

Cal/EPA Tribal Advisory Committee
November 14-15, 2012
Circle of Native Minds Wellness Center
845 Bevins Street, Lakeport, CA 95453

MEETING MINUTES

Attendees: Ken Tipon - Federated Indians of Graton Rancheria
Tribal Advisory Committee Chairperson
Irenia Quitiquit - Scotts Valley Band of Pomo Indians
Tribal Advisory Committee Member
Ed Wait - Elk Valley Rancheria
Tribal Advisory Committee Member
Thomas Brown - Elem Indian Colony
Stephen Waltz – Elem Indian Colony
Tribal Administrator
Sarah Ryan - Big Valley Rancheria
Paula Britton - Habematolel of Upper Lake
Mike Shaver – Robinson Rancheria
Larry Ray – Scotts Valley Band of Pomo Indians
Sylvia Oey – Air Resources Board
Arsenio Mataka – Cal/EPA Office of the Secretary
Diane Trujillo – Cal/EPA Office of the Secretary
Tracey Harper – CalRecycle
Jim Shattuck - Department of Pesticide Regulation
Patrice Bowen – Department of Toxic Substances Control
Roger Kintz – Department of Toxic Substances Control
Rita Hypnarowski - Department of Toxic Substances Control
Amy Dunn – Office of Environmental Health Hazard Assessment
Gita Kapahi – State Water Resources Control Board
Marie Hoffman – State Water Resources Control Board

Welcome and Intro by Ken Tipon, Tribal Advisory Committee (TAC) Committee Chairperson
Thomas Brown also welcomed the committee and gave a presentation.

Mr. Brown, Tribal Outreach and Engagement Specialist, is an Elem Tribal Member and the only paid staff member at the Circle of Native Minds Wellness Center provided the space for the TAC committee meeting. Two volunteers for the Center were present. Mr. Brown described the Center's development and the resources the Center provides to Native Americans in Lake County. Mr. Brown listed the tribes in Lake County and the number of Pomo tribes in neighboring counties, for a total of 23 Pomo tribes. Of these, there are six federally recognized tribes in Lake County: Elem Indian Colony, Big Valley Rancheria, Habamatolel of Upper Lake, Middletown Rancheria, Robinson Rancheria and Scotts Valley Band of Pomo Indians.¹ Mr. Brown described several Pomo dances such as Shake Head, Big Head and Ball dances. He also described cultural resources and some medicinal plants used by the Tribes.

Mr. Brown described the police responses to tribal calls for help and Public Law 280 (PL280). Most tribes in the region utilize the Lake County sheriff for law enforcement. The

¹ The Koi Nation of Northern California, a federally recognized tribe listed in the Federal Register as Lower Lake Rancheria, were not mentioned at this meeting.

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PL280 law passed in 1953, and sheriffs come under PL280. Mr. Brown relayed that Lake County officers still appear not to understand how to utilize PL280 to benefit Tribal citizens. He noted that only Robinson Rancheria has tribal police officers, among local tribes in Lake County. Paula Britton, Environmental Director for the Habamatolel Tribe noted that some tribes in Mendocino County (Hopland, Coyote Valley and Round Valley) have tribal police officers.

Mr. Brown described the Sulphur Bank Mercury Mine and the foundation of contaminated rock removed from the mine that was used for homes in the area. He discussed Rattlesnake Island and its purchase without an Environmental Impact Report (EIR). He noted there is a local group, Friends of Rattlesnake Island working to resolve the cultural resource conflicts.

Mr. Brown stated that Tribal protocol is to ask for the tribal administrator when contacting a Tribe.

In the Clear Lake area, there are issues with the Sulphur Bank Mercury Mine. We will see the US EPA Superfund site later in the day (field trip) at the Elem Colony site area..

There are four Indian casinos in Lake County.

Presentation by Sarah Ryan

Sarah Ryan is the Environmental Director with Big Valley Rancheria in Lakeport. She gave a power point presentation. On the Rancheria, there are three wastewater treatment plants and one casino. They have corrosive water, with lead, copper and mercury, not to mention pesticides in the water. Big Valley's water treatment system treats 1,000,000 gallons per month. They have a Stormwater Management Program. Sarah stated that Cache Creek Dam is in the area. She also mentioned problems associated with Department of Pesticide Regulations (DPR) Research Authorizations, and Jim Shattuck (DPR) said he would look into this further. Big Valley Rancheria uses a drift catcher air sampling device to detect pesticide drift. The Rancheria is 19 miles in length and 8 miles wide and extends into Clear Lake. Clear Lake is 43,785 acres in size and several hundred feet in depth. The Rancheria is surrounded on a few sides by walnuts, grapes, pears and hay fields. Pesticides and their by-products, such as DDE and Dieldrin, have been found in the streams over the years. California Department of Food and Agriculture (CDFA) found positive results for flouride in the tules and sediment (CDFA's Hydrilla Project in the Lake).

Big Valley has an EPA grant to carry out a two year study of native plants and pesticide levels, as well as looking at phosphorus levels in vineyards. Sarah went on to say that the State Waterboards' Frost Protection Regulations were tossed out [on February 2, 2012, the Mendocino County Superior Court issued an order temporarily staying enforcement of California Code of Regulation, title 23, section 862, the Russian River Frost Protection Regulation]. Pear production and walnut production is down, although more vineyards are going in (4000 acres total in the Lake Port area). Sarah mentioned a book called "*Silent Spring*" by Rachel Carson and another called "*History of Pesticides and Man's Impact on Clear Lake*" by Greg Young.

