

04-20-11 Citizen Coordinating Council Meeting

Wallace Inn, 6:30 PM to 9:00 PM, Wallace, ID

Attendees (who signed in and/or announced themselves)

Shawn Blocker	Ed Moreen
Jerry Boyd	Andy Mork
Jon Cantamessa	Doug Morrell
Jack Domit	W.C. (Bill) Rust
Jeri DeLange	Caryn Sengupta
Margaret Guenther	Rusty Sheppard
Denna Grangaard	Chris Sneider
Terry Harwood	Robin Stanley
Troy Lambert	Amy Wheeless
James McMillan	Kevin Yrjana
Shannon McMillan	Carol Young
Susan Mitchell	

Meeting Overview

The April 20, 2011 meeting of the Citizen Coordinating Council (CCC) of the Basin Environmental Improvement Project Commission (Basin Commission or BEIPC) covered the following topics:

- Introductions
- Open Vice Chair Position
- Open Discussion on Basin Cleanup/CCC Issues
- Basin Commission Updates
- EPA Updates
- Stream Channel Stabilization
- CERCLA versus NEPA
- Repository Updates
- Communications Project Focus Team (PFT) Update

CCC Chair Jerry Boyd chaired the meeting.

Open Vice Chair Position

Earlier this year, Vera Williams moved away from the Coeur d'Alene Basin for family reasons and had to leave her position as Vice Chair of the CCC. Troy Lambert volunteered to be the new Vice Chair of the CCC. He was nominated and elected to the position. Troy works at the Wallace Mining Museum in addition to being a writer.

Open Discussion on Basin Cleanup

Jerry Boyd, CCC Chair, asked participants to bring up any issues or topics to discuss.

Jerry noted that there were a number of new people at the CCC meeting. He encouraged those who were interested to complete a CCC member application. The CCC is the main avenue for

public input into the BEIPC activities. The CCC sends out regular updates about activities and events in the Basin.

Julie Dalsaso, CCC member, provided some written comments about potential site disturbance ordinance changes in Kootenai County. In her written comment, she said that proposed exclusions to be granted by Kootenai County within the amendment to the site disturbance ordinance for development in high impact areas are disconnected from the overall Basin cleanup goals, as they could erode safeguards in place for high impact areas. The Kootenai County Commissioners will be voting on the amendment at their April 28 meeting. Rusty Sheppard, CCC member, noted that the current site ordinance rule prevents work being done within 25 feet of the river and lake banks or to take mechanized equipment near banks. He said that the ordinance amendment was written by the planning commission to allow mechanized equipment in certain areas under particular circumstances. He noted that the public hearing on this issue was earlier in April and the commissioners will not be taking public comments at the April 28 meeting on the issue.

The April 2011 EPA Basin Bulletin had an article about the Lower Basin Collaborative. The initial meeting that led to the collaborative was initiated by Susan Mitchell, a citizen living in the Lower Basin. The Collaborative will be launched soon and is intended to be an open stakeholder process that brings different views about the cleanup to the table and discuss solutions.

- Bill Rust, CCC member, asked Susan Mitchell, who was in attendance at the meeting, about when meeting notices will be sent out for the Lower Basin Collaborative. She said that the group will be sending out notices in approximately June for those in the Lower Basin to join the Collaborative and receive a newsletter.
- Jerry Boyd asked whether the Collaborative would be open to all. Susan said that there are still some questions about the number of citizens on the Collaborative, but that the meetings will be open and public.
- Rusty asked how this group will interface with the Basin Commission. Susan said that the group is still working on that issue with Terry Harwood. Terry will be attending the Collaborative's steering committee meeting on May 3 to start to figure out how this process will work with the Basin Commission process. Rusty asked whether this Collaborative would be an agenda item at the next Basin Commission meeting. Terry said he will meet with the Collaborative first before determining that.
- Bill Rust noted it would be good if this process could be merged or linked with the Lower Basin Project Focus Team (PFT).
- Rusty asked why there had not been invitations to the May 3 meeting. Susan said that this is a steering committee meeting of those involved in the idea of the Collaborative, rather than an open meeting. Rusty asked who the members of the steering committee are. Ed Moreen, Shawn Blocker, Andy Mork, Caryn Sengupta, Denna Grangaard, Terry Harris, Bonnie Douglas, Rebecca Stevens, Carol Young, Cami Grandinetti, Deb Sherbina, and Rob Hansen are all involved in the steering committee with Susan Mitchell. Those working for government agencies such as EPA and IDEQ attend as representatives of their agencies.
- Jerry said the CCC could provide help to the Collaborative if requested. For example, the CCC sends out regular updates to its mailing list, and could include information about the Collaborative's meetings in these mailings.

