

# 01-27-10 Citizen Coordinating Council Meeting

Avista Utilities Building, 6:30 PM to 9:00 PM, Kellogg, Idaho

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## ***Attendees (who signed in and/or announced themselves)***

Jerry Boyd	Dan Meyer
Linda Boyd	Ed Moreen
Julie Dalsaso	Andy Mork
Jack Domit	W.C. (Bill) Rust
Denna Grangaard	Rusty Sheppard
Terry Harwood	Amy Wheelless
Kenny Hicks	Vera Williams
Laurie Jenicek	

## ***Meeting Overview***

The January 27, 2010 meeting of the Citizen Coordinating Council (CCC) of the Basin Environmental Improvement Project Commission (Basin Commission or BEIPC) covered the following topics:

- Basin Commission Updates
- Yard Cleanup: 2009 Season Accomplishments and Plans for 2010
- Repository Updates
- ASARCO Settlement, ROD Amendment, and Lower Basin Enhanced Conceptual Site Model Update
- Communications Project Focus Team (PFT) Update and Discussion of CCC Attendance
- Open Discussion/CCC Issues

CCC Chair Jerry Boyd chaired the meeting.

## ***BEIPC Updates***

### **2009 Accomplishments Report**

Terry Harwood, BEIPC Executive Director, announced that the 2009 Basin Commission Accomplishments report will be available in February. Printed copies can be requested from Terry, or it can be downloaded from the Basin Commission website (<http://basincommission.com/>). This report describes public outreach and citizen involvement in 2009, outlines the 2009 accomplishments for the Basin Commission and involved agencies in the Basin, and discusses the challenges ahead. This report is provided as informational material when elected officials and others visit the Basin.

Included in the report is an overview of the projects funded under the Clean Water Act (CWA) grants. Of the approximately \$6 million in initial funding used for projects in the Basin, there is approximately \$34,000 remaining. Terry said the remaining amount would be spent by the end of June. Two projects are completing monitoring and will submit their reports to close out the funding in the next several months. Final report executive summaries have brief overviews of each of the projects and are posted on the BEIPC Web under "Projects"; if anyone is interested in seeing the full reports, Terry can provide them. Terry also passed around a supplementary

sheet describing special project work accomplishments for 2009. These included assisting IDEQ with construction administration at Sather field and in the construction and operation at the East Mission Flats repository (EMF), and assisting Shoshone County with the preparation of its hazard mitigation plan.

### **Other Updates**

At the November BEIPC meeting, Terry raised the question of whether the BEIPC should take a leadership role in dealing with flooding issues in the South Fork Coeur d'Alene River and Pine Creek because flooding affects the protection of the Superfund remedy and the community generally. The BEIPC Board voted to take a leadership role in the issue.

Earlier in 2008, FEMA developed flood plain maps of the Basin, which assume there are no levies in the Basin. These maps show the Basin being flooded in the event of a 100-year flood, and FEMA requires that all homeowners in the flood plain purchase flood insurance if they seek reimbursement for damage to their property. However, Terry said, there are levies in the Basin, but they are not certified. EPA, BEIPC, and the Idaho Bureau of Homeland Security funded a LiDAR flight of the Basin. Terry related that FEMA said it would update the maps with the topographic data, but that it will still assume that there are no levies, since they are not certified. The BEIPC will be working with state and federal agencies to address this issue and apply for grants to bring the levies up to standard.

### ***Yard Cleanup: 2009 Season Accomplishments and Plans for 2010***

Dan Meyer, IDEQ, provided an update on the yard cleanup operations that were completed in 2009 and the outlook for 2010 for the Coeur d'Alene Basin Property Remediation Program (BPRP).

Dan outlined the following key 2009 accomplishments:

- The 2009 construction season began in late April.
- In July, Idaho received \$15 million in additional funding through the American Recovery and Reinvestment Act (ARRA), to be used over 2 to 3 years for the BPRP.
- Through 2009, IDEQ remediated over 500 properties, with more than 250 being supported by the ARRA funding. This work included a number of large properties, such as Sather Field in Silverton.
- The program remediated a total of 6.5 million square feet of property, which is approximately three times the progress made in 2008.
- The BPRP was able to "cut-and-fill" for many properties, thereby leaving the material in place. This practice kept approximately 26,000 cubic yards from being taken to repositories, thus saving costs and repository space.
- At the peak of work, 335 employees, or approximately 55 full-time equivalents (FTE), were working on the BPRP in 2009.

