

## **BEIPC MEETING MINUTES**

Basin Environmental Improvement Project Commission

May 14, 2008

Wallace Inn (Gold Room)

100 Front Street, Wallace, Idaho

### Attendees:

Mr. Terry Harwood (Executive Director)

### Commissioners:

Mr. Jack Buell

Mr. Jon Cantamessa (Chair)

Mr. Rick Currie (Vice Chair)

Ms. Toni Hardesty

Ms. Elin Miller

### Alternates Present:

Mr. Phillip Cernera

Mr. Grant Pfeifer

### Staff Present:

Ms. Jeri DeLange

Mr. Rob Hanson

Mr. Dave George

Mr. Ed Moreen

Ms. Rebecca Stevens

1) Call to Order: The BEIPC Chair, Commissioner Jon Cantamessa (Shoshone County), called the meeting to order at 9:30 a.m., followed by the flag salute.

2) Approval of Minutes from February 13, 2008 Meeting: Commissioner Cantamessa asked if there were any additions or corrections to the minutes. Mr. Phillip Cernera (CDA Tribe) said that he had a comment on item #17 (page 14) regarding the discussion by Mr. Harwood related to U.S. Senator Craig's office calling him and asking him to submit a proposal for potential funding. He brought up for the record that it did not mention he questioned two things: 1) whether the request was specific to flood control or much broader; and that Mr. Harwood responded that it was much broader; and 2) whether the entire BEIPC had the opportunity to discuss what the proposal would be; and that the answer was there was only eleven days to get something together. Mr. Cernera said that he wanted to include this in the minutes. He also inquired whether a topic could be added to today's agenda on future funding and the protocol in which the BEIPC as a board would go about deciding what to propose or spend money on. Commissioner Cantamessa responded that this was his recollection also and asked that Mr. Cernera's comments be added to the minutes. Mr. Jerry Boyd indicated that there was a correction under item #3 (page 2, second paragraph) regarding contaminated sediments that were dredged from the South Fork of the CDA River. He clarified that it should read, "... were

dredged from the CDA River.” Commissioner Cantamessa requested that this change be made to the minutes. Commissioner Rick Currie (Kootenai County) then made a motion to approve the minutes as corrected, seconded by Commissioner Jack Buell (Benewah County). The motion was unanimously approved.

3) Commissioner and Alternate Meeting Attendance: Commissioner Currie offered his apologies to the BEIPC as he was not prepared to discuss this item. However, he added that he would appreciate if it could be brought up at the next meeting. Commissioner Cantamessa agreed.

4) Other BEIPC Discussion: Mr. Cernerer remarked that he wanted to raise a point before the next presentation on CDA Lake Nutrient Management by Mr. Bill Rust. He commented that the presentation was very technical dialogue and inquired whether it had been brought to the Technical Leadership Group (TLG) first. Mr. Rust replied that it had not. Mr. Cernerer noted from the BEIPC guidelines and protocols that the public can contact the BEIPC Executive Director, Mr. Terry Harwood, three weeks before a BEIPC meeting and ask to be put on the agenda. Mr. Cernerer expressed his concern that if there was going to be a discussion on very technical aspects, that the reason the TLG was formed was to provide a sounding board for technical dialogues to occur. He feels that technical information should be vetted among the TLG before it comes to the BEIPC as there are technical staffers to provide guidance in recommendations on moving forward. Mr. Cernerer then suggested that the BEIPC look to amend the meeting guidelines where anyone can come to Mr. Harwood within three weeks of a BEIPC meeting to ask to be put on the agenda. He indicated that he would like to request that any parties asking to schedule a time slot on the agenda to discuss technical information must first provide the information to the TLG. Mr. Cernerer clarified that he put this out for a discussion point and that he did not want to stop Mr. Rust from providing the information today. However, he could put it in the form of a motion if the BEIPC would like to move forward to amend the guidelines.

Commissioner Currie indicated that he would not be supportive of Mr. Cernerer’s proposal to amend the guidelines. He feels that it is extremely important to keep this opportunity open and commented that he has no problem with the three week rule and does not want to take the chance of losing it.

Commissioner Cantamessa said that if there was going to be debate on this issue, he would bring it up later, so that the meeting could move forward. He asked Mr. Cernerer if he had no objections to Mr. Rust making his presentation. Mr. Cernerer said that he did not as long as he had the ability to make a motion later.

