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Transcript of the Testimony of

BONITA PEAK MINING DISTRICT SUPERFUND SITE
June 21, 2018

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VS.

Carrie A. Arnold, RPR, CRR

Carrie A. Arnold, RPR, CRR
Hansen and Company, Inc.
Registered Professional Reporters
1600 Broadway, Ste. 470
Denver, Colorado 80202
Phone (303) 691-0202 * Fax (303) 691-2444

BONITA PEAK MINING DISTRICT SUPERFUND SITE

PUBLIC COMMENT MEETING

JUNE 21, 2018

Silverton Town Hall

1360 Greene Street

Silverton, Colorado

6:00 to 7:02 p.m.

Present from EPA:

Cynthia Peterson:	EPA Community Involvement Coordinator
Christina Progress:	EPA Superfund Remedial Project Manager

I N D E X

P R O C E E D I N G S

THE VIDEOGRAPHER: Good evening. We are here for the EPA presentation on the Bonita Peak Mining District site and the EPA proposed plan and public comment meeting.

MS. PETERSON: Good evening, everyone. I think we're going to go ahead and get started now. Thank you so much for joining us tonight. We appreciate you being here.

The purpose of this meeting is to accept public comments on the proposed plan for interim response actions at the Bonita Peak Mining District Superfund site. We are -- started a public comment period for the proposed plan on June 14th. We are continuing that plan until July 16th so people can provide comments in writing anytime during that period.

Tonight is an opportunity for folks, should they want to, to provide comments in public to -- for the record. So during the meeting, if -- when we get through with the short presentation, if you want to come up and provide a comment for the record, we will take it tonight.

We also have cards available over on the table if you would like to provide a comment on the proposed plan in writing tonight, you're welcome to do

that as well. Just hand it to one of us at the end of the meeting.

Over on the table we also have a summary of the proposed plan. We have the proposed plan itself. We have a copy of tonight's summary presentation, as well as a CD that has copies of all of the documents as well as the administrative record and the focused feasibility study, which is the document that the proposed plan is based on.

Also, those documents are available on our website, the Bonita Peak website. We will have the website address at the end of the presentation. If you want to access any of these documents, you can do those -- get those there as well.

So tonight -- yes, sir.

AUDIENCE MEMBER: Forgive my ignorance. Can you introduce yourself.

MS. PETERSON: I apologize. I'm Cynthia Peterson. I'm the community involvement coordinator for the Bonita Peak Mining District Superfund site.

AUDIENCE MEMBER: Thank you.

MS. PETERSON: And can you in the back hear me?

AUDIENCE MEMBERS: Yes.

MS. PETERSON: Great.

So tonight's meeting is quite a bit more formal than our meetings typically are. If you've been to any of our -- our meetings, we usually have some presentations, some discussion, some questions and answers.

Tonight, because this is a formal process within the public comment period for the proposed plan, we will be making a short presentation, a summary that will sort of lay the groundwork for public comments, but we won't be taking Q&As or providing a dialogue, as we normally would, or discuss the proposed plan.

That's also in fairness to other folks who might not be at this meeting; we want to make sure that everybody has the same information on which to make records. And -- and that's the written documents themselves.

So you will see that we have a videotape here. We are going to videotape the presentation only for folks who couldn't attend the meeting tonight so that they have that. We will post that on our website as soon as it's available.

We also have a court reporter here. She will be recording comments that people provide orally during the meeting. Those will become a part of the record. We will have a transcription of the meeting tonight,

and as well as the comments that we will put on our website when that's available as well.

MR. SCHILLACI: I'm also an environmental documentary filmmaker, and I will be recording all the comments. If anybody has objection -- for the movie Acid Mine Nation, my tribute to the Gold King spill -- please let me know and I will not record it.

MS. PETERSON: So that's important to note. The videographer will not be videotaping any comments nor will he be taking pictures of anyone in the audience. The only people that he's going to be videotaping are the people that are presenting tonight.

So after the presentation, if you want to make a comment, please come up to the front, and you'll do it right here. The microphone is -- will be capturing audio only. Please, before you do that, sign in to one of the sign-in sheets. Please print your name legibly for -- for the record. We'll also ask you to state your name and -- and spell your name for the record as well when you come up and do that.

We're going to allow three minutes per comment, not knowing how many folks may be wanting to -- to comment tonight. If you can't complete the comments that you want to give within three minutes, if we have time at the end of the meeting, you can come

back up and -- and provide more comments if you'd like.

