

# 01-19-11 Citizen Coordinating Council Meetingg

Lake City Senior Center, 6:30 PM to 9:00 PM, Coeur d'Alene, Idaho

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## ***Attendees (who signed in and/or announced themselves)***

Jerry Boyd  
Julie Dalsaso  
Jeri DeLange  
David Fortier  
Denna Grangaard  
Terry Harwood  
Troy Lambert

Ed Moreen  
Andy Mork  
Glen Rothrock  
W.C. Rust  
Rusty Sheppard  
Rebecca Stevens  
Amy Wheelless

## ***Meeting Overview***

The January 19, 2011 meeting of the Citizen Coordinating Council (CCC) of the Basin Environmental Improvement Project Commission (Basin Commission or BEIPC) covered the following topics:

- Open Discussion on Basin Cleanup/CCC Issues
- Yard Cleanup Program Update
- Basin Commission Updates
- Lake Management Plan Update
- Upper Basin ROD Amendment and Connections to Local Planning
- Communications Project Focus Team (PFT) Update

CCC Chair Jerry Boyd chaired the meeting.

## ***Open Discussion on Basin Cleanup***

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

Rusty Sheppard, CCC and TLG member, said that Kootenai County Commissioners had established a Board of Natural Resources in December 2010 and that there are between one and three Board openings for interested individuals. The Board will be involved in coordinating discussions on any action by a non-County government related to natural resources with the Kootenai County Commissioners. The Board will be working in the near-term on the specific function and activities of the board. Anyone interested in the Board or being a member of the Board should contact Kootenai County Commissioner Todd Tondee. Rusty noted that the Superfund work in the Basin is meeting the requirements for coordination with the County via the Basin Commission.

Julie Dalsaso, CCC Member, discussed her concerns that there was a disconnect between the overall cleanup goals of protecting human health and the environment and specific local ordinances. She specifically noted that exclusions granted by Kootenai County to the site disturbance ordinance for development in high impact areas, with the County citing the economic benefit of a project. She said that economic benefit should not be the only value considered when evaluating a proposed development. In addition, she said proposed changes to site disturbance ordinance for Kootenai County could further erode safeguards in place for

high impact areas. She said that a key issue is to get the human health pathways for exposure to be understandable to the commissioners. Terry Harwood, BEIPC, said he has sent a briefing book concerning the BEIPC to the new Kootenai County Commissioners and has requested a meeting with them to discuss issues and answer any questions. He also said that there is a need for coordination between the Panhandle Health District and County permitting processes concerning the ICP. Rebecca Stevens, Coeur d'Alene Tribe, said that IDEQ and the Coeur d'Alene Tribe rely on the site disturbance ordinance to manage near-shore property. Bill Rust encouraged those who write letters to County Commissioners to be very specific about why the Commissioners should not allow an exclusion and to cite specific rules and regulations. A hearing on the site disturbance ordinance changes is scheduled for February 24, 2011, 6pm, at the Kootenai County Building (451 Government Way, Coeur d'Alene, ID).

### ***Yard Cleanup Program Update***

Denna Grangaard, Idaho Department of Environmental Quality (IDEQ) gave a brief update on the Basin Property Remediation Program. She noted that Dan Meyer, who had been managing this program, had taken another job outside of IDEQ, and that IDEQ would not be directly filling his position for 2011. Instead, other staff at IDEQ would take over parts of his work.

The property cleanups will continue to be a focus for IDEQ this season, particularly in the Lower Basin. Terragraphics, IDEQ's contractor, will continue to sample and test properties and answer homeowner questions. IDEQ is working on additional outreach to encourage more property testing, including emphasizing the benefits of sampling. Andy Mork, IDEQ, asked whether the sequencing of outreach and testing requests to homeowners could be changed to encourage homeowners to participate in the testing program. Bill Rust, CCC Member and TLG member suggested that IDEQ test road right-of-ways and show homeowners the maps of contamination results close to their property to encourage property sampling.

### ***Basin Commission Updates***

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

**2011 Work.** In 2011, Terry will be focusing on a few key areas, at the request of IDEQ and the Basin Commission. To implement this work, Terry will be assisting the parties on rewriting the Memorandum of Agreement between the Basin Commission and IDEQ.

