Spring RTOC Action Items – May 13, 2015

	Requested By	Task	Who	When	Status
1	Central California	Is the current funding for the RTOC Co-Chair and the Attorney enough to perform the necessary duties of RTOC without being a burden to the Tribe who hold the contract for Co-Chair? 1. What was the average base funding in the past? 2. What is the RTOC Attorney working on currently? 3. It would be helpful for the RTOC to have a list of items in process or completed on a quarterly basis with a status of the work.			RTOC Co-Chair has responded to this action item. We will add this item to the next RTOC Tribal Caucus Reps Retreat proposed for January 2016.
2	Central California/Big Valley	Update on #9 Action Item from January 2015. 1. What is happening to Tribal Water Quality Data? Data submitted in STORET-compatible format is placed in the grant file as a deliverable meeting CWA 106 annual reporting requirements. Data submitted directly to STORET can be accessed by WQX users through the WQ Portal, as long as the data is selected as "Final".	Gail Louis		Gail Louis spoke with Sarah Ryan on 4/21/15 about two topics: (1) the Central Valley Regional Board will be updating their 303d list of impaired water bodies, likely initiating activities this summer. EPA is advocating for the Board to solicit additional/newer data prior to its update and will alert Big Valley and the other Clear Lake tribes if there is an opportunity to provide additional data for consideration. (2) Sarah has also expressed interest in having tribal water quality monitoring data that is entered in

		2. Why doesn't CEDEN talk to WQX? State Water Board staff is currently redeveloping CEDEN to make it capable of providing quality service. 3. If Tribes enter data into CEDEN and it isn't currently communicating with WQX, can CWA 106 funds be used? Data entered into CEDEN should meeting the organization rules of STORET/WQX, therefore, the tribal dat should be in STORET-compatible format. Talk to your CWA 106 PO and discuss how to provide the information needed to meet EPA's reporting requirements. 4. If data entered is preliminary to WQX, and talking resumes with CEDEN, can data be used in evaluation of water bodies? Data must be "Final". Data marked as "preliminary" indicates that it has not gone through a QA/QC review. "Preliminary" data should not be used when making decisions about water quality.			WQX automatically links to state systems and processes for updating impaired water bodies lists and other decisions under the Clean Water Act. We agreed that this is a long-term goal. In the short-term, Tribal Water Office staff will pursue the question of how to facilitate use of tribal water quality data in WQX by states and other interested parties.

3		Why are Project Officers/Awarding Officials advising Tribes how much they can pay their employees? Tribal Policy supersedes EPA. Would like clarification on this.	Laura Ebbert/Sara Russell		When receiving Grant Awards from Federal Agencies there are certain conditions and rules that must be followed, and part of those rules are the requirement of having a tribal policy for staff raises. During this time the agency is under intense scrutiny and we are making sure that the Agency and Grantees alike are doing business as they should.
4		Enforcement Team coming out to tribal water systems pushing that they are enforcement and yet they aren't qualified to inspect because they don't know what they are looking at. Some tribes also noted that the enforcement team has been trying to dictate to the Tribe who can be present on an Enforcement inspection. Tribes would like to see some education to the "New Enforcement Team" and stop the bullying. It is inappropriate and disrespectful to Tribes.	Deldi Reyes/Roberto Rodriguez		EPA regrets the miscommunication that occurred with the Tribe during enforcement inspections. EPA acknowledges the concerns raised and did not intend any disrespect to the Tribe during the inspections. When EPA conducts inspections, including inspections on tribal lands, we will do so in a professional and respectful manner. We welcome an opportunity to hear directly from the affected Tribe's representatives so that we can better understand the situation. EPA would also like to take the opportunity to clarify that we do not intend to dictate to any Tribe who shall be present at a tribal inspection. We do want to ensure that when we are conducting an inspection of a drinking water system that we have an opportunity to interact most directly with the system operator

					regarding our inspection questions. In addition, EPA contractors working on behalf of EPA should not participate in support of the Tribe during EPA compliance inspections of tribal drinking water systems as this is a conflict of interest. The Safe Drinking water Act provides in part that designated EPA representatives are authorized to conduct inspections of public water systems (PWS) upon presenting appropriate credentials and a written notice to any supplier of water. Prior to conducting an inspection, EPA contacts the PWS to ensure that the appropriate representatives will be available during the inspection. The goal of our program is to ensure all have clean and safe drinking water. Finally, while our organizational structure as an Enforcement Division is only a few years old, our team of drinking water inspectors in the division is fully trained, credentialed and experienced. Again, we welcome an opportunity to discuss this situation more directly with the affected Tribal representative(s) so that we can better inform our response.