Basin Commission Updates

Terry Harwood, BEIPC Executive Director, provided updates related to the Basin Commission work.

Road Remediation. Terry is working with, EPA, Shoshone County, and the East Side Highway District on developing a road remediation program to address road deterioration issues that may affect remediation in the Basin. The next step for this work is to set up a system of setting road priorities and a funding program for implementation of fixes by local road agencies.

Rose Lake Culvert. In December 2010, a culvert on State Highway 3 at Rose Lake failed, due to age and degradation, high runoff, and flooding in the area. This failure required closure of Highway 3 and excavation of the failed culvert and the surrounding contaminated soil. Terry coordinated disposal of the contaminated materials, and approximately 2300 cubic yards of the excavated road embankment soil was taken to East Mission Flats Repository. In the process of replacing the culvert, the headgate that had been in place since the 1930s was removed, and it did not fit on the new culvert. A new headgate will be purchased with funding from IDEQ, but it cannot be put onto the culvert until the water level is lower in the fall. Terry will coordinate installation of the new gate.

Basin Flood Levee System. Terry is working on starting an analysis of the levee system in the Basin. According to the FEMA flood maps, FEMA considered any levee that had not been evaluated by and certified by a Professional Engineer as not existing, which causes community development and flood insurance problems. Congress has requested that FEMA develop a revised analysis process.

Remedy Protection Work. A great deal of the property remedy in communities is subject to damage from erosion or deposition of contaminated sediments during flooding or storm runoff. The ROD amendment recognizes this and contains a program to deal with drainage in communities and side drainage watershed impacts on the remedy. A project team is working on completion of a listing of priority projects for this work to be included in the ROD amendment.

Repository Operations. Terry will be managing repository operations at Big Creek and East Mission Flats for the State. Work will start at the repositories as soon as the weather allows. Property remediation work will likely start in the Lower Basin as it is drier there. Jerry asked about the monitoring at East Mission Flats and who was managing that. IDEQ is managing the groundwater monitoring at East Mission Flats. Andy Mork, IDEQ, noted that the groundwater monitoring at East Mission Flats shows no metals contamination from soils stored at East Mission Flats Repository.

Property Remediation Program. The Basin Commission has asked Terry to work on a way to complete the Property Remediation Program. So far, the program has remediated over 6000 properties. The program estimates it will take three to four years to test and complete the rest of the properties. However, there are a number of properties where owners have refused to have their property sampled or where owners cannot be located. Terry noted that in a CERCLA action such as the Basin cleanup, all property has to be sampled and actions taken if necessary

before cleanup can be declared “done.” He also noted that the remedy protection projects need to be completed before the cleanup can be completed and that the Institutional Controls Program (ICP) needs to be enforced correctly. More information on the ICP, including a map and legal description of the area is available on the Basin Commission website (<http://basincommission.com/ICP.asp>).

EPA Updates

Ed Moreen and Shawn Blocker, EPA, provided a few updates on EPA’s work in the Basin. Shawn Blocker is the new EPA team leader for the Coeur d’Alene Basin cleanup.

Proposed Cleanup Plan. Approximately 7000 comments were received on the Upper Basin Proposed Cleanup Plan from 1000 different people and EPA is currently reviewing and considering these comments. EPA has put all the comments into a database and will answer all the comments. In consultation with the Upper Basin PFT, EPA is considering what modifications can be made to the Cleanup Plan. Shawn Blocker noted that, while the decision is not final, the ROD amendment will likely be reduced in scope from what was proposed.

