



**OFFICIAL MEETING OF THE
NATIONAL AND GOVERNMENTAL ADVISORY COMMITTEES
(NAC/GAC)**

**MEETING MINUTES
FINAL**

October 20 – 21, 2011

**DOUBLETREE HOTEL
1617 IH-35 NORTH
Austin, TX 78702**

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THURSDAY, OCTOBER 20, 2011

Call to Order and Introductions

Oscar Carrillo, Designated Federal Officer, EPA

Mr. Oscar Carrillo (EPA, Office of Federal Advisory Committee Management and Outreach [OFACMO]) provided an official welcome to the participants and audience. He introduced himself as the Designated Federal Officer (DFO) for the National Advisory Committee (NAC) and the Governmental Advisory Committee (GAC), both of which were established from the North American Free Trade Agreement (NAFTA) in 1994. Mr. Carrillo thanked Mr. Carlos Rubinstein (Commissioner, Texas Commission on Environmental Quality) for inviting the Committees to hold the meeting in Austin. He also expressed his appreciation for the work of the members. Mr. Carrillo indicated that the morning session would include several speakers who would present regional environmental issues, and the afternoon session would include a discussion of the Commission for Environmental Cooperation (CEC) issues. He invited everyone to reflect on their experiences with the Committees thus far (90% of the members had served on one of the two Committees for at least 1 year) and to provide their feedback as well as any ideas they may have for the development of a NAC/GAC roadmap. He introduced Ms. Karen Chapman (Great Lakes Regional Director of the Environmental Defense Fund), who chairs NAC, and Mr. Jeff Wennberg (senior member of the Development Review Board for the City of Rutland, Vermont), who chairs GAC.

Opening Remarks

Cynthia Jones-Jackson, Acting Director, OFACMO, EPA

Ms. Cynthia Jones-Jackson welcomed members and acknowledged the Committees' vital role in the CEC effort to support EPA and the Administrator. The Committee meetings are designed to create face-to-face dialogue to review key issues. She was confident that everyone present would have the opportunity to receive valuable information that would prove helpful in the development of innovative strategies and plans for the future.

Overview and Approval of the Agenda

Karen Chapman, Chair of NAC

Jeff Wennberg, Chair of GAC

Ms. Chapman thanked members and speakers for their participation and EPA for arranging travel and other logistics. Mr. Wennberg thanked Mr. Rubinstein for organizing the content and local speakers. Mr. Wennberg also extended his gratitude to Ms. Chapman for her efforts that were above and beyond the traditional role of chairman.

Ms. Chapman stated that participant introductions would occur following the first presentation due to speaker time constraints (please see Appendix A: Meeting Participants).

REGIONAL ENVIRONMENTAL ISSUES

Financing Water and Waste Water Projects Along the U.S.-Mexico Border

Maria Elena Giner, Border Environment Cooperation Commission (BECC) General Manager

Ms. Maria Elena Giner expressed her enthusiasm about having the opportunity to address the Committees. As the leader of BECC on the Mexican border, she was eager to provide a comprehensive background and overview of BECC, stating its crucial importance as a model organization. Ms. Giner stated that the population along the border consists of 13 million residents on both sides. The Mexican side of the border has experienced relatively large growth rates recently because of the U.S. industry that has settled there and nourished the symbiotic relationship between the two countries.

The simple basis of operations is that raw goods are received and assembled in one country and returned to the country of origin. To remain competitive with China and India, the process needs to meet “just in time” standards, that is, to receive, assemble, and return goods to the country of origin within 72 hours. NAFTA allows those goods to remain in Mexico tax-free, whereas previously, the goods were subject to a high tax. As a result of NAFTA involvement, trade growth has increased greater than 10-fold. The Border Counties Coalition conducted a study to compare the U.S.-Mexico border against the United States as though the border was a U.S. state—it ranked 13th in population growth (2nd with a population under the age of 18) and personal income has grown 41.4 percent (compared to the 29.3% national average) between 1993 and 2003.

Back and forth movement is critical to the economy and well being of the residents along the border. On any given day, 500,000 cars cross the border, and 95 percent of the northbound crossings are day trips for retail purchasing, making retail the second largest employer in the U.S. border counties. Maquiladoras bring goods from the United States to assemble in Mexico, but the goods do not remain in Mexico. Of the 2,300 maquiladoras located on the Mexican side of the border, 90 percent originate from U.S. firms; new companies have been established in the United States to meet the growing needs of the maquiladora industry, generating jobs in both countries and creating growth in the Mexican middle class. The growth of this infrastructure led to the establishment of BECC and the North American Development Bank (NADB), both generally tasked to “preserve, protect, and enhance the U.S.-Mexico border region by identifying, developing, implementing, and overseeing environmental infrastructure projects.”

BECC is an international agency consisting of 10 members, six of whom are federal workers (half are from Mexico and the other half from the U.S.). Ms. Giner’s role is to settle issues that arise among all involved agencies from both countries (the area of jurisdiction includes 30 million people). BECC projects span a number of sectors, including water, sewer, solid waste, public transportation, energy, municipal planning, and recycling. BECC mainly relies on two EPA-funded programs: (1) U.S.-Mexico Border Program (water and wastewater projects) and (2) Border 2012 and Special Grants, which address Border 2012 objectives. BECC includes a bank loan program and technical assistance programs. In other agencies, the latter often is overlooked, seemingly because they do not generate much publicity. Directing substantial funds toward planning, however, has proven critical to expedience and overall success. Between 1995 and 2011, \$40 million were spent on technical assistance, which leveraged about 30 times that value of construction funding. Of those planning dollars, about 85 percent went toward implementation. Once developed, the projects attract plenty of funders. As a means of measuring the results and the social and environmental benefits, every project is certified and a results matrix is generated. Since the organization was created in 1997, 185 projects (100 in the United States and 85 in Mexico) have been certified, resulting in a \$4 billion total investment and benefitting a population of 13.8 million.

Projects on either side of the border are required to meet the following six criteria to obtain project certification—to achieve this, BECC functions as a clearinghouse for projects that are already developed.

- (1) *General*: Projects should be appropriate in type, category, location, legal authority, and purpose.
- (2) *Human health and environment*: Focus should be applied on preserving human health and the environment, satisfying laws and regulations, and addressing trans-boundary effects.
- (3) *Technical*: Appropriate technology should be selected based on its cost-effectiveness, industry standards, and institutional capability.
- (4) *Financial*: A viable financing structure should be defined to include feasibility and long-term sustainability.
- (5) *Public participation*: Community involvement should be promoted.
- (6) *Sustainable development*: Principles of sustainability should be applied throughout the project cycle (e.g., institutional capacity building and local plan cooperation).

EPA is one of the primary stakeholders, and its funds are applied to both sides—about \$2 is leveraged for every \$1 spent in the United States, and Mexico leverages \$3-5 per dollar spent. Ms. Giner highlighted this model as a seed program that has enabled the development of additional infrastructure. The border has become a model of cooperation between two countries trying to conquer similar and overlapping environmental issues (e.g., the contamination of water between two water bodies). Funds for water and wastewater are awarded to communities that lack water and wastewater programs.

Border 2012, a BECC-EPA-SEMARNAT (Mexican EPA counterpart) bottom-up program, is nearing its conclusion, and a 2020 program is under negotiation. Ms. Giner relayed a Border 2012 success story concerning discarded tires. The issue involved multiple giant piles of accumulated tires, creating many opportunities for fire and other disasters, and local aquifers contained insufficient water supplies to conquer a fire of that scale should one break out. The use of those tires as fuel was negotiated with cement plants, and now the discarded tires are being used for this purpose. As a fuel, the tires are valued at \$1 million. Previously, the discarded tires posed potential hazards, but now the cement plants pay for the tires and put them to good use. Collection of the tires, however, remains an issue.

Ms. Giner finished by highlighting the similarities and differences between BECC and the International Joint (IJC) and International Boundary Commissions (IBC). In general, the IJC and IBC are more similar to the International Boundary and Water Commission (IBWC) than to BECC; unlike the IJC and IBC, the BECC has a bank and thus is able to develop and implement projects. Also, BECC covers specific geographic locations and is limited to certain environmental sectors. The IJC and IBC treaty was established in 1994, and the BECC treaty, which was established in 1997, improved on it. Finally, BECC is a single office and does not consist solely of federal employees, and thus, it is able to transcend protocols between the two countries.

Ms. Giner stated that she had to depart shortly for another meeting, but Mr. Donald Hobbs (BECC General Counsel) would remain to answer additional questions from the Committee members.

Questions and Discussion

Mr. John Bernal (Pima County), GAC member, commented that he sat on the first Board of Directors for BECC in 1994, and he was pleased to learn that the organization still is functioning and thriving. BECC had to overcome many struggles in those early years—the United States believed its environmental standards should be imposed, but Mexico wanted to rely upon its own standards. Mr. Bernal asked if any normalization had occurred since that time. Ms. Giner indicated that the standards, from a basic standpoint, do not differ greatly. BECC did implement a National Environmental Policy Act (NEPA) process in Mexico, however, which involves evaluation of projects and their impacts on the United States. The actual public process has grown and evolved to include the Transparency Act and the Freedom of Information Act.

Mr. Kevin Gallagher (Boston University), NAC member, thanked EPA for bringing BECC into this conversation, noting that EPA appears to be the only link to this program. He asked Ms. Giner if she could address further the expanded mandate and the new needs in the region, stating that he is concerned about the limited resources and the potential to negatively affect BECC's ability to fulfill the new mandate. Ms. Giner responded that with the additional priorities added to the charter in 2000, there was a huge influx of projects. Now the BECC's Board of Directors is reviewing the request to expand the charter further to include broader points of entry, (e.g., green housing and manufacturing). The main point of evaluation is whether a progress metric can be generated.

Mr. Barry Featherman (Global Center for Development & Democracy), NAC member, inquired about increasing violence along the border and its impacts on project implementation. Mr. Hobbs responded that the overall impact has been negligible; however, some delays have occurred because a larger proportion

of budgets are being shifted toward police forces. BECC has had to put some contracts on hold, but never for longer than 30 days. Overall, the money continues to flow.

Dr. Robert Pastor (American University), NAC member, asked about the failure to reduce trucking and its consequences on the border. How many trucks have been approved to go straight through the border and how many will be approved in the future? Mr. Hobbs indicated that BECC involvement is limited in that area—BECC’s efforts have focused on retrofitting and emissions reduction for trucks. Air contaminants have been confirmed as a major problem, but BECC cannot do much about it from its position.

Mr. Timothy Bent (Bridgestone America), NAC member, was interested in learning more about the issue of tire collection. The United States is facing the need to pay for tire removal because landfills are the endpoint. He wondered if the bank (NADB) and other BECC resources could be used to set up a system of refunds. Mr. Hobbs stated that the program initially was viewed as controversial; a sustainable tire market at that time was non-existent. At one point, tire stockpiles were numbered at 5 million. BECC eventually obtained funds from EPA to transport the tires by train or truck to be used as fuel for cement plants, and now that tires have been recognized as an inexpensive fuel source, it is a matter of supply and demand.

Mr. Gerald Wagner (Environmental Program, Blackfeet Tribe), GAC member, asked how many of the BECC projects occurred in native communities on the U.S. side of the border. Mr. Hobbs responded that there were several projects involving waste removal, but most of those efforts were in the context of the Border Initiative 2012. Mr. Wagner inquired about EPA dollars, and Mr. Hobbs responded that, although all projects do not require certification, they do need to demonstrate a positive U.S. impact.

Cross-Border Collaboration on Environmental Issues

Cindy Loeffler, Branch Chief, Texas Parks & Wildlife (TPWD)

Stephen Niemeyer, Border Affairs, Texas Commission on Environmental Quality (TCEQ)

Ms. Cindy Loeffler (TPWD) stated that in her overview of TPWD, she would highlight several conservation initiatives and current challenges. She noted a milestone cooperative restoration effort—reintroduction of the silvery minnow—that would occur the following week. Another example of TPWD work she provided involved preservation of the sea turtle via the Kemp’s Ridley Recovery Plan—the plan was revised and made official in September 2011. Ms. Loeffler noted that when the Association of Fish and Wildlife Agencies (AFWA) International Relations Committee met recently, the members discussed the importance of species conservation across the border, and they now are establishing training programs and public information campaigns.