5	Central California/ Robinson Rancheria	Request RTOC to form a ETEP workgroup that will track ETEP submittals by Tribes in the EPA review/approval process and that the Workgroup members who had completed ETEPs could be available to mentor Tribes that requested assistance" or something like that. If all the Tribes are to have completed and approved ETEPs by whatever the deadline goal of HQ EPA then we need to get things moving.			Tribal Caucus to form workgroup.
6	Karuk Tribe	Consultation Issue: re NEPA review	Laura Ebbert and Amy Miller		Amy Miller connected with the Tribe at the meeting, and will develop a written summary of next actions on NEPA review. Laura Ebbert is developing a response on the consultation question raised by the Tribe. **See last page for full response.**
7	Big Valley	Is IHS sharing tribal data with State Agencies to address the drought? Can we have discussion with EPA tomorrow? Is there an approach to deal with this? Could be sharing well logs.	Gail Louis/Mike Montgomery		Mike Montgomery spoke with Don Brafford and Chris Brady with the California Area Office of the Indian Health Service (IHS) on Friday, June 26th. IHS does not share the drought data that they collect in preparing their At-risk Tribal Maps. However, when they hire a well driller to drill new wells for the tribes, they must hire a state-certified driller who is required to provide well log data about the newly drilled well to the state (as part of their certification). Apparently, a rider

					on the recently passed State omnibus budget package mandates that the public have access to well log data submitted to the State. Thus, if IHS is drilling new wells for Tribes, the Tribes should expect that the well log data will be publicly available.
8	Big Pine	Why were tribes asked to put questions on cards? If we can avoid that. May be more efficient.	Bridget Coyle		We choose a variety of facilitation tools for each meeting. EPA will work with the current and future Co-Chair on what works best for each meeting.
9	Hopi Tribe	Same issues as Central CA. On water issues. The multimedia and enforcement group. Issue on if they know what they are really inspecting or enforcing.			See response above for #9.
10	Tribal Caucus	Does EPA approve Solid Waste Plans, what is the process for approval?	Zoe Heller/Laura Ebbert		EPA offers technical assistance to tribes developing Solid Waste Management Plans, including sharing sample planning documents, providing feedback on identified issues and possible approaches to address those issues, and in reviewing drafted Tribal Solid Waste Management Plans and providing written suggestions and comments when requested. Where a tribe would like to pursue implementation under Section E of the GAP Guidebook, EPA must document that the activities being pursued are covered by the tribe's Solid Waste Management Plan, and that the Plan has been adopted by the tribal government. EPA

					does not functionally 'approve' a tribe's Plan, but in this case does validate that an approved plan exists that meets the requirements of both the GAP Guidance and the Agency-wide Plan for Solid Waste.
11	Navajo	Reorganized New Staff – Need to meet with new decision makers	All Tribal Attendees		Jared has proposed that RTOC members should feel free to schedule meetings with key Senior Management Team Members. The Tribal Section Project Officers can help facilitate that process, especially when the meeting is in SF. Mariela will make sure by next SF RTOC meeting this is in place on registration.
12	Hualapai	Discussion on GAP Letter to President Obama	ORA		ORA will report back to the RTOC if information becomes available
13	Sherwood Valley	Extends invitation to Regional Administrator to visit.	ORA		Jared will have staff make arrangements for a visit.
14	RTOC Policy Advisor	Has been collecting info on "what has been lost with new GAP guidance." Wondering who this should be shared with?	Tribal Caucus, ORA		Should share with Laura Ebbert to share with HQs. Next steps will include setting up a meeting with Sylvia Quast to prepare information from HQs.
15	Redwood Valley	What does it mean to declare a Drought Emergency? CAL OES has been great, but FEMA unlikely to use Stafford Act.	Gail Louis		WTR 3-4 Staff held a call with the State's CAL OES to discuss the definition of declaring a "drought emergency". For Tribes, a state of emergency declaration allows Tribes to in act ordinances to support water conservation measures within their tribal lands and eligible for state assistance, For counties, if a federal