- A small group is working with EPA on examining the sites in the proposed cleanup plan and determining whether they should all be in the final cleanup plan.
- There is some refocusing of the work on the river to a ground water collection system. James McMillan, citizen, asked whether the groundwater collection system would still reduce surface flow by five to ten percent. Shawn noted that the goal is to have no reduction of flow with that system. If it is chosen as an option for the cleanup plan, the engineering work will design toward that goal.

EPA would like to issue the ROD amendment before the end of 2011. When EPA issues the ROD amendment, the response to comments will also be issued.

Troy Lambert, CCC Vice Chair, asked whether modeling will be a part of the ROD amendment. Shawn said that the ROD amendment does not typically have complete engineering solutions in it. Engineering plans will be developed after the ROD amendment is issued.

Jerry asked if EPA will send any significant changes out for public comment. Shawn said that EPA would not necessarily do that, as EPA is working with the Upper Basin PFT on changes, but that may not be the final answer. If EPA makes significant changes in the final plan, they will provide a reason.

ASARCO Trust. EPA approved the 2011 budget for the trust. The trustee’s work in 2011 will generally focus on characterization and assessments in East Fork of Nine Mile Creek. The Trustee will also perform remediation of the old Bureau of Mines site near Osburn, and will be working on an evaluation to identify clean material for capping sites in the Basin. EPA will then work with the BEIPC and Trustee to do planning for 2012. Jerry Boyd asked what the relationship is between the work that the Trustee is doing now and the ROD amendment. Shawn noted that the Trustee is mostly doing investigation work now. Terry further noted that some of the activities of the Trustee in 2011 do not need to be approved in the ROD amendment, such as work on roads.

Lower Basin Planning. Ed Moreen is the lead for the Lower Basin cleanup process. Right now, EPA has completed updating the conceptual site model called the Enhanced Conceptual Site Model (ECSM). A conceptual site model is, at its most simple, a picture of what the problem is, based on collected data, information, and modeling. As more information is collected, the conceptual model is updated. EPA first issued a conceptual site model for the entire Basin in 2000 and the ECSM for the Lower Basin was issued in August 2010. EPA has been hosting a series of technical modeling workshops in conjunction with the Lower Basin PFT to make specific mathematical models for the Lower Basin. The mathematical models will consist of a family of models that will be used to simulate how much water flows and from where (hydrologic model), how the river behaves under certain flow conditions (hydraulic model) and how sediment is moved by the river (sediment transport). EPA will also hold some less technical workshops in the summer. Denna Grangaard, IDEQ, asked what value the models have for the work in the Basin. Ed responded that a model provides better understanding of the system and help decision-makers make the best decisions.

Ed noted that the April 2011 Basin Bulletin is now available:

http://www.epa.gov/region10/pdf/sites/bunker_hill/bb_april_2011.pdf. One of the articles discusses the high levels of metals found in 2011 winter flood sediments. Ed said that this information shows that there are still high levels of metals that continue to be distributed and eventually are redistributed into Lake Coeur d'Alene. As a result, there is a high volume of metals in the Lower Basin and Lake. Data shows that much of this contamination is coming from the Lower Basin. Jerry Boyd asked whether sediments and water were sampled at Cataldo at the same time as they were sampled at Harrison. Ed noted that sampling takes place at both locations as close as possible to the same time on the hydrograph.

Silver Valley Streambank Stabilization

Bill Rust, CCC Member and TLG member, presented on the issue of streambank stabilization in the Silver Valley. He noted that, in the proposed ROD amendment, EPA is proposing to remodel the stream channels of the South Fork and its major tributaries through the removal of contaminated sediment from impacted floodplains and by putting in bioengineered stream channel stabilization. Bioengineered stabilization uses natural features (e.g., logs, rocks, vegetation) to stabilize a streambank. Bill noted that biostabilization is effective in low velocity and low flow situations, but is rarely effective during flood events (2003 Biostabilization Approach Document), and thus the remedies could fail. Bill said that a solution for stabilizing streambanks should not be selected within the ROD amendment, as more engineering work is needed to determine a solution.

