

## RTOC

### Full Caucus

October 21, 2013

#### ***Welcoming Remarks by Corn Antone***

Tribal Co-Chair welcomed everyone back then turned the meeting over to Jeff Scott, EPA Co-Chair, Director of Community and Eco Systems Division for EPA's welcoming remarks.

Jeff Scott thanked the people who put on the conference. He thanked the Tachi Yokut Tribe for hosting the RTOC and Conference. This RTOC is the start of the 21<sup>st</sup> tribal conference and glad we're all here even with the struggles getting ready for conference. Felicia Marcus from State Water Resources Control Board will be here this afternoon. As you all know because of the shutdown, I suspect we will probably be getting less cash flowing in and it is important for us to be here to know what's going on. It is crucial for everyone to learn what they can for each other. It is clear that we are not going to have much funding in future as much as we had in past. This year EPA Region 9 combined waste management division with communities and eco systems division which include tribal programs. He assured the group that the division is making real progress in tribal issues and it is important to him personally. He will be a strong advocate for tribes in Washington on tribal issues.

#### ***Roll Call***

#### ***Review of Summer (July) Action Items/Issues-Lori Lewis***

Lori Lewis will be capturing key comments, and announcements. There are some people on the webinar and conference line so please speak into the microphone. Please place all cell phones on vibrate.

- Results from July RTOC meeting: total of 8 action items, 5 general, 3 specific action items were all completed.
- Highlighted question: The notice for Air Grant Funding only gave 8 days via email notice to file the SF424 and other documentation to those Tribes awarded CAA103 grants for FY13-14. This was an extremely difficult timeframe for Tribes to meet and get signatures from Tribal Council. Were any Tribes unable to meet the deadline? from Southern California tribes which is posted on the website.

#### ***NTOC Report and Updates-Marie Barry***

The last NTOC Meeting was scheduled for first week in September but was canceled when the government shut down occurred. It may be rescheduled for December 2013.

- Clay Bravo, Chairman for NTOC stepped down, so doing nominations for new executive committee. This was scheduled to take place at the cancelled NTOC meeting.
- Regarding the budget, typically NTOC puts it together in July, but that didn't happen and it wasn't presented. This has been placed on hold till the next scheduled meeting.
- Have focused on budget perspective that is reflective of FY10 and will move forward with this.

Questions:

Syndi Smallwood:

- NTOC budget document was completed and given to Administrator. At least that much has been done, but we didn't get to talk to anyone personally to reinforce information and answer questions.
- We do have an interim chair, Debra Lechonov of R10 who is vice chair of NTOC and is holding both positions now.

Stephanie Seuss: when we have budgets that are sent out, is it possible to go through RTOC to request to look at them? Corn will resend out the submitted budget by Monday, October 28, 2013.

Marie Barry: one good piece of information, the group had a conference call before meeting but was cancelled. OMB met with EPA.

Co-Chair Antone: will resend NTOC budget on Monday, October 28, 2013; if any comments you can send to Marie Barry, Alex Cabillo, Syndi Smallwood or Steven Etsitty.

### ***CA State Water Resources Board - Felicia Marcus***

Nice to see so many from her EPA days and now in a new role at the State Water Resources Board (SWRB) for the past year. She is Chair of State Water Resource Board in California and wanted to take the opportunity of the Region 9 tribal conference to put in front of us a policy the SWRB is planning to do in response from comments with many tribes. SWRB has responsibility for both water quality and water rights. There are a few slides to give everyone a sense of what the SWRB is trying to do and how tribes can use it, then will open up for questions.

(power point)

Questions/Comments:

Alex Cabillo, Hualapai: Commends work SWRB is trying to do. As we look at tribal waters, in Native American cultural uses, shouldn't separate ceremonial uses have its own category? Has trouble with TMDL's. Another focus would prefer is anti-degradation focus, protection of waters, especially tribal outstanding resource waters. Don't want to mess with TMDL approach. Another area - have to look at groundwater. Concerns are lack of recharge because of climate change, mining of water in mining operations, fracturing – using trillions of gallons of water. Emphasize to EPA: if look at climate change and lack of recharge, water quality will be challenged because of lack of recharge. Quality and quantity go hand in hand.

Robert Marquez, Chair, Cold Springs Rancheria: Question on application process, concern is the amount of time it takes to process applications for grants. Is that something EPA could look at?

Laura Ebbert, EPA: EPA is working on making significant improvements. This is coming down from headquarters level and is called grants streamlining. It should be in place shortly. EPA is not able to give out consolidated grants like some of agency peers are able to do.

