

Draft Summary

Public Meeting about the Community Advisory Group

National Mining Hall of Fame & Museum / Longyear Auditorium

121 West 10th Street/Leadville, CO

Tuesday, October 27, 2009/6:30 - 9:00 p.m.

A Public Meeting about the Community Advisory Group (CAG) to be formed to provide input on mitigation measures, remedial changes and other interests regarding Operable Unit # 6 (OU6) in Stray Horse Gulch took place on October 27, 2009 in Longyear Auditorium in the National Mining Hall of Fame and Museum at 6:30 p.m. The purposes of the meeting were to:

- Provide an opportunity for meeting participants to express interest in being considered to serve on the CAG;
- Help the CAG develop its core goals and objectives by learning about and providing input on: proposed measures for mitigating impacts of remedial updates on historic features in Stray Horse Gulch (OU6); proposed remedial measures to be undertaken in the OU6 area; and other issues of importance; and
- Find out about/suggest other ways in which you can engage in the public process.

The agenda for the meeting (Attachment 1) included overviews and discussion on: the status of CAG formation; potential historic mitigation measures in Stray Horse Gulch (OU6), update on the pilot study and proposed remedial changes at OU6, and next steps based on the discussion at the meeting. The group did not spend time talking about other suggestions for the CAG to consider when it forms.

The facilitator of the CAG, Sarah Walen, Meridian Institute, opened and facilitated the meeting. Mike Bordogna, Lake County Commissioner welcomed meeting attendees and provided opening remarks.

Opening Remarks

To set the context for the meeting, Commissioner Bordogna explained that, in January 2009, Lake County Commissioners and the Mayor met with EPA to learn about proposed changes to the remedy for OU6. The Commissioners and the Mayor were concerned about the actions proposed and felt it was important to consult with the community about them. They approached Jennifer Lane, EPA, and asked about the possibility of providing an opportunity for more extensive community input. Ms. Lane suggested the alternative of forming a Community Advisory Group (CAG) to provide that input. Commissioner Bordogna joined with Mayor Elliott to pursue the development of a CAG, and proceeded with the selection of a facilitator. Ms. Walen was selected by the community members who participated in the selection process.

Commissioner Bordogna explained that, due to concern expressed by a member of the public about the potential for his impartiality in selecting and also potentially participating as a member of the CAG, he withdrew from CAG selection process. That said he turned to what he saw as the major outstanding issue for the community to address - how to mitigate the impact of changes that may occur from the remedial process at OU6. He observed that history has shown the need to adapt to change with open minds. He posited that the group was there that evening to help guide that change. He encouraged the group to be problem solvers, not skeptics with the intent of helping EPA and CDPHE to make decisions "with us - not for us".

Status of CAG Formation

Ms. Walen provided the group with an overview of the status of forming the CAG. She began with the reminder that the CAG would not be the only way community members could provide input to EPA and CDPHE on OU6. Citizens could continue to contact and provide input to the agencies via phone, e-mail, by attending meetings, and in other ways. In addition, the agencies would continue to hold public meetings about selected aspects of work on OU6, and there would be a formal opportunity for input on remedial changes during the Public Comment period that Linda Kiefer would talk about during her presentation later in the meeting.

Ms. Walen explained that the CAG is intended to be a defined group that would operate in and for the public, and represent the breadth of interests in the community in a balanced way. CAGs can be formed in different ways, depending on the nature and needs of the community. The approach used thus far in Leadville has been to consult with some knowledgeable individuals in the community to begin to help identify potentially interested individuals from organizations and communities of interest identified by community members at a May 26, 2009 public meeting on the CAG. Individuals consulted included a County Commissioner, a representative of the Citizen's Advisory Group, the Mayor, a representative from the Hispanic community, a representative from Colorado Mountain College (who later stepped out of the consultation process due to unfounded concerns about the potential for conflict of interest), and another long-term community member who provided perspective on the history and water concerns in the community. Through the consultation process, some suggestions for individuals representing each of the communities of interest were made. The facilitator then invited attendees who were interested in serving in the CAG to let the facilitator know at or following the meeting, or by talking with the CAG community hosts.

Ms. Walen noted that, following this meeting, the community hosts, Mayor Elliott and Commissioner Bordogna, would decide how to proceed with the formation of the CAG. Possible approaches could be for the Mayor to work with the facilitator and possibly a small group of citizens to continue with the selection process, or inviting each community of interest to propose a representative to serve on the CAG.

Whichever approach is taken, selection considerations would likely include criteria like:

1. Ability to represent an affected interest (local and/or other)
2. Ability to represent more than one community of interest
3. Commitment and availability to attend CAG meetings
4. Willingness to listen to others and engage in constructive dialogue about issues pertinent to the charge
5. Willingness to include as an area of focus, EPA and CDPHE's specific request for public input
6. Willingness to serve as direct and reliable conduit for information flow with other members of their affected community of interest
7. Willingness and ability to represent their views and as much as possible, the views of others from their community of interest
8. Willingness and ability to review information about historic mitigation measures and other issues of concern.

