial Deletion of Coeur d'Alene Lake Discussion: Commissioner Kreizenbeck suggested that everyone keep in mind the NAS recommendations so that they could understand the whole process because the procedural steps were quite complicated. He then introduced Mr. Ed

Moreen (EPA) to give the presentation on the partial deletion requirements for the lake. Mr. Moreen passed out a handout and explained that there is a misconception about the lake not being included in the Superfund site. He said that it is part of the site, but the cleanup of the lake sediments have been deferred pending development and implementation of a revised Lake Management Plan (LMP) by the State and Tribe. The LMP is a multi-jurisdictional, multi-agency plan to prevent the mobilization and movement of metals on the bottom to protect the water quality. Mr. Moreen explained that EPA could delete the lake by making a determination that the revised LMP has eliminated the need for further cleanup actions and propose a “*no further CERCLA action*” (NFA) remedy. This process includes the following steps:

- 1) Implementation of cleanup actions upstream of the Lake have begun;
- 2) The Plan must contain provisions which effectively protect the water quality of the Lake when implemented. This includes an environmental monitoring plan; and
- 3) Assurance that the LMP has been adopted by state, tribal, and local governments, and that these governments have made a commitment to implement the Plan over time.

After proposing a NFA remedy decision, there would be a public comment period. EPA would then issue a NFA Record of Decision (ROD) for the Lake. This would be followed by a proposal for partial deletion of the Lake on the National Priorities List (NPL), followed by a final rule making (Federal Register) for partial deletion.

Lunch

10) Public Comment and Presentation of Basin Issues: Mr. Rust commented that the cleanup needs to start upstream. He is questioning what that is and how it fits in with the LMP. He believes this is EPA’s call and that making a condition is not appropriate. Mr. Moreen answered that Mr. Rust had good questions and that upstream sources are the things most likely to impair the lake. In order to address it, he indicated that you need to delve into those problems and solutions.

Mr. Jim Hollingsworth commented that on the back of the partial deletion flow chart handout, it indicates consultation with the state of Washington. He wanted to remind everyone that this is why Washington is participating in the Basin Commission and why it signed a Memorandum of Agreement (MOA) with the EPA. In addition, he said that there does need to be an effective, functioning, and funded LMP in order for Washington to agree to partial deletion. He encouraged the BEIPC to get behind the State and Tribe to put together a LMP as soon as possible.

11) Five-Year Work Plan (2005-2009): The TLG Chair, Mr. Phillip Cernera, made a presentation on the Five-Year work plan and mentioned that this was one of the first times that there were no minority positions. He reported that the BEIPC is becoming involved in Phase II of OU2 as was discussed in the motion made earlier in the morning. The plan also includes an update on the water treatment work in Canyon Creek as related to one of the CWA projects that was funded this year; and there are placeholders to allow for follow-up work from the recommendations of the EPA Five-Year Review that will be completed later this year. Mr. Cernera indicated that some of the NAS recommendations have been incorporated since there should be no changes from the pre-publication to the final report. In addition, language was

added to urge that a LMP be finalized and to recommend deletion of certain areas in the Upper Basin where the cleanup work has been completed so that those areas may be deleted from the site. Mr. Cernera concluded that the rest of the plan summarizes the CWA projects.

The Executive Director, Mr. Terry Harwood, reported that there has been a lot of activity that has taken place in OU3 that would be considered CERCLA removal actions. He was asked to place a section on the evaluation of those removal actions to see how they could be incorporated into the remedial decisions and activities of OU3. Mr. Harwood also informed everyone that target dates have been set in the work plan for the CWA projects and that some of the projects are already completed. In the past, target dates were not set. He mentioned that the BEIPC is moving forward and making headway in filling some of the data gaps that the NAS report recommended.

Commissioner Krulitz inquired about the Pine Creek study (pg. 35) and that she did not believe it was the BEIPC's intent to fund the impact study for only the Little Pine Creek, but for the main river channel. She said that she wanted to clarify it to make sure the BEIPC was on track. Mr. Tom Bourque (Terragraphics) answered that the Little Pine Creek was within the City of Pinehurst and indicated that flooding is a significant threat. Commissioner Krulitz mentioned that because of the water table, it does not take a flooding event for some of the homeowner's basements to flood. She inquired if there would be recontamination in the yards because of this and what it would cost to take care of this. Mr. Harwood responded to the question and said that he estimated the design cost would be approximately \$300,000.