- He has written a letter detailing what the responsibilities are of someone who owns property in a contaminated Superfund site. This letter would be for communities to distribute to citizens. IDEQ is currently looking this letter over before it goes to Basin communities.
- He will be developing a road remediation program to address road deterioration issues that may affect remediation in the Upper Basin. He will be working with Shoshone County and the East Side Highway District on this program.
- He will be putting together a list of completed projects and will be developing coordination with the local communities on the operation and maintenance of the remedy protection projects.

**Rose Lake Culvert and East Mission Flats.** In December 2010, a culvert on State Highway 3 at Rose Lake failed, due to age and degradation, high runoff and flooding in the area. This failure

required excavation of the failed culvert and the surrounding contaminated soil. Terry coordinated this work, and approximately 2300 cubic yards of the excavated road embankment soil was taken to East Mission Flats Repository. Due to the recent rains and snow melt, East Mission Flats Repository is surrounded by standing flood water from the CDA River, but the protective riprap and soil caps on the EMF Repository are responding as anticipated during the design of the site, and the water does not pose a risk to the Repository.

**Trustee Work.** The CDA Trustee has prepared a workplan for 2011. As the proposed ROD Amendment for the Upper Basin is not finalized, the only work that the Trustee can do is work called for in the OU-3 ROD in Ninemile Creek. Once the ROD Amendment is finalized, the Trustee can begin work on the remedy protection and other projects. Dave Fortier, citizen, asked whether the Trustee will need to have access agreements for work on private land. Terry said that the Trustee and EPA will develop a Memorandum of Agreement that would include such details.

### ***Lake Management Plan Update***

Glen Rothrock, IDEQ, and Rebecca Stevens, Coeur d'Alene Tribe, gave an update on the Lake Management Plan. The Lake Management Plan is guided by five objectives:

1. Improve scientific understanding of lake conditions
2. Establish and strengthen partnerships
3. Develop and implement a 3-year nutrient source inventory
4. Increase public awareness of lake conditions
5. Establish funding mechanisms to support the Lake Management Plan goal, objectives, and strategies

So far, IDEQ and the Coeur d'Alene Tribe have addressed the first three objectives in detail, but have not conducted much outreach to local community to increase awareness of lake conditions. As a first step in addressing this objective, the team worked with a consultant on an outreach needs assessment to understand how best to reach the public. This needs assessment included focus groups with shoreline and community residents, interviews with community opinion leaders, a telephone questionnaire survey, and an online self-administered survey.

The focus of this needs assessment was to understand the current level of knowledge of the public on Lake issues and the various agencies working on its management; how people most like to receive information; and how best for the Lake Management agencies to communicate with the public. Glen and Rebecca expressed some surprise with some of the preliminary information they received from the needs assessment which is indicating that the agencies may need to adjust some of the ways they are communicating with the community.

A final report on the needs assessment will be available by the end of February 2011 with detailed findings. IDEQ and the Coeur d'Alene Tribe anticipate that the results of this needs assessment will help in the development of a public education and outreach program in 2011 which could include a Joint Lake Management Plan website, workshops, handouts, education programs, and outreach and water related events.

### ***Upper Basin ROD Amendment***

Ed Moreen, EPA, provided a few updates on EPA's work in the Basin.

**Team Leader Change.** Angela Chung, who has been the EPA team lead in Seattle on Basin work, is moving to a different position with EPA in mid-February, processes are in motion for both an interim and a permanent Basin Team Leader replacement.

**Proposed Cleanup Plan.** Approximately 1000 comments were received on the Upper Basin Proposed Cleanup Plan and EPA is currently reviewing and considering these comments. Given the number of comments the process will take some time, no timetable has been set.

A working subcommittee was formed to help sort the sites identified in the Proposed Cleanup Plan into several categories. They will be meeting on February 3 at the U.S. Forest Service office in Smelterville. The subcommittee was formed at the December 7 Upper Basin PFT meeting and is made up of volunteers with knowledge of the mine and mill sites in the Basin. The five categories were agreed upon as having merit for further evaluation by the working subcommittee:

- Actively managed facilities (e.g., those governed by an existing NPDES permit, the ICP, Closure Plan or Operations Plan);
- Known mine waste sites that are well documented as high risk to human health and the environment;
- Sites where additional information is needed to determine human health and ecological risks;
- Sites where it is acknowledged that a risk exists but where additional data is needed to optimize selection of a technologic option/remedial action approach; and
- Sites where some remediation has been conducted but sufficient data does not yet exist to determine if the action is complete and functioning in accordance with remedial action objectives.

