

Regional Tribal Operation Committee  
Full Caucus  
October 14, 2014  
Sacramento, California  
12:30-5:00pm

ROLL CALL

***Review of July Action Items***

*Standards for cyanotoxins: Sarah Ryan Big Valley Band of Pomo:* In July the question was asked when standards were going to be developed for cyanotoxins. EPA's response was not satisfactory. There have been plenty of years to study this and take a look at what ramifications are for setting standards. There is no drinking water monitoring of these toxins. There needs to be some standards from EPA [on drinking water].

***Welcoming Remarks - Jeff Scott, Director, Land Division***

Happy to be here and continue do to so, sorry missed the last meeting. Jared Blumenfeld will be here tomorrow. He has been busy working on his commitment to visit tribes. He is currently up to 124 visits to tribes. This gives Jared a chance to talk to elected officials first hand and learn about things going on in the tribal communities.

This is the first meeting of fiscal year 2015 and it marks the 30<sup>th</sup> Anniversary of first Indian Policy of 1984. Gena McCarthy is very committed to tribal issues. Her number one issue is dealing with climate change. She is working more with the federal regional council of Region 9 and more focused on tribal issues and border issues.

We have a drought panel at Annual Conference. It is important that tribes who face water shortages develop a plan.

Thanked Fran Schultz, Laura Ebbert, and Mariela Lopez for preparation of RTOC. There are 2 new Senior Executives at Region 9: Serena McIlwain, Assistant Regional Administrator has lots of extensive experience with multiple agencies and Sylvia Quast, Regional Counsel.

Introductions of new staff:

Serena McIlwain: very delighted to know we have such collaboration with the tribes and will continue to provide services that they do.

Sarah Russell, Grants Management Officer: will be having sessions on grants.gov and overall administrative.

Gayle Louie: expert in water issues.

Jeff Scott thanked all for coming and wants to use time today effectively.

***NTOC Report***

*Alex Cabillo, Hualapai Tribe:* NTOC met last month and some issues brought up on the GAP Guidance and implementation of GAP. In Santa Rosa there were issues from Region 9 that were forwarded to Gena McCarthy. On November 5th, there is a scheduled face to face meeting. There is dissension on who is saying what between Region 9 and Headquarters. Each are blaming the other.

There was also discussion of establishment of targeted funding for tribes. There is movement on this now emphasizing anti-degradation measures. For years Indian tribes have been working on anti-degradation. There has always been a focus on improving impaired waters. That is a part of standards they are looking at. Wants to emphasize climate change and EPA needs to look at quantity for tribes' waters. Establishing targets for tribes is a way you can validate a tribe's parity.

### ***Tribal Caucus Report***

Co-Chair Antone reported on the Tribal Caucus Meeting.

Ren Reynolds presentation on the remains found and levees being built.

Tuba City Open dump brought up by the Hopi Tribe: Background: There was groundwater contamination including elevated uranium first reported in 1999; the unlined dump is within the Hope Tribe's EPA approved wellhead protection zone, which is a 1 mile radius around the supply wells that provide water for the Upper Village of Moenkopi; Concentrations of uranium, sulfate, and chloride exceed water quality standards in on-site groundwater, and are traceable to dump impacts. The Hope Tribe, with Navajo nation concurrence, wants the dump and its contents removed (clean closure) as opposed to a more typical landfill cover placed on top of the wastes.; without clean closure uranium might continue impacting groundwater. ,

Some key issues were:

- Hopi should be considered a concurrent agency in the decision making process
- The Hopi Ordianances should be considered applicable or relevant and appropriate requirements (ARARs)
- EPA should not be able to waive tribal ARARs.

Ren Reynolds reported about the remains found and levees being built[ by Army Corp of Engineers?].

*Issues this morning.*

*Nina Hapner, Kashia Band of Pomo Indians* - Central California have 4 items from their conference call.  
Grants.gov

- Where do they go to here in the region when submitted to grants.gov?
- It doesn't seem really clear for tribes on who they follow up with on that.
- Will there be changes to GAP online are we going to have to submit to GAP online and Grants.gov?

RTOC Retreat

- Asked that there be time on January RTOC to review what was discussed at retreat.
- Review what the accomplishments were for 2014.

Cyanobacteria

- Reminder that we are waiting on EPA's response on the issue of standards for cyanobacteria that Sarah Ryan raised at the last RTOC.