Commissioner Currie questioned Mr. Cernera about the five-year work plan addressing mostly studies and not addressing work. Mr. Cernera responded that the CWA funding may only be used for studies or demonstration (pilot) projects. However, he indicated that the EPA has been providing about \$8 million per year for cleanup actions. Mr. Harwood mentioned that one of the purposes of the one and five-year plans is that they are used for funding requests by various agencies such as the EPA. He agrees with Mr. Cernera that there is a lot of EPA funding being spent on remediation and cleanup projects on the ground. Mr. Harwood said that there are some CWA demonstration projects that are used to study treatment impacts, but you have to be careful that you are not spending funds for CERCLA or Superfund actions. The information collected from the studies can be shared by other communities around the Lake or Basin to actually implement the cleanup. He mentioned that the City of Plummer is doing a pilot project dealing with wetlands to study treatment of sewer effluents.

Mr. Ron Roizen, TLG and SNRC member (Shoshone County) commented on the draft EPA Five-Year Review about a study on the blood lead levels of children (pg. 541). He said that a short paragraph mentions that the EPA and IDEQ will assess the relationship of risk to children to soil, dust, and paint exposure in blood lead levels using available sampling results for OU3. All of the data used in the report has not yet been finalized, so the report is due in the fall of 2005. Mr. Roizen questioned the duplication of the report from one done previously and said that he has tried several times to find out information about it, but has been unsuccessful. He would like to ask the BEIPC for help in finding out any info. Commissioner Krulitz replied that the topic will be put on the agenda for the November 9 BEIPC meeting.

12) CCC Comment and Presentation: Mr. John Snider, CCC Chair, thanked the Basin Commission for the opportunity to speak. He also thanked Mr. Paul Woods for making a presentation on the lake model at the last CCC meeting and Mr. Ron Kreizenbeck for the information about partial deletion on the lake. He said that the information was very good and answered a lot of questions. Mr. Snider brought up the recent Avista recreational study that was completed and said that there is lots of data available to look at. He also commented that Mr. Harwood did a good job of reporting on the NAS report. In regards to blood lead testing, he said that the CCC supports a monitoring plan for children ages 1-4. He brought up a suggestion that was made at the last CCC meeting about having the testing done free during a well child assessment or having free doctor visits in exchange for blood lead testing.

On the five-year plan, Mr. Snider mentioned that they are still receiving the same comments about the legitimacy of the number of yards being sampled and remediated, the appropriate use of data for the levels of contamination, and how much health impacts the yards have. He then spoke about the issue of the LMP and the negotiations between the State and the Tribe. Mr. Snider inquired if the parties involved would mind periodically sharing the status of the negotiations and where they are going through the process because a lot of people have concerns. Mr. Cernera responded that other parties would not be able to participate in the negotiation process, but informational updates could be provided. He said that the Tribe has been up front and will continue to be in the future. Commissioner Krulitz suggested a fact sheet for the November meeting. Mr. Snider then discussed the issues of repositories and the ICP for OU3 and commented that most citizens are concerned about property rights, access, possible infringements, and being able to provide public comment. On another topic, he asked if the Tribe would be willing to share the tapes that they make of Basin related meetings if a citizen was interested in viewing one. Commissioner Allan answered in the affirmative.

Mr. Rusty Sheppard, TLG member (Kootenai County) and the Spokane River Association, mentioned that citizens in Kootenai County keep hearing that nothing can be done about deletion until something is done in the Upper Basin. He suggested that the Basin Commission needs a clear statement or projected time about doing work in Canyon Creek, or in the Box. Mr. Sheppard said the earliest date being proposed for the design work is 2011 and that is a long way off for starting to delete the lake. Ms. Anne Dailey (EPA) answered that 2011 is not correct. She said that the agencies have not yet proposed a timeline and the 2011 date was used by Mr. Rust. Mr. Sheppard reiterated that the local citizens would like a timeframe when some of the actions will be done.

