

**BEIPC SPECIAL PLANNING
MEETING/WORKSHOP MINUTES**

Basin Environmental Improvement Project Commission
October 5, 2012, 9:00-11:30 a.m.
Templin's Resort, 415 E. First Avenue, Post Falls, ID

Attendees:

Mr. Terry Harwood (Executive Director)

Commissioners Present:

Mr. Jack Buell (Vice-Chair)
Mr. Jon Cantamessa (Chair)
Mr. Phillip Cerner
Mr. Curt Fransen
Mr. Dan Green
Mr. Grant Pfeifer
Mr. Dan Opalski

Alternates Present:

Mr. Rob Hanson

Staff Present:

Ms. Jeri DeLange
Mr. Dave George
Ms. Rebecca Stevens

1) Call to Order/Welcome: The BEIPC Chair, Commissioner Jon Cantamessa (Shoshone County) welcomed everyone and called the meeting to order at 9:05 a.m. He noted that the special planning meeting was a workshop session and would be handled a little differently than a regular BEIPC meeting.

2) Approval of BEIPC Meeting Minutes from August 15, 2012: Commissioner Cantamessa asked if there were any changes or corrections to the minutes. Mr. Terry Harwood (BEIPC) explained that there were updates for the minutes and provided copies of the corrections. Commissioner Grant Pfeifer (State of Washington) noted two corrections on page 9 in the second paragraph. For the second sentence, change the words "exception" to *expectation* and "commissions" to *conditions* so that the sentence reads as follows: "*Then you keep looking at the inputs and seeing if you can make adjustments with the expectation that as conditions change, EPA is going to try and make appropriate decisions and revisions to all of that.*" Commissioner Dan Green (Kootenai County) made a motion to approve the minutes as corrected. The motion was seconded by Commissioner Pfeifer and unanimously approved.

3) Announcements: Commissioner Dan Opalski (EPA) mentioned that this will be his last meeting on the Basin Commission. He then introduced Mr. Rick Albright (EPA) who will be replacing him as the alternate BEIPC Commissioner. Commissioner Cantamessa welcomed Mr. Albright to the BEIPC.

4) Presentation of Implementation Plan and Budget Spreadsheet for 2013-2022 for the Bunker Hill Superfund Site: Before starting his presentation, Mr. Bill Adams (EPA) indicated that he wanted to use this opportunity to hear from everyone. Then he provided an overview about the implementation planning which includes EPA high priority projects and human health related cleanup, water treatment actions in the Box and Basin, source area cleanups (human health and ecological), progress in the Lower Basin (modeling/pilot), and coordination on cleanup/restoration actions.

As the ROD Amendment does not have a priority scheme, Mr. Adams spoke about the purpose of the implementation plan (IP) which is to identify priorities and lay out the vision of work for the next 10 years and the general strategy to begin those actions. The costs are subject to variability. EPA planned to have the IP completed the same time as the ROD Amendment, but they are behind a few weeks. It should be completed for the November BEIPC meeting and will explain how the adaptive management process will work to evaluate and modify cleanup approaches. The IP will be reviewed on an annual basis and there will be an addendum for any changes. Then every five years, there will be review of addendums.

Some of the major work identified for 2013:

- Remedy protection design and construction;
- Property remediation;
- Repository design/construction of Lower Burke Canyon Repository (LBCR) and Page expansion;
- Design of water collection treatment in the Box;
- Design of Central Treatment Plant (CTP) upgrades;
- Data collection/identification of pilot projects in Lower Basin;
- Basin Environmental Monitoring Plan (BEMP) monitoring;
- Effectiveness monitoring at some of the mine and mill sites;
- Design/construction at Interstate Callahan and Ninemile Waste Consolidation Area (WCA); and
- Roads strategy – construction work in the Box and Basin (i.e. gravel and paved).