5) CDA Lake Nutrient Management, “A Local Perspective,” by Bill Rust: Mr. Rust gave a presentation on his perspective of CDA Lake nutrient management. He informed everyone that this issue had been brought up many times and that various people (i.e. Mr. Rusty Sheppard and others) asked him to take a look at it. His presentation is an engineering approach to the management of nutrients in CDA Lake based on the publicly available scientific data. He indicated that management of nutrients is necessary to prevent algae blooms and oxygen

depletion and then discussed the following:

- Total nutrient load to the Lake;
- Total phosphorus loads in 1991-1992;
- Wastewater phosphorus loads 1991-1992;
- Silver Valley phosphorus loads 2004-2005;
- South Fork nonpoint phosphorus loads;
- CDA River phosphorus from sediments;
- Reduction of CDA River sediment load;
- Reduction of St. Joe River sediment load; and
- Effects of nutrient changes as predicted by the Lake Model.

Mr. Rust noted that phosphate goes primarily into the Lake as sediment. He reviewed the discharge data from various wastewater and septic systems in the Basin that are contributing to nutrient loading. He said that the BEIPC provided CWA funding for a study that found it was going to cost \$13 million in capital and \$1 million in operating expenses per year to make improvements to the 5,100 users on sewer hookups in the Silver Valley. He then mentioned that sediment from bank erosion ends up in the Lake. Much of it is due to boat wakes, and it gets mobilized during the summer and ends up as very fine sediment sitting on the River bottom. It ends up in the Lake with the first flush (i.e. high flow) before it can spread out on the floodplains. He pointed out that the Sreambank PFT has had much discussion on this issue.

To help with loading reductions, Mr. Rust is a member of the North Fork Watershed Advisory Group (WAG) which is developing a total maximum daily load (TMDL) implementation plan along with IDEQ. He indicated that a lot of work is being done on the North Fork, particularly for two of the major sources, Beaver Creek and Prichard Creek. The watershed advisory group voted to support a proposal by IDEQ with Geoff Harvey for 319 funding: \$250,000 of a \$400,000+ project to work on the Eldora mine at Beaver Creek; and the Forest Service also has projects scheduled. For the next year, over one million dollars in work has been planned for sediment reduction in Beaver Creek. The Natural Resources Conservation Service (NRCS) is also doing a lot of work on private land, both there and in the Lower CDA River. Mr. Rust said that NRCS provides matching funds and the private landowner provides part of the funds. He brought up that another problem on the Lower River is streambank stabilization. Most of the streambanks are owned by the State of Idaho and administered by Idaho Fish & Game (IFG). Mr. Rust feels that IFG believes that erosion is a natural phenomenon and they do not appear to be doing anything to reduce erosion from the riverbanks. Regarding the St. Joe River, he believes that it is similar to the North Fork of the CDA River in that it has a large sediment load and there is a fair amount of streambank erosion on the Lower St. Joe.

Commissioner Jack Buell (Benewah County) asked what authority the Corps of Engineers (COE) has on riverbanks. Mr. Rust replied that they permit dredge and fill, and are involved in the permitting process for streambanks and work on the streams up to the high water mark. Mr. Harwood clarified that this was important as the COE does not have authority above the high water mark. Commissioner Buell said that if people want to do any streambank work, whether within the Reservation or up the River, they are told they need to go through the COE. He

inquired about the COE's authority and funding, and where the separation is. Mr. Rust replied that they have permitting authority, but was not sure about remediation authority as there are various programs they get involved with. However, he indicated that the primary streambank stabilization people are in NRCS on private land. Commissioner Buell then asked why the COE was not involved with funding if they have jurisdiction for work on the banks. Ms. Anne Dailey (EPA) clarified that this was only if there was new action occurring, not what is there today. Commissioner Buell pointed out that the City of St. Maries, along with involvement by local companies, and the COE, put in a new concrete dike. He asked what the difference was between sediment going down the River (i.e. that he has been complaining about for a long time), but cannot do anything about because they have no funding.

Mr. Harwood responded that the COE has regulatory authority under the 404 permitting program for controlling the activities of all parties that disturb the streambanks and put any of the material back into the water, but that this does not mean the COE has any source of funding to help people do this. He explained that the COE does have sources of funding for flood control, levees, etc., and that this is the same kind of funding he is working on through Senator Craig's office. He suggested that this is probably why St. Maries got the funding to do a levee for flood control, but stressed that it's not for the purpose of controlling sediment into the River.

After additional discussion by the BEIPC, Mr. Cernera said that he could address a few things. Through the Avista process, the Tribe was involved in the relicensing in the hearing held on the erosion of the St. Joe River. He reported that the judge determined that 50% of the erosion on the St. Joe within the Tribe's waters is caused by project operations (i.e. raising and lowering of the pool elevations behind the dam); and that the Tribe is involved in developing mitigation and a potential settlement with Avista on dealing with this issue. Mr. Cernera also mentioned that the State of Idaho recently put their 401 certification on this project. He believed that the State suggested that operations at Avista's project had caused erosion problems within the State's jurisdictional waters. Mr. Cernera feels that they are not being silent as per erosion on the rivers at least in the Avista process.