Mr. Cernera commented that one of his concerns about the lake is that people want to move ahead to when the date for deletion is instead of working on the concept of performance standards and what needs to be done to protect the lake. He said that the LMP is complicated; and that numeric values need to be established to make sure that performance standards are being achieved. Another concept that needs to be added is adaptive management which was also recommended by the NAS. Mr. Cernera pointed out that the lake is an extremely complex system and that more studies are needed in order to understand the pathway dynamics. It is also important to develop a monitoring plan which will be used to monitor the lake over a long period of time. Mr. Cernera believes that we should be focusing on getting a LMP that provides performance standards and monitoring evaluation in order to understand whether we are

protecting the lake or not. He said that when those standards are ultimately achieved, we can move forward with deletion.

Mr. Ed Moreen commented that Mr. Cernera expressed his views on the LMP very well. He added that we need to step back and think of the LMP itself, what it is, and what its intent is. The LMP should be comprised of scientific credible data that tells us when we are at the point for deletion. Mr. Moreen mentioned that in regards to Mr. Sheppard's comments about needing a timeframe for deletion, it may end up only being a date to appease the questions and it does not solve the problem. He believes that the LMP is about solving the problems, dealing with the issues surrounding it, and concerns the future of the Basin, the City of Coeur d'Alene, and the downstream recipients. Mr. Moreen reiterated that we need to do what is needed now to better define the LMP and that a date for partial deletion cannot be given at this time, nor at the November meeting.

Commissioner Toni Hardesty commented that from the State's perspective, the LMP is certainly one of those points about the limitations of cleanup actions upstream that has been a hurdle because of the differing opinions between the Tribe and State about what constitutes the LMP. She indicated that the State and Tribe need to work through this process and that the State is not in a position to give a firm answer at this time. The LMP will be better defined as the negotiations continue on the issues, but right now the State advocates leaving it open so those options are available.

Mr. Sheppard clarified that his comments did not have to do with the lake. His objection is that the NAS report recommended that the public needs to know when the sources are going to be cleaned up before too much work is done downstream. He said that everyone understands that the lake is being polluted and that it does not matter what you put into the LMP, the contamination is going to continue. He stressed that the public wants to know when the BEIPC is going to get involved and when the dates are for source cleanup in the Upper Basin.

Mr. Harwood explained that the Basin Commission voted upon the motion to become involved with Phase II of the OU2 work. He feels it is not fair to say the BEIPC is not dealing with this issue. He indicated that there will a report later on some of the work going on in Canyon Creek and that the BEIPC is getting more and more involved in the groundwater issues in the Basin.

Mr. Bret Bowers remarked that earlier in the meeting, Rusty Sheppard asked about timelines and Bill Rust about cleaning up source areas upstream and the difficult part is not knowing when. He mentioned that he appreciated hearing from Commissioner Hardesty about the State's perspective on what is happening with the LMP. Regarding the Tribe's request for additional funding to study lake characterization to help implement the LMP, Mr. Bowers does not believe this is necessary. He then brought up other issues in regards to partial deletion and CERCLA funding and that his understanding is that it means there would be no more money from EPA for lake clean up. Mr. Bowers said that it would be helpful to understand what CERCLA money was available and used for lake clean up.

Mr. Snider commented that the concern on the LMP comes from the need to develop a lake monitoring plan which the previous LMP did not have. He mentioned that the Tribe and State

have had the last three years to revise the LMP and questioned why there is no resolution. Mr. Snider feels that the public needs to be kept informed and issued an invitation to anyone wishing to attend a CCC meeting to discuss what is going on.

Commissioner Kreizenbeck responded to Mr. Bower's comments about Superfund and lake management funding. He believes that Mr. Bowers may be confusing the two. He mentioned that once the LMP is in place, you will have a package that you can go to the congressional delegation with to ask for funding. He said that he stands by his original statement about deferring to the TLG in the process with the State and the Tribe about determining what is needed and what it will cost for the LMP. Commissioner Kreizenbeck explained that CWA funding is being spent on the lake to study it, but reiterated that you would ask for funding from the State Legislature or Congress once the LMP is in place.

