

EPA Region 9
REGIONAL TRIBAL OPERATIONS COMMITTEE
FULL RTOC MEETING

July 29, 2009

EPA Building - San Francisco, CA
9:07am

Opening Prayer

Ethel Garcia, Tohono O'odham Nation

Welcoming Remarks

Laura Yoshii, Acting EPA Regional Administrator

- Welcomed all participants.
- Observed a moment of silence for the passing of Cisney Havatone, an important RTOC and NTOC advocate and participant from the Hualapai Nation. He will be greatly missed.
- Thanked Tribal Council members for attending the meeting. Tribal Leadership that supports environmental programs is greatly appreciated.
- Thankful for opportunity last week to participate at NTOC.
- EPA Administrator Lisa Jackson reaffirmed the 1984 Indian Policy last week, and sent a personal note to Assistant and Regional Administrators to support NTOC.
- Provided an update regarding the American Recovery and Reinvestment Act funding and allocations, and thanked everyone for their hard work.
- Reemphasized intra-agency coordination. It is important to identify funding through other agencies to complete tasks and to build sustainable communities. This will help meet long-term capacity for operation and maintenance. Tribes have an opportunity to model the integration of different agencies; EPA, HUD, Drinking Water/Waste Water, etc.

Welcome/Introductions/Roll Call

Dan Mosley, RTOC Tribal Co-Chair, Pyramid Lake Paiute Tribe

- Meeting logistics.
- Acknowledged Tribal Leaders in attendance
- Introductions

ARRA (Stimulus) Funding Update

Lorreta Vanegas & Linda Reeves, US EPA

- American Recovery and Reinvestment Act (ARRA) Tribal Water Infrastructure. (See PowerPoint Presentation)
- Gave an overview of stimulus package funds and proposed funds for fiscal year 2010. Provided examples of successful green projects funded under the stimulus project.
- Question and answer session.

National Tribal Operations Committee (NTOC) Report/Updates

Clay Bravo, NTOC Chair & Stephen Etsitty, NTOC Secretary

- Provided overview of NTOC report presented to the Tribal Caucus in yesterday's meeting.
- Presentations were conducted for EPA Administrator Lisa Jackson last week in Washington DC.
- Budget information for fiscal year 2011 is internal within EPA. They are not allowed to discuss the budget, but they are very encouraged by the way things are going.
- NTOC presented to the Tribal Caucus overviews of meetings with Regional and Assistant Administrators which highlighted budget requests. The RA's and AA's are excited about interacting with tribes.
- Expressed the need to accomplish their ultimate goal of providing safe drinking water and basic sanitation to every home in Indian Country.
- There was a one page document presented in April highlighting the budget requests. There will still be a need in Indian Country even if tribes receive the requested funding.
- Indian land equates to 4% of the nation's lands, and tribes need funding to effectively manage their land. The goal is to serve the 1 million tribal citizens living on those lands.
- Provided a summary of funding amounts requested.

- There was discussion of moving the American Indian Environmental Office (AIEO) out of the Office of water and into to the Office of International Affairs. Tribes have expressed their dissatisfaction of the AIEO's representation of tribal needs. This may be a good move.

Transition Document Update

Marta Burg, RTOC Policy Advisor

- Continuing efforts to get a tribal message to the incoming EPA Regional Administrator. Hopefully this message can include a briefing from EPA.
- There are specific issues that are RTOC priorities, and it was decided to provide individual tribes an opportunity to give briefing on specific issues they are facing.
- Tribes are requesting that EPA update the 2001 briefing paper. Jean Gamache will take the lead on this request, and the Transition Workgroup can circulate the document to obtain more tribal input. EPA already has had discussions regarding a briefing paper.
- There were questions raised as to the process of the selection of Regional Administrator; who is involved, how long will it take, and is there an avenue for tribal input?
- EPA informed the group that selection of the Regional Administrator is between Congress, The White House, and the EPA Administrator. There is no information passed through EPA's regional offices, and it is not known when RA's will be appointed.
- Deadlines for the transition document are scheduled based on the scenario the RA will be in place prior to the October RTOC meeting.

Action Item:

- Request for EPA to update the 2001 briefing paper for the incoming Regional Administrator.