Also, we recognize that you all may come and have questions about other things besides the proposed plan that we're doing here in the -- the mining district. For one, you may have known that we are moving sludge from the Interim Water Treatment Plant at Gladstone to an interim sludge management location by Kittimac and you might have questions about that. We can't address those during the formal part of this meeting, but will be available after the meeting and would be happy to talk with anyone about any topics other than the proposed plan after the meeting if you'd like.

I did want to introduce this -- the folks that are here from the site team. Mark Rudolph is from CDPHE. He is on the site team. Christina Progress is a remedial project manager with the team. She will be giving the short summary tonight. We have a couple of other folks that I think are still out doing a tour, and they may be joining us later.

But with that, are there any questions about the process tonight of how we're going to accept comments?

Okay.

AUDIENCE MEMBER: If a person supplies oral

comments tonight, are -- do they still have the availability to provide written comments later? Is it a "one or the other" kind of thing?

MS. PETERSON: The question is, if somebody gives oral comments tonight, are they precluded from providing comments in writing at a later date? And, no. You can provide comments in whatever form and as many times as you'd like.

Okay. Well, with that, I'm going to hand it over to Christina, and we'll have the short summary and then open it up for the comment.

MS. PROGRESS: Thanks, Cynthia.

And thank you all for coming. And thank you for your continued interest in the work that EPA is doing here on the Bonita Peak Mining District Superfund site. We are happy to be here to give you a little bit more information, talk a little bit more, give you a summary of what the plans are that EPA has proposed for some cleanup work at approximately 26 of the 48 mining source areas located within the Bonita Peak Mining District.

So I will be giving you a short presentation of -- that summarizes the findings in the proposed plan and the proposed cleanup actions EPA plans to take at those. And, as Cynthia mentioned, we're happy to talk

after the presentation if you have comments about any additional work the EPA might be taking.

So as Cynthia mentioned, we do have copies of the proposed plan over on the table, if you have a need for a hard copy. We -- we are seeking public comment. There's no limit to the amount of comments that you can make. We are seeking comment until July 16th. And there are fact sheets and other things available if you'd -- that summarize the proposed plan, if you don't have the time to make it through the entire -- the entire -- those are provided at the table at the door.

So I wanted to give a quick summary of where we are, how these interim actions fit into the broader Superfund process. This schematic shows a -- you can see the -- the bar across the top shows interim actions can be taken at any point along the Superfund process.

It's a little bit blurry, and I'm not sure if folks can see that, but where we are, we're at the very beginning stages. So we're -- we're off to the left-hand side here in the site characterization phase of the project.

But we do have some -- these interim actions we'd like to take to show some immediate benefits while we're in the process of conducting the more long-term site investigations that are underway as part of the

remedial investigation under the Superfund process.

Superfund cleanup actions primarily -- they're primarily driven by the need to protect either or both human health and ecological environment. We have defined some objectives for the cleanups that we plan to -- that we'd like to take here as part of this proposed plan. We have an objective both to address human health concerns, as well as an objective to address ecological risks.

So for human health, what we're looking to do as a part of these actions is to reduce the potential for exposure to elevated levels of arsonic and lead found in mine waste and soils at several of the source areas.

What we're concerned with here is that people who may be camping at these locations may be exposed through inhalation or ingestion of these -- this mine waste material or soil that has elevated levels of lead and arsenic.

The actions that we're proposing are, also at several locations, looking to reduce ecological risk by minimizing the amount of migration of mine waste material into streams, erosion of mine waste materials into -- into streams that could degrade water quality and increase ecological risk, increase aquatic -- risk

to aquatic life.

I should mention that none of these -- that several of these sites do include actions, more than one action. So we don't have one action per site. There may be sites where you have multiple actions that need to be -- that we plan on taking to address ecological risk.

And so we'll -- we'll talk a little bit more down -- further into the -- into the presentation what -- what those would -- would entail.

Here for human health risk, you can see the -- the sites or the source areas where we plan to take action to address human health concerns. We have several in Mineral Creek as well as the Upper Animas. In Mineral Creek, we have the Longfellow, Koehler, and Junction sites. In the Upper Animas, we have what we call Campground 4 and Campground 7.

The -- this human health risk is -- is associated, as I mentioned before, with camping activities. It is limited to a few areas, including these areas, so it's not a widespread issue. It is predominantly focused on these -- these locations. And the -- the risk that we're seeing is a -- the EPA is taking a conservation approach to evaluating that risk.

So we'll -- we'll talk a little bit more

about what activities we plan to do to address these risks further in the presentation.

