

BEIPC MEETING
Basin Environmental Improvement Project Commission
November 29, 2006

Centennial Distributing
701 W. Buckles Ave., Hayden, ID

Attendees:

Mr. Terry Harwood (Executive Director)

Commissioners Present:

Ms. Sherry Krulitz (Chair)

Mr. Rick Currie (Vice Chair)

Ms. Elin Miller

Mr. Jack Buell

Ms. Toni Hardesty

Mr. Grant Pfeifer

Mr. Phillip Cerner

Alternates:

Mr. Curt Fransen

Mr. Ron Kreizenbeck

Staff Present:

Ms. Jeri DeLange

Mr. Dave George

Mr. Rob Hanson

Mr. Ed Moreen

Mr. Mike Beckwith

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 asked the Basin Commissioners to introduce themselves; followed by the flag salute.

2) Announcements: Commissioner Toni Hardesty, Idaho Department of Environmental Quality (IDEQ), made an announcement that during 2006, the Underground Mining Group (UMG) had completed cleanup of the last remaining residential and commercial properties within the Bunker Hill Box. She indicated that in total about 3,200 residential, commercial and street right-of-ways were cleaned up and 17 wells closed. The UMG and IDEQ are currently in the process of conducting inspections so that the Box remediation program may be certified complete.

Commissioner Hardesty informed everyone that when yard remediation began in 1989, about half of the children tested in the Box had blood lead levels above the current CBC criteria of 10 µg/dL. She added that now blood lead levels are at national averages. She also mentioned that completion of the Box residential cleanup was a major milestone for the Bunker Hill Superfund

site and indicated that credit was due to UMG, IDEQ, Panhandle Health District (PHD), Gulf Pintlar, the Army Corps of Engineers, and the Environmental Protection Agency (EPA). In addition, she expressed appreciation to the local cities and private property owners who had worked with the agencies and contractors during the yard cleanups. She remarked that it was a new milestone that marked the transition from cleanup to a new beginning for the communities in the Box.

3) Approval of Minutes from June 21, 2006 Meeting: Before the minutes were approved, Commissioner Krulitz noted that there had been a BEIPC field trip in August. She commented that it was an excellent tour and thanked everyone who participated. She also suggested that it may be good to do again next year.

Commissioner Krulitz then asked if there were any additions or corrections to the June 21, 2006 minutes. Mr. Phillip Cerna (CDA Tribe, BEIPC Alternate) indicated that he wanted to make a point of clarification in regards to a public comment, or position that was made during the public comment section (on pages 6-7, section 10). In particular, the comment referred to control of the beds and the banks of Coeur d'Alene Lake (top of page 7) and mentioned that the beds of the river and the rest of the lake were controlled by the Idaho Department of Lands. Mr. Cerna said that he wanted it put into the record that the CDA Tribe did not agree with that statement. He was not sure how to put it into the record (for the June meeting) as he was aware that the public may comment as they wish. However, he wanted to clarify that the point was raised.

Commissioner Krulitz indicated that the point would be entered into the record of today's meeting as public comment could not be changed from what was previously said.

A motion was made by Mr. Grant Pfeifer to approve the minutes as written; seconded by Commissioner Rick Currie. The motion passed unanimously.

4) Blood Lead Report: Mr. Ian von Lindern (TerraGraphics) made a presentation on the annual blood lead surveys and the Lead Health Intervention Program (LHIP). He reported that the program started in the Box in 1974, and that the primary purpose was to identify children at high risk so that they could receive intervention services. In 1986, the program was also started in the Basin. Mr. von Lindern emphasized that it was not a study or experiment, but an interim health response activity. Since the close of the Bunker Hill smelter and the work on the Superfund cleanup, he said that the blood lead levels in children have steadily decreased over the years.

This year, he indicated that only 85 children in the Box and Basin were brought in by their parents to be tested. Of those, one had a blood lead level of 11 (which is higher than the standard of <10 µg/dL) and another had a level of 10. The rest of the children had an average blood lead level of about 3 µg/dL. Commissioner Krulitz commented that there had been some controversy over the testing in earlier years; and that the testing was changed to a finger stick to try and get more children to participate. She questioned the low turnout, even with the finger stick, and pointed out that the change did not seem to be making a difference. Mr. von Lindern mentioned that the overall national average of blood lead in children was about <2 µg/dL and that maybe parents were not as concerned now. Mr. Jerry Cobb (PHD) also noted that there used to be an incentive program in years past. Commissioner Elin Miller asked if they have been able to

identify the motivating factors of the parents who do bring their children in for testing. Mr. Cobb replied that it may be a mix of concern and the incentive. Commissioner Miller inquired about the level of participation in blood lead surveys at other sites. Mr. von Lindern answered that it was typical to only get a 20-30% turnout at most of the sites.

