Interim
Record of Decision (ROD) Amendment, Upper Basin of the Coeur d'Alene River

Bunker Hill Mining
and Metallurgical Complex
Superfund Site

Part 3 Section 4.0
Responses to Individual Comments

United States
Environmental Protection
Agency Region 10

August 2012

Responses to Individual Comments

This section presents EPA's responses to individual comments received on the Proposed Plan. EPA received comments in various forms including letters, emails, and oral testimony at community meetings. The comments and EPA's responses are organized into the following attachments (the attachments are provided in electronic format):

- **Attachment A**: Index of Commenters and Responses
- **Attachment B**: Master Comment List
- **Attachment C**: Responses to Federal Agency Comments
- **Attachment D**: Responses to State Agency Comments
- **Attachment E**: Responses to Native American Tribe Comments
- **Attachment F**: Responses to Local Jurisdiction Comments
- **Attachment G**: Responses to Local Community/Special Interest Organization Comments
- **Attachment H**: Responses to Business Comments
- **Attachment I**: Responses to Individual Comments

Attachment A presents an Index of all comments sorted in two methods. First, all commenters are listed alphabetically by the last name of the person or the organization providing the comments. It provides the locations (Attachment and page number) of the comments and EPA's responses. Second, all comment are listed alphabetically/numerically by the comment number, along with the locations of the comments and responses.

Many comments address similar issues. In these cases, the response for a given issue is provided once. Responses to later comments on the same issue refer to the master comment list where this response is provided. These responses are referred to as "master comment responses" and are found in Attachment B. When using Attachment B, the user may find that the referenced response addresses more issues than he or she raised. In these cases, it is expected that the user will be able to identify those parts of the referenced response that apply. In other cases, a comment may raise multiple issues. In such cases, the user may be referred to several master comment responses for a complete response to all issues raised. An overview of the issues raised and EPA's responses is provided in Part 3, Section 3.0, Responsiveness Summary.

In Attachments C through I, the comments and responses are sorted alphabetically by the last name of the commenter. Each comment letter, email, and oral testimony comment was assigned a unique identification number (e.g., 1365213). Each comment was assigned a unique comment number (e.g., LJ36-1). Many commenters submitted more than one comment letter. In these cases, a separate identification number and comment number were assigned for each set of comments. This approach helped EPA ensure that all comments were addressed.

In Attachments C through I, an image of the original comment is shown on the left side of the page and includes EPA's delineation. The right side of the page presents EPA's response to that comment.

A number of commenters' names were illegible, and these commenters are listed as "Unknown." EPA has included their comments in Attachment I and has responded to the comments where possible.

As provided in the CERCLA statute, Section 117(b), EPA is only responsible for providing responses to each of the "significant" comments, criticisms, and new data. Comments not meeting this statutory criterion have nonetheless been recorded in this section, and responses have been provided to the extent possible.

ATTACHMENT E

Responses to Native American Tribe Comments

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CDA Lake Management Dept., TR10, Letter 620132

COEUR D'ALENE TRIBE
Lake Management Department

Memorandum

To: Anne Dailey, Region 10, EPA

From: Phillip Cernera, Coeur d'Alene Tribe's Lake Management Department Director

Date: November 18, 2010

Subject: Tribe's Comments on the Draft Proposed Plan (July 12, 2010), Upper Basin of the Coeur d'Alene River, Bunker Hill Mining and Metallurgical Complex Superfund Site

The Tribe appreciates the opportunity to provide comments based on the review of the Draft Proposed Plan dated July 12, 2010, Upper Basin of the Coeur d'Alene River, Bunker Hill Mining and Metallurgical Complex Superfund Site.

TR10-1 As EPA is aware, for over 20 years, the Coeur d'Alene Tribe has advocated permanent and comprehensive solutions to the many environmental and human health related problems that exist in the Basin (the Tribe's homeland). From the beginning, the Tribe realized that since the problem is so vast and the technical solutions complex, the remedial component of basin-wide remediation and restoration would be conducted over many decades. It took 100 years to pollute the Basin; it may take just as long to help nature attenuate remaining conditions once the remedial and restoration activities are complete. To this end, the Tribe commends EPA for continuing on the path of comprehensive basin-wide cleanup, and anticipates remaining involved in the oversight of the implementation of this amendment and review of all future ROD development and implementation.

