

RTOC  
Summer Meeting  
July 31, 2014  
Indio, California

***Opening Prayer***

Done by Mr. Joe Benitez

***Introductions/Roll Call***

***EPA Opening Remarks***

Co-Chair Antone thanked everyone for being here in Indio, California. He also thanked Jackie Gonzales of Cabazon Mission Indians for hosting the summer RTOC.

Fran Schultz, the EPA Assistant Director for the Tribal Program and US Mexico Border Program. They are two programs that have differences but similar issues and environmental needs. If you haven't met her please catch her so she can meet you. She also thanked Cabazon Band of Mission Indians for hosting the RTOC meeting. In the past Fantasy Springs hotel has been recognized for their food recycling project.

She thanked Tribal Co-Chair Antone and the Southern Arizona RTOC representative for putting agenda together today. She congratulated Alex Cabillo from Hualapai who was selected for Vice-Chair of the National Tribal Caucus (NTC). She is pleased he'll be representing at a national level.

Recent developments:

- Last week at National Tribal Operations Council Administrator, Gina McCarthy, formerly issued to EPA a policy on environmental justice for working with federally recognized tribes and indigenous people. The link to this new policy is on the RTOC website.
- Highlighted recent proposed settlement in a bankruptcy case. This came from a National federal case for fraudulently transferring assets in order to escape their liability for environmental clean ups. It is the biggest one of its kind. If approved by U.S Justice Court it will bring close to 1 billion specifically for cleanup of 50 abandoned uranium mines on or near Navajo reservation.
- Thanked Chris Ross and Florence Francis from GSA.
- Thanked Don Bradford of I.H.S. on how they look at dumps, landfills, how they rank them.

***Issue Review from Spring RTOC***

Most of the money is on enforcement side in Pesticides. The breakdown for FY 13 in Region 9 was: \$198,000 for pesticide program funds that was bumped up to \$329,000 and enforcement received \$717,000 . These funds are typically combined into single grant.

If having issues with project officers, please feel free to talk with Laura Ebbert if you don't feel you're getting the response you deserve.

**EPA's Proposed Clean Power Plan**, Ray Saracino, US EPA, Region 9 Industry Clean Energy Lead, Clean Energy and Climate Change Office

Please click on the link below to view presentation

<http://www.epa.gov/region09/tribal/rtoc/upcoming.html>

### **Questions:**

Proposal they have right now is for states. Only 4 fossil fired power plants on tribal lands.

*Marta Burg:* Where there are tribal lands with power plants located within them, tribal communities may be impacted by decisions of power plants that are nearby. Those decisions are made by states. Is EPA providing for or acquiring a particular state action consultation with tribal communities or meetings?

*Mike:* If a power plant was on tribal land it was not included in goal setting calculation. Most energy used by plants is exported or used outside tribal lands.

*Sarah Ryan:* If this proposed rule is going to reduce carbon dioxide emission, In 2005, of the 30% of the carbon dioxide emissions, 82% of the gases were types of greenhouse gases What is actually going to be reduced? In developing those particular goals whether EPA or any other federal agency was communicating with the polluters to set those numbers, to say these are the targets we could meet. How much difference is it going to make in the long run?

*Ray Saracino:* EPA could only use tools they have. They have clean air act. Did do a huge outreach last fall not just with polluters but with everybody.

*Kathryn Griffin:* How does this tie in with toxic release inventory (TRI)? Will it make reporting more susceptible for tribes?

*Ray Saracino:* This proposal doesn't have any direct reporting.

*Alex Cabillo:* Urges EPA to urge states and other local governments to work on having tribal relations. Start developing a tribal state policy. As we go down this road we need to look at environmental and climate change; this needs to be pushed forward.

*Rhonda Pope:* Will this plan include the biomass plants?

*Presenter:* Biomass is an option available to lower greenhouse measures.

*Rhonda Pope:* Before biomass it was a coal plant. There was nothing done to see effects of the coal plant. It was automatically turned into a biomass plant. It was grandfathered from an original permit that was done. They spoke with the county who spoke with the state. They would encourage EPA to do some type of regulation for filling gaps.

EPA will look into how it is regulated.

### **Break**

#### **Water Reuse Project, John Flores, San Pasqual Band of Mission Indians - Powerpoint**

##### *Questions/comments:*

*Sarah Ryan:* I don't think the local planning commission is properly doing CEQA if they allowing the project to go through so that have to use surface water. This is something EPA should help us with. There is no way that house or subdivisions should go up here because there is just no water (San Pasqual). Has the Tribe looked into the CEQA process.