*Co-Chair Antone:* Arizona tribes do a lot of consultation, and want to know if the new workplans can add consultation to the workplans. Tribes also want to know if GAP funding can be used to develop tribal internal policies on how consultation will be done.

*Alan Bacock, Big Pine Paiute Tribe:* In regards to grants.gov and GAP online it feels like EPA is streamlining their process & tribes have to do a lot of extra work as a result.

*Clifford Banuelos, Elko Band Council:* in the northeast Nevada area tribes are working with BLM regarding the EA process of mining projects and several projects. We are looking at capacity indicators and measures regarding research and information. Wants to revisit the capacity indicators.

*Nina Hapner, Kashia Band of Pomo Indians:* sent a couple of emails regarding organizational flowcharts of EPA that will help new representatives and who they could talk to. As well, is there an informal resolution and grant process closeout available?

Gayle Honanie, Hopi Tribe is the alternate to Wilfred Nabahe, CRIT, to National Tribal Air Association(NTAA)

### ***EPA Response to Tribal Caucus Report***

*Jeff Scott, Director, Land Division*

We at the Region cannot change the GAP guidance. It is beneficial to document and assist how we can make this better. EPA does not get to rewrite the guidance themselves. Headquarters will be writing it and we will follow it. We have a list here of many items related to GAP.

We have comments on drinking water and Gayle Louie, EPA Water, will follow up on that area. On Tuba City, Nancy Lindsay gets that.

Fracking and concerns: We will have this on the agenda for January 2015 RTOC in Reno, Nevada.

Grants.gov: Sarah Russell will be the contact person for this.

Jeff noted that that in spite of turnover or anything else he hears the message and is dedicated to working with tribes.

*Laura Ebbert, Tribal Programs Manager:* because of the GAP guidance and concerns, there will be several sessions.

*Marla Stanton, Wells Band:* There is already [hydraulic] fracturing (fracking) occurring in Humboldt and Huntington Valley in Nevada. Something needs to be done right away. There are no regulations. Laura Ebbert will talk with Marla Stanton and Jose Zambrana.

*Bill Campbell, ITCN:* the Nevada breakout session will talk about the [hydraulic] fracturing.(fracking).

*Clifford Banuelos, Elko Band Council:* the -elements were brought up to surface because of the [hydraulic] fracturing (fracking) process. Tribes are dealing with regulatory agencies and workers. We would like to see a study done.

*Nina Hapner, Kashia Band of Pomo:* the National Tribal Toxics Council is here to do presentations at the Conference and has this as one of their priority concerns.

*Marla Stanton, Wells Band:* Noble Energy is not doing any baseline studies on the water before. In one of the papers it appears they will be doing water studies afterwards. How will they know what the water was before if they don't do the baseline study?

*Laura Ebbert, Tribal Program Manager:* EPA is renovating our building space.

*Nina Hapner, Kashia Band of Pomo:* was asked to remind people that we are in an area that is struggling with water shortages and there are tribes here that currently have no water because of the drought, so please be mindful of the water and don't waste it.

***U.S. Fish and Wildlife Service, Eric Davis***

- Talked about eagles and the permit rule.
- In 2009 USFWS developed eagle permit rule.
- The definition of take and disturbance is much more than killing eagles.
- Permit allows the removal of an eagle nest for a limited occasion.
- 2 basic types of permit: standard one time deal and programmatic recurring take.
- The permitting for golden eagles is different than bald eagles.
- Permit issuance criteria: the additional rule changes.
- They will take input on anything dealing with eagles.

*Questions/comments:*

*Alex Cabillo, Hualapai Tribe:* how many 30 year permits are out there?  
None.

*Ren Reynolds, Enterprise Rancheria:* feathers from the eagles that are in zoos can you permit for that?  
*U.S. Fish & Wildlife :* need a permit

*Ren Reynolds:* if there is one on a major highway and tribes want to use it for ceremony what is take on that?

*Fish & Wildlife:* need a permit

*Marla Stanton, Wells Band:* we have the right to have our own eagle, part of an eagle.

*Fish & Wildlife:* when eagle feathers are for ceremony use, they can be passed down from past generations.

*Tribal Representative:* A tribes like to have their own authority to do that.

*Alan Bacock, Big Pine Piate:* Regarding the Desert Renewable Energy Conservation Plan that is to separate out lands for renewable energy. Part of the process is to streamline the ability of industry to go into these lands. Does that mean you're going to streamline the process or allow folks to obtain a take permit if they were outside of those areas? And next question is what are you going to do?