Review Previous RTOC Meeting Action Items

Bessie Lee, US EPA

Action Items from April 2009 RTOC Meeting

- #2 – Treatment as a State - Treatment as a State (TAS) issues will be addressed during the EPA Report. .
- #18 – Tribal Environmental Contact List - Maria Castain has been working on the list. This will be an ongoing effort with the AIEO. This item will be kept on the Action Item list to be reported on at the next RTOC.
- #19 – Wage Sustainability - The budgets have been flat-lined for a while. EPA would have to take funding from one area to put to another. Hopefully funding can be found in other sources. This item will be kept on the Action Item list to be reported on at the next RTOC.
- #21 – Lone Pine Water Well - The EPA has been working with the Owens Valley Indian Water Commission on this issue. This should be updated as ongoing and will remain on the Action Item list to be reported on at the next RTOC.
- #22 – Charter Workgroup - The Charter Workgroup met on Monday from 9am – 3pm and elected Robert Columbro as the new Tribal Lead. The workgroup will continue to follow up. Some draft changes were discussed, as well as creating an RTOC Standard Operating Procedure (SOP). Issues continue to come up regarding the qualifications of RTOC Representatives, which is a grey area not covered in the RTOC Charter. The workgroup is currently working on language to submit to Marta Burg and Danita Yocom (EPA R9, ORC) for legal review. The workgroup will be working quarterly to address these issues.
- #28 – Recall of Item 15 from Feb RTOC – RTOC Website Updates - This is an ongoing item and workgroup leads can send information to Hillary Hecht at EPA.
- #33 – Sample Documents - Some documents are already available online, and many sample documents are included in the GAP Award Package. EPA is working on creating links to documents on the RTOC website. If tribes have questions regarding specific documents, please email EPA. This item will remain on the Action Item list to be reported at the next RTOC.
- #36 – Nominee for ITEP Steering Committee - This item is complete. John Mosley of the Pyramid Lake Paiute Tribe was nominated for the ITEP Steering Committee. It is unknown if nominations have been accepted or voting has taken place.
- #39 – Green Casino/Solid Waste Training - The Green Casino workshop has been scheduled for September 2, 2009 at the Shingle Springs Rancheria. Tribes can email Tina Davis at EPA for information. The Solid Waste Transfer Station Training has been postponed until the next fiscal year.

- #37 & 38 – Pesticide Training and getting notification to ALL tribes - The EPA is working to get pesticide training information out to tribes. This is an ongoing issue, and EPA has sufficient resources to get information to tribes. It was clarified that information about pesticide training is not getting to tribes that don't have cooperative agreements. Requesting the EPA work with the Pesticide Office to identify training get more information to tribes without cooperative agreements by the end of August. This item will remain on the Action Item list to be reported on at the next RTOC.

Tribal Caucus Report

Dan Mosley, RTOC Tribal Co-Chair

(See Action Item list)

- Provided briefing of action items 1 -30 that were identified in the Tribal Caucus meeting.
- Action Item #8 – Sarah Ryan clarified that some tribes have been using gardens for environmental outreach and protection, and they just want clarification as to why some activities were once funded by GAP are no longer allowed
- Action Item #13 – This item will be removed from the list as clarification was provided during the Tribal Caucus meeting.
- Action Item #14 – This item will be removed as there are suggestions for an all day Quality Assurance Project Plan (QAPP) workshop at the annual conference.
- Action Item #15 – Sarah Ryan clarified that a whole new approach is need to address the lead issue. The request is for EPA to assist in convening an intra-agency taskforce between EPA, IHS, HUD, CDC, and tribes to come up with solutions
- Action Item #27 – This item will be followed up by the Emergency Response workgroup. Angie has already sent out an email for clarification. This item will be removed from the list.

Discussion

- The EPA appreciates the holistic approach tribes use to address environmental issues. Culture is the bedrock of the holistic approach.
- Some tribes would like to see a verbal and written answer on Action Item #30 in regards to EPA's definition of "culture". They would also like to know what EPA's policy is on including cultural activities, statutory requirements, and EPA's perspective regionally and nationally.
- The EPA considers "culture" more than just a definition. It is how they incorporate cultural issues into their policies and guidelines. They also acknowledge that cultural activities are fundamental in building tribal program capacity.

BREAK FOR LUNCH

EPA Report

Willard Chin, GAP Project Officer, EPA Tribal Program Office

(See EPA Report PowerPoint Presentation)

- Provided a presentation EPA's Region 9 updates, goals, and accomplishments from the last quarter. *(Presentation available on EPA's Region 9 website)*
- Questions were raised about how invitations and information will be distributed regarding the Tribal Nations Conference in Washington DC.
- This was discussed at the NTOC level and they were informed that the White House has taken lead of this conference. The impression was given that all Tribal Chairs will be invited. The EPA is not the lead agency for this conference.