Ms. Loeffler described “environmental flows” as water flow movement to streams, rivers, and estuaries that support aquatic habitats, water quality, and recreation. Protection of environmental flows is necessary to maintain big picture species conservation. In 2007, Senate Bill 3 and House Bill 3 implemented a consensus- and science-based regulatory system for identifying and protecting flows while balancing human needs. The flow committee has been working with state-wide science representation since 2007. Work was initiated in eastern parts of Texas, and has progressed to central and western Texas. Each Basin or Bay Area Stakeholders Committee reviews the Expert Teams’ science-need findings and they will generate recommendations on environmental flow regimes for TCEQ by March 1, 2012. Ultimately, TCEQ adopts flow, delivery, and other relevant standards by using a rulemaking process that allows for broad public input. Also, the process is subject to selective or adaptive management (i.e., the management measures are assessed regularly and adjusted according to the emerging science).

Ms. Loeffler noted that Texas is experiencing its worst drought during a 12-month period—the habitat and vegetation have changed in response to the dry conditions. Some basins have had to rescue rare and endangered fish species, an activity that was never before necessary. The upper fishery portion of the Rio Grande stands at less than 10 percent capacity—it was 3 percent full as of the past month. Other

unexpected effects that have occurred include harmful algal blooms, or red tide, which occurs at increased water temperature, high acidity, and low rainfall, and is toxic to fish—it is estimated that 3 million fish have died. Red tide causes acute health problems in humans; it is a source of respiratory distress. The drought also may have an impact on migrating waterfowl. Ms. Loeffler noted that there is little hope for improvement based on climate forecasts through the end of the year.

Mr. Stephen Niemeyer (TCEQ) worked with Commissioner Rubinstein to generate the Border Initiative. The document is updated quarterly on the website's home page. To create the document, a list of all the projects was generated. Subsequently, an action plan was drafted, of which several items already have been accomplished and were selected for inclusion in the document. Mr. Niemeyer listed a number of the key accomplishments, many of which involve border affairs. As an example, he cited a project from several years ago that took place under a memorandum of understanding (MOU) with Tamaulipas. A group from Monterrey was enrolled in an EPA-certified smoke training program in Texas so that they could learn how to tackle the issue of emissions from cement operations. More recently, four engineers were sent to the United States to learn how to use crumb rubber from scrap tires—a huge area problem—in road paving. Scrap tires have since become a source of economic opportunity. The roads can be paved with crumb rubber, which is permeable to water, and roads paved with crumb rubber are no longer slippery in wet conditions, fewer accidents occur, and splash and noise are reduced.

Mr. Niemeyer shared another example of a cross-border collaboration of operations. Three years ago on a Friday night, he received a call from Commissioner Rubinstein, who informed him that a Mexican national had called the U.S. response line to report a sewage spill incident in the Rio Grande. Within minutes, TCEQ personnel were monitoring samples from the river. Mr. Niemeyer spoke with the caller and learned that the spill began 1 month earlier and had been reported to Mexican agencies, but when no action had been taken, the caller contacted the response line because he had heard that TCEQ takes action.

Questions and Discussion

Mr. Brian Houseal (Adirondack Council), NAC member, asked about the biodiversity and ecosystem overlays that affect BECC activities; a water-scarce environment imparts a tremendous impact on the health of species. Ms. Loeffler responded that from the department and tourism standpoint, natural resources are important, and TPWD has set up a series of World Birding Centers along the border to help facilitate and support the tourist industry. Mr. Niemeyer and Mr. Hobbs concurred on this issue's importance to national interest, and briefly described the processes necessary to use EPA funds in Mexico, including the issuance of a no significant impact contract (impact on species in this case).

CEC Update

Evan Lloyd, Executive Director, CEC Secretariat (via telephone)

Mr. Evan Lloyd thanked the group for accommodating him in the meeting schedule. He expressed his dismay that he could not attend the meeting in person, but said he looks forward to meeting with NAC/GAC at the next session in April 2012, which he indicated was quite timely because the CEC session will occur the following July in New Orleans.

Next, Mr. Lloyd shared information from the June 2011 CEC Council Session held in Montreal. The session resulted in two significant outcomes:

1. The Council agreed to a full 2-year planning calendar and an Operational Plan—the Secretariat's time will be dedicated to implementation rather than planning.
2. The Council announced the new community grant project: North American Partnership for Environmental Community Action (NAPECA).

Mr. Lloyd stated that strategic priorities were focused on *Healthy Communities and Ecosystems*, *Climate Change/Low Carbon Economy*, and *Greening the Economy in North America*. Each project was grouped under one of these three areas. He highlighted several, noting that implementation has begun for all of the projects listed.

Several projects under the *Healthy Communities and Ecosystems* area are in progress:

- ✧ **Improving Indoor Air Quality.** Community selection is under way. The CEC worked with the Tribal Health Consortium on project delivery, applying specific focus to wood stoves and their impact on women and children, and the work will be implemented in other vulnerable communities across North America.
- ✧ **North American Grasslands.** Stakeholders are directly involved in the compilation of best practices for promoting sustainable ranching, production, and biodiversity.
- ✧ **Big Bend/Rio Bravo Collaboration for Transboundary Landscape Conservation.** This project was inspired by U.S.-Mexico declaration earlier this year on a cross-border conservation initiative.
- ✧ **North American Invasive Species Network.** Work is ongoing and mostly carried out by a consortium of experts who are training local communities.
- ✧ **Air Quality and Pollutant Releases.** The Power Plant Emissions Report is being updated through 2009. Air pollution and greenhouse gas emissions from plants that provide about two-thirds of the electricity in North America are under examination and open to the public.
- ✧ **Sound Management of Chemicals.** Several studies are making progress. A long-standing study has been completed on the monitoring of results that provide baseline information for comparison across the three North American countries.
- ✧ **Hazardous Waste Notice Exchange.** A paper-based system has been converted to an online system to allow increased accuracy. It soon will be passed along to the respective agencies.

Several projects under the *Climate Change/Low Carbon Economy* area are under way:

- **Improved Comparability of Emissions Data, Methodologies, and Inventories in North America.** The first draft on methodologies used in each of the three countries has been approved by the CEC and will be reviewed by experts the following week.
- **Ecosystem Carbon Sources and Storage: Information to Quantify and Manage for Greenhouse Gas Emission Reductions.** A land-based carbon map for North America is being defined and developed and involves substantial international financing.

Several projects under the *Greening the Economy in North America* area are in progress:

- **Improving Conditions for Green Building Construction in North America.** A work plan has been developed and areas of cooperation are being identified.
- **Improving the Economic and Environmental Performance of the North American Automotive Industry Supply Chain.** The supplier network locations are being moved based on environmental perspectives.
- **Sound Management of Electronic Wastes.** A methodology being used to quantify the flow of computer monitors in and out of North America is under peer review. Work also is being conducted in support of the development of a rational e-waste recycling and refurbishing industry.

Mr. Lloyd stated that the Council had been asked several years earlier how it could reinvigorate the ongoing process of evaluating the environmental effects of NAFTA. In an effort to reveal a fresh set of ideas, the Council has appointed a panel of experts to review a comprehensive summary of the 16 years of assessment, to ascertain lessons learned and gaps, and to form recommendations for a path forward. The

panel will meet next month to continue the development of recommendations for the Council with an overall goal of providing a platform for how to best cooperate with the NAFTA free trade commission in this regard.

Mr. Lloyd mentioned the NAPECA program, a Council initiative that was launched at the June 2011 CEC session. The Council received 500 preliminary applications from community groups in each of the three countries. They are optimistic that final selections will be made by the end of the year. The projects reviewed thus far appear well-balanced in terms of Council priorities.

The status of the citizen submissions process had been modified since the last NAC/GAC meeting: three determinations have been made, one Draft Factual Record has been sent to the Council, and 10 submissions currently are pending.

Questions and Discussion

Ms. Chapman thanked Mr. Lloyd for the great summary of CEC progress.

Mr. Wennberg asked Mr. Lloyd if he could expand on the symposia situation, noting that he was unaware of the changes made to those plans. Mr. Lloyd responded that the symposia has been effective for assembling many papers on various topics, but among those 50 to 60 papers, the most important topics were difficult to parse out. Essentially, the symposia have become less effective with time. The goal of the stated changes is to use the symposia to enhance engagements.

Dr. Octaviana Trujillo (Pascua Yaqui Tribe), GAC member, asked if Mr. Lloyd could share some examples of the unique approaches and methodologies used in the work with the Alaskan Natives. Mr. Lloyd responded that the Alaskan consortium surveyed the communities, identified a specific number of ideal communities, determined which were the most susceptible to stove-related indoor contamination, and developed baseline data. For the implementation piece, teams went into the selected communities, installed new stoves or upgraded existing stoves, and assessed the indoor air quality. They used a process of significant scientific rigor that would enable replication of this approach in other communities. Dr. Trujillo asked whether traditional knowledge was incorporated. Ms. Sylvia Correa (Office of International and Tribal Affairs) indicated that the team is comprised of Native peoples who have been working in the system for a while, and they are trying to learn the traditional methods that could be incorporated. To the extent there is interest, a distinct project could be created. Mr. Lloyd noted that the Council has every confidence that the practices established will be very sensitive to Tribal health codes.

Mr. Wagner inquired about this project's application to air quality related to the use of diesel for heating and its resulting health impacts on Alaskan Tribes. Mr. Lloyd replied that, although the issue does seem complimentary to this work, what he had described is a very vigorous 2-year pilot project that examines contaminants directly related to cooking. He indicated that Ms. Correa may be able to inform Mr. Wagner of additional applicability to other ambient air quality issues.

Dr. Robert Pastor (American University), NAC member, noted that during the previous session, the special expertise that CEC can bring to bear on quantifying and harmonizing data was discussed. He was pleased to hear some of the responses that Mr. Lloyd provided in his presentation. Dr. Pastor said that they also had discussed a broader matrix, however, and he inquired whether any additional consideration had been given to this matrix and what it might look like. Mr. Lloyd replied that he would like to explore this question further. Several collaborative data collections have been established, but the CEC is faced with the legacies of several councils. In many cases, an explicit agenda exists for enhancing the comparability capacity and quality of data sets (e.g., work with Mexico on the Pollutant Release and Transfer Register [PRTR]); however, other data sets are being assembled on a trilateral basis. Overall, the capacity for data comparability is not well developed, but the potential exists to address it.

Ms. Gail Small (Native Action), NAC member, stated that two major power plants are on or directly adjacent to two reservations, and she asked if the CEC had considered reclassifying air quality to reinforce Tribal standards. Mr. Lloyd responded that he was unaware of this issue. He hopes that the emissions footprint can be converted into community data when those data become available.

Mr. David Markel (Florida State University), NAC member, asked Mr. Lloyd if he thinks it would be possible to conduct a comparative analysis of different industries based on the CEC Taking Stock Report, which introduced a comparative analysis strategy that builds upon basic information. Mr. Lloyd replied that Mexico was able to provide CEC with a large volume of data—something it could not provide previously. Mr. Lloyd pointed out that each year the Taking Stock Report (online and in print) determines a featured focus on data for a specific use, and this is an open process (<http://www.cec.org/Page.asp?PageID=924&SiteNodeID=569>). Also, a significant amount of data is available for individuals to go online and build their own reports.

Mr. Markel asked about the present inventory of the large number of Submissions on Enforcement Matters (SEM) that was to be reviewed by the Council at the point of the last meeting. Also, he inquired about a time frame for moving the submissions forward. Mr. Lloyd replied that different individuals and groups are responsible for various points in the process and that it cannot be characterized generally; however, there is a significant amount of information available online.

