



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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Office of
International and
Tribal Affairs

Ms. Karen M. Chapman
Chair, U.S. National Advisory Committee
Environmental Defense
223 North Union Street
Delaware, OH 43015

Dear Ms. Chapman,

On behalf of Administrator Lisa P. Jackson, I would like to thank you for the National Advisory Committee's (NAC) advice of May 16, 2011 reporting on your April-14-15 meeting in Washington, D.C., and providing recommendations to the United States on issues related to the CEC draft 2011-2012 Operational Plan. I was happy to engage with the Committee on issues of mutual interest and I hope that this type of interaction becomes the norm in our future discussions. We appreciate your thoughtful comments and provide the following response:

You mention that, after reporting out to the full committee regarding the pre-meeting breakfast discussion on the idea of a North American Indigenous Subcommittee it was decided to recommend that the idea be presented to both Canada and Mexico for their consideration. My recollection of the discussion was that we agreed to work within the existing framework, as the limited resources presently available make it very hard to support a separate Subcommittee. It is also important to remember that the NAC and GAC are advisory committees under the Federal Advisory Committee Act, and as such, their advisory role is limited to the Administrator as the US representative to the Council.

I did commit to look for other fora, opportunities, processes or events where we could highlight indigenous peoples issues, as it was mentioned had been done in the past. We have taken advantage of the first opportunity available to us to do this, and I am very pleased to share that at this month's Council Session, the Red Lake Band of the Chippewa will make a presentation to the environment ministers of Canada, Mexico and the U.S. on the water sampling and water analyses they have undertaken to preserve their walleye population through a grant from the North American Partnership for Community Action (NAPECA).

You ask whether the Administrator has taken any specific actions related to your December 10, 2010 recommendation on renewing Transboundary Environmental Impact Assessment (TEIA) discussions with Canada and Mexico. We have, in fact, started to take a "fresh look" at the TEIA issue and are now consulting with the State Department and other agencies in order to assess the prospects for a successful resumption of those negotiations.

You suggest that the Operational Plan should present a context for the specific projects. This is an excellent suggestion and one that we acted on immediately. We are now preparing an

executive summary covering the points suggested and we hope to present the language to Canada and Mexico for their review in the next few days. We expect that the final Operational Plan will include the information proposed. Moving to your specific recommendations related to the Operational Plan:

1) Going forward, the United States should propose that a clear context for the Projects and work of the CEC be included as an Executive Summary in the Operational Plan.

We agree and have presented a draft proposal to Canada and Mexico for that purpose. At this time trilateral consensus on the actual language has not been reached, but the US hopes to be able to include this in the final version of the 2011-2012 Operational Plan.

2) The United States should also propose that a clear process and structure be set forth for proposing Projects in the Operational Plan that reflect the unique trilateral role of the CEC in activities it carries out, following on significant efforts to capture that role and activities through past work and reports.

A process and structure for the projects included in the Operational Plan already exists, and it consists on reaching consensus among the Parties on activities to be pursued after a fulsome discussion identifying the priorities of the three Council members. In addition, please note that the 2010-2015 CEC Strategic Plan contains specific project selection criteria for the Parties' cooperative work program to guide the Secretariat, Working Groups, Committees and other appropriate officials of the Parties in considering cooperative activities for Council approval under the annual operational plans.

3) The United States should propose that Climate Change Projects include adaptation issues, that PRTR Projects include marine petroleum resources and extractive activities, and that all Projects include a social media component or rationale for why social media is not included.

In general, it's safe to say that including additional information in the PRTR work now or in the near future will depend to a large degree on the cost of such inclusion. With respect to marine sources in particular, we will share your suggestion with our US government experts. On issues related to climate change in general, the Parties at this time continue to focus on collective achievement of comparability of data methodologies and management, and simultaneous development of our individual domestic programs. By continuing our quest to establish rational comparability in the ways that we collect, analyze, report and disseminate data across North America, we build the foundation for development of complementary climate change programs. Unfortunately, we are unable to tackle all these issues at the same time, and we look forward to including adaptation issues in our projects in the future.

With respect to your recommendation that all Projects include a social media component or a rationale why it wasn't included, I must say that I am very supportive of using innovative technology, including social media as a mechanism for sharing information about our projects and activities. One challenge would be to find a way to encourage the use of social media without creating additional barriers for communities that may not have full access to such technologies.

With respect to the advice provided regarding Submissions on Enforcement Matters:

1) EPA legal advisors participating in the SEM review process should review past NAC advice letters as well as JPAC advice letters and other reports for substantive comments on specific actions that the Council can collectively take, and the United States can individually take, to improve SEM.

We agree and we have already taken steps to ensure that the advice you have provided in the past is a keystone of the US positions moving forward. Attached below is the matrix prepared by my staff, and shared with our General Counsel, setting forth all NAC advice on the SEM process since 2003. A similar matrix containing all JPAC advice on SEMs was requested of the Secretariat. That document is also attached below.

2) The United States, to the extent possible, should ensure that the SEM review process is open and transparent, and where appropriate incorporate public involvement in the process.

At the first meeting of the Parties in early May the participants set forth a proposed timeline for the review work encompassing the next year, through the 2012 Council Session. The timeline includes outreach to JPAC on two separate occasions, beginning in the fall of 2011. The US plans to reach out to our own advisory committees in the same time frame.

3) The United States should call on NAC members with particular interest in SEM to assist in the SEM review process where appropriate.

As mentioned above, the US will reach out to our advisory committees as a whole, as we do on all other issues on which we request input.

4) The United States should urge timely conclusion of the SEM review as is planned, and adhere to the deadline of Council Session 2012.

Trilateral agreement has been reached on a timeline that would have an announcement of decisions reached at the 2012 Council Session.

As always, the United States appreciates the advice of the National Advisory Committee, which helps us to understand the views of the public on critical environmental issues in North America.

Sincerely,



Michelle J. DePass

cc: Jeffrey N. Wennberg, Chair, U.S. Governmental Advisory Committee
Members of the U.S. National Advisory Committee