Dan then described planning for 2010. He said that ARRA funding will continue to support the BPRP, but unless there is additional funding, the rate of property remediation will be more similar to previous years. The program will continue to focus on high risk properties where pregnant women and children are present, and will have a particular focus on the remaining properties in the Upper Basin. He said that approximately 670 properties remain to be

remediated. IDEQ will be conducting outreach and education to property owners to encourage them to be a part of this program.

Basin resident Laurie Jenicek noted that, on larger properties, the BPRP uses spot remediation, and asked why this practice is not done on smaller properties, such as front yards. Dan said that this practice is done on smaller properties, but in a slightly different way. On larger properties, such as fields, the space is broken into ½ acre plots and then sampled within each plot. For smaller properties, the space is broken into its uses (e.g., driveway, play area, front yard), and then sampled within each use space. If the sampling indicates that the property is contaminated, IDEQ works with the property owner on clean-up options for the particular plot or use space.

CCC member Julie Dalsaso asked if there was an opportunity for IDEQ to speak to homeowners about lead-testing when they sample properties. Dan said that the list of high-risk individuals is given to IDEQ by the Panhandle Health District and that they are aware of the lead-testing. For others, they can fill out a form to find out more information about the lead-testing program.

### ***Repository Update***

Andy Mork, IDEQ, provided updates on the East Mission Flats (EMF) Repository, the Upper Basin siting process, and the Big Creek Repository.

#### **East Mission Flats**

Andy said that the EMF repository opened last year and has taken in 26,000 cubic yards of soil. Of that soil, 3,000 cubic yards was clean material used for fill. In November, the site was closed for the season and prepped for winter. The perimeter has been stabilized by riprap and straw waddles, and the entire perimeter of the property is protected by a silt fence so that any material that may erode is captured. The Institutional Controls Program (ICP) entrance is still open, he said, but users need a key card from the Panhandle Health District to get in.

The Enhanced Monitoring Plan (EMP) requested by the EPA Office of Inspector General has been finalized, and is available on the EPA EMF website ([http://yosemite.epa.gov/r10/cleanup.nsf/sites/east\\_mission\\_flats\\_repository](http://yosemite.epa.gov/r10/cleanup.nsf/sites/east_mission_flats_repository)). As part of the monitoring program, one monitoring well was installed in December 2009, and two more will be installed in the coming spring. The OIG has reviewed the monitoring program and said that the plan addresses all of their concerns. Andy related that the OIG has closed the case on the matter.

IDEQ is monitoring the site on a quarterly basis and will be posting the monitoring data on the EPA website. Monitoring at the site indicates that contaminated soils are not leaving the site and are not influencing the groundwater. IDEQ is aware that samples from a monitoring well approximately 1700 feet west of EMF had levels of arsenic exceeding drinking water standards, but this was present before EMF activities began.

A citizen asked about the expected lifetime of EMF. Andy responded that it depends on the funding available for cleanup. While 2009 had a lot of cleanup money, the same level of funding is not expected in future years. If the repository takes in 60,000 cubic yards a year, it will fill in about six years. The maximum final height will be about 30 feet above the valley floor.

Laurie Jenicek asked whether there had been any surface water testing associated with the EMF monitoring. Andy said that, in most years, there is no flow of surface water adjacent to the site except at times of high river flow, and the high flow was sampled during the 2008 flood. When the site is completed, it will be completely covered with riprap or special topsoil and monitored for erosion to ensure that any water that flows around the repository will not erode the EMF embankment.

Laurie asked whether the EMF could be expanded in the future without the question being posed to citizens, as has been the case with the Big Creek repository. Terry Harwood said that he did not think that there would be enough waste generated in the Lower Basin to necessitate expansion of the EMF unless some large properties were remediated. Ed Moreen said that EPA has committed to the current EMF footprint and expected height of the repository. EPA and IDEQ would come back to the community if there was a need for expansion.

### **Big Creek Repository**

Andy said that IDEQ is considering expanding the Big Creek Repository. Without an expansion, he said, the repository will likely be filled in 2010. IDEQ owns the land under and around the repository, and would add waste soil to the north side of the existing repository. Expansion of the repository could allow the repository to store up to an additional 200,000 cubic yards of soil, which would expand the life of the site by two to four years. IDEQ is in the process of drafting design options to evaluate if expansion is technically and financially feasible. Site preparation may begin as early as February 2010 if one of the options seems workable. IDEQ plans to send out emails and postcards to area residents.

TLG Vice-Chair Kenny Hicks asked about the current vegetative buffer between the Big Creek Repository and the Trail of the Coeur d'Alenes to the north. Andy said that IDEQ would try to ensure that there is a buffer, either the existing one or a newly planted one, but it depends on the specific alternative chosen.