Dave Fortier noted that this working subcommittee is addressing some of the submitted comments.

Jerry Boyd, CCC Chair, asked generally how the ROD Amendment would affect a homeowner and their property once remedy protection projects are underway. Ed responded that EPA is still evaluating comments and possible changes to the Proposed Cleanup Plan. However, EPA anticipated that future work under the ROD Amendment will have no more impact on private property than the residential cleanup program has had, and will potentially have less impact. Many of the areas targeted for cleanup are in more remote areas. Additionally, EPA does not anticipate that the cleanup will slow down development but would actually improve opportunities for development as more private properties are available for re-use following cleanup.

### ***EPA SEE Outreach Position***

EPA, through the National Asian Pacific Center on Aging, is hiring an outreach position for the Basin through its Senior Environmental Employment Program. Applications for this position were due on January 14, 2011 and EPA is currently reviewing applications. Jerry Boyd, CCC Chair, had some questions from Deb Sherbina at EPA for the CCC about what qualities they were looking for in whoever took this position.

Participants at the CCC meeting suggested it would be good to have someone in the position that is locally connected, has credibility in the community, can take constructive feedback and bring it to EPA for consideration, is familiar with the issues and environmental background of the Basin, and understand the cultural background of Basin cleanup issues. They indicated interest in a person who would be able to be a “listening post” within the community but also be able to respond effectively and efficiently to community concerns with some authority.

### ***Communications PFT Update***

Jeri DeLange, Basin Commission, provided a brief update on the Communications PFT. The next PFT meeting will be in the morning of February 10, followed in the afternoon by the Recreation Education Subcommittee. These meetings will be at the Idaho Fish and Game office. Andy Mork said that it would be good to hear the information that Rebecca and Glen had presented on the Lake Management Plan’s outreach needs assessment; Rebecca and Glen said they would consider a way to present the information to this audience.

### ***Next BEIPC Meeting***

The Basin Commission Board will hold its next meeting on February 16 in Wallace, ID. It is open to the public.

### ***Adjourn***

The CCC meeting was adjourned at 9:00 PM.

# ***Presentation of Citizen Comments to the Basin Commission Board***

***January 19, 2011***

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## **Written Comments**

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

## **Verbal Comments**

Verbal comments provided at the January 19, 2011 CCC meeting are reflected in the CCC meeting summary and paraphrased below.

<b>Comments</b>	<b>Commenter</b>
Why not sample all the road right-of-ways and show those sample maps to property owners to encourage them to sample and treat their property?	<i>Bill Rust, CCC member</i>
In December, Kootenai County started a Board of Natural Resources and there are one to three openings on the Board if anyone wants to join.	<i>Rusty Sheppard, CCC member</i>
I have concerns about flood plain development. When I see Kootenai County's proposed site ordinance disturbance, I wonder what is our authority, even as citizens? We submit letters that are ignored, though maybe the new Board of Natural Resources will help. Commissioners may allow for construction within buffer zones when it determined to be economic benefit. However, I feel like there are other values being ignored – economic benefit is not the only benefit. I think we need to get the human health pathways for exposure to be understandable to the commissioners.	<i>Julie Dalsaso, CCC member</i>
We've heard tonight that the counties have a role to play in the cleanup but it is not necessarily directly connected to the federal and state work that is going on.	<i>Jerry Boyd, CCC Chair</i>
For the new SEE outreach person, the person should be able to coordinate between authority and the public smoothly, exchanging comments both ways, and getting a timely response from those in authority within EPA. This person needs to have some connection to decision makers.	<i>Troy Lambert, CCC member</i>
It is daunting to me to look at the things that EPA has done with outreach and how little that seems to have impacted community knowledge of the Basin cleanup.	<i>Bill Rust, CCC member.</i>

For citizens coordinating council Wed 1/19/11 in Coeur d'Alene  
Submitted by volunteer with CCC, J. Dalsaso

Topic: Proposed erosion of Kootenai County site disturbance ordinance: disturbing

Using site disturbance DRAFT from 12/7/10- ORA10-0016

Note: Citizen Workshop Tu 1/18/11 noon at Kootenai County bldg, site disturbance hearing scheduled 2/24/11- 6 pm, same location.

Specify and clarify the ACTIVE role of the trustees and Basin Commissioners on local authorities when there's conflicting economic priorities undermining clean up that is to be protective of human health and the ecological remedies in environment.