Ms. Chapman thanked Mr. Lloyd for his presentation and announced a small agenda change—Mr. Ray Lozano would provide a brief overview on the U.S.-Canada border.

Great Lakes

Ray Lozano, Race Relations and Cultural Collaboration, New Detroit

At Mr. Carillo's request, Mr. Ray Lozano, NAC member, quickly assembled a snapshot presentation to describe the similarities and differences in projects and operations on the northern U.S. border in the Great Lakes Region. Nearly a quarter of the global water supply comes from this region, and the Lakes are a site of extensive transport, shipping, and other border-related industries. He noted a number of federal, state, and provincial binational examples of international cooperation, including the Detroit and Windsor Tunnel Corporation, the U.S.-Canadian Auto Pact, and the U.S. Coast Guard Shiprider program. Many treaties and agreements supporting the water quality of the Great Lakes have been enacted over the years; 1909 marked the Boundary Waters Treaty. Other treaties he highlighted included Great Lakes Water Quality Agreement and The Ecosystem Charter. Several Canadian activities occurred simultaneously, including the Canada Water Act, Canadian Environmental Protection Act of 1988, and Environment Canada.

The Great Lakes Legacy Act was significant because it began to identify the areas of concern: 43 total—12 in Canada, 27 in the United States, and 5 in both countries. To provide a better scope of the areas involved, Mr. Lozano listed the entities involved, which included 140 federal programs, 8 U.S. states, and 40 Tribal Nations.

The Great Lakes Water Quality Agreement involved the St. Lawrence Basin and resulted from 4 years of negotiations among eight Great Lakes governors, using the input of 15,000 citizens. The contract became a law in December 2008. The Agreement regulates the amount of water allowed to be transported out of the Great Lakes to other countries.

Mr. Lozano mentioned issues with invasive species, highlighting an example of an invasive mussel species. The mussel is inedible and creates a negative impact on the fish food chain.

Also, a number of alternative energy projects, including Vortex Hydro Energy, have been explored in the region. Windmills and wetlands are the basis of some other alternative energy options.

Mr. Lozano concluded by noting that many resources are applied toward clean-up in the Great Lakes, particularly in the region from Windsor to Ontario, which harbors 18 million people.

Ms. Chapman thanked Mr. Lozano for providing a thumbnail sketch of activity in the area, especially on such short notice.

Binational Water Projects in the Rio Grande Watershed

Protecting and Restoring the Quality of Surface Waters Along the Texas Portion of the U.S.-Mexico Border

Carlos Rubinstein, Commissioner, TCEQ

Mr. Rubinstein commented that he would discuss a project on the lower Rio Grande that touches on the impact from BECC, and brings to bear the question of what can be done with the water they are conserving through this effort.

TCEQ has conducted a great deal of work at the state level to restore rivers and streams based on the Federal Clean Water Act of 1972, which outlines the criteria the water should meet. The geometric mean for the criteria is set at 126; although Texas was given the opportunity to move toward 204 as a limit, Mr. Rubinstein was proud to announce that they retained the limit of 126. The Federal Clean Water Act requires states to assess U.S. waters and to publish the assessments every 2 to 3 years. Water bodies that do not meet their designated use standards are required to be identified. The Act requires that a Total Maximum Daily Load (TMDL)—the maximum amount of pollutant that a water body can receive and still maintain its uses—be established for all constituents causing impairments.

Waters are assessed through the actions of many agencies and partners. All monitoring data are compared against the Texas Surface Water Quality Standard (30 TAC 307) and historical data as far back as the 1960s. Once the TMDL is determined, TCEQ puts measures into place to achieve the values designated by the TMDL. Voluntary, stakeholder-driven watershed-based plans also contribute to water quality restoration.

Mr. Rubinstein displayed a list of the monitoring stations comprising the Rio Grande network, which provide a better indication of present activity. He showed a map that highlighted the impairments and concerns detected by the monitoring system in the highest populated region of the Rio Grande (segment 2303). He indicated that TCEQ is unaware of whether a TMDL for segment 2302 would be effective because of a number of geographic, health, and physical limitations on both the U.S. and Mexico sides.

Mr. Rubinstein believes efforts with segment 2302 represent a tremendous amount of cooperation between the two countries, and offer a great opportunity for improving water quality. TCEQ began by working with EPA Region 6 partners in 2007 regarding the feasibility of developing a TMDL. Some of the discussions revolved around which standards to use; the participants agreed that it did not matter which standards were selected. If TCEQ implements standards for the United States or for Mexico and takes on efforts to improve water quality, the goal would be achieved.

The primary issue has shifted to who has purview over water quality on the Rio Grande. Recently, a path forward has been agreed upon by a number of Mexican and U.S. agencies and partners, entitled the Pilot Rio Grande Water Quality Initiative. Also, a university-based study is in the planning stages for how to enhance local-level stakeholder involvement to improve water quality in the Rio Grande.

Mr. Rubinstein invited Ms. Aimee Roberson to speak further on an effort from this region.

Binational Cooperative Conservation in the Big Bend/Rio Bravo Region

Aimee Roberson, U.S. Fish and Wildlife Service

Ms. Aimee Roberson thanked the organizers for the invitation and said she felt honored that she was selected to conduct funding and cooperative work with the CEC. The Big Bend/Rio Grande's Binational Cooperative Conservation effort encompasses rivers, springs, and watersheds; the Chihuahuan desert grasslands; Montane sky islands; imperiled aquatic species; migratory birds; and rare plants. Conservation partners are high in number and originate from all sectors, including U.S. agencies, Mexican agencies, state agencies (U.S.), private conservation areas, universities and nongovernmental organizations (NGO). These different sectors each contain unique strengths; present efforts are building on 7 decades of cooperation via many projects and programs.

Since 1945, the river has narrowed, grown less diverse, and undergone other significant changes. Partner cooperation has focused mostly on developing guidance for how to restore the river. Ms. Roberson's pet project focuses on the reintroduction of the silvery minnow, which has met with initial success, including a quarterly monitoring system, breeding of certain species, and expanded distribution. Much work, however, still remains. Several potential solutions have been proposed for these issues, including (1) managing of exotic riparian vegetation to reduce the accumulation of sediment armor along the river banks, (2) monitoring environmental flows, and (3) restoring grasslands in an attempt to reduce erosion and stunt the sediment supply.

Ms. Roberson requested help from the CEC to foster healthy habitats and communities by increasing ecosystem resilience in the Big Bend/Rio Bravo region. The overall goals of the project are to:

- ✧ Support the growth and development of partnerships via facilitated and translated meetings.
- ✧ Implement public outreach and engage a wider variety of U.S. and Mexican stakeholders.
- ✧ Identify shared resource values and priorities.
- ✧ Develop a binational strategy for rehabilitating the Rio Grande/Rio Bravo.
- ✧ Continue the monitoring efforts.
- ✧ Control exotic, invasive vegetation along the riparian corridor.

UPDATE ON CEC ISSUES

Update on SEM Trilateral Review Process

Jocelyn Adkins, Attorney-Advisor, International Environmental Law Practice Group, EPA (via telephone)

Ms. Jocelyn Adkins stated that she would provide an overview of the SEM process to date, including future activities and how to engage meaningfully. The SEM process is based on North American Agreement on Environmental Cooperation (NAAEC) Articles 14 and 15 and is defined as a mechanism enabling any NGO or person to file a submission asserting that a party is failing to effectively enforce its environmental law.

The agreement has been in place for 17 years and the parties agreed that the time was right to conduct a thorough review of the process. The guidelines for this modernization of the SEM process were to ensure that it was consistent with CEC Ministerial Statements, the CEC Governance Proposal, and the 2010 to 2015 Strategic Plan. The ultimate goal was to improve the process, which warranted formal attention. More specific goals were to allow electronic submissions, to clarify trilaterally-agreed on legal interpretations of the terminology, and to give special consideration to certain time frames to ensure adequate Secretariat and/or party action. The task force, comprised of government officials from each of the three countries and contract support from ELI, met the previous May in Washington, DC. The goal is to have the SEM process completed by July 2012, for the next Council session.

The Task Force seeks input from NAC/GAC and others. Both the party and the contractor reviewed the past information related to the SEM process during the past several months. They have sought to identify SEM issues of concern by reviewing past Joint Public Advisory Committee (JPAC) and NAC/GAC advice, by holding consultations with the Secretariat SEM Unit, by researching party issues of concern, and via the ELI research component. At present, the review is a living document that is intended to be augmented and otherwise modified as issues warrant the need. The SEM serves as a vehicle to cover most concerns but Ms. Adkins is aware that not all issues could be addressed in the document.

In addition to regular conference calls, their next steps are to prepare for the El Paso JPAC meeting on November 7 and 8, 2011; the Task Force tends to meet with JPAC separately to learn about the issues. The Task Force also will meet with the Secretariat's SEM Unit Director. The group has made significant progress by meeting as regularly and frequently as possible. The meeting in Austin served as an opportunity for NAC/GAC to provide its input and maintain an open dialogue, thus allowing transparency between the present time and July 2012. Ms. Adkins noted that the ELI contract is scheduled to end in December, and the Committees should discuss the scope of contractor support needed. The Task Force would like contractor involvement prior to the 2012 Council session.

Questions and Discussion

Dr. Diana Bustamante (Colonias Development), NAC member, asked if Ms. Adkins has any information related to previous complaints and/or past policies and recommendations. Additionally, she wanted to know how much weight the process carries for each of the different communities. Ms. Adkins responded that the Secretariat has provided information on past commissions. She noted that a major part of the Task Force's mission is to examine the process for how it has been implemented in the past and where problems have arisen. The Task Force also will propose how to address those issues. Ms. Chapman mentioned that the CEC website delineates the course of action for every complaint. Mr. Markell said that the CEC site provides a link to all submissions and walks the user through the exact course of events.

Mr. Markell inquired about a chart that was distributed previously on the SEM process, and he asked to what extent should previous NAC/GAC comments be considered relative to new ideas; should NAC/GAC repeat its past comments if they are still relevant? She responded that it would be useful to know if parties' views have changed.

Mr. Markell also mentioned that at least two academics (at Wake Forest University and Loyola University) have examined the SEM process, and raised many of the questions Ms. Adkins covered in her presentation. Ms. Adkins said she welcomed that information.

Dr. Pastor noted the completion of three determinations out of 76 SEM submissions, and he asked the reason for the delay. He also wondered how, other than the use of electronic submission, future submissions might be processed more quickly. Ms. Adkins responded that different time frames are developed during the process. For example, when the Secretariat views a submission and deems it interesting, no specific time frame for making decisions is applied; the process is very rapid in those cases. Although only a two-thirds vote is required, the parties strive to foster the process as a cooperative agreement. There are a number of reasons why certain submissions have taken so long to move through the process.

Mr. Wennberg thanked Ms. Adkins for her presentation and said he was looking forward to viewing the resulting Task Force product.

JPAC Report-Out

Irasema Coronado, Chair, JPAC

Ms. Irasema Coronado mentioned that JPAC had made recommendations in the advice letter, which placed an emphasis on public dialogue and consisted of its own review of the proposed draft of the CEC 2011-2012 Communications Plan. JPAC received constructive comments from the public; the 30-day consultation yielded positive results. JPAC praised the parties' initiative to develop an updated and expanded communications strategy to promote public awareness of the CEC. She noted that this is a common area of frustration as all participants find a lack of knowledge of CEC in their respective forums; it is up to the committees to elevate their work. She pointed out the need to improve varied means of communication, noting that many communities do not tweet or even use the Internet—online and offline options should be created. JPAC also approved of the recommended indoor and outdoor air quality improvement efforts (Alaskan Natives project). JPAC congratulated efforts in the Big Bend/Rio Bravo region—Ms. Coronado expressed personal concerns about the safety of those carrying out this work.