CCC Member Rusty Sheppard asked if IDEQ had decided what portion of the new expansion would be dedicated to ICP. Andy said that IDEQ had not determined that yet; Rusty said that determining the size of the ICP portion should be one of the first things decided.

### **Upper Basin Repository Siting Process**

Andy discussed the Upper Basin Repository Siting Process. Initial site identification activities began in 2002; the process to pare down the list of sites to one or more viable prospects began in early 2009. There were two public meetings hosted by the CCC in May and June to identify siting criteria. Elected officials and PFT members reviewed the criteria and performed relative weighting, and then performed numerical analyses of the eight sites identified as potential sites. From this process, two sites were identified as top sites: Osburn Ponds and Star Ponds. Currently, IDEQ is conducting a site development cost analysis for the two sites, including looking at cultural resources, wetlands, site use history, truck routing, and access. Once those findings are in place, IDEQ may proceed with proposing one, both, or neither of these sites for detailed designs. Once the recommendation is available, IDEQ will take public comment.

Kenny asked whether IDEQ had been discussing acquisition of these sites with the Bureau of Land Management (BLM). Andy said that acquisition is one of the remaining concerns. Ed encouraged citizens to contact BLM to let them know that Upper Basin siting is important.

Julie suggested that there be continued public involvement in the Upper Basin siting and that people be notified of the issues early. Andy noted that there has been a great deal of outreach (e.g., public meetings, advertisements, postcards) about the siting process. Kenny said that the public seems fatigued with the issues, but that new outreach staff at IDEQ could help the public get more involved in this process. Laurie noted that she represented seven people that were not able to come to this CCC meeting. Jerry asked that she bring written comments from her contacts for future meetings so that their “written presence” could be noted.

### ***ASARCO Settlement, Upper Basin ROD Amendment, Lower Basin Conceptual Site Model***

Ed Moreen, EPA, provided an update on the ASARCO Settlement, the Upper Basin ROD amendment, the Lower Basin Conceptual Site Model, and the Wallace rail yard consent decree update.

#### **ASARCO Settlement**

In December, ASARCO settled claims nation-wide. For the Coeur d’Alene Basin, this settlement resulted in \$494 million for cleanup. The money has gone into a trust, managed by Dan Silver. EPA is developing a plan for allocating the funds to cleanup but does not expect that any work will be done with these funds in 2010. The estimated cleanup for the whole Basin is (more than) \$2 billion, Ed said, so the ASARCO settlement money needs to be invested wisely. EPA (Angela Chung) will have a longer presentation at the next BEIPC meeting.

CCC Member Bill Rust said that the trustee should come to BEIPC meetings and that people should be able to contact the trustee directly, rather than going through EPA. Ed noted that the trustee is expected to carry out the consent decree via work plans that will be generated through the BEIPC similar to current proceedings.

Kenny asked what portion of the settlement money is set-aside for EPA reimbursement. Ed answered that EPA will receive \$41.4 million.

#### **Upper Basin ROD Amendment**

Ed said that three major documents related to the ROD amendment will be released in the next six months:

1. Draft feasibility study: This will be an evaluation of the options for cleanup, specific to the Upper Basin and water quality in the Box. This will come out on February 1, with a review period open through February 19. Given its size, the main document will not be going onto the EPA website, but an executive summary will. CDs with the study will be distributed to designated libraries in the area and can be requested from EPA (including Ed’s office) or from the Basin Commission.
2. Proposed plan: This is essentially the draft ROD amendment.
3. Record of Decision Amendment: This document lays out the selected remedy and a separate implementation plan will follow.

Opportunities to hear more about or be involved in the ROD amendment are coming up:

- Upper Basin PFT Meeting: February 10 (10-4), Wallace Inn
- EPA will present information at the next BEIPC meeting: February 17 (8:30-4)
- Upper Basin PFT Implementation Plan Workshop, February 24, Location TBD

Ed said that announcements about these opportunities would be made via email and through the Basin Bulletin mailing list, local papers, and postings at major gathering spots.

In April 2010, EPA is going to present its plans to EPA's National Remedy Review Board. This Board was established in the 1990s to look at large value remedies, and EPA typically presents to this board before releasing a draft cleanup plan.

Jerry asked what role IDEQ plays in the ROD amendment process. Denna answered that, while EPA is leading the public outreach, IDEQ will be carriers of the plan as it is finalized. IDEQ is also providing ideas on public groups that may be interested in the information.

Jerry asked whether there will be a new memorandum of understanding between EPA and the state. Ed said that all trustees (Federal, Tribal and State) are consenting parties to the ROD amendment. Rusty asked whether the BEIPC will continue to participate; Ed said he anticipates that the BEIPC will continue to participate.