Treatment as a State

Vali Frank, EPA Region 9 Office of Regional Counsel

- Questions have been raised regarding differences in Treatment as a State (TAS) requirements for tribes and states.
- Congress implemented a process for tribes to obtain Treatment as a State or primacy, but the process was done differently than the State process. Unfortunately, the requirements are in the statutes, and EPA is responsible for implementing the statutes.
- There are regulations that tribes can implement without going through the federal process. The process was very slow in the past.
- A 2005 audit initiated by a conservative Senator revealed the EPA was being too lenient on tribes. The process was too slow and needed to be sped up.

- So far, 73 TAS applications for regulatory or standards programs have been approved; 44 under the Clean Water Act (CWA), 22 under the Clean Air Act (CAA), and 7 under the Safe Drinking Water Act (SDWA). 23 of those applications have been approved in the last 4 years, and the processing time has been drastically reduced.
- The process varies by statute.
 - CAA – This is the easiest as long as there is an active tribal government within the reservation and a tribal implementation plan. Tribes can bring in maps or legal descriptions of tribal lands and capacity.
 - CWA - Water Quality Standards (WQS) can only receive approval for reservation lands. Tribes cannot include lands outside of the reservation boundaries. Tribes can obtain 401 Certification if there are fee lands within the reservation, but the tribe has to identify impacts the fee lands have on tribal water. Several tribes do have authority over fee lands within their boundaries.
 - SDWA – Underground Injection Control (UIC) program. Now is a good time to come in, and encourage tribes to call EPA for help with the application. The process has gotten much quicker, and approvals are now granted in months rather than years.
- Copies of hand-outs with application and contact information are available.

EPA Response to Tribal Caucus Report

Enrique Manzanilla, RTOC EPA Co-Chair

- Thanked the Tribal Caucus for comprehensive discussion of ranging issues.
- Encouraged tribal governments to raise issues within the regional offices at EPA. EPA is concerned that tribes are waiting for RTOC meetings to raise these issues. It is better to raise the issues with Project Officers when they occur, and tribes should contact supervisors if issues aren't resolved by the Project Officer. Contacting EPA directly would be a more effective information exchange and will initiate direct dialogue between EPA and tribes.
- The NTOC presentation provided a great summary of budget recommendations for fiscal year 2011. The EPA is very conscious of addressing funding needs in Indian Country, and will continue advocating for tribes. They hope to have an idea of what the 2010 budget, as it relates to tribal needs, by the October RTOC meeting.
- Unfortunately, the budget for fiscal year 2011 will not be known until the President releases that information. The outcome of the budget discussions in Washington should be known by the February RTOC meeting, and the EPA will attempt to report.
- The EPA reviewed the action items and suggested items be grouped into categories.
(See *Action Item Sheet*)
 - **Items 8, 11, 12, 13, 17, 18, 24, 25, 26, and 28: Enrique Manzanilla, EPA** – It appears these items fall into Grant Management Issues and, the EPA proposes to hold a conference call within the next month so tribes can clarify and talk about these issues. Enrique will participate so he can understand, address, and resolve these issues by the October RTOC meeting. The EPA also proposes to have a Grant Management Issue breakout session so there will be a consistent platform for these issues to be discussed. This will help free some time from the meetings so RTOC can move forward with bigger issues. This could be a standing item at each RTOC meeting as a breakout session, not a new workgroup. Jean Gamache will gather a list of tribes interested in participating in the initial conference call and will coordinate with Dan. The breakout sessions will be on going at each RTOC meeting.
 - **Items 1, 2, 3, 4, and 5: Enrique Manzanilla, EPA** - The Navajo Nation has raised budgetary issues, and issues with the Uranium Action Plan. The EPA understands the resource needs.
 - **Item 6 – Kristin Gullatt, EPA Water Division** – There was a lot of discussion about this issue in the manager's meeting. Kristen presented these concerns to Alba Spetic and Carolyn Trong. A conference call will be scheduled with Navajo Nation within one week.
 - **Item 7 - Enrique Manzanilla, EPA** - The EPA will obtain a list of state parks within the next week or so and will ask questions about tribal access. Information will be provided by the end of the month. If there are specific state parks or beaches that tribes have questions about, please let EPA know.
 - **Item 9 – Kristin Gullatt, EPA Water Division** – The Dept. of Water Resources and EPA have been working closely with Barbara Kroff regarding the California water plan. They have been looking for tribal input, and a conference call can be scheduled with Barbara Kroff to identify how tribes can get involved. Sarah Ryan will compile a list of those tribes wishing to participate in the conference call.