Mr. Adams said that EPA is looking at spending about \$30 million for work next year. This year's work included a lot of money going into the property remediation program, but EPA will be pushing some work over to the Trust. However, the Trust is not ready at this time to take on \$25-\$30 million of work. He then reviewed EPA's 10 year goals which include completion of the property remediation program, roads program and remedy protection projects. For water quality work, the CTP upgrades and groundwater capture treatment are the highest priorities.

5) BEIPC Commissioners Discussion on Implementation Planning: After the presentation by Mr. Adams, the Basin Commissioners discussed some of the following issues including:

- Funding priorities;
- Philosophy for developing the IP;
- Transitioning some work over to the Trust;
- Special Account (SA) funding and ensuring there is enough left to do work in the Box;
- Growth potential of the Trust investment (without shrinking the Trust);
- Limitations on future appropriations from EPA Headquarters (HQ);
- Possibility of a better return on investment with the current lower construction costs (i.e. much higher percentage of work completed to get the most 'bang for the buck');
- Addressing larger properties in the Lower Basin for the property remediation program;
- Prioritization of work (human health versus ecological); and
- Remedy protection and roads program.

Break

6) BEIPC Staff and Public Discussion: Ms. Rebecca Stevens (CDA Tribe) expressed appreciation for the discussion and indicated that it's good for the staff and TLG. Regarding the Lower Basin (LB) work and the situation with the SA and Work Trust, she inquired if the EPA and the Trust have discussed prorating any of those funds into a separate account to gain some interest over the years to secure that there will be funding for LB work. Mr. Adams replied that there are a few sub-categories (work account, property account, and one for working with the Natural Resource Trustees), but they have not talked about separating that money out. The only thing that they are thinking about is trying to keep track (accounting wise) for the work they do related to O & M of various projects, but they have not talked about setting up separate accounts.

Mr. Dave George (WA Dept. of Ecology) raised a question in respect to the Trust. The State of Washington's concern is not only in the Lower Basin, but also Canyon Creek. In looking at projected estimates for the actions that would be implemented there, they know that it will be dependent upon funding. Their concern is that there may not be any funding available depending upon how things work out financially. Other than a separate account, he asked if there was any minimum threshold for funding that would be left in the account, so that if you reach that certain level it would modify the work on other actions. Then there would still be funding remaining to implement the actions for Canyon Creek and the LB.

Mr. Adams replied that they looked at several scenarios going up to 20-25 years and the percentage of interest earned as to what you are going to be using. So if the Trust is performing in terms of the money it earns, you are doing the work with the caveat that you have a minimum amount that you going to use. Then if the Trust is not doing well financially for several years, you keep spending at a certain rate. Establishing the spending based on how well the Trust is doing makes a lot of sense to him and enables you to eventually get to all those projects, but at a slower pace.

Mr. David Fortier (Citizen) clarified that he was making personal comments and that they were not associated with any of the other groups he belongs to. First, he brought up the SA (Hecla dollars) and said that he went and testified at the court hearing about the settlements. One of his big concerns then was that all the money would be spent in the Box and that it would not address all of the contamination that went into the Lower Basin and stream drainages. The other thing is that you are taking these monies and spending it on one little portion of damage that Hecla had a part in, but there are all these other areas that you are not using that money for. You are saying that you're going to redirect it out of the Asarco settlement because you cannot use that money in the Box. He indicated that the court's response to him was that the court did not have any way of saying where the money would be spent and that it was up to the EPA, State of Idaho, and the other people that were receiving the money. So what he was very much afraid of then is now occurring because it sounds like they are talking about spending all the money in the Box. He can see from a physical standpoint why they are doing it, but he feels that it does not create the fairness for what that settlement was for. It was for all of the other damages; and we need to go and take care of those problems. He is advocating using the money in part to get the work done and offered several suggestions such as setting targets, allocating the money, etc. as well as some better accounting to help show where the three quarter of a billion dollars is going to be spent and where the needs are.