JPAC expressed a need for advice for improving green construction in North America; JPAC supports the public's observation that the Working Group should be composed of homeowners, building professionals, and university researchers in addition to public officials. Ms. Coronado mentioned that the advice letters can be accessed on the CEC website (<http://www.CEC.org>).

JPAC also hosted a public forum on e-waste in North America. CEC was advised to promote better management of e-waste through product design, recycling, and enforcement cooperation, and to halt illegal trade of discarded products within and from North America. The advice letter containing expert feedback included the need for a broader definition of e-waste beyond the focus of computers and monitors. JPAC advised that the scope of Project 15 be expanded beyond focus on small and medium size enterprises to include more global players. JPAC recommended that the three countries endorse the Basel amendment to provide an internationally consistent legal restraint to reduce abuse created by market forces that externalize costs to less-developed countries. JPAC praised the encouragement of recycling by governments at all levels. JPAC advised a continued focus on procurement policies requiring bidders to incorporate e-waste management measures in their bids.

In response to the JPAC SEM questionnaire, 24 responses were received from the 76 submissions that have been filed since its creation—14 were received from Canada, 6 from Mexico, and 4 from the United States. They are consolidating the responses into one report, which will be shared with the SEM Task Force prior to the private meeting in El Paso on November 8, 2011. JPAC currently is soliciting input regarding the communication strategy.

Ms. Coronado stated that the next JPAC meeting would consist of information on the SEM process (morning component), with a presentation on submission status by the SEM director and by three submitters (one from each country), and border crossing chemicals (afternoon component). JPAC also will hear a presentation on PRTR cross-border movement of chemical contaminants. The meeting will be broadcast live over the Internet and be open to public. She hopes to see many of the participants in El Paso.

Questions and Discussion

Mr. Wennberg thanked Ms. Coronado and praised the JPAC goals and objectives.

Mr. Bent asked for elaboration on the green building advice. Ms. Coronado believes it did not include the public, that it is more geared toward the construction industry and government.

Mr. Wennberg mentioned that he had attended the e-waste meeting in Montreal. He praised the presentation style used to illuminate the magnitude of the problem. Encouraging opportunities for success also were described.

Dr. Gallagher asked about the expanding definition of e-waste, and whether it would include e-mail and increasing electronic inputs as some of the bigger issues for hazardous waste build-up. Ms. Coronado noted that it was just advice (from JPAC), and will not necessarily be able to fulfill a legal definition of e-waste. She shared that the Mexican trucking industry has experienced a recent boom in business in El Paso because many U.S. trucks will not drive into Mexico. E-waste is an issue in which everyone plays a role; Mexico reported that when the United States converted to high definition televisions, all the dated television sets landed in Mexican junkyards, which can potentially be grown into a lucrative business, but health and safety measures have to be put into place to keep workers safe.

Mr. Rubinstein did not think the definition of e-waste could be changed; if raw material was brought into Mexico to produce something, the results of that product have to return to the United States.

Dr. Gallagher pointed out associated legal gaps.

Update on U.S. Priorities: NAPECA Grants

Sylvia Correa, Senior Advisor for North American Affairs, Office of International Tribal Affairs (OITA), EPA

Ms. Correa said the CEC received 492 NAPECA grant proposals. The first round of cuts was based on criteria the parties had delineated. The Secretariat, one of the people who make the ultimate decisions, asked for additional information on 51 of the proposals. Ms. Correa ensured continued input from NAC and GAC, but said community input remains an issue.

Dr. Gallagher inquired about the differences between NAPECA and the former grant program, including the size of the award. Ms. Correa indicated that the basic difference is that the parties control the current system. Because the former program was outside the purview of the parties, the Secretariat cut the spending when it was clear the parties would not be able to obtain additional funds.

TEIA Update and Discussion

John Knox, Wake Forest University (via telephone)

Sylvia Correa, Senior Advisor for North American Affairs, OITA, EPA

Mr. John Knox informed the participants about the Transboundary Environmental Impacts Assessment (TEIA). TEIA requires government decision makers to consider project status before deciding whether or not to authorize the project; a more developed project requires decision makers to explore alternatives and ensure that a project would not cause environmental harm and that transparency is maintained. The TEIA mandates often result in modification of projects so that they become less harmful. The TEIA process requires consulting and essentially no discrimination.

Although TEIA is very popular with many other countries, the United States has yet to become a party; the amendment will not take effect until it is ratified by several more parties. Therefore, TEIA will not help the United States and Mexico right now. All Canadian provinces have EIA laws, and none of the Mexican states have EIA laws—the United States lies somewhere in the middle.

The transboundary ('T') impact is likely the strongest in Canada—even projects outside of the federal purview are subject to TEIA discretion. Further complicating the matter is a long-standing disagreement surrounding NEPA policy by the U.S. State Department and Department of Defense (DoD). Mexico statutes do not explicitly state whether EIA increases their achievements.

The Negotiations Article 10-7 committed the parties to reaching an agreement by 1997 on TEIA, but they did not meet that deadline. The negotiations failed because in May 1998, because the parties did not want to commit to an agreement that lacked coverage on radioactive waste; however, this motion was outside of NEPA duties. Technically, agreement is not difficult to reach; it requires each country to do what they already have been doing. If Mexico is still locked into its previous position, the prospects will become much gloomier. The United States can take several useful actions:

1. Re-engage with Mexico to discuss the exact problems and issues.
2. Address bilateral sets of problems, under which the United States will need a separate agreement. The United States and Canada can reach agreements quickly, but many differences surface between the United States and Mexico.

Mr. Knox suggested that NAC and GAC do not place excessive focus on the CEC—once negotiations begin, the countries could reach an agreement without the CEC; the end result is not a CEC product.

Questions and Discussion

Ms. Small asked how the EIA process was initiated with the Keystone pipeline. Mr. Knox replied that he did not have any information to respond to the question.

Dr. Pastor asked if certain states would have the opportunity to weigh in on this issue more heavily if they get more involved. Also, he asked if there would be opportunities for the Federal Government to assume responsibility for anything that happens in another state or nation, and if that is Mexico's principal concern. Mr. Knox responded that the real question is whether the right exists under international law; there is a legal basis at the Constitutional level to take action. The issue is more of a strong political problem than a legal issue. By granting agreement, Mexico would gain procedural rights to complain.

Dr. Gallagher asked about the negotiations process with Mexico, to which Mr. Knox responded that stronger provisions would be made for public participation. States differently, "one size fits all" cannot be applied here. Countries can work out separate bilateral agreements that are based more strongly on implication.

Mr. Knox indicated that the major issue at hand was the presence of two fundamentally different approaches. The solution is to develop a compromise that draws upon both approaches. This could be a useful project for the Secretariat and would capture the vast majority of projects.

Ms. Correa informed the audience that the Federal Government has considered all aspects of the TEIA, and the EPA Administrator indicated that she would take a fresh look at it. Ms. Correa stated that conducting two bilateral agreements is not up for consideration as the CEC is a trilateral organization, and that approach becomes a slippery slope. EPA is but one agency of a whole host of other agencies that harbor significant interest. There is discord among the federal family about how to proceed. Ms. Correa said that she would communicate the points Mr. Knox covered but indicated that she did not agree with all of them.

Mr. Houseal commented that a trilateral approach can be crafted without extreme difficulty. Ms. Correa stated that the decision needs to be made on the level of the U.S. Government.

Mr. Bernal commented that it would be worthwhile to understand all the issues on this topic, and perhaps a binational review could be arranged.

Ms. Chapman remarked that she had insisted NAC/GAC receive an overview of TEIA because of the controversy surrounding it. She commented that she learned a great deal about the issue and the process and found the session quite helpful.

Discussion on CEC Communications Strategy Plan

Sylvia Correa, Senior Advisor for North American Affairs, OITA, EPA

Mr. Wennberg indicated that he had asked Ms. Correa to provide background on the origins of the CEC Communications Plan and the Council's status relative to courses of action for enacting it.

Ms. Correa stated that the Council decided that CEC would look toward the Secretariat to put together a Communications Strategy. CEC approached her in September and asked for an approval or disapproval on the document within 3 weeks. She responded that the United States would not make a decision related to the document until further advice was received from the people who submitted it. She believed that the document was very Secretariat-driven, and she would like to see a more broadly crafted approach. To that effect, Ms. Correa asked if JPAC could serve as a megaphone to communicate back to the CEC, noting that JPAC is a representative to NAC/GAC. Overall, the Communications Strategy should take into account the desires of the Secretariat and CEC.

Mr. Wennberg thanked Ms. Correa for deferring her response and insisting upon bringing the document to this venue, thus giving NAC/GAC members an opportunity to review it and provide advice. He observed that certain issues have surfaced throughout the history of these two committees, and that many specific recommendations provided in earlier Committee advice letters were clearly considered in the draft.

Mr. Rubinstein inquired on how to translate the goals into actual success stories and project CEC relevance. To function as megaphones, JPAC needs a "bumper sticker message".

Dr. Gallagher stressed that all successful communication strategies require a firm understanding of the audience groups, who in turn need to be provided with solid metrics. In addition, evaluations need to include a "relative to what" component to supplement the "relative to when" component. To achieve this, a similar sister organization needs to be identified and used as basis of comparison on certain points. He also highlighted the need to determine the extent that these studies are referenced—specifically taking into account the number of times a document is downloaded versus the number of web hits.

Mr. Markel remarked that based on his work with the CEC in the 1990s, he believes CEC already uses many of the communication strategies highlighted, and he wondered how that could be captured best. He also believed, however, that, 17 years later, the general U.S. public lacks awareness of CEC, but the submissions process is fairly well known by certain types of organizations, e.g., NGOs (that care about SEM process). The process itself continues not to work very well. Mr. Markel questioned the value CEC raises via its work—this and actual metrics need to be included.

Dr. Pastor expressed his agreement with Mr. Markel's points, and added that the document takes on a quality of having been done before. The point of departure is that current benchmarks are needed. Also, the document's provision of a message for every project seems premature, especially because CEC is not well known. The first step is to get people to the website and looking at the materials. If the group can produce a matrix, it could be converted into a visual that is absorbed easily by public audiences, thus providing a hook. In addition, a survey on the issues should be administered to the citizens of all three countries, building on the fact that they all live on one continent. The survey should ask for citizens' opinions on what they believe should be done.

Mr. Houseal remarked that the Communications Strategy is overly ambitious, and should perhaps be more focused on telling the success stories. Also, it strikes him that no individuals are listed as accountable. This challenge needs to be faced, particularly from the perspective of conducting cooperative work among three national governments.

Ms. Carola Serrato (South Texas Water Authority), GAC member, observed the recurring theme of communicating success stories, and this actually is addressed on page 11 of the Communications Strategy Plan. Criteria used for selecting the projects with the greatest media potential should be established. She also noted that only about one-half of the individuals present subscribe to CEC and receive all their notices. Dr. Pastor asked about the process for signing up. Mr. Wennberg informed them that the vehicle is a listserv. Mr. Rubinstein remarked that the fact that many NAC/GAC members were learning about the existence of the CEC listserv in this manner proves there is an issue.

Mr. Salud Carbajal (First District Supervisor, County of Santa Barbara), GAC member, believes CEC should orient the strategy from a NAFTA perspective; use NAFTA as a jumping off point when articulating CEC structure, and then it will make more sense to people. There is a need to create an understanding of the flow chart; one is needed for each of these groups, which contain all the success stories. Mr. Bent agreed, and indicated that the document is overreaching and needs to be down-sized and more targeted.

Ms. Jones-Jackson expressed Administrator Jackson's interest in receiving help from NAC/GAC to target audiences, and requested that NAC/GAC members generate a list.

Dr. Cecilia Martinez (University of Delaware), NAC member, noted that the impacted communities warrant close examination.

Mr. Carbajal indicated that the citizens at large comprise another audience. An opportunity is lost by holding these sessions in places like Austin when nobody is aware that the meeting is taking place. Perhaps information on upcoming meetings could be provided to the local media ahead of time to garner public interest.