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Sarah noted that potable water systems are in the area but the County Agricultural Commissioner (CAC) does not know where they are and/or does not enforce label restrictions for pesticides around or near them. Tribes are not being notified of the label or restrictions by the grower via the CAC. Tribes are not given the opportunity for input when the CAC or grower makes decisions on or near tribal land with regard to pesticide or nitrate use. Navigate Granular will be used in the Lake and DPR needs to know this. Sarah was aware of this and stated that this new product is being tested for efficacy purposes. Sarah said the CAC in Lake County is trying to shut down the CLAC (Clear Lake Advisory Committee) Sarah is a part of CLAC.

Beneficial uses need to be added to the local Basin Plan, like the North Coast has included in their Basin Plan.

Presentation by Paula Britton and Larry Ray

Paula Britton, Environmental Director for the Habamatolel Pomo of Upper Lake, and Larry Ray, Habitat Conservationist with Scotts Valley Band of Pomo Indians, gave a power point presentation on Hitch Research and Study. The history and an overview of this project were discussed. Hitch are fish traditionally used by tribes, 1 - 2 pounds in size. Hitch are located in or around Clear Lake and in the streams. Three streams have had habitat assessments done and almost all the fish have parasites. The Tribes are not always given permission by the landowner to enter property to perform project research. Project research methods have evolved over time and Hitch habitat is sometimes located in areas not previously known to contain them. Larry Ray gave the BDO Tribal Liaisons a tour of Eight Mile Valley, a habitat restoration area the following day that was used by Tribes and was a traditional travel route. This grant project is multi-faceted and is also part of the project to improve conditions for Hitch.

Presentation by Arsenio Mataka

On November 13, Arsenio briefed the Cal/EPA Secretary on issues related to the DPR Research Authorizations and related concerns in Lake County. He mentioned the Tribal Training at Cal/EPA that took place November 1st for the County Agricultural Commissioners and the upcoming Tribal EPA Conference taking place November 27-29 in San Francisco.

Arsenio announced that Cal/EPA will soon initiate the process of revising the [Cal/EPA Policy for Working with California Indian Tribes](#).

One of the Secretary's goals is to bring the policy in line with the [Governor Brown's Executive Order B-10-11](#), which states in part, "It is the policy of this Administration that every state agency and department subject to my executive control shall encourage communication and consultation with California Indian Tribes. Agencies and departments shall permit elected officials and other representatives of tribal governments to provide meaningful input into the development of legislation, regulations, rules, and policies on matters that may affect tribal communities."

The process of revising Cal/EPA's Tribal Policy will start with a letter from the Secretary to all Tribes, asking for their input as to what changes they would like to see in the current policy. The

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Secretary will send out the existing policy with the initial letters to the tribes; a revised version will be drafted to reflect input received at upcoming listening sessions. Cal/EPA plans to hold two to four listening sessions to get input from tribes, and to hold a formal 45-day public comment period to solicit comments from the public at large. The BDOs will have at least two opportunities for input. The TAC will review the draft before it is finalized. Cal/EPA hopes to have the revised policy completed by June 2013.

DTSC is developing a consultation policy independent of Cal/EPA's. Ken Tipon, Committee Chairperson, asked Arsenio whether DTSC's protocol would be held up pending Cal/EPA's revisions to the Cal/EPA Tribal Policy. DTSC Patrice Bowen said she expected that DTSC's protocol would proceed regardless of Cal/EPA's process.

Comments and Observations

This TAC meeting and related field trips were hosted by staff from the Native Minds Wellness Center, Elem Indian Colony, Scotts Valley Band of Pomo Indians, Big Valley Rancheria, Habematolel Pomo of Upper Lake and Robinson Rancheria. Tribal representatives made several presentations and led three field trips to give the Cal/EPA BDO liaisons some insights into the environmental issues Tribes are dealing with and projects they are carrying out. Most of the projects centered around water quality and species preservation. The most significant air quality issue was pesticide drift related to local orchards (pear, olive, walnut) and vineyards which abut the lake and residential parcels. Much of the pesticide application is aerial. Apparently, Lake County also has very high rates of both lung cancer and respiratory disease, in spite of being in attainment for all State Ambient Air Quality Standards (SAAQS).

BDO Tribal liaisons visiting the area recognized the need for local stakeholders to coordinate and communicate so that efforts can be combined to improve the water quality of the lake and surrounding streams. Updated tools are especially needed to perform water quality and laboratory testing. Many tests that are needed are not being conducted by local government but have been conducted more regularly and for longer periods by Big Valley and tribes. A varied group of potential stakeholder participants need to be engaged, including: tribal governments, local government, private landowners, federal and state governments.

Mike Shaver, Environmental Director from Robinson Rancheria and Stephen Waltz, Elem Tribal Administrator, directed the committee to the Sulphur Bank Mercury Mine site located adjacent to the Elem Indian Colony. Mike provided the history and more recent events surrounding proposed solutions to cleanup of the Superfund site.

Sarah Ryan and John Gaghuki gave the BDO Tribal Liaisons tours of areas within the Rancheria that included a short boat tour. This tour enhanced the discussion of the Rancheria's environmental conditions that were discussed on the first meeting day.

BDO Tribal Liaisons found the hydrilla removal that is taking place at the dock at the Konocti Vista Resort to be very interesting. The hydrilla is being pulled manually from the lake and gathered for removal, getting rid of the problem without the use of pesticides or other toxic materials in the lake. Using this approach also provides employment for local youth.

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CalRecycle grant opportunities may be available to fund this type of operation, if the materials were being composted onsite or at another local site. Follow up with Big Valley about this component of their activities will be conducted.

Other topics discussed included: fluridone, elevated phosphorous from runoff, mining impacts and oxygen levels, cyano-bacteria toxics monitoring; tracking health conditions and mapping algae blooms.