

BEIPC MEETING MINUTES
Basin Environmental Improvement Project Commission
May 23, 2007

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

Attendees:

Mr. Terry Harwood (Executive Director)

Commissioners:

Mr. Jon Cantamessa (Chair)

Mr. Rick Currie (Vice Chair)

Ms. Toni Hardesty (Secretary/Treasurer)

Ms. Elin Miller

Mr. Jack Buell

Mr. Phillip Cerner

Mr. Grant Pfeifer

Alternates Present:

Mr. Curt Fransen

Staff Present:

Mr. Mike Beckwith

Ms. Jeri DeLange

Mr. Rob Hanson

1) Call to Order and Introductions: The BEIPC Chair, Commissioner Jon Cantamessa (Shoshone County), called the meeting to order at 9:30 a.m. He welcomed everyone and introduced the Basin Commissioners. Also in attendance were staff members from the Congressional delegation which included: Mr. John Martin (U.S. Senator Larry Craig); and Ms. Tina Jacobson (U.S. Representative Bill Sali). The Executive Director, Mr. Terry Harwood, announced that there were a few changes to the agenda and that Governor Otter had asked to stop by after lunch and speak briefly to the BEIPC.

2) Approval of BEIPC Meeting Minutes from March 14, 2007: Commissioner Cantamessa asked if there were any changes or corrections to the minutes. The following were noted: 1) Commissioner Jack Buell (Benewah County) pointed out that on page 1, under introductions, Benewah Commissioner, Mr. Bud McCall, was not newly elected (as were two of the Kootenai County Commissioners in attendance). He clarified that Mr. McCall had been in office for twenty-eight years; 2) Commissioner Cantamessa indicated that on page 2, in the paragraph above item #7, last sentence, it should read that an alternate may not serve as an officer, rather than Commissioner; and 3) Mr. Curt Fransen (Idaho Attorney General's Office) suggested that the same sentence should read that Ms. Toni Hardesty would be the BEIPC Secretary/Treasurer for the State of Idaho rather than BEIPC Commissioner. Commissioner Buell made a motion to

approve the minutes as corrected; seconded by Commissioner Toni Hardesty (IDEQ). The minutes were unanimously approved as corrected.

3) CWA Project Final Report, Simulation Model to Evaluate CDA Lake's Response to Watershed Restoration: Mr. Matthew Hipsev from the Centre for Water Research, University of Western Australia made a presentation on the Lake CDA model. He gave some background on the CWA project and acknowledged the various groups involved in the work (USGS, Centre for Water Research, University of Western Australia). Mr. Hipsev indicated that the Lake model was developed to simulate the effects of upstream remediation as well as to look at the biological, chemical, and physical processes of the Lake. According to long-term simulations of the model, he said that the Lake is more sensitive to lead than zinc; and nutrient loading may contribute to eutrophication problems. He also pointed out the benefits of using the model as a scientific engineering tool (or virtual environmental laboratory) as it may be useful in determining the sensitivity of the Lake to change for such conditions as sedimentation, oxygen, climate, nutrients, bacteria, phytoplankton, algae, geochemistry, etc. In conclusion, Mr. Hipsev recommended that routine monitoring be continued to provide the data needed for the model to simulate the real environment in the future, especially as the Lake will continue to change no matter how good the management is. After Mr. Hipsev's presentation, a question and answer period followed.

Break

4) CWA Project Update, Lower River Sediment Transport Model and Bed Evolution: Ms. Kathy Peter (USGS) provided a brief update on the status of the Lower River sediment transport model and bed evolution CWA project. She mentioned that additional modeling work was currently being done and would be incorporated into the final report. Ms. Peter indicated that the final report would be presented to the BEIPC in August.

5) Other Discussion on Lake Model: Mr. Phillip Cerner (CDA Tribe) inquired about the status of the peer review for the Lake model. Mr. Harwood replied that the draft peer review report had been completed by Mr. Scott Wells and a copy was sent to the USGS for their response. He said that he is working on resolving the issues that were brought up in the report before it is finalized. Mr. Cerner suggested that after the peer review report is finalized, he would like the BEIPC Commissioners to review the report to agree whether the model would be a useful tool for the Lake and also to be able to understand the necessary data needs for monitoring so that it could be developed and written into the LMP monitoring section. He indicated that the model is going to be turned over to the State and Tribe for their use and to help them with decision making for the Lake; and he would like to see them use it as a tool for the future. Mr. Harwood agreed and said that training on the use of the Lake model would be provided as well.

Commissioner Rick Currie (Kootenai County) commented that he had some major concerns about using the Lake model as a major tool in the LMP because he considers it only a model. Commissioner Elin Miller (EPA) also indicated that she had some concerns about the model being used for monitoring in the LMP. She stated that a model is a model; and that it is only as good as the data going in. She would like everyone to understand that there is data that needs to be collected, but that the model is not the end-all. The data collected may be used to determine

how we are doing with the LMP; and that hopefully (tomorrow) people can talk about what the data gaps are. Commissioner Miller said that she would be in favor of looking at that as an option.