So you can see we have many sites here that are listed to address aquatic or ecological risk. This -- these sites are located in all three of the drainages associated with the Bonita Peak Mining District Superfund site: Mineral Creek, Cement Creek, and the Upper Animas.

I mentioned before that several actions may be taken at any given site to try to address these concerns. We're -- basically what we're trying to do is see improved water quality through taking these actions improving -- reducing the metals concentrations, by -- by taking these actions, it will ultimately help reduce the risk to aquatic life.

In addition to reducing risk, some of the actions may be taken to maintain work that's previously been done by other stakeholders in the watershed through 319 grants or other mechanisms in the past.

So we're looking to maintain those actions, those remedies that were put in place. Because they -- we are seeing some measured improvement in water quality. We'd like to maintain that improvement.

So here's a map of the locations of the interim remedial actions where there -- where we plan

to take action. You can see they're located throughout the -- the three drainages across the site. We're not focusing on any one given location, but we're instead looking to see if we can see measured improvements in water quality across the site.

And I should point out that, in the proposed plan, there is a table that lists these sites and the categories of actions that are anticipated. That way you can show -- you can see, for any given mine site, which categories of actions we anticipate taking. And we'll talk a little bit more here about what those categories are.

So we have five general categories of contaminant migration issues that we're trying to address in this proposed plan. I'll go through these five, and then we'll go through in a little bit more detail what they -- what this entails.

So we're looking at managing portal discharge from draining mines at 20 of the locations. We're looking at managing stormwater associated with sheet flow across mine waste at 11 of those locations. And addressing and mitigating any concerns we have about buildup of sediment within sediment ponds at 8 of the locations.

We're looking at addressing and excavating

mine waste from stream channels at two of the locations and addressing human health concerns at what we're calling mining-impacted recreation staging areas at five of those locations. Those are locations in which we believe that camping has occurred or would likely be occurring in the future.

So now let's take a look at what -- what those actions may entail here for each of those various categories. So when we talk about mine portal discharge, what we're really talking about is directing the -- the discharge from the mine around mine waste piles to minimize the erosion of that mine waste by that discharge from -- from the draining mine.

An example of stormwater interactions are where, during high flow events and rain events, you have sheet flow across the landscape into mine waste or -- or snow melt through -- through mine waste. We'd be looking to divert that snow melt and runoff around the mine waste piles and around the source areas to minimize erosion and leaching of that material.

For -- we're talking about mine portal pond sediments -- and we'll have pictures of all of these here in a minute. We have several mine sites where there are sediment ponds that have been constructed at the portals of the draining mines. And those pond --

those ponds are being -- the sediment is accumulating in those ponds, and we need to excavate those sediments out to increase the -- the holding capacity of those ponds.

We also have several sites where there's mine waste that's actively in the -- the active stream channel. And it's -- whether it's been eroded there or placed there through mining activities, we'd like to excavate that mine waste material from the creek channel and minimize contact of that mine waste with water -- with surface water.

And then for the mining-impacted recreational staging areas, we have -- these are generally flatter areas. And where people may be camping, we'd like to cap these areas to minimize exposures during those camping activities and exposures to those elevated levels of lead and arsenic that can be found in those -- those mine wastes there.

So now let's take a look at examples of -- of what these might look like. And these aren't meant to talk about any individual mine; they're just really meant to be an example of what we see across this -- across the site.

So in this case you have a mine -- large mine waste pile. The adit is flowing across and over and

down the mine waste pile. So here we're looking to channelize that adit discharge, just divert it around the mine waste pile so it doesn't continue to actively erode that material.

Depending on the source, there may be other actions that we need to take. Maybe there's some excavation that also needs to occur, along with channelization of that discharge.

And here's an example of where we see stormwater interactions that we would like to mitigate. Here you can see that there's active water flowing across the site. We'd like to channelize that, collect that water, move it away from mine waste and underground workings so that we don't have interactions of that -- of that relatively clean water with contaminated source material.

I should mention that at all of these locations we do plan on managing any waste that's excavated. We do plan on managing that in place at the site where it's excavated. We don't anticipate trucking that material offsite, at least at this stage. As -- as this is an interim action, we plan on managing that material there. In the future, we may choose to do something like trucking that material offsite if -- if additional work is warranted at that location.

And at all these sites, we do also plan on monitoring to evaluate how -- the efficacy of the remedy. Monitoring, as an example, surface water, upstream and downstream of the various source areas, to determine how well this -- the actions that we've taken have improved water quality.