TR10-2 Previously the Tribe has submitted comments on the Draft Focused Feasibility Study (DFFS) and as such, instead of providing many of the same specific comments, we reserve the right to comment on detail design work as it is developed under the auspices of the Basin Commissions Technical Leadership Group (TLG) or subsequent forums, throughout the life of the project implementation. Therefore, please find below General Comments to EPA's ROD Amendment.

TR10-3
- The Tribe realizes that EPA has limited the scope of this ROD amendment to the cleanup of the upper-basin; however, we would like to stress the importance of a longer term vision of basin-wide cleanup that includes the lower basin and Coeur d'Alene Lake. To

1

620132

Response to comment TR10-1

EPA shares the goal of a comprehensive solution to environmental contamination in the Basin, and the scope and design of the cleanup plan reflect that goal. EPA appreciates the Tribe's involvement in the project leading up to this ROD Amendment and looks forward to working with the Tribe throughout implementation.

Response to comment TR10-2

Comment noted.

Response to comment TR10-3

Regarding the scope of the Selected Remedy, see response to Comment No. I58-1. The Selected Remedy is consistent with the overall cleanup strategy for the Bunker Hill Superfund Site. The Selected Remedy is designed to provide significant improvements to soil, sediments, surface water, and groundwater, and to greatly reduce the risks posed to human health and the environment within the Upper Basin. The Selected Remedy represents another essential step in the cleanup of historical mining-related contamination in the broader Bunker Hill Superfund Site. Although the Lower Basin is not included in the Selected Remedy, actions in the Upper Basin are expected to improve water quality and reduce the movement of contaminated sediments downstream in the Lower Basin. Thus, the Upper Basin cleanup is expected to complement cleanup activities in the Lower Basin by reducing the flow of contaminated materials and reducing the potential for recontamination from the Upper Basin to the Lower Basin. EPA continues to pursue data collection and analysis efforts in the Lower Basin to support the future development and evaluation of remedial alternatives.

TR10-3 that end we still stress that EPA should expand this ROD amendment to consider including the lower basin and the Lake

TR10-4 • As written, this ROD amendment continues to rely on excavation of mine tailings that will be placed in repositories. The Tribe has considerable concern that EPA has not to date, and is not planning on, adequately designing repositories that will be up above the flood plain, and will not leak. To date many of the repositories have been developed and designed on pre-existing settling ponds. The end result is that they are within the floodplain and they tend to leak. The Tribe urges EPA to consider more robust designs that perch tailings above the floodplain (using sorted large river rock for perching material), are lined, have leachate systems, and are sufficiently capped.

TR10-5 • Recontamination of the remedy is a critical issue to consider in implementing a ROD that includes activities that will largely occur along basin floodplains. The Tribe appreciates the complex nature of coordinating between EPA and other agencies (FEMA, and the ACOE) to resolve this problem. The Tribe supports EPA in working with both FEMA and the ACOE to address the flooding issue since the levee system will, by default, act as a remedy protection barrier and warrants EPA's participation in the analysis.

TR10-6 • The Tribe agrees with EPA using the entire inventory of source sites that was developed by BLM in 1999 in support of the 2001 RI/FS for the purpose of scoping out specific mine and mill sites that need to be remediated in the upper basin. The Tribe recommends that when yearly work plans are developed to address these sites, a more detailed evaluation of site characteristics need to be conducted to more accurately determine what remedial activities need to be conducted on a site by site basis.

TR10-7 • Typical Conceptual Designs (TCDs) - The Tribe reserves the right to make additional comments as more detailed designs are out for review.

TR10-8 • Water conveyance pipeline- The Tribe recognizes the complex nature and interaction of ground and surface water contamination in the Basin and agrees with the plan to separate ground water from surface water in an effort to treat contaminated groundwater. We would like to stress that when developing approaches to minimize surface water from "subbing" into groundwater, designs should consider fisheries habitat.

TR10-9 • The proposed amendment lines out a time frame of 50 to 90 years however, new data through the BEMP could result in modifying remedy designs. Technological advancements could also merit the review of previously selected designs. The Tribe would like to stress that the ongoing review and participation in the Adaptive Management and 5-Year review process is imperative in order to evaluate, and if needed adapt to take into consideration these potential changes. We recognize EPA's commitment to a rigorous adaptive management strategy, and agree with its intent.

