

BEIPC Minutes
Basin Environmental Improvement Project Commission
11/09/05 Meeting

Coeur d'Alene Resort, 2nd and Front Street
Coeur d'Alene, ID

Attendees:

Mr. Terry Harwood (Executive Director)

Commissioners Present:

Ms. Sherry Krulitz (Chair)

Mr. Rick Currie (Vice Chair)

Mr. Chuck Matheson

Mr. Ron Kreizenbeck

Mr. Jack Buell

Mr. Curt Fransen (Alternate for Toni Hardesty)

Mr. Jay Manning (Replacement for James McCurdy)

Alternates:

Mr. Jon Cantamessa

Staff Present:

Mr. Ed Moreen

Mr. Rob Hanson

Mr. Phillip Cerner

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 made introductions.

2) Approval of Minutes: Commissioner Krulitz asked if there were any corrections to the BEIPC minutes from August 10, 2005. Commissioner Rick Currie motioned to approve the minutes as written, seconded by Commissioner Jack Buell. The motion was approved unanimously.

3) Commissioner Designation: Commissioner Jim McCurdy announced that the State of Washington had appointed a new commissioner to serve on the BEIPC. He introduced Mr. Jay Manning, the Director of the Washington Dept. of Ecology, as his replacement. Mr. Manning pointed out that his appointment shows the seriousness of the Washington State Governor, Christine Gregoire, regarding BEIPC participation. Commissioner Krulitz thanked Commissioner McCurdy for his service and welcomed Mr. Manning to the BEIPC board.

4) CDA River Bank Stabilization CWA Project Final Report: Mr. Nick Zilka (IDEQ) made a presentation on the streambank stabilization work for a CWA project on the lower CDA River. He reported that it was a pilot project that addressed river and floodplain stabilization, water quality improvement, and habitat enhancement. He also mentioned that a major portion of the project included monitoring the performance which will continue for two more years.

At the end of Mr. Zilka's presentation, Mr. Jim Hollingsworth inquired about streambank damage caused by boat wakes and if it would help to have speed limits on the river. Mr. Zilka answered that it had been discussed periodically, but that it may not be acceptable to the public or community. He also indicated that IDEQ does not have the authority to impose regulations. Commissioner Rick Currie agreed that this continues to be an issue and mentioned that the County and other parties have looked at putting in no-wake zones or closing certain areas.

Mr. Terry Harwood, BEIPC Executive Director, pointed out that Mr. Zilka and all of the other CWA sub-grantees are required to produce a final report when projects are completed. He informed everyone that final reports are on file in the BEIPC Kellogg office and that anyone interested in making a copy may do so.

5) Woodland Park Groundwater Quality Evaluation CWA Project Final Report: Mr. Darren Brandt (TerraGraphics) presented the final report for Woodland Park which is referred to as the Canyon Creek area. He indicated that TerraGraphics was contracted to study the sources of contamination in the ground and surface water of this area because it is the largest contributor of metals to the South Fork of the CDA River. He reported that quarterly water sampling and monitoring were conducted in order to provide information to use in selecting treatment options and remediation activities in the future.

Commissioner Curt Fransen asked Mr. Brandt if he had looked at all of the data to see if it may indicate what the impacts were on the contamination source removals done previously. Mr. Brandt answered that he had not. He believes the information is with IDEQ and that it had not been used to make a comparison between pre-and-post removal actions. He indicated that some of the values are quite high for the information he had looked at, but that it would be difficult to point out a common factor. He said that TerraGraphics would be happy to take a look at IDEQ's data. Commissioner Krulitz remarked that this was a good question and that she believed the Natural Resource Trustees may be able to work up their information.

Mr. Harwood pointed out that contaminated groundwater is one of the biggest problems to deal with at Superfund sites. He indicated that there are a number of studies going on to figure out methods to treat the groundwater in Canyon Creek and how to do it economically.

6) EPA Five-Year Review Report: Ms. Tamara Langton (EPA) gave an update on the EPA's five-year review report. She indicated that cleanup is continuing and gave a summary of key cleanup actions. One important follow-up action will be to secure permanent funding for the ICP (Institutional Controls Program) in the Box including monies for infrastructure, maintenance and improvements. In addition, she said that there needs to be additional repository sites and an ICP established for the Basin. Electronic copies of the report are available on the EPA, Region 10 website.