Mr. Rust stressed that these issues are some of the things that need to be presented to the public, so that they understand a little more about what's going on. He feels that this is part of the problem in the whole process. He brought up that the BEIPC funded the Lake study and did Lake modeling with the University of Western Australia, and that he reviewed the information. In the latter part, they looked at long term remediation trends. Mr. Rust said that he heard a lot of talk about phosphorus coming from septic tanks along the rivers and Lake, as well as site disturbance, etc., but as far as he can see those are relatively minor sources. He suggested that if you look at the big loads, they are under the direct jurisdiction of the EPA, Tribe and State of Idaho; and that those loads need to be addressed in the Lake Management Plan (LMP). However, there is no work being done as far as he knows. He indicated that Mr. Cernera said there are negotiations going on to get funding, but that he feels there is more funding available such as if people put together 319 funds; IDEQ put together a project for Beaver Creek; the WAG voted to support it; and it was run through the Basin Watershed Group as the top ranking project for the Panhandle. Mr. Rust added that Scott Fields is going to go to Boise to see if he can get funding for it.

Mr. Cernera commented when the BEIPC discusses the Lake plan later, there will be a lot of the things talked about today that are identified in the LMP as items that need addressing. He indicated that about every stream in the Basin is TMDL limited, but in respect to pointing fingers to various jurisdictions, he thinks we need to look at this as a watershed problem. Mr. Cernera said that the Tribe has 12 primary streams on the reservation that they are sinking enormous amounts of money into. For example, he pointed out that the Tribe has put over \$7 million dollars into stream habitat enhancement on Benewah Creek. He suggested that this needs to be aired out in the TLG process as he feels there would be 50 TLG reps. looking at the conclusions and saying that there is a lot of work being done (i.e. if the presentation was given to the TLG). In conclusion, he reiterated the need for TLG vetting.

Commissioner Currie asked Mr. Rust if he felt that the BEIPC needed to bring in Idaho Fish & Game to help address some of the issues. Mr. Rust suggested that he heard people talking about the need for better enforcement on site disturbance permits. Commissioner Currie commented to Mr. Cernera that he was not aware of some of the things that the Tribe is doing and that they really appreciate it. Mr. Cernera pointed out that there are a lot of people doing work, not just the Tribe.

Commissioner Toni Hardesty (IDEQ) pointed out that one of the things the presentation does is demonstrate that this is a complex issue. She noted that there is a lot of different involvement from a lot of different people, and suggested that maybe they have not done a great job of putting information out there so that people understand. Commissioner Hardesty suggested that maybe something to look at in the future at BEIPC meetings is having some presentations on authorities, funding, options, and some of the work that is currently going on, certainly from the State's perspective. She feels that this is not just a Fish & Game issue, that it's bigger and more complicated, so she would hesitate to say that Fish & Game needs to speak to this issue because it's not that straight forward. Commissioner Hardesty indicated that it's about what is the State of Idaho doing here to work with all of the cooperating agencies.

Commissioner Buell commented that he has 2,400 acres at Calder that he is fighting to save from sediment erosion. He stressed that it's occurring all the way down the St. Joe River, but that it's complicated to get permits. He feels that it's a boondoggle and remarked that we've sat here and watched the River disappear through the Lake; it's ludicrous. So, studying is getting old as far as he's concerned.

Commissioner Elin Miller (EPA) said that she appreciated the presentation because it gives some good backdrop for the next discussion on the LMP as the plan needs to be able to address the comprehensive view on priorities and other things. Although she is reluctant to say it to the Commissioners, they may have to continue to do some more monitoring and data collection to see if progress is being made and assure that what has been done is really fixing the problems.

Commissioner Cantamessa thanked Mr. Rust for his presentation and commented that it sparked a spirited conversation. Mr. Rust indicated that was the intent.

6) Update on Lake Management Plan (LMP) Activities: Commissioner Hardesty said that at the last BEIPC meeting in February they mentioned that they had hoped to have a draft LMP out for review in April. She apologized that they did not make the date, and noted that the draft is in Boise going through final legal review. Their target date to release it for public review will be early June. Commissioner Hardesty indicated that verbal briefings will be scheduled, so that everyone will have an opportunity to ask questions. Once the draft is released, there will be a 30-day comment period. She said that they intend to revise and respond to comments accordingly and will engage in follow-up meetings with all of the commentators, so they have an opportunity to address issues directly and in person.