Mr. Harwood commented that he had been working on trying to come up with additional funding to increase the participation in the program (400-500 children) for at least more two years in order to obtain a complete set of data for both the Box and the Basin. He indicated that he has not been able to as funding is very tight in D.C. at the present time.

Mr. von Lindern also discussed the Institutional Controls Program (ICP) in the Box and said that it provides long-term support for the cleanup and decreases exposure to lead in the soil (and dust) that may occur if the barrier is disturbed by soils removal or excavation. He indicated that the continuation of blood lead surveys would also be used to assess the effectiveness of the program. He suggested that it would be good to extend the ICP into the Basin (as well as the Box) in order to protect the remedy from recontamination; and to ensure that the program is well funded.

5) Other Announcements: Commissioner Krulitz welcomed back and introduced: BEIPC alternates - Mr. Ron Kreizenbeck (EPA) and Mr. Curt Fransen (Idaho Attorney General's Office); Congressional staffers - Mr. John Martin (Senator Craig), Ms. Stefany Bales (Senator Crapo), Mr. Mark Compton (Representative Otter); and from the North Idaho Office of Governor Risch - Mr. Luke Malek.

6) Update on Mine/Mill Work: Mr. Bill Adams (EPA) gave an update on the status of the mine/mill work. He reported that they are focusing on areas that contain high levels of contamination (primarily lead) where people may be at risk through recreational exposure since the highest priority for the sites is human health risk. In places along the Coeur d'Alene River where there may be impacts, Mr. Adams also indicated that they are trying to address potential ecological issues at the same time (i.e. loading to the streams, erosion, etc.).

7) CWA1(b) Bullhead Study Results: Mr. Brian Spears (USFWS) made a presentation on the results of a study for monitoring fish exposure to heavy metals (lead in particular). This program was the second part of a CWA (Clean Water Act) grant for ecological monitoring of Coeur d'Alene Lake. He explained that the work will help to implement the ROD by providing baseline exposure conditions that will help to determine ecological trends. The results will also help assess the effectiveness of the remedial actions going on now and may provide data to help develop and implement the LMP. Mr. Spears reported that the conclusions of the fish study indicate that fish and subsequent fish eating receptors, such as ospreys, may be picking up high levels of metals that may pose potential health risks in some of the more heavily contaminated areas of the Lake (Harrison, Powderhorn, Rockford, and possibly Mica Bay).

Break

8) Status of the Basin ICP (Institutional Controls Program): Mr. Harwood reported on the status of the rulemaking for the Basin ICP. He said that the BEIPC approved to move forward on the Basin ICP at the last BEIPC meeting and to work with the Panhandle Health District (PHD) on

the rulemaking process. (Only state agencies that have rulemaking authority may propose administrative rules and the rules must also meet IDAPA requirements). Mr. Harwood indicated that he worked with Mr. Jerry Cobb (PHD) and Mr. Jerry Mason (PHD Attorney) on the Basin ICP rulemaking. Since the language was so similar to the Box ICP, the PHD decided to update the entire ICP (for the Box and Basin) under one rule, but have two chapters. The PHD held public hearings in both Shoshone and Kootenai counties on the proposed rulemaking; however, no public comment was received. The PHD Board then approved that it be sent to the State Legislature for review and final approval during the next legislative session in 2007.

9) Presentation of 2006 - 2010 Five-Year Work Plan Section 1.3.1 (ICP): Mr. Harwood noted that the 2006 – 2010 Five-Year Work Plan had been approved at the last BEIPC meeting in June with the exception of the ICP section (1.3.1). He pointed out that the ICP PFT worked on that section and the revised language was included in the BEIPC board packet information. He added that it had been approved by the ICP PFT and the Technical Leadership Group (TLG); and that he recommended the BEIPC approve it for the current five-year work plan.

10) Public Comment on ICP Section 1.3.1: Mr. Jim Hollingsworth (Lands Council) questioned what had been done in regards to the Contaminant Management PFT and whether the BEIPC was going to move forward with it. He explained that he was asking about this issue as it was separate and exclusive from the language of the ICP and dealt with the area below the mouth of the Coeur d'Alene River.

