Regional Tribal Operations Committee Meeting
Full Caucus
July 22, 2020
9:30 a.m. – 4:30 p.m. CDT
8:30 a.m. – 3:30 p.m. MDT

Microsoft Teams Meeting
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Conference Line 210-469-3886
Code 884 396 894#

Meeting Minutes

I. Opening – Tribal Co-Chair Cherokee Nation

II. Roll Call and Declaration of Quorum – Pueblo of Santo Domingo, RTOC Secretary
   a. Quorum established 16 out of 17 in attendance

III. Welcome and Introductions– Co-Chairs Ken McQueen, EPA Region 6 Administrator & Wayne Isaacs, Cherokee Nation
   a. Ken McQueen – recognized that we would be meeting in person in NM, however, due to COVID19 we are on restrictions for travel. Gave thanks to Cherokee Nation and Santo Domingo Pueblo for our efforts of putting together the agenda for today. Thanks all Tribal staff and leadership for their attendance. EPA celebrated their 50th anniversary in December of 2019. $1 billion award to 520 tribes and 25 tribal consortia across the country. A few items: 1. Supreme court issued its opinion in McGirt; 2nd: recognized the Tribal partners that conducted lead testing in drinking water in Tribal schools, which included Kickapoo, Pojoaque, Kickapoo Tx, Wyandotte nation, Eastern Shawnee, Mescalero apache, Tesuque, Santa Clara, Cherokee nation. Would encourage all the Tribes that have not participated to do so as it has been a successful project in reducing the amount of lead exposure to children. McQueen has visited 44 out of 66 tribes in Region 6 and had planned conduct tribal visitation in spring/summer 2020 but got postponed due to the pandemic.
   b. Wayne – thanked everyone for choosing to join us today and wished all participants of the call well wishes. Been with the Nation over 21 years, worked in Superfund & Brownfields before transitioning to NEPA program, in which the office is under the guidance of NRD for the Cherokee Nation. Provided their mission statement and take it seriously as a beacon for the work they do. Would not have achieved this without the partnership with their federal partners. AIEO has aided the Tribes and what they can accomplish and cannot accomplish

IV. Approval of Agenda
   a. 1st Motion: Muscogee Creek Nation
   b. 2nd Motion: Seneca-Cayuga Nation

V. Approval of Minutes – November 20, 2020 RTOC Meeting, Catoosa, OK
   a. 1st Motion: Laguna Pueblo
   b. 2nd Motion: Muscogee Creek Nation

VI. Tribal Leader Roundtable Discussion, Comments and Concerns (1 Hour)
   a. COVID-19 Updates

- Cherokee Nation – outlined their response to COVID-19 and informed of legislation passed in form of an Executive Order for guidelines and their administration has been proactive on the pandemic. Wayne's office has been doing environmental sampling. Swab testing in offices where an employee has tested positive. The clinics and hospitals are doing their own sampling, similar to what their offices are doing, in which they have 114 offices across several counties is cumbersome. Wayne is on the forefront of the sampling for the tribe and have a few air samplers on hand. HAZWOPER training has been an integral part of their expertise in conducting the testing and they were the choice to do this testing. Wayne sent out a copy of their protocol that they must follow, including visitors and citizens. Lab is only 30 minutes away and they set up pick up times and get results in 2-3 days. Starting to see trends in the sampling they are doing. QA/QC for the disinfection of the buildings/offices. Fumigated on a daily basis.
- Fort Sill Apache Tribe – Councilwoman – Fortunate that their member's numbers have been low, recommended to wearing masks, temps check, visitors go through same process that staff does and only 1-person at a time allowed into building. March 17-June 1, 2020 was closed. Essential staff is working and other working from home. If they experience a flare up, how long to you close before opening back up? They have been working with the region IHS to determine the proper length of time to shut down and disinfect.
- Santo Domingo Pueblo – Provided an update on our COVID-19 response.
- Chickasaw Nation – They do follow the screening questions, random testing and everyone coming back to work has to be tested. PPE – ordered gloves, masks (FEMA -10,000), got thermal scanners, they conduct tests at the casinos, buildings; installed foot door openers and have retractable belts to limit people. Backpack floggers, UV lights used for schools' buses and are following guidance from OSHA and CDC. Leadership has been very proactive, especially with shelter in place. If there are specific things you need, shoot Phillip and email and he is willing to share his contact and resources.
- Randy – Talked about setting up a COVID-19 work group and listed the agencies that are on the work group with him now, part of the FEMA workgroup. If anyone from Tribal partners are interested in this work group, Randy can share the information and see what we can do to get them set up through the RTOC group.
    1. Wayne – there seems to be a need and interest in developing this work group would be helpful
    2. Cynthia weighed in on this and agrees that it would be good to start the work group. Asked who would lead it, when we'd start and providing opportunities to present information during RTOC calls and meetings
- Laguna Pueblo – Update – proactive from the very start, shut down since the beginning of March. Emergency response committee that is doing tracing and testing and helping the families out. There is a curfew and village officials' man the posts and ask for assistance. Anyone that wants a test can get a tested. Works with their IHS facility. 4-6 days to get the results back.
    1. Request to EPA – continue to support us through these times and you have been positive, get us PPE and provide to the Tribes and Pueblos. Works plans and objectives, be supportive of what we are doing, if we need to modify our work plans, be understanding and supportive as we work through the pandemic.