Commissioner Hardesty agreed that the model can be a useful and important tool. She mentioned that from the State's perspective, they are very interested; and that having further information about the data needs is a key component. She said that the State wants to understand what those gaps could be and what could be the most cost effective and efficient way to get the data needed to make good decisions.

Mr. Grant Pfeifer (WA Dept. of Ecology) commented that the State of Washington has very good experience using sophisticated models with the right amount of and appropriate character of monitoring data to feed them, but not without an appropriate blending of scientific and community judgment in making decisions. He indicated that he generally supports Mr. Cernera's notion.

Mr. Cernera commented that he raised this issue because there will be a section on monitoring in the LMP; and that he hoped when a LMP is developed that outlines some of the additional data needs, it will not surprise people or that some may think is overkill. Mr. Cernera indicated that from the Tribe's perspective, they believe this information could be vital and they will be working on it with the State. He agreed that the model is only one tool and not the end-all, but he is thankful the BEIPC approved and funded this project.

Commissioner Cantamessa noted that we have a model we need to use, but that from his perspective he feels that more information is needed. For the LMP, he said that he believed a monitoring program is very important, but that we do not need to gather more data except through that process. He stated that his concern is on water quality; and that he believed water quality should be the focus of the monitoring because that is the real question. Although he feels the model should be used; he does not believe that we should endorse it because it is a tool that we do not know enough about.

6) CWA Update on Wetlands Inventory Project: Mr. Chris Bonsignore (Ducks Unlimited) gave an update on the wetlands inventory project. He indicated that they have been working on field evaluations and outreach efforts; and that several landowners have requested additional information about the program. Mr. Bonsignore pointed out that there is one landowner who is very interested and would like to move forward with the next step. They are working with the property owner to see if the site would be good and whether it lends itself well to restoration. He added that Ducks Unlimited will continue to coordinate their efforts with the USFWS along with the EPA and Natural Resource Trustees to identify potential projects to improve contaminated wetlands and provide clean habitat for waterfowl.

7) Proposed Changes to TLG Protocols: Mr. Brian Spears (former TLG Chair) announced that the TLG recently elected new officers and that Mr. Mike Beckwith (CDA Tribe) was elected as the new Chair and Mr. Kenny Hicks (Shoshone County) as the new Vice Chair. He then brought up the proposed TLG changes to its protocols that were approved by the TLG on May 1. Mr.

Spears indicated that the BEIPC would need to vote on them for final approval. The two changes include:

- Facilitate or arrange for TLG conference call summaries to be posted on the Basin Commission website; and
- The Chair and Vice Chair terms of office shall be for one year.

8) Public Comment on TLG Protocols Changes: None

9) BEIPC Board Discussion and Vote on TLG Protocol Changes: Commissioner Buell made a motion to approve the proposed changes to the TLG protocols. The motion was seconded by Commissioner Currie and unanimously approved.

10) Special Announcement: Commissioner Miller thanked Mr. Spears for his work as the TLG Chair during the past year. In addition, the other BEIPC Commissioners expressed their thanks and appreciation.

11) Smart Drug Disposal Presentation: Mr. Spears (USFWS) made a presentation on Smart Disposal. He informed everyone that the program is a joint public-private partnership by the USFWS (U.S. Fish & Wildlife Service) and the American Pharmacists Association to help protect the nation's fish and aquatic resources from adverse effects that may result from the improper disposal of medication. He also provided handouts about the program and information on the proper methods for disposing of medications safely.

12) CWA Financial Report Update: Mr. Harwood gave an update on the status of the CWA grant projects and funding; and provided everyone with copies of the updated financial report. He indicated that the CWA grant funding consisted of three EPA grants (for FY's 2002, 2003, and 2004) for demonstration projects and studies. He also noted that the projects for the first year's grant (2002) were almost completed and that any remaining funding must be spent within the same grant year. Mr. Harwood said that he keeps an eye on cost and looks for savings that may be used for other projects (in the same FY). He then reported on some of the adjustments that he had made previously (or was looking to make in the future) on various projects within the same grant year because any remaining funding not used would need to be returned to the federal government.

Mr. Cernera asked how much savings in funding there were from completed projects over the last year that Mr. Harwood was suggesting moving around. Mr. Harwood estimated that there was about \$30,000 for the first grant year and that he moved some of those funds to Lake monitoring and other projects. For other years, he explained that there were some under-runs such as the Meyer Creek drainage project in Osburn (approx. \$5,000 to \$6,000) and a few others for smaller amount (i.e. \$1,500, etc.). He indicated that the costs usually balance themselves out. Although Mr. Harwood keeps a tight watch on cost overruns, he said that sometimes a change order is needed or there are good reasons for the increased cost. He indicated that as it gets closer to the end of the second two years of work, there will probably need to be some adjustments.