Mr. Harwood answered that the process the Basin ICP went through included everything from the headwaters of the South Fork to the mouth of the Coeur d'Alene River at Harrison; and that subsequent to this at the last BEIPC meeting, there was a motion to form a new PFT to consider the needs for institutional controls on Coeur d'Alene Lake and the Spokane River (in Idaho). He indicated that the process being discussed only pertained to the revised ICP section for the Basin and was previously approved by the BEIPC to move forward on, along with the administrative boundary map.

Ms. Toni Hardy (Kootenai County property owner) inquired about the railroad's Remedial Action Maintenance Plan (RAMP). She said that she had written extensively about extending the public comment period on this issue because it had only been given ten days. However, she had not heard anything back yet and only four days remained for comment. She believed that during the first five days, most people were not even aware of this issue and that it was listed as "informal comment" rather than public comment. In her opinion, informal comment means that nothing needs to be done. She would like more information as she feels it is a serious issue that may cause problems for other property owners (like herself) who have property where the trail embankment is in the lake. Ms. Hardy suggested that this may affect lake management and that she would like an extension on the informal comment period.

Mr. Phillip Cerner responded to Ms. Hardy on the Tribe's perspective in regards to the Trail Remedial Action Maintenance Plan (TRAMP). He said that it was part of the ongoing finalization of the Trail of the Coeur d'Alenes which would ultimately become a managed trail between the State of Idaho and the CDA Tribe. He indicated that it was outside the scope of the BEIPC, but offered to provide his personal opinion in regards to the informal comment period.

He explained that the original consent decree for the trail was a formal process that included public participation. The decree also brought up the issue of contaminant management, so the RAMP attempts to codify how the State and Tribe plan on managing this issue. He added that they are now putting the plan out to the public to see if they can get some comments on it. He explained that the process is “informal” in the sense that the comment period is not required. However, the State and Tribe decided it would be good to get some comment on it to see if the plan may be improved.

Commissioner Rick Currie asked if there was any chance of extending the informal comment period. Mr. Cernera answered that there was not.

Ms. Toni Hardy asked to make another comment. She pointed out that in the TRAMP, the document states that oversight and management activities would be provided by the State of Idaho, the CDA Tribe, and the EPA to ensure response actions, etc. She feels that she receives no response from anyone; and that the CDA Tribe does not have jurisdiction to enforce the ICP rules governing the Trail.

Commissioner Krulitz asked if there was any further discussion on Section 1.3.1 (Basin ICP). Commissioner Currie inquired about the reference made to Coeur d’Alene Lake and the Spokane River (in Idaho) that was still under discussion; and how that was going to be worked out. Mr. Harwood confirmed that it was not part of the scope and that he would be reporting on it later in the BEIPC meeting under the new Contaminant Management PFT that had been formed to address this issue.

Commissioner Hardesty made a motion to approve Section 1.3.1 of the five-year work plan; seconded by Mr. Grant Pfeifer. The motion was approved with five votes in favor (Currie, Hardesty, Cernera, Miller, Pfeifer); and one vote opposed (Buell).

11) Status of New Contaminant Management PFT Activities: Mr. Harwood reported that he formed a new PFT for contaminant management upon direction of the BEIPC at the last meeting. He indicated that some people were concerned that there was a need for some type of institutional controls for activity along the shoreline of Coeur d’Alene Lake and the Spokane River where there was a potential for heavy metals contamination as the proposed Basin ICP stops at the mouth of the CDA River at Harrison. After soliciting input, he mentioned that he received a lot of interest from everyone and ended up with a large group for the first meeting. Some of the items the PFT discussed included the following:

- Does the OU-3 ROD cover the institutional controls (IC) for the lake and river, and if so, should the EPA and IDEQ fund the program comparable to the Box or Basin ICP?
- Should an IC be developed as an enforceable rule, or just a guideline?
- That current permitting processes do not adequately address the handling and disposal of contaminated sediments; and
- Any IC regulation should be site specific as not all the areas along the lake and river may be affected by contamination.

Mr. Harwood indicated that the PFT does not have answers to everything yet, but that they did determine that an IC would only deal with the shoreline of the lake and river within the 100-year floodplain. He mentioned that the PFT would continue to work on this issue in order to come back to the BEIPC with recommendations.

Commissioner Jack Buell asked if Mr. Harwood was trying to establish sediment controls for working on the banks of the lake. Mr. Harwood explained that what the PFT needs to work on is what to do about the contaminated material that has come down the river and has come to rest along the banks of the lake because we are within a Superfund site. Commissioner Buell acknowledged that there was a problem with contamination on the river and that he knew work had been done on the recreation area in Rose Lake. However, he commented that it looked like to him that we are working from downstream upstream.

