

Draft

Basin Environmental Improvement Project Commission

Meeting Summary: February 11, 2004

Meeting Location: Kootenai County Administration Building
Coeur d'Alene, Idaho

Commissioners Present: Sherry Krulitz, Shoshone County
Chuck Matheson, CDA Tribe
Dick Panabaker, Kootenai County
John Iani, Federal Government
Steve Allred, State of Idaho
Jack Buell, Benewah County
James McCurdy, State of Washington

Commissioners Absent: None

Staff Present: Luke Russell, IDEQ
John Roland, Washington
Philip Cerner, CDA Tribe
Ed Moreen, EPA

Note Taker: Luke Russell

Chairman Krulitz opened the meeting at 10:00 AM with introductions of all participants. This included Shoshone County Commissioners Jim Vergobi and Jon Cantemessa, Idaho Congressional delegation representatives Mitch Silver and Dan Whiting. Commissioner McCurdy acknowledged the presence of Washington Department of Ecology representatives Rene-Marc Mangin and Flora Goldstein and Steve Thiele with the Washington Attorney Generals office. Chairman Krulitz also requested that all public comments be made at the podium to ensure they would be heard on the tape recording of the meeting.

Old Business

It was moved by Commissioner Allred, seconded by Commissioner Iani to accept the November 12, 2003 meeting summary. The motion passed 7-0.

It was moved by Commissioner Allred, seconded by Commissioner Panabaker to accept the December 15, 2003 meeting summary. Commissioner McCurdy noted on page 1, the word administrative should be administerial. The motion then passed 7-0.

Chairman Krulitz asked if the board has been comfortable with the meeting summaries prepared to date, or if they would prefer to have more pure meeting minutes. These would simply summarize the motions and actions and what the discussion was about, rather than trying to provide a summary of all the discussions and comments made. The board was generally comfortable with the meeting summaries prepared to date and this should continue.

Commissioner Iani then informed the Board of some additional limitations on the voting role of the federal representative to the Commission should it directly receive funds. Cara Steiner-Riley, attorney for EPA provided the board with background on this issue. She noted the Idaho Department of Environmental Quality had proposed at the December meeting to provide the Commission with approximately \$150,000 in start up capital which triggered an Office of General Council (OGC) review of potential ethics concerns this might raise for the Federal representative to the Board. The concern was with an appearance of a conflict of interest should the regional administrator vote on getting money into the commission, or possibly the dispersal of funding. EPA Region X had received OGC guidance that would preclude the federal board member from voting on any sources of funding (federal or state) coming into the commission.

Commissioner Iani noted as the Board progressed toward becoming an implementing entity this was an obstacle the Board needed to take under advisement. This would not affect his ability to vote on work plans, or when funds would be held by other entities on behalf of the Commission. Commissioner Panabaker asked if the funding source was the issue (federal funds) and Mr. Iani noted this potential conflict existed with any funds coming into the Commission.

Commissioner Allred requested a written explanation of OGC's view on this matter so the Board would better understand their opinion. He noted former EPA Administrator Whitman, while in Coeur d'Alene, promised full support of the Commission and EPA seemed to be raising issues rather than solution. He noted the Idaho legislature modified the Commission statute in its last session to address conflict concerns then raised by EPA. The Idaho legislature can't keep changing the statute and he needed something to help explain this current issue to the governor. Mr. Iani supported the need for this matter to be documented and he will send a letter to the board to further explain this potential conflict. Mr. Iani further commented that conflict of interest issues tend to be fact specific and as the Commission approach is new and untested, these would need to be addressed as they arise.

Commissioner Panabaker asked if a similar conflict applied to them. Ms. Steiner-Riley noted their review was only on the federal representative. The change to the Idaho statute made last year may have addressed other board members concerns in this regard.

New Business

Executive Director Recruitment Process/IDEQ Proposed Subgrant:

Chairman Krulitz noted the Board would take up both of the above issues at this time. She requested Ross and Associates provide a review of their report and a presentation by IDEQ on the Subgrant. She would then take public comment on both matters prior to board action.

Anne Dettlebach with Ross and Associates reviewed their report on a suggested approach and schedule for the Board to recruit an Executive Director. She noted their original scope had been expanded to also review support staffing, role of the core staff, sustainable funding and recommendations on the office location.