Break

7) Basin Blood Lead and Exposure Report: Mr. Ian von Lindern (Terragraphics) gave a presentation on the annual blood lead surveys. These are a public service adopted by the State Division of Health (IDOH) through the Panhandle Health District (PHD). He indicated that the program has been in existence in the Box since 1974 and was originally done as a cooperative effort between the mining industry and the state health department. In 1985, the program was combined with the Superfund effort and has continued since then with the inclusion of the Basin in 1996. Mr. von Lindern also explained that the program is not conducted as a study or experiment, but to provide health services to individuals in the Box and Basin.

He then commented on the Lead Health Intervention Program (LHIP) which is an interim health response for the Box and Basin. He suggested that there has been some confusion at times between the cleanup activity (Superfund) and the LHIP. Mr. von Lindern explained that the purpose of the intervention program and blood lead testing is to identify children with high blood lead levels and provide assistance to the families in reducing those levels; while the Superfund project relates to cleanup actions based on risk. He explained that remediation is based on future exposures to environmental metal concentrations, particularly soils and dust; and that he feels the yard program has made a significant contribution in dealing with this issue.

In reviewing the history of the LHIP, Mr. von Lindern said that it was originally started to deal with the high blood lead levels when the Bunker Hill Smelter was operating without pollution control equipment in the 1970's. The levels were some of the highest in the world at that time and they remained high until the smelter closed. In 1983, the levels dropped to around 20 (about twice the U.S. average). In 2002, blood lead levels reached the national average of 10; and the high risk program was discontinued with voluntary testing offered instead.

Since that time, Mr. von Lindern reported that blood lead levels have continued to decrease. Out of seventeen children tested this year in the Box, the highest blood lead level was 6. In the Basin, one two-year old child had a blood lead level over 10 out of eighty-one tested. Overall, Mr. von Lindern feels that the low blood lead levels are great news although he would like to see more children tested as was recommended by the National Academy of Science (NAS).

Mr. Richard Schultz (IDOH) made a presentation on the NAS recommendation for universal screening reviewed in comparison with the recommendations of the Center for Disease Control Prevention (CDC) and the American Academy of Pediatrics (AAP) for the following:

- Blood lead screening;
- The impacts of exposure to children; and
- The direction that should be taken for public health activities.

He reported that according to NAS, universal blood lead screening should be offered to children ages 1-4 in the Basin because of the high levels of environmental lead in the area; while the CDC guidelines recommend universal screening of children ages 1-4 in all communities where there is inadequate data to determine if there is risk or not; or if 20% of the housing stock in the community was built prior to 1950. Mr. Schultz pointed out that Shoshone County data shows

that 30% of the housing stock was built before 1950. He said that this means if the CDC recommendations were being followed; then universal screening would be being done regardless of the NAS recommendation. Mr. Schultz also reported that the AAP supports the CDC guidelines; while Medicaid is much more aggressive in its screening program.

Mr. Schultz then discussed the health effects of lead in children, the differences between universal blood lead screening versus targeted, and the IDOH recommendations for the future. They include:

- Maintain fixed site screening;
- Continue to target children ages 1-6 (instead of 1-4) because there are a number of children who are still being affected by blood lead and that it is prudent to keep that age range in order to be inclusive;
- Continue activities associated with community intervention; and
- Try to get the local physicians to be more aggressive in providing screening to children during their well-child visits.

Commissioner Krulitz asked if parents may be hesitant to bring in their children for testing due to concerns about confidentiality. Mr. Jerry Cobb (PHD) emphasized that confidentiality is strictly maintained. Commissioner Ron Kreizenbeck inquired about specific suggestions to encourage more participation in the program. Mr. Schultz responded that many communities have had success with finding local leaders to encourage support and participation by people within their sphere of influence. He stressed that physicians, along with parents, need to believe that it is important to screen children.

8) Public Comment on Blood Report: Mr. Bill Rust (CCC Member) said that he feels the problem of participation in the blood lead screening program is because parents believe the problem has been eliminated. He suggested that incentives continue to be provided; and that the \$20 incentive (established in 1985) should be increased as it may not even cover the cost for gas. Mr. Schultz asked for the opportunity to respond and pointed out that Mr. Rust was right in part that parents may have the perception that the issue has been resolved. However, he pointed out that parents need to be aware of the subtle risk associated with relatively lower blood lead levels versus the perception that their child is fine.

Mr. Bret Bowers (CDA Lakeshore Property Owners Association) commented that some of the blood lead information presented was confusing to review. He inquired how broad the intended screening area would be based on the NAS recommendations for children ages 1-4 and who would be managing it. Mr. Schultz answered that the fixed site screens supported by the IDOH will be Basin focused, but that Medicaid will be statewide. In regards to management, he indicated that it would still be managed by a contract from IDEQ and PHD with the Division of Health providing consultation in that process.

