

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

Meeting Summary Notes

December 6, 2022, 2:00 PM

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)

Andy Helkey (IDEQ)

Mary Rehnberg (Panhandle Health District; PHD)

Attendees via Teams:

Paula Wilson, Susan Hamlin, Cody Mullikin (Office of the Idaho Attorney General,
Environmental Quality Section)

Eric Ketner (PHD)

Rebecca Stevens (Coeur d'Alene Tribe)

Tamara Langton (Environmental Protection Agency, EPA)

Erin Anderson (Washington State Department of Ecology)

Christy Johnson Hughes (US Fish & Wildlife Service; USFWS)

Elise Brown (USFWS)

Mary Alice Taylor (Association of Idaho Cities)

Call to Order

Andy Helkey called the meeting to order at 2:05 pm. Brief introductions were made for the in-person and on-line attendees. This is the third meeting to discuss proposed changes to the regulatory framework for the Institutional Controls Program (ICP) for operation within the Bunker Hill Superfund Site (BHSS).

Institutional Controls Program – Changes to the Regulatory Framework

An overview of today's presentation was provided by Andy on the proposed ICP regulatory framework changes that are coming up within the next year.

Mining began in the Silver Valley in the 1880's. From then until 1968, an average 2,200 tons/day of mine waste were discharged into the South Fork of the Coeur d'Alene River (SFCDA). Over 60 million tons of metals-contaminated tailings were discharged directly into the rivers in both the SFCDA and Lower CDA River, and were devoid of aquatic life by the

1930's. The hillsides were also bare and lacked vegetation. The Bunker Hill Smelter operated from 1917 to 1981 and was the largest primary lead smelter in the world and Idaho's largest employer at the time. One thing to remember that until the late 1960's early 1970's the mining industry and the smelter operated without any environmental regulations in place. Communities surrounding the smelter had the highest lead soil concentration ever recorded in the country and the baghouse fire in 1973 caused the largest blood lead poisoning event of children in US history.

The BHSS is one of the largest Superfund sites in the nation covering over 1,500 square miles. Emergency removals started in 1989 with over 7,000 properties cleaned-up to date. Due to the depth of contamination, most properties have barriers installed over remaining contaminated soils. Andy showed a picture of the City of Kellogg indicating the lead levels that still exist below the barriers. Over 6 million cubic yards of mine waste in the Upper Basin still need to be addressed along with over 17,000 acres of wetlands that are acutely toxic to waterfowl in the Lower Basin.

The ICP is a required component of the cleanup for selected remedial actions in the BHSS. It has been a local program for over 25 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. Institutional controls are "non-engineered instruments, such as administrative and legal controls, that help minimize the potential for human exposure to contamination and protect the integrity of the remedy". Goals of the ICP are protect the remedy; protect public health; and assist with land transactions within the site boundary.

Initially setting up the ICP was a seven-year public process with community stakeholders and was adopted by the Idaho Legislature in 1993. The ICP at Bunker Hill has been used as a model nationally and internationally to set up other Institutional Control Programs for managing contaminants left in place.

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.

The timeline for transition included public meetings held on July 12th and August 16th, along with today's meeting, and the statute and will be presented by IDEQ during the 2023 Legislative

Session. As soon as the statute is passed it will go into effect. Additional information and letters of support are available on IDEQ's [Bunker Hill Superfund Site](#) webpage.

The overall goal is to not make any substantive changes to requirements or implementation. PHD will continue the day-to-day implementation of the ICP, and all services will continue to be provided free of charge to users. 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.

Comments were accepted through August 26, 2022 – with only one set of written comments received and portions incorporated that were appropriate. Other modifications include added definitions for arsenic and cadmium, eligible properties, repositories and Site, and other editorial changes. You can review the response to comments and other modifications to the ICP Draft Statute, along with the letters of support, on IDEQ's website at: www.deq.idaho.gov/bunkerhill

Rebecca Stevens from the CDA Tribe asked if IDEQ sees any issue combining the Box and Basin information or will it just streamline the process and make the messaging easier? Andy answered that it will streamline the process and make the messaging easier – they took the definitions that are applicable for Box or Basin and used that definition. Anything that is separate as far as Box and Basin rules are still incorporated in the ICP.

Erin Anderson from Washington State Ecology asked for clarification on where to find the comments on the IDEQ website – Dana Swift instructed her, and she found them.

If anyone has questions, they 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.