Mr. Wagner commented that media projects first should be chosen based on their merit and importance to the community, and then showcased via media.

Dr. Gallagher acknowledged that a major difficulty associated with this task is that, 8 years ago, NAFTA was highly politicized; it may be less so now. The place to start is with the audience.

Ms. Chapman remarked that a vital component in most successful strategies is to have a designated spokesperson, which gets to the point of ensuring a message about each project. On the flip-side, the Operational Plan is dictated by the parties, not the Secretariat, but the Secretariat is charged with fitting those projects into a coherent message. Mr. Houseal mentioned that most organizations have a press officer, which would perhaps serve the CEC very well.

Mr. Rubinstein noted that a crucial factor in describing a successful project is knowing how to measure its success and determining when it should end.

Mr. Wennberg summarized the input thus far on the Communications Strategy:

- It reads like a template for how to build a communications strategy.
- No light is shed on who is accountable.
- It lacks an associated budget.
- It is too ambitious to be successful.
- The required funds for media to raise CEC awareness would add up to several times the current expenditure.
- Audiences are defined too broadly.
- It needs much more definition and focus.
- It devotes much to leveraging opportunities with existing constituencies.

Ms. Correa commented that the draft she shared with NAC/GAC was probably the fourth draft of the Communications Strategy.

Ms. Chapman expressed her appreciation for the opportunity to comment on the Communications Strategy. She remarked on the tough challenge that lies ahead regarding the need to balance many perspectives, many political considerations, and address all the desired audiences. She indicated that members' comments in the advice letters should be as specific as possible. Ms. Chapman also stated that she is interested in determining how this could be made more relevant to First Nations.

Public Comment Period

Mr. Wennberg asked whether any members of the public would like to make a comment or ask a question. No public comments were offered. He mentioned that another opportunity to provide comments would occur the following day.

Mr. Wennberg reminded the group that during Friday's session the Committees would be offering their responses to the charge questions, as well as any other advice, for potential inclusion in the advice letter.

Mr. Carillo asked the members to check their calendars for the discussion of dates during the business meetings the following day. He also gained agreement from the group to begin the following morning at 8:45 a.m. instead of 9:00 a.m.

Ms. Chapman recessed the meeting for the day at 5:20 p.m.

FRIDAY OCTOBER 21, 2011

BUSINESS MEETING

Committees Meet Jointly

Mr. Wennberg reviewed the agenda for the day.

Mr. Carillo asked the group about who from NAC/GAC should attend the JPAC meeting on November 7-8 in El Paso. Ms. Karen Gallegos (Water Protection Advisory Board, City of Albuquerque), GAC member, and Dr. Bustamante were nominated to attend because of their geographic locations.

Mr. Carillo stated that most NAC/GAC members were appointed the previous year for a 2-year term, and he hopes to reappoint most of them.

Mr. Carillo discussed the locations for future meetings, stating that although the goal is to hold one of the two annual meetings in Washington, DC, and the other at another location, financial challenges dictate that both sessions likely will convene in Washington, DC, for the upcoming years. An advantage of this arrangement is that more individuals from EPA and other relevant agencies are able to attend the meeting and address issues.

Mr. Bent suggested occasionally substituting meetings with webinars. Ms. Jones-Jackson indicated that they indeed were examining creative ways to convene the Committees. Mr. Rubinstein inquired about the possibility of meeting at local EPA offices, which have the infrastructure for videoconferencing. This venue also would encourage relationship building with local offices.

Ms. Chapman stated her preference to meet in person, and she had no objection to holding the meetings in Washington, DC.

Mr. Carillo reviewed potential dates. Asking for a show of hands, he determined that four members were unavailable to meet April 19-20, 2012, and that three members could not meet April 26-27, 2012.

Mr. Carillo notified all present that the current NAC/GAC chairs had been in these positions for 6 years. Their tenure as chairs will end with the April 2012 meeting.

Mr. Carillo asked about members' availability for October 18-19 and 25-26, 2012. Members were available for both sets of dates. One member stated a preference for October 25-26.

Mr. Wennberg indicated that the minutes from the April 14-15, 2011 meeting could be found in the packet and that they had been e-mailed to members previously. He asked for any comments, questions, or corrections to the minutes. Two members pointed out two minor errors in wording.

Mr. Markel requested that the minutes be circulated to members within 1 or 2 months of the meeting. Mr. Mark Joyce (OFACMO, EPA) said that it takes about 2 weeks to prepare the minutes; EPA will make an effort to circulate the draft minutes earlier.

Dr. Pastor applauded the comprehensive nature of the meeting summary, and other participants expressed their agreement.

Mr. Wennberg sought and gained official approval of the minutes with the noted corrections.

Mr. Carillo then encouraged everyone to provide their feedback by filling out the evaluation forms.

Public Comment Period

A member of the public commented that the Committees appeared to be doing a terrific job.

Committees Meet in Separate Sessions

GAC Session

Mr. Wennberg read the charge question (see Appendix C), noting that NAC/GAC had been asked to add an addendum to answer specifically how EPA, NAC, GAC, and others affiliated with CEC could offer assistance with and/or improve CEC public communication.

Mr. Rubinstein suggested that, at a minimum, a link should be created for the CEC website on the websites of respective members as well as those of EPA and the NAC/GAC to provide users an opportunity to learn more about CEC.

Mr. Wagner asked what efforts, if any, were being applied to the facilitation of public comment sessions, and whether the public is aware that these sessions take place. Mr. Rubinstein replied that he has observed meaningful public comment only while attending JPAC meetings in Mexico; perhaps there is something to be learned from the approach used there for public comment. Mr. Wennberg noted that members of the public tend to surface during the Washington, DC, sessions.

Mr. Wagner commented that the CEC session held in Montreal allowed the public to participate via webcam, but it was difficult to provide comments using this system. He suggested implementation of a more user-friendly setup and/or inclusion of a tutorial on how to contribute comments during meetings when using that format.

Following up on Mr. Carbajal's and Mr. Rubinstein's earlier comments regarding press releases in advance of meetings, Ms. Gallegos pointed out that the EPA Office of Public Affairs has always performed very well, and perhaps CEC should coordinate with them. Mr. Rubinstein concurred, noting that ideally, the representing entity would use a template in conjunction with EPA, and have the option to include a local quote, but the message would remain the same. Mr. Carbajal requested that the templates contain background information, perhaps in the form of an attachment, so the user could call upon background information without needing to conduct a search. The attachment is necessary to orient people on meeting content.

Mr. Carbajal remarked that identification and prioritization of audiences is required to formulate the most strategic approach. Mr. Wennberg stated that the main audience for NAC/GAC, technically, is the EPA Administrator and U.S. Government. NAC/GAC does not have a public audience, but its overall role creates an opportunity to communicate messages. The Administrator has asked NAC/GAC to help identify the CEC audience and determine how the Committees could help develop CEC's message.

Mr. Carbajal wondered if perhaps this exercise should be directed toward the CEC—some entity needs to conduct an audience analysis. Mr. Rubinstein pointed out that the NAC/GAC gets to choose whether to incorporate or ignore the public comments provided at each meeting—the issue at hand is how to generate public involvement in the first place.

Ms. Serrato suggested that all should be mindful of the framework throughout this process—it already has been concluded that CEC will never become a household word and perhaps was never intended to become one. In the strategy document, CEC has described who they are trying to reach and their desired audience. Should local community activists and university staffs be invited? She stressed the importance of keeping the framework at the forefront. Mr. Wennberg stated that the group, however, is obligated to evaluate the actual strategy.

Mr. Kirk Cook (Washington State Department of Agriculture), GAC member, commented that all NAC/GAC members were appointed for specific reasons. He believes that reaching out to other agencies and ministries to explain the CEC and to initiate a dialogue is incumbent upon him and other NAC/GAC members. He does not believe, however, that he could represent effectively all of the northwest; supplying information from within his own vacuum is inadequate. To truly fulfill the mission, he believes he would need to reach out to the agencies and explain the link to NAFTA, which likely will trigger immediate interest and provision of input. Mr. Wennberg replied that when he was commissioner of the Department of Environmental Conservation (Vermont), he held regular meetings with many agencies, which created a sort of fraternity with whom to share the highlights of the NAC/GAC meetings—and the resulting perspective was highly useful.

Dr. Trujillo stated the importance of examining the most vulnerable communities when addressing overarching goals. She said the Mexican contingency was well prepared at the JPAC meeting. Dr. Trujillo and Ms. Small wanted to provide similar public comment for the Tribal network issues, but were unable to do so because of the sprawling range of issues. Dr. Trujillo also noted that a different mechanism needs to be implemented to reach out to First Nations indigenous peoples. Mr. Wennberg remarked that the concern is highly appropriate; NAC/GAC was asked specifically to focus on this issue because it is a particularly challenging component. Mr. Wagner noted that as vice-chair of the Tribal Caucus, he seeks an improved definition and outline, which would allow him to spread the word at caucus meetings more effectively, thus generating increased interest and input.

Mr. Bernal commented that the mention of NAFTA does not pique the interest of agencies in Arizona. He believes the task at hand is to link CEC involvement to current topics within existing structures. A strong awareness could be cultivated by promoting successes.

Dr. Trujillo noted that while viewing a presentation outside the previous day's session, she learned that BECC has worked on projects in Arizona and other transborder locations, which harbor many tribes. She is aware that Mexico does not want to support some projects in Arizona because of its strict immigration laws. Mexico needs to know, however, that indigenous nations have a nation-to-nation, political, legal relationship with the United States, which should not impede Mexico from working with border tribes in Arizona and elsewhere. Mr. Wagner echoed this sentiment, noting the need to bring in the Tribal/indigenous communities as an audience, and that specific mention of this involvement is limited in the document.

Ms. Serrato noted that as a member of local government, she knows activists are looking for agencies with which to engage to help fix problems but they need to know how agencies could be of use to their efforts. A succinct message is needed that describes how the CEC could benefit the public, but she was not certain if such a message actually exists beyond NAPECA grants.

Mr. Carbajal noted that all NAC/GAC members are involved in interesting networks, and they each have the ability to inform at their respective forums and meetings. GAC members could co-facilitate those types of forums to discuss how environmental justice issues are addressed in the CEC process or how CEC is implementing and prioritizing the human needs.

Mr. Bernal noted that the Administrator's presence draws a crowd—perhaps her calendar should be consulted before NAC/GAC members consider theirs. Ms. Serrato commented that in her 7 years serving on the Small Community Advisory Committee that met three times per year, the Administrator attended only once. Mr. Rubinstein contributed further stating that in his 3 years of sitting on the GAC, the Administrator always has been well informed regarding NAC/GAC activities, demonstrating an understanding of the advice and responding with probing questions. It is more critical that the Administrator be well informed than in attendance. Perhaps the five states with sister agreements mentioned on the previous day by Stephen Niemeyer (TCEQ), however, should be included to add relevance.

Mr. Joyce noted that the Committee members advise broad audiences, and the advice is distributed at many venues. These Committees consist of representative members, designed to create a rough balance, including representation from state, local, and Tribal governments, and the hope is that each member reaches out to his or her respective constituencies to spread awareness and gain input/feedback. He indicated that advice from Committee members on how to improve that outreach so that they could bring that input back to these sessions would be extremely helpful.

Mr. Wennberg said that the group's previous advice letter mentioned Mr. Joyce's point. He referred to the paragraph that indicates each GAC member working in government should take advantage of the numerous opportunities to share a canned CEC presentation at peer association and other relevant gatherings to raise awareness of CEC among U.S. constituencies. The GAC member could ask for 10 minutes on the agenda to bring knowledge of CEC to the association, and to drill down on its specific areas of interest that relate to CEC.

