

**Basin Environmental Improvement Project Commission
(BEIPC)/Citizen Coordinating Council (CCC) Meeting
Special Topic: Townhall Meeting for Institutional Controls
Program (ICP)**

Meeting Summary Notes

August 16, 2022, 9:00 AM

Shoshone Medical Center Community Outreach Center, 9 Country Club Lane
Pinehurst, Idaho

Attendees in person:

Terry Harwood (BEIPC Executive Director)
Gail Yost (BEIPC, Notetaker)
Dana Swift (Idaho Department of Environmental Quality; IDEQ)
Michael McCurdy (IDEQ)
Dan McCracken (IDEQ)
Andy Helkey (IDEQ)
Eric Ketner (Panhandle Health District; PHD)
Don Duffy (PHD)
Mary Rehnborg (PHD)
Jay Huber (Shoshone County Commissioner)
John Hansen (Shoshone County Commissioner)
Mac Pooler (Mayor, City of Kellogg)
Mike Fitzgerald (City of Kellogg)
Barney Norris (Bunker Hill Task Force)
Dave Klopp (Public)

Attendees via Zoom:

Paula Wilson, Susan Hamlin, Cody Mullikin (Office of the Idaho Attorney General, Environmental Quality Section)
Rebecca Stevens (Coeur d'Alene Tribe)
Jacob Garringer (Office of the Governor, North Idaho Field Office)
Tamara Langton (Environmental Protection Agency, EPA)
Monica Fabbi (Intermountain Fair Housing Council)
Julia (Public)
C. Thomas (Public)
Betty and Brett Belisle (Public)
Unknown Zoom User (Public)

Call to Order

Terry Harwood called the meeting to order at 9:00 am. This is the second meeting to discuss proposed changes to the regulatory framework for the Institutional Controls Program (ICP) for operation within the Bunker Hill Superfund Site (BHSS). Jerry Boyd, CCC Chair, was unable to

attend. Terry appreciated everyone's attendance today on the importance of the ICP program in maintaining the remedy in the Basin and protecting clean-up efforts that have been made to date.

Institutional Controls Program – Changes to the Regulatory Framework

Andy Helkey gave a presentation on the proposed ICP regulatory framework changes that are coming up within the next year. Brief introductions and an overview of today's presentation were provided.

ICP is a required component of the cleanup for selected remedial actions in the Bunker Hill Superfund Site (BHSS). It has been a local program for 27 years now with its main purpose to protect public health and assist with local real estate transactions. It is a permitting and inspection process to oversee all construction activities. The services ICP supports are barrier maintenance; HEPA vacuum loan program; home renovation; environmental sample data; and education and outreach. It houses the remedial records for the property remediation program and allows for real estate transactions within the BHSS without liability for property owners.

The proposed changes to the ICP program include:

- 2021 Legislative Session made changes in Idaho's Public Health Districts status as a governmental entity – they are no longer considered state agencies and not allowed to have Idaho Administrative Procedures Act (IDAPA) rules.
- Currently, there is a temporary PHD rule under 41.01.01, Rules of Idaho Public Health District #1.
- Long-term solution is to work collaboratively to develop a draft statute to be sponsored by IDEQ during the 2023 Legislative Session.
- Overall goal is to not make substantive changes to requirements of implementation.
- Requirements will be streamlined in draft statute and all services will continue to be provided free of charge to users.
- PHD will continue the day-to-day implementation of the ICP.

Currently in the temporary rule 41.01.01 there is a section for the Box and one for the Basin. We are looking to streamline these sections and combine them together in the draft statute – there will be a short title section, establishment of ICP, definition section, scope and applicability, standards for containment management, and ICP permit application and administration. Applicable remedial design reports will be referenced to cover contaminated barriers, construction and maintenance, and tables. Other sections in the rule that will be streamlined include the appendices, ICP administrative area maps, applicability of barrier type tables, and soil removal and replacement depth tables – and will be out on PHD and IDEQ websites for reference. If there is ever an enforcement issue, they will be handled by IDEQ and not PHD.

Andy showed the Draft Statute that will be presented to the 2023 Legislative Session. He went through the sections as he mentioned above outlining the proposed changes. Rebecca from the CDA Tribe asked if the biggest differences would be that IDEQ would provide the regulatory authority over the program and would be issuing the permits – is that correct? Andy answered no, that is not correct. There will be no administrative changes on how the ICP is run, IDEQ will

be the lead on the statute and will have a Memorandum of Agreement (MOA) with PHD to cover the day-to-day activities and still do the permitting. IDEQ would only step in if there is ever an enforcement issue.

Andy asked for any comments, mentioning that Terry Harwood from the Basin Commission (BEIPC) had already made a couple of comments that will be addressed. Dan McCracken explained how IDEQ and PHD work together on the ICP program – currently the rule authority is with the health district, but the funding still comes through IDEQ, so we have an agreement and a contract where ICP works. There are also other programs outside of the Superfund Site, like their small drinking water systems, where IDEQ has statutory authority with delegation to the health districts for implementation. He sees this statutory change running much like other MOA's with PHD.

The timeline for transition included a meeting held on July 12th along with today's public meeting and will be presented by IDEQ during the 2023 Legislative Session. As soon as the statute is passed it will go into effect. This presentation along with letters of support are also available on IDEQ's [Bunker Hill Superfund Site](#) webpage.

If anyone has questions or comments they can be made up until August 26, 2022, and can be sent to Andy Helkey, 1005 McKinley Avenue, Kellogg, ID 83837, or email at Andy.Helkey@deq.idaho.gov, his phone number is (208)783-5781.

Terry mentioned that the BEIPC is taking notes and will have them available in the near future. Mac Pooler asked if Andy had his letter supporting the ICP – and Andy answered yes that he had all the cities mayors' signatures of support. Other expected and existing letters include the CDA Tribe, Hecla Mining, Bunker Hill Mine, Silver Valley Chambers, Shoshone Medical Center, Silver Mountain, Kootenai County Realtors Association, Shoshone County Commissioners, and soon to be Kootenai County Commissioners and Panhandle Health District upon approvals.

Rebecca had a question about the statute on page 1 in the first paragraph under An Act – 'To provide inconsistent laws' – what exactly does this mean? Paula Wilson answered that the last section of the statute has this title INCONSISTENT LAWS, listed like a table of contents on the first page and paragraph. Susan Hamlin said this refers to other statutory provisions and other acts that appear to conflict with this particular act, that these particular sections of this code prevail.

Don Duffy from PHD said thanks – it was nice to see the collaborative effort between PHD, IDEQ, and community leaders – to come together to make this happen is impressive. He was able to visit here last week, he doesn't know anything PHD has done in its existence that has had more positive influence on the health of the community than the work that is happening in Shoshone County. He wanted to thank everyone for their leadership. Terry agreed and thanked everyone as well.

Terry wanted to know when the draft statute needed to be sent to the Legislature – Dana Swift answered an initial draft has already been submitted to the Division of Financial Management (DFM) and the Legislative Services Office (LSO), but comments and revisions can still be made.

Terry also invited everyone to the BEIPC meeting and tour happening tomorrow, August 17th.

Andy re-stated to those joining late via Zoom that if anyone has questions or comments they can be made up until August 26th and can be sent to Andy Helkey, 1005 McKinley Avenue, Kellogg, ID 83837, or email at Andy.Helkey@deq.idaho.gov.

Terry adjourned the meeting at 9:28 am.