In addition to its regular public CAG meetings, the CAG could also elect to hold general public meetings inviting input on selected issues, form other temporary smaller groups that would work on specific tasks to help inform the CAG in its work, etc.

One participant expressed concern about having a few people represent the interests of many. He asked how the interests of others who might want to participate in the CAG would be addressed, and suggested that the CAG be open to anyone from the community who wanted to serve the community on the CAG. This individual was also concerned that representatives on the CAG might not have 20 years of experience with EPA and occurrences at OU6. It was reiterated that the CAG would be open to the public and the public would be able to contribute to the discussions of the CAG. In addition, one of the roles of a CAG member would be to be the conduit of input from his/her community of interest to the CAG, and from the CAG to the community of interest. Balanced representation and the assurance of experienced perspective would be difficult to achieve if the CAG had no specific membership.

Bill Klauber then provided an overview of his concerns about the CAG and offered an alternative approach to address these concerns. Mr. Klauber noted two issues of importance: 1) remedial changes proposed for OU6, and 2) the mitigation of changes to the historic nature of the site as a result of the remediation, such as restoring historic structures that are falling down. He shared his understanding of the resources available for remediating the site: \$10 – 20 million dollars, 5% of which - or on the order of \$500,000 to \$1 million dollars going towards mitigation.

Mr. Klauber was concerned that once formed, the CAG would become the official 'spokes group' for the community, thus potentially devaluing other comments from the community. He was also concerned that input from the CAG could be viewed by EPA as meeting their requirement of the need to obtain public input on OU6, but not used for other purposes. The

CAG should include people who will represent the best interests of the community – not just what the community might think EPA wants.

Rather than form a defined, balanced and representative group that is open to and operates in public, Mr. Klauber proposed a model he interpreted from the EPA guidance on forming CAG's that is a simple group of people who respond to a public notice, thus anyone who shows up at a public meeting would be a member of the CAG. He viewed this alternative as a more open process, and the proposal to form a defined, representative and balanced group as manipulative. Mr. Klauber also felt that it would be important to have two parallel efforts – one for input on remediation and the other for input on mitigation - with equal time and equal input to the EPA. For additional details about CAG's and the EPA guidance, please review the summary of the May 26 public meeting on CAGs, or visit <http://www.epa.gov/superfund/community/cag/resource/quickeng.htm> or <http://www.epa.gov/superfund/community/cag/pdfs/cagtlkrc.pdf>. Many other references on CAG's are also available on the web. Mr. Klauber offered as an alternative reference to public process, the Ladder of Participation.

Mr. Klauber also expressed concern that the public input process was rushed, and asked EPA to extend the period for input. In response to this concern, Linda Kiefer, EPA, provided a brief update on the timeframe for input. She indicated that EPA would extend the time for comment until the end of January 2010.

An agency representative was taken aback by the accusation of manipulation. He observed that the work of the agencies is nearing completion on a number of things, and work on OU6 has been particularly difficult. He noted that the agencies are trying in earnest to get a wide variety of public input.

Another participant expressed concern about the time it was taking to form the CAG, in view of the tight time frame for public input. She urged the community to get on with providing input. Someone else expressed the importance of not excluding anyone from the process. It was stressed that, in contrast to the current effort, the Citizens Advisory Group was “all about the people”.

Potential Historic Mitigation Measures in Stray Horse Gulch (OU6)

Jennifer Lane, EPA, presented a brief overview of mitigation measures in Stray Horse Gulch. She noted that, EPA and CDPHE, in revising the OU6 remedy, realize there are going to be impacts to the mine waste piles. For this reason, they are looking for ideas on ways to offset those impacts. When Mayor Elliott and Commissioner Bordogna expressed interest in having a

CAG to provide this input, it seemed like a good idea because the agencies would not be able to make decisions on how to offset the impact without input from the public.

Ideally, the agencies would like a prioritized list of ideas for mitigation from the community. Suggestions they have received to date from earlier public input sessions and other communications have included:

- A park or recreation area
- Bathroom facilities and water along the Mineral Belt Trail
- A park that has a bounded area
- A visitor's Center
- An expansion of the Mineral Belt Trail.

Ms. Lane stressed that the budget for work on OU6 is not yet final because the design is not final. She emphasized that, through the CAG, there is an opportunity for the public to come up with ideas for mitigation. She noted that, regardless of whether or not there is a CAG, there will always be public input opportunities.

Ms. Lane suggested criteria for assessing mitigation measures might include:

- The project is related to or enhances the site remedy
- SHPO or Advisory Council agrees the project mitigates impacts to historic resources
- The project can be integrated/designed into OU6 remedy
- The cost of mitigation.