TR10-10 • Although the Tribe has been assured by EPA that there will be a ROD amendment for the Lower Basin, the Tribe would like to see language in the Proposed Plan that confirms this

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Response to comment TR10-4

EPA's preference will be to locate repositories in areas that are already contaminated, such as on top of historical mine tailings piles. The Big Creek Repository, Page Repository, Osburn Tailings Ponds, and Star Ponds are examples of former tailings impoundments that either have been or could be turned into cleanup repositories. Repositories constructed under the Selected Remedy will be engineered to securely contain waste materials, which will prevent contaminants from being released to surface water, groundwater, or air at concentrations above state and/or federal standards. Also see responses to Comment Nos. I54-3 and LC21-9.

Response to comment TR10-5

EPA shares the Tribe's concern of maintaining the long-term performance of the Selected Remedies and is, therefore, committed to working with local, state, and federal entities with an interest in SFCDR flood issues and, consistent with EPA's authority, to help craft solutions. EPA can and will contribute to efforts to understand SFCDR flooding and, if these efforts identify actions that will meet Superfund remedy requirements, EPA will define and select these activities in future decision documents. CERCLA requires that EPA's contribution to flood control work must have a direct connection to the CERCLA remedy.

Response to comment TR10-6

Before the cleanup takes place, many pre-design activities will take place at specific sites. These pre-design activities will be outlined in the Basin Commission one-year and five-year work plans, as well as the Implementation Plan to be developed by EPA.

Response to comment TR10-7

Comment noted.

Response to comment TR10-8

EPA agrees that potential impacts on fisheries habitat must be a consideration in the design of actions that will impact water flow or aquatic habitats within surface water bodies. The Tribe and the public will have the opportunity to provide input on these site-specific designs as they are included in implementation planning documents.

Response to comment TR10-9

EPA agrees that an adaptive management approach will be critical to the successful implementation of the remedy and looks forward to the Tribe's continuing involvement.

Response to comment TR10-10

EPA agrees that a description of EPA's plans for continuing work in the Lower Basin warrants inclusion in the ROD Amendment Declaration and has done so.

TR10-10 as well as a future plan for using the Enhanced Conceptual Site Model which will assist in decision making for Lower Basin remedies. These topics could be added into the Introduction section of the Proposed Plan.

TR10-11 • The Tribe has been informed by EPA that since no remedy has been developed for Coeur d'Alene Lake; the 5 year review process will not take into account the evaluation of the efficacy of the Lake Management Plan (LMP) to effectively manage metals in the lake bed sediments. In the absence of including the Lake in the 5-year review, the Tribe requests that a formal process be included in this ROD amendment to explain how EPA will evaluate their decision to continue to "defer" the lake from remedial actions. This explanation could also be presented in the Introduction Section of the ROD amendment, after the discussion on why EPA is only creating an amendment for the upper basin.

TR10-12 • The Tribe recognizes that under CERCLA, EPA is not required to provide as many opportunities for public education and outreach as they have done during the development of this proposed plan. The Tribe would like to commend EPA for its progressive efforts in involving the community during this process. The Tribe also appreciates EPA's willingness and availability to meet at the technical and government-to-government level where the Tribe has been able to express our preliminary concerns regarding this ROD amendment.

TR10-13 Therefore, the Tribe believes that Preferred Alternative 3+ (d) represents a reasonable approach in addressing the large scale basin wide contamination. We support the general concepts of the plan and hope that work can move ahead expeditiously. We also realize that specific details of technical designs will be developed as the implementation of the amendment begins. We look forward to participating in the technical forums to comment on such work at that time. Once again, the Tribe appreciates the opportunity to provide these comments and looks forward to improvements to human health and ecological conditions as implementation of these remedial actions commence.

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Response to comment TR10-11

EPA agrees that a description of EPA's plans relative to the Lake Management Plan warrants inclusion in the ROD Amendment Declaration and has done so.

Response to comment TR10-12

EPA appreciates the Tribe's involvement in the project leading up to this ROD Amendment and looks forward to working with the Tribe throughout implementation.

Response to comment TR10-13

Regarding the Selected Remedy, see response to Comment No. I58-1. EPA appreciates the Tribe's support and looks forward to continuing to work together to achieve remedial action objectives for the Upper Basin.

Coeur d'Alene Tribe, TR1, Letter 616015-2

Both Senator Risch and Congressman Minnick wanted to be here tonight but because of their schedules, they had previous commitments elsewhere. At this point, I'd like to introduce Governor Otter to speak followed by Chief Allan then Commissioner Cantamessa and finally, Administrator – well, I was going to say Administrator McLerran but Cleanup Director Opalski but Governor, please proceed.

