

BEIPC MEETING MINUTES
Basin Environmental Improvement Project Commission
August 19, 2009, 8:30 a.m. - 11:30 p.m.
Wallace Inn (Gold Room)
100 Front Street, Wallace, ID
(BEIPC field trip following the meeting at 12:35 p.m.)

Attendees:

Mr. Terry Harwood (Executive Director)

Commissioners:

Mr. Jack Buell

Mr. Jon Cantamessa (Chair)

Mr. Rick Currie (Vice-Chair)

Ms. Toni Hardesty

Ms. Michelle Pirzadeh

Alternates Present:

Mr. Phillip Cerner

Mr. Grant Pfeifer

Mr. Vince Rinaldi

Staff Present:

Ms. Jeri DeLange

Mr. Dave George

Mr. Rob Hanson

Mr. Ed Moreen

Ms. Rebecca Stevens

1) Call to Order and Introductions: The BEIPC Chair, Commissioner Jon Cantamessa (Shoshone County), welcomed everyone and called the meeting to order at 8:35 a.m., followed by the flag salute. He reviewed the agenda and suggested some changes to the order of the agenda to accommodate some agency staff members who would be arriving later in the meeting.

Commissioner Toni Hardesty (State of Idaho) introduced Mr. Dan Meyer, the new IDEQ program manager for the Kellogg office who started on August 3, 2009. (He will be replacing Mr. Mark Stromberg).

2) Approval of Minutes from May 20, 2009 Meeting: Commissioner Cantamessa asked if there were any changes or corrections to the minutes. Commissioner Rick Currie (Kootenai County) made a motion to approve the minutes as written. The motion was seconded by Commissioner Jack Buell (Benewah County); and passed unanimously.

3) Final CWA Project Report Presentation - Coeur d'Alene (CDA) Riverbank Erosion Study: Ms. Kristen Keith (IDEQ) made a presentation on the final CWA project report for the CDA riverbank stabilization prioritization project. The purpose of this project was to prioritize future bank stabilization projects on the CDA River from Cataldo to the mouth of the River by estimating annual bank erosion at various sites. At the end of the presentation, Mr. Terry Harwood (BEIPC) brought up that he wanted people to understand that a lot of the information from the CWA projects (such as various studies, models, and demonstration projects) is feeding into plans for potential remedies.

Commissioner Phillip Cernera (CDA Tribe) agreed that it is a lot of good information, and that it will be useful for the river model. He noted that a certain number of banks need to be stabilized to meet the requirements in the ROD, and that we need to look at the impacts stabilizing one bank has on the next, so that we may establish priorities as we move downstream. This also includes looking at what happens to the contaminated sediments lying on the river bottom. He feels that a lot of things are coming together and in the next few years we may have some answers for dealing with stabilization.

BEIPC Commissioners also discussed other related issues on bank stabilization work such as: armored banks; the CDA River bank inventory; voluntary landowners wishing to participate in the bank stabilization program (if they qualify); Natural Resource Conservation Service (NRCS) projects; and how successful previous CWA projects have been.

Mr. Ed Moreen (EPA) thanked Ms. Keith for the presentation and said that they are very interested in folding that knowledge into the broader body of knowledge for the Lower Basin Enhanced Conceptual Site Model (ECSM). Mr. Harwood said that if anyone is interested in the report, he will have copies and CDs available at the BEIPC office.

4) Special Announcement: Commissioner Cernera announced that the CDA Tribe recently hired a new environmental specialist, Ms. Jami Davis. He welcomed her and mentioned that she will be working on the Lake management plan, water rights, etc.

5) Upper Basin Record of Decision (ROD) Amendment Process and Priority Setting Update: Mr. Bill Adams (EPA) provided an update on the ROD amendment which is to provide a more comprehensive cleanup plan for the Upper Basin. They are doing this as a result of improved knowledge and to also try and address recommendations made by the National Academy of Sciences. It does not address any changes right now to the Lower Basin as there is an existing interim ROD. However, it's likely that as a result of the work that's underway (i.e. analysis, modeling, and additional information for the Lower Basin) that they will come back and make changes to the remedy for that area as well to address the Lower Basin sediment issues. They do not want to wait until all the actions are done in the Upper Basin to reduce risk to human health and wildlife before taking actions on the Lower Basin as it is all one system. They are going after the largest sources of contamination first using the prioritization process. The priority setting work has been completed, and they developed objectives for the first cut. They are now working on revising cost estimates and will be presenting a test case to the Upper Basin PFT

members at the September 9 and 10 meetings. All the meetings are open to the public. The information is also posted on EPA's website (i.e. ROD amendment), and a link to this site is available on the BEIPC website.