Here's a great photo of what we're talking about when we talk about ponds that need to be excavated. These are sediment ponds located outside of a -- a mine portal. The mine is discharging into these ponds. The idea behind sediment ponds is that they would entrain the water, hold the water, drop out some of the sediment that's there that carries the heavy metals; therefore, the water that moves through the sediment ponds would be cleaner than it would be coming into the ponds.

Over time, we see that ponds will accumulate this sediment, and then that decreases its ability to retain material. So we'd like to excavate that sediment and allow for the ponds to do their job and prevent any scouring of that material that may occur during high-flow events.

And, again, we plan on managing any excavated material from these sediment ponds on site and continue to monitor.

Here's a photo of in-stream mine wastes. Here's where -- an example of where we would be looking to excavate material out away from the stream channel to stabilize the channel, to stabilize the -- the mine material, limit erosion of that material and limit leaching of that mine waste material into the water body.

Here's a photo of an area there -- as an example of where we may expect to see or have seen evidence of camping in -- in certain areas. In these areas, I've mentioned before, elevated lead and arsenic are the -- are the concern.

We'd be looking to cap these areas with clean soil or rock, depending on the -- what the location is, and minimize contact with that material through camping activities. The concern being that people, as -- as you're camping, you're -- you're in the soil, you're in the dirt, you're churning that up, especially little kids, who are in the dirt more than adults would be, and minimizing contact with that material by placing a cleaner cap material on top.

So when EPA evaluates alternatives for cleanup, we have nine criteria that we look at to assist us with coming up with the best alternative. So I'd like to go through what those nine criteria are.

We've divided these into three different categories.

The first category is what we call Threshold criteria. This -- these are the criteria in which, if you don't meet these two criteria, it's really not worth, you know, continuing the analysis. These are -- these are extremely important. These are -- these being the overall protectiveness of human health and the environment. So how much risk are you reducing by taking these actions, both to human health and ecological risk? And also are you complying with applicable, relevant, and appropriate requirements?

We've listed these as ARARs because EPA loves acronyms. So ARARs is applicable, relevant, and appropriate requirements. These are the state and federal regulations that any cleanup would need to comply with in order to -- in order to be protective and in order it meet the standards required by state and federal law.

Moving -- once you -- if an alternative has moved past -- through those, met those criteria, then you look at some modifying criteria. And these criteria are largely geared towards evaluating effectiveness both in short-term and long-term.

They're looking at how implementable the alternative is and also whether or not it's -- it's --

does a good job at reducing toxicity, and mobility and volume of the material that you're looking to address. So does it minimize erosion? Does it minimize -- does it treat the material that -- that you're looking to reduce the contamination of or reduce the toxicity of?

And also it looks at cost. We're interested in -- in coming up with cost-effective alternatives that are also protective. So this criteria will help us evaluate that.

And then we move into acceptance. We'd like to understand if there's -- if the preferred alternative is accepted by the State and other supporting agencies, as well as the community. We'd like to have alternatives and ultimately select a remedy that -- that is acceptable to the community that lives here.

So these are the nine criteria that we're looking at evaluating all of these alternatives that we've included in the proposed plan against.

Now, the -- the work that I've mentioned, the proposed remedial actions all have some common themes to them. So I thought it might be helpful to go through what those are.

There's some common themes of what we would need to do, regardless of the location, prior to doing

the construction work. These -- these include things like surveys, doing property ownership surveys, maybe needing to do some wetlands delineation. Things like that.

They also include putting up erosion control measures so -- prior to constructing the work, so that once you do start digging into the material, you minimize the chance that erosion may occur into nearby areas or nearby water bodies.

And then monitoring. EPA has been doing a lot of work, along with our supporting agencies, to evaluate what the current condition of, say, for instance, the surface water is. What -- what metals concentrations exist there now. And then we'd like to monitor after the construction to evaluate whether or not there's been any changes.

We're going to hold any comments or questions until the end. Thank you.

And then during construction, there's several things that we'd need to do regardless of where we're constructing this work. We'd look at whether or not we need a borrow area. And what I mean by "borrow" is if you're -- if you need to cap an area, where are you going to get that source material from, the -- the soil or the rock that you would need to -- to use for

that -- that cap?

We would need to potentially look at where you -- you might need to build an access road. We definitely need to look into dust suppression. Any activity that we're doing likely generates some dust, so we need to minimize that dust.

Looking at improving roads that may already exist so that you can get your heavy equipment in there, or if you're hauling material, maintaining the roads that you're hauling or improving them to the degree that you need to improve them so that you can get your equipment in there.