Mr. Harwood informed the BEIPC that he was displaying some information on the screen regarding the current draft work plan section on blood lead; and that Mr. Ron Roizen (Shoshone County TLG representative) had requested the opportunity to make some suggestions to the language. Mr. Roizen pointed out that Mr. von Lindern stated that the data collected on blood lead over the years was not part of a study. However, Mr. Roizen believes that the data is being

used as if it had the credibility of being produced by good scientific methodology. He indicated that the NAS report criticized the method for collecting blood leads which involves parents bringing children in to be tested at fixed sites; and that this is not a good enough method for evaluating the success of the remediation and finding out what the blood lead distribution is in the county.

Mr. Roizen brought up the language in the NAS report on page 159 and said that it was fairly strong in its recommendations - "Universal blood lead screening of children ages 1-4 is indicated for this community given the prevalence of high levels of environmental lead. The current practice of annual fixed site screening is sub-optimal and produces results with too much potential for selection bias to evaluate public health intervention strategies used in the Basin. Shifting the design from a fixed site to a more wide spread screening program utilizing the local health care community likely would increase participation."

He also mentioned that the NAS report noted logical reasons to believe that yard remediations decrease exposure to lead, but that scientific evidence is currently weak supporting substantial beneficial effects. In addition, the report went on to say that an evaluation of the efficacy of yard remediation should be supported by ongoing environmental and blood lead monitoring efforts. For these reasons, he believes that Shoshone County and the TLG made a recommendation to explore a proposal to integrate blood lead testing into the regular health care system in the coming work year. However, he said that the final draft of the 2006 work plan reflected the opinions of Mr. Schultz and other agencies suggesting the fixed site program.

Mr. Roizen indicated that this language does not reflect the TLG's recommendation for blood lead. He asked the BEIPC for their consideration to approve the language displayed on the screen which included:

- There should be Medicaid testing (as in the current language);
- That the PHD, IDEQ, IDOH, and the EPA continue the fixed site testing in the meantime so this opportunity is provided; and
- That the NAS suggestion for integrating blood lead testing into the regular health care system be explored.

Mr. Harwood informed everyone that the BEIPC would be discussing the work plan in the afternoon. He suggested that people be thinking of how to deal with the language for the blood lead section after public comment was heard.

Mr. Rog Hardy (TLG representative, Benewah County) said that he supports Mr. Roizen's comments; and that he believes his perceptions are correct as he went through the process with him. He then asked if there was a follow-up study done on the children who were affected by the dust from the Bunker Hill bag house. Mr. Cobb answered that a study was done by ATSDR in the early 90's and that as he recalled, there were some kidney biomarker issues that were identified. Mr. von Lindern added that the study identified four problems and that they were tracked for a period of time. Mr. Hardy mentioned that his father participated in a long-term health study. He suggested that this issue may be good to follow-up and study in the future in terms of possible health impacts and mortality.

Mr. Brian Spears (USFWS and TLG Vice Chair) said that he wanted to comment on Mr. Roizen's presentation and he indicated that it did go through the TLG process as best as possible due to the timing. He mentioned that there was general agreement and support for the change in the blood lead language by the participants of the TLG call discussing this issue. He also said that Mr. Roizen brought up a good point on the blood lead report in regards to biasing the results. He believes that the parents who tend to bring in children for testing are concerned about blood lead levels and that they would try to manage their children's activities to reduce exposure to lead in soil. Because of this, Mr. Spears asked the agencies how comfortable they are with the voluntary nature of the sampling program.

Mr. Schultz answered that he feels it goes back to the purpose of a fixed site screen which is to give parents the opportunity to screen their children for lead. He brought up possible arguments that may be made: 1) that only the most responsible parents will bring their children in; or 2) only those parents who are interested in the \$20 incentive. Mr. Schultz said that they do know if there is a bias or where it may be if there is one. He reiterated that the program is set up to provide public access for screening and not to collect data.

Mr. Rob Hanson (IDEQ) commented that he wanted to follow-up on the presentation made by Mr. Schultz and Mr. von Lindern in relation to the recommendations of NAS. He pointed out that the issues they discussed are mostly in the work plan, but that one missing piece is to protect the remedy long-term from flooding and recontamination in the infrastructure. He indicated that this is a big gap in the whole cleanup and that the State has tried to deal with it through a planning process with an Infrastructure and Revitalization Plan (IFP) in the Box. They have worked with the communities and utility districts to develop a plan and get some grant funding to focus on engineering studies in Smeltonville. Now, the City will try to go ahead with a revenue bond in order to build a sanitation/sewer system.