Commissioner Cantamessa officially requested for Shoshone County that the ROD amendment deal with flood control and recontamination issues in the Upper Basin, so that they are documented and targeted when this ROD is completed. He emphasized that this is a high priority for Shoshone County and that they would like to see it dealt with in whatever manner EPA believes the term permanent or perpetuity implies, so that the ROD deals with flooding. Mr. Adams clarified that it is part of remedy protection. Commissioner Cantamessa recapped that they would like to see this issue dealt with when the ROD amendment is completed.

Commissioner Cernera inquired why they are looking at a ROD amendment right now, but understands that there is potentially the Asarco bankruptcy settlement, and that there may be funding then. Mr. Adams clarified that in terms of the ROD amendment, there are some sites that are not covered in a decision document, so they would not be able to take action with whatever funding they had. This is why they want to be comprehensive and include all the potential sites. In particular, he indicated that there are no decision documents for sites in OU-2 for addressing groundwater or surface water and that this is one of their primary goals. EPA wants to be able to take action at the most appropriate sites with whatever funding they receive. Commissioner Michelle Pirzadeh (EPA) also provided an update on the Asarco bankruptcy proceedings. She will keep everyone informed of a decision.

6) Update on Upper Basin Infrastructure Revitalization and Flood Control: Mr. Terry Harwood (BEIPC) provided an update on the Drainage Control and Infrastructure Revitalization Plan (DCIRP). This is a comprehensive infrastructure analysis and planning process for all the Upper Basin communities. He mentioned that it cost about \$150,000, but pointed out that Shoshone County has already used it for a \$300,000 grant, and that they are going after another grant. The report contains maps of all the utilities, locations, flood plains, and other data including the property remediated to date. There is also a full list of possible grant funding. Mr. Harwood indicated that he is not aware of another document like it in the State of Idaho where it's taken the whole community from one end of a basin to the other to come up with a set of priorities for infrastructure investment. He will post the information for the executive summary on the BEIPC website. Copies of the full report are available on CD at the BEIPC office.

7) CWA Financial Report Update: Mr. Harwood gave an update on the CWA project funding. The grant funding was about \$6 million for three separate years for demonstration projects and studies. The first year has been completed for some time, the second year's work closed out on June 30 when the grant ran out. The third grant year will end next June 30, 2010. Mr. Harwood explained that most of the work has been completed and that there is about \$86,000 in remaining funding. He noted that information collected from some of the studies funded with CWA grants will be used to determine what to do about the remedy for some of the Lower Basin issues we're talking about. He suggested to Mr. Cernera that some of the information will be used in the Lake management process as a number of studies on the Lake were also funded by CWA funding.

Mr. Harwood indicated that there is a listing of all the executive summaries for each CWA project on the BEIPC webpage and to contact him if you want a complete report.

Commissioner Cantamessa acknowledged Mr. Harwood for getting the mayors of Shoshone County, the County Commissioners, and everyone working together towards common goals even though there are specific needs in each community. He believes that this has happened within the last year, and in his opinion, he is finding a much higher level of cooperation among the parties that are represented on the BEIPC, in particular with the EPA within the last year. He thinks that the BEIPC is coming to a time where we can really start to accomplish some things. He is feeling good about this part of it as it has taken a long time for people to come together on all the controversial issues, and he thinks we need to use this momentum to accomplish things.

Break

Commissioner Jon Cantamessa reconvened the meeting. He informed everyone that there will be some special visitors from Washington D.C. today at the meeting. Mr. Harwood pointed out that there were a lot of people out in the hall, and suggested making room for everyone. He also reminded people that the field trip will start at 12:30 p.m. and that there will be two buses.

