

IN THE HOUSE OF REPRESENTATIVES

HOUSE CONCURRENT RESOLUTION NO. 8

BY RESOURCES AND CONSERVATION COMMITTEE

A CONCURRENT RESOLUTION

STATING FINDINGS OF THE LEGISLATURE AND ASSERTING THAT THE TIME IS RIPE FOR A PETITION TO THE ENVIRONMENTAL PROTECTION AGENCY FROM THE STATE OF IDAHO TO REQUEST THAT THE POPULATED AREAS OF THE BUNKER HILL MINING AND METALLURGICAL COMPLEX SUPERFUND SITE, KNOWN AS RESIDENTIAL SOILS OPERABLE UNIT 1, BE DELISTED FROM THE OVERALL SUPERFUND SITE AND URGING THE GOVERNOR TO TAKE ACTION TOWARD SUCH DELISTING.

Be It Resolved by the Legislature of the State of Idaho:

WHEREAS, mining operations began in the Coeur d'Alene Mining District in 1883. It is one of the largest historical mining districts in the world. The Bunker Hill Mine, Star-Morning Mine, and Sunshine Mine represent some of the largest and deepest underground mines and richest silver mines in the United States; and

WHEREAS, in 1904 and 1928, the Bunker Hill Mine was the first in the district to construct tailings ponds to impound mill wastes. In 1917, Bunker Hill Mine and Sullivan Mine began operation of the first smelter in the Coeur d'Alene Mining District. Between 1932 and 1968, a large dredge purchased by the Mine Owners Association dredged as much as 3,000 tons of sediments daily from the Coeur d'Alene River near Cataldo Mission Flats and deposited it 25-30 feet deep on 2,000 acres it purchased. The Department of Transportation later used some of these sediments to form the foundation of I-90 in the area. In the 1960s, mines that were still operating installed settlement ponds and began the current practice of pumping, or backfilling, their mine wastes into mined-out areas, rather than into waterways, tailings dumps, or impoundment ponds; and

WHEREAS, the Bunker Hill Mine erected smokestacks at the smelter and zinc plants for better emissions dispersal. A bag plant later malfunctioned causing massive aerial pollution of the area nearby, which is now considered the 21-square-mile "Box"; and

WHEREAS, prior to tailings dumps, impoundment dams, settlement ponds, and backfilling practices, the soil, sediment, groundwater, and surface water became contaminated with heavy metals such as lead, especially after flooding events. Lead and other metals pose serious risks to people and the environment, particularly to young children and pregnant women; and

WHEREAS, the Comprehensive Environmental Response, Compensation, and Liability Act, otherwise known as CERCLA or Superfund, was enacted by Congress on December 11, 1980. The act provides a federal Superfund to clean up uncontrolled or abandoned hazardous waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment; and

WHEREAS, the Bunker Hill Mining and Metallurgical Complex Superfund Site was declared a Superfund site in 1983 and spans 1,500 square miles and 166 river miles. It is one of the nation's largest and most complex Superfund

1 sites and is divided into three Operable Units (OUs) for manageable cleanup.  
2 The "Box" is a 21-square-mile area surrounding the historic smelter area and  
3 includes OU 1: populated areas and OU 2: non-populated areas. The remainder  
4 of the site is known as the "Basin": OU 3; and

5 WHEREAS, over \$665 million from two settlements is funding cleanup ac-  
6 tions in the "Box" and the "Basin" areas of the Bunker Hill Superfund site.  
7 A fund has been set aside to cover future remediation costs of the few prop-  
8 erties where remediation was refused. In addition, the Environmental Pro-  
9 tection Agency (EPA) will continue to seek additional funding from EPA head-  
10 quarters to supplement settlement funds; and

11 WHEREAS, the Residential Soils Operable Unit (OU 1) was the first unit  
12 addressed at the Superfund site because exposure to lead in residential  
13 soils has been identified as the primary health risk to children and pregnant  
14 women within the populated areas of the site. The populated areas, referred  
15 to as "Reasonably Segregable Areas," (RSA) included Kellogg, Wardner,  
16 Smeltonville, Page, Pinehurst, Elizabeth Park, Ross Ranch, and Montgomery  
17 Gulch. The 1991 Record of Decision stated that residential soils were not a  
18 principal threat at this site, although they represented a significant lead  
19 exposure pathway to the local population, as well as exposure to interior  
20 house dust and consumption of locally grown garden produce; and

21 WHEREAS, the selected process for soil remedy began in 1994 and included  
22 the removal of contaminated topsoil, placement of a visual marker when ar-  
23 eas were above 1,000 parts per million (ppm) lead below the excavation depth,  
24 and replacement with clean topsoil and revegetation. The contaminated soil  
25 would be disposed of and institutional controls would manage the barrier,  
26 and the area would have long-term monitoring for effectiveness; and

