

**Full RTOC Meeting  
Regional Tribal Operations Committee Meeting  
November 26, 2012**

Co-Chair Antone announced changes to the agenda:

- Start with review of August issues;
- NTOC updates;
- Tribal Caucus updates;
- EPA response;
- EPA Headquarter update.

EPA Deputy Administrator Alexis Strauss provided a welcoming address:

- There are many familiar faces and always the opportunity for new introductions. The working relationships here have gone back many decades.
- This is the time to talk about the GAP Guidebook. We have a week to kick off of dialogues networking and communication.
- Thank you to the host.
- This is the start of new federal fiscal year and it brings many fiscal and program challenges.
- Our commitment to you (tribes) is paramount.
- In the past year we attended the National Tribal Operations Committee (NTOC) meeting. The many successes at NTOC and RTOC feed onto one another. This particular RTOC and Annual Meeting we are joined by Joann Chase of the AIEO. We also have people from Office of Enforcement Compliance Assistance.
- The Regional Administrator would normally be here however on very short notice all Regional Administrators were called back to Washington, D.C. for a meeting.
- The Regional Administrator has visited 73 tribes to date.
- Welcome to San Francisco, welcome to Region 9 and welcome to RTOC.

**Roll Call/Introductions:** Co-Chair Antone conducted Roll Call. Everyone provided introductions.

**Review of August Issues:**

Lori Lewis provided a review of the August Issues:

- a) #2 question from Kate Sloan on Japanese Tsunami debris. Status: Incorporated questions in presentation scheduled for Wednesday afternoon.
- b) #5: issue raised by Pyramid Lake, a multi-tribal issue having to do with rashes from water. The Region 9 lab is assisting in looking at this issue. Status: Pyramid Lake is considering some of the options.
- c) #7: Climate Change Plan, Marie Barry and Marta Burg are working on something. Status: comments sent to headquarters.
- d) Syndi Smallwood stated for the budget presentation they are working on a video. She would like to conduct interviews during the conference. If like to say something positive about any of your grants or not please find Syndi. She also requested if you have videos that you want added to main video to bring those with you to the conference or send to Marta. The date to receive videos is February RTOC Meeting.

**Announcements:**

- Co-Chair Antone announced a meeting to work on the transition document at 6:30 p.m. tonight in the Jackson room on 5<sup>th</sup> floor for anyone working on transition document.
- Reminder that RTOC elections are ongoing. Nominations are due Dec. 10, 2012. Information can be found on EPA website.

### **NTOC Report**

Clay Bravo NTOC Chair provided an overview of the morning update:

- Communication. This is being worked on at national level.
- New workgroup called the Paradigm Workgroup.
- Joann Chase is Director of American Indian Office.
- A workgroup called Hydro-fracturing Workgroup. Looking at how and what the EPA can do to address some of the tribal concerns regarding injection material into the earth. We have representatives that are pro-development or pro-extraction.
- The Climate Change workgroup is one of the items high on agenda.
- NTOC continues to have discussions on environmental justice issues.
- The Tribes are well represented by the nominated representatives.
- Provided the 2014 budget presentation to ? with discussions on the fiscal cliff and the potential impacts.

### **Tribal Caucus**

Co-Chair Antone provided an overview of the morning meeting:

- Discussion on the GAP guidebook. Will take questions later when have discussion with AIEO.
- Action Item - Japan tsunami debris on US coast. This update is on the conference agenda. Will NOAA and other Federal partners participate/input too?
- Action Item - Fish Consumption Study. Presentation scheduled during the conference. However would like to invite Mr. Fraiser to RTOC meeting in 2013 for an update.
- Action Item - One day RTOC meeting at conference. This is not acceptable, decision not made in consultation with RTOC representatives.
- Update on NCAI meeting – Request update from anyone that attended.
- Update from NTOC – Reinvigoration process, was it a charter change? If so, request copy to tribes.
- New Action Item from Nevada - GAP training redeveloping the GAP 101 and how it is presented due to some issues that came from the training earlier this year.
- New Action Item from Big Pine Tribe and Tribes near Owens Valley are concerned about how the Los Angeles Department of Water and Power are soliciting the process against EPA and how to it is trying to get the mitigation obligations. The Tribe would like to know how other tribes could support EPA with this lawsuit. There are tribes with air quality programs and we need support from EPA for those programs as well.