Mr. Cernera then discussed content of the LMP. He reiterated how difficult the process had been in developing the document and recognized some of the individuals involved. They include Ms. Gwen Fransen and Mr. Glen Rothrock of IDEQ, EPA representatives, Mr. Mark Masarik and Mr. Don Martin, and Ms. Rebecca Stevens from the Tribe and himself. He feels that they have developed some good understanding of what needs to happen in the plan. Overall, he indicated that it is very much a metals management plan (i.e. to manage nutrient and sediment inputs to the Lake to maintain oxygen levels to prevent metals release from bottom sediments).

Commissioner Buell asked Mr. Cernera about what happened when the counties had their last meeting with the agencies on the draft LMP and where they went from there. He indicated that there was not another meeting with the counties and that he thought the counties were going to work on the plan with the agencies together. He asked whether he missed something.

Mr. Cernera replied that he was asking the wrong person because the game plan, that had been discussed multiple times, was that the Tribe developed a Memorandum of Agreement (MOA) with the State of Idaho on collaborating to develop the LMP. Then, the State of Idaho developed a MOA with the counties to coordinate their activities, so the Tribe has stayed true to their MOA with the State and collaborated with them. He suggested that the question should not be directed to him.

Commissioner Buell redirected his question to Commissioner Hardesty. Commissioner Hardesty said that she was not sure of the date of the last meeting with the counties, but that she knows that her staff has offered briefings and have briefed the County Commissioners throughout the process. She knows that Mr. Glen Rothrock can update her about the last meeting. Mr. Rothrock said that he believed it was last September or October 2007. He indicated that first there was a general meeting and then 10 separate stakeholder meetings. Since then, he indicated that he and Ms. Fransen along with Mr. Curt Fransen (IDEQ Deputy Director) at one meeting, met at the County Commissioner's offices three times (i.e. first with Benewah, then Kootenai twice). He pointed out that there has always been a disagreement of county representatives sitting at the table in their writing sessions through this process. Commissioner Hardesty clarified that there has been multiple opportunities since October for the County Commissioners.

Commissioner Cantamessa commented that he did not want this part of the meeting to get sideways, but that all of the county commissioners feel that the process has been very poorly handled by the State, if that's where it should have come from. They have not been involved

very much in anything that's gone on and that they're told it's best, and perhaps it is, but he can tell them that they do not accept this any better than any member of the community would if they are told they cannot be involved in something. He said that he was supportive of Commissioner Buell's question, but that they know what the situation is.

Mr. Cernera then briefly discussed sections of the Lake plan. These include the following:

- Improve scientific understanding of Lake conditions through monitoring, modeling, and special studies;
- Establish and strengthen partnerships to maximize benefits of the actions under existing regulatory frameworks;
- Develop a nutrient reduction strategy and actions;
- Increase public awareness of Lake conditions and causes; and
- Establish funding mechanism to support the LMP goals, objectives, and strategies.

Mr. Cernera said that they believe a lot can be accomplished through public education (i.e. to encourage each individual personally to do a little for the cause). They are looking to potentially develop a public outreach center in downtown CDA that would be a Lake stewardship center. He explained that this would be a place where people could go to learn about the lake, or call if they see problems on the Lake and the center could point people in the right direction. Overall, he noted that the approach is adaptive management. If everything goes well and water quality stays good, then it's business as usual. If things change, then they will need to adaptively manage and figure out how to reduce more nutrients. They hope to continue to use existing authorities and that it is predicated on water quality remaining in good condition or improving. They also hope to use existing administrative structures within IDEQ and the Tribe, and EPA support and other agencies. There will also be a need to bring on additional staff or contract support to help implement the plan and they have included this in their funding summaries. Mr. Cernera indicated that they have outlined the LMP over a 30-year time period to be a companion to EPA's interim Record of Decision (ROD).

Commissioner Cantamessa commented that Shoshone County has long been a proponent of monitoring as long as the Lake is concerned; and that they feel it's the most important thing to do. He suggested that along with monitoring, they have specific targets for projects for what the expectation is; and that they should know in the beginning where they will measure those. He stated that they believe the Lake has been improving in quality for some time and that it continues to improve; much of it is a natural process and some of it is helped along by man. However, Commissioner Cantamessa indicated that he is not supportive of getting too far involved in Lake modeling.

Commissioner Currie noted that the County Commissioners were briefed by the State on the LMP three times: 1) once as a group; 2) once with the full board; and 3) the other meeting was with him and his staff (i.e. he clarified that this was not meeting with the full board). For the most part, he feels that it was lip service and still not considered as part of the plan. Commissioner Currie then brought up that he knows they need to do monitoring, but that he wonders how many times they need to do studies. He would like to see some work done on the

ground. In reference to using existing resources for the LMP such as County Planning & Zoning (P&Z), highway districts, etc., Commissioner Currie believes that they needed to be involved with the plan from the beginning of the process. Bringing them in after it's all done and hoping that they are going to be happy to do that bidding, you're taking a chance.