27 WHEREAS, remediation activities included the remediation of residen-  
28 tial yards, commercial properties, rights-of-way, and water well closures.  
29 The RSA average soil lead concentrations are to be below 350 ppm. The RSAs  
30 have all been certified as completed with no more action appropriate and the  
31 EPA's approval sought. In 1997, Smeltonville was certified with an average  
32 of 70.9 ppm, which included a 451.7 ppm average for areas not requiring reme-  
33 diation, and in 1999, North Kellogg was certified with an average of 114 ppm,  
34 which included a 979 ppm average for areas not requiring remediation; and

35 WHEREAS, in a 2002 letter to the EPA, the Shoshone County Board of Com-  
36 missioners wrote "We believe that your work in this Superfund site is near  
37 completion. We are asking you to complete your work in the box, and leave  
38 Shoshone County. Return the land that have been cleaned to the State of Idaho  
39 and delist the box..."; and

40 WHEREAS, in 2001, the Basin Environmental Improvement Project Commis-  
41 sion (BEIPC) was established by Section 39-8106, Idaho Code. In 2006, the  
42 BEIPC asked the EPA to develop criteria for deleting the geographic portions  
43 of the Superfund site where no further response is appropriate or areas where  
44 all work is completed. The EPA responded that it will evaluate whether to  
45 partially delete specific geographical areas of the site and develop appro-  
46 priate criteria as construction activities are completed; and

47 WHEREAS, the remaining RSAs were all certified as complete in 2008 with  
48 the overall soil lead concentration averages in South Kellogg being 132 ppm,  
49 including a 610 ppm average for areas not requiring remediation; Elizabeth  
50 Park/Ross Ranch/Montgomery Gulch, 258 ppm, including a 509 ppm nonreme-

1 diated average; Page, 168 ppm, including a 339 ppm nonremediated average;  
2 Wardner, 126 ppm, including a 574 ppm nonremediated average; and Pinehurst,  
3 262 ppm, including a 463 ppm nonremediated average; and

4 WHEREAS, in 1995, the EPA issued a policy (60 FR 55466-7) regarding  
5 the partial delisting of Superfund sites. "With State concurrence, EPA may  
6 delete sites from the NPL (National Priorities List) when it determines  
7 that no further response is appropriate under the Comprehensive Environmen-  
8 tal Response, Compensation, and Liability Act of 1980 (CERCLA)...To date,  
9 EPA policy has been to delete releases only after evaluation of the entire  
10 site. However, deletion of entire sites does not communicate the successful  
11 cleanup of portions of those sites. Total site cleanup may take many years,  
12 while portions of the site may have been cleaned up and may be available for  
13 productive use. Some potential investors or developers may be reluctant to  
14 undertake economic activity at even a cleaned-up portion of real property  
15 that is part of a site listed on the NPL. Therefore, EPA will delete por-  
16 tions of sites, as appropriate, and will consider petitions to do so. Such  
17 petitions may be submitted by any person, including individuals, business  
18 entities, States, local governments, and other Federal agencies. Partial  
19 deletion will also be governed by 40 CFR 300.425(e). State concurrence  
20 will continue to, thus, be a requirement for any partial deletion. EPA will  
21 consider partial deletion for portions of sites when no further response  
22 is appropriate for that portion of the site. Such portion may be a defined  
23 geographic unit of the site, perhaps as small as a residential unit, or may be  
24 a specific medium at the site, e.g., groundwater, depending on the nature or  
25 extent of the release(s)."; and

26 WHEREAS, the average blood lead levels ( BLLs) of the children within  
27 OU 1 met and have remained below the CDC health standard beginning in 1980  
28 with Pinehurst, 1981 Kellogg, Wardner, and Page, and 1982 Smelterville;  
29 i.e., before the 1983 Superfund designation. In 2017, the Panhandle Health  
30 Department reported that these children had an average of 3 micrograms per  
31 deciliter, while the health standard is 5 micrograms per deciliter; and

32 WHEREAS, the 2017 "Final Draft Superfund Cleanup Implementation Plan,  
33 2016-2025" provides that "(I)n 2008, EPA and the Idaho Department of Envi-  
34 ronmental Quality certified completion of the OU 1 residential property re-  
35 mediation program conducted under the 1991 ROD (record of decision) for the  
36 communities located within the Bunker Hill Box (EPA 2010)."

37 NOW, THEREFORE, BE IT RESOLVED by the members of the First Regular Ses-  
38 sion of the Sixty-fifth Idaho Legislature, the House of Representatives and  
39 the Senate concurring therein, that the Idaho Legislature, on behalf of the  
40 citizens of the state, asserts that the time is ripe for a petition from the  
41 State of Idaho to request that the populated areas of the Bunker Hill Mining  
42 and Metallurgical Complex Superfund Site, known as Residential Soils Opera-  
43 ble Unit 1, be delisted from the overall Superfund site, and we urge the Gov-  
44 ernor to take action toward such delisting.