8) Repository Update: Mr. Andy Mork (IDEQ) gave an update on the repository program and the Upper Basin repository siting process. He indicated that Ms. Angela Chung (EPA) will also give an update on the Office of Inspector General's report and then he will provide a brief summary on the EMF repository.

Mr. Mork explained that the OU-3 remediation consists of the area east from Mullan down the South Fork of the CDA River and the main stem to Harrison at CDA Lake. The cleanup project generates large volumes of contaminated waste from the:

- ICP program (citizen run process);
- Basin property remediation process, and
- Ecological cleanup sources.

He indicated that there is only one repository in the Upper Basin at Big Creek. The Big Creek repository started this year at 200,000 cubic yards (cy) of unused capacity, but the property remediation program will generate 120,000 cy or more because of the additional stimulus funding this year. This means that the repository at Big Creek may only last another year and half, so there is a great sense of urgency to replace that repository space as it is estimated that 800,000 cy capacity is needed in the short term for the Upper Basin, and 1.4 million cy in the long term. Mr. Mork then explained the repository site selection process, and pointed out that citizen input is helping to shape the siting criteria.

Ms. Angela Chung introduced herself as the team leader for the Bunker Hill Superfund team. She thanked Mr. Mork for his work on repositories and expressed the EPA's appreciation. Then she provided an update on the EPA's Inspector General (IG) report. The IG is an independent body based in D.C. and they have been conducting a review of Region 10 including East Mission

Flats (EMF). They spent approximately nine months reviewing EMF and about \$420,000. She indicated that all of the information is posted on the EPA webpage. There is also a link to it on the BEIPC web page.

Ms. Chung said that after conducting multiple steps, the IG issued a final report. This was a report that was started because of a hot line complaint by a local citizen. Basically, what the report did was fully endorse the work the agencies did on the siting and design of the EMF repository. However, the technical reviewer for the IG did identify a number of technical questions mostly related to the potential impacts of flooding on the repository, and whether that flooding could result in metals being leached from waste storage into clean groundwater that underlies that area. She noted that much of the surface soils are highly contaminated (i.e. as in much of the floodplain in the CDA Basin), but that there is clean groundwater under the site that has been monitored for a number of years. That was the specific technical question the IG wanted them to further review. The State did all of the initial analyses to support the design, so EPA requested the assistance of two independent scientists who did not work on the Bunker Hill site to conduct two additional reviews at the request of the IG.

The technical review memos are on the EPA's website. Those reviews concluded that the analyses performed by the State were technically sound, and that no additional modifications to the design were necessary. After EPA provided this information to the IG, they did have a few additional questions, so EPA talked with them about the concerns and reached an agreement. They felt that EPA could adequately address those remaining concerns by developing an Enhanced Monitoring Plan (EMP). At the same time that EPA was completing this review, EPA Administrator Lisa Jackson was approached about this location. Ms. Jackson talked to Mr. Mathy Stanislaus (EPA Assistant Administrator for the Office of Solid Waste and Emergency Response). Ms. Chung said that he is here at the BEIPC meeting today and added that it was good for this administration to have first-hand knowledge of the site as it is one of the largest Superfund sites in the nation. In addition, he is here to meet with people and hear more about the EMF repository and concerns that have been raised; and at the same time, he will be considering information as they move forward with the EMF repository. Now that the IG's review on issues has been closed, the EPA and the State are going to continue to move forward with the EMF site preparation activities.

For EMF, they will continue to build the bridge access to ensure that trucks do not have to drive on the local roads. They will also continue to build the pad that will support the decontamination facility to clean the trucks. In order to do this, they will start to bring in contaminated yard waste from the residential yard program into EMF later this week. This will allow time for the material to settle (i.e. for the decontamination pad) over the winter, so they can build the facility next year. They are moving forward with this because it's of utmost importance to continue the pace of the cleanup; and they are getting great local participation and want to make sure that's maintained. They also recognize that cleanup has resulted in many local jobs, especially with the recent infusion of stimulus funding from the Administration's American Recovery and Reinvestment Act. Assistant Administrator Stanislaus is here to listen and learn and better understand the site. Ms. Chung also wanted to reiterate that while Mr. Stanislaus is out here, EPA recognizes that he is coming to the site to make his own judgment about what is occurring

and that this may result in EPA having to reconsider the path they are currently on. However, EPA knows that at the same time, that what is being seriously weighed is any potential implications for public health, or the jobs she previously mentioned; and she wants to assure people that EPA's mandate is to protect the health and the environment and that is the key consideration.