She reviewed their research approach and the three types of decisions required which included: 1st order- related to recruitment and selection, 2nd order- related to hiring and additional staffing needs, and 3rd order which related to long-term funding for the Commission.

After presenting their approach and options for board consideration, Ms. Dettelbach reviewed the recommendations in their report, which included:

1. Use an independent recruitment firm to manage the Executive Director recruitment process,
2. The board, with some level of involvement by others (e.g. core staff, TLG and CCC) conduct interviews with the board making the final selection,
3. Offer a salary in the range of \$68,000 - \$78,000,
4. Hire one additional, administrative/communication staff to assist the Executive Director,
5. Research providing state benefits, if possible, within the stated fiscal parameters of approximately 31% of salaries,
6. Request ongoing contribution by participating governmental entities to support the interim core staff and TLG functions,
7. Locate the primary Commission office in Shoshone County with a Coeur d'Alene interim office.
8. Direct Executive Director, as an early task, to assess requirements for becoming an implementing fiscal entity, including researching a predictable funding stream, and
9. Board consider an annual coordinating budget (2-person) at an estimated \$268,000 and a potential implementing budget (4-person) budget around \$365,000.

In regard to long-term funding, Commissioner Allred commented the IDEQ had been in discussion with EPA on an indirect charge rate to help support staffing and administrative needs for the Commission.

Commissioner Allred noted at the December 15, 2003 meeting the IDEQ had proposed to provide the Commissioner \$146,200 to help the Commission with administrative start-up funding. This was from state of Idaho general funds and would require an agreement between the State and Basin Commission. The agreement language was included in the Board packet for action.

Commissioner Panabaker noted the IDEQ support-funding offer was only about half of the budget proposed by Ross and Associates. Where would the other funding come from? Commissioner Allred noted other funding sources were available. For example, the state and EPA had been in negotiations on an indirect rate for federal funds to the Commission and the IDEQ budget was approximately 40% funded by federal sources.

Public Comment:

Frank Frutche, TLG member and citizen, asked what GS pay scale Ross and Associates had used to come up with the salary range for the Executive director? He noted the county commissioners had more responsibilities and made less than this amount. Anne Dettlebach responded this was approximately a GS 13 level, which is typical for a superfund project manager. In addition, she noted the recommended pay range was around that of an IDEQ regional administrator,

Jim Hollingsworth, Lands Council, commented the IDEQ offer was only about half of what was needed and where would the remaining amount come from? He noted any candidates for the Executive Director's position must be made aware of the current funding limitations for the position. Commissioner Krulitz noted that grant writing and seeking additional administrative financial support would be a function for the Executive Director. Commissioner Panabaker questioned if the Board could use some of the federal funds coming to the Commission for administrative support expenses. Commissioner Allred said yes, if the board was directly receiving the funds.

Roger Hardy, TLG and citizen, noted the salary was not too high. In regard to the office location he felt some sort of weighting criteria should be applied. Where the agencies are would have less weight than where the work is, and where the people most affected are. He noted that moving the Board meetings throughout the Basin, like they have, is a good way to keep the entire basin informed.

Terry Harwood, CCC supported the Ross and Associates recommendations. He asked if use of a consulting firm to provide the executive director, at least initially would be a feasible option. In this manner the consulting firm would provide all benefits and payroll as well as additional supporting personnel as needed. Commissioner Krulitz commented they had considered this as an option that could potentially be run through the Panhandle Area Council.

Kristy Johnson, CCC, noted getting an Executive Director on board was critical for the Board to become truly a functioning entity. She also commented that construction contracts issued by the Board should include worker benefits considerations.

At 11:20 the Board took a break and then reconvened at 11:30.

It was moved by Commissioner Panabaker, seconded by Commissioner Buell that the Board proceeds to hire and Executive Director. Discussion followed.