Ms. Rebecca Stevens indicated that she told Commissioner Currie this several times and she believes that the Board will be understanding, that with the audit the State of Idaho and the Tribe conducted, they met extensively with all of those departments under the County, not only Kootenai County, but Benewah and Shoshone, extensively. She said there's no fingers being pointed, none of that going on, nor leaving anyone out. They have gotten extensive information from those programs and they are all very aware that they are involved in Lake management from noxious weeds to bank erosion from boat wakes. Ms. Stevens said that the County received copies of all those letters over a year and a half ago. She reiterated that she does not know how many times they have to say that the County and the P&Z staff have been involved, and that everyone is very involved with the Lake management effort.

Commissioner Cantamessa indicated that the BEIPC would not continue to debate on this topic, but that he appreciated Ms. Steven's remarks because he knows there are two sides to the story. However, he can say if there was satisfaction on this side and if the process had been good, they would get satisfaction. He said they do not have a reputation for going around and picking fights with people they are trying to work with, but that it's been very frustrating.

7) Communications PFT Report: Ms. Jeri DeLange (BEIPC) made a presentation on the progress of the new Communications PFT. She pointed out that the BEIPC voted to set up the new PFT at the last meeting to help strengthen public participation and communications in the BEIPC, with the CCC as the focus organization to implement the process. The PFT held its first meeting on April 9 and developed a mission statement and list of goals. These include: 1) create a communications strategy that can be individualized and tailored for particular groups; 2) work with the BEIPC staff on improving the content and interface of the existing web site; 3) expand the existing network and work with entities that have existing communications avenues; 4) generate new communication and information dispersal techniques; and 5) organize, identify, and establish sub-teams for specific implementation of goals. In addition, she noted that Ms. Rebecca Stevens (Chair of the Communications subgroup for the Recreation PFT) brought the ideas that the recreation subgroup came up with and suggested incorporating everything into the new Communications PFT, so as to not duplicate communication efforts. Ms. DeLange said that she made a progress report to the TLG and CCC for their feedback, but that there are no recommendations to bring forward to the BEIPC at this time as the PFT is still in the planning process.

Commissioner Cantamessa congratulated Ms. DeLange and the Communications PFT for doing an excellent job in getting the PFT started. He said that the PFT had a lot more on paper than what he expected to come out of it so quickly. He also made a request about getting BEIPC communications more quickly and suggested that it would be helpful for the Commissioners to receive a copy of everything through email. Commissioner Elin Miller also applauded the Communication PFT's efforts, especially for future outreach.



Break

8) Update on CWA Project Finances: Mr. Terry Harwood gave a brief overview of the updated CWA financial report and indicated that a copy was included in the board packet. He noted that the 2002 grant closed as of January 31, 2008, and that the work is done for all four projects. For the second grant year, he said that everything is almost done, but there is still a balance of just under \$43,000. Mr. Harwood is asking the TLG for ideas and working with EPA and legal staff on how the remaining funds may be spent as they need to be obligated before June 30, 2009. To meet the grant requirements, the remaining funding must be spent on a pilot project, research, or some kind of a study. The other requirement is that you cannot take funding from one grant year and spend it on another grant year. The last grant year has a balance of about \$578,000.

Ms. Bonnie Douglas (CCC member) asked if any of the remaining funding may be used on a nutrient survey in the watershed, or other things that are coming up with the LMP. Mr. Harwood replied that it was a good idea and that he would check into it. He explained that people need to understand that if they do not use an idea, it may not mean it's not a good project, but that it may not meet the legal requirements for what they are doing.

Ms. Rebecca Stevens (TLG Vice Chair) asked if they should wait until the second year projects are closed out before sitting down with the TLG to provide ideas. Mr. Harwood answered that he would like them right away because he only has about thirteen months before the funding must be spent. Ms. Stevens suggested that it may be a good idea to schedule a TLG meeting to get going on. Mr. Harwood said that he appreciated it.

9) Final CWA Report on Wetlands Inventory: Mr. Terry Harwood made the final report on the wetlands inventory of private lands for restoration of wetland habitats that Ducks Unlimited worked on for the USFWS as they had the grant. He noted that in the Record of Decision (ROD), it said we should convert about 1,500 acres of existing farm or ranch land to clean wetlands and should somehow clean up 3,000 acres of contaminated wetlands (i.e. of about 17,000 to 18,000). Mr. Harwood indicated that the CWA project was to contact landowners to see if there was anyone interested in doing this for the 1,500 acres. Ducks Unlimited contacted 119 landowners, but only received nine potential replies. In some cases, the landowners were interested, but the property was found to be contaminated and it did not make sense to flood contaminated farmlands. One recommendation from Ducks Unlimited is to try to put together a field trip of landowners in the Lower Basin and show them what the agencies are doing and how they are working with folks on cleanup as it may encourage people to work with the government on this issue.