Commissioner Cantamessa expressed appreciation to Assistant Administrator Mathy Stanislaus for attending the BEIPC meeting and asked if he would like to comment. Mr. Stanislaus thanked Commissioner Cantamessa for the opportunity. He stated that as Ms. Chung mentioned, he is out here to take a hard look and see the circumstances for himself. He met with the CDA Basin stakeholders last night, and other stakeholders this morning. Later on today, he will be taking a tour to see the EMF area, as well as the entire Basin. He wanted to first acknowledge that the removal of soil from residential areas has had a tremendous benefit in terms of protecting public health. EPA wants to ensure that public health protection moves forward both in the removal of residential soil, so that the blood lead levels continue to go down. At the same time, he wants to make sure that the repositories are safely built and constructed. Throughout all of this, EPA wants to ensure that community involvement is open and transparent; and if there are other things they can do collectively with EPA in Washington D.C., the local region, and the State, to make all the information more transparent and more accessible, they welcome your suggestions. It's their commitment to do this and he will continue to listen.

Commissioner Cantamessa asked if there were any questions for Mr. Mork or Ms. Chung before proceeding to a comment period. Hearing none from the BEIPC Commissioners, he asked for questions from the public.

Ms. Raeanne Bohn (Stewart Contracting) brought up a question regarding the stimulus funding being available for two years. If EMF is not built this winter, then they may not have a construction season next year. So, she wanted to know if the stimulus funding would be available the following year, or do we lose it. Ms. Chung responded that to clarify the stimulus program, the goal is to spend the majority of the funds (i.e. approximately 70% of funding) within 2 years. However, it's not a requirement. Unless there has been recent development that she is not aware of, the funding does not go away if it's not spent within the 2-3 year time period. Mr. Harwood commented that he has enough experience to know that if you do not spend the funding, someone else may.

Mr. Brett Bowers (CDA Lakeshore Property Owners Association) questioned Mr. Mork about whether the funding stays here for local jobs. He added that the ROD in 2002 indicated that about 44% of the federal money that came here for a 5-year period actually stayed here locally. He asked what assurances there were that all the funding that is dedicated here will be spent here. Mr. Rob Hanson (IDEQ) answered that the \$15 million stimulus funding came from EPA to IDEQ. In their cooperative agreement with the EPA, they have a work plan and all the money is going to the contractors (i.e. Stewart and Ferguson and whoever the subcontractors are) for the work that is done for the yard program and about 3-4 IDEQ employees who are in the Kellogg office, so it's all spent locally. Mr. Bowers commented that it's good news. He then asked if EPA, or anyone else is aware of any outside influence that is threatening any of the local

contractors, whether it's litigation or Natural Resource Damage (NRD) money, or anything that could threaten the local workforce here in the Silver Valley that is relying on this new money coming in.

Ms. Chung replied that based on what Mr. Bowers said, she is not aware of anything. However, she asked for clarification for whether there is something more specific as she has not heard anything to suggest that. Mr. Bowers inquired if the Dept. of Justice or the EPA were suing local companies in the Silver Valley for past problems with contamination and thereby creating them as a new potentially responsible party (PRP) as a result of things that have gone on in past years prior.

Ms. Chung said that she could not remember a time when an enforcement action was brought before the Basin Commission. She does not think so because it's an enforcement matter, and they usually do not brief the BEIPC on these issues. As people may know under the Superfund program, there are potentially responsible parties. The program generally relies on those parties paying for the cleanup. She indicated that generally when we talk about PRPs, they are usually mining company names, but there is a legal term that is called a "de minimus" PRP. This refers to smaller parties, not necessarily that the dollar amount is small, but that the relative contribution to the risk in this area is small relative to the larger companies. There are a number of parties that EPA is trying to settle with that are smaller parties in the Basin. Just to be clear, she explained that the idea is that these parties have not known for a number of years what the EPA or DOJ's position is on them; and suggested that they have been a little bit in limbo. So EPA's effort here is to try to help create some closure and give them some certainty about this concern and that EPA is trying to follow through on that.