Commissioner Panabaker noted the need for funding assurance beyond the six months being offered by the IDEQ. Commissioner Allred noted the Basin cleanup was envisioned to occur over 30 years and there was a need for an institution, like an independent Basin Commission, to carry forth the vision for environmental restoration and protection along with economic considerations in that effort. He noted there are well established processes for state and federal funding to help support this effort and the Commission, and that around \$15 M was envisioned to be spent annually on the clean up. He noted IDEQ currently obtains around 40% of its budget from federal funding sources by the use of direct and indirect rates charged to these funds. He suggested the Board not become distracted from this vision by the many issues that will develop over the next 30 years, but rather focus on solutions. Retaining the Executive Director was important for the Board to move forward. A recruitment firm can be used to assist in advertising for the position but the Board must select the individual that will be loyal to the Board. He added the \$146,000 being offered by the IDEQ was not guaranteed and was only short-term to help get the Board's staffing started.

Commissioner Panabaker questioned if the Board could charge a direct/indirect rate on funds that come to it? Commissioner Allred noted the Board does have this authority but there are hoops it must jump to get this funding. Commissioner McCurdy questioned if the Board accepted the IDEQ funds how would this impact EPA's ability to vote? Commissioner Iani commented he could not vote on this question. He noted potential future conflicts would have to be addressed on a case by case basis.

Commissioner Iani commented the question to the Board is: What is the purpose of the Commission? Is it a decision-making entity, which he felt it has been, or is it to be an implementing entity? He did not want to create unnecessary duplication. He commented he was not sure the Board could negotiate an indirect rate at the present time. He added the Board needed an Executive Director but this needed to be done in the most efficient manner. He was pleased IDEQ was offering seed money to the Commission to help support staffing. Yet, there remained questions the Board didn't have answers to on long-term funding which he felt should be explored further.

Commissioner McCurdy supported Mr. Allred's vision of a Board that is eventually self-standing and not controlled by any one party, but is neutral. The Board has had some success to date yet he voted against the Board from becoming a stand-alone entity, as they do not have the answers to many remaining questions. He is particularly concerned, as expressed in previous meetings, that the Board does not have a track record, has not developed accepted custom and practice in its endeavors, and has no understanding of how the Executive Director and staff of a self-standing Board will accomplish its objectives, including the necessary assessment and monitoring functions. He felt strongly about the EPA conflict that, if triggered, will systematically disenfranchise and

reduce the role of the federal Board member and wanted to find a way to resolve this before moving forward. Commissioner McCurdy stated that the disenfranchisement constituted a material change of circumstances that served to undermine the common understandings and expectations of the parties to the MOA. He also noted there was a practical limitation in that the Board did not have funding beyond 6 months for staff. He asked to table the motion and refer it back to Ross and Associates for further analysis. He added the Board cannot afford to fail in this effort and needed answers before moving forward.

Chairman Krulitz asked how much was Ross and Associates paid to do their analysis? Sheila Eckman with EPA noted their task was supported through EPA and that no remaining funds were available for Ross and Associates to do this work, unless the Board was willing to direct them to do less support for the CCC under this work task. Chairman Krulitz felt it was frustrating that the Board could not move forward to hire an Executive Director.

Commissioner Allred commented the Board should go ahead in the most inexpensive manner to retain recruiting help to get the Executive Director on board. Commissioner Matheson was opposed to becoming a stand-alone implementing entity especially without the full partnership of the EPA representative.

Commissioner Iani then made an amended motion, seconded by Commissioner Allred that the Board:

Use an independent recruitment firm to manage the Executive Director recruitment process, the board, plus others (e.g. core staff, TLG and CCC) conduct interviews with the board making the final selection, offer a salary in the range of \$68,000 - \$78,000, hire one additional administrative/communication staff to assist the Executive Director, research providing state benefits, if possible, within the stated fiscal parameters of approximately 31% of salaries, and request, to the extent possible, ongoing contribution by participating governmental entities to support the interim core staff and TLG functions.

Chairman Krulitz requested the motion be further amended that core staff not participate in the recruitment/selection process as one or more of them may be potential applicants for the position. The motion was thereby amended. Commissioner McCurdy commented the amended motion does not address the funding issue so it won't compromise Mr. Iani's ability to vote. Commissioner Panabaker supported the amended motion but can't agree to do something without funding.

The Board called the question and the amended motion passed 6-1 with Commissioner McCurdy voting against.