Mr. Cernera mentioned that he was not sure about the latitude that EPA has with the funding. He

said that he understood that we need to develop proposals for when the EPA grants the funding, but he was wondering if the BEIPC would be in a position to look at those savings and potentially make some other ideas for what to do with the savings if there is any latitude. He suggested that if there were savings, one thing he would like to be able to do is to look at what the savings are and have a discussion on what to do with the money because he feels the BEIPC Commissioners have very little to do. He commented that it's fine if the savings need to go back to an overrun, but that he would like to recommend that the BEIPC have the ability to make some decisions on what to do with the savings if there is the latitude to do so.

Mr. Harwood responded that the BEIPC did do that on one project (i.e. Nine Mile Success Mine project) because part of the project could not be done because one of the contractors did not want to do it. He indicated that an amendment was put together with the Idaho National Laboratory (INL) and brought to the BEIPC for approval to change it. Mr. Harwood pointed out that if you change the project scope, then you need to talk to both the BEIPC and also the EPA if there's a major change. He is trying to keep that from happening, but he reminded everyone about the Mica Creek project where there was a change of scope. An amendment was proposed to the BEIPC to be voted upon for the change and Mr. Harwood also went to the EPA with it. In managing the CWA projects, he stated that he does not want to tell someone not to finish the job if they are almost done with their project and they need \$1,500 and he has \$1,500 saved. However, he monitors the CWA projects closely and runs any changes like this by the TLG.

Ms. Angela Chung (EPA) commented that she wanted to add that there may be more limitations at this point in the grant cycle because all of them have been awarded. She clarified that you could not fund or complete a new project by moving savings. She also noted (as Mr. Harwood stated) that there are issues with moving funding from one FY to another, so that means the funding needs to be spent on that set of approved projects within the same FY.

Lunch

13) Update on LMP Mediation Process: Mr. Cerner provided a brief update on the status of the LMP mediation process. He mentioned that Phase 1 was completed some time ago and that the State and Tribe decided to move forward with Phase 2 to negotiate the impasses on the LMP. He noted that a meeting was held on May 16, 2007 for the State and Tribe to discuss the strawman outline prepared by the mediator (Mr. Harty) for development of the LMP from previous versions. Mr. Cerner indicated that once the outline has been revised, it will be provided to the stakeholders for review.

He mentioned that Mr. Glen Rothrock (IDEQ) and Mr. Mike Beckwith (CDA Tribe) have been working on gathering monitoring data for the LMP to write a section on the current status of the Lake. The LMP will also include a monitoring plan along with any additional studies necessary, as well as management action tables. Mr. Cerner pointed out that this would be where it is important to have lots of stakeholder involvement due to the roles and responsibilities of the various entities for regulating ordinances and lake protection. He also noted that Mr. Rothrock and Ms. Rebecca Stevens (CDA Tribe) have been working on auditing the previous lake management tables which will provide valuable information for the LMP.

Mr. Cernera commented that the State would be updating the stakeholders after each mediation session. In addition, he said that he had asked Mr. Harwood to include an agenda item at each BEIPC meeting to provide an update on the LMP process in the future. Mr. Cernera pointed out that there would be certain LMP sections that the State and Tribe will not ask for input back on, but explained that the stakeholders will have an opportunity to review the LMP throughout the process.

Commissioner Currie stated that the counties are supposed to be part of the LMP negotiation process through a Memorandum of Understanding (MOU) with the State. He asked for clarification of the difference between mediation of impasses and negotiation as he believed that mediation of impasses was part of the process in developing a LMP.

Commissioner Hardesty said that she would let Ms. Gwen Fransen (IDEQ) speak about where the State is at in the mediation process. However, she specified that at the present time, there have been no great details discussed beyond what Mr. Cernera shared. The counties will continue to be briefed after each meeting. In addition, at appropriate times throughout the process they will be seeking input from the counties for areas of the LMP they identified they are interested in.

Ms. Gwen Fransen gave an update about the briefings that were held recently for Shoshone and Kootenai counties by the State; and also explained the process for the second phase of the LMP. She indicated that the second phase is designed to try and reach some kind of fundamental agreement between the State, Tribe, and EPA; and then invite the stakeholders to provide their input. Ms. Fransen suggested that by setting up a good foundation, breaking up the process into smaller steps, and getting input and feedback throughout the process; there should not be any surprises at the end.

Commissioner Cantamessa stated that he wanted to reiterate today what he brought up at the last BEIPC meeting which was that the Lake and the quality of the water in the Lake is for the benefit of the public. He emphasized that he intends to be involved in that process and that he feels the public should be involved in that process up to the maximum level (whatever that may be).

Commissioner Currie thanked Ms. Fransen for coming to speak to Kootenai County and expressed the county's appreciation. However, he emphasized that the counties will be involved in the negotiations of the LMP. Commissioner Hardesty responded that as stated by Ms. Fransen, the State's plan is to break up the process into smaller pieces so that everyone has the opportunity to review and comment throughout the process. Then at the end, no one will be surprised with the formal plan. She reiterated that the State will continue to brief the counties throughout the process and that the counties will have opportunities to provide input.