Mr. Fortier also commented on the need to have some commitment and assurance for the people in the LB as most of the efforts and communication were tasked in the Upper Basin (UB) because the human health risks were focused there. The people in the LB do not understand the health risks as well as the people in the UB. He has attended many meetings in the UB as far back as the 1980s about the human health risks and what people need to do, but some people in the LB have not heard anything. He said that there has also been discussion about the need to come up with a new strategy for the property remediation program in the LB and he thinks that the people in the LB should have a little bit of say in the strategy. At the last Lower Basin Collaborative (LBC) meeting, he mentioned that one of the city council members from Harrison said that they did not feel adequately informed.

For the LBC meetings, Mr. Fortier conveyed that Ed Moreen (EPA) has done a great job making presentations about the LB, but that EPA does not want to work on developing strategies now until their consultants are done. Mr. Fortier would like to find some more ways on how people can provide input, rather than waiting until the consultants are done with their ideas and then the public is asked to comment. He would like to improve the process and thinks that we need to have better discussions about what work is actually going to be done in the LB. In addition, he believes that people do not want to be doing this cleanup for the next 90 years, so we need to get the human health issues solved now as best we can. We need to protect the people in the Silver Valley and the LB, and we need to get it done sooner than later because human health benefits are something you don't want to try and account for 40 or 60 years down the road. He thanked the BEIPC for their time and consideration.

Commissioner Cantamessa remarked that he would urge those people in the LB who have not been involved to try and engage with people from the BEIPC and the UB to get some of their knowledge instead of trying to recreate the wheel in the LB.

Mr. Bill Rust (Shoshone TLG Rep.) wanted to add to some of Mr. Fortier's comments and other issues. He has been involved in this process for a long time. One problem that came up at the last LBC meeting is the issue of what really are the human health risks in the LB. The Human Health Risk Assessment (HHRA) was done in 1991 for the Box. However, it was not really redone for the OU-3 interim ROD. At that time, there were a lot of arguments about the risks. He indicated that there are a lot of comments in the National Academy of Science (NAS) review regarding what some of those risks are. There was concern about contamination in the road shoulders, so they rolled in 50 million dollars in the OU-3 interim ROD to do cleanup work. In the original HHRA, they were looking at children and how much risk a road shoulder is (that is not next to somebody's house) to a 4-year old child. If the child is out in the road, they are at more risk from being injured than from any lead contamination that may be in the road shoulder.

He knows from what is being done for remediation in the UB that it has drifted quite a ways from what it was originally. Now EPA and IDEQ are saying that maybe they need to dial this back, but you've spent several years beating the drum about how risky it is. He thinks that you are going to need to look at the science and come up with some scientific justification for this. Otherwise, you are going to get a lot of comments about the work that went on in the UB and now you come to the LB and say there is not a problem. So is there really a risk? He would recommend that you think about that as you come up with these different strategies. He suggested that you can look at the NAS review as they agreed that EPA had done it like they were supposed to do, but there were a lot of recommendations for human health on more extensive blood lead testing to get a better handle on what the real risks are. He thinks that if you don't do this, then the human health remedy will essentially consume all the money.

Ms. Bonnie Douglas (LBC and CCC Member) said that she has been involved in the BEIPC process for a number of years. Previously, there was a lot of work done by the Recreation PFT on surveying the recreation sites and a lot of momentum. Then the Recreation PFT was rolled into the LB PFT and it seemed that everything came to a halt because the agencies were doing studies. From a citizen's point of view, she wants to see action in the LB. She learned that 80% of the sediment that flows through the CDA River is picked up between Cataldo and Harrison and saw EPA's photos of the plumes of sediment coming into CDA Lake during flood events. She commented on what's happening to the swans and wildlife in the LB and that we know there are kids playing in certain areas that get elevated blood lead levels. She is concerned because the national blood lead standards have been lowered, but we are still reporting blood lead levels at 10 μ instead of 5 μ which is the recommendation of the Center for Disease Control (CDC).