Commissioner Allred then moved, seconded by Commissioner Panabaker that the Board establish its designated office in Shoshone County. In discussion he added the IDEQ would make an office available in Coeur d'Alene on an as needed basis to help

support the Commission if necessary. Chairman Krulitz noted she had been approached for a possible office space available in Wallace. She was concerned with any satellite offices in Coeur d'Alene and cited experience with the USFS whose field station is in Silverton but because there is a Coeur d'Alene office this individual is rarely in Silverton. **Commissioner McCurdy requested the motion be formerly amended, supported by Commission Iani, to include a Coeur d'Alene office location at IDEQ be made available.** Commissioner Allred indicated he could support the amended motion but that staff could meet wherever and whenever needed throughout the basin. He did not want to confuse the Board's designated or headquarter office with any other interim office space made available. **The question was called and the motion passed 7-0.**

Commissioner Panabaker then moved, seconded by Commissioner Buell that the Board accept the \$146,200 being offered by IDEQ to help staff the Commission. Commissioner Allred excused himself on the vote given the funds was being offered from IDEQ. Commissioner Iani suggested the funds be directed to a third party for purposes of recruiting an executive director. This was acceptable to Mr. Panabaker who made the original motion. Commissioner Matheson question who this third party would be? Commissioner Panabaker offered the services of Kootenai County to accept these funds and retain a recruiter for this purpose. Commissioner Allred noted he was limited on who he could transfer these funds to without there being an open competition for this work. He had authority to transfer these funds to the Commission. **It was then moved by Commissioner Iani, seconded by Commissioner Panabaker an amended motion that the Board accept the IDEQ grant funds to be directed and passed through to Kootenai County for purposes of recruiting an executive director and staff for the Commission. The question was called and the motion passed 5-1 with Commissioner Allred abstaining and Commissioner McCurdy voting against.**

Mr. Allred then commented the Basin Commission is the entity charged in Idaho for directing the clean up. Putting money into another entity is inconsistent with this charge and if the Board cannot accept funds directly the Commission is not going to work.

The board then took a lunch break and reconvened at 1:45 PM.

Upon reconvening Chairman Krulitz noted that over lunch the Board realized that for Kootenai County to accept the IDEQ grant funds it would first have to reopen its budget. **To avoid this it was then moved by Commissioner Panabaker seconded by Commissioner Buell that the board revisit this issue. The motion passed 6-0 with Commissioner Matheson absent during this vote.**

Commissioner Panabaker noted the IDEQ could simply retain the funds and retain a recruiter on behalf of the Board. Commissioner Allred noted IDEQ wanted to provide the funds to the Commission but it could retain the recruiter on behalf of the Board. **It was then moved by Commissioner Buell, seconded by Commissioner Panabaker that IDEQ retain the funds and retain a recruiter to perform the executive director recruitment.** In discussion, Commissioner McCurdy still felt it was premature to take

this step without further study. **The question was called and the motion passed 5-1 with Commissioner Matheson absent and Commissioner McCurdy voting against.**

Lake Management Plan:

Ed Tulloch with IDEQ provided an update on the status of amending the 1995 Lake Management Plan for Lake Coeur d'Alene. He noted in updating the plan there were 3 primary objectives, which included:

1. Develop a plan/update for protecting lake water quality,
2. Obtain State and Tribal agreement on the plan/update, and
3. Position for deletion of the lake from any Superfund designation.

He noted in December 2002 the draft addendum to the 1995 plan was distributed for public review and comment. They had received over 80 comment letters and over the summer of 2003 the state and tribe had conducted a review and prepared draft responses to these public comments. He noted the key state/tribal issues identified also included:

1. Role of the Basin Commission in the Lake Management Plan, (coordination rather than projects approval)
2. Funding (projects and staffing)
3. Monitoring (beyond the initial three years funded by the Commission) and
4. Existing authorities of the various entities to remain in-tack to set priorities and project schedules.

Mr. Tulloch noted the state remained hopeful that a single plan could be developed with state and tribal support, but if not, the number one objective of protecting lake water quality could still be accomplished with 2 plans.

Mr. Phil Cernera, Coeur d'Alene Tribe, commented that state and tribal staff had moved the draft plan update to their respective senior management levels to resolve the issues identified by Mr. Tulloch. The tribal council had just recently sent a letter to Idaho Governor Kempthorne identifying these issues and suggested a meeting be held to try to resolve them. Mr. Cernera noted that funding of the plan was a key remaining question and issue to be addressed. Commissioner Matheson returned at 2:00 PM.