He also pointed out that the Basin Commission has tried to do a little bit of this through some of the CWA projects such Meyer Creek and Little Pine Creek. These are examples of engineering studies that may help communities get a grant to be able to do the project. Mr. Hanson encouraged the BEIPC to figure out a way to take the lead on this issue in order to guide everyone on this important path.

Mr. Phillip Cerner (CDA Tribe and TLG Chair) mentioned that he would like to discuss Mr. Roizen's comments later during his presentation of the 2006 work plan because he very much agrees with him in how the plan was developed. He indicated that the TLG is beginning to encounter problems when contacting prime agencies for narratives in the work plan because some of the authors do not want any changes made. He wanted the BEIPC to know that not all of the recommendations in the work plan may be of a collaborative nature.

Mr. Bill Rust commented that one of the major conclusions brought up in the NAS report concerns the issue that most of the remedy may be re-contaminated if flooding occurs. He indicated that the dikes on the south side of Kellogg are about four feet too short which may result in severe flooding in the event of a 100-year flood. Although it is simple to raise the dikes; he said that the problem for locals is caused by the stream channels filling up. This makes it extremely difficult for the locals to take care of because all of the material removed is hazardous

waste. Mr. Rust suggested that a collaborative effort between EPA, FEMA, and the Corps of Engineers is needed to deal with these issues. In addition, he pointed out that the Basin Commission is authorized to become a flood control district. Mr. Rust feels that it would be far better for the BEIPC to take this issue on and try to get the agencies to work through the issues in order to protect the remedy. He recommends doing something before the dikes break.

9) Changes to the Agenda: Commissioner Krulitz noted that Commissioner Manning had to leave early in the afternoon because of a flight. She suggested making two changes to the agenda by moving the 2006 work plan presentation after lunch; followed by the lake modeling presentation.

10) Executive Session: Commissioner Kreizenbeck motioned that the BEIPC go into Executive Session during lunch to discuss personnel issues, seconded by Commissioner Manning. The motion passed unanimously.

Lunch

Commissioner Kreizenbeck made a motion to come out of Executive Session. It was seconded by Commissioner Jack Buell and passed unanimously.

11) Presentation of 2006 Calendar Year Work Plan: Mr. Cernera presented the TLG's recommendations for the 2006 one-year work plan. He indicated that "on-the-ground work" is part of the plan as was requested by Commissioner Currie at the last BEIPC meeting. This includes yard remediation under Superfund; and pilot studies under the CWA to demonstrate technologies to help better design and do work in the future. He also reiterated to the BEIPC that during the TLG process on the work plan, several people did not agree to changes in the language they provided and insisted it be verbatim. He said that a consensus was not reached because of this and an alternative position was provided by Mr. Roizen.

Commissioner Krulitz asked for clarification on the two separate sections submitted for blood lead screening (1.3.5) in order for the BEIPC to vote. Mr. Cernera said that he believes it was good for the BEIPC to hear the dialogue from both the State and the TLG; and that his recommendation would be to go back and revise this particular section. He indicated that everyone would be in agreement this way and it could be resubmitted to the BEIPC at the next meeting. Commissioner Krulitz asked if the work plan could be approved with the deletions and changes that were submitted; and whether the TLG was in agreement on the changes. Mr. Cernera said that he believed there was a sense of agreement during the last TLG conference call, although there was not specific language that was verbatim.

Mr. Harwood mentioned that he agreed with Mr. Cernera on revising that particular section of the work plan with all of the parties involved. He recommended that the BEIPC approve the other sections and that the blood lead section be resubmitted at the next meeting. Commissioner Krulitz said that she may have misunderstood as she believed the TLG had agreed to the changed language.

Mr. Cernera mentioned that the TLG agreed to the concept, but not the specific word-for-word language. Mr. Roizen explained that there was a small, but significant difference between the language for the two sections. He said that one supports the NAS recommendation to explore the integration of the blood lead testing into the regular health care system while the other position does not believe it is a good idea.

