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United States Senator

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November 17, 2010

Dennis McLerran
Regional Administrator
U.S. EPA, Region 10
Regional Administrators Office, RA-140
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Re: Coeur d'Alene Basin- EPA's Proposed ROD Amendment

Dear Regional Administrator McLerran:

The purpose of this letter is to outline my key concerns and questions about EPA's proposed amendments to the Bunker Hill Site Record of Decision (ROD). I would also ask that you add this document to the official record of comments for the proposed ROD amendment.

I appreciate you sending your representative to participate in the August 9 Town Hall meeting I organized in Wallace to solicit local input on EPA's proposal. As you are aware approximately 350 people attended this meeting and only a single person spoke in favor of EPA's plan. I am very concerned that EPA fails to recognize that its plan will fail without the broad-based public support needed for implementation.

I listened to the testimony at the Town Hall meeting and have examined EPA's proposal. I have doubts about the efficacy of the proposal relative to the ultimate objective of remediation and clean up. I also have serious concerns with EPA's proposal related to the future of economic development in the Valley and EPA's role in that regard. Among other issues, EPA's proposal includes cleanup plans for active mining facilities, which are already covered by regulatory programs other than the Superfund program. I have not heard or seen any justification for targeting these active operations. In fact, the environmental data EPA presents in its Proposed Amendment actually confirms that these active operations, particularly along the Upper South Fork, are not a problem.

I also am concerned that EPA's proposal does not sufficiently appreciate or accommodate the importance of mining to North Idaho's economy and the industry's requirements for expansion and growth. Promises to work with the mining industry, especially while EPA continues to insist that its requirements are paramount, are insufficient, given how vital mining and high paid mining jobs are to the region's economy and its future. The people who live in the Silver Valley are understandably,

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opposed to giving EPA authority for the next 50-90 years to dictate priorities and local land use plans.

As you know, in 2005 the National Academy of Sciences ("NAS") completed an extensive evaluation of the status and plans for Coeur d'Alene Basin cleanup and issued a series of recommendations. What you may not know is that I was the one who initially requested the NAS study, because of serious concerns about EPA's plans for Coeur d'Alene Basin cleanup under the Superfund law.

EPA's response to the NAS recommendations for the Coeur d'Alene Basin is questionable. EPA states that one of the reasons for its proposed amendment is to respond to the NAS report. But when I examine EPA's proposal, I see little that is responsive to what the NAS said about EPA's remedy for ecological impacts above the "Box." For example, the NAS told EPA not to develop comprehensive plans for Coeur d'Alene cleanup, but to proceed in stages. Yet, EPA's proposal is comprehensive and is even touted for being comprehensive. I request an explanation on why EPA rejects the recommended staged approach and its inherent adaptability.

The NAS rejected, as fundamentally flawed, EPA's predictive analysis or model of remedial effectiveness, which EPA uses to predict the effectiveness of its cleanup proposals over time. Yet, EPA continues to rely on this flawed approach to drive its decision-making and again, even touts its analysis as fundamentally unchanged from what the NAS effectively called "junk science." I request an explanation as to why the EPA persists in using the flawed approach that was rejected by the NAS.

EPA's proposal is simply too big and too expensive, especially in these difficult economic times. EPA proposes a massive undertaking on a scale that is hardly imaginable, possibly without precedent, and with no realistic way to pay for it.

The Plan is also wasteful. EPA proposes to spend hundreds of millions of dollars along the Upper South Fork of the Coeur d'Alene River, with very little, if any, defined benefit to show for it. I am concerned that EPA's proposal will actually worsen conditions in the South Fork by removing water for treatment at critical, low flow conditions.

I strongly urge EPA to rethink its proposal for the Upper Coeur d'Alene Basin to focus more on remedy protection and on a phased approach to Basin cleanup that first tackles the historic adits, waste rock piles and the other obvious historic sources of metals to the Coeur d'Alene system. Those sources are known and the remedies to address them are proven. We must not allow storm or flood water to add contaminants downstream or to Lake Coeur d'Alene.