Mr. Harwood clarified that he was speaking about removal of soils on a contaminated site and not about remedies. As an example, he asked what would happen if people wanted to build a seawall along the lake and soil sampling indicated that it contained 3,000 ppm lead which is 3 times the action level; what should property owners do? He emphasized that we need to have an interim plan on how to manage the contaminated material (that may be there) before we do any remedies. He also remarked to Commissioner Buell that work efforts were being concentrated upstream.

Mr. Cerner brought up the issue of all the excavation work that is being done with the development at Blackwell Island and Riverstone. He pointed out that the area is in a massive floodplain where some of the heavily contaminated soils are as high as 5,000 ppm lead. Mr. Cerner affirmed that there is no regulation covering this. For building permits, he said that no entities have criteria for sampling requirements. Mr. Harwood mentioned that if there was excavation in the water, then the developers would have to meet the requirements of the State Dept. of Lands (IDL), State Dept. of Parks and Recreation (IDPR) and the Corps of Engineers, but that those agencies do not have anything in their regulations to deal with the management of contaminated material along the high water line.

Commissioner Buell brought up the issue of adding another floodplain, or wetland, such as the one proposed for the Schlepp property and indicated that the area may be recontaminated when it floods. Mr. Harwood clarified that the purpose of the new contaminant management PFT was to try and figure out how to manage contaminated material that is in place when a property owner wants to do some work and not be held liable for a release under CERCLA. He said that the PFT would be looking for a process like the one for the Box and Basin ICP that would help to ensure that contaminated material is not released and would also give protection against liability to homeowners and developers.

Mr. Rusty Sheppard (Kootenai County TLG and Spokane River Association) commented that at the last PFT meeting he attended, the EPA strongly indicated through their local representatives that they were not going to provide any funding for cleanup or testing on the Lake or Spokane River. He asked the EPA whether it was a final ruling, or if they would take it under consideration to provide Superfund CERCLA funding to clean up areas found to be contaminated and to provide repositories for the material to be stored.

Commissioner Elin Miller (EPA) answered that she appreciated the question, but that she had not been briefed on this issue. She said that Mr. Sheppard had raised a very important question in regards to what funding would come from where; and for what priorities. She said that when EPA looks at this site or any other site, it is difficult to set priorities and they have to set it based upon what makes the best sense for public health and the environment. She apologized that she could not answer the question specifically, but offered to get back to Mr. Sheppard with the information later.

Mr. Harwood said that he was hoping that EPA would be represented on the PFT; and that one of the products the PFT would develop would be recommendations on how to deal with this question. He suggested that the PFT should not look at this issue from the standpoint that an agency is taking a position and that it is set in concrete. He explained that the PFT will come up with recommendations; and then it will be up to the agencies and BEIPC to deal with the recommendations. If the recommendation is that we need to do this, and that it needs to be funded; then whether the EPA has any funding or not, the PFT is going to make a recommendation to EPA that they fund it.

Commissioner Krulitz informed everyone that the information being discussed was found in the minutes on page 12 in regards to why action started on this issue at the last BEIPC meeting.

Ms. Angela Chung (EPA) indicated that she would like to give a quick response to Mr. Sheppard. She clarified that their position on this issue is that they have not selected remedial actions for Coeur d'Alene Lake and the Spokane River (in Idaho). EPA's funding has been prioritized for human health, largely for work in the Upper Basin and some ecological work. Since the priorities are already set, she said that EPA is engaged in the PFT to hear what other ideas people have regarding what other resources may be used to address some of the concerns. She added that Mr. Ed Moreen was their representative on the PFT.

Commissioner Toni Hardesty commented that what the BEIPC is hearing today is the reason the BEIPC established the PFT and why she would recommend that the PFT continue to move forward. She confirmed that this was certainly an issue that called for more questions than answers. From IDEQ's standpoint, she mentioned that this is an area that is not well clarified. She indicated that it is problematic for IDEQ when people come to them with a project; and are looking for hard answers regarding what to do with the contaminated material, and what kind of process do they need to go through? She encouraged the PFT to continue working and try to get resolution for some of these questions.

Mr. Harwood indicated that he would keep working with the PFT. Commissioner Krulitz clarified that this issue did not need a vote and adjourned the meeting for lunch.