10) EPA Ecological Remedy Planning Efforts: Mr. Bill Adams thanked the BEIPC and gave a presentation on the ecological planning work that EPA is doing. He indicated that at the last BEIPC meeting, there were a number of questions brought up about what is happening with the eco-work and when they are going to get started. The EPA has identified three priorities for environmental protection in the Basin and will focus activities on reducing exposures to the following:

- Dissolved metals (particularly zinc and cadmium) in rivers and streams;
- Lead in floodplain soil and sediment; and
- Particulate lead in surface water.

Mr. Adams then discussed the overall goals for the eco-work and types of actions as the interim ROD did not prioritize them. One complicated factor is that each type of action has multiple attributes in terms that you need to consider for what is the priority such as the location of the watershed, type of action (i.e. whether it is a mine/mill site, floodplain tailings, or wetlands area), etc. In addition, they are trying to provide a consistent approach across the Basin to look at the work holistically and where it's most effective to use the resources to get the most "bang for the buck." Mr. Adams indicated that as the human health work gets further along, they will be able to put more resources into ecological. He also brought up that negotiations with the PRP's are still ongoing and there may be some settlements to help with the cleanup work.

Mr. Mark Stromberg (IDEQ) asked if some of the mine and mill work could be moved forward in the short-term because they are trying to close out some of the communities such as Mullan where yard remediation is almost completed. He mentioned that one residential property has a high arsenic level (1,000-2,000 ppm) that is located near two mine adits. Mr. Stromberg emphasized that he would like to see the mine/mill work done more quickly for properties like these. Mr. Adams responded that if there are mine/mill sites that are a human health risk, they can be moved up as a higher priority than ecological work.

Lunch

Commissioner Cantamessa called the meeting back to order and announced that a public comment period was scheduled for later in the meeting. However, he indicated that Ms. Bonnie Douglas (CCC member) needed to leave early for another commitment, so he was going to allow her to make her comments at this time.

11) Public Comment: Ms. Bonnie Douglas mentioned that she was a former Idaho State Legislator. She brought up that Governor Otter was at one of the former BEIPC meetings and that she recalls him saying (and that it was also in the BEIPC minutes) that the polluters should pay. Ms. Douglas said that the State Legislators are going to be looking for that and that they need to be shown evidence of where the mines have donated land, funding, settlements, etc. She also indicated that they are going to be looking for contributions made by the Tribe and other entities to see who has been paying into the process along with how much in federal funding. Ms. Douglas suggested that the Legislators are very sensitive to unfunded mandates and that you do a walk-thru with them as part of the LMP activities as funding will be required. In addition, she suggested that they be included in special meetings as well as the County Commissioners and other stakeholders to have a decision-makers meeting so that everyone can be up to speed at the same time, same place, with the same information. Ms. Douglas then mentioned that she had signed up previously to be on the BEIPC Funding PFT. She feels strongly that we need to look at decisions that we can make and challenged the BEIPC Commissioners to come forward with suggestions. For example, with the dam relicensing and some of the other issues discussed today

such as bank erosion because of the Lake level. She stressed that there are decisions that have to be made on the Lake level as once the dam is relicensed, it will be a long time before it comes up for renewal again. She suggested that the BEIPC should take a stand on this issue, and also brought up boat wakes and enforcement. In conclusion, Ms. Douglas emphasized that it was less costly than some of the remedies being discussed.

12) Lower Basin PFT Update: Ms. Rebecca Stevens (CDA Tribe) first introduced Ms. Carrie Holtan, the new Environmental Specialist for the Tribe, to the BEIPC. She then reported that at the last TLG meeting in February, it was decided that the project focus teams (PFTs) for Bank Stabilization, Lake Monitoring, and other Lower Basin groups all be combined into one PFT under the Lower Basin, along with the Basin Information Forum (BIF). Ms. Stevens provided a brief update on the new Lower Basin PFT's first meeting on March 27, and passed out handouts of the meeting summary. She also noted that the new PFT wants to continue to stay open to Lake monitoring and any Lake management related activities, and not just be confined to the previously identified Lower Basin as Cataldo to Harrison. In addition, PFT members want to help develop ideas for ecological remedies within their respective agencies. The next PFT meeting will be June 10 at Idaho Fish & Game.