Ms. Gallegos expressed strong encouragement for a canned CEC message. She would inform local level communities that they would learn about the CEC at the national level, but she is there to provide an overview on the local level. Several questions remain: What is the message CEC wants to spread? How can it help local communities? Perhaps the exact CEC message should be determined as the audience is defined. In addition, she always has been impressed with BECC's metrics as evidenced in its annual report, and she believes CEC needs to devise a system of metrics for its project outcomes. Overall, the communications strategy needs to focus on the message it strives to convey and the value that CEC adds.

Ms. Serrato noted that previous suggestions were made to expand on several examples of issue resolution as a method of increasing awareness, which was subsequently turned down. She still believes, however,

that this is a worthwhile strategy to pursue. She invited all present to ponder whether the CEC-sponsored studies sit on the shelf or yield concrete projects that demonstrate evidence of improved lives. She agrees with the press release idea, but encourages mindfulness of the disclaimer—CEC is hesitant to permit NAC/GAC to tweak anything because it becomes a brand of EPA.

Mr. Joyce noted that in recent years, the parties pushed to control the Secretariat work plan more explicitly—earlier operations exhibited more latitude than current ways of business. More effort was applied on where the CEC focuses its resources, and this should implicate other agency resources.

Mr. Rubinstein mentioned that the strategy document had triggered many comments on the previous day. A major strength is that a document has been prepared. Of the weaknesses listed, the strategy's overreaching nature and lack of responsibility seemed to resonate most; if it remains in its present state, the framework will become irrelevant. Mr. Cook agreed, stating that his first impression was that it is quite complex and trying to accomplish too much; it should be more direct and focused. The document would benefit greatly from an adaptive management approach. Mr. Carbajal also was in agreement, identifying the strategy as ambitious and in need of modification to the "right size" that draws upon available resources. The document highlights many sophisticated tenets of communication—it is clear that the authors are aware of all the methods of outreach and connection. Mr. Wagner emphasized that if it is trimmed down, it will grow on its own. Working with it in its present state would necessitate many subcommittees. Mr. Rubinstein commented that a successful communication strategy should detail how success is measured and when a project should be ended. Ms. Serrato added that whenever engagement is discussed, it should include Tribal and indigenous nations.

Mr. Wennberg suggested that the advice letter should begin with praise for the CEC for drafting the document and addressing the needs and issues comprehensively. Next, several items of constructive criticism should be listed. The document: needs to be scaled down and more limited in scope (approximately 3 pages), should include a projected timeline, and should contain an organizational chart that outlines accountabilities. In addition, the document would benefit from the appointment of an individual with specific expertise in communications strategies, thereby increasing the document's credibility greatly. It also should be conveyed that the document is several steps from where it needs to be; a message for each project is not needed yet as that is part of implementation (rather than strategy) and because it loses sight of the big picture.

Ms. Serrato recommended a three-pronged strategy that focuses on the most important components. Mr. Carbajal stated that the main issues lie with prioritizing and right-sizing—he believes the scope is in the right ballpark. Ms. Serrato observed a chicken and egg phenomenon with regard to CEC projects and CEC brand—one is used to get to the other. Ms. Gallegos commented that the question returns to determining the message they want to relay—perhaps that message should be defined further. She pointed out that the number one communication goal listed in the document is to increase awareness. Mr. Rubinstein and Mr. Cook indicated that relevance is more appropriate than awareness.

Mr. Carbajal emphasized that the projects themselves will communicate the message and will define the audience, which then should be aligned realistically with resources. He believes the CEC should seek to share progress more than to improve its reputation. Mr. Wagner echoed this sentiment—if successful projects are communicated, the reputation will build itself. Mr. Rubinstein agreed that CEC should tell stories of the progress achieved by the three parties. Mr. Joyce stressed a need to communicate stories that connect to real world examples. He noted as an example the extremely successful Pollutant Release and Transfer Register (PRTR) report on harmonizing the reporting efforts on the continent's harmful chemicals; dioxin was detected in breast milk within indigenous communities, and the PRTR established baselines and methods for measuring emission rates. Mr. Carbajal exclaimed that this is exactly what is needed to generate relevance—dioxin was identified and an action plan was created to resolve it. Even if certain action plans still are in progress, this format effectively approaches relevance. Mr. Rubinstein

commented that he could list hundreds of examples in his own community, and if the reader believes CEC is attending to his/her local issue, then the CEC is relevant to the reader.

Mr. Wennberg contributed that conducting a general awareness campaign would be costly and not feasible from a resource perspective. The anecdotal approach, however, creates an opportunity to leverage all networks and working groups by making coordinated and intentional efforts to increase awareness at every opportunity and meeting, and to make certain that every person in that room is aware of the existence of this tool as well as its power and scope.

Mr. Bernal commented on the transboundary border successes, and the issue of trilateral versus bilateral operations. Perhaps Canada should be told that border issues are being addressed with or without an agreement—essentially, there needs to be a way this work could continue without threats associated with bilateral or trilateral agreements. Mr. Wagner also wondered how to distance the work from bilateral projects, noting the unique position of the United States on both borders; Mexico likely is far less motivated to work with Canada, and using the trilateral approach for issues that simply do not exist poses a major challenge. Projects and concerns regarding indigenous issues for example, water, air, and grasslands, transcend all three countries, but many other issues are bilateral in nature, and to exclude these potential projects because they are bilateral and not trilateral is unfair. Mr. Wennberg questioned how the CEC assists with this issue, noting that the problem obviously is political—the United States does not want to hold two bilateral agreements, however, the definitions for many of the projects overlap significantly. Perhaps the CEC should study the TEIA definition from each country during the past 5 years. Ms. Serrato suggested giving this matter consideration during the upcoming operational plan meeting, and conducting historical research and defining projects at the state level. Mr. Rubinstein commented on the fact that BECC is building on this already—discussions with Mexico regarding objections should reinforce the fact of BECC’s wide use.

Ms. Serrato asked if she understood correctly that JPAC requested the formation of working committees, and she expressed an interest in a similar arrangement for e-waste. Also, she wondered if, in addition to formulating recommendations for the Administrator, NAC/GAC could advise JPAC on certain issues such as e-waste. Ms. Gallegos noted that she will be attending JPAC and will have the opportunity to provide a NAC/GAC report out at the meeting, and then she will report back to NAC/GAC.

Mr. Wennberg asked if there was anything else that should be considered for the advice letter. He concluded that he had all the information necessary to respond to the charge questions confidently.

NAC Session

Ms. Chapman directed NAC members to retrieve and review the charge question. She encouraged members to provide positive and proactive advice rather than unconstructive criticism. Also, she mentioned that the group should consider including advice on the TEIA.

Ms. Chapman recalled Ms. Correa’s statement the previous day that the CEC would not conduct any bilateral agreements; however, Ms. Chapman was of the opinion that there was a strong likelihood two bilateral agreements would lead to a trilateral outcome, an option that is not beyond the purview of CEC and EPA. Mr. Houseal countered that, at this political point in time, CEC’s involvement in TEIA would be detrimental to EPA because it may appear to some that EPA is regulating business again. Instead, he believes research and coalition building should be conducted at present. Mr. Bent expressed agreement on this, noting how BECC and other work along the border illustrate successful transboundary activities. Dr. Pastor concurred that TEIA should be pursued, but perhaps not in the public domain.

Mr. Houseal requested that NAC first cover the communications recommendations and reserve more substantive discussions for the transborder impacts.

Regarding the communications strategy, Mr. Bent asked if focus could be applied to the already-implemented programs in a step-wise fashion. Several initial steps would include establishing the audience, creating the message, ascertaining stakeholder interests, and determining CEC communication goals. Essentially, awareness is generated best by highlighting and promoting successes—but this is a major challenge for an organization that does not have a product.

Ms. Ana Romero-Lizana (International Business Development, World Trade Center), NAC member, said that market strategy is generally based on either pull or push. The push strategy begins with upper management, and depending on the industry, it is effective. For many organizations, the strategy begins with middle management—once they are onboard, the task becomes pulling upper and lower levels in as well. Though the product is not tangible, this strategy works well to sell the story as the product.

Dr. Gallagher believes an imperative next step for the CEC goal of reinvigorating its communication strategy is to hire a Communications Director to implement the plan and take part in the actual development of future communication plan drafts.

Dr. Gallagher shared several comments on improving the communications draft. He thinks multiple sub-audiences should be defined specifically. He encourages the use of a survey to determine the extent to which they are reaching those audiences already so that they have a benchmark to measure improvement. He thought an informal survey would be highly informative, despite its expense. The survey needs to focus on relative comparisons, measuring against other institutions. A citation analysis also is necessary to determine the extent to which CEC reports are being incorporated and cited by governments, businesses, NGOs, and other organizations. A specific and informative indicator is the number of CEC report downloads, and not just the number of hits.

Dr. Pastor agreed on the value of conducting a simple survey and stated that the Communications Strategy should project the overall focus of the CEC—it is the only commission that really collects and aggregates North American indicators on environmental health. Building a comprehensive road map of those indicators is the CEC's job—and the creation of this road map would allow the public to conclude that this is an institution that matters. He thinks the NAPECA grant program is vital, but should not be included in this strategy because it may muddle the CEC mission, confusing the public into thinking (a) CEC is a grant-making institution and (b) CEC is designed to assist all native peoples in North America when really it is quite modest.

Regarding overall strategy, Dr. Gallagher believes it would be helpful for an individual from the CEC to present on the SEM process at the April 2012 meeting to enable real-time comments from NAC/GAC members, who then would incorporate the comments into the resulting advice letter prior to the subsequent Council session.

Dr. Gallagher expressed concern regarding the expert panel appointed for the evaluation of the Trade and Environment program during the July Council session. The current panel does not appear enriched with environmental expertise—though Mexico's three representatives possess strong academic backgrounds, the U.S. contingent includes members of think tanks, which are highly politicized, and Canada's representatives stem from NGOs, which tend to lean toward a specific perspective. Ms. Chapman thanked Dr. Gallagher for the valuable information, and mentioned her surprise that she had not learned yet who would sit on the panel of experts. Dr. Pastor said the panel likely was not designated strategically—the environment is simply absent from the administration's actual agenda. NAC needs to make clear in its advice letter that it is in operation because it believes North America and the environment are both priorities for the United States, and that the United States needs to push these issues at every opportunity, particularly at the summit meetings with the three leaders.

In reference to the question she asked on the previous day regarding how the committees could learn which projects were successful, Dr. Bustamante wondered how the Communications Strategy addresses those communities that experience the greatest impact, yet have not been helped by these processes. She

expressed concern that the current system loses sight of the global impact on local communities, and she was uncertain as to the necessary next steps.

Dr. Pastor noted that prior to 9/11, the border areas were functioning pretty well on both sides without significant involvement of each nation's capitol. He supports efforts aimed at restoring balance at the borders, noting that insights gleaned from different border systems could prove highly useful. A major flaw, however, is placing excessive emphasis on the borders themselves and not extending developed infrastructure into the country beyond.

Ms. Chapman noted that the comments on SEM from the past advice letters still appear relevant. She may add a recommendation for the CEC to present on the SEM process at the April 2012 meeting. She also noted that, although milestone timelines were created for the SEM process, no consequences have been defined in the event they are not met. She asked the group if they thought any other SEM advice should be updated. Mr. Carillo pointed out that Ms. Adkins is the U.S. Government lead and head of the trilateral review, and she plans to attend the April session and provide a status update on the SEM process. He also mentioned that BECC is an organization whose experiences as a NAFTA sister organization can be instructive to the CEC.

Mr. Houseal commented on the Communications Strategy, noting that the Secretariat should know that it needs some refinement, but was well done and thorough. More importantly it requires accountability and a budget within CEC to make it operational. As a mouthpiece for the CEC, NAC/GAC can participate in the Communications Strategy process by making several recommendations: (1) add CEC hot links to respective websites, (2) conduct periodic conference calls within the regional networks of NAC (leverage constituencies) to determine what will yield media success, and (3) investigate the use of public television broadcasting to tell CEC's stories regularly using the more aesthetic stories as a hook and then progressing to thornier areas like trilateral truck emissions.