Terry Harwood noted that this is a major issue and that it relates to the problems associated with the levee system. Remedy work on the river cannot be done effectively unless the hydrological activity of the river is accounted for. He noted that the ROD amendment needs to have flexibility to do what is best.

Shawn Blocker noted that the Upper Basin PFT may not have addressed the issue yet because EPA is still considering the options; EPA will address the answer in the response to comments. Bill said that if all the figures were redesigned to be at the 100-year flood mark, it would address concerns. Rusty Sheppard noted that there are U.S. Army Corps of Engineering (COE) rules and that when something is done in the environment that will affect the floodplain, it would fall

under COE rules, and that is not discussed explicitly in the ROD amendment. Shawn noted that EPA will coordinate with whatever authority is required by law.

CERCLA in Coeur d'Alene Basin

Terry Harwood, BEIPC, provided a presentation on CERCLA as contrasted to NEPA and how CERCLA has been applied within the Coeur d'Alene Basin.

CERCLA Background. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) provides for a regulatory enforcement action that includes cleanup of releases of hazardous substances, determining liability of the release and its costs, and seeking compensation to the government for its involvement in the action. The focus of CERCLA is addressing a problem when the environment has already been damaged. In contrast, the National Environmental Policy Act (NEPA) is a national policy to promote efforts that will prevent or eliminate damage to the environment. The focus of NEPA is to address issues when the environment may be damaged by someone's actions and make sure the government considers the environmental issues in any decisions. A large difference between NEPA and CERCLA is that judicial review of an action cannot be requested for CERCLA until the action is completed, while the review can happen at any time under NEPA.

- **CERCLA Authority.** CERCLA empowers the President, certain Federal Agencies, and States to enforce the provisions of the law to insure that necessary cleanup is performed and those responsible for the release of hazardous substances and environmental contamination are held responsible for the cleanup where appropriate. EPA has CERCLA authority on private and state lands. The U.S. Forest Service, Department of the Interior, Department of Energy, and Department of Defense have CERCLA authority on Federal lands.
- **Superfund.** Superfund requirements are included as a part of CERCLA: if the site scores high enough, it is listed on the National Priorities List and can become a Superfund site (if the site does not score high enough, it still can be cleaned up under other provisions of CERCLA). The term "Superfund" refers to the funding process EPA uses to secure funding from Congress for its activities on Superfund listed sites.
- **Funding.** If Federal funds are used for a CERCLA action, EPA funds 90% and the State 10% of cleanup work on state and private lands and the State funds all operation and maintenance. Federal Agencies fund 100% of cleanup and operations and maintenance on Federal lands. If Settlement Trust funds are used or responsible parties perform the work, there is no State match for cleanup or operations and maintenance.
- **Definitions.** Under CERCLA, a "site" is any area where a hazardous substance has been deposited, disposed of, or placed or otherwise came to be present, regardless of the size or extent of the contamination. The "owner" of a site is anyone holding title or control of the site. Those with "liability" for cleanup actions could be the owner of the site; the owner or operator of a facility at the time of disposal; any person who arranged for disposal, treatment or transport; and/or any person who accepted a hazardous substance for transport.

James McMillan, citizen, asked whether there were provisions in CERCLA analogous to NEPA that ensure that a cleanup does not cause further environmental damage. Terry responded that CERCLA actions are still subject to other environmental laws that prevent environmental

damage. James asked whether there were provisions in CERCLA for coordinating with local governments similar to NEPA. Jerry Boyd noted that there were a number of provisions listed in CERCLA requiring public and government involvement.

[EPA clarified the following two points after the CCC meeting:

1. CERCLA is the functional equivalent of NEPA, and thus EPA is not required to satisfy the requirements of NEPA when implementing a CERCLA response action. CERCLA addresses the two basic objectives of NEPA: (1) that the agency should consider significant environmental impacts of the proposed action, and (2) that relevant environmental information should be made available to the public, which can then play a role in the agency's decision-making process and implementation of the decision.
2. NEPA is not an Applicable or Relevant and Appropriate Regulation (ARAR). In addition, CERCLA addresses the applicability of other environmental laws in Section 121(d)(2)(A) of CERCLA through ARARs. The National Contingency Plan interprets this to require compliance only with substantive, not procedural, aspects of ARARs. Because NEPA is procedural, compliance with NEPA is not required in CERCLA response actions.]