And then once you're -- once you're done, you need to be looking at how do you -- what are your reclamation efforts going to look like? What are -- how are you going to leave the site? What -- how are you going to regrade it? What kind of revegetation might you need to be doing?

And then we need to protect the remedy, once it's complete, through the use of what we call institutional controls or land use restrictions, where waste is left in place.

As part of the adaptive management at the -- at the site, we see the need for ongoing monitoring to identify whether we've done enough or maybe we need to

do some additional work and -- and additional work in the future may be necessary under additional response actions.

So those are critical and important to all of the alternatives at all the sites that we're going to be looking at here and have included in this proposed plan.

So let's talk about what's next. Cynthia mentioned that we're in the middle of this proposed plan comment period, which will end on the 16th of July. Once the comment period closes, then EPA will collect all the comments that we've received, and we will evaluate them, determine if any changes need to be made to the remedy.

We'll then document the final remedy in what we call the record of decision. In this case, because these are interim actions, it'll be an interim record of decision.

As a part of that record of decision, we will include a responsiveness summary, which will list out all the comments that receive -- we've received, both today or at any time during the public comment period, and EPA's responses, so that people can understand how the comments were addressed that were received.

So here's some additional information. We do

have a website that Cynthia mentioned. That's the URL. And we have links to the proposed plan and the fact sheets.

So that is -- that concludes the presentation that I have today. So, as Cynthia mentioned before, this is not typical of our normal meetings that we have. This is -- to me, it seems it feels a little bit awkward, because now we're going to turn it over to you guys and -- to provide your comments in a very formal way.

We'd like to have you come up to the microphone, if you're interested in providing a -- a verbal comment, state your name, so that the court reporter can -- can get it down correctly, and provide your comment. EPA won't be responding to your comments today, but we'll -- we'll take it back and respond to it in a more formal capacity during the record of decision process.

And we also have comment cards to the -- on the desk over here if you'd prefer to submit a written comment. And as she mentioned also, if you have questions or want to discuss anything that's not included in the proposed plan, any other work that EPA is doing or plans that EPA may have in the future that are not affiliated with these 26 sites that's included

in the proposed plan, we'd be happy to talk to you about that at the end of the meeting.

So with that, I will turn it over to anyone who's interested in -- in coming up to the front.

AUDIENCE MEMBER: I can't wait.

THE VIDEOGRAPHER: This is the end of tonight's EPA presentation.

MS. LEGGE: My name is Jane Legge, L-e-g-g-e. And my first name is regular Jane.

And I'm the owner of (b) (6) [redacted]. Bought it in 1996. My husband and I put in our whole well system so we could keep the water going. Had an icebreaker we could put across the road when it did freeze up, and we might have to run it a couple days.

The EPA, when they first came in here after it blew -- mine was the first well hit -- I was very pleased with most of them. Some of them were kinder than most human beings.

But when they left, I was under the impression that my water would be tested, because they were testing the pump house, the downstairs, and the upstairs. There's a bath and a shower, and, you know, the kitchen and toilets and all that. But -- and they -- and they would test a reverse osmosis unit in the kitchen.

And everything was supposedly fine, and they would come by periodically. And I would -- was told that it would be happening, you know, like, every six months. It wasn't going to be dyed-in-wool, but they were going to be up there and somebody would be coming by and testing.

Well, I have been on this -- and then -- I

mean, it was a cool system I -- that I'd never seen. It has the pipe that doesn't freeze, and the heating element goes down the middle. So you think, cool. And you could turn it off at the cabin. I don't have to, you know, jump down the mountain to get to the pump house to deal with anything. And the icebreaker can be hooked up right by the cabin.

So I begged and begged, Please just put in another icebreaker, after they started putting in piping and stuff. Now, they couldn't do that. And so I wound up with this new system, supposedly first invented in Alaska. Works great. If your water freezes up, it may take two days to get it thawed out, but it'll thaw. And then you'll turn it off, and two days later your water will be frozen again.

And then you find out that if you don't leave it on, depending how cold the winter is, you won't have water unless you leave it on. And I have been paying -- and I am on no kind of financial position to be doing this, but since the EPA redid my well and they did not rehook the compression tank -- or compressive tank, that causes your water -- your electricity not to kick on every time you turn the water on. And so I've been paying 7-, 8-, $900-a-month utility bills.