Mr. Cernera brought up the long-standing natural resource lawsuit that has been going on with Hecla for nearly 20 years (i.e. Hecla is still one of the companies that the NRDA Trustees are proceeding with). He mentioned that we've had a stay on the second phase of the litigation waiting for the outcome of the Asarco bankruptcy. It is his understanding that once the Asarco bankruptcy is settled there may be a large settlement that will jump start the interim NRDA lawsuit. Then, hopefully a settlement will be reached at that point to provide more money into the Basin for cleanup and use for remedy as well as restoration for a more comprehensive cleanup.

Mr. Terry Harris (Kootenai Environmental Alliance) wanted to clarify something first to make sure he understands it, then follow-up. He brought up that it was said that yard waste could be put in EMF as early as this week to start construction of the pad, etc. Ms. Chung confirmed this statement. He then asked about the engineering in the interim while the yard wastes are being disposed there through the fall, winter, and spring (i.e. flood season).

Mr. Harwood said that he would answer this question as he is responsible for getting the EMF site ready for next year. As far as the activities, they are in the process of building embankments to drive the pilings for the bridge. One set of pilings will be near the interstate off-ramp, the other set will be on a new embankment they are building. This is all being built out of clean material. He also built a clean haul road around to the back of the site, so that he can accept the

trucks coming from the property remediation program and they can be dumped there at the clean area. That's the situation right now. He indicated that they are only going to have a few weeks as they are running out of time to get the EMF site built this year because once the crane to set the bridge structure is in, he will not be able to haul material in. He indicated that the embankment areas will be rip rapped once the bridge is set. If anyone has additional questions about the construction, he asked people to contact him as he is out there almost every day.

9) Public Comment Period: Ms. Bonnie Douglas (CCC Vice Chair) brought up the need for a third repository, and suggested that they need to be working on it right now. She commented that if there is a need for an additional one in the 5-year period, why not do a third rather than starting this process again when multiple sites are already identified

Mr. Kenny Hicks (TLG Vice-Chair, Shoshone County rep.) He has two comments on the topic of repositories, and has been involved in the two processes in May and June. He wanted to ask the agencies that while they are working on Upper Basin issues, if they could keep the meeting focused on Upper Basin repositories. He understands that another meeting has been scheduled for EMF, but the other Upper Basin site is just as important to Shoshone County as the people who are involved in EMF. The second point is regarding the site prioritization process that is going on. Repositories are a huge issue and he wanted to clarify that he is not against repositories. However, he is against repositories in the I-90 corridor and in the floodplain. He said that they had some discussions last night about the importance of the floodplain. Another point that he wanted to make is about the wear and tear on local roads. Ultimately, they are going to be replaced, but who is responsible for replacing or fixing them has not been determined yet. He would also like to urge that while we are working on the prioritization process, that we start on the premise of "in-situ" disposal. Then, maybe half the volume will not take up ground in the floodplain or Shoshone County for economic development.

Mr. Eric Panke (Stewart Construction) wanted to reiterate some of Ms. Chung's comments from a contractor's perspective because she talked about the momentum of the program. He asked people to take a look around the room, and pointed out that some of these folks have been doing this program (in one capacity or another) for 10 years. He noted that one person was cleaning yards back in 1990 when the program first started. They have a real good team going. EPA, IDEQ, contractors, inspectors, etc. have picked up good momentum during the last 2-3 years. However, if they do not get EMF going this fall, there may be a possibility of losing a season next year. Stimulus funding or no funding, there is still the issue of trying to get the program back on track after you take a year off. He suggested that the workers may move elsewhere for jobs. He mentioned that there is probably 300-400 years of remediation experience in this room and that it's hard to replace that. It might not sound like a lot if you just take a year off, but that it may affect quality, safety and the product.

Ms. Julie VanMiddlesworth (CCC Member) commented that one of the main issues that keeps coming up is storage of the contaminated material in the floodplain. Outside of EMF and that whole issue, they would like to see that be a top priority in siting repositories. They would like to remove this material from the alluvial system, so there is no transport and no chemical

dissolution of the metals. The interaction with water is a big risk, and they would like it noted for all the repository sites.