### **EPA Response**

Enrique Manzanilla provided the EPA response to Tribal Caucus:

- #1 there is a session on Wednesday during the Conference to discuss more detail. John Kennedy will be able to discuss.
- #2 Fish consumption study Frazier Schilling will be co-hosting a session on Thursday at 3pm. Mariela Lopez, RTOC Co-Chair will work with Co-Chair Antone to determine if it's necessary to bring him back at a later RTOC session.
- #4 NCAI- today you will be hearing two of the three presentations made at NCAI by EPA. We sent all three presentations to tribes.
- #5 NTOC reinvigoration. EPA will be working with AIEO getting hold of charter for NTOC.
- #7 NV RTOC representatives regarding the GAP training. Let Enrique Manzanilla, Laura Ebbert, or Nate Lau know what your specific comments are. What the training did not capture in evaluation. They are more than open to comments on how they can do these trainings better. Marie Barry will do a write up and provide to Laura Ebbert.
- #8 Owens Valley. Not much to discuss today. Appreciate the importance of issue to tribes in area. Two questions: 1.) How can tribes help EPA on the issues that come from this litigation; 2) there is a broader issue about assurances, helping tribes with their quality planning.

### **Drinking Water in Indian Country**

(Powerpoint on website)

Bruce Fergusson presented information on improving access to safe drinking water in Indian country. He will also provide a presentation tomorrow at the Conference.

- A shared responsibility with tribes and EPA.
- EPA does provide infrastructure money and technical assistance.
- Tribes have a responsibility to run the systems in an appropriate manner.
- EPA has new system put in enforcement response policy based on violations found in system and how long systems been out of compliance.
- System that has 11 or more considered to be enforcement compliance system.
- Raising awareness among tribal leaders, it is about letting people know what EPA responsibilities are.
- Trying to work with Tribes to come up with solutions to working together to bring the systems in Indian country to the point where the chances of having noncompliance system in Indian Country is about the same as it is outside Indian country.
- Want to hear from tribes on issues they want to talk about. Will give more information at breakout session tomorrow.

Comments and feedback following the presentation included:

- What were some of trends being seen when looking at 11 points? And, what is cost of system? Mr. Fergusson replied: day to day clean up issue. The tribal government or EPA or whoever was responsible didn't put the data in the way to lower score is to come into compliance or EPA takes an enforcement action and puts you on schedule to come into compliance.

### **Announcement:**

- Irenia Quitiquit of Scotts Valley Band of Pomo Indians shared that they have been working on energy efficiency for last 3 years. They have been asked by PG & E to help with energy education/outreach and weatherization to tribes in central and northern California to serve low income homes. They hope to start in January 2013. A MOU is required. Thomas Anderson is the contact to sign up.

### **GAP Guidebook Discussion**

Co-Chair Antone provided an overview of the discussion held at Tribal Caucus Meeting in the morning. We received the Guidebook late last week and tribes didn't have time to review it. It is very important that the guidebook reflect the differences of tribal environmental needs and priorities. Maximum flexibility and the use of GAP funds in the development of tribal environmental plans and other mechanisms EPA uses to document progress. It is critical that EPA personnel working with tribes give flexibility to tribal priorities. It is important to ensure tribes to revise their plans as their needs and priorities change. Tribes should not be held to commitments if they cannot get funding to do work.