Lunch

12) Update on Infrastructure Project: Mr. Harwood gave an update on the infrastructure revitalization project (IRP) and flood control project. He reported that TerraGraphics had completed the infrastructure inventory for the Upper Basin which included sewer, water,

stormwater, streets, etc., as well as the flood control study for the Basin that EPA funded this year. He passed out copies of the flood control maps so that everyone could take a look at the finished product. The maps indicate where properties have been remediated within the 100-year flood plain and will help to provide a good estimate of how much it would cost if the remedy was destroyed or damaged by a major flood. Mr. Harwood mentioned that TerraGraphics had also done an analysis for funding the IRP such as the potential for grants. The next step will be to work with the communities on setting priorities for a joint effort to see if there is a better opportunity to get funding for the work, rather than each community competing for the same dollar. He said that he planned to start meeting with the communities next year.

13) Conservation Easement Update: Ms. Anne Dailey (EPA) and Mr. Brian Spears (USFWS) gave an update on the conservation easement. The purpose of this project which is being conducted under the OU-3 ROD is to reduce waterfowl mortality by the establishment of safe feeding areas in the Lower Basin since historic mining practices have contaminated many wetland areas with heavy metals. Ms. Dailey indicated that this will be done by converting existing agricultural land into wetlands. She pointed out that the NAS (National Academy of Science) report agreed that this method is a good approach for establishment of safe waterfowl feeding habitat.

Mr. Spears brought up that the restoration at the project site was proposed by the Natural Resource Trustees (designated federal, state, and tribal entities) through the Natural Resource Damage Assessment and Restoration (NRDAR) along with public input. He explained that this process helps to compensate the public for loss injuries to natural resources (depending upon the release of hazardous materials).

Discussion followed with various questions asked regarding: waterfowl mortality (i.e. tundra swans); loss of agricultural land; flooding concerns; natural resource damage; public input; future restoration plans; and funding. In conclusion, Mr. Spears informed everyone that the project was a joint remedial action and natural resource restoration project whereby both activities piggy-back each other to do something that neither one could do on their own. He clarified that no NRD funding had been spent to do on-the-ground restoration work on this, or any other project in the Basin. In addition, Ms. Dailey emphasized that no CWA funding had been spent.

14) CW06–Wetland Inventory Update: Mr. Spears (USFWS) introduced the regional biologist for Ducks Unlimited, Mr. Chris Bonsignore, who gave an update on the CWA wetland inventory project (CW06) that USFWS is sponsoring that was approved by the BEIPC in 2004. Mr. Bonsignore explained that the project was initiated following the ROD in response to the estimated 4,500 acres of wetland habitat that was identified for potential restoration or remediation. He pointed out that this project focuses on 1,500 acres of wetland restoration and has two main objectives:

- To develop a comprehensive inventory of parcels with the potential for wetland restoration enhancement in the Basin; and
- To identify and communicate with the property owners to assess interest in restoring or enhancing wetlands on a voluntary basis.

Mr. Bonsignore presented slides to demonstrate the type of map server that is being used to process the data for the land parcels and narrow down candidate properties. He indicated that informational letters were sent to forty-nine owners in priority areas to let them know that assistance is available to restore wetlands. He said that so far one property owner has expressed interest; and the next step will be to conduct soil analysis. Mr. Bonsignore feels that more property owners will come forward in the future, but suggested that it may take time.

15) Stormwater Education Program: Ms. Annette Duerock (PHD) made a presentation on the Panhandle Health District Stormwater Erosion Education Program (SEEP). She reported that the program was a collaborative effort between industry and agencies to address concerns regarding the impacts of construction site erosion on northern water resources. Participation is voluntary and the program will be self-sustaining (after initial development) through registration fees. Ms. Duerock pointed out the benefits of having a meaningful level of standards to educate contractors on best management practices (BMPs) for dealing with different types of soil erosion; as well as increasing technical knowledge and providing certification requirements.

16) Presentation of 2007 Work Plan: Mr. Harwood presented the 2007 one-year work plan and recommended that it be approved by the BEIPC. He indicated that it had been reviewed and approved by the TLG; and had also been presented to the CCC for their comments. He then stressed the importance of having a work plan in place for funding purposes and to measure BEIPC accomplishments. Mr. Spears (TLG Chair) acknowledged that Mr. Harwood had done the majority of the work putting the plan together and thanked him for his efforts.

Some questions were asked regarding the work plan section for the Lake Management Plan (LMP) and also on the process for the LMP negotiation. Mr. Cernera answered that the mediation on the LMP had been going on for over six months, but that it was a two-phased approach. He explained that the first phase was to have the mediator meet with the parties to assess the issues, determine how far apart the parties were on resolving the issues, and write a final report on whether the parties should move forward with Phase 2 to mediate a joint LMP. He noted that the report would go out for public dissemination and the parties would go back to their policy makers to determine whether they wish to continue with the second phase. Commissioner Hardesty reiterated that when the report comes out, the Tribe, State, and EPA will review the document and then choose if they want to proceed.