After additional discussion by the BEIPC on this issue, Commissioner Hardesty stated that it is certainly understood that the stakeholders buy in is needed for a LMP to be successful. She indicated that it would not do any good to put forward a plan that the stakeholders did not buy into because it would be counter productive and not work. She commented that the State was going to proceed with the goal of moving forward to develop a LMP that the State, Tribe and the

stakeholders all buy into.

Commissioner Cantamessa concluded the discussion by saying that he was not sure if that answered Commissioner Currie's question (as well as his own) about the counties involvement in the LMP, but that he was pleased to see the LMP process making some progress. Commissioner Currie agreed with Commissioner Cantamessa and said that the process needs to move forward.

14) LMP Section 2007 Annual Work Plan section and new 2007-2011 Five-Year Work Plan: Mr. Harwood presented the proposed LMP section (1.9) on Lake Management Activities for the 2007 annual work plan and also the new 2007-2011 five-year work plan. He indicated that the BEIPC would need to vote upon these two items and that they had also been approved by the TLG.

15) CCC (Citizen's Coordinating Council) Comment and Presentation: Mr. John Snider gave a presentation on the CCC's comments to the BEIPC from their May 3 meeting. He indicated that there were a lot of concerns about repository sites in the Basin and that they want to be sure that the proposed East Mission Flats (EMF) site is the best alternative. He also brought up that it was suggested by CCC member, Mr. Jim Hollingsworth, that EPA and IDEQ may lose the trust of citizens if the EMF site becomes an eyesore. Mr. Snider was not sure how to prevent this, but proposed that the site be covered and planted with grass (similar to the Bunker Hill repository).

He discussed another comment that was made by Mr. Hollingsworth who said that although the State and Tribe have official authority over the LMP, many others will need to play a role in implementing it. He noted that Mr. Hollingsworth also said that it was frustrating to see local governments not enforcing the regulations. However, Mr. Snider commented that he believed the governments do the right thing in enforcing the regulations. For example, he said that Kootenai County has a site disturbance ordinance which has been rigorously enforced upon the property owner who is building next to his property on the Lake. So, he feels this does not appear to be a problem.

Mr. Snider brought up that one CCC comment (by Mr. Lloyd Brewer) mentioned that political support for the goals of lake management, as well as the results of the scientific studies, will help encourage local governments to fund lake management activities. However, Mr. Snider believed that most of the politicians he has been around do have political support for the goals of lake management. Mr. Snider noted another comment (by Mr. Rob Spafford) that suggested local authorities do not have to wait for the LMP to be in place to start implementing lake management activities. He stated that Mr. Spafford was entirely correct in that. Mr. Snider remarked that if he was not mistaken, there are a lot of things that Kootenai County does at this particular point and time that follow the 1996 version of the LMP plus additional things they have added to it. He asked for clarification if this was correct from Commissioner Currie. Commissioner Currie answered affirmatively.

Then Mr. Snider reported on the recent CCC election results that were held in April. He mentioned that he was re-elected as the CCC Chair and that Mr. Jerry Boyd was elected as the new Vice Chair. Mr. Snider also mentioned that attendance has been low at the CCC meetings,

but that he still receives lots of email from people who are very interested in what is going on. He noted that they also send him and Mr. Tom Beierle emails with their concerns. He commented that one issue for the members of the CDA Lakeshore Property Owners Association, the Spokane River Association, and others is that the LMP not be a research process, but rather a maintenance and monitoring program for Lake water quality as they are very concerned about this and related issues.

In regards to the Lake model, Mr. Snider questioned how long they will continually research the Lake as they have already collected three years of data to support the model. He commented that he had heard from some people in the USGS that Coeur d'Alene Lake is probably the most researched lake in the U.S. He also mentioned that many of the general public have asked when research on the Lake will quit and something be done such as the LMP. Mr. Snider commented that they understand the importance of studies and monitoring, but that it has been going on for years. He feels that we should know whether the Lake is healthy or not, as well as what is going in and going out of it. He does not believe that there should be additional monitoring for the model and suggested that it may be an uphill battle in terms of using modeling.

16) Visit by Governor C.L. "Butch" Otter (State of Idaho): Commissioner Cantamessa welcomed Governor Otter to the BEIPC. He mentioned that the BEIPC was established by the Idaho Legislature and that the Commissioners were pleased to have him stop by. Governor Otter then expressed his thanks and pointed out that the BEIPC is a very unique process across the U.S. in the type of commission it is and its involvement. He thanked the BEIPC Commissioners for serving and the public for their participation. He also encouraged people to stay involved because it is their future as well as the next generation; and that there had been a lot of success. Governor Otter noted that he had been associated with the problem and potential solutions for a long time, first as Lieutenant Governor and then as a U.S. Congressman. He remarked that he was going to help to the extent he can be involved. In addition, he wanted to make sure that the people engaged in the BEIPC stay involved and to encourage the general public to stay involved as it would help the community to reach solutions and form partnerships to help remediate the problems that have been caused in the past. He expressed his appreciation and thanks to everyone, and then introduced the First Lady (Ms. Lori Otter), and members of his staff which included Mr. Mark Compton (Field Representative for the North Idaho Office, CDA), and Mr. Mark Warbis (Communications Director, Boise).