EPA should not rely on unknown and unproven, highly speculative methods such as its water collection and treatment system above the "Box". Source control should be implemented and monitored and at the appropriate time, new and improved methods for further cleanup assessed relative to realistic cleanup goals. This approach is also consistent with the Superfund statute and the NAS recommendations.

We requested an extension of the deadline for public comments in light of the size and complexity of EPA's proposal. Soon after the Town Hall meeting, EPA extended the deadline for comments until November 23, 2010. Thank you for accommodating this request.

I would appreciate the opportunity to further discuss the issues and concerns outlined here with you at your earliest convenience and look forward to your reply.

Sincerely,



Michael D. Crapo
United States Senator

cc:
Governor Otter
Chairman Allan, Cd'A Tribe
Senator Risch
Congressman Simpson
Congressman Minnick
Raul Labrador
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Kootenai County
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Bob Perciasepe, EPA

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Today, the EPA has proposed a massive expansion of its involvement in the Silver Valley. I am deeply concerned the proposed amendment goes too far, costs too much and does not fully respect the citizens of North Idaho. To allow the plan as written to move forward would be a decision that will negatively affect the Silver Valley for generations to come, and I cannot support such action.

The proposed plan carries with it a cost of at least \$1.3 billion and entrenches the EPA in the expanded Superfund site for the next 90 years. That is *three generations* of Idahoans who will live and work under EPA control, without any guarantee it would end there. Our children, and our grandchildren, will likely have passed away before the cleanup is complete. We can do better.

In many vital pieces of legislation, even ones dealing with national security, Congress often includes "sunset" language in legislation, requiring the law to be reviewed and reauthorized after a period of time – frequently three to five years. If EPA is responsive and does a credible job with cleanup in the Upper Basin, they should have nothing to fear from this periodic review that would result in a substantially shorter ROD Amendment timeframe, such as 10 or 15 years.

These are my official comments for the Coeur d'Alene Basin – EPA Proposed ROD Amendment.

The Silver Valley of Idaho is one of the most special places in America. It has a rich history where independence and hard work provided needed resources for our country to grow and prosper. However, the early methods of resource extraction required changes to mining practices, a renewed clean up of the land and water and for over 30 years the EPA and the State of Idaho has been doing just that.

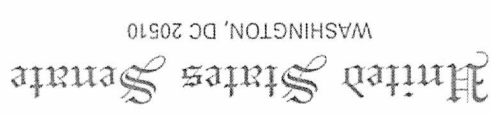
Dear Administrator McLerran,

Re: Coeur d'Alene Basin – EPA Proposed ROD Amendment
 Official Comments for the Record

Dennis McLerran, Regional Administrator
 EPA - Region 10
 1200 6th Ave., Suite 900
 Seattle, WA, 98101

November 19, 2010

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The actual, real world costs of this amendment have been estimated to reach \$3-5 billion. Has the EPA identified a dedicated funding source for the entire plan including cost that will likely reach well over \$1.3 billion? Each day in the United States Senate I am working to stop spending money the Federal government does not have. I am eager to see Congress curtail spending and get deficits under control. At such a critical time in the financial crisis of our county, *we cannot afford this plan*. The EPA, along with the rest of the federal government must adopt a more fiscally responsible way of doing business. Rejecting this plan for a more reasoned and cost-effective approach is a good start.


The proposed amendment is an unfunded mandate to the State of Idaho. As a former Governor and long-serving legislator I understand the challenges of balancing Idaho's budget. The CERCLA requirement that the state pay 10% of operations and maintenance in perpetuity and for an unknown amount is absurd, and simply not something the State of Idaho can do. We Idahoans do not conduct ourselves fiscally like the Federal government.

Finally, my deepest concern is for the lack of community support. Written into the CERCLA statute is a commitment to a very high value on the community voice. I have heard from many constituents and have listened carefully as this proposal has been discussed in public forums in North Idaho. I have yet to hear more than tepid support for this plan and indeed the vast majority do not support this plan. Residents of the Upper Basin are waiting to see that the EPA is listening to them and their voice has had a meaningful impact.