Chairman Krulitz noted the Board had received a copy of a letter from the lakeshore homeowners association to Governor Kempthorne asking for action on the lake plan update. Mr. Cernera commented the Basin Commission could serve as a coordinating entity along with the TLG/CCC as Lake Management had an obvious linkage with implementation of the Superfund Record of Decision. This might involve quarterly updates by respective lake coordinator staff and entities working on lake protection projects.

Commission Allred noted the 1995 lake plan (signed in 1996) had been adopted as a multi-party agreement on lake protection. The objectives and goals remained valid and

the plan was still in effect. He noted the changes or updates were being considered for that 1995 plan. While this plan exists it needs a coordinating entity, like the Commission to be more effective. The Commission would not be a new enforcing entity of the lake management plan.

Public Comment:

Bill Rust, TLG, noted the Board had approved Phase I Clean Water Act projects at its meeting in November. He said the current list of projects before the Board for consideration was expanded to address Lake Management type projects. He didn't feel the Board should consider these projects unless it had establish guidance or policy on its role on lake management. The county TLG members had presented a memorandum in the Board's packet that explained their position on this matter. They sought the Board to agree the 1995 lake management plan to be its guidance document and basis for doing lake management projects and then address any future updates to that plan.

Brett Bowers, Lakeshore Owners Association, commented on their letter to the governor. He felt the Board should adopt the 1995 plan and become the coordinating entity on Lake Management activities. The board could obtain and direct funds for Lake Management projects as well as put influence on other responsible agencies (e.g. Idaho Department of Transportation) for lake protection.

Lloyd Brewer, City of Spokane noted that, while lake water quality was generally not bad, contaminants at the bottom of the lake presented an ever-present concern for possible release back into the water column. He supported the Clean Water Act projects currently before the board. Mr. Brewer returned to the podium a bit later and commented the 1995 lake management plan did not go far enough especially in regard to funding, staffing, etc.

Toni Hardy, citizen, asked where is the southern lake shore owners voice in the lake management plan? She questioned where is the lakeshore boundary itself? She noted there were no tribal trust lands on their side of the lake.

Jim Hollingsworth, Lands Council, noted the TLG process for review and consideration of Clean Water Act projects before the Board today had been a good process, and in essence a peer review. He noted the county representatives to the TLG seemed to vote either for or against projects rather than provide a scientific assessment of the projects. He felt this was based on political perspectives and the TLG was meant to be a scientific advice to the Board. The Board needed to act on what had gone through the TLG process and stick to science.

Roger Hardy, TLG expressed concern with lake water quality and iron oxide seeps from the Union Pacific causeway at Ogarra Bay. He provided a photo of the seeps and a beer can that had iron oxide staining. He asserted this was an environmental violation and although the UP railway and trail was under a separate consent decree and authorities, the Basin Commission should provide coordination through its role on lake management. He felt the agencies needed to do something about this seepage.

Rusty Shepherd, TLG and Spokane River Association noted that for over a year they had been in limbo with the lake management plan. He wanted the Board to either step up and accept the 1995 lake plan as a basis for Lake Management planning, or say this plan is inadequate. Either way he was seeking Board direction and involvement on Lake Management.

Toni Hardy, CCC noted the 1995 lake plan was developed prior to the decision related to tribal ownership of the lower third of the lake and this does affect the lake management approach and planning.

Phil Cernera, Coeur d'Alene Tribe, noted the 1995 plan was currently being revised and so he felt it was premature to adopt this plan until the revisions were complete.

Commissioner Panabaker noted Kootenai County had been implementing the lake management plan within the county since 1996. He felt the plan remained a sound basis for management but recognized it is a fluid plan and subject to modification. He supported adopting the 1995 plan and then work together to update it. Commissioner Matheson stated there remained 8 issues that needed to be addressed before the Tribe could accept the revisions to the lake plan. He also did not want to give up any existing authorities in implementation of the plan. He felt it was irresponsible of the Board to adopt the 1995 plan at this point and time.