Commissioner Krulitz inquired whether there would be two LMPs as mentioned in the CCC comments. (It was noted that this was only a comment that the CCC wanted to clarify). Mr. Cernera explained that the objective was that there had been a joint draft developed by the State and Tribe years ago. Then appendices and addendums were added; revisions were made by the Tribe; and comments were discussed by both parties. He stated that the goal through the mediation process is to agree on one plan. He suggested that people may have thought if there was not one plan that was agreed to; then two plans could possibly happen. He proposed that it would be better to wait a month or two to discuss this issue later.

Commissioner Hardesty remarked that in regards to the county's involvement, there is clearly full recognition with the State (and that she believed she could also say for the Tribe and EPA);

that it is vitally important to have stakeholder involvement in this process, and that this is foremost in their mind as they are engaged in negotiation. Commissioner Currie commented that it was important to the county to be involved in this process at this point because the county is part of a Memorandum of Understanding (MOU) with the State addressing that issue. He also expressed that he was disappointed that the mediator's final report had not been completed yet; and that people would have to wait an additional few months before this topic could be discussed publicly by the BEIPC again.

Commissioner Hardesty emphasized that the mediator's report was being produced by the mediator and not the State, Tribe, or EPA. She said that they have been encouraging the mediator to come out with that report as soon as possible, and that he is committed to doing so. Commissioner Currie stated for the record that he was not trying to place fault with the State, Tribe, or EPA. He said that he gets tired of billable hours and attorneys.

Commissioner Buell inquired if the State and Tribe were aware of any new information from the mediator. Mr. Cernera replied that the information that was provided by the mediator to everyone in June is basically the same, and that there are no new developments. He added that the issues facing us for a viable lake plan today are the same that have been aired before. Even though funding was spent for a neutral party to help mediate the issues, he feels that the results will be what we already know. However, he is hopeful that the dialogue may be advanced from here.

After further discussion, Mr. Terry Harwood brought up that one of the agenda items for the next BEIPC meeting would be this issue as the mediator will have the report done by that time.

Commissioner Currie inquired what lake plan the State and Tribe were operating under now. Mr. Cernera answered that the lake was being taken care of even though there is not an agreed upon LMP at this time. He pointed out that the State, Tribe, and EPA have determined what will be done next year for lake monitoring, so there are things that are moving forward. The Tribe and State have agreed to provide funding for the monitoring, and the EPA will provide lab support. In addition, there are other things being done for the lake such as a milfoil control program.

Commissioner Krulitz reminded everyone that there would be an opportunity for public comment before the work plan was voted upon by the BEIPC.

17) CCC Comment and Presentation: Mr. John Snider (CCC Chair) reported on the CCC meeting that was held on November 8, 2006. He mentioned that there were a lot of people in Kootenai County (especially lakeshore property owners) who were concerned about the LMP and what was going on with the negotiation process because they had not heard anything. He explained that this was why the CCC made a public statement about it. The issue needed to be discussed to find out where things stood and what direction it was going; primarily in order to keep out conspiracy theories.

Mr. Snider said that he assumed from what Commissioner Hardesty and Mr. Cernera mentioned about the LMP, that when the process got to the actual content of the plan, the county would be

brought in to be involved as a stakeholder. He commented that the county does not want to be treated like it has in the past when it has not been part of the process. Especially in regards to the Lake which is such an important part of the economy. He mentioned that he also has property on the Lake and would like to be involved too. He then brought up another concern that the CCC has in regards to monitoring of the Lake; and asked whether the monitoring would be part of a general plan that may be implemented into the LMP. Mr. Snider suggested that if this was the case, the CCC feels that the State and Tribe are already working on the content of the LMP. He asked if Mr. Cernera could provide a description of what the monitoring involved.

Mr. Cernera pointed out that everyone recognized the need for lake monitoring years ago; and that it has been done for years. He mentioned that the BEIPC approved to spend \$660,000 CWA funding on the lake to develop a monitoring plan that would develop trend information into the future; and that the TLG and CCC were involved in the process. This year, he said that it was determined to get enough funding to continue this monitoring which the USGS has been doing for the last three years. Mr. Cernera indicated that ultimately there will be a section on lake monitoring in the LMP and it will be a 30-year plan for normal trend information. He also believed that the lake monitoring being done now will continue into the future. In addition, he said there may be other types of monitoring done incrementally depending upon what is necessary and what may come out of the lake model that the BEIPC funded.