I ask that you reject the Coeur d'Alene Basin - EPA Proposed ROD Amendment. EPA can do better. There is currently a cleanup plan in place that allows the community and EPA adequate time to work out a more reasonable, less costly and more effective plan. Alternatives to the proposal, such as a shorter, 10-year timeframe deserve meaningful consideration.

Thank you for your time and consideration of my comments. I look forward to your response to the issues I have put forth.

Very Truly Yours,


James E. Risch
United States Senator

JER/mge

CC: Idaho Congressional Delegation

Congressman - elect Labrador

Governor Otter

Bob Perciasepe, Deputy Administrator, USA EPA

CONGRESS OF THE UNITED STATES
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November 19, 2010



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Dennis McLerran
Regional Administrator
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Dear Regional Administrator McLerran:

I want to take this opportunity to submit my formal comments regarding the Environmental Protection Agency's (EPA) proposed changes to the Bunker Hill Site Record of Decision (ROD) in Idaho's Upper Coeur d'Alene Basin.

Before enumerating my concerns with the direction EPA is taking with these changes, I want to simply point out that our nation is emerging from one of the longest and deepest recessions in its long history. Our recovery from that recession will be prolonged, since job growth is expected to be slow and other leading economic indicators remain weak. Across our nation, families and businesses alike have tightened their belts, focused their spending on necessities rather than luxuries, and taken a cautious approach to future financial commitments until their long-term fiscal outlook improves. In short, Americans are being more fiscally prudent in these trying economic times.

Unfortunately, their federal government has not taken the same approach. Instead of tightening its belt, the federal government has spent and borrowed more money than ever, asserted its influence in increasingly onerous ways, and has gone down a regulatory path that stifles job growth and discourages new investment. To most Americans, the federal government seems unwilling to acknowledge the realities of the current economic situation and incapable of adjusting its practices to accommodate new fiscal realities.

Regrettably, when I read over the proposed changes to the ROD, it is clear that EPA has fallen into the same outmoded way of thinking that plagues the rest of federal government. Setting all other arguments aside, there can be no justification for the costs associated with these changes given the current economic challenges facing our nation and the enormous debt Congress and the Administration continue to pile on future generations. I am deeply troubled by both the cost and time frame of this plan and believe it will be rejected, if not by EPA itself, then by Congress.

As you know, the Upper Coeur d'Alene Basin CERCLA site is among the largest and most complex Superfund sites in the country. Since its appearance on the National

Priority List almost 30 years ago, the issues surrounding its remediation and future use have been a source of controversy and economic disruption to the people of Northern Idaho.

Despite the availability of alternative approaches, EPA is moving forward with a remediation plan that will cost at least \$1.34 Billion and cover a time frame of between 50 and 90 years. This approach includes over \$960 million for water quality improvements in the South Fork, of which more than \$600 million is projected to be spent on a groundwater collection treatment system that seems wholly unnecessary and ill-advised.

Over the course of the past few months, I have heard nearly unanimous opposition to the plan from those who live, work, and recreate in North Idaho. I have heard concerns from those who think the plan costs way too much, believe it endangers future economic growth, fear it will curtail or eliminate mining in the region, and shudder at the thought of the federal government choosing the most costly and time consuming route when other appropriate alternatives are available in times of economic hardship.

In addition, I have been asked a number of very serious questions about the size, scope and wisdom of the changes EPA is proposing. Those questions include the following:

