

California Environmental Protection Agency

TRIBAL ADVISORY COMMITTEE

March 1, 2012

Meeting Summary

Tribal Advisory Committee (TAC) Members In Attendance: Ken Tipon (Federated Indians of Graton Rancheria); Hon. Nora McDowell-Antone (Fort Mojave Indian Tribe); Chris Howard (Elk Valley Rancheria); Dore Bietz (Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria); Hon. Donna Miranda-Begay (Tubatulabals of Kern Valley)

CAL/EPA: Agency Secretary Matt Rodriguez (am only); Deputy Secretary Miriam Ingenito (am only); Assistant Secretary Arsenio Mataka; Associate Government Program Analyst Diane Trujillo-Carrillo; Special Assistant Malinda Dumisani; Cal/EPA Tribal Liaisons: Pam Wofford (DPR); Marie Hoffman (Waterboards); Sylvia Oey (ARB); Patrice Bowen (DTSC) and Amy Dunn (OEHHA via phone).

Other Attendees: Stephanie Seuss (Environmental Program Manager, Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria)

Welcome & Introductions: Agency Secretary Matthew Rodriguez and Tribal Advisory Committee (TAC or Committee) Chairman Ken Tipon opened the meeting at 9:15 am and welcomed the Cal/EPA Tribal Advisory Committee members. Secretary Rodriguez introduced Deputy Secretary for Environmental Policy & Community Programs Miriam Ingenito and Assistant Secretary for Environmental Justice and Tribal Affairs Arsenio Mataka to the TAC. The TAC is welcome to reach out to the Miriam and/or Arsenio anytime.

New Business:

1. **Review Of Minutes** –TAC has not approved the May, August, and December 2011 meeting summaries. TAC Chairman Tipon requested that the Committee table the approval of the summaries to give members a chance to review and edit. Changes should be sent to Special Assistant Dumisani. The summaries will be presented again to the Committee to approve at the next meeting in May 2012. All TAC members present were in favor.
2. **Cal/EPA Tribal Coordination w/Governor's Tribal Advisor** – TAC Member Miranda-Begay suggested that Secretary Rodriguez and appropriate staff meet with the newly appointed Governor's Tribal Advisor Cynthia Gomez to ensure consistency on tribal issues for the state. Secretary Rodriguez agreed to meet with Ms. Gomez in the near future. Secretary Rodriguez stated the meeting with the new Tribal Advisor could, among many things, assist Cal/EPA in what elements to consider within Cal/EPA's developing Tribal communications policy.

- 3. Introduction of new Cal/EPA Tribal Contacts, Deputy Secretary Ingenito and Assistant Secretary Mataka** – Deputy Secretary Miriam Ingenito introduced herself to the TAC as one of the new Cal/EPA Tribal leads as well as Assistant Secretary Arsenio Mataka. TAC Members recommended that Deputy Secretary Ingenito and Assistant Secretary Mataka attend the US EPA, Region 9, Regional Transportation Operations Meetings (RTOC) and the CalTrans Native American Advisory Committee (NAAC) Meetings to meet with other Tribal representatives working on environmental related issues and to better understand issues brought forward by Tribes.
- 4. Request TAC Meeting with Heads of Cal/EPA Boards, Departments, and Office** - TAC Member Howard asked that Agency Secretary Rodriguez consider scheduling a meeting with TAC and the newly appointed heads of the Cal/EPA Boards, Departments, and Office (BDOs) in order to build relationships and to highlight the Cal/EPA TAC as a resource. TAC Member Miranda-Begay stated the meeting could serve as an opportunity for the TAC to receive information from the BDOs as to what they are doing regarding Tribal activities. Secretary Rodriguez agreed to the request and asked staff to arrange the meeting at a future date.
- 5. Reaffirmation of Agency Tribal Policy** - TAC Chairman Tipon asked the Secretary to consider reaffirming the Cal/EPA Tribal Policy to reflect this administration's commitment to working collaboratively with Tribes. Secretary Rodriguez reiterated his and his Agency's commitment to working collaboratively and in a meaningful way with Tribes. Secretary Rodriguez directed staff to work with TAC members to revise the Tribal Policy to not only reaffirm but to revise the Policy to reflect the Governor's Executive Order B-10-11 language to consult with Tribes.
- 6. Notifications to Tribal Governments** – The TAC requested Cal/EPA ensure that when sending notices out to Tribes that the information also be sent to not only the Tribal Chairs but the Environmental Directors of the Tribes as well.
- 7. CA Energy Commission Listening Session** - TAC Member Miranda-Begay shared information about the CA Energy Commission's Listening Session regarding ways to improve and/or change its CEQA analysis in the siting of energy projects. This listening session was scheduled for March 2, 2012.
- 8. Tribal Training for Cal/EPA** – TAC Secretary Dore Bietz suggested that Cal/EPA schedule Tribal training for Cal/EPA executives and other staff to ensure that even when Cal/EPA staff change assignments that there is consistency in protocol with Tribes. Cal/EPA staff are working to schedule such a Tribal training for executive staff and other appropriate Cal/EPA staff in the next couple of months.