Before departing, he asked if anyone had any questions. A comment was made by Mr. Jim Hollingsworth (Lands Council and CCC member) about the decisions that the BEIPC makes on various issues and that none of the decisions would mean anything without adequate funding. He asked the Governor if he had any ideas about funding and how to fund effective cleanup plans outside the Superfund ROD. The Governor suggested that conceptually, we are going to have to look back upon the participants in the funding mechanism. He said that the State will certainly do what it is capable of doing, but that we may need to look at who did the damage and who is going to get the benefit. If the State is going to get the benefit in general, he feels that the State will need to look at broader based funding as there is only so much funding possible. Governor Otter also suggested that in order to set a standard of responsibility for not only past sins, but present or future ones; he feels that we will need to look to the responsible parties for the remediation help. Hopefully we can, but conceptually this is the only thing he can tell him.

After a few additional comments, Governor Otter thanked the BEIPC before leaving the meeting. Commissioner Cantamessa also thanked the Governor for coming and for providing Mr. Compton's assistance in the Governor's North Idaho office.

17) CCC Comment and Presentation (continued): Mr. Snider resumed his presentation on the CCC comments he discussed earlier. He suggested that what Commissioner Currie was trying to get across is that the counties want to be involved in the LMP process per the MOU agreement that was signed (in 2004) by the State, counties, and other stakeholders. He indicated that the CCC and others feel very strongly about this involvement, and that he believed we are going through the same thing that has been going on since 2004. He suggested that if the counties are not involved in the LMP as agreed to in the MOA, then he feels the State has broken its agreement with the counties. He also feels that the MOA does not mean anything because the process is going the same way as before. Mr. Snider said that if his perception turns out to be wrong, then he will apologize. However, he pointed out that the counties believed they would have a seat at the table. He suggested that there may not be buy in, or there may be resistance to the LMP if the counties are not included at the table.

In conclusion, Mr. Snider reiterated that the counties are expecting to have a seat at the table and suggested that he may be getting lots of emails from people on this issue. He also brought up that he received an email from Ms. Ruth Spencer that was specific to the human health PFT and was highly political. He asked Mr. Rob Hanson (IDEQ) if he had received a copy and commented that he hoped the PFT would keep people informed. At the end of his presentation, he thanked the Basin Commissioners for their time.

Mr. Jim Hollingsworth asked Mr. Snider if his comments about some of the resistance he anticipates on the LMP (if there is not full participation by the county), were his own opinion or unanimous of the CCC. Mr. Snider answered that some are his own opinion, but the others come as a result of the MOA because the stakeholders want to be involved at the table and are expecting to be. Otherwise, he suggested that they will not be happy.

Before moving on to public comment, Commissioner Cantamessa thanked Mr. Snider and Mr. Jerry Boyd for their services to the CCC.

18) Public Comment on LMP Work Plan Section and New Five-Year Work Plan: Ms. Rebecca Stevens (CDA Tribe) thanked the BEIPC and reminded everyone about the work on the Lake audit assessment that she and Glen Rothrock (IDEQ) are doing. She said that they have met extensively with the counties, their departments and some of the Commissioners to gather information for the action tables on the LMP. She commented that this was very effective involvement, and suggested that we are all involved whether people know it or not.

Ms. Toni Hardy (Citizen & CDA Lake Property Owner) said that she wanted to make a comment related to what Mr. Snider and Mr. Hollingsworth talked about. She said that there is a group of landowners in Harrison who believe they are neglected and left out as they are not necessarily represented by the Lake Shore or River property owners. Ms. Hardy indicated that some of them have docks and front yards in railroad right-of-ways (ROW's) and that this may affect the management of the LMP. She reiterated that she feels they are consistently left out and that this

is inexcusable. She brought up that they are concerned about their land and some of them choose to keep portions undeveloped. Ms. Hardy noted that some of the county commissioners are trying to help, but commented that the Tribe is not their sovereign and should not be representing them on the LMP. She added that they need to have a voice because she feels they are not represented, and asked when someone will admit that.

Mr. Rusty Sheppard (Spokane River Association) said that Mr. Snider had covered their point of view, but that he would like to emphasize that their group is disappointed with the State because they feel it has violated the MOA by the county not having full involvement in the LMP. He suggested that when you make an outline you are ensuring what the content will be. They believe that Kootenai County should be represented in any discussion concerning an outline for the LMP. In addition, he said that Kootenai County has more land, and land usage, problems than the State will ever have, so they really should be involved. They do not feel that the State is acting in good faith when it dictates what the content of the outline of the LMP document will look like.