Mr. Harwood mentioned that he wanted to clarify for the public that you cannot spend CERCLA funding on the lake because you did not take CERCLA action on the lake.

Mr. Cernera remarked that in regards to the CCC's comments about no further studies being needed on the lake because of the Avista study, the 3-year lake model, etc., that he agrees that the lake has been extensively studied for a long time. He believes that the NAS report took into account all of the studies to date, but NAS still said that Coeur d'Alene Lake needs to be studied a lot more. Mr. Cernera brought up issues that require additional studies such as benthic flux, pathway mechanisms, and metal bioavailability. He encouraged the BEIPC to take the NAS recommendation that more lake studies are needed.

13) BEIPC Discussion and Vote on the CY 2005 Work Plan: Mr. Rick Currie commented that he will support the five-year work plan, but said that he wanted to make a point that for the one-year plan he will be looking for funding spent on groundwater issues and "on the ground" work instead of studies. In addition, he indicated not to expect his vote the next time if funding is not spent for work on the ground projects.

Commissioner McCurdy said that he supports the five-year work plan, but mentioned that he did not want Commissioner Currie upset that by agreeing to it means that the site will not be cleaned up further downstream. He explained that we need funding from Superfund to clean it up and that the CWA funding can only be used for studies, pilot programs, and demonstration projects. He suggested that the BEIPC use the CWA funding as it can and look for other sources of funding.

Commissioner Krulitz asked if there was any further discussion. Hearing none, she asked if anyone would like to make a motion. Commissioner McCurdy motioned to approve the BEIPC Five-Year Work Plan, seconded by Commissioner Jack Buell. The motion was approved unanimously.

Break

14) Meyer Creek Flood Control Report: Mr. Tom Bourque (Terragraphics) made a presentation on the Meyer Creek flood control report. Mr. Harwood mentioned that this project cost \$31,000

and was selected as one of the CWA projects because there may be a danger of recontamination if flooding occurs. Now that the report is completed, the City of Osburn will need to find some grant funding to analyze the problems and come up with solutions.

15) Executive Director Update: Mr. Harwood gave an overview of the work in the Basin. He mentioned that in addition to the actions under CERCLA and the LMP, there is also ongoing Natural Resource Damage (NRD) activity. The NRD falls under the Natural Resource Trustees who are certain Federal, State, and Tribal governments and are authorized to determine injury and damage to natural resources resulting from exposure to hazardous substances. He said that in the Coeur d'Alene Basin, the Dept. of the Interior, Dept. of Agriculture and the CDA Tribe (Trustees) have conducted a NRD assessment to determine the magnitude of injury to natural resources in the Basin from hazardous substances released during mining operations. The Trustees have engaged in a settlement discussion with a number of the companies potentially responsible for the injury to natural resources and several have reached a mutually satisfactory resolution to their potential liability with the Trustees and have agreed to pay some of the Trustee's past assessment costs and pay for restoration actions. Mr. Harwood passed out a handout of the notice and explained that the purpose was to inform the BEIPC that the Trustees will be using some of the restoration funds to prepare an environmental assessment to propose several discrete restoration projects to be implemented within the next one to three years. The environmental assessment detailing the specific restoration projects is scheduled to be made available for public comment in the fall of 2005.

Mr. Harwood then presented an update of the status of the CWA projects for 2002-2004 followed by information on repositories. He mentioned that the NAS report was concerned about this issue and that the remedy cannot be implemented in OU3 without adding more repositories. Mr. Harwood said that one site being proposed by IDEQ is located on the East Mission Flats and other sites are being looked at. He reported that IDEQ looked at 275 sites in order to come up with one and about ten sites will be needed for cleanup and the ICP in the Basin. In closing, he asked if anyone had questions for him.