Mr. Houseal commented on the TEIA, noting that hundreds of bilateral agreements are in place between the United States and Mexico or the United States and Canada, and many of those include an environmental component. A matrix is needed that examines U.S. NEPA, and perhaps other countries' environmental laws, and compares them against bilateral examples of best practices to determine how much already is being done. The dilemma is that three governments are involved. One possibility lies in the creation of a working group from NAC (which would harbor advantages like sound acclimations, legal minds, and contacts across the borders) to conduct an offline academic study and then report back on the best practices, thus fulfilling one of the charter agreements of NAFTA. Ms. Chapman asked the group to consider this idea. Dr. Pastor suggested that Mr. Houseal draft a paragraph on the idea and circulate it throughout the group to determine interest, and then establish some deadlines. Ms. Jones-Jackson stated that if this is pursued, a Working Group would need to be formed. The advice of the Working Group would need to work its way up to Ms. Chapman as the NAC chair, but teleconferences could be conducted for that purpose. Mr. Houseal stated that he cannot claim authorship. Ms. Chapman requested to make this an action item and clarified individual responsibilities—Mr. Lozano on the Northern border, Dr. Pastor on the Southern border, and Ms. Chapman and Dr. Gallagher would help with both.

Mr. Bent commented on the Communications Strategy, noting how valuable it was to hear Mr. Knox discuss the history of the TEIA. He thinks one of the communication roles needs to be an internal one—there is a need to understand the key issues and how they change over time. A member of CEC should be charged with keeping that history so that someone from the general public can gain an idea of the big picture more easily. Ms. Chapman noted that much of this is nuanced—CEC may not wish to create a PowerPoint presentation on negative reports—but a history potentially could be incorporated into orientation. Perhaps former NAC/GAC chairs could attend and provide CEC background. Mr. Carillo mentioned that the previous Executive Director of the CEC may be ideal in this capacity.

Mr. Gallagher mentioned that the U.S. Trade Representative (USTR) plays a major role for the CEC and has the least environmental influence. It would be preferable to learn about the preliminary findings on SEM prior to their presentation at the Council to allow NAC/GAC an opportunity to provide feedback.

Ms. Chapman asked who should present the CEC briefing. Mr. Gallagher said if Trade and Environment has a CEC staffer, he or she may be the ideal candidate.

Regarding the Trade and Environment discussion, Ms. Chapman gained agreement from the Committee that:

1. NAC would seek a terms of reference document for the Trade and Environment review expert panel.
2. Mr. Carillo would send NAC members the names of the individuals slated to sit on the expert panel.
3. NAC will request a presentation on the panel's deliberations to take place at the April NAC meeting; NAC will respond within the subsequent advice letter to be drafted prior to the June CEC session.

Ms. Small indicated that she would like to review the terms of office for the expert panel—if there were appointees, the opportunity may exist to enable new appointments.

Ms. Small commented on the June 9, 2011, letter written by Ms. Michelle DePass with regard to the North American Indigenous Subcommittee, in which she stated a need to continue working within the existing framework. The goal to incorporate Tribal Affairs with OITA, however, is not feasible without a specific and focused strategic plan. Ms. Chapman pointed out that this issue appears to lie with the OITA strategy. Ms. Small interjected that NAC and GAC are both charged to provide advice under FACA, and to represent the NAC/GAC Tribal issues and offer advice to the Administrator.

Dr. Pastor indicated that he had asked for an explanation on why the Office of Tribal Affairs was merged with OITA, and the answer he received was not persuasive in his opinion: the tribes desired increased representation. He believes firmly that Tribal and indigenous communities require better representation within EPA. He wonders if NAC could recommend their full support for increased Tribal representation by re-creating an office for Tribal concerns—separate and equal to OITA—to give proper elevation to Tribal issues. Ms. Chapman interjected that the discussion was moving beyond the limits of the CEC purview. Ms. Jones-Jackson stated that her office (OFACMO) had met with OITA recently to discuss issues and concerns—OITA believes NAC/GAC, with its Tribal representation, can bring many of these concerns to the table. She noted that when the Office of Tribal Affairs was a separate office, it sat within the Office of Water and had low visibility within the Agency. Less than 1 year ago, the office was migrated to OITA, and Tribal issues and concerns have been elevated significantly, with great potential for further elevation still. Ms. Small appreciated the sentiment, but expressed her concern that unless a strategic plan is put in place for how to deal with Tribal issues within EPA, then those issues are likely to be addressed inadequately. She recommends that NAC respond specifically to the June 9, 2011, letter by suggesting formation of a NAC/GAC Working Group to address where Tribal needs could be met best within OITA. Issues to be explored would include staffing and budget—the NAPECA process is excellent, but very limiting. Ms. Chapman stated that Ms. Small needs to separate the OITA and its Tribal representation from her Committee membership. Ms. Chapman summarized Ms. Small's overall objectives as follows: (1) to encourage OITA to create a strategy, and (2) to establish a stronger NAC/GAC strategy for Tribal representation. The first objective is a separate issue that cannot be discussed during the NAC session; however, the second objective can be addressed through a Working Group.

Mr. Houseal supports Ms. Small's recommendation, adding that, although NAC would not benefit from questioning EPA on its decision to move Tribal Affairs to OITA, in the NAFTA/CEC context, NAFTA has left an obvious impact on Native communities, both in a bilateral setting and across North America. He believes this discussion carries just as much weight as TEIA with regard to its effects on marginal communities that harbor major natural resource bases. Thus, regardless of how it is framed, its forward motion requires significant strategic thinking. Ms. Chapman appointed Ms. Small to assist in drafting this portion of the advice letter.

Dr. Martinez also concurred with the process outlined by Ms. Small and Mr. Houseal, particularly because of the differences in legal and sovereignty issues in terms of how U.S. Tribes versus First Nations versus indigenous Tribes in Mexico differ in these capacities among the three countries. To pursue trilateral agreements within these communities, the differences in these legal structures need to be determined as well as differences in how they respond to environmental issues.

Dr. Bustamante noted the existence of international bodies within the United Nations that recognize sovereign nations within different countries, making this issue an international one.

Mr. Lozano commented that on the previous day, a list of 40 Tribes that had expressed treaty interest in the Great Lakes space was compiled. Mr. Wagner has agreed to address this topic when the Tribal representatives meet in Region 5. Mr. Lozano suggested that any input gained should be pulled into the matrix that was proposed earlier.

Ms. Small indicated that the Communications Strategy should outline a focused approach to deal with indigenous peoples and communities, many of whom do not even have access to broadband or cellular service. She believes the Working Group should be charged with this issue and ensuring that the Communications Strategy compensates for this isolation. Ms. Chapman expressed her full support of the suggestion and was glad to add it to the advice letter.

Ms. Chapman mentioned the TEIA, and that she observed a somewhat divided reaction within the Committees on whether EPA should pursue a conversation about TEIA at this time.

Dr. Gallagher made mention of Mr. Houseal's preference for this issue to maintain low visibility, but said the question before the NAC is whether or not NAC should encourage fulfillment of the original NAFTA agreement on this issue, which would require, at a minimum, that EPA and the State Department begin consultations first within the government and followed by all three governments on ways to approach this obligation so that an agreement can be determined. This does not require publicizing, but much work needs to be done as it appears to be stagnant at present.

Mr. Houseal understands that he is to take the lead on drafting up several framing questions on the issue and suggesting a process solution. He stated that he would extend just beyond where he believes EPA is comfortable. He is aware that civil societies within Mexico and Canada are interested in doing this, but much frustration surrounds this issue because as it enters into governmental bureaucracy, the legalities get tangled even though the basic concepts and principles are already in place via many bilateral agreements.

Dr. Gallagher sought re-affirmation of the Committee's interest that the TEIA should move forward because of the obligation by all three parties under NAFTA that such an agreement should be reached. The NAC members also agreed to request that CEC identify a person within the State Department or EPA with whom they could engage on this topic and discuss potential ways to move forward on these issues. In the interim, Mr. Houseal will send to several NAC members a one-page document that raises questions for NAC to ponder in preparation for the exchange with the Executive Branch representative.

Ms. Chapman summarized that the following points should be included in the advice letter: (1) re-affirm CEC interest in TEIA, (2) indicate that NAC would like to re-engage with an individual from the State Department and EPA to discuss different methods to move forward, and (2) indicate that, to the extent it

is logical and feasible, NAC would like to form a Working Group comprised of NAC members and any interested GAC members to examine specific methods that may result from this conversation moving a TEIA-like procedure forward. Ms. Jones-Jackson commented that when she needed to be brought up to speed on TEIA, OFACMO turned to someone from the Office of General Counsel who serves as the lead on TEIA matters and has many State Department connections—this individual would be ideal for the engagement NAC is proposing.

With regard to the statement above, Dr. Gallagher expressed some hesitation related to bureaucracy concerns. He thought that an informal approach suggestive of an exchange of views may yield quicker, more effective results. Mr. Houseal said that perhaps rephrasing to “NAC and GAC are willing to lend their expertise to explore potential solutions regarding TEIA,” may help in that regard. After conferring with Ms. Jones-Jackson, Ms. Chapman clarified that, to hold informal discussions, the question needs to be framed as asking for someone from the State Department with whom to engage.

Mr. Houseal invited the members to consider the notion of creating a hook for business (e.g., creating an opportunity for truckers to meet specific requirements and receive a NAFTA stamp). Many of the arguments that portray EPA as a job killer are related to the policy reforms that are needed to make the process more cost efficient and effective for industry. There are plenty of environmental regulations—this approach may be a way to improve the situation to enable “environmental protection, not perfection.”

Ms. Small remarked that it would be immensely helpful to this effort if the Executive Branch appointee had an applied understanding of TEIA. Mr. Bent confirmed his full support in pulling together all of their collective experience on binational agreements and comparing and contrasting these agreements. He also mentioned Customs-Trade Partnerships Against Terrorism (CTPAT), a security-oriented process and procedure for shipping that defines specific requirements and security measures, even within the production facility. CTPAT certification enables the shipper to know that shipped materials have been properly managed from origin to endpoint. Perhaps this could be used as a reference point or benchmark for how governments could move forward on TEIA. Dr. Gallagher interjected that CTPAT is a way to ease the transportation of vehicles across the border via a pre-certification process, and although the sense of pre-certification may be similar, the agencies involved, their sense of responsibilities, and their purposes are quite distinct. He does not know whether North America can engage on an environmental certification process just yet. It is a tremendous goal, but it is about five steps beyond TEIA.

Ms. Chapman asked members to think about key audiences for the Communications Strategy so some could be incorporated into the letter.

Mr. Lozano asked if linguistic considerations were being accounted for when targeting this strategy to various communities. Ms. Chapman indicated that the web pages and most other products are all available in the three CEC languages: Spanish, French, and English.

Ms. Chapman concluded the session.

Committees Reconvene in Plenary Session

Report-Outs from NAC/GAC Chairs

Ms. Chapman listed the following major NAC discussion points:

- ✧ They will encourage the CEC to conduct a simple, inexpensive survey to obtain baseline and progress measures of how well it gets its message out relative to current levels of CEC awareness.
- ✧ They will advise the use of citation analysis in the Communications Strategy.

- ✧ They will advise CEC to hire communications staff. They do not know the reason for the current absence of that billet, but if they are making all these recommendations, it is critical that someone is appointed both to implement them and to be held accountable.
- ✧ They discussed the Trade and Environment review (not in the charge question). They would like to have a briefing at the next NAC/GAC session on the 16-year review that currently is taking place.
- ✧ Regarding the Trade and Environment review, they are interested in learning the terms of reference for the appointed panel of experts.
- ✧ They discussed the TEIA and are prepared to ask for a recommendation on a State Department representative with whom to engage so that they may better understand potential types of avenues for moving forward with a TEIA. They also discussed potential, practical advice that NAC might offer in the context of the current budgetary and political climate.
- ✧ They discussed the possibility of forming a Working Group or similar entity to explore TEIA possibilities further.
- ✧ They agreed to form a Tribal Affairs Working Group, related to providing NAC/GAC advice to the OITA regarding a strategic plan for integrating Tribal Affairs.