He clarified to Mr. Snider that they do not have a lake plan that they have not come out with, or are now implementing. He stressed the importance of continued monitoring so that there will not be a gap in the data as good trend information will help to make good decisions in developing a LMP. From the Tribe and State's perspective (regardless of getting to a full LMP); he feels that we can all agree that monitoring is needed, so this aspect is moving forward.

Commissioner Hardesty confirmed that IDEQ's position is the same in regards to the lake monitoring. They do not want the work that was occurring to stop, so that there will be no shift in direction while continuing with the LMP negotiation.

Mr. Harwood remarked that the BEIPC funded the work for the lake model and monitoring for three years; and that now he is waiting for the final report. Because there is no more CWA funding for this project, he indicated that all of the work done to date would stop; and that the State and Tribe wanted to continue the monitoring.

Mr. Snider expressed his appreciation for the clarification on lake monitoring. He said that some people were starting to generate ideas since they had not heard anything on the LMP. He then welcomed Commissioner Elin Miller to the BEIPC on behalf of the CCC; and thanked the EPA for their continued support in providing assistance to the CCC through Mr. Tom Beierle of Ross & Associates. He also informed everyone that the CCC's Vice Chair, Ms. Kathy Zanetti, had resigned due to personal reasons. He said that he was sorry to hear it and pointed out that Ms. Zanetti was a good asset to the CCC program. He indicated that there would need to be an election next spring for a new vice chair.

In regards to the last CCC meeting, Mr. Snider expressed thanks to Mr. Harwood for helping to put everything together. He indicated that it was a very informative meeting even though there

were not many citizens there. Mr. Snider suggested that people read the CCC minutes as there was a lot of information provided. He said that it was very educational for what was going on in the Basin and that the citizens are very appreciative of it. Before concluding his comments, Mr. Snider asked for a brief update on the lake audit. Mr. Glen Rothrock (IDEQ) and Ms. Rebecca Stevens (CDA Tribe) reported that they were in the process of conducting interviews, and that they were also getting some good information back on the surveys that they recently sent out. Commissioner Krulitz asked Mr. Rothrock and Ms. Stevens to give a report on the lake audit at the next BEIPC meeting and they agreed.

Commissioner Krulitz also acknowledged the good job that Ms. Zanetti did for the CCC and asked that a letter of appreciation be sent to Ms. Zanetti from the BEIPC. Mr. Snider expressed gratitude for Ms. Zanetti's many years of involvement.

Break

18) Public Comment on 2007 Work Plan and Other Issues: None.

19) BEIPC Discussion and Vote on 2007 Work Plan: Commissioner Currie indicated that he wanted to discuss Section 1.8 (page 20) of the work plan regarding the LMP. He said that he would like to pull that one section out before approving the plan because of the negotiation process that is going on with the LMP and that he has concerns with what will be negotiated.

Commissioner Hardesty asked for a point of clarification in taking that section out. She indicated that conversation efforts would continue between the State and Tribe for a joint LMP; and that it would not change anything in regards to that. Mr. Cernera also confirmed that the Tribe would continue working on a joint LMP with the State. He believed that the LMP process was outside the BEIPC and that he was reticent at the beginning to put this language in the work plan, so he would have no problems with pulling this section. Mr. Harwood suggested that the BEIPC should review the MOA and that he had a copy of the information available if anyone was interested.

Commissioner Currie made a motion to approve the 2007 work plan with the exception of Section 1.8 on LMP Activities. Commissioner Miller seconded the motion; and Commissioner Krulitz called for discussion.

Mr. Cernera brought up the component in the work plan about the ICP and the lead agencies involved (Table 1.1, page 4, last item on the Basin Contaminant Management Institutional Controls Program). Mr. Harwood responded that the BEIPC was not discussing institutional controls in this work plan for the Lake now; and that any work done would be by the PFT for the Lake. Mr. Cernera asked for clarification of the lead agencies for this PFT as only IDEQ and PHD were listed.

Mr. Harwood clarified that the PFT was charged to develop a program to manage activities in OU-3 to protect remediated areas from recontamination and present the ICP Rule to the Legislature for approval; and that it listed IDEQ and PHD. He said that the contaminant management PFT will then continue to develop recommendations for the additional management

of contaminants in OU-3 outside the administrative area for the Basin ICP Rule. If the BEIPC chooses to implement any of those recommendations, they would have to take effect in 2008, and the implementing agencies would also include the Tribe.

Mr. Cernera remarked that if the PFT was moving forward to advance institutional controls for a Lake ICP, then the Tribe needed to be one of the lead agencies. Mr. Harwood indicated that the Tribe is represented on the PFT; and that he did not believe that the 2007 work plan was going as far on this issue as implementing an ICP until the PFT comes up with a recommendation.