And so I've had them -- San Miguel Power pull

up, well, the whole year of 2015. She may have gone back farther, but all the years until then. And you can see that the -- the pipe -- yeah, there was 4 foot of snow out there, but it freezes, it's not insulated properly, it's insulated in sections like this that are taped together and --

MS. PETERSON: Excuse me. I don't know if you were here for the introduction, but we're limiting comments to three minutes so that everybody --

MS. LEGGE: Okay. The most important thing is I want my blood checked for heavy metals. I don't drink the water, but I bathe in it. And I have my medical records going back -- way back where it can be tracked. My health is getting worse. And nobody comes by to check my water or the pipe going down to the -- the well house must be buried and better insulated by winter --

MS. PETERSON: I'm sorry.

MS. LEGGE: -- or I won't be able --

MS. PETERSON: You need to let everybody else have a chance too.

MS. LEGGE: -- to pay the bills.

I know. I took such a long time.

MS. PETERSON: It's okay. If we're -- if we have time --

MS. LEGGE: That's all right. I don't want to come back. I don't want to be here.

And so who do I contact? Who do I contact to tell them that -- my problems, because every time that somebody's -- somebody new, somebody on vacation.

MS. PETERSON: Could you sign in, ma'am, so that we've got your name.

MS. LEGGE: She's got it.

MS. PETERSON: Thank you.

Anybody else want to provide comments?

MR. BUTLER: Evening. I'm Peter Butler with the Animas River Stakeholders Group. I live at (b) (6) [redacted].

And the main comment that I wanted to bring forth was prioritization. Since the beginning of the Superfund site, a number of people, including myself, have continually asked that when EPA does these projects, that they get the biggest bang for the buck, that they utilize funds to make sure that they're making real reductions and start with the projects where they'll get substantial reductions.

This particular plan comes out -- the present value of this particular plan is just about $10 million. I removed -- if you take out the costs for the human health projects, you get about $8.3 million, present value. I've compared that to -- if you were to spend $850,000 a year over 15 years, you discount that at 7 percent, which is what the document does, you get $8.3 million a year.

So, in other words, the amount of money that's spent for this particular plan is equivalent to spending about $850,000 a year over 15 years.

My contention is that you could get a lot bigger bang for the buck if you put $850,000 into treating the Red and Bonita, which there ought to be

enough money at the Gladstone treatment plan to treat that. And you'd get substantially more metal reduction than you will with these types of projects.

My guess is that you'd probably get about ten times as much metal reduction for the same amount of money. It's hard to know because there are some figures for how much metal reduction you would get by treating the Red and Bonita, but there's no estimates in these projects as to what kind of metal reductions you would get.

It seems to me the EPA ought to -- at the very minimum, ought to at least do some work and make some rough estimates as to what kind of metal reductions they'll get.

For example, if you're going to divert drainage that's coming out of the portal over mine waste, take a sample and a flow measurement above, before it goes over in the waste, take it below it's going over the waste, see how many pounds of metals you're getting out.

Same thing with a sediment pond. If it's -- if there's an outlet in the sediment pond, look at what's coming in, look at what's coming out, see how many pound reduction you're going to get.

Same with instream flow. If instream -- I'm

sorry. Not instream flow, but instream mine waste. Sample above the waste and below the waste.

It just seems to me to make sense that -- it makes sense that if you're going to spend $8.3 million on these projects, you ought to at least have some sense of what kind of benefits you're going to get, at least some rough estimates of it.

And like I said, I contend that you could spend that money and get a lot bigger reductions doing something else. Thank you.

MS. PETERSON: Anyone else that wants to offer comment tonight? Yeah.

MR. SCHILLACI: No fireworks for the cameras? Come on, guys.

MS. EISNER: My name is Kim Eisner, E-i-s-n-e-r. Do you need an address?

MS. PETERSON: No.

MS. EISNER: I got a notification in the mail that says that one of my properties was suspect to being part of whatever they're going to be doing coming up. And it gave me no information to know exactly what that was. I would certainly have appreciated some kind of a comment to tell me what was happening and what was happening on that property.

Also, I'm included in Campground Number 4. I've never heard "Campground Number 4." So I think I'm more than just my property that's involved in that. If that's an area that they're going to be considering, I'd like to be able to know who else is in that property so that it's -- I have an idea what it is they're looking at.

There was nothing that ever said anything about what it was going to be. And I've read through the materials that I had from the notification that I got. And that really didn't give me a very good idea what to expect. I have no idea what's the matter with my property. I thought it was pretty simple, straightforward.

They're saying "campsite." It's not a

campsite. It's not a campground. It's never been a campground. There's nobody that goes out there and camps. We've owned it since the early '50s, and I've never seen anybody out there. Somebody might have been in, but I've never seen anyone there. It's not an open campground. There is posted "private property, no trespassing."