Chairman Krulitz noted the Tribe was a signatory to the 1995 plan. Commissioner Allred stated the state had only last Friday received the Tribe's letter identifying the 8 outstanding items and this was currently under review. He said the Board would not be "adopting" the plan as the plan is being implemented by other entities. However, the Board could serve in a coordination role to ensure it is integrated into the overall basin clean up program. Commissioner McCurdy agreed that adoption was by the signatory entities but the Board could have a coordination and integration role. However, he felt it appropriate to wait to take action until the addendum was finalized. He suggested the board make a statement that "the Commission supports the concepts behind the Lake management Plan to protect water quality of the lake and advancement of projects consistent with that goal". No second to this recommendation was made.

Commissioner Allred sought confirmation from Mr. Cernera that the addendum under consideration was to the 1995 plan to provide additional detail and definition to the existing plan. Mr. Cernera stated that was the case. He noted the plan needs better definition as well as elevation to a higher coordination entity to ensure the plan is implemented.

It was moved by Commissioner Panabaker, seconded by Commission Buell that the Commission oversee and coordinate the 1995-lake management plan, including monitoring, and look at future modifications to the plan. In discussion Commissioner Matheson stated the Board had no authority to oversee the plan. He felt this would also be construed as the first step toward deletion of the lake from superfund designation and

again stated the Tribe had 8 outstanding items that needed to be addressed before they would agree to the updated plan. Commissioner Allred agreed the Board was not an "adopting" entity as this was the responsibility of local units of government. However, there was a need to coordination what the local units of governments were doing and agreed to. He noted no one was giving up any authority by the Board agreeing to be a coordination entity.

Commissioner McCurdy stated his understanding that the Board would not be in an enforcement role or replacing any authority of other entities. He questioned if the Board action on this motion would affect EPA's responsibility on water quality. Commissioner Iani responded the Lake Management Plan was the responsibility of the Tribe and State of Idaho. Once implemented, the plan could serve as a starting point for the process for EPA to develop a no further action record of decision on the lake. He added the Board could put pressure on both the state and Tribe to complete the plan, but that may be all they could do.

In the context of the above discussion **the question was called and the motion passed 6-1 with Commissioner Matheson voting against.**

Phase II Clean Water Act Projects

Mr. Phil Cerna, TLG chair, presented several projects for board consideration for funding under the remaining budget under the Clean Water Act grant available to the Board. He outlined the technical review process that was followed in TLG consideration of these project proposals. He noted at the November meeting the board approved 5 projects that totaled about \$500,000. The projects being recommended to the board today totaled \$957,300. In reviewing projects proposed, a total of 7 projects were rated 3.0 or better (on a scale of 1-5) and the TLG believed these projects represented a strong first step at addressing basin-wide sediment/nutrient management issues and therefore are important projects to be funded. He noted that several other projects were highly considered but there were unresolved technical issues associated with these other projects.

The projects recommended by the TLG for Board action included:

- Monitoring fish response to bank stabilization in the Coeur d'Alene River - \$106,800
- Initiate a computer modeling effort to assess sediment transport and bed evolution in the lower CDA River - \$193,000
- Inventory and evaluation of private lands for potential restoration of wetland habitats - \$152,000
- Lower Coeur d'Alene Lake aquatic vegetation survey - \$130,500
- N. Fork hydrologic and sediment yield study - \$165,000
- Initiation of a simulation model to evaluate lake's response to watershed remediation - \$190,000
- Initiation and evaluation of feasibility of a Mica bay nutrient reduction project - \$20,000

Chairman Krulitz questioned the wetland habitat inventory project. She noted the plan called for Ducks Unlimited to do this work. She questioned under the funding source was it required to go to competitive bid before a contractor is selected. In addition she questioned if private landowners interested in this effort had been approached and identified. Mr. Dan Audet with the US Fish and Wildlife Service noted the funding was to conduct an inventory and not to do a project on a private land holding at this time. He noted the ROD called for conversion of approximately 1500 acres of agricultural lands to create clean habitat for waterfowl in the lower basin. This was a logical first step in achieving this objective.

Chairman Krulitz then asked if EPA had the funds to do the data review hydrologic assessment in Canyon Creek. This project was approved for Clean Water Act funding at the November meeting but EPA had indicated they may be able to fund this work out of their Superfund budget. Bill Adams with EPA responded that EPA was performing a treatability study for surface water in canyon creek and would include the hydrological evaluation as a part of this study. They did have the funds in hand to do this project.