- Muscogee Creek Nation - Jennifer - when they enter the building, it's locked to the public. Hand sanitizer and other items of PPE that are available prior to entering the building. Jennifer showed us what they are doing in her community.
- Ysleta del Sur Pueblo – a lot of similarities are the same with what Pueblos are implementing in NM. Sensor toilets sinks and lights. Prevents people from touching surfaces.
- Isleta Pueblo – add to Cynthia's remarks re: what EPA could do to assist tribes, the after-action review point. Planning can be strengthened.
- Randy – has your tribal leaders asked you to work in the schools?
    1. Wayne – they have done the immersion school, the Sequoyah, ICW offices. They have looked at these areas.
- Santo Domingo Pueblo provided some insights.

b. Action Items from Leadership Discussions

BREAK (10 Minutes)

VII. American Indian Environmental Office – COVID-19 Updates (15 Minutes)

a. Director Scott Mason (invited) – Arturo Blanco introduced Chad McIntosh and Scott Mason

- Mr. McIntosh – On behalf of president trump and administer wheeler, he greets us. Represent our sovereign government. We've been going through a lot with the global pandemic with social distancing, closures, reopening, and closures again. Encouraging teleworking as much as possible. Enforcement – reiterate that although there is an enforcement policy in place to protect their inspectors and us, that compliance is not suspended but is expected. In any cases where compliance has not occurred, they will follow up with it. Work with us to provide meaningful consultation.
- Scott Mason – AIEO – Cherokee Citizen he is happy to join us from his home in great OK. The Tribes and Pueblos have struggled with the coronavirus and how tribes are dealing with this. All of EPA travel is suspended and know that face to face meeting are preferred however until it is safe, EPA will not be attending these meeting. They are open to teleconferencing, phone calls, texting and emails, they are willing to meet with us as well as find ways to communicate. GAP guidance revision still takes place and working with Tribes on this.
    1. COVID-19 public health emergency does not limit the applicability of consultation
    2. Tribal government to participate in meaningful consultations
    3. EPA should seek flexibility to support tribal engagement – within he USEPA, regional offices- if they have a suggestion or idea that is unique but support EPA's missions, then it will be taken into consideration.
        a. EPA will not be going into the office and are using the BIA contact list and their internal list of environmental directors to maintain communication
        b. Discretion regarding consultation – they will be reassessing this regularly and are open to input
        c. GAP grant continues to be awarded with out hesitation. Office of grant and debarment/council to ease some of the burdens on the GAP recipients. Waived the 4th year of GAP grants and are allowing a 5th year due to COVID-19 impacts.
        d. The McGirt Vs. OK – ruling two weeks ago of the continued existence of the creek nations. How will this case affect EPAs work?