After discussion, Commissioner Krulitz asked the BEIPC how they wanted to proceed as she believed there were other areas in the work plan with the same problem regarding the language in various sections such as the ICP. She mentioned that some people had expressed to her that they wanted to work on a Project Focus Team (PFT) for the ICP. Mr. Harwood informed everyone that the ICP section pertained to 1.3.1 and that the Human Health PFT would work with the Executive Director and PHD on modifying the ICP model currently being used in the Box. He also indicated that he would be working on a first draft for a strawman for the ICP. Commissioner Krulitz asked him if there would be local input. Mr. Harwood mentioned that people have called him to work on the PFT; and that he has suggested that anyone wishing to participate in the Human Health PFT should contact him or Mr. Cernera.

Commissioner Manning inquired about repositories and if the Big Creek repository was the only one. Mr. Cernera answered that it was the only active one (other than Page) serving the Basin. Mr. Moreen explained that it would reach maximum capacity in 2007, but that other facilities would be developed. Commissioner Manning then asked about the ICP process. Commissioner Krulitz pointed out that approval for the ICP would not occur until at least 2007 as it would have to go through the Idaho Legislature; and that local stakeholders would have input in the process.

Commissioner Krulitz asked about boundaries for the ICP and whether local governments would be included in determining the jurisdiction. She pointed out that the second paragraph under section 1.3.1 stated: "The boundary of the Basin ICP will also need to be defined to know the jurisdiction of the program. The IDEQ is working with the EPA and the PHD to establish the boundary by early spring 2006." She indicated that local governments should be included along with the PFT; and that the decision should not be left only to the agencies. She suggested that the language be changed to also incorporate coordination with the local governments and stakeholders. Mr. Cernera and Mr. Harwood said that they would work on making the suggested revisions.

Commissioner Fransen pointed out that a motion would be needed to accept the sections of the work plan to be approved and to delete the sections needing to be revised. Upon further discussion of the work plan, Commissioner Manning asked about the relationship of section 1.9 in regards to revising the lake management plan (LMP) and implementation. Mr. Cernera explained that the LMP implementation is essentially an audit of the old LMP (1996) for the activities that were supposed to be ongoing in the old plan; and that revising the LMP pertains to the Tribe and State developing and finalizing a new revised LMP.

Mr. Harwood presented a brief summary of the CWA projects and mentioned that he was monitoring the funding, deliverables, and accomplishments for each project. He also indicated that he would be preparing the 2005 annual report.

Commissioner Krulitz said that she wanted to bring up one item that was discussed at the last BEIPC meeting in regards to the \$330,000 funding for the Pinehurst Flood Impact Study. She indicated that she brought a copy of the letter that was sent to her and that she had also requested the 2003-2004 minutes from the Pinehurst City Clerk. She asked the Executive Director to share the information with the TLG Chair and the people working on the project.

Mr. Cernera followed up on his presentation of the LMP (section 1.9). He mentioned that the TLG worked on incorporating everyone's input into the development of this section so that everyone could be in agreement. He said that he believed consensus had been reached; however, another version was added (1.9 bold text) subsequent to that. The second version included: 1) more information about the MOA's; and 2) how the Tribe and State will move forward with collaboration by the counties and stakeholders.

Mr. Curt Fransen commented that the main issue on revising the LMP is trying to reach agreement with the Tribe and State along with input by local stakeholders. He mentioned that the State and Tribe reached a new MOA last year in order to try and revise the LMP by using a different process that included hiring a mediator or facilitator. Mr. Fransen discussed the approach which will involve two steps:

1. The mediator will meet with the Tribe, State, and appropriate stakeholders to:
 - Determine why agreement was not reached the first time;
 - Assess what the problems are; and
 - Report back on how to proceed.
2. The mediator will then facilitate a series of meetings between the Tribe, State, and appropriate stakeholders in order to move forward to resolve the issues, or reach a compromise.

He stressed that IDEQ and the State believe that the MOA's are important and they intend to carry out their purpose and intent through the new MOA. Mr. Fransen indicated that copies are available for anyone wishing to review them.

Commissioner Chuck Matheson discussed a few concerns. He mentioned that although the TLG went through their process on developing the work plan; an alternative was developed after a few of the people did not like the language. He believes that what is discussed and approved by the TLG should be what is presented to the BEIPC. He asked why there were changes at the last minute by the State when there was opportunity at the TLG meeting to provide input.

Commissioner Fransen said that he was not aware of the issue until he received the information packet which included the TLG version and what seemed to be a minority position. He said that he understands there were concerns about how the minority report was put together and whether it was in compliance with the TLG's protocols. Commissioner Fransen believes that part of the issue was miscommunication because the counties felt that they were being left out of the LMP revision process and that was not the intent at all. He wants to clarify that. In addition, he agreed with Commissioner Matheson that a minority position was presented in an irregular manner this time and that the rules should be followed.