13) Final Report on Streambank Stabilization CWA Project: Mr. Nick Zilka (IDEQ) made a presentation on the final report on streambank stabilization. He discussed the results of the various remedies which included five treatment techniques and monitoring for the last three years to see how they changed over time. He also brought up the erosion effects from boat wakes, high flows, and animals grazing along the CDA River (i.e. large amount of damage occurring from cows).

14) Final Report Fish Response to Bank Stabilization CWA Project: Ms. Cathy Gidley, a graduate student of the University of Idaho doing fishery research, presented a powerpoint presentation and the results of her thesis on "*Fish community structure associated with bank stabilization in the metals-contaminated lower Coeur d'Alene River.*" The document serves as the final report of the CWA project for fish response to bank stabilization with the USFWS. For anyone interested, copies are available at the BEIPC office.

15) Update on Operable Unit 2 (OU-2) Activities: Ms. Anne Dailey (EPA) gave an update on OU-2 activities (in the Box) that she and Mr. Nick Zilka have been working on along with the 2008 field work that is planned for this summer. She also presented the results of the new OU-2 Source Areas of Concern report which contains information on the impacts of the following:

- Materials beneath populated areas and infrastructure;
- Historical South Fork of the CDA River channel;
- Bunker Creek;
- A-4 Gypsum Pond;
- Page Ponds;
- Milo Creek; and
- Government Gulch/Government Creek.

Ms. Dailey noted that all of the report information is available on EPA's web page, as well as the BEIPC through a direct link.

Break

16) Special Announcements: Mr. Terry Harwood announced that he will be planning a field trip for the BEIPC on August 13, rather than a formal meeting. Mr. Andy Mork (IDEQ) mentioned that the EMF repository site will soon be opened (i.e. within the month) to receive ICP waste in the Phase I portion. He also noted that the 60% design has been completed and will be submitted to IDEQ and EPA for review; then a community review opportunity will be provided this summer in the Cataldo/Rose Lake area.

17) Update on Drainage Control and Infrastructure Revitalization Project (DCIRP): Mr. Terry Harwood provided a brief update on the DCIRP and drainage report projects. He said that EPA had funded the drainage analysis for the local communities in the Basin because some areas do not have curbs or gutters, or stormwater systems, etc. Also, some areas in Wallace and Mullan are very steep and potential drainage problems may damage the remedy. Mr. Harwood indicated that all of the drainage reports have been completed for Mullan, Wallace, Ninemile, Canyon Creek, Silverton and Osburn. The information will be combined with the DCIRP and the next step will be to meet with the communities and utilities to prioritize a list for the whole Basin.

18) Citizens Coordinating Council (CCC) Comment and Presentation: Mr. Jerry Boyd (CCC Vice Chair) gave the CCC's presentation as the CCC Chair, Mr. John Snider, was unavailable. He noted that the minutes of the last CCC meeting were included in the board packet information and were reflective of the April 23 meeting. He indicated that many of the things discussed today were also discussed at the CCC meeting such as the infrastructure work, CWA projects, etc. Mr. Boyd brought up the FEMA work and indicated that FEMA recently revised some of the floodplain maps.

Mr. Terry Harwood clarified that we have been working off the old FEMA flood maps for a 100-year flood. However, FEMA came through and remapped the whole area assuming that all of the levees would fail which makes the 100-year floodplain much larger. He noted that one of the ramifications of this is that a property owner living within the new floodplain who has a federal home loan is required to obtain flood insurance. Mr. Boyd commented that the assumption that all of the levees may fail is not a very good assumption, and that someone should take a look at the levees to see which ones are at risk.

Mr. Boyd then brought up other topics discussed by the CCC (i.e. yard cleanup program, Lower Basin PFT, repositories, EMF, Communications PFT, other communications, and the LMP). He expressed concern that local people were not involved in the LMP negotiations and that it was still a big issue from what he is hearing.

19) Public Comment: Mr. Rusty Sheppard commented that he was confused with the LMP and the June public release. He asked if the State had any intention of giving the Counties the document before it is released to the general public to get their comments, or if they were going

to release it to everyone at the same time and include the Counties as part of the public. Commissioner Toni Hardesty (IDEQ) answered that the State would be meeting with the Counties ahead of time to give them the information, and that they were working on getting that set up.

Mr. Sheppard then asked Mr. Cernera about the Lake water quality study plan that was a CWA project and included three years of data gathering. He asked for clarification if the CWA project had been closed out and when the final CWA report would be published. Mr. Sheppard indicated that the Counties would like to use that information for review of the LMP. Mr. Cernera replied that the Tribe received a draft of the CWA report about six months ago and an invoice from the USGS for the balance due. He pointed out that when Mr. Harwood said that the grant was closed, the Tribe had significant issues with the draft document. Mr. Cernera explained that the Tribe has been going back and forth with the USGS on a technical basis to fill the needs that they thought were laid out in the scope of work, but did not feel they received. He said that the USGS is now in the process of finalizing the document and that they should be getting it in the next month. They have used the information in the draft document to form their basis for what they believe the status of the Lake is.