Robert Marquez, Chair, Cold Springs: is there a policy group that reviews these items.

Laura Ebbert: National Grants Council, Don Bay is on that council.

Felicia Marcus, SWRB: It's from a menu that could be used in the basic plan; it would allow you to go to a board to call on them to protect these beneficial uses when SWRB updates the plan.

Stephanie Suess: How would you make that point to a Regional Board and say this is important. How do you get it across?

Paula Britton, Habemotolel: Hoopa is working on this already. It's the diversion of water that's causing all of this. That is something that we don't see in the language. As far as protection, the Diversion of water affects cultural use more than anything else. Protecting water from being diverted makes a huge difference in Indian Country.

Felicia Marcus, SWRB: Hoopa has something called the Trust doctrine that we could call into play. Its issue is for example to protect flow for fish. Had a long discussion at tribal water summit where, unfortunately, California Water Law defined a different beneficial use. This would be an assistance in that conversation.

Sherri Norris, CIEA (California Indian Environmental Alliance): There are people in the room, Central regional water board said yes Region 1 has coal and fish, but are not statewide definitions, therefore we don't have to use them. The discussion language, the group that has been meeting has been sending out invitations. Everyone welcome to join in on calls. Maybe meetings with regional tribes would be good to have discussion on this language there is some language that is possible. If you want to see that alternative language than it is here and names of people working on that as well. Habemotolel Pomo of Upper Lake had a resolution that is in support of the process if you want to look at as well. The Central Valley Regional Water Board has a definition for fish consumption that is enacted by Central valley regional board for sports or commercial fishing, with the suggestion for that consumption is two meals per week.

Brian, Pyramid Lake Paiute tribe: What is the process as far as consulting with bi-state waters? There are many different jurisdictions for the Truckee River. California State Water Board and Nevada has their own standards, and the tribe has their own water quality control plan, curious of how process goes.

Felicia Marcus, SWRB: If setting water quality standard and there is a jurisdiction, you have to set it to meet the most sensitive at the other end. Would think it would be what Pyramid Lake has set. If you set standards they would have to work toward that.

Marie Barry, Washoe: California and Nevada work on water quality standards and has a report that comes out annually. Reports for Lake Tahoe are worked on collaboratively. When Pyramid Lake was developing Water Quality standards a lot of testimony for water quality standards was based on water quality for Truckee River.

Alan Bacock, Owens Valley: 1) The fish, which our people use to live on is no longer available, it's now an endangered species, is there work together with Fish and Wildlife service to help these species recover so that our people can once again subsist on the diet? 2) Curious about water quality and water quantity connection. Is there opportunity for tribes to have conversation within the Water Quality control board?

Felicia Marcus, SWRB: Yes, everyone is welcome in terms of having conversations. We share very symbolic goals, and there may be potential for this partnership. There is a lot of commonality. We are

now working with Fish & Wildlife in identifying the particulars. Don't have a list of streams there yet but there is talk about it.

Sally Stanley, Chula Valley Rancheria (from an unrecognized tribe): They don't receive the same invite to have conversations because not federally recognized. If you are working on in a watershed, the local people, native and non-native, know there are Indian communities within the watershed. Those communities need to be contacted for consultation. Even though it's the state remember there are people, native communities that live there.

Felicia Marcus, SWRB: A tribal community does not have to be federally recognized for them to be consulted with. Wants to mention to that water board is under umbrella of CAL EPA. CALEPA has a tribal policy that specifically says they work with federally and non-federally recognized tribal people. It is currently under review but the policy was put in place in 2009 and an update should be done in the next few months.

### **Break**

#### ***Tribal Caucus Report - Cornelius Antone (Overview)***

- Started out with a budget discussion and how we want to format the budget this year and obtain more data from tribal folks and leaders, accomplishments, troubles they face and how they run their programs. Tomorrow, starting at 2:30pm, the budget committee will be doing interviews. Alan Babcock will be helping Syndi Smallwood with interviews. If you have film on projects you are working on, please send to Syndi Smallwood or Marta Burg so they have time to assemble it together. We will gather information and put together for next year budget discussion.
- Marla Stanton, Well Band, brought up the fracking events that will be done around drinking water wells. How much water was brought up and how they will use it.
- Teri Williams, Cold Springs, brought up fire and how the numbers of fires are deteriorating air quality.
- Yucca Mountain may be opening up again to take hazardous waste being transported by rail and trucks. This is a concern to tribes.