Use of CERCLA in Coeur d'Alene Basin. In 1983, EPA listed the Bunker Hill Mining and Metallurgical Complex in northern Idaho a Superfund site because of the high level of heavy metals that had been released into the environment by mining operations. Initial cleanup decisions and operations concentrated on the areas with the most contamination and the greatest human health effects, a 21 square mile area called "the Box" that includes Pinehurst, Smelterville, and Kellogg. In 1998, EPA began applying CERCLA requirements beyond the Box to areas throughout the 1,500 square mile Coeur d'Alene River Basin due to contamination affecting human health and the environment. In 2002, EPA issued an interim record of decision (ROD) addressing cleanup requirements in the Basin outside the Box.

Some responsible parties have or are performing environmental cleanup voluntarily or under agreements with the EPA, U.S. Forest Service, the Bureau of Land Management and the State. These agencies are also funding a large portion of the work where the responsible parties have gone bankrupt. In 2010, the federal government settled a claim against the ASARCO Mining Co. bankruptcy for approximately \$500 million; most of that money will be spent in the Coeur d'Alene Basin. In 2001, the Idaho State Legislature established the BEIPC in response to the concern that the Federal Government would make Superfund decisions concerning the Basin without adequate local stakeholder involvement. The BEIPC is made up of Commissioners to represent Idaho, Washington, three local counties in the Basin, the Coeur d'Alene Tribe, and the Federal government.

Denna Grangaard asked how meeting participants felt that the government agencies working on the cleanup were meeting CERCLA public involvement requirements. Shawn Blocker, EPA, said that he sees the public participation plan as an obligation to the community. He noted that all the specific engagement and coordination with local governments may not be reflected in the ROD, because it is sometimes more specific than what needs to be there.

Robin Stanley, Shoshone Natural Resources Coalition (SNRC), asked whether EPA believes that a 90 year project is an appropriate use of CERCLA, given that there can be no judicial review until after the project is completed. Robin said his understanding was that CERCLA was intended as

an emergency cleanup. Shawn noted that the same comment had been submitted during the comment period, and EPA will be responding to it in the response to comments. He further noted that CERCLA was developed for both emergency response and for mega sites. Robin responded that SNRC would like EPA to look to see which areas need emergency cleanup and then put the other areas back into NEPA. He noted that a Congressional committee will be considering whether this kind of application of CERCLA is appropriate.

Rusty noted that the Spokane River area is not a part of the cleanup process yet, but is still affected by the contamination.

Terry said that an overriding question is “how clean is clean?” He noted that developing and building in the Basin can be difficult unless an individual can show that they are cooperating with the cleanup. Jerry Boyd said he had talked with Jerry Cobb, ICP Program Manager, who felt it was unfortunate that property owners do not have their properties sampled and remediated as it will leave a problem down the road for whoever sells that property. Jerry noted that, under the definition of a liable party, someone can be liable if they own the property, even if they did not contribute to the contamination. He said, however, that EPA has chosen not to make residential and commercial property owners liable for the cleanup.

Repository Updates

Andy Mork, IDEQ, provided updates on the repositories. For the Osburn Repository Site, IDEQ is currently in the characterization phase. Following the characterization, IDEQ will issue a 30% design report in Fall 2011; this report will provide a concept-level design of the major components of the repository. A public review and comment period will be available after this report is issued. Following that review, IDEQ will issue a 90% design report in the Summer or Fall of 2012. The Osburn repository will have about one million cubic yards of capacity and waste height will be 30 to 50 feet above the current elevation. The site property is currently owned by US Silver and access to the site is owned by a third party.