9. Tsunami Trash Tracking – TAC Member Miranda-Begay asked if Cal/EPA or some other state entity was tracking last year’s tsunami trash that scientists believe will hit the state of California, Alaska, and Washington coasts over the next several years. In fact, Washington already reported some debris on its coast. Cal/EPA staff will inquire as to who is tracking the debris and how new sightings of debris may be reported in the State.

10. Tribal Work in Liaison Duty Statements – TAC Member Miranda-Begay asked if the Cal/EPA Tribal Liaisons had their tribal activities incorporated into their duty statements. As Cal/EPA leads, staff and liaisons move in and out of positions; it’s good to ensure that the liaison duty statement reflects the expectations of continued work with the Tribes. Assistant Secretary Mataka agreed he would confirm if Tribal liaisons’ duty statements reflect their tribal work.

11. Old Business

- a. Draft Communication Protocol Document Development** – TAC Member Miranda-Begay shared the current development of the communication protocol and that she is now handing over the document development over to Cal/EPA staff.
- b. Kern County Energy Project Update** –TAC member Miranda-Begay shared an update on the Kern County Energy project she had previously brought to the Committee’s attention.
- c. Resources Agency Tribal Policy Development** - TAC Member Howard inquired about the status of the Resources Agency’s Tribal Policy development. Cal/EPA Special Assistant Dumisani shared with the TAC that she has met with Resources Agency staff working on the effort and found that the Resources Agency has modeled much of their draft Tribal policy after the Cal/EPA Tribal Policy (i.e., training, contact database). The Resources Agency is expected to meet with their Tribal policy stakeholders to solicit early comments. The Resources Agency was scheduled to meet with the Governor’s Tribal Advisor to get her input on the draft policy and the development process. Cal/EPA Special Assistant Dumisani will get more information and update the TAC as information becomes available.
- d. ARB Carbon Offsets in the AB 32 Implementation** – TAC Member Howard asked for an update on the ARB carbon offset regulations. Regulations require interested tribal government that want to participate in ARB’s Offset Trading Program to agree to a limited tribal sovereignty waiver in order to participate. Special Assistant Dumisani stated that she had contacted ARB’s staff attorney’s working on that aspect of the regulations, Jason Grey, and he said there weren’t any changes and there hadn’t been any contact from any tribes since the regulations were

finalized in December 2011. TAC Member Bietz highlighted her surprise that California Tribes who have all fought hard for sovereignty were willing to contemplate giving up parts of that sovereignty, limited or otherwise. The Yurok Tribe, one of the biggest Tribes in California, expressed interest in participating in the Cap and Trade Program directly to ARB, TAC Secretary Bietz stated it was unexpected and surprising that they would agree to consider entering into sovereignty limited waiver.

12. BDOs Updates

- a. **ARB** – No updates.
- b. **DTSC** – DTSC Liaison Patrice W. Bowen was introduced and spoke with the TAC.

New Tribal Liaison, Patrice Bowen – DTSC recently designated Public Participation Manager Patrice Bowen as their new Tribal Liaison for the Department. Previous DTSC Liaison Mona Arteaga-Bontty will support Patrice in her new role. TAC Members shared their gratitude in working with Mona and wished her well in her current and future endeavors.

DTSC Draft Communication Protocol Language – TAC Member Miranda-Begay asked to see DTSC's latest Tribal chapter within Draft Public Participation Manuel the Department is currently revising and updating. Mona was working on the draft chapter and had informed the Committee about her work on it. Newly assigned DTSC Tribal Liaison Bowen stated that she would circle back with Mona and report back the status.

- c. **DPR** – DPR Tribal Liaison Pam Wofford (DPR) said a new director for DPR has been appointed, Brian Leahy.

Pesticide Research Authorization Permit Applications – Stemming from a question posed to Agency Secretary Rodriguez at the last US EPA Tribal Conference during his California Environmental Director Session, the DPR Research Authorization Permit Application was brought up in relation to how the Tribes are notified of an approved application in their area.

DPR Tribal Liaison Pam Wofford explained that once DPR approves the permit, the permitted have one calendar year to apply the pesticide within the state. Only the County Agricultural Commissioner's office who approves the location on a local county level knows exactly when and where the application will be applied. The current notification and reporting process requires the researchers at least 24 hours before the start of

application to contact with a Notice of Intent to the County Agricultural Commissioner's office. It's only two weeks after the completion of the research authorization that DPR is sent/notified that the research application was initiated (regarding of whether the application was completed or not). So once DPR issues the authorization, the researcher has up to a year to apply throughout the state of California. So, the issue is that DPR doesn't have and doesn't get the information to where and when the research is done until two weeks after the application. In addition, some Tribes don't have the best collaborative relationship and so asking the County to notify the Tribes may be difficult to get accomplished.