For more information, see EPA's website on the ROD amendment:  
<http://yosemite.epa.gov/R10/CLEANUP.NSF/sites/bh+rod+amendment>.

### **Lower Basin Enhanced Conceptual Site Model**

Ed described progress in developing the Lower Basin Enhanced Conceptual Site Model (ECSM). He said this is essentially a documentation of current understanding about the river system in the Lower Basin. This information will feed into a future ROD amendment process for the Lower Basin. EPA is finalizing these documents and has reviewed and where appropriate incorporated comments received in the review process. Ed encouraged those interested to first read the Executive Summary, and then to contact him for the full documents if they are still interested. EPA will be presenting the ECSM to the BEIPC, likely in May 2010.

Ed said there is a lot of additional information needed about the Lower Basin before next steps can be taken on another ROD amendment. In particular, there are many questions about the volume of contaminated sediment that is transported in a given event.

Laurie asked whether there are regular water samples done in the Lower Basin. Ed said that there has been a lot of data gathered over time and there continues to be additional data gathered but that the data is disparate and there is still more data needed, particularly for sample sites along the river bottom.

### **Wallace Yard Consent Decree Update**

Ed related that, in 2007, EPA and the state issued an EE/CA (Engineering Evaluation/Cost Analysis), which is the document that precedes a removal action consent decree) for Wallace Yard. Following this release, EPA hosted a public hearing in Wallace and a public review period. Since then, EPA was able to negotiate a consent decree with BNSF Railway and Union Pacific Railroads. The U.S. Department of Justice announced in the Federal Register a public comment period on the consent decree beginning on January 26 and lasting 30 days until February 25.

Comments are submitted directly to Department of Justice. EPA has sent a notice out to its Basin email list, has sent postcards to Wallace residents, and has put ads in the local paper. Those interested in a copy of the consent decree can contact EPA or find it online (<http://www.justice.gov/enrd/2653.htm>).

Following the comment period, the Department of Justice reviews the comments and then enters the consent decree in the court. The consent decree does not require change in title ownership of the parcels within Wallace Yard or any change to current land use or users. The railroads will hire contractors to perform the cleanup.

### ***Communications Project Focus Team (PFT) Update and Discussion on CCC Attendance***

Jerry Boyd presented on the activities of the Communications PFT, on behalf of Jeri DeLange. At the January 12 meeting of the Communications PFT, he said, one of the main topics of discussion was how to increase citizen participation in the CCC and attendance at meetings. The PFT discussed various advertising outlets and that a survey of the CCC membership could be useful to find out what topics are of interest and when good times to meet would be. Jerry opened up the discussion to general comment.

Laurie Jenicek said that citizens do not feel the need to be present at CCC meetings because they do not feel like they can influence what is happening with the cleanup. She mentioned that one of the most effective projects in 2009 was the Sather Field cleanup. Citizens were encouraged to bring forth ideas, and the ideas were assessed and decided upon before action was taken. She said that if citizens are just talked at—rather than being asked to contribute—then they will not feel interested or necessary. Terry responded that Sather Field was a public facility that affected many people; for individual yard cleanup, a citizen would talk directly to an agency. He noted that the issues presented at the CCC are generally broader. Denna said that one way to make the public more engaged is to note that their time is valuable, and to let them know when agencies want to present information to the public versus when they are looking for specific comments.

Jerry said that, when citizens want to be involved and make change, they can. He brought up the example of the Canyon School meeting in 2007, where there was a lot of public outcry, which resulted in additional monitoring sites at the East Mission Flats Repository and a smaller repository.

Laurie asked whether there was enough communication in general to high risk populations on blood lead testing. Bill Rust and others at the meeting mentioned that the payments to parents for bringing their children in to get blood testing have been somewhat effective, but they have not brought in everyone that needs the testing. The meeting participants discussed the need for more advertising and education about blood lead testing. CCC member Vera Williams said that at a previous Communications PFT meeting, the group noted that there were a lot of educational materials previously developed about blood lead testing and that they could be distributed at a relatively low cost. She said that it might be that educational efforts are working, but that they need to be sustained and continually presented to the same group of people (e.g., mothers of young children). Denna said that IDEQ has money in its budget for a

short public service announcement, and blood-lead testing could be an effective use of that money. IDEQ is still considering its options.

Jerry asked how the citizens present had heard about the CCC meeting. All noted that they had received notice by email or mail. Laurie said that when meetings are advertised in the paper, they should be put in at least a week in advance and should be of a more significant size so that people notice them.

Vera said that she had seen a situation where restaurants used placemats from a local organization that had information about a particular issue. She said that their placement prompted those at the table to discuss the issue and made them more aware. She suggested that it could be an advertising and education method for Basin issues.