Karin Coslow, Deputy Director of American Indian Environmental Office announced that JoAnn Chase was not able to attend the meeting as she had to stay in Washington DC this week to prepare for the Tribal Leaders Summit. Ms. Coslow provided a presentation on GAP Program Priorities. Ms. Coslow thanked everyone for the comments, conversation, letters, and phone calls. The GAP program is a critically important program. One of things focused on is making sure this remains a viable funded program. The President has continued to support this program in his budget request. We have an additional \$30 million that was requested for GAP and we will continue to advocate for additional resources for this program. The guidance is out and incorporates the guidebook. It was decided to make one document. The guidance provides overall framework for program also provides whole section in guidebook.

There were substantial revisions made throughout document. One of the reasons that the agency embarked on this process was in response to the Inspector General report. This program has also been recommended as an agency level weakness. AIEO has consistently responded to that recommendation and has been successful in not having been identified as an agency weakness. The Guidebook is really focusing on capacity indicators. One of the goals is to enhance partnership that tribes and EPA have in protecting the environment. One of ways would like to do that in these proposed environmental EPA tribal joint planning documents. The first round of consultation wrapped up in January. AIEO has started a second round of consultation until February 22, 2013 for the consultation period.

Comments and feedback following the presentation included:

- Have you considered that if only 12 % of tribes are implementing their programs it's only because were getting 12% of the funding. Ms. Coslow replied that in FY10 and FY11 EPA submitted a proposal to the President and submitted proposal as part of agency budget report have implementation program. We got shot down twice and were not going to go back a third time. We did not request for those implementation funds this FY. We have a commitment from Bob Percusepi and the Administrator to try to find ways to get those resources because we don't disagree that there needs to be any more resources for the implementation work and it's really tough time right now.
- Is this not an environmental justice issue? Ms. Coslow replied that it could certainly be presented as an environmental justice issue. There was also a comment made in regards to environmental justice usually has to deal with groups disadvantaged, disfranchised, people left out of the EPA regular process. Tribal governments are not groups. Many of tribes have treaties. Most advance EJ groups do not have treaties and there is no federal responsibility for these groups.
- Tribes have not received notification letter for consultation. Are the tribal leaders going to be involved with consultation with EPA and how is that going to work? Ms. Coslow replied that EPA did mail individual letters to all tribal leaders. It is an invitation to request consultation. If interested in consultation contact them. Each request for consultation is handled individually.
- A comment was made that the fundament of meaningful consultation and coordination is getting bypassed because we are getting into a gap of timing and notice and a lack of timing for tribes to coordinate our own response. For instance the recent consultation that occurred at the National Congress of American Indians.
- These things always come out right now when all grants are due. It is extremely frustrating and burdensome.
- Who is paying for the guidance? Is it GAP dollars?
- How many tribes were looked at when they did the audit? Did they audit all 148 tribes in California? If EPA is going to audit they really need to look at everything going on and the work that is being done.
- The PowerPoint presentation talks about trials and capacity building and trying to prove to you that their doing what their supposed to be doing. Did not see anything about consortia up there. Ms. Coslow replied that the statute is what identifies the consortia as a recipient.
- Words that continue to be heard are capacity and consultation and the guidance report. The word capacity would mean the ability to create sustainability. Why not allow tribes spend money to develop and support environmentally sound enterprises to sustain their environment programs. Isn't that capacity? Does not understand where it's not allowable. A comment was made that if you were to ask everyone in this room what their definition of capacity you are going to get a different definition.
- Concerned when AIEO continues to ask Tribes how tribes need to be consulted with. The AIEO should know how the tribes want to be consulted with.
- A reminder to AIEO to include the Environmental Directors because they brief their tribal leaders.
- Bottom line says guidebook will take effect 2015. So our GAP coordinators will use old regulations when reviewing? Is there any changes to current regulations are you going to be taking it back to congress? Ms. Coslow replied that there will not be any changes in regulations.