Commissioner Allred noted that the Department of Energy had funding through their Technical Services Centers to assist in these types of projects. He noted the project proposed by the Idaho National Environmental Engineering Lab (INEEL) and IDEQ to conduct a geochemical assessment in the alluvial system of Canyon Creek might be very appropriate for this type of funding.

Public Comment:

Frank Frutchey, TLG provided comments on several of the CWA projects under consideration. He noted that in lieu of conducting an inventory of possible agricultural lands to be converted to wetland habitat, it made more sense to use these available funds to actually purchase some private lands and do a demonstration project. This would provide better knowledge for achieving this aspect of the ROD. An inventory was not getting any real work done on the ground. In addition, the felt the counties already do weed/lake vegetation assessments and this project was duplicative of that effort. He supported the N. Fork sediment study and felt it important to get this data. For other projects he felt they needed to be better formulated so the board got the biggest bang for its buck.

Anne Dettlebach, Ross and Associates provided CCC comments on the CWA projects. She noted the CCC rated the fish response study to bank stabilization, sediment modeling in the lower CDA River and the INEEL geochemical investigation in Canyon Creek highest. Chairman Krulitz noted in the CCC written comments on the CWA projects and the Ross and Associates assessment of CCC administrative needs; there was a comment that the Board was not hearing the CCC. This was very troubling to her. She requested the interim staff schedule a pre-board meeting discussion with the CCC leadership and the three county representatives to the Board. She further noted the Board had received a

letter from the city of Pinehurst requesting funding support for Pine Creek flood control project and felt this should be taken up at the next Board meeting.

Commissioner Allred noted the Basin Commission could act as drainage for flood control district for projects like that being pursued by the City of Pinehurst. He noted for that project, however, there was concern for recontamination of the EPA implemented remedy and so this may be eligible for Superfund funding.

It was moved by Commissioner McCurdy, seconded by Commissioner Iani to accept the 7 projects proposed by the TLG for CWA funding. Commissioner Allred noted that there remained approximately \$300,000 available and uncommitted funds under the Clean Water Act grant and asked staff/TLG to take another look at the INEEL plan to conduct geochemical assessment in Canyon Creek for the next meeting. Commissioner Panabaker noted he supported the motion but once again the proposed projects seemed like a lot of study and not getting much of anything done on the ground and he may not support similar type projects in the future. Chairman Krulitz noted the strings attached to the Clean Water Act funding were frustrating, as it must go to studies and demonstrations. She asked the congressional delegation to work with them to get funding that was more flexible in its application. Commissioner Allred noted the Board needed to establish its priorities for projects and not just react to proposals. He asked interim core staff to facilitate this type of discussion before the next time the board considers funding projects.

The question was called and the motion passed 7-0.

Community Protection Agreement

Commissioner Matheson then requested the Board consider establishing a working committee review employee/labor issues associated with work approved by the Commission. Ms Carla Din with the Steelworkers Union commented they wanted to work with the board to establish uniform pay and benefit programs for employees working on the basin cleanup. **It was moved by Commissioner Panabaker, seconded by Commissioner McCurdy that the board appoint a committee of three to review the unions proposed community protection agreement and prepare a proposal for board consideration.** In discussion, Commissioner Panabaker noted he favored local hire and fair wages and benefits for all working on the basin cleanup. Commissioner Allred noted that this should not be perceived as the Board entering into any labor discussions. Rather it was only to review the unions proposal and for no other goal. **The question was called and the motion passed 7-0.** Commissioner's Matheson, Buell and Allred were selected to serve on this committee.

State Match/Operation and Maintenance MOU

Mr. Rob Hanson, IDEQ reviewed for the Board the state of Idaho's annual appropriation of funds to support basin clean-up activity. He noted the state was responsible for 100% of the long-term operation and maintenance of implemented remedies. He noted the state

needed to spend its annual appropriation or it would lose it. This then, required the state to consider the creation of a trust to help fund this long-term activity. He requested the Board direct the interim staff to work with IDEQ to develop a memorandum of agreement to establish such a trust and to enact the financial authority to manage the trust for the long-term benefit of the Commission and operation and maintenance of ROD actions. Commissioner Panabaker asked if this would trigger the same conflict with Commission Iani and Mr. Iani advised it would. Commissioner Allred noted that operation and maintenance funding was a critical issue to the state and to EPA. The EPA voting conflict could preclude the state from providing its necessary obligation under the ROD. Commissioner Iani noted the board should move forward in development of the MOU for long-term operation and maintenance and funding the trust. Staff was directed to work with IDEQ in this effort.