Mr. Wennberg listed the following major GAC discussion points:

- ✧ They would seek guidance from EPA on expectations regarding press conferences attended by NAC/GAC or JPAC members for the purpose of gaining local representation. The EPA Press Office may prepare a template that individual NAC/GAC members could use at local meetings.
- ✧ They revisited the previous recommendation involving member affiliations with many associations, and will encourage CEC to provide canned materials for those members who have opportunities to speak for 10 minutes at a relevant meeting and provide basic CEC information, descriptions of sample projects, and specific projects of interest tailored for the particular meeting or region. They also discussed keeping a record of outreach efforts.
- ✧ Their overall response to the charge question was to respond positively on the Communications Strategy, making an effort to be as constructive as possible. The recommendations should include: making the document more focused, accounting for lack of resources, and right-sizing the document in alignment with resources.
- ✧ They will recommend that a communications staff be appointed.
- ✧ They believe the document's goals as stated are not very relevant, that they are general and amorphous. Ultimately, CEC can achieve a brand and reputation by focusing on their areas of work that are relevant. Funds are insufficient to establish a brand identity in the traditional sense. They should explore resources beyond those immediately available to them.
- ✧ They will provide several specific recommendations on devoting more attention to indigenous communities and establishing better methods to engage them.
- ✧ They will suggest CEC brings on an advisor to ensure real-world individuals are engaged formally and can account for their experience.

Mr. Wennberg asked if there was any other logistical information to cover. Organizers and participants expressed their gratitude to those involved in the meeting.

Mr. Wennberg adjourned the meeting at 12:13 p.m.

Action Items

- ✧ NAC/GAC members should seek to create a link to the CEC website to include on respective members websites and on EPA and NAC/GAC websites.
- ✧ During her attendance at the next JPAC meeting, Ms. Gallegos will include GAC-based advice on e-waste within the NAC/GAC report out.
- ✧ NAC will solicit an individual from the CEC to present on the SEM process at the NAC/GAC April 2012 session, thus enabling real-time comments from NAC/GAC to the CEC representative; the comments will be incorporated immediately into the resulting advice letter.
- ✧ NAC will create a TEIA working group comprised of interested NAC and GAC members to conduct an offline academic study and report back on best practices, thus fulfilling one of the charter agreements of NAFTA. Mr. Lozano will head the Northern border component, Dr. Pastor will head the Southern border component, and Ms. Chapman and Dr. Gallagher will assist on both fronts.
- ✧ Regarding the Trade and Environment review, NAC will seek a terms of reference document for the Trade and Environment review expert panel. Mr. Carillo will send NAC members the names of the individuals slated to sit on the expert panel. NAC will request a presentation on the panel's deliberations to take place at the April 2012 NAC meeting, to which NAC will respond within the subsequent advice letter to be drafted and submitted prior to the June 2012 CEC session.
- ✧ Ms. Small will assist in drafting the portion of the advice letter on the OITA strategic plan regarding the merge with Tribal Affairs.
- ✧ Mr. Houseal will send a one-page document to several NAC members raising questions for NAC to ponder in preparation for the exchange with the Executive Branch representative.
- ✧ Several NAC members will form a Tribal Affairs Working Group to provide NAC-based advice to the OITA regarding a strategic plan for integrating Tribal Affairs.

✧ SUMMARY CERTIFICATION

I, Jeffrey Wennberg, Chair of the Governmental Advisory Committee, and I, Karen Chapman, Chair of the National Advisory Committee, certify that the meeting minutes for the dates of October 20–21, 2011, are hereby detailed, contain a record of the persons present, and give an accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory committees. My signature date complies with the 90-day due date after each meeting required by GSA Final Rule.



Jeffrey N. Wennberg
Chair, GAC

January 21, 2012

Date



Karen M. Chapman
Chair, NAC

January 21, 2012

Date

Appendix A: Meeting Participants

NAC Members

Karen M. Chapman, Chair
Great Lakes Regional Director
Environmental Defense

Timothy A. Bent
Director
Environmental Affairs
Bridgestone America

Diana Bustamante, Ph.D.
Executive Director
Colonias Development Council

Barry Featherman, Esq.
Executive Director
Global Center for Development &
Democracy

Kevin P. Gallagher, Ph.D.
Associate Professor
Department of International Relations
Boston University

Brian Houseal
Executive Director
Adirondack Council

Raymond Lozano
Director
Race Relations & Cultural Collaboration
New Detroit

David L. Markell, J.D.
Steven M. Goldstein Professor
College of Law
Florida State University

Cecilia R. Martinez, Ph.D.
Associate Research Professor
Center for Energy and Environmental Policy
University of Delaware

Robert A. Pastor, Ph.D.
Director, Center for North American Studies
Professor of International Relations
School of International Service
American University

Ana Romero-Lizana
Director
International Business Development
World Trade Center St. Louis

Gail Small, J.D.
Executive Director
Native Action

GAC Members

Jeffrey N. Wennberg, Chair
Board Member
Development Review Board
City of Rutland, Vermont

John M. Bernal
Deputy County Administrator
Pima County
Public Works Administration

Salud Carbajal
First District Supervisor
County of Santa Barbara

Kirk V. Cook
Supervisor
Washington State Department of Agriculture

Karen Gallegos
Director
Water and Wasterwater Infrastructure
Development Division
New Mexico Environment Department

Carlos Rubinstein
Commissioner
Texas Commission on Environmental Quality

Carola G. Serrato
Executive Director
South Texas Water Authority

Octaviana V. Trujillo, Ph.D.
Tribal Council Member
Pascua Yaqui Tribe

Roger Vintze
Manager
California Department of Toxic
Substances Control

Gerald Wagner
Director
Environmental Program
Blackfeet Tribe

Designated Federal Officer

Oscar Carrillo
Office of Federal Advisory Committee
Management and Outreach
U.S. Environmental Protection Agency

EPA Participants

Jocelyn Adkins
Attorney-Advisor
International Environmental Law Practice Group
U.S. Environmental Protection Agency

Sylvia Correa
Senior Advisor for North American Affairs
Office of International and Tribal Affairs
U.S. Environmental Protection Agency

Cynthia Jones-Jackson
Office of Federal Advisory Committee
Management and Outreach
U.S. Environmental Protection Agency

Mark Joyce
Office of Federal Advisory Committee
Management and Outreach
U.S. Environmental Protection Agency

Stephanie McCoy
Office of Federal Advisory Committee
Management and Outreach
U.S. Environmental Protection Agency

Other

Jeff Bennet
National Park Service
Big Bend National Park

Irasema Coronado, Ph.D.
Joint Public Advisory Committee Chair
University of Texas at El Paso

Maria Elena Giner
Border Environment Cooperation Commission

Donald Hobbs
Border Environment Cooperation Commission

Cindy Loeffler
Texas Parks and Wildlife

Steve Niemeyer
Texas Commission for Environmental Quality

Lauren Oertel
Texas Commission for Environmental Quality

Aimee Roberson
U.S. Fish and Wildlife Service

Adam Zessenner
U.S. Fish and Wildlife Service

Contractor Staff

Audrey R. Glynn, Ph.D.
The Scientific Consulting Group, Inc.

Appendix B: Meeting Agenda



National and Governmental Advisory Committees to the U.S. Representative to the Commission for Environmental Cooperation

October 20–21, 2011

DOUBLETREE HOTEL

1617 IH-35 NORTH

Austin, TX 78702

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10/12/2011

AGENDA

~University Hall Conference Room~

Thursday, October 20, 2011

8:00 am **Registration**

9:00 am **Call to Order and Introductions**
Oscar Carrillo, Designated Federal Officer, EPA

9:05 am **Opening Remarks**
Cynthia Jones-Jackson, Director, Office of Federal Advisory Committee
Management & Outreach, (OFACMO) EPA

9:10 am **Overview and Approval of Agenda**
Karen Chapman, Chair of the National Advisory Committee
Jeff Wennberg, Chair of the Governmental Advisory Committee

I. REGIONAL ENVIRONMENTAL ISSUES

9:20 am **Financing Water and Waste Water Projects along the U.S.-Mexico Border**
Maria Elena Giner, BECC General Manager

9:40 am Discussion: Q & A

10:00 am **Cross-Border Collaboration on Environmental Issues**
Cindy Loeffler, Texas Parks and Wildlife
Stephen Niemeyer, Border Affairs, TCEQ

10:30 am Discussion: Q & A

10:45 am **BREAK**

Thursday, October 20, 2011 Continued...

- 11:00 am **CEC Update**
Evan Lloyd, Executive Director, CEC Secretariat
- 11:30 am Discussion: Q & A
- 11:30 am **Binational Water Projects in the Rio Grande Watershed**
Carlos Rubinstein, Commissioner TCEQ
Aimee Roberson, U.S. Fish and Wildlife Service
- 12:00 pm Discussion: Q & A
- 12:30 pm **LUNCH**

II. UPDATE ON CEC ISSUES

- 1:30 pm **Update on U.S. Priorities: NAPECA Grants**
Sylvia Correa, Office of International & Tribal Affairs, EPA
- 1:45 pm **JPAC Report-out**
Irasema Coronado, Chair, Joint Public Advisory Committee (JPAC)
- 2:00 pm **Update on SEM Trilateral Review Process**
Jocelyn Adkins, EPA, Office of General Counsel (*via phone*)
- 2:20 pm Discussion: Q & A
- 2:45 pm **BREAK**
- 3:00 pm **TEIA Update & Discussion**
John Knox, Wake Forest University (*via phone*)
Sylvia Correa, Office of International and Tribal Affairs, EPA
- 3:30 pm Discussion: Q& A
- 3:45 pm **Discussion on CEC Communications Strategy Plan**
Sylvia Correa, Office of International and Tribal Affairs, EPA
- 4:00 pm Discussion Led by the Chairs
- 4:45 pm **Public Comment Period**
- 5:30 pm **ADJOURN**

Friday October 21, 2011

III. BUSINESS MEETING

- 9:00 am **Committees Meet Jointly**
- Approval and signing of April 2011 meeting minutes
 - Discussion of 2012 meeting dates
- 9:30 am **Public Comment Period**
- 9:45 am **Committees Meet in Separate Sessions**
NAC stays in University Hall
NAC meets in Wildflower Room
- 12:00 pm **LUNCH**
- 1:00 pm **Committees Reconvene in Plenary Session**
Report-outs from NAC/GAC Chairs
- 1:30 pm **ADJOURN**

Appendix C: Charge Question for October 2011 NAC/GAC Meeting

CHARGE QUESTION NAC/GAC MEETING ~ OCTOBER 20-21, 2011 AUSTIN, TEXAS 9/21/11

Dear NAC & GAC Members,

During the 2011 annual CEC Council Session in Montreal the Ministers announced a comprehensive set of initiatives designed to conserve, protect and enhance the North American environment through the CEC via its cooperative Operational Plan. One innovative U.S. led initiative was directing \$1.4 million of the CEC budget to fund the North American Partnership for Environmental Community Action (NAPECA), to support communities in their efforts to locally address environmental problems across North America. Another U.S led initiative was the development of a CEC Communication Strategy.

The EPA Administrator would like advice from the NAC & GAC on the following topic:

CEC Communication Strategy

Based on strong advice from the NAC/GAC and JPAC, this year the Council directed the Secretariat to develop a CEC Communication strategy. The draft strategy addresses corporate communications messages and tactics as well as specific messages and actions in support of the projects in the 2011-12 Operational Plan. It also proposes roles and opportunities for Council and JPAC members, as well as other partners, to engage in CEC communications. The U.S. would like the NAC and GAC to provide feedback on this important tool.

- a. General comments on framework, measurable outcomes and strategies
- b. Identify strengths and weakness in the strategy
- c. Ways to improve the outreach and messaging
- d. Other