					declaration is in acted funding will be available to support drought issues-CA Disaster Assistance. In general, the Federal Emergency Management Agency (FEMA) has said that, until there is a declaration of a federal state of emergency due to drought conditions (which is unlikely to occur), the Stafford Act provisions will not apply to drought response. EPA is working with IHS, USDA Rural Development Agency, HUD and other federal entities to coordinate our respective programs to assist tribes whose water supplies are being impacted by drought conditions.
16	Big Pine	Themed Budget – need money and flexibility	N/A		EPA appreciated the budget presented by the RTOC, and hears the request for more funds and greater flexibilities.
17	Coyote Valley	What can you do to get officials out to the reservation? Need Project Officers to visit to help sell projects.	ORA, Bridget Coyle		In progress.
18	Big Pine	Defining Mature Tribal Programs			Next RTOC Meeting
19	Tribal Section	Send out Survey Monkey to identify possible dates for a GAP webinar	Laura Ebbert	5/22/15	Done, webinar planning in the works.
20	Alex Cabillo	Send "Mature Tribe" definition (focusing on water) to Laura	Alex Cabillo	3 weeks	Alex sent a document and you can find a link to it on the RTOC website titled: A. Cabillo Response to Action Item #20
21	Alex Cabillo	Clarify what NTC meant re: "engaging Tribal Leaders"		5/21/15	Alex responded: In talking with Chairman Maines, the NTC will be discussing these four topics in

					more detail at our next face to face meeting in the week of June 22-26th: Tribal leader outreach, funding for mature tribal environmental programs, Energy and Transportation and Technical Assistance priorities.
22	Marcy Katzin	Follow-up on question (Melody Sees) re: bees-pollinators-GMO (Marcy Katzin will forward GMO webinar to people) Webinar is June 11.	Marcy Katzin	6/11/15	Webinar information was sent to RTOC on 5/26 and 6/3/2015. Webinar was held and was conducted on June 11 as specified by Marcy Katzin. Draft list of action items and responses were sent to participants on 7/2/15.
23	Navajo	Request by Navajo (Ronnie Ben) for tribal consultation on Shiprock sites (GW plume moving).	Clancy Tenley	Before August Meeting	On June 18, 2015, EPA sent a formal consultation letter to the Navajo Nation on the Five-Year Plan. If Navajo agrees to include partner agencies, including NRC, in the consultation, then the Shiprock issue will be discussed then.
24	All Tribes	EPA presented on cybersecurity requirements forthcoming. Tribes have an opportunity to comment.	All Tribes	6/20/15	Review and provide comments on cybersecurity language to Kysha Holliday (holliday.kysha@epa.gov) Mariela will resend to EDs
25	Vernese Gholson & Liz Armour	Follow-up on 4700B forms, clarify process	Vernese/Liz	5/14/15	The EPA Form 4700-4 and Standard Form 424-B are required during the application phase and can be submitted two ways 1) bundle the forms with a cover letter and submit to grantsregion9@epa.gov email box or 2) include required forms when applying in Grants.gov. For more information regarding the bundling process please refer to the attachment

					(BUNDLING.PPTX) and contact with your designated Grants Specialist. Also, the EPA Region 9 Grants Office is working to collaborate with Grants.gov, EPA Headquarters and Tribal representatives to provide some help tips and information on Grants.gov. Please keep an eye out for a notice from us with a link sometime in June/early July to a training designed especially for tribes. It will include information such as registering with SAM and how to apply for EPA grants.
26	Sara Russell	Folllow-Up on Grants.gov issues raised at January RTOC	Sara Russell	6/13/15	The attachments named below are provide as a response to the 1/28/2015 RTOC GMO Session: ▪ RTOC Questions - GMO Response… ▪ FORMULA for MATCH… ▪ Type of Match… ▪ Indirect Cost… you can find a link to them on the RTOC website titled: GMO Response to Action Item #26 – RTOC questions, and so on.
27	Big Pine	Pesticides Enforcement – a discussion occurred about how applicators are credentialed for Reservation applications. Also Big Pine would like to request inspectors/applicators get their credentials verified by Tribal Council.	Big Pine/Amy Miller		If there is a specific company to inspect please let Roberto Rodriguez know (rodriguez.roberto@epa.gov), and EPA can follow up with the Tribe and company.

28	Ak-Chin	There were several issues that individuals expressed of renegotiating water rights and settlements. Water rights in CA are governed by DWR and state water boards. We can facilitate a discussion here. We have appeal to declare state rights for fish and wildlife – make sure these are exerted.	Gail Louis		EPA had a call with Ak-Chin on Tuesday, July 7. Per the call, EPA will facilitate a meeting with BOR, AZ Department of Water Resources, Tribes, and ITCA to discuss drought impacts on water rights and water allocations. Before coordination can begin, Ak-Chin will provide various contacts for these entities to EPA.
29	Big Pine	Big Pine is the go-to when there are a lot of situations because of how we care about the environment. Did you have any follow-up about recycling program: is the county going to start a recycling program because we are being affected by them not having one?	Laura Ebbert		Laura will follow-up with Alan at the Summer RTOC meeting.
30	Big Pine	We had a meeting with LADWP to beg county to support them in their effort to do less mitigation because they have put some more water into the project. As we are sitting there, a health advisory was going on and so there was a bit of irony. It's not just Owens Valley lake bed. We are in an air monitoring gap. Great Basin Pollution Control District has an air monitor but it barely includes us. They are in support of our efforts to address air pollution	Elizabeth Adams/Amy Zimpfer		Amy Zimpfer spoke with Sally Manning at Big Pine on June 11 to discuss the Tribe's concerns. Sally said that tribes are participating in the Cultural Resources Task Force convened with LADWP, and she believes they will continue to do so. She is concerned about the impact of the drought on LADWP's mitigation on the lake, and will get back to Amy if she has specific ideas or suggestions. If Big Pine or other tribes are interested, Amy offered to convene a discussion about this issue in October by phone or at