Commissioner Krulitz indicated that the three counties were not aware until a few weeks ago that a new MOA was signed in August 2005 and that they felt like they were not at the table because of this. However, after reviewing the MOA, she does not feel that the counties were circumvented. Commissioner Kreizenbeck indicated that he asked for the new MOA to be done as part of the treatment for the State and to obtain funding for the facilitator.

Commissioner Krulitz also pointed out that any Basin Commissioner could bring anything forward they wish to. She indicated that protocol is followed as long as there is public comment before a vote is taken. Mr. Cernera said that Commissioner Krulitz was correct in that any commissioner could bring anything forward, but that he disagreed that the alternate language for the bolded section 1.9 was a full minority report. He feels that it was a county minority position and not the TLG's. He also indicated that the reason for a new MOA was because it was believed that the old MOA's were outdated.

Commissioner Currie commented that all of the parties involved with the old MOA's should have been notified of the new MOA. Mr. Cernera said that the original MOU was signed between the Tribe and State; and that subsequently the State signed the old MOA's with the counties. He suggested that it was up to the State because of this and not the Tribe. Commissioner Fransen reiterated that the new MOA is not inconsistent from the State's perspective with the old MOA's and that the State fully intends to keep the counties involved in the process. Mr. Cernera also mentioned that when the Tribe was working on writing the language for section 1.9 with the TLG and the CCC, they specifically included the State and stakeholder involvement.

Mr. John Snider, CCC Chair, mentioned that he had concerns about people saying that the minority report was improperly presented as he feels this is not the case at all. He went on to say that the counties did not know the old MOA's existed and that they tracked them down through IDEQ. Mr. Snider indicated that Commissioner Currie had asked the counties to find them in order to have a place at the table for the LMP revision through the State.

Mr. Snider said that they wrote the particular position and it was discussed a few weeks ago on the TLG conference call. He indicated that Ms. Anne Dailey conducted the call in the absence of the Chair and Vice Chair. When the MOA's were brought up in regards to representation; she asked the TLG if everyone agreed to the changes. He said that he believed it qualified as a minority report because of this, especially in regards that it was suggested during the call to do so. In addition, he explained that a minority report needs to be made two weeks prior to a BEIPC meeting and that it was. Otherwise, he said that they would have brought it directly to the BEIPC. Mr. Snider mentioned that he was sorry that it turned out in such a manner that it appeared they had circumvented the TLG. He suggested that decisions not be made during TLG calls if they were inadequate. He asked for clarification from Mr. Harwood.

Mr. Harwood explained that there was the version that the TLG had worked on; and the version that Mr. Shepherd had worked on. He suggested that the MOA's be referenced because the language provided by Mr. Shepherd's was almost the same as the MOA's. Mr. Harwood said the TLG agreed on the call to work on making the proposed changes. He also mentioned that he had no knowledge of the third MOA subsequent to that. Mr. Snider asked Mr. Harwood if

everyone had a chance to review the changes to the language for section 1.9 after they were written. Mr. Harwood indicated that he was not sure as the information packets needed to be sent out by then.

Commissioner Kreizenbeck said that he pushed hard for the Tribe and State to sign the new MOA in order to get funding. He indicated that this may have contributed to some unanticipated consequences regarding the confusion over this issue; although the funding was successful.

After further discussion, it was determined that a decision needed to be reached on the language for 1.9. Commissioner Kreizenbeck made a motion to approve the language for section 1.9 as suggested by Commissioner Fransen. The motion was seconded by Commissioner Currie. Commissioner Krulitz asked if there was any discussion. Commissioner Manning suggested tabling the vote until the February meeting. He indicated that everyone seemed to agree on the substance, but not on the process. He said that he strongly supports the motion from the State of Washington's perspective to have a revised LMP.

Commissioner Krulitz called for the question. She reported that the motion carried with the following votes: Aye - (5) Currie, Fransen, Kreizenbeck, Krulitz, Manning. No – (2) Buell, Matheson.

Break

12) Public Comment on Work Plan: Ms. Kathy Zanetti (CCC Vice Chair) asked if fair warning could be provided before a motion was made so that there could be public comment beforehand. Commissioner Krulitz reminded everyone that there could be no public discussion after a motion was on the floor if it had been seconded. She suggested that the second would need to be withdrawn in order to have the discussion opened again for public comment.