There is one road that goes into it. The only people I see on it are the ones that are going in to test the water. But I don't see anybody else driving on that property.

So I have no way of knowing what's involved or what is to be considered. If you're going to do a survey, I'd love to see that survey so I know where my property is involved in that.

If there is -- for instance, if there's a lead problem, what is the lead problem? What is the level and what kind of an issue is that giving? If it's going to bother children, there's nobody camping there. I can't imagine that that would be hurting anybody. So I would like to know if this is a real issue or is it not an issue.

The other thing is that I think that we should have more input as our community to know what's happening and why you're picking on the -- a site that

there's no camping on, and you want to call this an area of high priority? I see high priority up in Gladstone. I would much rather have those issues solved before going in to pick on us, on a piece of property that looks pretty good right now. I have no idea what it will look like when it gets through.

So that's -- those are the issues that I have that I would love to see addressed. Thank you.

MS. PETERSON: Bill is going to come up now.

MR. SIMON: My name is Bill Simon, spelled S-i-m-o-n. I live at (b) (6) (b) (6) .

It gives me pleasure to have the opportunity to address these issues. However, much like in the case of the Gold King spill, I was not given timely opportunity to address it until after the spill happened.

However, what I'm about to embark upon is discussion of a response to getting that plan.

Since I have been unable to find the focused feasibility report, the FFR, I would first like to know whether the interim removal action is designed and intended to be a permanent remedy for the disposal of some of the Gold King solids. This will shed further light on some of the following concerns:

Is EPA aware that they are moving a toxic substance from one watershed to another, and whereas Cement Creek has no numeric aquatic life standards, the Upper Animas has monthly "aquatic life one" standards adopted for the protection of aquatic life, including brook trout. Although acute threshold concentrations for brook trout are exceeded for cadmium, copper, manganese, and zinc, Segment 3a currently supports a significant but impaired brook trout population that

will be detrimentally impacted by any addition of those toxic metals. This fishery is one of the very few existing ones in the region, and it should be protected from degradation.

Given the edict of the EPA shall do no harm, how can the waste material be contained within the proposed site? Independently performed and evaluated TCLP and SPLP leach tests have shown that when the Gold King solids and Kittimac tailings are mixed at the ratio of 1 to 1, which is the plan, that this mixture fails CDPHE water quality standards for hazardous substances and that both Gold King solids and Kittimac tailings also fail those same standards on an individual material basis, with or without the use of quicklime in all three material types. These are the tests that we've run.

Does the EPA intend to use a waiver that would allow the discharge of leachate above the acceptable concentrations, which would be TVS, table value standards, of metals? Will the establishment of ARARs also be waivered? The public should know that the Governor of Colorado does have the authority to deny such waivers.

Any increase in loading of cadmium, copper, manganese, lead, and zinc from the Kittimac repository

site should not be considered offset by hypothetical, but well intended, remediation projects upstream of the Kittimac site.

Remediation rarely translates into immediate significant downstream reductions. This is particularly true for manganese, which consistently has increased for several years in water quality concentrations throughout the Animas watershed following remediation efforts.

Also, upstream improvements in water --

MS. PETERSON: Bill, excuse me. It looks like you've got a lot of comments and we --

MR. SIMON: I'm just about done with this.

MS. PETERSON: Are you?

MR. SIMON: Yeah.

MS. PETERSON: Okay. Can you wrap that part up, then, perhaps, and then come back so that we can adhere to the three minutes that we're asking everybody to?

MR. SIMON: Come back?

MS. PETERSON: At the end of the meeting, if you haven't had the chance to complete it. Would that be okay?

MR. SIMON: Yeah.

MS. PETERSON: Okay. Thank you.

MR. SIMON: Let me finish that sentence.

Also upstream improvements in water quality can be offset by the slow release of previously accumulated metals in the downstream streambed.

In other words, let's not be doing what they're doing right now, which is to increase the concentration of metals rather than decrease the concentrations of metals in Segment 3a. By all means, that's our fishery, and we want to save it.

If you'd like, I could continue this later on. There's more information I've got to give. And then the rest of this will be written and handed in to the EPA.

(Applause.)

MR. SIMON: Thanks.

MR. ARCHULETA: My name is Ed Archuleta, spelled just like the county. I'm a civil engineer, my background is transportation. And I'd have to say I'm glad the EPA is here and there's such a plan in place.

From my background, my experience, a plan changes and the fact that there's something in the works is a good thing. And to make it better, public involvement in the residents being vocal and participating will take it to the finish line and get it in the right direction, quite honestly.