					the Annual EPA/Tribal conference.
31	Big Pine	Grants.gov issues were raised. A couple of folks were hearing from tribes – calling the hotline and not getting a response	Laura Ebbert		You can request a waiver from grants.gov for just one year. If you are having a problem contacting the hotline then let your GS know! Mariela is contacting GMO for a list of Tribal GSs for Corn to share with the community.

Legend	
Pre-Meeting Action Items	
During Meeting Action Items	
RA Action Items	
Tribal Leaders Meeting Action Items	

Action Item #6:

In response to this concern, Kathy Goforth, manager of the Environmental Review Office, and Lisa Hanf, Assistant Director for the ERO Office and Laura Ebbert, Manager of the Tribal Program Office, met with representatives of the Karuk Tribe to discuss EPA's role under the National Environmental Policy Act. This discussion provided some basic information about NEPA, including the responsibilities of the federal agency (Action Agency) when they propose to take an action that is subject to NEPA. Those responsibilities include: preparing an Environmental Impact Statement (EIS) for public review and comment when the proposed action may "significantly" affect the environment; responding to all public comments received; and engaging in tribal consultation regarding the proposed action. In summary, EPA has a unique role in the NEPA review process. It is an "independent" advisory role that is different from the regulatory or funding role that we play in most of our other programs. As a result, our interactions with tribes in the NEPA process may feel less "collaborative" than tribes may be accustomed to if they have worked with us under other statutes. We welcome tribal insights and information about the projects that we review under NEPA, but our NEPA comment letters must reflect EPA's independent judgment. We encourage tribes to fully engage in the NEPA process and submit comments directly to the lead federal agency that is proposing an action that may affect them. A more detailed summary of the discussion with the Karuk Tribe is described below.

EPA has a unique role in the NEPA program that is mandated by Section 309 of the Clean Air Act. Section 309 is not related to any other part of Clean Air Act. It was a provision inserted into the Clean Air Act simply because the CAA was undergoing reauthorization at the time that Congress decided to give EPA this responsibility; it was a convenient place to put the requirement. Section 309 requires EPA to review and publicly comment on all EISs prepared by other federal agencies. We are to consider the full range of environmental impacts; not just air. We focus on issues relevant to EPA regulations, policies, and expertise and our role is only advisory; we have no enforcement authority under Section 309.

Neither NEPA nor Section 309 gives us the authority to compel another federal agency, or anyone else, to do anything. It is up to the Action Agency to decide what to do with the advice we give them. EPA's comments must reflect and independent view of EPA regulations, policy, and positions. To inform our review, we may seek additional information from other parties with expertise or knowledge that would be useful for us to consider; but, our comments cannot speak for another party. Our comments must convey EPA's independent judgment.

EPA's review and comment on another federal agency's EIS is not a decision that triggers formal consultation under the Tribal Consultation Policy. EPA Regions 9's NEPA reviewers coordinate closely with Region 9's Tribal Section (Laura Ebbert's office) to help ensure that tribal perspectives are considered in the NEPA process. We try to ensure that tribes are aware of EIS public comment periods for projects that may affect them. Some tribes may already be actively following a particular project and already know when an EIS is out for public review.

Others may not be aware, so we work with Laura's staff to identify the tribes that might be affected by a project and inform them of the opportunity to provide comments to the Action Agency. We also want to ensure that we are aware of tribal concerns about projects that we are reviewing. We recognize that tribes may have "on the ground" knowledge of a project or the local area that can give us useful perspective on the proposed project. If a tribe has already submitted comments on an EIS, we'll ask if they are willing to share a copy with us. It is helpful for us to know the tribe's perspective and concerns; we take them seriously, and we consider them as we review the EIS.

If we do not see the tribe's concerns disclosed or addressed in the EIS, we may recommend that the Action Agency engage in further tribal consultation.

If a tribe raises a concern about a proposed project to our attention, AND our evaluation of the matter leads us to a similar conclusion, we may raise that concern in our comments to the Action Agency; however, our comments can only speak for EPA, and must reflect EPA's independent judgment.