Gov. Butch Otter: Well, thank you, Senator and I would begin my comments by qualifying them and saying that we are in the process of vetting the plan that has been offered and so what I would like to do is probably go through first, through the things where – that I absolutely support and then finish up by the things that I think would be impossible for me to support. Number one, the employment of local contractors, vendors, and workers to the greatest extent possible work in the past that's helped create jobs and contributed to the local economy through the expenditures of millions of dollars in the Silver Valley. Number two, protection of the past human health cleanup work by completion of the water runoff control projects and the local drainages in the communities inside gulches. Number three, to prioritize remediation of contaminated sources, areas to be improved – to improve water quality but I will not support an open-ended bureaucratic process that amounts to a blank check for the Environmental Protection Agency, any provision in the ROD that inhibit the existing or future mining, water collection and treatment work in the Upper Basin before significant source control has been completed and finally, water treatment in the box that is not affordable for the state of Idaho. End of story.

Sen. Mike Crapo: Thank you very much, Governor. Thank you. We appreciate your being here with us tonight. Thank you. I know that you have to make some significant effort to be here. We appreciate it. Chief Allan?

Chief James Allan: Senator, thank you for inviting me here to this meeting. As the Chairman of the Coeur d'Alene Tribe, I'm here to listen and to let everybody know that, as always, the Coeur d'Alene Tribe will give their word and our word is always that we always stand by our word and we will work with the local communities and the local government to [getting] a solution that benefits all and that's what we've always

TR1-1

Response to comment TR1-1

Thank you for your comment.

TR1-1

been. We've always been about trying to solve this problem, not make it worse and so you have our word that I will do that, Senator.

Sen. Mike Crapo: Thank you very much, Chief. Commissioner?

Jon Cantamessa: Senator, thank you very much for hosting this meeting tonight. This is an important meeting for all of us that live here in the Silver Valley. We've been working on this cleanup project for 25 years now. We have a lot of background and all the things going on. I do have a statement here from the Shoshone County Commissioners from the Bunker Hill Superfund Task Force and from all of the seven mayors in Shoshone County in this Basin to present to you tonight. I'm not going to read that. We did have a meeting last week with the EPA. Four hundred plus people turned out and we still have a turnout like this. This week, I would say to all of you people and to the people up here on the dais that these people are here to talk to the EPA and we need to have the EPA listen and work with the local community as we move forward and we thank you, Senator, for giving us this opportunity.

Sen. Mike Crapo: Thank you very much, Jon. Mr. Opalski?

Dan Opalski: Thank you, Senator. I appreciate the opportunity to come out and participate in this listening session. Again, I am here on behalf of Dennis McLerran, Regional Administrator for EPA Region 10. He sends his regrets, due to illness, not being able to travel tonight. I also appreciate seeing the other folks who are up here on the dais participate. Each of these parties and their staff have invested a lot of time and energy in working through a number of challenges and through doing that, we've made progress together that has been important and meaningful for the communities here in the Valley. I want to thank all of you for coming out tonight. I am here to listen. I'm here to hear your perspectives. The proposed cleanup plans we have are for public comment. I do ask that you carefully consider the proposed actions and provide thoughtful comments to us. We do want to hear from you. We want to hear every viewpoint about the plan we've put out there. I also want to emphasize, consistent with what's been stated earlier, a meeting like tonight like last week's public

No comments

Spokane Tribe of Indians, TR9, Letter 618794

No comments

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November 23, 2010
transmitted via e-mail

Coeur d'Alene Basin Team
EPA, ECL-113
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Re: Spokane Tribe of Indians' comments - July 12, 2010 Proposed Plan for the Coeur d'Alene Basin and supporting documents

Dear Sir or Madam:

I am an attorney, representing the Spokane Tribe of Indians in various environmental matters. Please accept this letter and attachments as the Spokane Tribe of Indians' comments on EPA Region 10's proposed plan for the upper Coeur d'Alene basin and supporting documents.

It has been eight years since the Tribe's concurrence in EPA's remedy, given by the Tribal Chairman "in the spirit of future cooperation between our governments" and founded upon EPA's commitment to perform additional work for the Spokane Indian Reservation. While it was then understood that the initial focus of remedial work would be in the upper basin, actions needed to protect the Spokane Tribe's subsistence resource users were thought to be forthcoming. It was anticipated that EPA's attention would later turn to the Spokane people's health in that same spirit of intergovernmental cooperation that yielded our concurrence.