Mr. Snider (CCC Chair) said that he would like to make a complaint about keeping the CCC to the end before being provided an opportunity to comment both in the BEIPC and the TLG. He suggested that he would like to see the CCC be given an opportunity to provide its input at the beginning as it would make the CCC more valuable as an advisory group to the BEIPC and that they would better understand the CCC's view. Commissioner Krulitz asked that staff note this comment.

Mr. Snider said that the citizens would like to be continually involved as part of the BEIPC process, especially in the PFT's, ICP, etc. He pointed out that members of the CCC are stakeholders and they appreciate what the BEIPC has done for them by making sure that they are involved in various activities. Mr. Snider asked the BEIPC to please keep the CCC in mind when making decisions. He indicated that the CCC would also like to see things stay voluntary and not mandated. He said the citizens are satisfied with that and wish for it to continue in regards to the ICP for OU3.

Regarding the Basin ICP, Mr. Snider indicated that the language in the work plan states that it is to be modeled after the one in the Box. However, he said that it would not be acceptable to the local citizens if it stays the same as the Box; and that the CCC is thankful for this change. He

commented that the CCC does agree with the language provided by Mr. Roizen for the blood lead section. Commissioner Krulitz asked Mr. Snider if he would work with the Executive Director when the blood lead and ICP sections are sent back for revision. Mr. Snider said that he would be glad to.

Mr. Rust commented that he recently became involved with the ICP discussions. He believes that there is a need for an ICP, but feels that there are problems with the proposal to take the Box ICP and apply it to the Basin. Mr. Rust pointed out that the ICP is essentially a site disturbance permit that applies to remediated areas. He suggested that Kootenai County could add some language to their site disturbance ordinance along with a few other things to deal with contaminated material, adopt those things in subdivisions and contaminated areas, and perform most of the same functions as an ICP. In addition, he indicated that it would not need to go through the Legislature. He said that local citizens would like to see a thorough discussion of all of the issues. Commissioner Krulitz asked Mr. Rust if he would be willing to serve on the ICP PFT. Mr. Rust indicated that he was planning on doing that and was gathering information.

Mr. Hardy commented that he is a landowner on the southern part of CDA Lake which the Trail of the Coeur d'Alenes runs through. He said that he listened to the discussion on the MOA's and that he would like to respond to a few comments made. First, he mentioned Commissioner Matheson's remarks about the TLG's language being changed because a few people did not like it, but that he feels this was due to the TLG's inability to do it correctly. Second, he commented on the same remarks made by Commissioner Fransen and stated that he feels this was due to more than just a few people not liking it. He believes that as things grow more difficult in the Basin, there will be more and more people not liking it. Mr. Hardy believes that outside people (i.e. Seattle & Boise) do not understand what the Basin Commission is about.

Mr. Hardy also indicated that he strongly believes that the Trail of the Coeur d'Alenes TLOP (Trail Long-Term Operating Plan) should be incorporated into the Basin ICP. However, he is concerned that there may be problems and that a process has not been set up yet for public comment. In regards to the LMP, he wanted to make a recommendation that the process should have a single encroachment program and fee schedule for all the boat slips, docks, and structures on the lake at \$100 each. Mr. Hardy suggested that the income could be used for monitoring, future studies, and possibly remediation. He would like to see the Tribe, IDL, and IDEQ develop a single plan that the public would approve.

Ms. Zanetti brought up two issues. In regards to 1.9, she suggested that in listening to Commissioner Matheson's comments, it did not sound like the Tribe believed there was a need for local stakeholder involvement in the new MOA. She said that the counties felt like they were being shut out of the process because of this. Ms. Zanetti indicated that the BEIPC was formed so that all stakeholders could have input. She suggested that when the CCC has concerns, it tries to take care of them in the least problematic scenario. However, she said that this is a huge concern when the CCC feels that it is being left out of the process because they do not want local voices to be excluded from any scenario.

For the Basin ICP, she asked that the BEIPC not approve any type of ICP until the required number of repositories are up and running. Her concern as a local resident is that once the ICP is

put into play, it will put a huge stall if not a stop to the economic growth in the Basin if there are not repositories to take the contaminants to. She said that the community is just now starting to recover economically from the closure of many of the mines and the timber industry. Ms. Zanetti indicated that whether or not the ICP from the Box will work, it still needs to be tweaked; and that no one who has remediated property wants to run the risk of having it contaminated again.

Mr. Bowers complimented IDEQ and Mr. Zilka on the riverbank stabilization. He also thanked Commissioner Fransen for acknowledging the fact that there was some effort on the part of the county TLG members to ensure local county government participation on the LMP. He said that he appeared before the BEIPC in 2004 to request that the BEIPC manage the oversight on the LMP and include the public's role in the process. He feels that progress appears to be moving forward on it. He also suggested that it would be helpful to know whether Mr. Michael Bogert, the new EPA regional administrator, would have a role on the BEIPC.