*Fish & Wildlife:* it's not going to relax any of state or federal laws. The streamlining in this plan finds way to integrate federal and state permitting. A little faster but it's not going to reduce at all the amount of compensatory mitigation. Initial feedback from industry is it's not good enough.

*Alan Bacock:* supposed to be about concern and goal is to be able to create renewable energy. Seems odd to have goal written into plan with renewable energy whereas the entire plan is about conserving these plans and species that exist within these plans.

*Tribal Representative:* What if your carrying feathers that are older than the permitting process. How do I prove that they were handed down?

*Fish & Wildlife:* if you don't have proof, you're better off submitting your application to get a permit. Must be a federally recognized tribe, proof of enrollment in the tribe, sent paperwork into Sacramento office, takes about 30 days to 2 months to get that permit.

*Sarah Ryan, Big Valley Band of Pomo Indians:* are we just filling it out with the general public?

*Fish & Wildlife:* if it's non federally recognized. There are no eagle permits for non-federally recognized tribes.

*Tribal Representative:* what do you do with ones found on road what do you do with those?

*Fish & Wildlife:* when they are sent to repository not sure how they are redistributed.

*Clifford Banuelos, Elko Band Council:* we find an eagle feather there is a process regarding that feather. That it would be sent to another place and they say they cannot return it.

*Tribal Representative:* What about California condor feathers?

*Fish & Wildlife:* if you have another species very important to you, you can obtain information on how to get those. MOU's for them are in process.

*John Flores, San Pasqual Band of Diegueno:* how did you come up with 30 as opposed to 10 or 20?

*Fish & Wildlife:* 5 year permits.

*John Flores:* If not a tribal member say from San Pasqual. What happens when that parent passes on and those feathers get passed onto someone not enrolled with the tribe?

*Ren Reynolds, Enterprise Rancheria:* 1. are you going to have manpower; and 2. Did any of tribes did they have any consultations?

*Fish & Wildlife:* trying to insure that tribes have a right to those feathers.

*Fish & Wildlife:* we are here today to seek our input. We have rare opportunity to input information on this permit.

**GAP Guidance Report out,** Laura Ebbert, Tribal Programs Manager:

- 6 training opportunities at the conference this week.
- There is a session this week to cover concerns about solid waste implementation.
- There will be Grants.gov training as the agency transitions and a session later this week at conference.
- Joint evaluation process is required by Part 35 and developing a worksheet for a simple process. Hoping to schedule another listening session.

*Gayle Honanie, Hopi Tribe:* one thing she would like to see what EPA could do for the tribes is that in Hopi they have one person who has the authority to do and submit work on grants.gov. What are EPA regions doing to help the tribes like our environmental program to have direct contact with grants.gov? Would like to put in EPA hands to see what we could do to have direct link to be able to submit what we do need to submit to grants.gov. Heard tribes bringing up concerns about GAP guidance. Every time she comes to a meeting it is always EPA saying they cannot do anything about it. If this law was written more than 10 years ago by negligence it wasn't enforced at the time whose fault is that. It wasn't the tribes' fault. It came from higher ups. In the beginning EPA did not make a process for data collection

this is not negligence of tribes trying to understand the guidance and figure out how it's used. Trying to be very resourceful and figure out how to use it.

***Indoor Air Quality on Tribal Lands, Priyanka Pathak***

Presentation covered , mold, asthma and what triggers these. ATRIA, air toxics, radiation and indoor air office.

*Questions/ comments:*

Question asked about electronic cigarettes. Doesn't have an answer but will do research.

*Sarah Ryan, Big Valley Band of Pomo:* [want more information] on community air toxics.

Working to do more air monitoring to determine public health actions, not to regulate air quality but to inform them the community.

***Review of Issues-Lori Lewis***

- Numerous action items from this morning. Those will be included in the notes.
- Announcements: if you have an individual date appointment happening tomorrow.
- Meet and greet from national tribal toxics council on Thursday.

*Jeff Scott, Director, Lands Division:* Have been at this along time and as always we have a lot of issues we can overcome. Thanked everyone for all the hard work and progress from last 10-20. We are reason how stuff gets done. Thanks all guest speakers.

Next meeting is Reno, Nevada will send out logistics and all that.

Meeting adjourned at 4:21