Some design challenges associated with the site are that it is adjacent to active tailings impoundments; there are wetlands impacts from the construction of the access road; construction of the site takes place on a thick layer of fine-grained slimes that are difficult to dewater; a liner, cover, and leachate management is required; there is a need to revise the FEMA Flood maps; waste placement will be on a fairly steep hillside; and traffic mitigation plans may be needed. In addition, Osburn will have different design considerations than the Big Creek and East Mission Flats repositories, as Osburn will mostly receive waste from ecological cleanups, which is not as well understood as the yard waste that the other repositories received. Andy noted that the groundwater at the site is already contaminated, but they are not sure of the source but that IDEQ is looking to establish baseline contaminant concentrations through the quarterly monitoring program.

At the Big Creek Repository, IDEQ is working to increase capacity by extending the repository to the north toward the Trail of the Coeur d’Alenes. A fifty foot buffer will be maintained between the new expansion area and the Trail of the Coeur d’Alenes. Expansion will allow for the acceptance of more remedial action and ICP waste. The design analysis indicates that the repository could accept another 116,000 cubic yards of capacity. As the infrastructure (e.g., roads, decontamination facilities) are already at the site, the expansion is cost effective. The

final design will be out in late April, and site preparation will begin immediately after. Waste will begin to be accepted on the north side in 2011. Jerry Boyd asked whether the site would look the same as it does now. Andy responded said that the site would be capped and vegetated, but that there will be some loss of trees.

Communications PFT Update

Jeri DeLange, BEIPC, provided a brief update on the Communications Project Focus Team (PFT). She mentioned that the PFT was set up by the Basin Commission to help improve communications about the BEIPC process related to the Coeur d'Alene Basin cleanup and encourage participation in the CCC. Jeri noted that for this CCC meeting, the Communications PFT did a lot of advertising including radio ads, posted flyers, information on community public television, newspapers ads, information on community calendar pages, and emails. Given the attendance at this meeting, it seems that the increased advertising was effective.

Jeri announced that the Communications PFT recently posted the survey it developed for the CCC on the BEIPC website. The survey will be used to gather feedback from CCC members and the public about how to improve communications related to citizen involvement in the Basin Commission process. This information will allow the CCC, the Basin Commission, and the Communications PFT help provide better opportunities for information and participation in the CCC. All responses will be confidential. To review and complete the survey, please visit: <http://basincommission.com/OnlineSurvey.asp>. Ed Moreen, EPA, asked who the survey was targeting. Jeri said that the targeted audience was citizens, but that the Communications PFT is also curious about what agency employees may have to say.

Next BEIPC Meeting

The Basin Commission Board will hold its next meeting on May 18 in Spokane Valley, WA. It is open to the public and an agenda will be posted on <http://www.basincommission.com>.

Adjourn

The CCC meeting was adjourned at 9:25 PM.

Presentation of Citizen Comments to the Basin Commission Board

April 20, 2011

Written Comments

Julie Dalsaso, CCC Member, provided written comments on the proposed changes to the Kootenai County site disturbance ordinance. These comments are included as a separate attachment.

Verbal Comments

Verbal comments provided at the April 20, 2011 CCC meeting are reflected in the CCC meeting summary and paraphrased below.

Comments

Commenter

If the CCC can help with the Lower Basin Collaborative, let us know.	<i>Jerry Boyd, CCC Chair</i>
It would be nice if the Lower Basin Collaborative could be merged with the Lower Basin PFT.	<i>Bill Rust, CCC Member</i>
How will the Lower Basin Collaborative interface with the BEIPC? <i>Terry Harwood, BEIPC: I will be attending a May 3 meeting of the Lower Basin Collaborative steering committee to learn more and then we can figure out how this group will interact with the BEIPC.</i>	<i>Rusty Sheppard, CCC Member</i>
For those interested in joining the CCC, I encourage you to fill out an application form or ask us more questions.	<i>Jerry Boyd, CCC Chair</i>
Who is doing the groundwater monitoring at East Mission Flats? <i>Andy Mork, IDEQ: IDEQ is conducting the monitoring. The groundwater monitoring has shown that no metals contamination from the soils stored at East Mission Flats is traveling into the groundwater.</i>	<i>Jerry Boyd, CCC Chair</i>
In the public meetings on the ROD amendment, it was estimated that using a groundwater collection system would reduce surface flow by 5-10%. <i>Shawn Blocker, EPA: Those are the estimates, but our goal is 0%. When we work in the engineering phase, if that is the selected solution, we will work on limiting any reduction in surface flow.</i>	<i>James McMillan, citizen</i>
I think EPA is addressing most of the concerns that people had about the Proposed Cleanup Plan. However, there are still a few hanging concerns. One is about what EPA is planning to do with stream banks on the river in the Upper Basin. Using biostabilization methods will lead to future contamination problems in any large water velocity or flood events.	<i>Bill Rust, CCC Member and TLG member</i>