Bill said that Terry should talk with the local environmental groups about why they are not coming. Terry said that he had talked with a few, and they indicated that they did not have any current issues and did not see the need to come.

Julie suggested moving the open comment period for citizens to the front of the meeting.

### ***Open Discussion/CCC Issues***

Julie asked about the structure of the BEIPC and how it interacts with citizens. She wanted to know if the citizens were there to provide comments and be educated or could they influence Commissioners. Terry said that the Commissioners are high up in their organizations and may not respond to individual citizens and that talking with him or with agency staff will help carry comments forward to the BEIPC. Jerry said that coming to the CCC meeting and presenting comments is also a way to bring things to the attention of the BEIPC; when Jerry presents at their meeting, he covers the major topics that were brought up at the CCC meetings and will sometimes receive a response from the Commissioners.

Julie said she was looking for guidance from BEIPC for county commissioners on how to leverage monitoring results to influence land use decisions for areas that are “hot.” She brought up two examples—the Blackwell Island lake marina soils that are now going to the disposal site in Washington State (<http://www.spokesman.com/stories/2010/jan/20/dredged-marina-soil-to-go-to-dump/>) and the permitting of Coeur d’Alene River Estates. She said that, a lot of the times, county commissioners do not have the background on the Clean Water Act, remediation, and floodplain contamination issues are needed, and that there seems to be a disconnect between the BEIPC and the work it does and the county commissioners.

Terry said that the county commissioners have to be willing to recognize that there is a potential problem to make changes to their decisions. He said that it is unlikely that the BEIPC Board Members would get involved in local land use issues, but that he and Jerry are resources who can contact people. Jerry said that the BEIPC does not have control over any of the local governments, but that the county may have adopted an ordinance related to contaminated lands that would influence their land use decisions.

Ed clarified that an ICP permit cannot be denied if it is within the parameters of the law. Under the permit, the landowner is bound to maintain a clean barrier and implement stormwater best practices. This permit is enforced by the Panhandle Health District.

***Next BEIPC Meeting***

The next BEIPC Board meeting will be held on February 17, 2010.

***Adjourn***

The CCC meeting was adjourned at about 9:15 PM.

# ***Presentation of Citizen Comments to the Basin Commission Board***

***January 27, 2010***

## **Written Comments**

No written comments were provided at the CCC meeting

## **Verbal Comments**

Verbal comments provided at the January 27, 2010 CCC meeting are reflected in the CCC meeting summary and paraphrased below.

<b>Comments</b>	<b>Commenter</b>
Deciding what portion of the expanded Big Creek Repository is for the ICP should be one of the first decisions.	<i>Rusty Sheppard, CCC Member</i>
For the Upper Basin siting process, the public should be brought into the discussions early on.	<i>Julie Dalsaso, CCC Member</i>
The public seems fatigued with the issues. New outreach staff at IDEQ could help the public get more involved in this process.	<i>Kenny Hicks, TLG Vice-Chair</i>
I represent seven people that were not able to come to this CCC meeting.	<i>Laurie Jenicek, Basin resident</i>
People should be able to talk directly with the ASARCO settlement trustee, rather than going through EPA.	<i>W.C. Rust, CCC Member</i>
Citizens don't think there is a reason to be present at these kinds of meetings because they don't feel like they can influence what is happening with the cleanup. If citizens are just talked at—rather than being asked to contribute— then they will not feel interested or necessary.	<i>Laurie Jenicek, Basin resident</i>
There is a lot of information and materials already available about blood lead testing, they just need to be presented. With any kind of education, not everyone has heard the message, so you need to just keep saying the same thing to a targeted group over and over.	<i>Vera Williams, CCC Member</i>
Terry should talk with the local environmental groups about why they are not coming to CCC meetings. <i>(Terry responded that he had talked with a few groups, and they indicated that they did not have any issues and did not see the need to come.)</i>	<i>W.C. Rust, CCC Member</i>
At CCC meetings, the open comment period for citizens should be moved to the beginning of the meeting.	<i>Laurie Jenicek, Basin resident</i>

**Comments****Commenter**

I am looking for guidance from the BEIPC for county commissioners on how to leverage monitoring results to influence land use decisions for areas that are “hot,” such as lake marina sediments that are now going to the dump and the permitting of Coeur d’Alene River Estates. A lot of the times, county commissioners do not have the background on the Clean Water Act, remediation, and floodplain contamination issues. This information is needed, and that there seems to be a disconnect between the BEIPC and the work it does and the county commissioners.

*Julie Dalsaso, CCC  
Member*