Attendees identified the following suggestions on mitigation for the CAG to consider verbally or on note cards:

- Stabilize the hoist house at the IbeX 4.
- Clear Grit stabilization.
- Save the head frame at the Irene Shaft.
- Develop a network of interpretive centers.
- Preserve the area below Ball Mountain to the northwest of Alps Pass. There are many rotting and falling mining cabins, head frame and hoist houses. It is a large, untouched area (in a lot of wetland) that has roads around the outside for tourists to see what Leadville was like 100 years ago.
- Erosion control on Ball Mountain from 4X4 tracks. Possible signage to stop 4X4s, ATVs from running across sensitive areas.
- Erect a very large statue of Ken Olsen.

One participant asked whether some of the mitigation could be done in partnership with other stakeholders, like Newmont. The idea of working in partnership on some of these ideas was recognized as a good one to be pursued.

Another participant felt that interpretive centers throughout the area would be beneficial to tourism.

Update on Pilot Study and Proposed Remedial Changes at OU6

Linda Kiefer, EPA, gave a brief update on the pilot study and proposed remedial changes at O6. A copy of her PowerPoint presentation is included as Attachment 2. Ms. Kiefer explained that EPA has been doing work in Stray Horse Gulch since the early 1990s. Originally mine waste drainage was to Star Ditch which ran through downtown Leadville. The first remedy was ponds, which overflowed. In 2003, the remedy was modified to redirect mine waste drainage into Leadville Mine Drainage Tunnel (LMDT) to the Bureau of Reclamation Waste Treatment Plant. Over time it was determined that the LMDT was not a sound method of conveyance for the water. Ms. Kiefer explained that, in its assessment of potential remedial changes, EPA is revisiting the 2002 Feasibility Study, in which they looked at capping, moving waste rock and other options. They are also looking at a hybrid of some of those ideas, which involves selective capping with water management strategy to preserve the historical look of the site. The design includes a clean water system and an acid runoff discharge water system.

Ms. Kiefer then referenced the pilot study on capping alternatives, which was an idea that resulted from discussions with the Commissioners and Mayor. She noted that the agencies want to avoid a repeat of the “wedding cakes”, recognizing that capping can be done in ways that resembles the original piles and/or can be done on the back side of the piles. She explained that their consultant, URS, has looked at what can be done in the pilot study that could guide the remedy. Ms. Kiefer noted that EPA looked first at the Cora Bell pile as a potential location for the pilot, but explained that they ran into trouble with accessing the pile and were concerned that equipment could cause the pile to fail. As a result, Bob Elder and the onsite coordinator suggested moving the pilot study to the Denver City pile. She thanked Bob Elder for help with the pilot study.

Ms. Kiefer noted that, in response to community concerns, the shotcrete will be moved to the back of the piles. Weather permitting, the contractor will begin to put the shotcrete on the pile soon, with the hope of scheduling a pilot study viewing on November 5, weather and contractor permitting. She offered to have an e-mail update sent to people who sign up for the site visit.

The date for completing the Proposed Plan was extended to January 31, 2010 to allow more time for public input. It will take a minimum six months to a year to complete the site re-design. The typical design life is 30 years, a timeframe established primarily for costing purposes. With maintenance, the life expectancy of the cap would be essentially forever. Further, the Record of Decision amendment would come out in June 2010. The earliest construction could be completed would be 2014.

A participant noted that the OU6 Record of Decision, 2003, is available on the EPA website @ <http://cfpub.epa.gov/superrods/index.cfm?fuseaction=data.siterods&siteid=0801478>. He observed that history was repeating itself. He also stated that a Cultural Resource Survey was completed some time ago and would be a good resource to consult for ideas on site mitigation.

Wrap-up and Next Steps

- Participants were invited to indicate their interest in serving on the CAG and their ideas for mitigation measures on note cards provided and collected at the meeting or via e-mail to Sarah Walen at skwalen@merid.org by Friday, October 30.
- To address concerns raised at the meeting about the formation of the CAG, some participants requested that others on the e-mail distribution list regarding OU6 be consulted before the end of the week about the model for public input: whether it be forming a CAG with defined, balanced and representative membership; or pursuing what some felt was a more open public approach to gathering citizen input on the changes to come on OU6.
- The Commissioner and the Mayor will review input from the October 27 meeting, input received by the facilitator via e-mail following the meeting, and the results from the consultation to make decisions about next steps regarding the CAG. Options might include consulting with each interest community to identify their representative for the CAG; having the Mayor and a representative selection of community members identifying CAG members from each of the communities of interest identified at the May 26 meeting; not forming a CAG and proceeding with some other form of public input like a series of public meetings; or other.
- The summary of the meeting will be produced soon, probably sometime next week.