*John Flores:* We only have 3 staff and right now time is tied up to get water in District A.

*Rob Roy:* Does San Pasqual have a federally approved delegation plan?

*John Flores:* They are working with RCAC to develop one.

*Rob Roy:* Curious how California efforts are going to regulate ground water pumping? Is federal government looking into ground water regulations?

*Mike Montgomery:* No federal regulation for groundwater use.

#### **US EPA Drought Panel Update, Mike Montgomery, US EPA Region 9**

<http://www.epa.gov/region09/tribal/rtoc/upcoming.html>

*Questions/comments:*

*Alex Cabillo:* Need to emphasize to state representatives to do some investigation and evaluate on the groundwater out there. Not just in California, but through all Region 9 states. It's going to get worse. We all need to emphasize this to the state. Need to start monitoring the water usage of large irrigation companies.

*John Parada:* Is there going to be funding for staff to do those water readings or is it tribes to impose on water staff?

*Laura Ebbert:* There is a small O & M project. Generally neither EPA nor I.H.S is funding operation and maintenance. The person doing the meter reading during the study period would be eligible for some funding.

*John Parada:* Is that something we put in our GAP workplan?

*Laura Ebbert:* Yes.

*Laura Ebbert:* You can renegotiate at any time.

*John Parada:* Having concerns about outreach. Starting to be restricted and limited; not hardly able to do outreach related to water.

*John Parada:* no contingency plan no funding. Now we have to create a plan and hope that it gets approved.

*Mike Montgomery:* recommends contingency planning.

*Marta Burg:* johns first question about increased conservation. Sounds like I.H.S. is getting involved in responding to drought related issues and impacts. In this drought context, think about how to get some funding.

## **Lunch**

**ORD Hydraulic Fracturing Research Study – Jose Zambrana, US EPA, Office of Research & Development (ORD)**

*Questions/comments:*

Why is the radiological aspect of fracturing is not mentioned in your report?

*Jose Zambrana:* Some places produce flow back water. It can be radioactive because of where the formations are.

*Kathryn Griffith:* Will it be separate from what you are doing now?

*Jose Zambrana:* A different method, what they are trying to do is figure out how to detect it better. To the extent of what is being done in lab.

*Kathryn Griffith:* Do they receive any reports on radiological aspects?

*Clifford Banelos:* Do you have a list of everyone involved in study and can you provide that list?

*Jose Zambrana:* Different scientists are involved. There isn't one list.

*Clifford:* Looking for info submitted by stakeholders. If tribes don't comment they lose out.

*John Parada:* You've discussed assessments and what you did but didn't mention anything about studies where doing this type of drilling in areas of seismic activities occurs or could occur and how that could affect us.

*Clifford Banelos:* Does your city go over air pollution, over wells?

*Jose:* We are not looking at air initiative side.

*Nina Hapner:* Can the progress report to sent to RTOC be distributed or put on the website?

Today there was a news report regarding increase in seismic activity in areas of fracturing. Oklahoma is not known for having earthquakes, but the state is now witnessing seismic activity near wells. These

drilling events are going to create more seismic movement for us. EPA needs to look at effects on water quality and where the chemicals go. Could we have a search done of any of these done on tribal lands?

*Jose Zambrana:* Will go back and ask team.

Suggested to check out: [www.Fractracker.org](http://www.Fractracker.org). At this link if you click on any state it will tell you what is going on.

*Dave Lewis:* What is your response to that as far as do you have capability of stopping someone from fracking on your property?

*Mike Montgomery:* An explanation on the regulatory part, when it comes to groundwater source of drinking water is protected under the Safe Drinking Water Act. If fracking wells are found to impact drinking water supplies it's a violation of Safe Drinking Water Act.

*Jose Zambrana:* Trying to characterize the casing. How many are used, from surface to bottom of aquifer. That report will hopefully paint picture of what's done.

*Clifford Banuelos:* Looking forward to robust study like Jose said.

*Alex Cabillo:* Urges tribes in California to look at the study and provide comments.