- Arturo Blanco – thanked Scott and Chad for being on the call. Invite questions and concerns from the Tribes and want to hear from the tribes, including how to best assist the tribes as we are living through the pandemic.
    1. Opened it up for our tribal partners to weigh in on the conversation.
        a. Muscogee Creek Nation – Any news on the upcoming budgets or the next year's funding cycle.
            i. NTC executive meeting soon – it's a push to the end of August. Going through the normal cycle right now between the house and senate budgets and feels august would be a good time to address this and see what the final budget it. Scott -National Program Guidance – EPA later this summer will kick off the development of FY 22 and 23 Program guidance's and knows that this RTOC has been a participant in the past.
            ii. Chickasaw Nation – mentioned the HVAC policies that they are following in response to COVID19 to protect citizens and children.
        b. Chad's response to Wayne's overview – commended their efforts and the sophistication of the model in which Cherokee nation is implementing.
- Isleta made a motion – Any tribe within EPA Region 6 may contribute comments related to an RTOC meeting for the record. Comments shall be submitted to the RTOC Secretary no later than 30 calendar days after full RTOC meeting – August 22, 2020.
    - 2nd Motion – Ottawa Tribe of OK, except for technical difficulties not to be the norm, we need to identify what the technical difficulties are and identify the problems so that Tribe and Pueblo can participate.
        - Motion has been approved. All comments, reflections, etc., due on September 2, 2020.

VIII. Update from EPA Region 6 on COVID-19 Activities (1 Hour and 15 Minutes)

a. Grants
- Christopher Watkins – Admission Division support- 1 update on June 30th – clarifies some of the question's recipients may have had. Nothing new has transpired.
- Randy – grant letters going out for the multi-purpose grants. Next week it will be sent to eligible tribes.

b. Drinking Water
- Allison Fontenot – Tribal Drinking Water Program – no specific updates to give. Thank you to all the community water systems for CCR – sending out to customers on time, July 1, 2020. Sanitary Surveys are due and only a handful of surveys, they understand that COVID-19 has implication on the work they can do.
- UST Compliance - Works closely with us in UST compliance. 40 inspections to transpire on a yearly basis. Abel to accomplish 6 of those compliance inspections, still have 27 many more to do. Discussion on EPA restarting direct implementation field work (inspections, sanitary surveys, and site work) and technical assistance at tribal facilities and tribal lands.

c. Cheryl Siger – a few things to highlight and if there are questions specific to guidance she'll try and answer. Still on Phase I and inspections would be based on an acute health threat. Do have inspectors out in the field in our states and if we are called upon, they do have people in these states to respond. Virtual signatures have been successful for them. Agree to electronic services of documents and agree to sign electronically.
- Can't do a virtual inspection based off the CFR.

LUNCH **12:30 p.m. – 1:30 p.m. CDT/11:30 a.m. – 12:30 p.m. MDT**

IX. Reports

a. National Tribal Operations Committee (NTOC); Budget Process and other discussion (30 Minutes)

- Citizen Potawatomi Nation – Alternate – Caddo Nation is providing the update. FY2020 budget matrix summary. GAP, Water Project and Solid Waste Management were the priorities of the top 3 and you can see the other categories that are listed. Issue papers that NTC will be submitting, lack of timely consultation, lack of timeliness with TAS. Budget priorities recheck them, did they change because of COVID. AIEO had asked NTC to ask a 5-question survey, with an additional question asked. 12 tribes that answered the questions.
    1. Wayne – more flexibility for GAP dollars for tribes. When you send your application in, you find out that these trainings are available and there should be more flexibility to go to.
        a. Media workshop or webinar and dipping your feet into and see if it is valid for your work.
    2. Craig Kreman shared that ITEP has an 8-hour HAZWOPER refresher online.
    3. Nikki Woodward – Laguna ITEP offers a free online 8-hour refresher course for free. Http://itep.scholarlms.com/catalog/
    4. Shawn Howard – August 5th – just got off their NTC call. Pushed forward, more time to work on our budget document. Gave thanks for submission of the matrices to co-chair and response the questions. Encouraging the continued submission of answers to the 6 questions.