- The 9<sup>th</sup> Circuit Court has been striking down guidance documents in terms of their capability. Will there be a disclaimer on this guidance document? Ms. Coslow replied that there is a disclaimer located in the inside cover of the document to explain that it is guidance.
- Question regarding if Ms. Coslow is hearing some of the same comments from other regions that you heard today? Ms. Coslow replied yes.
- The agency really struggles in a lot of place outside AIEO to find ways to avoid doing a one size fits all approach to Indian tribes. GAP stands out as a real attempt at going against that. The more Tribes speak up the more the national rules will address our issues. How do we use federal funds to enhance our capacity to learn how to lobby?
- Tribes have two opportunities to finalize comments and that is at the NTOC meeting scheduled for January 14, 2013 and at the next RTOC February 12-14, 2013 at Tohono O'odham Nation.

Enrique Manzanilla commented that what is laid out in this document is very important to each and every tribe. EPA is committed to working with tribes to figure out the consultation process that Tribes would like to do. This is a big deal as it is a national effort in a response to questions raised by the Inspector General. At the same time we are trying to infuse some degree of rationality into this program and the relationship of this program to other programs that are managed by EPA and by tribes.

Ms. Coslow thanked everyone for the questions/comments and encourages everyone to continue to make comments. She stated that the document was mailed out to tribal leaders and emailed to environmental directors.

#### ***National Tribal Solid Waste Workgroup Update***

Dino Chavarria, Tribal Co-Chair provided an overview of the National Tribal Waste Response Steering Committee.

- This is the last year of the 5 year grant by OSWER. There are two members from Region 9 who are Rob Roy and Elliott Talgo.
- The Committee did have representative from the OWSER to talk about the GAP Guidance. The relationships defer from region to region. The Committee provided comments to Mathy Stanislaus. The Committee concerns echo Region 9 concerns. The Committee felt it was an unbalanced approach. There were the measures that were proposed, an administrative burden a lot of tribes do not run a Solid Waste Program themselves. Dino provided example of the illegal dump sites in his area, i.e., meth dump sites that have syringes. We can clean up the site with GAP but cannot address the meth issue with GAP.
- Changing priorities, what we are seeing in Indian country and things can change overnight. Overnight a tsunami can happen and the waste occurs. When forest fires occur our priorities change. We hope that this can work hand in hand through the RTOC, steering committees, etc..
- Hosted the Tribal Lands Forum, taking place of the National Environmental Management Conference. The last Forum was held this past August in Coos Bay Oregon. It has been growing every year, last year 270 attended, however not as big as the Region 9 Conference. You can get information from ITEP website. The next Tribal Lands Forum is scheduled for August 2013 in Santa Ana, New Mexico. We have gotten a lot of positive feedback on it even from the agency itself.
- Congratulations to your Co-Chair; we had invited Corn to our meeting and he represented your Region very well and he presented at Caucus and RTOC. Basically, the eyes are on you. Tribes in his Region always ask what is Region 9 doing, what do they think about this? Compared to other Regions, you are miles ahead.
- Extended invitation to their Region Conference to be held in 2 weeks in Dallas, Texas.
- Thank the Co-Chairs and to share the information across the regions as we are partners.

Questions and feedback on presentation included:

- Has there been any discussion on further funding for another cycle? Dino replied not for the steering committee. It will go out again for RFP if it will continue.

***Closing Remarks/Announce Next RTOC Meeting***

Co-Chair Antone announced the next RTOC is scheduled for February 12-14 at Tohono O'odham Nation.

Deputy Administrator Alexis Strauss thanked everyone for their patience and participation and thanked Karen for attending. She encouraged everyone to work together as there are a couple of important opportunities, one during the NTOC Meeting in January and then the RTOC meeting in February. She asked what are the most important changes you wish to advocate for.

Co-Chair Antone thanked Willard Chin for his work to the RTOC.

Meeting adjourned 4:50pm