- **Item 15 – Corine Li, EPA Water Division**– EPA will take the lead in responding to this issue, and will schedule a conference call regarding the funding issue and the intra-agency issue. EPA will review the document and schedule a conference call by late August for further discussion. Adrienne Pristolack will be the lead on this issue.
- **Item 16 – Corine Li, EPA Water Division**– Janet Mitchell is the Regional Board Liaison and a conference call with Big Valley will be held by mid August to find out about the algal bloom, e.coli, and to find out if the state is enforcing the Clean Water Act.
- **Item 20 – Vijay Limaye, EPA Water Division** – This has been an ongoing issue with the WQX and there is a new document that details what is required and what isn't. There will also be a breakout session tomorrow to answer questions, or tribes can contact the EPA staff directly.
- **Item 21 – Kristin Gullatt, EPA Water Division** – Kristin is in full support of the idea to have workshops for tribes. The funding may not be available, but there may be opportunities to work with EPA Headquarters to access their contract dollars. The funding may be limited to holding regional workshops. Kristin will commit to contacting Headquarters to access contract dollars to hold regional trainings. Another idea was if tribes have staff members that are good at WQX, those staff members can go out and provide training to other tribes if funding is available. Syndi Smallwood will provide Audrey Johnson at EPA's contact information to tribes who were looking for help. EPA will try to find funding to offer the trainings to tribes, and this is where Quality Assurance Project Plans QAPP's come into place.
- **Item 22 – Eugenia McNaughton, EPA Management & Technical Services Division** – Climate change is included in the Strategic Plan. There was a draft document that went out for public comment, and the comment period ended November 30, 2008. The comments received will be used to prepare the full text draft, and it will be opened for additional comments once that draft is complete.
- **Item 30 – Enrique Manzanilla, EPA** – The EPA will take time to discuss and address cultural issues as tribes define them. EPA's definition of "cultural" is not as important as individual tribe's definition. On an activity by activity basis, the EPA tries to exercise discretion with what is listed in the EPA statutes, rules, and policies. They compare cultural aspects of work to cultural aspects of tribes as they relate to environmental protection. The EPA looks to tribes for information through consultation. Dialogue is occurring at the National level to address issues about disparities. The EPA will assemble as many policy documents as possible to address this issue by the annual conference in October.

Southwest Ecosystems Services

Nita Tallent-Halsell, US EPA Office of Research and Development

- Office of Research & Development is headquartered out of Las Vegas.
- Provided a PowerPoint presentation describing research effort the office can provide to the regions for specific outcomes. Provided outcomes and success stories of the ORD.

Annual Conference Update

Lorinda Sam, Tohono O'odham Nation

- Requested input from group regarding the first day's conference agenda. In the past, there has always been a State Director's Panel. There was a suggestion to have three separate sessions for each state with question and answer sessions, state updates, or specific topics. Lorinda needs to hear from tribes regarding the agenda for the first day of the conference.
- The deadline for the call for topics and nominations for the Connor Byestewa Award is Thursday, August 6th.
- Participants should be advised that the host hotel Desert Diamond Hotel-Casino is full, and reservations can be made at the overflow hotels. Transportation has been arranged and will be provided to participants staying at the overflow hotels.
- See website for further information.

Proposed Schedule of RTOC Meetings in CY 2010

Jean Gamache, US EPA

- January 26-28, 2010: Ak Chin Indian Community, Maricopa, AZ
- April 20-22, 2010: EPA Building, San Francisco, CA
- July 27-29, 2010: There have been invites from the Susanville Rancheria, Susanville, CA and the Enterprise Rancheria, Orville, CA.

- October 2010: The meeting dates are still tentative as it will be in conjunction with the annual conference. Co-host tribe is identifying locations in San Francisco.
- A suggestion was made to move April 2010 RTOC to following week to avoid conflict with the NTOC meeting schedule. An email will be sent to NTOC to confirm dates, and an update will be provided.

Review Action Items/Evaluation Forms/Next RTOC Meeting Location

Bessie Lee, EPA RTOC Meeting Facilitator

- Reviewed action items, due dates, and person responsible.
- There will be GAP Online training sessions tomorrow on the 13th floor. An EPA staff member will meet attendees on the 1st floor.
- The October RTOC meeting and Annual Conference will be held in Tucson, Arizona.

Closing Comments

Enrique Manzanilla, EPA RTOC Co-Chair

- Thanked all participants for attending meeting. Thanked EPA colleagues.
- Clancy Tenley will be moving on to complete a four month detail with the Superfund Program. There will be an announcement to back fill his position within the next week.
- Recognized Dan for his service to RTOC.

Cornelius Antone, Tribal Co-chair Elect, Tohono O'odham Nation

- Acknowledged and thanked Dan Mosley for his two year term serving as RTOC Tribal Co-chair.

Dan Mosley, RTOC Tribal Co-chair, Pyramid Lake Paiute Tribe

- Thanked everyone for allowing him to be a part of RTOC.

RTOC Meeting Adjourned at 4:15pm.