Over time, however, memories fade and commitments wane. Little has been pursued concerning the protection of Spokane subsistence users, much less achieved. The Tribe is concerned that the needs of its people will be forgotten, and as a consequence, submits today as part of this package Chairman Peone's 2002 concurrence letter and the Tribe's 2001 comments (with two attachments) on the proposed plan. Statements and concerns contained in those documents respecting protectiveness for tribal health remain valid today.

More immediately, Tribal leadership and staff expressed during a recent meeting with the Region the need for improved monitoring to enable a better understanding of impacts to membership. The monitoring has yet to be accomplished, and the Tribe now restates this request.

618789

Spokane Tribe Comment Letter
November 23, 2010
Page Two

Additionally, enclosed with this letter is a general comment memorandum prepared by our technical consultant AESE for submittal today. As you proceed, please consider each of the documents in this package and, most importantly, the health of the Spokane people and Reservation. The National Contingency Plan requires nothing less.

Sincerely,

Shannon D. Work
Attorney at Law

cc: Randy Connolly, STI Superfund Coordinator
Rudy Peone, STI Councilman
B.J. Kieffer, STI Dept. of Natural Resources
Fred Kirschner, AESE, Inc.

No comments

No comments

AESE, Inc.

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MEMORANDUM

TO: B.J. Kieffer, Director

FROM: Dr. F. E. Kirschner, Senior Scientist

DATE: November 23, 2010

SUBJECT: Comments on ***"FOCUSED FEASIBILITY STUDY REPORT, UPPER BASIN OF THE COEUR D'ALENE RIVER, BUNKER HILL MINING AND METALLURGICAL COMPLEX SUPERFUND SITE July 2010"***:and

"Proposed Plan Upper Basin of the Coeur d'Alene River, Bunker Hill Mining and Metallurgical Complex Superfund Site, July 12, 2010"

CC: Randall Connolly
Shannon Work
File

This memo constitutes a rapid review of the aforementioned documents. In preparing these comments, the Tribe has attempted to focus on issues that could make a difference in the Remedial Design. The Tribe has three General Comments:

General Comments

1. The Spokane Tribal Business Council has a long-established policy to protect the membership who choose to exercise their rights, as reserved by tribal ancestors in an agreement with the U.S. and further reserved by Executive Order, in the Spokane Indian Reservation's resources to fully meet their subsistence and cultural needs.

TR9-1 The Spokanes and Coeur d'Alenes are closely related and have a long history of sharing resources via trade. For example, some Spokanes hunt, fish, and gather resources at subsistence rates on the Coeur d'Alene Reservation. Along with receiving a direct or non-diluted exposure from the site via trade, the Spokanes also receive exposure to contaminated water and sediments that are transported onto the Spokane Reservation. Both dissolved and suspended loads of contaminants originating from the site affect the ability of the Spokanes to safely use resources associated with the Spokane River. We have no means to monitor water quality to develop institutional controls and advise our citizens on the safe use of these resources while remediation is occurring. As discussed during the meeting, the Tribe requests that a permanent surface water monitoring station be installed and managed at the reservation boundary. (Attachment 1)

2. Although the FFS purports to protect human health, none of the alternatives were evaluated with respect to subsistence-rate use of natural resources as well as the concomitant exposure associated with such uses. EPA re-valuates and changes alternatives:

TR9-2 ***"Based on new information that was not available when the 2001 FS Report was published"*** (FFS, ES-7).

However, the FFS fails to re-evaluate human health risk based on new information regarding subsistence use rates. [1], [2] Had this high-use subset of the population been evaluated and had the remedy been designed to protect these individuals, clean-up levels would have been much lower and much more protective of all users.

[1] Harper et al.. 2002, The Spokane Tribe's Multipathway Subsistence Exposure Scenario and Screening Level RME, Risk Analysis, Vol. 22 No. 33, pp 513-526

[2] Harper et al.. 2007, Regional Tribal Exposure Scenarios Based on Major Ecological Zones and Traditional Subsistence Lifestyles. This large document can be found at: http://www.hhs.oregonstate.edu/ph/tribal-grant-main-page.