Comments;

Alex Cabillo, Hualapai: In regards to fracking, frustrated that EPA can only do so much. Who has oversight over this process? Is it health and human services that it may become a health threat to folks? Look at the Gulf spill, they say it's going to be alright but we need to be proactive and take care of this early.

Jeff Scott, EPA: Really applaud effort we are doing for interviews and pictures that tell the story. The more that everyone can help the better.

- On budget meeting on NTOC and meeting with OMB, he will try to help check in on that and see where that is going.
- An email came in that Michelle Depass that she is leaving the agency in November.
- Fracking, great idea to find out more information. Folks and our staff already compiled information about that. It's one of those areas where EPA authority is fairly limited but will follow up on that.
- In regard to use of the clean water act funds for water focused emergency response, will commit Kristan Gullatt.

- Working on improving grants application process.

Marie Barry, Washoe: Can you check who regulates off shore fracking?

Alex Cabillo, Hualapai: In regards to Yucca Mountain, that is private industry. It's sort of like a black hole. The health of the environment, who's in charge that the derailment cleanup is all good. Who has oversight of that stuff?

Jeff Scott, EPA: The National Transportation Board has oversight.

Beverly Harry, Pyramid Lake: Wanted to bring up an issue that probably has been brought to table before. On cultural resources and having to develop a policy that would introduce that type of recognition that tribes that have lands and resources that are very dear to them, tribes are the only ones that have different types of beneficial uses. This beneficial use is primary ceremonial use. When they have this and sacred sites that are needed or require protection, There's additional resources that they have on reservations. Understands that there is some type of blockage for type of language that could be written into grants words. Tribes are only ones that have this type of spiritual connection. Why is it so difficult for EPA to recognize or develop some type of policy to have that language to be used? Want to understand that a bit further. A second comment is that there are a couple of tribes that are model tribes and do great jobs with cleaning up illegal dumps. They are working to reclaim some of these lands on the reservations for other uses. Would like to ask if any of the tribes have any of these types of model plants of types of the process to improve the sites that they identified on the pyramid lake reservation? It poses a hardship when trying to make use of those lands in other ways.

EPA Response by Jeff Scott: Pyramid Lake, particularly, has done cleanups over the years. It has been difficult keeping a system in place to keep the dumps from coming back. Not a great expert on language that was referred to on restrictions on GAP funding.

Laura Ebbert, EPA: From a tribal perspective an environmental protection and a cultural resource protection are kind of the same thing. With this agency we're focused on environmental protection. We mean the same things but we use different words to explain it. Suggest that the work that you want to do is environmental protection if you can use the words that we understand because at headquarters that cultural resource protection and environmental resource protection could be the same thing. There have been long conversations about this in the past and look forward to figuring out how we could talk about it going forward.

Beverly Harry, Pyramid Lake: We are done practicing; we know what that means to the tribes. Every tribe can go to their lands and identify specific things that are very dear to them. EPA has to work a little bit harder to understand that. EPA has to develop a public policy to make sure that that language is in there, for protection of the tribes. Hopes that what will happen now is that EPA will go back to offices and set up some meeting to develop some type of policy

Laura Ebbert, EPA: To speak from GAP, headquarters has placed a restriction on program that says that will not work with cultural resource. For GAP there is a specific program restriction that cannot do cultural resources.

Audrey Johnson, EPA: From CWA program there is no restriction on cultural resource program. It has to be part of some part of water remediation where actually cleaning up water; needs to be a part of water system.

Alex Cabillo, Hualapai: TEK (Traditional Ecological Knowledge) was something that was born out of this exercise between us. We have to continue to keep that alive.

Corn Antone, Tribal Co-Chair: This issue has come up before, like they were saying it's how you write it. Just the way you write the task or the grant will help you get that task done. TEK has been talked about at the national level and a few of the tribes are doing TEK.

Laura Ebbert, EPA: Next Thursday will bring to attention about the cultural resources program.

***Solid Waste Sustainability Tool - Oral Saulters (power point)***

Oral talked about sustainability and asked how do we define sustainability? After some responses he proceeded with a power point.

Questions/comments:

Emily Luscombe, Coyote Valley: Participated in a Solid Waste Management training and was told the tool-kit would be sent out to everyone there but has not received it.

Oral Saulters, EPA: It will be on RTOC website.

Alex Cabillo, Hualapai: Funding opportunities, where are they?

Oral Saulters, EPA: Looking for opportunities, but is difficult. This will help once you identify needs.

Next meeting January 28-30, 2014 in San Francisco at Region 9 EPA Offices.

RTOC adjourned at 4:00 pm.