Commissioner Hardesty asked for a point of clarification in regards to what Mr. Cernera was asking for right now. She suggested adding the CDA Tribe under lead agencies for that section of the PFT. Mr. Harwood indicated that he would make that change to add the Tribe as one of the lead agencies for the PFT.

Commissioner Krulitz asked if the maker of the motion would agree to the change; and Commissioner Currie agreed. She also asked Commissioner Miller who seconded the motion; and she responded affirmatively. Before calling for the vote, Commissioner Krulitz asked if there was discussion on the changed motion.

Commissioner Buell asked Mr. Cernera for clarification on whether he meant that the counties would be out of the contaminant management PFT. Mr. Cernera answered no; that he did not want anyone to be excluded, but that the language excluded certain agencies (i.e. Tribe) when it talked about lead agencies. He explained that this had been corrected by saying the PFT includes everybody who wants to participate.

Mr. Harwood then asked for clarification that the BEIPC did not want to have anything about the LMP in the work plan for this next year. Commissioner Krulitz remarked that it sounded like the State and Tribe were going ahead with the negotiation anyway. Commissioner Currie said that this does not have to be in the work plan. He explained that the negotiation will happen anyway, but that the LMP section does not have to be in the work plan.

Mr. Harwood asked again if the BEIPC did not want to reference anything in regards to the LMP in the 2007 work plan. Hearing no disagreement, Commissioner Krulitz called for the question and the motion passed unanimously.

20) CWA Program Update and Mica Bay Amendment Proposal: Mr. Harwood indicated that he had prepared a spreadsheet (which was included in the board packet information) on all of the CWA grants with contract numbers, contract dates, expiration dates, etc. He reviewed the information along with an updated copy of the financial report for the various CWA projects.

21) BEIPC Discussion and Vote on Mica Bay Amendment: Mr. Harwood made a presentation on the Mica Bay Nutrient Reduction Project Completion Amendment. He noted that a viable project could not be implemented without the willingness of a landowner; and that one had finally come forward. He discussed the erosion prevention work that was proposed with the landowner upstream and mentioned that it would be used as a training project for other

landowners. Mr. Harwood recommended that the BEIPC approve the amended project based upon the information that was proposed.

After discussion by the BEIPC, Mr. Cernera asked if the amendment had gone through the TLG, CCC, and PFT process. Mr. Brian Spears responded that it had been discussed extensively by the TLG, and that the TLG voted unanimously in support (with the exception of one vote that abstained) to recommend the BEIPC approve the amendment.

Mr. Rog Hardy (Benewah County TLG) commented that he was unable to be at the TLG meeting when the vote was taken on the amendment, but that he would have voted no. He then gave a brief background on the history of the Mica Bay project and the purpose of funding the original proposal. He questioned whether the amended project was the best place to work on Mica Creek, or if there was some other area that was in more need. He indicated that he did not want to take away from the technical merits of doing this project, but feels that the overall process has not been very efficient.

Further discussion was raised on various issues related to the amendment such as monitoring, streambank stabilization, sediment reduction, partnerships, funding, etc. Mr. Harwood reiterated that some of the major problems associated with the development of the Mica Creek proposed alternative included: 1) it required the landowner's permission; 2) only limited funding was available (\$120,000); 3) the amended proposal had to be approved by the EPA because it was CWA funding; and 4) that CWA funding cannot be moved between fiscal calendar years.

Upon final discussion by the BEIPC, Commissioner Pfeifer made a motion to approve the amendment for the Mica Creek project; seconded by Commissioner Hardesty. The motion was approved with five commissioners voting in favor (Krulitz, Miller, Hardesty, Currie, Cernera); and one vote opposed (Buell).

Before adjourning the meeting, Commissioner Krulitz noted for the record (so that it would be reflected in the minutes) that she wanted to bring up the section in the 2007 work plan that was deleted (Section 1.8 LMP Activities) by a vote of the BEIPC. She commented that it had been done hastily and without a lot of discussion from the Board. Commissioner Krulitz asked everyone to remember that the work plan is a working document. She indicated that it may be put back into the work plan if the BEIPC decides at the next meeting that they want to include it after reviewing the recommendations from Mr. J. Michael Harty (the mediator for the LMP negotiation process). She also suggested that the new information could be added and become Section 1.9 in the work plan, but that the BEIPC may want to revisit this after it has had more time to consider this issue.

Commissioner Krulitz thanked everyone for attending and the meeting was adjourned.