Mr. Jim Hollingsworth (Lands Council and CCC member) commented about Commissioner Buell and various other people in knowing where they stand. He also made reference to a man's handshake being as good as his word. He said that he used to be a real estate broker and is familiar with buyer/seller clauses. Mr. Hollingsworth mentioned that there used to be a "weasel" clause for people trying to get out of their contracts; and that it seemed to him that in the MOA, we will not be part of the ROD if we agree to do the LMP. He feels that this contract has "weasel" clauses all over it because there are no timelines, no enforcement, etc. and that people have been waiting a very long time. He also brought up the issue of funding and indicated that a LMP may not be implemented because we do not have the funding.

In addition, Mr. Hollingsworth discussed some of the bullet points for Section 1.9 (Lake Management Activities) of the work plan. He asked where the bullet point was for moving forward with funding and proposed that the County and State work together on this issue. Mr. Hollingsworth pointed out that Mr. Spafford's comment (referenced by Mr. Snider in the CCC presentation) was good about the local authorities not having to wait for the LMP in order to work on other activities. He commented that actions speak louder than words and reiterated that there has been lots of delay on the LMP.

Mr. Dave Fortier (BLM) indicated that he was speaking on his behalf as a citizen. He said that he was a little concerned about the rhetoric going on and that he was confused by the counties and such in regards to the LMP. He pointed out that the State and Tribe have to present the plan to EPA. He brought up that usually an outline is prepared by staffers and then everyone gets to comment on it. Mr. Fortier emphasized that the State and Tribe are trying to put out the first draft of the outline in order to move the LMP process forward as they are the ones who have responsibility. He does not see the State putting up any roadblocks and does not understand why the counties are having problems unless it may be miscommunication. He suggested that staffers usually do the first outline in order to get the process started and encouraged people to wait for the opportunity to comment before making an issue of it.

Mr. Rog Hardy (Benewah County TLG) indicated that he was speaking as a citizen and wanted to make a quick comment on Mr. Fortier's remarks. He suggested that the issue for people (who have been involved for a long time) and their frustration is that this has been a recurring pattern with people meeting behind closed doors, lip service and not really listening. In addition, he feels that not everything gets into the meeting summaries. He said that he does not know if that is the road we are going down now, but that it sure appeared that way to him. As examples, he suggested the Union Pacific, East Mission Flats repository and Carney Pole issues and that it seemed that some things have gone on behind closed doors. He then commented on Mr. Hollingsworth's question to Mr. Snider about the opinion of the CCC. He suggested that he believed that people would appreciate the fact that the CCC is made up of people representing citizen groups or developers and that there is very low "grassroots" participation on Basin issues. He indicated that it was difficult to talk about the grassroots opinions because he believed that most people do not understand the issues unless it affects them. He said that the CCC was set up as a structured process by the BEIPC's MOA originally by the State. Mr. Hardy believed that Mr. Snider's previous participation in the CAC (Citizens Advisory Council) was much more a grassroots participating situation.

He also brought up the CWA process and said that it outlines the process for federal and state government's waters along with the other entities that have responsibility (i.e. watersheds, etc.); and that he believes that a lot of work on these issues has been done behind closed doors. He also said that he had commented previously that another source of funding is the Union Pacific because they are in the Lake and suggested that this solution may be revisited if people want to.

Ms. Toni Hardy said that she wanted to mention that Governor Otter suggested that the entire community (i.e. general public) needs to be involved. She indicated that the general public in this community is generally the special interest groups (i.e. Lands Council, Lake Shore and River property owners, etc.) and that she believed these groups are not the general public.

19) BEIPC Board Discussion and Vote on LMP Section and New Five-Year Work Plan: Commissioner Buell suggested (that in regards to what the BEIPC Commissioners and Commissioner Currie was saying), that he believed the counties have been somewhat involved as Ms. Fransen (IDEQ) had even been to Benewah County. He recommended that what needs to be done on this is for the State to start keeping the counties on board with everything throughout the whole process. He does not feel that it is right to separate the process out and suggested that there may be problems at the end and then possibly have to start the process over. He believes that the process can work if it is not held behind closed doors because it should be open and everyone should be aware of what is going on.

Commissioner Cantamessa asked Mr. Harwood to give a synopsis of the language in Section 1.9 for the BEIPC so that it could be voted upon. Mr. Harwood suggested that the BEIPC vote on the two issues separately. Mr. Cernera brought up that everyone is frustrated with the LMP process, but urged people to give it time. After various discussion by the BEIPC Commissioners on Section 1.9, Commissioner Cantamessa said that he wanted to talk about the public's right to be there for the LMP process.

Commissioner Hardesty said that she wanted to speak on behalf of the State and clarify for the record that the State is not violating the MOU, as they want to ensure that everyone has an opportunity to comment throughout the process. She said that the LMP process has not even started yet, but suggested that the State has been tried and convicted because a lot of people have already made up their minds. Commissioner Hardesty encouraged everyone to please give the process a chance and suggested that people focus on the content in the LMP rather than the energy in the process. Commissioner Buell reiterated his previous comments that everyone needs to be involved in the process in order for it to work.