In regards to section 1.10, he asked if the NCP and BEIPC would request the EPA to develop criteria to delete geographic portions of the listed Superfund site where no further response is appropriate and for areas where all response work is completed. He also asked if the EPA had already developed criteria for areas not needing remediation; or if a specific process was developed because this site is so unique.

Commissioner Kreizenbeck indicated that he would respond to Mr. Bower's question about Michael Bogert. He explained that since Mr. Bogert had been an advisor to Idaho Governor Kempthorne, he is recused from participating on the BEIPC and other matters for a year because of EPA's regulations.

Ms. Toni Hardy commented that under the ICP an administrative boundary will need to be established, but that the TLOP for the 72 mile Union Pacific Railroad will likely be excluded from the ICP. She indicated that she also heard there will be no public comment on the TLOP. Ms. Hardy feels that the TLOP process must be public and be part of the consideration for the ICP. She also pointed out that the Tribe's draft problematic EIS would cover regulation and management for everything not under the ICP. She encouraged everyone to read the draft document and believes that the preferred alternative puts the trail under the management of the Tribe.

Mr. Jim Hollingsworth (CCC Member–Spokane) suggested that the recusal letter for the new EPA Regional Administrator, Michael Bogert, be posted to the BEIPC's website. He also mentioned that he would like to express a concern that initially the EPA was not welcome and that no one wanted the lake in the Superfund because it did not want the stigma. He believes that Idaho may have been reluctant to move forward in revising the LMP because now there is mediation to bring them into the process. He also indicated that he has concerns with the language adopted today. He is happy that language was inserted to have local people be involved, but he is worried about to what extent. He hopes that the MOA and its language is not going to be used as a protocol that establishes their involvement because he does want to see minority reports going forward when everybody does not agree with the consensus for the LMP. Mr. Hollingsworth said that he would like to see the protocols worked out to avoid problems in

the future. In regards to boat wakes, he would like to reduce damages caused by them and feels that appropriate costs should be charged to the people causing the damage to help finance some of the projects being done.

Mr. Jon Cantamessa (Shoshone County Commissioner) commented that he was pleased to see that the 2006 work plan does have some work involved on the ground. He indicated that there had been some frustration about the work being done and that he would like to bring up an idea to the BEIPC. Mr. Cantamessa suggested that as the work plans develop, he would like to see some expectations included about how it will improve the environment so that they can be assessed as they are done. He brought up one example about fish in Pine Creek and the goal to make a large fishery. He said that this could include some specifics on what the fish population is now, what will be expected when it is completed, and how it would evolve. He said that it is difficult to predict those things, but that it would nice to have a target going in to see what is being accomplished.

Mr. Harwood commented that there were two sections of the work plan still needing revising. He suggested that the BEIPC delete both sections to send back to the Executive Director and TLG Chair for revision.

Commissioner Krulitz asked for a motion to accept the 2006 work plan with the deletion of the ICP section 1.3.1 (page 9) and also the blood lead section 1.3.5 (page 13). Commissioner Currie made the motion; seconded by Commissioner Kreizenbeck. Mr. Harwood pointed out that for the record, the motion needed to state the inclusion of the changes approved previously for section 1.9. Commissioner Kreizenbeck clarified his understanding of the motion to include Mr. Harwood's recommendation that the TLG Chair and Executive Director rewrite the two sections that were being deleted. Commissioner Krulitz said that she hoped they would be brought back for approval at the February meeting.

Commissioner Buell inquired about what would be gained on screening children if the blood lead testing was losing kids now. He suggested going back to the TLG and agencies to figure out a different way. He does not understand why it needs to be discussed again. Commissioner Krulitz asked Commissioner Buell if he preferred to vote on it now. He responded that it would not do any harm if a different method was tried to get an average of blood lead in children.

Upon no further discussion, Commissioner Krulitz called for the question. The motion passed unanimously. Commissioner Krulitz asked the TLG and Executive Director to work on revising the two sections for the BEIPC's consideration in February.

13) CDA Lake Modeling Report: Mr. Paul Woods (USGS) offered to give the BEIPC a quick update and defer his presentation to February as the meeting was running long.

14) Repository Update: Mr. John Lawson (IDEQ) was asked by Commissioner Krulitz if he could give a brief update and return in February to make his full presentation.

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