Mr. Bill Rust (TLG member, Shoshone County rep.) commented that he has been involved in this process for a long time. He suggested that part of the problem dates back to 2000 as there was a repository siting effort being made working with the CDA Tribe, IDEQ, and other agency people. At that time, one of the criteria was to put the repositories out of the floodplains. He can remember an argument about putting a big repository above Black Lake in the drainage above the flats. The problem with that is that gravity and erosion still work and that repositories aren't forever. He indicated that contamination is all down the river and if you put it back on the hillside, eventually it will probably end up back in the river. He does not have confidence that they are going to be able to get funding to maintain repositories in the long term, so we need to do the best job we can. Regarding the interaction problem with water, there is so much material in the flood plain now, that the decision was made a long time ago to do closure in place because the alternative was to dig up I-90, and you cannot dig up I-90. It's not doable or feasible, so you have many millions of tons that are interacting with water. Although it sounds like a lot, he suggested that what we are moving around and rearranging really does not amount too much compared to what is already there. For ecological waste, part of the problem is trying to plan ahead. It's very difficult to determine where you are going to put it until after you get done figuring out where it's going to come from.

Commissioner Cantamessa thanked Assistant Administrator Stanislaus and Ms. Chung for being at the meeting and taking an interest in this. Mr. Stanislaus said they would make themselves available for any further information that people may need when they get back home.

Commissioner Cantamessa asked if anyone else had public comment. He pointed out that customarily they try to get as much public comment as they can later in the meeting, but this was a short session today because of the field trip in the afternoon. He noted that a written comment was handed to him by Mrs. Jean Vosberg (Shoshone County citizen), who is in opposition to the EMF repository. He indicated that he was not going to read it into the record as she is going to submit it to the newspaper, but he will send a copy of it to all the BEIPC Commissioners.

10) Citizens Coordinating Council (CCC) Presentation: Mr. Jerry Boyd (CCC Chair) gave a report on the CCC, and mentioned that the CCC was represented last night at the meeting with EPA Assistant Administrator Stanislaus. He expressed appreciation to the EPA for the opportunity. He then indicated that there are handouts in the board packets of the CCC meeting notes, but will highlight a few things. The first item he pointed out was that there were not a lot of citizens that attended the CCC meeting, and that is always a concern for them. He commented that the more people who attend and get informed, the better we all are. They did have a couple of new people who found out about the meeting from reading the local newspapers. However, he believes that most people do not receive enough advance notice to readjust their schedules and suggested doing a better job about getting notices out and information on agenda topics.

Mr. Boyd then acknowledged and thanked the agencies for being very cooperative and providing information. He emphasized that the agencies have always responded to their questions, and

some of the questions raised at past meetings have resulted in changes. One example was the EMF repository some time back. He also said that he wanted to recognize Ms. Bonnie Douglas (CCC Vice-Chair) as she has attended all their meetings and has been a very good participant. In addition, he mentioned that Mr. John Snider (past CCC Chair) was in attendance at the last CCC meeting. He expressed appreciation to Mr. Snider for his service as well. He also commented briefly on some of the Basin issues such as drainage control, infrastructure, flooding, funding, stimulus funding, repositories, etc., and indicated that the CCC also discussed changes in the CCC procedures to update them and facilitate improved citizen participation. Mr. Boyd said that the CCC highly recommends that the BEIPC approve the proposed changes.

After the BEIPC Commissioners reviewed and discussed the proposed changes to the CCC procedures, Commissioner Hardesty made a motion to approve them. The motion was seconded by Commissioner Grant Pfeifer (State of Washington); and unanimously approved.

11) Special Announcements: Mr. Harwood reminded everyone about the community open house on September 9 at the Kellogg High School from 3:30 to 8:00 p.m. regarding information on the Page repository expansion.

Commissioner Hardesty informed everyone that she had another commitment and would not be available to attend the BEIPC field trip. However, she asked people to please pay close attention to the remediation work done on Sather Field as it's a good piece of work.

12) Adjourn: Commissioner Cantamessa adjourned the meeting for lunch, followed by the BEIPC field trip.