Commissioner Cantamessa indicated that the intent of Section 1.9 was to bring back into the plan the BEIPC's involvement in the LMP process as this section was removed at the November meeting. Mr. Cernera brought up that he wanted to expand about the intent of Section 1.9 and that it was added to describe the BEIPC's activities in lake management in general, rather than just focusing on the LMP involvement process. Commissioner Cantamessa acknowledged that this was a good point.

Commissioner Currie made a motion to approve Section 1.9 for the annual plan as well as the five-year plan. The motion was seconded by Commissioner Miller and approved with six votes in favor; and one vote abstained (Cernera).

Before voting upon the next item, Mr. Cernera said that he had a few questions on the five-year work plan. Regarding Part 1, page 2, under Superfund and other cleanup funding, he indicated that there was a bullet (#3) about the Basin Contaminant Management ICP. He asked Mr. Harwood if this was inclusive of the work for contaminant management outside those areas not in the remedy, or for the Lake which is carved out of the remedy. Mr. Harwood answered that the Basin ICP starts at the mouth of Harrison and that the BEIPC directed him to form a contaminant management PFT to work on issues around the Lake and down the Spokane River where contamination has come to lie. He said that this does not mean that the PFT is going to come up with an ICP for the Lake and indicated that the PFT is still working on this.

Mr. Cernera said that he understands, but in Table 1.1, that it further describes under scope, to consider the need to manage contaminants outside OU-3, the Basin ICP administrative area. He believes that this would mean Coeur d'Alene Lake and asked for clarification if the Lake was part of the discussion. Mr. Harwood responded that it would include the Lake (i.e. where contamination has come to lie). Mr. Cernera mentioned that this raises a legal issue because you may not use Superfund funding when it is not part of the remedy; and that Coeur d'Alene Lake is not part of the remedy. Mr. Cernera said that he wanted to raise this question to the EPA, for expenditures of Superfund funding for the Lake. He commented that the Tribe would like to have the EPA spend funding for the Lake, but that the Lake is carved out of the remedy. He suggested that this should cause the EPA some concerns. Mr. Harwood said that he did not understand why Mr. Cernera was bringing this issue up because it did not say Superfund funding. He explained that it said other cleanup funding and that this could mean State or other funding. Mr. Cernera suggested that he still had a problem with the language because it was under the Superfund section and he would not like it to be codified if there were legal issues.

Mr. Harwood explained that the State is spending funding on cleanup which is not all Superfund. Commissioner Miller indicated that there may be a concern with the language, but suggested that the title of 1.1 may be changed to something similar to implementation of the ROD rather than inclusive. Mr. Harwood said that he understood what she was saying. Another suggestion was made to eliminate the words “of the ROD”. Mr. Cernera brought up another item on page 3, bullet (#3) regarding lead agencies for waste management under contaminant management and said that he had suggested at the last meeting that the Tribe be included under lead agencies. Mr. Harwood indicated that he would add the Tribe.

Mr. Cernera also mentioned that on page 7 under EMF repository, it said that the repository would open in July 2007, but that the expected design is not anticipated until 2008. Mr. Harwood explained that this was correct because they were going to start hauling waste to the repository in 2007 as they could not wait until 2008 because they have to start hauling Lower Basin ICP waste on July 1, 2007. Mr. Harwood clarified that it should be minor volumes. Ms. Angela Chung (EPA) added that there would be an operational plan for the small amount of waste generated and that the full design for full capacity would be completed next year. Mr. Cernera asked if it would be hydrologically isolated. Ms. Chung indicated that armoring would be part of the discussion and taken into account as the issue had been raised by the public.

Mr. Cernera then brought up page 14 and asked for clarification on Lake monitoring for water quality studies. He explained that all of the monitoring had been done and that it should be refined in the scope that the final report would be drafted. Mr. Harwood indicated that there was some misunderstanding as the language listed was the original language proposed. He stated that the reason for this is because when he tried to update each year’s scopes in the past or tried to remove projects that were completed, people did not like this as they wanted to see all of the projects listed for each grant year. He suggested that if people wanted an update on each project, then they should look at the annual accomplishment report. Mr. Harwood said that he agreed to do it this way because some people believed that projects were being dropped and they were concerned. Mr. Cernera suggested that Mr. Harwood list the scope as the original scope. Mr. Harwood explained that he asked the sub-grantees to provide him with an update for the annual accomplishment report each year and that it would be onerous for them to provide updates for each work plan. Mr. Cernera commented that this seemed odd to him, but that he would see what the vote says.

Mr. Pfeifer made a motion to amend the five-year work plan with the inclusion of Section 1.9 Lake Management Activities that was just approved by the BEIPC and in so doing make the editorial changes that were discussed, specifically changing the table title of Table 1.1 to Summary of Activities and striking “Proposed for Implementation of the ROD for 2007-2011”; and adding the CDA Tribe under lead agencies for the Basin Contaminant Management ICP; and changing the title line of Table 2-1, the heading from “Scope” to Original Scope. Commissioner Hardesty seconded the motion; and it was approved with five votes in favor; and one vote abstained (Cernera).