See page 5/6

- I. Exceptions impacting beaches, recreation areas- areas commonly visited over time by children, people fishing and ingesting fish, pregnant women, large groups or new residents to the area

Exception 3: "Commissioners may allow site disturbances, construction and improvements within the Stream Protection Buffer and/or Shoreline Protection Buffer when it is determined that the project is of such size, scale, regional economic benefit and the nature of the work that is in the best interest of the public, including but not limited to

- A) large scale rip-rap, bank stabilization, erosion control that may include numerous abutting property owners
- B) public boat launch and support facilities
- C) bank stabilization, riprap, erosion control and similar projects and support facilities associated with large scale commercial marinas and facilities

New changes include centralized "gate keeping" for variances and exclusions to the Ordinance by the planning department Director or "Administrator," sometimes decided independent of the Board of County Commissioners. After every election, consider the technical learning curve to newly elected Kootenai County commissioner to BEIC.

#### Concern:

Circumventing the application of Basin data and flood studies with decision making locally, not inclusive of cooperative goals with Clean Up and Lake Management Plan nutrient management objectives.

~more power in the hands of fewer qualified to understand complex Superfund nutrient transport and toxic metals exposure pathways, potentially impacting public health for years to come.

It's clear there are many areas within Kootenai County shorelines that are not within Superfund jurisdiction, however, finite areas are clearly designated yet "edited" or

deleted from comprehensive plans when submitted by myself with other qualified agency representatives who were consulted for accuracy.

**Example:**

DEQ maps designating areas of common jurisdiction w/ Kootenai County with defined areas showing contaminated areas of concern were submitted to Hazardous Areas and Natural Resources deliberations, as a REFERENCE, but deleted out of the comp plan by Commissioners, even though GIS specialists were hired by the County who are familiar with 'overlays' to capture OU3 areas identified and could simply be indexed.

Seeking suggestions for concrete engagement by Trustees and Basin Commissioners for needed collaboration and input:

Consider expanding IDAPA rules (41.01.01/contaminant management) to include Panhandle Health implement similar Institutional Controls in OU3, if updated ordinance **weaken** resource protection and omit safeguards to human health from local jurisdiction, or are too costly to unbeknownst land owners.

(Reference Cd'A River Estates, Medimont /Kootenai County Site Disturbance Permit SPD09-0002, issued regardless of scientific safeguards suggested:

"We recommended to the Corps of Engineers that they deny the permit application because of the high potential for exposing residents to the high levels of lead and other metals that would be deposited on the project site during recurring flood events."

"This project stands out with especially significant impacts because it would allow new development in an area where continuing recontamination would occur."

"The combination if a clearly defined flood zone (based on models and real flood occurrences) along with actual data demonstrating the levels of recontamination occurring with flood events provides clear evidence of the risk to human health at the project site." ~ by J. Olson, Wetland Ecologist, EPA

See page 3/6 in Draft of ordinance:

II. Lower Basin OHW issues

B.3) Ordinary High Water Mark will be referenced for Coeur d'Alene Lake by the North American Vertical Datum of 1988 (NAVD88): 2128.7 and all other ordinary high water marks for all other water bodies shall be determined by on-site inspection.

Concerns: land owners hire the inspectors with variances for OHW along the Cd'A River watershed to vary from property to property, creating "approved" inconsistencies by Kootenai County. How will these inconsistencies affect Superfund work along designated areas for recontamination? Who defines and completes 'risk assessment' in an objective non-political manner, that won't undermine their job security if landowners disagree?

Suggestions from the TLG requested from CCC.

**Clarify who has the authority for a final denial, if ever, prioritizing goals for human health and ecological remedies with economic growth if the Basin Commissioners and Trustees remain detached and uninvolved, in my perception. The answer to "decide on a case by case basis" isn't working, when reviewing three specific cases involving site disturbance permitting with Kootenai County, but there are others too.**

Three evidence based cases reviewed:

Black Lake- VAR10-0008- requesting to exclude 25 ft buffer due to "hardship" of steep slope.

Blackwell Island- Lake Cd' A/ Spokane River -- the Army Corps permit to categorize toxicity of "dredged spoils" for off sight repository storage, may be minimized or eliminated based on new loopholes and altered definitions of OHW from the site disturbance plan.

Coeur d' Alene River/ Medimont-SDP09-0002- new development on contaminated flood plain pending, road approved to site.