Ms. Toni Hardy mentioned that the Trail was excluded from the ROD and inquired why it was not signed off. She said that the Trail falls under the TLOP and that the ICP problems are intolerable. Mr. Harwood said that he did not have an answer on the sign off, but he could ask the EPA to respond. Mr. Moreen answered that in terms of signing off the Trail, the Trail was certified early this year (January 2005) and had been signed off by the EPA, State of Idaho and the Tribe. In regards to the TLOP with the Tribe and the State, Mr. Moreen believes that the Tribe and the State will jointly produce the final TLOP and be the parties to implement it. He said that as far as management goes, it is under the State and the CDA Tribe, and there are rangers on the Trail daily to handle any problems that may come up. Ms. Hardy then inquired about the ICP for OU3, when it would be implemented, and if the same rule would apply to the Trail. Mr. Moreen replied that he did not know the status of the ICP, but that he believed the TLOP would be consistent with the ICP.

16) Mine, Mill and Water Treatment PFT Work: Mr. Bill Adams (EPA) gave an update on the mine and mill water treatment PFT work. He said that the EPA has gone through a process during the last several years identifying mining and milling sites in the Upper Basin to be worked

on that pose a risk to human health in watersheds or by recreational use at some of these sites. The sites were put into the Basin work plan and approved. Mr. Adams continued his presentation with slides on the work being done at the following mine and mill sites:

- Sisters (Woodland Park)
- Golconda (South Fork east of Wallace)
- Rex (on Nine Mile Creek)
- Constitution (Pine Creek)

Commissioner Krulitz inquired if the work at the sites included removal of contaminated materials on the sites and/or capping them. Mr. Adams responded that this was correct, but with Golconda there is an issue about whether to remove materials there or not, particularly along the lower area by the river and in the tailings pond. They are currently evaluating a plan to develop a disposal location on site with an alternate that would be out of the path of ground and surface water. Mr. Harwood suggested to Mr. Adams that he might want to mention that in regards to the Constitution, the BLM is already treating adit discharge water. Mr. Adams responded that the BLM does have a bioreactor there which is being used to treat the adit water, so the work will also help with the ecological issue as well as human health.

Mr. Jon Cantamessa inquired about what the metals loading was for the Golconda site in regards to the tailings on the river bank adjacent to the South Fork as compared to directly above that site and also to the confluence at Canyon Creek. Mr. Adams answered that Canyon Creek has significant loading; about 25% for what is seen in the entire Basin. He said that he does not have an exact estimate for the Golconda. The loading is a smaller percentage, but it is contributing. Mr. Harwood also commented that the real dilemma with this process is that it is extremely difficult to find projects that deal with human health issues as well as ecological issues at the same time. The priorities for federal funding are human health. He indicated that with Canyon Creek, those issues are more ecological rather than human health, so the EPA has much more difficulty getting funding.

Mr. Adams then gave an update about the water treatment projects and indicated that a lot of the information was in the five-year work plan. This includes evaluation of both active vs. passive treatment systems for Canyon Creek. He mentioned that preparation is being made on site for pilot studies for pulling in groundwater and running it through various testing processes to obtain additional operational data to support an active treatment system. Mr. Adams indicated that there is also a CWA project to study metal source characterization in the groundwater in Canyon Creek.

On the passive side, Mr. Adams said that various technologies are being reviewed. As part of the pilot studies, they will look at additional passive media evaluation through the MSE project by extracting groundwater within Canyon Creek. He indicated that they are about ready to start the pilot studies as soon as an access agreement can be reached with one of the mining companies. The tests will run for about four months and then the results evaluated to determine the design of the treatment system which will most likely be a phased approach. He said that another possible treatment method that is being looked at is SRB (sulfite reducing bacteria).

Mr. Adams pointed out that one of the key questions about treating groundwater is whether the reductions will be seen in surface water that will fit what is proposed in the ROD for passive media. He believes that as we gain a better understanding of the groundwater in Canyon Creek, we will be better able to address the recommendations of the NAS. Commissioner Krulitz inquired about the Apatite process that was used in the CWA project for the Success mine. Mr. Adams responded that the process works, but the problem is that the Apatite tends to get clogged up as the contaminated water flows through it. He indicated that a different media may be better.

17) Announcements: Commissioner Krulitz mentioned that the next BEIPC meeting would be November 9. She suggested that everyone review their schedules for next year so that the 2006 schedule could be set at the next meeting.

There being no further business, Commissioner Krulitz thanked everyone for coming and adjourned the meeting.