20) Report on Basin Infrastructure and Flood Revitalization Plan: Mr. Harwood gave an update on the Basin IRP (Infrastructure Revitalization Plan) that was funded out of BEIPC funds last year. He indicated that the contractor (TerraGraphics) provided an inventory of all the

infrastructure and maps for the Upper Basin communities. Mr. Harwood then met with the community leaders and utility representatives in April to discuss infrastructure needs. He said that the meeting was very well attended and that the communities really appreciated this as some of the infrastructure is in pretty tough shape. The next step will be to meet with the communities involved to discuss priorities. Once the list is developed, a final report will be completed to seek grant funding. In regards to the Flood Revitalization Plan, Mr. Harwood said that the EPA funded the work for this project and that an inventory is being made of all the drainages and possible flooding concerns. The next phase will be to evaluate the concerns and determine what the problems are in order to seek funding to do the work.

21) Report on Blood Lead Issues: Mr. Rob Hanson (IDEQ) made a presentation on blood lead issues. He passed out handouts and also provided some background information on PFT activities. Mr. Hanson explained the two reasons why blood lead testing is being done on children in the Silver Valley which are:

- To do health intervention for children; and
- To help evaluate the effectiveness of the remediation work being done.

Mr. Hanson mentioned that they are getting a low turnout (10-15%) of children for testing as parents are reluctant to bring their children in because they do not feel this is a problem. He indicated that blood lead levels have dropped significantly over the years due to the Superfund cleanup and yard program. Mr. Hanson said that the PFT has been looking at different ways to get more people involved. They want to continue to support the \$20 incentive by Panhandle Health District and try to decide whether an increased incentive would help.

Commissioner Cantamessa commented that parents do not think it is necessary to have their children tested because of the remediation work going on; and that he also does not feel it is necessary any longer for his six grandchildren. He suggested that if the local doctors believed there was a problem, they would be doing more testing.

22) Open Public Comment Session and Wrap Up: Mr. Hollingsworth commented that a lot of people spent a lot of time discussing Section 1.9 of the LMP and then voted upon it, and that he believed means nothing. He pointed out that a lot of the lake management activities are already in place and that it does not make any difference whether you vote on them or not. He suggested that what the BEIPC voted upon today was that they were not going to take any action. Mr. Hollingsworth also noted that what he was trying to suggest earlier and was misunderstood, was that Section 1.9 should be brought back at the next meeting to be voted on. Then EPA could have their own bullet point about what they are going to do. He feels that they should be the ones to decide, and that the State and counties should do the same. By doing this, Mr. Hollingsworth believed that this would proactively help to move the LMP forward. However, he reiterated that he feels they did nothing and lost their opportunity today.

Mr. Harwood said that he wanted to reply to Mr. Hollingsworth's remarks that the reason there was nothing in the work plan for the LMP was because the BEIPC had voted to leave it out of the work plans at the last meeting with instruction to work on the LMP section for presentation at

the next meeting. He explained that the BEIPC has now accepted a LMP section for the work plans and voted to be involved in the LMP process.

Mr. Brian Spears (USFWS) commented that as a member of the CDA Basin Natural Resource Trustees Council, they recently finalized an interim restoration plan for the CDA Basin NRDA process. He indicated that they should start spending NRDA settlement funding for natural resource assessment damage restoration.

Mr. Cerner said that he wanted to add to Mr. Spears comments on the Natural Resource Trustees, and mentioned that (as everyone knows) they have been involved in litigation with the PRP's for a long time. He indicated that they have been in the liability phase for who will be liable and that they will be moving into the damage phase. He brought up that Asarco is bankrupt, but wanted to comment on Governor Otter's remarks suggesting that the people who should be responsible for paying are the PRPs. He commented that if the Governor is suggesting that PRPs be held accountable, then one mining company that is a PRP is Hecla. He suggested that if anyone has leverage, they should try to bring Hecla to the negotiation table because they are now doing very well financially.

Mr. Spears responded that some settlements have been made (10 out of 12 PRPs), but that Hecla has not settled. Commissioner Cantamessa suggested to Mr. Cerner that his comments were probably not an appropriate issue for this group. He suggested that going after the people who created the problems (PRPs) is not as simple as it sounds. Commissioner Cantamessa said that it sounds simple, but in a lot of cases you have examples like Asarco that have gone bankrupt and you still have the problems, but no money.

Mr. Rob Spafford (CDA Tribe) said that he would like to make an observation on the LMP and final process. He indicated that he has seen some positive actions by the counties who are taking a good look at site disturbance ordinances and he sees a grassroots effort to work on stormwater erosion control and an effort by the Panhandle Health District to work with one of the counties on septic tank systems and perhaps some investigation into water quality. He suggested that people are doing good things and that the doors may open soon. He encouraged people not to be distracted by the process.

23) Adjourn: Commissioner Cantamessa thanked everyone for coming and adjourned the meeting.