AESE, Inc. 11/23/2010

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Response to comment TR9-1

There is a permanent surface water monitoring station upstream from the reservation, on the Spokane River, at the Washington-Idaho stateline (Station ID SR-55-90). This existing station serves as an indicator of water quality in downstream areas of the Spokane River and is currently the furthest downstream point that is monitored as part of the Bunker Hill Superfund Site. Ongoing water quality monitoring conducted as part of the Basin Environmental Monitoring Program has shown that water quality at the Washington-Idaho stateline station is typically within water quality standards. Generally, it is not anticipated that Spokane River water quality would deteriorate downstream from this location as a result of Selected Remedy implementation. However, the data at the stateline station has not been compared to Tribal Water Quality Standards and EPA recognizes that this should be done. Per the consultation with the Spokane Tribe, EPA is looking into the possibility of conducting some additional monitoring at the Spokane Reservation boundary to ensure that the levels of metals in surface water are safe.

Response to comment TR9-2

EPA has reviewed the new information referenced but does not believe that changes to cleanup levels are warranted at this time. Cleanup levels are based on federal and state standards (e.g., ARARs) and, when such standards are not available, site-specific levels are developed based on toxicity and exposure information. The establishment of cleanup levels is preceded by the development of preliminary remediation goals (PRGs). PRGs were developed during the FFS for the Upper Basin and were subsequently used to evaluate alternatives presented in the Proposed Plan (EPA, 2010, http://www.epa.gov/region10/pdf/sites/bunker_hill/upper_basin_final_pp_0710.pdf). The PRGs are extensive and are presented in the FFS Report (EPA, August 2012, *Final Focused Feasibility Study Report, Upper Basin of the Coeur d'Alene River, Bunker Hill Mining and Metallurgical Complex Superfund Site*) and in Appendix A, Tables A-1 to A-5 of the Proposed Plan. This ROD Amendment reflects consideration of those PRGs in the context of the Selected Remedy, and establishes the cleanup levels discussed below. As described above and in the ROD Amendment, Part 2, Section 12.0, although the Selected Remedy will address many significant sources of contamination in the Upper Basin, it is an interim, not a final, remedy. Consequently, achieving certain ARARs, including

ambient water quality criteria (AWQC), maximum contaminant levels, and the requirements of the Migratory Bird Treaty Act and the Endangered Species Act, in all areas of the Upper Basin is outside the scope of the Selected Remedy. Future decision documents will determine the basis for additional cleanup actions and cleanup levels that may need to be established for the Upper Basin. The cleanup level for soil and sediments in the Upper Basin for protection of terrestrial biota, aquatic birds, mammals, aquatic organisms, and human health is 530 milligrams per kilogram lead. Lead is considered an indicator metal and is generally co-located with other COCs when they are present. This single cleanup level for lead is a protective value that provides operational clarity and efficiency for remedial design and cleanup decisions. It applies only to the remedial actions described in this ROD Amendment and does not replace cleanup levels for lead selected in previous decision documents. Cleanup levels for contaminants of concern (COCs) in surface water for protection of human health and aquatic organisms are provided in Table 8-1 of the ROD Amendment. For surface water, AWQC are the cleanup levels for protection of the aquatic environment. AWQC, adjusted for hardness for specific metals, were identified as the PRGs for surface water in the 2001 Ecological Risk Assessment CH2M HILL and URS Greiner, May 18, 2001*, Final Ecological Risk Assessment, Coeur d'Alene Basin Remedial Investigation/Feasibility Study*) and have been updated based on current regulations and guidance. The 2001 EcoRA also presented a water-borne concentration that represents the lowest chronic effects level of metals that may affect aquatic plants. However, this effects level for plants is a screening-level benchmark that is not as robust as the AWQC, which also take into account the protection of aquatic plants. Therefore, the AWQC are considered adequately protective for aquatic organisms and plants. Table 8-2 of the ROD Amendment contains cleanup levels for COCs in groundwater used as drinking water. Risks to human health and the environment will continue to be evaluated during and after implementation of the Selected Remedy through the Five-Year Review process. If unacceptable risks to human health, including those from subsistence lifestyles such as those practiced by the Spokane and Coeur d'Alene Tribes, are identified, additional remedial actions will be conducted to reduce those risks.