#### **NTOC Report and Updates - Alex Cabillo:**

- NTOC met last week with the Administrator.
- He mentioned he would be gathering information from Region 9 to express issues and concerns Regarding GAP Guidance and program implementation. He exclaimed that they have been re-justifying past work that was already reported on and submitted.
- Talked about how it's so opposite and counterproductive of the 1984 policy.
- There are categories of concern, in which EPA failed.
  - o Category 1: They failed to provide adequate time for transition that is resulting in inconsistencies in application guidance provision and several voids in tribal efforts to protect human health and the environment. We're going to share with you issues of concerns and are going to send them to the Administrator, and copy NCAI. For letters to tribal leaders to Administrator asking for assistance in resolving these very tough issues.
  - o Category 2: Implementation of the new guidance has significantly increased the administrative burden on tribes without adequate funding to cover the additional associated costs
  - o Category 3: The new guidance is being implemented without the promised flexibility, unduly limiting many critical tribal capacity-building activities.
  - o Category 4: EPA's new focus severely limits or prohibits funding for open dump cleanup and other important waste implementation activities in violation of express statutory language and to the detriment of human health and the environment in Indian country.

#### *Questions/comments:*

EPA: Thank you for sharing this with us. People in our region including Jared at last RTOC was candid about EPA attempts to influence GAP guidance from Region 9. Even at highest levels from our region. Unfortunately it did not succeed. When Jared was here for the spring meeting, he noted that if anything is going to succeed it needs to be directly from tribe. What you are doing now is setting that path. The Co-Chair will send this out and the letter that will be developed next week.

*Laura Ebbert:* Needs specifics on where the Project Officers are being inconsistent. Needs topic and different answers that were given.

*Kathryn Griffin:* We need to really voice up and discuss this because it needs to be about us and our communities. That's what these programs are for.

*Bill Campbell:* Has been working with tribes for a long time. When he first began always appreciated EPA because they seemed to have the best interest of the tribe.

*John Parada:* Can understand 4 year closeouts, when EPA requests or demands all deliverable and all information and they give you deadlines, they should be available. It is crucial especially with questions they have and guidelines because he had to revise the workplan.

*Bill Campbell:* Would like to see uniform training for GAP Online.

*Laura Ebbert:* Will have training at annual conference on GAP online.

*Carly Whitecrane:* Has been hearing rumor that there's an indicator that could be tribally defined. Have also heard that people tried to do that and been rejected.

*Laura Ebbert:* The Guidebook does enable tribes to pick an indicator that's on the menu or request a special indicator, the custom indicator still needs to meet intent of the guidebook. Did approve some.

*John Parada:* Project officers aren't supposed to tell you direction you're supposed to take with your commitments. He's been informed they are no longer going to be able to do newsletters. It's something we've already done as outreach. Newsletter changes, not the same thing that goes out.

*Kathryn Griffin:* Have included community members in most outreach programs. Now that no longer able to present this to her community can't show council the good things that are being done.

#### **Tribal Caucus Report, Cornelius Antone, RTOC Tribal Co-Chair**

- Alan Bacock is the new tribal lead for the Budget Workgroup
- Jacky Gonzales is the new Tribal Lead for the Air Workgroup
- Wilfred Nabahe is the new NTAA Representative for Region 9.
- Kate Sloan has stepped down from her position; Carley Whitecrane who is her alternate to the Tribal Science Council needs an alternate.
- Paula Britton is the tribal lead for the Charter Workgroup.
- There were presentations from Torres Martinez Reservation on Air Program overview on air, dust, and Particulate Matter 10.
- Presentation by Shawn Muir on Addressing Solid Waste Issues caused by Homeless Encampments.
- Presentation by Beverly Harry of Pyramid Lake on how they acquired the Water Quality Standards (WQS). Talked about the fish they are protecting and on how long the process was to get WQS.
- Presentation by Jennifer LaBay of the California Department of Fish and Wildlife on proposed circulation for Dressenid Mussels.

These presentations will be on the EPA/ RTOC website.

Workgroup Reports done by the Pesticides Workgroup and the Water Waste/Water Workgroup.

#### **EPA Response to Tribal caucus Report, Fran Schultz, US EPA, Region 9, RTOC EPA Co-Chair**

- Request EPA support for Tribes on local cyanobacteria blooms
  - o Technical assistance for determining whether water is impaired for beneficial uses,
  - o Ensuring Tribal uses are protected through additional monitoring by Tribal or local agencies
  - o Information on mitigation measures.
  - o Update on when federal or state recreation and drinking water standards for Cyanobacteria will be developed.

Mike will follow up on this action items, with key contacts.

**Break**

**Review new Issues/ action Items**

**RTOC Agenda Setting Discussion, all**

**Conference Update**

- Oct. 15-17, 2014 is Annual Tribal/EPA Conference in Sacramento, California at Capital Plaza-Holiday Inn.
- Tribal Caucus and Full RTOC is October 14, 2014.
- Since the conference goes until Friday, get a room for Friday night as well. Travel day Saturday.
- Taking Connor Byestewa nominations, call for topics, submit forms online.

Adjourned at 4:05pm