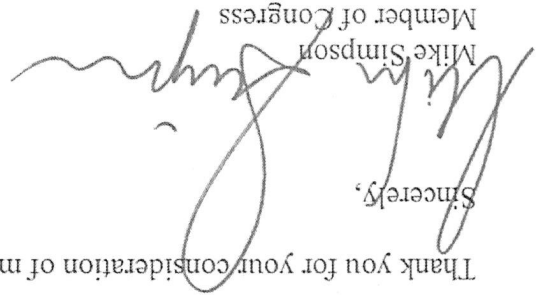
- Why won't EPA consider adjusting water quality goals in the South Fork when the agency clearly has the authority to do so?
- Why hasn't EPA divided Operable Unit 3 into smaller units, and why are they rushing into one large-scale and multi-decade cleanup plan?
- Why isn't EPA more amenable to a phased approach with interim goals more in line with the recommendations of the National Academies?
- At a time when federal agencies are seeking to maintain the integrity of rivers and streambeds, why is EPA proposing a ridiculously expensive groundwater collection and treatment system that may do more ecological harm than good, and what impact will such a system have on flooding in the region?
- How can the general public possibly fully comprehend and provide meaningful comments on a plan that will span an average person's lifetime and cost in excess of \$1.3 billion – and probably much, much more – especially when the plan's implementation and ultimate objectives are so vague?

- Why is EPA in a rush to approve a plan that could span an entire century?
Given that there is no emergency, why not take additional time and consider a shorter-term, phased approach that might actually enjoy the community support EPA is obligated to obtain?

As I stated earlier in this letter, I have rarely seen an agency action of such magnitude that was so universally opposed by the people who would be most impacted by it. I have yet to hear from one Idahoan who embraces EPA's century-long plan or who believes \$1.34 billion or more is an even remotely affordable price tag in tough economic times. With that in mind, I urge EPA to pull this plan back and reconsider the direction of remediation in the Basin. I further urge EPA to undertake a committed effort to build consensus in North Idaho around a workable path forward that reflects the economic realities in which we now find ourselves.

I look forward to working with EPA to craft a plan that recognizes the fiscal challenges our nation faces and prevents any negative impacts on the economy of North Idaho. Thank you for your consideration of my comments and concerns.

Sincerely,



Mike Simpson
Member of Congress

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November 22, 2010

Dennis McLerran
US EPA, Region 10
Regional Administrator's Office, RA-140
1200 Sixth Avenue, Suite 900
Seattle, WA 98101

Dear Dennis,

Thank you for considering my input to the EPA's proposed Record of Decision and mitigation plan for the Silver Valley.

Too summarize, it is not realistic.

The EPA's proposal far too costly, too open-ended and too onerous to Idaho businesses and local residents.

While it is vitally important that the next phase of the Superfund cleanup protect the health of our children, the plan also much not cripple the economy and destroy the economic viability of major employers in the Valley including the hard rock mining industry which remains the most important key to the future health of the Silver Valley's economy.

The current EPA proposal far exceeds the financial resources have available from the settlement fund collected from responsible parties and the financial capability of remaining potentially responsible parties. In the current and reasonably anticipated future fiscal environment, it is unrealistic to expect large new federal taxpayer cash infusions beyond those available from existing sources. You need to do the best job you can within the resources currently available. With additional clean-up being considered in the lower basin in the near future, it is also imperative that we manage the funds we have for the upper basin so the funding for clean-up in the lower basin will be possible.

The current EPA proposal threatens to hinder economic development and compromise the ability of local employers to make the large capital investments necessary to grow our mining industry and create the high paying jobs which current precious mineral prices make possible.

I hope that EPA will give greater consideration to the alternative 10-year plan proposed by local residents which is a more sensible approach that takes into account area business interests, does

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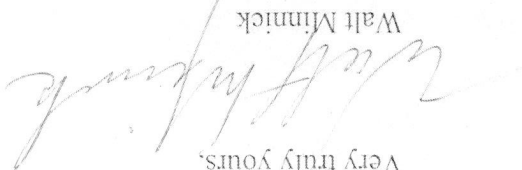
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reflect the wishes of many area residents, and offers minimal interference with their future livelihoods. The plan also pays more attention to protecting the costly remediation work that has already taken place by adding flood protection. Further, the 10-year plan offers the hope of a lifting the stigma of a Superfund site from the Coeur d'Alene Basin.

Finally, I urge the EPA to continue to work with local residents in finalizing its planning document and that any plan it finally adopts be re-opened for reconsideration and local comment every 10 years.

Very truly yours,



Walt Minnick

Congressman, Idaho 1st CD

cc. Sen Mike Crapo

Sen Jim Risch

Congressman Mike Simpson