Comments

Commenter

<p>I understand the difference between NEPA and CERCLA. However, are there provisions within CERCLA analogous to NEPA that ensure a cleanup does not cause further environmental damage? Are there provisions analogous to NEPA that ensure coordination with local government?</p> <p><i>Terry Harwood, BEIPC: Yes, a CERCLA action is still subject to other environmental laws. Jerry Boyd, CCC: There are CERCLA provisions for public and government involvement.</i></p> <p><i>Following the CCC meeting, EPA clarified the following two points on this question:</i></p> <ol style="list-style-type: none"> <i>1. CERCLA is the functional equivalent of NEPA and thus, EPA is not required to satisfy the requirements of NEPA when implementing a CERCLA response action. CERCLA addresses the two basic objectives of NEPA: (1) that the agency should consider significant environmental impacts of the proposed action, and (2) that relevant environmental information should be made available to the public, which can then play a role in the agency's decision-making process and implementation of the decision.</i> <i>2. NEPA is not an Applicable or Relevant and Appropriate Regulation (ARAR). In addition, CERCLA addresses the applicability of other environmental laws in Section 121(d)(2)(A) of CERCLA through ARARs. The National Contingency Plan interprets this to require compliance only with substantive, not procedural, aspects of ARARs. Because NEPA is procedural, compliance with NEPA is not required in CERCLA response actions.</i> 	<p><i>James McMillan, citizen</i></p>
<p>Does EPA believe that is an appropriate use of CERCLA for a 90 year project to thwart access to NEPA? I feel like we have not received a straight answer on this concern. We would like EPA to figure out which areas need emergency cleanup and then put the other areas back into NEPA.</p> <p><i>Shawn Blocker, EPA: EPA will answer that concern in the response to comments. CERCLA was developed both for emergency response, but also for use at mega sites.</i></p>	<p><i>Robin Stanley, Shoshone Natural Resources Coalition</i></p>
<p>The Spokane River is a part of the cleanup site, but does not have any cleanup activities right now.</p>	<p><i>Rusty Sheppard, CCC and TLG Member</i></p>
<p>I talked with Jerry Cobb of the ICP program, and he noted that it is unfortunate that property owners do not have their properties sampled and remediated, as it will cause problems down the road as whoever sells that property has to disclose about that property.</p>	<p><i>Jerry Boyd, CCC Chair</i></p>

CCC meeting 4/20/11

Citizen concern that the new Kootenai County proposed Site Disturbance Plan changes do not MEET OTHER VALUES consistent to the Basin Commission-

Final deliberation by commissioners: 4/28/11- written materials may be submitted to file, testimony is closed

Values of human health, protection of fish and wild life, and environmental are IGNORED with proposed language~ flood issues currently with spring melt should also be considered, with the implementation of the goals of the Lake Management Plan "to protect and improve Lake Water quality by limiting basin-nutrient inputs".

Variance exception 3:

"The Board of County Commissioners may consider and allow site disturbances, construction and improvements within the Stream Protection Buffer (25 feet) and/or shoreline Protection Buffer where it is determined that the project is of size, scale, regional economic benefit or nature that allowing the work to proceed is found to be in the best interest of the public..."

I see special interest groups, including attorneys for the Blackwell Island Dredging Project at the mouth of the Spokane River as major influencers of this type of "variance" promotion, as met at County planning meetings recently. This overlap of the role of the Basin Commission and experts along the Rivers edge who measure and monitor our clean up progress are being excluded in a way that needs to be addressed.

Thank-you for the consideration,

Julie Dalsaso / CCC volunteer