However, although the process doesn't allow timely notification to the Tribes by DPR, DPR has worked to change to its research authorization application to include language that states the following: This authorization, however, does not apply to use on Federal or tribal lands; use on such lands requires Federal or tribal authorization.

Pesticide Illness Reports – TAC Members asked what does DPR do with pesticide illness reports because the reporting has not been adequate in this area. DPR Liaison Wofford said she would look into what specifically DPR does with pesticide illness reports and Cal/EPA staff stated they would follow-up with the state Indian Health Program under the Department of Health Services and with the Native American Health Clinic to see how they deal with these types of reports and what is the follow-up.

- d. **OEHHA** – OEHHA Liaison Amy Dunn (OEHHA) updated the TAC on the Bioaccumulation Oversight Group (BOG) and the Cal/EPA cumulative impacts efforts.

Bioaccumulation Oversight Group. Liaison Dunn stated that the BOG did not have the resource capability to include a sampling of the Tribal traditional diets within the current program. The BOG would consider other sources of information that meets their data requirements related to this issue. The TAC recommended that TAC Member Irenia Quitiquit participate if she interested and has the time. Liaison Dunn stated she would reach out to TAC Member Quitiquit to ask for her participation. The BOG is composed of OEHHA, the State Water Resources Control Board and Regional Water Quality Control Board staff, and representatives from other agencies and organizations including USEPA, the Department of Fish and Game (CDFG), and the San Francisco Estuary Institute (SFEI).

Cal/EPA Cumulative Impacts Efforts. Liaison Dunn gave an overview of the Cal/EPA Cumulative Impacts efforts lead by OEHHA on behalf of Cal/EPA which includes OEHHA's development of a screening methodology. Liaison Dunn posed a question to the TAC. What actions

could or should the BDOs take once the screening method is completed? The TAC suggested that Cal/EPA consider using traditional knowledge as well as anything focused on cultural resources would be good to include into their cumulative impacts considerations. Special Assistant Dumisani added that OEHHA would like to know if the TAC know of other data that may be available that it hasn't already considered that would illustrate cumulative impacts on Tribal communities.

- e. **Waterboards** – SWRCB Liaison Marie Hoffman (Waterboards) shared that the SWRCB is preparing to disseminate notices regarding its development of a Statewide Mercury Policy and Mercury Control Program Reservoirs (“Mercury Program”). Marie is working on GIS layers for Program’s map.

The UC Davis Fish Consumption Study contract will be finalized soon and the study will soon be underway.

SWRCB met with Sarah Ryan, Environmental Director at Big Valley Rancheria Band of Pomo Indians, who discussed some ways as to how to better reach out to Tribes.

On March 19, 2012, the Waterboards will release its final draft Septics Policy. This final draft is the result of multiple public workshops, 52 comments received by stakeholders from all over the state, and collaboration with Regional Water Quality Control Board’s staff and local government health representatives. The Policy will go to the Board for approval on May 2, 2012.

Also, in March, the SWRCB is expected to release its Preliminary Draft Wetlands Policy. This Policy will be released for informational purposes only and will not constitute the initiation of a formal notice and comment period on a draft policy for water quality control. To date, the Policy development effort has included input from the general public, numerous stakeholder groups, local, state and federal agencies, tribal government representatives, and technical experts. A formal notice and comment period is expected to commence with the release of the draft policy for water quality control with an environmental review document later this year. This preliminary draft Policy includes four elements: (1) a wetland definition; (2) a wetland delineation method; (3) a wetland assessment and monitoring framework; and (4) authorization procedures for dredge and fill discharges to waters of the state. In the interests of governmental transparency, the Waterboards will release the draft Policy to provide an opportunity for early review.

Clean Water Act Section 303(D) List Of Water Quality Limited Segments (Total Maximum Daily Load TMDL) will include tribal water quality data

http://www.swrcb.ca.gov/water_issues/programs/tmdl/.

The Wastewater Treatment Plant Operator Certification Regulations delayed their amendment process due to budgetary issues; however the Office of Operator Certifications (OOC) is on schedule for the spring of 2012. Announcements regarding the regulation amendments will be posted on the OOC website at

http://www.waterboards.ca.gov/water_issues/programs/operator_certification/index.shtml and email notifications sent to OOC mailing list.

To receive OOC announcements, please subscribe to “Wastewater Operator Certification” email list at:

http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml

Meeting adjourned at 3:30 p.m.