Annual Report

Luke Russell, IDEQ, updated the board on development of an annual report of commission activities over the past year or so. He noted a draft had been circulated to the TLG and CCC and staff was reviewing these comments. A revised draft would be provided to the Board at its next meeting. Commissioner McCurdy noted that as secretary/treasurer for the Board he would like to review the financial reporting content of the plan. Mr. Russell will provide him with a draft of the report.

Basin Environmental Monitoring Plan

Mr. Russell, IDEQ reminded the Board that Anne Dailey with EPA had presented the Basin Environmental Monitoring Plan (BEMP) to the board at its November meeting. He advised the plan is now complete and EPA was requesting the various governmental entities to sign off on the plan. Mr. Russell indicated that IDEQ was willing to sign the plan but wanted the Basin Commission's endorsement of the plan before going forward. **It was then moved by Commissioner McCurdy, seconded by Commissioner Iani that the Board endorse the Basin Environmental Monitoring Plan. The motion passed 7-0.**

Washington Board Member Alternate

Commissioner McCurdy introduced Rene-Marc Mangin who has been appointed by the Governor of Washington as his alternate to the Basin Commission Board. A letter to memorialize this appointment is pending.

Public Comment

Jim Hollingsworth, Lands Council provided to the Board a copy of a proposed memorial currently being circulated in the Washington legislature. He commented this memorial seeks three items which include: 1) giving the state of Washington a veto, 2) appointment of an additional Washington representative - from Spokane County, and 3) disband the current commission to create a bi-state agreement for basin cleanup and broader water issues. He noted the Washington legislators were being encouraged to invite the Idaho

legislature to discuss the main points of this proposed memorial and that funding for the commission and clean up was a major issue of concern. Chairman Krulitz commented that she understood the original Idaho bill envisioned a representative from Spokane County to be appointed to the Commission. However, at the request of the Washington Governor the bill was amended. Commissioner Allred commented that Idaho had approached Washington to expand the Commission to include the Spokane River and allow Washington to help fund the clean up. However, this offer was not acceptable to Washington at that time.

During the closing audience comment opportunity Sheila Eckman, EPA provided to the Board some background information on what it takes for the Commission to demonstrate its ability to directly receive federal funds. An information packet was entered into the record.

Mike Schlepp, TLG questioned the January 8, 2004 CCC meeting notes in reference to lead mobility as a result of sediments and nutrients. He noted this comment seems opposite to the current scientific understanding. Anne Dettlebach with Ross and Associates who took the meeting notes commented she might have misunderstood the comment. This will be revised in the meeting notes.

Toni Hardy, CCC and lower basin resident, requested the Board maintain a graphic organizer that depicts all meetings in relation to the basin clean up. She felt the CCC was not working as not all are treated equally in the process. She noted the streambank PFT and change in membership that was particularly troubling to her.

Kristy Johnson, CCC requested clarification on the voting conflict with Commissioner Iani. She asked if once funds were in the commission then Commissioner Iani and Allred could vote on how that money would be used. Both commissioners concurred with this assessment. She then asked the Board to see themselves as brokers of solutions with other existing authorities and entities.

Commissioner Buell asked the Board to discuss the concerns raised earlier in the meeting by Roger Hardi about seeps along the rails to trails. Commissioner Allred asked Mr. Hardi where he felt the source of the seeps was, and he replied the causeway. Mr. Allred noted he was not sure if these seeps were causing water quality problems but the Tribe and EPA who have jurisdiction on the trail should investigate this. Commissioner Panabaker noted that the board's action on the Lake Management Plan could give it some leverage to work with other authorities to help on this concern.

The board then discussed its next meeting, which was tentatively scheduled for March 30 in Shoshone County.

There being no other business the board adjourned at 4:50 PM