

Basin Environment Improvement Project Commission

Draft Conference Call Meeting Summary Minutes

March 15, 2018, 1:00 PM – 3:00 PM

Panhandle Health District Conference Room, Kellogg, Idaho

These minutes are summary notes of the reports and presentations and are intended to capture key topics and issues, conclusions, and next steps and not every detail of discussions and individual quotes.

Attendees included the following:

On the telephone were Commissioners Jack Buell (Benewah County), Mike Fitzgerald (Shoshone County), Marc Eberlein (Kootenai County), Phillip Cerner (CDA tribe), Sheryl Bilbrey (EPA), John Tippets (IDEQ), Rob Hanson (IDEQ Alternate), and Grant Pfeifer (State of Washington).

Also on the phone were Jerry Boyd (CCC Chair), Randy Connelly (Spokane Tribe), Matt Nykiel (Idaho Conservation League), Ted Yackulic (EPA), Ed Moreen (EPA), Rebecca Stevens (CDA Tribe), Michael McCurdy (IDEQ), and Sandra Raskell (TLG Chair).

In person were Terry Harwood (BEIPC Executive Director), Glory Carlile (BEIPC note taker), Andy Helkey (Panhandle Health District), Rene Gilbert (EPA), and Rod Plank (City of Kellogg).

Approve Minutes from December 6, 2017 Meeting

Marc Eberlein moved and Rob Hanson 2nd to approve the Dec 6 2017 BEIPC meeting minutes. **M/S/C**

Phillip Cerner and Mike Fitzgerald 2nd for a briefing on the Bunker Hill settlement to be added to the agenda. **M/S/C**

Terry Harwood gave a brief summary of the flooding issue on the agenda. He shared that he has been working on flooding issues for many years. The flood group was started in May 2017. As a group they wanted to ask the Basin Commission be part of the partnership to take the lead in representing the group to present to FEMA to have a cooperative effort. There also is a possibility of missing potential grants if they are not organized.

Sheryl Bilbrey wanted to talk about the role of the EPA and introduced Ted Yackulic (EPA) as their legal counsel. EPA should be excluded specifically as a member of the Basin Commission, for the purpose of the flood groupMOA, so that they are not involved as a governmental entity.

Tippets noted that in #4, it lists the members of the flood group and wondered why we specify the Director of the Basin Commission. He thinks it should have listed the Basin Commission as a group.

Tippets also wonders why do we mention the IDEQ and not the CDA Tribe and why is there a private member of the group? Terry Harwood explained that the group was formed about a year ago and has already been in existence for about a year and the Idaho AG wanted a definition of the local group. Tippets asked why is the BEIPC ED. listed specifically and not the Basin Commission as a group? Tippets said that it should say that the Basin Commission act as a special flood group coordinator.

After that change Tippetts said that he would be fine with the MOA.

Ted Yackulic confirmed that the MOA should state that the United States is not a participant for the purposes of this MOA document. Terry Harwood asked Yackulic to wordsmith the revision and send it to him.

Tippetts asked that IDEQ would agree with the understanding that IDEQ does not intend to participate or intend to be a taxing levee authority and expressly or state “supersede any local control to any degree.” Terry Harwood agreed that it should be included in the agreement.

Mike Fitzgerald will coordinate with Rob Hanson to wordsmith this additional inclusion and to work together and coordinate the revision.

Fitzgerald summarized the discussion: Exclude US government – EPA and to refer to Basin Commission instead of ED

Terry Harwood corrected in #4 that we are talking about the current flood group that includes the ED.

Rob Hanson moved that the Basin Commission enter into an agreement with the special flood control partnership of the upper CDA River Basin in Shoshone County and finalize the MOA for the Commissioners approval, and Marc Eberlein 2nd

Discussion:

Matt Nyziel asked if this fits into the scope of the BEIPC original mandate and legislation MOA of 2002.

Fitzgerald added that it is stated in the Executive Summary and consistent with the Basin Commission reports. Cernera suggested a preamble be added to the MOA that states exactly what is under the purview of the Basin Commission.

Rebecca Stevens pulled up the MOA on the computer and said that it is not in the MOA but referred to in the Idaho Statute 39, Chapter 31.

Ted Yackulic noted it needs to reflect basically what the scope is of their authority.

Harwood asked that the commissioners first tell whether or not they are committed to these folks and then deal with the MOA language later.

Mike Fitzgerald noted that language about being a flood district has been removed. Harwood confirmed that the MOA is not creating a flood district. The basis of this agreement is working together.

Cernera suggested that we resolve today that they move forward and the board to agree to coordinate and support this effort and have Harwood finalize a draft of the MOA at a later date. Ted Yackulic agreed but still have EPA abstain.

Vote on the motion was summarized: The Basin Commission agreed to the partnership with the flood group. EPA Abstained. **M/S/C**

Terry Harwood reviewed the process:

Ted Yackulic will send his revisions and Mike Fitzgerald will work with Rob Hanson. Terry Harwood will receive the language revisions from Ted and Rob. The plan will be to send it back and forth for review by the Commissioners and any other parties involved and once resolved will send it out for signatures of the local jurisdictions including the county and then meet with Jack Buell for his signature as Chairman of the Basin Commission.

Marc Eberlein left the telephone meeting.

Added Agenda item:

Ed Moreen gave a brief summary of the Bunker Hill settlement:

In addition to that the Bunker Hill will be taking on controlling the mine water flow.

There will be a 30 day comment period on the Consent Decree and a 15 day comment period to begin March 19.

Certera asked about the funds and Ed Moreen answered that the money is required to be deposited into the Bunker Hill Box Special Account.

Ted Yackulic said that it is standard type of language. Certera asked that there is a MOA about the CTP and what is the agreement. Moreen said for future flows that they will be responsible for water treatment and it is in the settlement agreement. Certera said that he was concerned about just finding out about this settlement.

Jerry Boyd asked that a notice be sent out about the comment period to the contact list. Ed Moreen said that the press release has already been sent to Terry Harwood and can be sent out to the public.

Matt Nykiel asked about the timeline of the comment period. Ed Moreen clarified that it will formally begin on Monday, March 19.

Announcement:

CCC meeting in the Lower Basin on April 18 in the early evening so working people may attend.

Next BEIPC meeting will be on May 23 at the CDA Inn.

Phone Meeting Adjourned.