That's all I got to say. Just keep a positive outlook, but the fact that it's started is the best thing, and I'm in support of it. Thank you.

MS. PETERSON: Anyone else like to provide comment?

If not, Bill, do you want to finish your comments?

MR. SIMON: Yeah.

MS. PETERSON: Can you come up to the microphone. I'm sorry to ask you this. I apologize.

Can we move the microphone back here? Let's do that.

MS. PROGRESS: I think the only thing you need to make sure of is that the comments would be pertinent to the proposal and not for Kittimac. This

is the comment for the proposed plan. Kittimac is not a part of the plan.

MR. SIMON: What part is it part of?

MS. PROGRESS: It's part of the -- it's response to the Gladstone action memo that we have. It's not a part of the -- it's not anticipated -- it's not a part of the 26 sites that are included in the proposed plan.

Maybe that can be a comment, but the venue for this is really just to take comment on the actions anticipated for the 26 sites.

MR. SIMON: And so there's no comment period at all for the plan of Kittimac?

MS. PROGRESS: That's correct. We're not taking formal public comment on Kittimac right now.

MR. SIMON: And how can you establish -- how can you do an interim plan for the Kittimac without public hearing?

MS. PROGRESS: Well, we're happy to talk to you about the Kittimac afterwards. We just didn't -- this forum is really just for the proposed plan.

MR. SIMON: That's -- there's a few people that have worked on this document, and we were planning on turning it in to the EPA. You tell me you won't evaluate it?

MS. PROGRESS: We're happy to take any comments that you might have on the Kittimac. We just can't -- this forum is not for that. We're happy to talk to you about it later. If you want to talk to us about that in a separate meeting, we're happy to talk to you about that. But we just can't do it right now as part of this formal public comment period.

MS. PETERSON: If you want to continue your comments --

MS. PROGRESS: If you have any comments on the proposed plan, yeah, we're happy to take those.

MR. SIMON: On this proposal?

MS. PROGRESS: The plan that's --

MR. SIMON: On the 26?

MS. PROGRESS: Yes. The 26 sites that are listed in here.

MR. SIMON: Well, I do, but I don't have those with me. That's -- those are written comments that I was going to submit just like these.

MS. PROGRESS: Okay. And we're happy to take those too. We'd be glad to see those.

MR. SIMON: Well, I'll do that. But I think it's pretty important that the public understands that you've already started an action, an interim action, and that has not been vetted to the community. As a

matter of fact, you're already transporting sludge, as I understand it, which means that if your team -- your leach paths are inaccurate, we're going to have a fish kill.

MS. PROGRESS: Like I said, we're happy to talk to you or anybody else that wants to talk about the Kittimac. We've been talking about the Kittimac with the planning group that we've been -- they've been an integral part of it. We've been talking to San Juan County and with the Town of Silverton, so we have been talking with folks about that.

We need to spend the time here today to talk about the 26 sites that are listed in the proposed plan.

MR. SIMON: Yes. Okay. About the plan of the 26 sites, I'm in complete agreement with Peter Butler's discussion on the cost should be considered for anything that's done, and weigh it against the benefits that it provides, in real figures, cost per dollar per pound removed of the mineral.

And I don't see that that has even been brought up in the plan. It's just a nebulous, "well, we'll shoot 8 and a half million dollars at it and we'll get great results" type of thing. We need more information than that if you're going to spend the

taxpayers' money.

MS. PETERSON: Thank you.

MS. PROGRESS: Thank you.

MS. PETERSON: Was there anyone else that didn't get to complete their comments that would like to finish that up now at the end of the meeting?

With that, I just want to thank everyone for being here. And if you want any more information on the proposed plan, please pick it up here. Thank you.

WHEREUPON, the within proceedings were concluded at the approximate hour of 7:02 p.m. on the 21st day of June, 2018.

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REPORTER'S CERTIFICATE

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

I, CARRIE A. ARNOLD, Registered Professional Reporter, Certified Realtime Reporter, and Notary Public, State of Colorado, do hereby certify that the said proceedings were taken in machine shorthand by me at the time and place aforesaid and was thereafter reduced to typewritten form, consisting of 45 pages herein; that the foregoing is a true transcript of the proceedings had.

I further certify that I am not employed by, related to, nor of counsel for any of the parties herein, nor otherwise interested in the outcome of this litigation.

IN WITNESS WHEREOF, I have affixed my signature and seal this 28th day of June 2018.

My commission expires October 11, 2020.

Carrie A. Arnold, RPR, CRR
Commission No. 20004029988