Ms. Douglas added that there are a lot of things going on in the LB and more awareness than in the past. She feels that we need to get up-to-speed and proposed that work be done on recreation areas where children may be exposed to contaminants. She knows a child with an elevated blood lead level, but since it was not 10 μ , there wasn't any crisis. But the parent said the child played a lot at the beach, so she tried to find out some information. After looking at some photos of the CDA beach flooded up to the seawall in 2008, she asked if the beaches had been tested. She emphasized the need to do work in the LB to help reduce the amount of sediment that is flowing into the Lake. If money is not set aside for this, then you are doing a big disservice to the people of North Idaho and the communities between Harrison to CDA Lake. She feels that we need to move public input further up in the process and that it be broader based; and suggested that it's

not appropriate just to have input into the CCC because the CCC is the last thing that happens. She indicated that the EPA has a lot of good information about the LB already, but they continue to do studies. She has heard from many people that they want EPA to have good science, but they also want to see some action in the LB.

Mr. Jerry Boyd (CCC Chair) said that he is also concerned about the LB. He indicated that he was not sure what Ms. Douglas meant by her comment about the last thing that happens for the CCC as the CCC has been working with the LBC. He raised a question about the funding and if there would be a way to set a reserve for funding some future work that will be needed in the LB before the money is all spent in the UB. This is the main issue that he is concerned about in the LB.

Ms. Stevens mentioned that she had also raised that point. Mr. Adams replied that it is certainly something that EPA could look at again. However, the earnings potential of the Trust is greater if it's not carved into separate accounts.

7) BEIPC Commissioner Discussion: Commissioner Green said that he does not think setting aside money will affect the earnings potential of the Trust too much if you are carving out 20% of the full amount. He said that it may be an accounting issue and suggested some sort of designated account.

Commissioner Curt Fransen made some observations from the State of Idaho. For the last 20 years, the State and mostly everyone involved in this process has been focused on human health and it obviously needs to continue. That needs to be the first and foremost priority whether it's in the UB or LB. He does not think we can gamble in the way we spend the money to bet on the outcome that there may be future appropriations to take care of human health concerns. He thinks those have to be addressed regardless of investments or betting whether there is going to be appropriations in the future. If there are human health concerns, they need to be addressed.

For the remainder of the funds, the work needs to be prioritized based on where we get the best results. That should be whether it's UB or LB. He does not think it makes much sense to reserve a certain percentage of the money for the LB versus the UB. It's an artificial way of doing things as we don't know what the relative priorities of those are based on what kind of 'bang for the buck' we can get. We have to prioritize human health first. Second, prioritize ecological work based on the most 'bang for the buck' for the entire system; and third, he thinks it's important to look at the investment scenarios and pick an appropriate spending level. He's not sure that we want to make adjustments every year. If we do that we are going to spend more time at these kinds of meetings, and more time and process in having the contractors re-analyze and come up with new implementation plans. He thinks that we need to pick a reasonable scenario and go forward for a reasonable period of time and then reconsider over the long period (i.e. five or ten year increments).

Commissioner Phillip Cernera (CDA Tribe) responded to Ms. Douglas about some of the sampling that had been done on CDA Lake. He remembered back in the mid-1990s, that he sampled a lot of beaches along with EPA that included Harrison and the beach in CDA at Independence Point and other spots along the Lake. The only beach that was hot was in

Harrison. However, he indicated that it's not to say the beaches today may be in a different situation because we subsequently had the big 1996 flood. The Tribe and State have been out at a couple of sampling events and he knows that the State of Washington was involved in some sampling of the Spokane River. Some of the sampling results indicated recontamination after 1996 and in 2008. There was some hot material on Cottonwood Bay where the Tribe has an encampment. So there was some comprehensive sampling early on which led to the placement of the signs originally, but since some of the floods, there has not been any comprehensive study done.