3. The previous discussion demonstrates that the NCP threshold criteria for human health identified in Figure ES-2 of the FFS, has not been achieved:

> ***"Overall Protectiveness of Human Health and the Environment evaluates the overall protectiveness of the alternatives and describes how risks posed are eliminated, reduced, or controlled through treatment, engineering, or institutional controls."***

TR9-3 As mentioned above, Reservations are the permanent homeland of Tribal members and such lands were reserved to provide safe sustenance. Dietary-based institutional controls (ICs) are only optional to the person (or persons) and are not effective especially for populations who have to make the everyday decision "should I eat this today, because it could cause cancer or health implications in my later years" or "should I eat this today, otherwise my family and I could starve". In summary, institutional controls designed to limit or obstruct the use of these resources are not protective of the Spokane Tribe.

AESE, Inc. 11/23/2010

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Response to comment TR9-3

The Selected Remedy will adequately protect human health and the environment through treatment, engineering controls, and/or institutional controls (National Oil and Hazardous Substances Pollution Contingency Plan §300.430(f)(5)(ii)(A)) within its scope. The Selected Remedy satisfies CERCLA's protectiveness criteria as applied to an interim remedy. The level of protectiveness provided by an interim remedy is evaluated by the scope of its actions. Accordingly, the Selected Remedy, by its nature, need not be as protective as the final remedy is required to be under the statute. The Selected Remedy is designed to provide significant improvements to surface water and groundwater, and to significantly reduce risks posed to human health and the environment within the Upper Basin. Thus, the level of protection that the Selected Remedy will provide is commensurate to the scope of the Selected Remedy, and the Selected Remedy is deemed to be adequately protective in the context of its scope, even though it does not, by itself, meet the statutory protectiveness standard that a final remedy would meet. Reduction of risks to human health and the environment in the Upper Basin will also result in reduction of risks to human health and the environment in the Lower Basin, by reducing the load of dissolved and suspended metals being carried downstream into the Lower Basin. Cleanup activities will proceed, first in the Upper Basin and later in the Lower Basin, and residual risk will continue to be evaluated through the Five-Year Review process. Cleanup of the Bunker Hill Superfund Site will not be considered complete until risks to human health and the environment, including individuals practicing a subsistence lifestyle, have been reduced to acceptable levels.

No comments

Attachment No. 1. **March 2, 2010 memo entitled: Comments on "DRAFT FOCUSED FEASIBILITY STUDY REPORT, UPPER BASIN OF THE COEUR D'ALENE RIVER, BUNKER HILL *MINING AND METALLURGICAL COMPLEX SUPERFUND SITE FEBRUARY 2010*".**

AESE, Inc. 11/23/2010

4

No comments

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MEMORANDUM

TO: Rudy Peone, Director

FROM: Dr. F. E. Kirschner, Senior Scientist

DATE: March 2, 2010

SUBJECT: Comments on ***"DRAFT FOCUSED FEASIBILITY STUDY REPORT, UPPER BASIN OF THE COEUR D'ALENE RIVER, BUNKER HILL MINING AND METALLURGICAL COMPLEX SUPERFUND SITE FEBRUARY 2010".***

CC: Randall Connolly
Shannon Work
File

This memo constitutes a rapid review of the aforementioned document. In preparing these comments, the Tribe has attempted to focus on issues that could make a difference in the Remedial Design. The Tribe as only two General Comments:

General Comments

TR9-4

1. As discussed during our February 16, 2010 meeting, the Spokane Tribal Business Council has a long-established policy to protect the membership who choose to exercise their rights, as reserved by tribal ancestors in an agreement with the U.S. and further reserved by Executive Order, in the Spokane Indian Reservation's resources to fully meet their subsistence and cultural needs.

   Both dissolved and suspended loads of contaminants originating from the site affect the ability of the Spokanes to safely use resources associated with the Spokane River. Today, we have no means to monitor water quality to develop institutional controls and advise our citizens on the safe use of these resources while remediation is occurring. As discussed during the meeting, the Tribe requests that a permanent surface water monitoring station be installed and managed at the reservation boundary.

TR9-5

2. Dissolved load is a *ground-water to surface water problem*. Until this pathway is broken, recontamination from upstream groundwater sources will be a problem. Suspended load is a *runoff to surface water problem*. Since leaching of soils/tailings/sediments contaminates ground-water, the overall remedy for a given area should be cleanup of upstream upland areas followed by cleanup of the groundwater for a given area. If this approach is followed sequentially while moving to the next downstream area, the potential for recontamination should be minimized.

   It appears that the FFS is generally following this approach.

AESE, Inc. 03/02/2010

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Response to comment TR9-4

See response to comment TR9-1 above.

Response to comment TR9-5

Comment noted.