Mr. Sheppard then asked if there would be an extension for public comment on the draft LMP if the other report on the Lake study was not coming out for another month. Mr. Cernera said that he believed the public would be allowed to ask for an extension for public comment. Commissioner Hardesty also recognized the need for an extension for public comment, and indicated that they would need to get the LMP in the budget cycle process for funding. Mr. Sheppard asked about the Lake audit and when the final report would be completed. Mr. Cernera noted that Mr. Glen Rothrock (IDEQ) and Ms. Rebecca Stevens (CDA Tribe) have been working very hard to get the draft LMP done and that some of the work on the Lake audit had to be put on the back burner. His understanding of the timeframe for the Lake audit is that an extension was requested for December 31, 2008.

Commissioner Currie asked for clarification of the Lake audit and whether the original draft would be made available to the public. Ms. Stevens replied that the Lake audit was a CWA project and that generally in the past, they have not provided those project reports for public review. Mr. Harwood indicated that he reviews those reports and provides comments on them to ensure that the contractor fulfills the requirements. Then, the contractor prepares the final report.

Mr. Jerry Boyd indicated that he wanted to make his own personal remarks and that he was not speaking for the CCC. He said that he wanted to ask a few questions that should have been made a long time ago such as where should you have your priorities when you trying to decide what to do in the LMP. For example, where are the nutrients coming from, and what can you do about it? The other matter that was brought to his attention by Mr. Bill Adams (EPA) was the intent to sample above and below suspected contributors of contamination and he wonders why that was not done before as he asked that question a long time ago. His third comment relates to armoring, and he knows that the USGS does not necessarily agree with it, but he heard Mr. Bill Rust speak about undercutting caused by boat wakes. He asked if anyone had taken a look at aerial photographs taken before and after big flood events. Mr. Boyd suggested that if you look

at the subsidence that occurs after the high flood event; it saturates the banks. He commented that he had the occasion to appear before a judge on a case regarding boat wakes and the judge concluded in that case the erosion was caused from sloughing after the water dropped.

Commissioner Jack Buell (Benewah County) said that he would like to ask that when the State gets the LMP documents, that they call the three Counties to meet with them. Commissioner Hardesty agreed.

20) BEIPC Discussion on Mr. Cernera's Proposal to Amend the BEIPC Meeting Guidelines: Commissioner Cantamessa said that he wanted to address the issue that Mr. Cernera brought up previously regarding Mr. Bill Rust's presentation and the process that makes it possible to schedule a time on the BEIPC agenda.

Mr. Cernera remarked that Mr. Rust had been providing valuable information to the BEIPC process for a long time and that he respected him for that. He indicated that he was certainly not pointing a finger at Mr. Rust, but that he feels it was demonstrated today that if the presentation was given to the TLG and vetted back and forth, it may have informed the BEIPC better. He brought up that under the BEIPC guidelines, under bullet #2, it talks about parties requesting a scheduled time slot shall discuss the request with the Executive Director a minimum of three weeks prior to the meeting date. He feels that this is fine for policy, community input, etc., but if it's technical in nature, he would like to make a motion that another bullet is added underneath that reads, *"That parties requesting a scheduled time slot on meeting agendas to present technical information shall discuss the request with the Executive Director a minimum of three weeks prior to a meeting date. The Executive Director will request a copy of the presentation and submit the technical presentation to the TLG for review prior to the BEIPC meeting."*

Commissioner Cantamessa asked the BEIPC for comments. Commissioner Hardesty asked for clarification of Mr. Cernera's motion in that he was just asking that a copy of the presentation be provided three weeks in advance. Mr. Cernera said that if a hard copy of the presentation was provided at least three weeks in advance, then everyone would be aware. Mr. Grant Pfeifer (Washington Dept. of Ecology) said that he would second the motion. After additional discussion on the proposed motion by the BEIPC and Executive Director, Commissioner Cantamessa called for the question. The motion was approved with five votes in favor (Hardesty, Miller, Cernera, Pfeifer, Cantamessa) and 2 votes opposed (Buell, Currie).

Commissioner Hardesty then inquired about the public comment period being towards the end of the meeting. Mr. Harwood explained that it's flexible, so that the public has an opportunity to comment when appropriate. Commissioner Miller made a motion to amend the meeting guidelines to allow the Executive Director the authority to adjust the public comment period according to what is on the agenda. Mr. Pfeifer seconded the motion; and it was approved unanimously.

21) Adjourn: As there was no further business, Commissioner Cantamessa adjourned the meeting.