b. EPA Division Reports Discussion (30 Minutes)

- Renewal of EPA-Tribal Environmental Plans (ETEPs) with tribal partners.
    1. James McDonald – Mission Support Division – see report. 2021 budget process –Santo Domingo requested the training for grants management. Polly – grants management with FEMA. 5-year training – national effort in grants management and EPA R6 still has the training manuals. He will work with Randy and get something available to us as soon as possible.
    2. David Garcia – Air Division – LANL Tritium Project – LANL change in scope is under review, July 27th complete the review. TITLE V permitting – Public comment periods ended June 20, 2020, have reviewed the comments and make response accordingly. August – final permits going out. NM Title 5 – comment period in September.
        a. San Felipe Pueblo - didn't get a chance to participate in the NTC update. Her question she has for LANL – your stating that they are below the 2 millirem threshold, can you give us an idea as to where you are at? Not sure if you said 10 or 2, but they are currently below the level. There is monitoring that takes place during transportation, if it gets to 8 millirems, the project will cease. Pinu'u – during the pandemic, it may seem like business as usual, that some operations are still up and running, San Felipe Pueblo has not received any information re: communication on the tritium and Government to Government consultation with San Felipe is being requested. Can we make the information beyond the four core Pueblos to ensure that it is being shared with other Pueblos?
    3. Charles McGuire – Water Division – see report – are there any questions? No questions.

4. Ronnie – Land Chemical – does not have more to add to the report. COVID is impacting them in the UST inspections as well workshops, symposiums and training courses that were scheduled for tribes, will be pushed back to next year.
5. Cheryl Siger – Jerry Saunders is going to give the summary, his last RTOC. Crucial to maintain your qualified staff and EPA understands that there are no grant dollars to cover this and it should come from the Tribe.
6. Superfund/Emergency management – provided a # of their progress on superfund sites. See report.
7. Communities, Tribal and Environmental impact – Page 24 summary
    a. ETEPs – Randy – main goal was to get ETEPS, have been completed, 22 in total – coming up for renewal this year. Would like to make the ETEPs better and more efficient.
8. Laboratory Service and applied – lab is still in COOP status, they are trying to provide technical support, reach out to them if you need help. QA training – did have 2 trainings in Feb/March that were well attended. 11 tribal members total. March training was right before COVID and have not scheduled a training as of yet. Hoping next year, they can provide them. Thanked everyone that worked with QA staff on getting in their quality assurance docs – QAPPs and QMPs – up to date, at least 130 documents that have been submitted.
    a. Laguna – question for Ben – once you are back in the lab, do you take requests for services for items outside of our grants, that EPA can assist with.
        i. Ben, yes, they are open to that.
9. EO on Accelerating the Nation's Economic Recovery from the COVID-19 Emergency by Expediting Infrastructure Investments and Other Activities

X. New Business – (30 Minutes)

a. McGirt v. Oklahoma Supreme Court Decision
    i. New Regional Council to introduce himself – James McGuire – 3rd day as regional counsel at Region 6. McGirt is very fresh and it is of importance to the Tribes and to EPA and they are trying to figure our how EPA actions are consistent with McGirt. Susan Smith and Tina Alvarado and will be providing the overview.
    ii. Tina – overview of the case – litigation started Sharp v. Murphey – after years of going up and down the 10th circuit ruled that the Muscogee Creek reservation had not be disestablished. Monumental Case, chief justice was following the basic law under how a reservation can be disestablished. Applied the facts to the case. Once a reservation is created only congress can disestablish it and need to do so in writing. Because congress never expressly said the reservation does not exist and because the land was promised in a treaty, it remains a reservation. The CFR includes reservation and Indian allotments, EPA relies on that definition for the determination of the reservation.
        a. Yvette – Iowa tribe – any thoughts or research on how this will affect tribal towns within Muscogee creek nation, gave an example of a town. They through about it and is a question on the list. If the 5 tribes or 3 of the 5 tribes enter into any kind of agreement with OK and they legislate the agreement to compact in any way, does that have the potential to change the ruling on McGirt, could reservations or boundaries be disestablished. - *Congress gets to regulate the relationship with the US Tribes. Something only congress can do, and they have to do so by legislation and in writing.*

b. Wayne – creek nation and current status will this affect their ability to get TAS - *It would but for the 2nd part of the SAFETEA division. The midnight rider is still law, it does not go away.*