Commissioner Cantamessa said that he thinks we are coming into a very important time for the Basin Commission in this process. The money from the Asarco Trust is a few years old, but the Trust is just getting to the point where they are actively ready to do something. The Hecla money is brand new and the parties involved are in a position to accomplish things. He thinks that we all have the same goals in that we don't want to spend the money all at once. We want to spend it effectively and efficiently. He hopes that this Commission is very much involved and he thinks that the BEIPC keeps the public involved, even though it's not a perfect circumstance, but it's a lot better circumstance than in other areas of the country. He looks forward to this opportunity.

Commissioner Cantamessa also remarked that he thinks his focus would be the one-year and five-year plans and getting into more of where we are spending the money, prioritization of work, and what our expectations are. Sometimes you can get really involved in the planning process and come up with something that you really wanted to do, but what is it going to do for us in the end? What is the expectation of the benefit to public health, or the benefit to the community and environment, and how do we make sure that we are getting the most 'bang for the buck' for the money that we are spending? He indicated that Commissioner Fransen is right that human health is a major priority and he is also right when he talks about 'bang for the buck' in that we want to make sure that when we spend this money, we have really benefited the community.

8) Public Discussion: Ms. Stevens brought up the Contaminant Management Plan and said that it ended up being dead in the water because of the jurisdictional boundaries and authorities for the recreational sites that had deposited material on them. When people who live around CDA Lake want to do any work on their bank and find out that the material is hot, there is no place to take the contaminated soil as there is not any strategy or guidance on contaminant management. As the TLG chair, she would ask the BEIPC if maybe we could revisit this issue over the next year. It's really an important issue and no one wants to touch it because it becomes a political issue. She noted that the various authorities for those recreation sites in the LB belong to the land manager. If there is deposited material at a recreation site, Jerry Cobb (Panhandle Health District) will send a letter. Some of the land managers take care of this and clean the site off, but that's it as there is no strategy, or funding to do it.

Commissioner Cantamessa replied that he thinks it's a great suggestion and wants to follow it up. He does not think that it becomes much of a political issue if you can somehow bring common sense into the process, but it's difficult to do. The BEIPC could help in the process. He

mentioned Jerry Cobb and said that he has been managing contaminants in the Silver Valley for 30 years.

Mr. Harwood said that if the commissioners want, he can revisit the Contaminant Management Plan. Previously, there was a special PFT that he headed up. However, he could not get the PFT to agree on what the recommendations would be because politics got involved in it. So, he wrote his recommendations and gave them to the BEIPC anyway. He still has them and the results of the PFT's activities. Commissioner Cantamessa suggested that in most cases what is being done with the ICP in the Silver Valley is adequate for the LB.

Mr. Fortier commented that he thinks we need to revisit the contaminant management plan and suggested that it may need to be expanded and viewed in a different light. He also proposed that the concept of the contaminant management plan could possibly be built into the ICP.

9) Discussion of the Preparation of the BEIPC Annual and Five-Year Plans in Coordination with the EPA Implementation Plan for the November 7 BEIPC Meeting: Mr. Harwood provided an overview of the process for the BEIPC annual and five-year work plans and said that the draft plans will be presented to the TLG and CCC on October 17.

10) Other Discussion: Ms. Sandy Patano (Citizen) inquired about EPA's job training program and asked for an update on how many people were hired and how much the program cost. Ms. Rene Gilbert (Community Liaison to the EPA) responded that there were 20 candidates in the program and 17 who graduated. To date, there have been 6 graduates placed in remediation jobs with contractors in the Silver Valley. She did not have the figures for the cost.

Commissioner Cantamessa said that he would like to see some information on the cost. Ms. Patano asked if EPA partnered with North Idaho College (NIC) or the Dept of Labor for the job training, or if they just used federal dollars. Mr. Adams (EPA) answered that he did not have the numbers with him today for the costs. He indicated that some of the money went to the contractor who helped with the organization and provided the training. Other money went to some of the local entities that helped with the training and he can provide those costs later.

11) Adjourn: Commissioner Cantamessa adjourned the meeting at 11:31 a.m. and thanked everyone for coming.