BREAK – used an online time clock

XI. Old Business (30 Minutes)

a. Farmington Resource Management Plan: Mancos-Gallup Amendment Discussion (BLM Invited) https://www.blm.gov/programs/planning-and-nepa/plans-in-development/new-mexico/farmington-rmp-mancos-gallup-amendment

i. Comment period for the EIS has been extended and there is time to submit input. Developing draft RMP and EA associated with it. Feb 2020 finally released the draft EIS and RMP, started the 30-day comment period. Because this one is of interest to a number of members in the public and the pueblos, opened it up to 90-day period, then COVID-19 hit. The first 3 months of the commented period they worried about hearing how the comments would come in due to COVID-19. Secretary of interior to extent comment period 120-day, Sept 25th. (210 days) for folks to get comments in on this document.

a. Laguna Pueblo – consistency review, what is this and also if the APCG are going to be afford the opportunity to have the consistency review.

i. Jill Aragon – consistent with Governor of NM's review process as well as the NN. They do these reviews to make sure that they don't conflict with management practices. Pueblo of Laguna will also have additional time to review the final EIS before it gets posted. Section 106 process as well as

ii. Asked about APCG

1. They are a cooperating agency, and they will have the 45-day review of the preliminary review of the EIS. They are open to consultation.
2. Consistency review – they do not get the information because they have no land in the area?
3. They will as cooperating agencies, the 45 day and 60 day as well. Governor's review to ensure they are complying with no impacts to management prescriptions.

BLM Presentation -
HOW TO PROVIDE COMMENTS
The project page on ePlanning: https://www.blm.gov/programs/planning-and-nepa/plans-in-development/new-mexico/farmington-rmp-mancos-gallup-amendment
By voicemail: 720-213-5786
By mail:

- BLM Farmington Field Office, Attn.: Sarah Scott, Project Manager, 6251 College Blvd, Suite A, Farmington, NM 87402
- BIA Navajo Regional Office, Attn.: Robert Begay, Project Manager, P.O. Box 1060, Gallup, NM 87301

XII. Other Business

a. Schedule for 2021 Spring RTOC Meeting and Tribal Summit

- Randy – last year at this time, we set the dates for next year's meetings.
  1. November 16th through 20th – RTOC meeting during this week if there are no objections.

a. Santa Clara requests to host it on December 1-2, 2020 – putting it up for discussion – can we schedule this for a September 1, 2020 call? Yes, we'll discuss it here.
b. TECO or IRAC take it back for our meetings
c. Arturo Blanco– tentative dates to be considered so we can put it on our schedules for availability

b. Workshop, Training & General Announcements –

- Wayne – webinar that took place today with EPA there Healthy Indoor Environmental. It was on COVID 19 and buildings. Wayne will send it out to Randy, there is a recoding of this that will be made available online.
- Develop a repository of all virtual meetings, trainings, workshops, etc.
  1. R9 is doing their conference within two-week time frame for the annual conference, encourage participation.
- Roger Hancock – emailed national training out to the R6 directors – small scale transfer station training and the waste audit training. Limited to 35 slots, breakout sessions, if we can increase, let us get another trainings out there to Tribes.
- Randy, NAEPC is doing a remote 8 HR for its members. Perhaps they could be approached for more info. Jill Sherman Warne is the coordinator.

XIII. Review of Action Items – RTOC Secretary, Cynthia Naha & Mark Allen, Ombudsman & Randy Gee, Regional Indian Coordinator

a. Defer to Ombudsman

XIV. Closing Remarks – Arturo Blanco, Director, Office of Communities, Tribes and Environmental Assessment, Tribal Leaders; EPA Regional Administrator and Cherokee Nation, Co-Chairs

XV. Adjournment