

**Regional Tribal Operations Committee Meeting
Full Caucus (held virtually)**

July 14, 2022

9:30 a.m. – 4:30 p.m. CT/8:30 a.m. – 3:30 p.m. MT

MEETING MINUTES

- I. Opening – *Tabitha Langston*, Ottawa Tribe of Oklahoma, Tribal Co-Chair called meeting to order at 9:34 a.m. CT**
- II. Invocation – *Michael Sandoval*, Pueblo of San Felipe, Water Resources Specialist**
- III. Roll Call and Declaration of Quorum – *Shawn Howard*, Citizen Potawatomi Nation, RTOC Secretary**
 - a. 15 participants, quorum declared.
 - b. Participant count at 9:42 a.m. CT was 110.

Alabama-Coushatta Tribe of Texas	x	Fort Sill Apache Tribe of Oklahoma	x
Coushatta Tribe of Louisiana	x	Wyandotte Nation	x
Caddo Nation of Oklahoma	x	Pueblo of Isleta	x
Cherokee Nation	x	Pueblo of Santa Ana	
Chickasaw Nation	x	Pueblo of Santa Clara	x
Citizen Potawatomi Nation	x	Pueblo of San Felipe	x
Muscogee (Creek) Nation	x	Pueblo of Santo Domingo	
Ottawa Tribe of Oklahoma	x	Pueblo of Zia	x
Choctaw Nation of Oklahoma	x		

IV. Welcome and Introductions – Co-Chairs *Dr. Earthea Nance*, EPA R6 Regional Administrator, EPA Co-Chair & *Tabitha Langston*, Deputy Environmental Director, Tribal Co-Chair, Ottawa Tribe of Oklahoma

- a. Welcome remarks by Co-Chairs Dr. Nance and Tabitha Langston
- b. Dr. Nance
 - i. EPA R6 continues to address wildfire impacts in New Mexico
 - ii. SAFETEA – EPA HQ and Regions continue to work on; no further updates as of today
 - iii. Discussed a couple of related court cases
 - 1. *West Virginia vs. EPA* – EPA’s priority to protect public health and communities
 - 2. *Oklahoma vs. Castro* – EPA currently reviewing decision to determine potential impacts in R6

V. Approval of Agenda

- a. Motion to approve Agenda as written by Muscogee (Creek) Nation, seconded by Fort Sill Apache Tribe
 - i. All in favor, none opposed, motion carries

VI. Approval of Minutes – April 28, 2022 RTOC Meeting

- a. Motion to approve Minutes as written by Muscogee (Creek) Nation, seconded by Pueblo of Isleta.
 - i. All in favor, none opposed, motion carries

VII. Review of Action Items – April 28, 2022 RTOC Meeting

- a. EPA R6 RTOC Support Funds
 - i. \$100,000 GAP funding over two (2) years allocated to support EPA R6 RTOC
 - ii. ITEC/Cherokee Nation developed the Work Plan
 - 1. Work Plan submitted and approved during June 7, 2022, monthly EPA R6 RTOC call

- 2. Work Plan effective October 1, 2022
- iii. Support provided through development of agenda, minutes, information management, and member coordination
- b. EPA R6 GAP Guidance Workgroup – see Tribal Caucus Report Out
- c. EPA R6 GAP Allocation PowerPoint - completed
- d. EPA R6 GAP allocation discussion to be used as talking points by Tribal Co-Chairs at May Inter-ROTOC meeting – see Tribal Caucus Report Out
- e. EPA R6 Charter Revision Workgroup – see Tribal Caucus Report Out
- f. EPA R6 to provide information on nearly \$2M IHS set aside funding with an account on current and past funds – completed
- g. Southwest Environmental Finance Center funding – completed

VIII. New Business

- a. **Tribal Leader Comments** – None
 - i. ***Pinu'u Stout, Pueblo of San Felipe, EPA R6 RTOC member and NTOC Representative,*** presented a PowerPoint, providing a brief history of R6 Tribes/Pueblos in EPA R6
 - 1. “Leadership and history guides us”
 - 2. A long and complex history ties Tribes/Pueblos to the federal government
 - 3. Need highly functioning relationship with our federal counterparts, e.g., early and meaningful communication to ensure tribal rights are protected
 - 4. Dr. Nance appreciated the presentation. She reported that she read the EPA R6 Tribal Transition Document. She encouraged Tribes/Pueblos to connect with EPA R6 “team” to coordinate needed resources
- b. **Tribal Caucus Report Out** – there was discussion on the overwhelming number of tribal consultation opportunities. Discussed open consultations and EPA tools utilized for communicating consultations and soliciting tribal engagement. Thirty (30) days, and in some instances, 60 days is insufficient time for Tribes/Pueblos to provide comments. Dr. Nance responded that EPA may not have authority to change response timeframes, but EPA R6 OCTEA will look into the possibility of extending consultation comment timeframes [ACTION ITEM]
 - i. **2022 GAP Guidance and GAP Allocation Comments** – EPA R6 GAP Guidance/GAP Allocation workgroup developed proposed comments. EPA R6 RTOC Tribal Caucus voted on 09/13/22 to approve proposed comments and submit them via letter to EPA R6 [ACTION ITEM]
 - 1. General overview of main points were discussed including the potential to harm other tribes and lack of consideration of tribal consortia in funding allocation methodologies
 - ii. **RTOC Charter** – EPA R6 Tribal RTOC Charter workgroup developed proposed revisions to the current Charter
 - 1. EPA R6 Tribal Caucus voted on 09/13/22 to approve the proposed RTOC Charter revisions and submit the revised draft to EPA R6 [ACTION ITEM]
 - 2. Revisions were discussed along with the possibility of signing at the Fall 2022 RTOC meeting
 - iii. **Miscellaneous Issues** – various issues/topics were discussed including:
 - 1. LANL – Sitewide Environmental Impact Statement (SWEIS), tritium venting update, transuranic waste permitting process, and radiation management program [ACTION ITEMS]
 - 2. Disposal methods of expired hand sanitizers and other disinfectants [ACTION ITEM]

3. Pueblo of Isleta raised concerns over raw sewage overflow on July 10, 2022 from the city of Albuquerque into the Rio Grande
 - a. Pueblo of Isleta conveyed its efforts to assess and report the incident including but not limited to post-event sampling and data reporting, and halting crop irrigation on Pueblo due to elevated *E. coli* levels
 - b. EPA R6 Office of Water reported they are aware of the incident and are currently assessing possible permit violations and future actions
 - c. EPA R6 to assist Pueblo of Isleta in finding experts on crop irrigation with elevated *E. coli* concentrations [ACTION ITEM]
- c. **Continued Consultation and Coordination on the Draft Clean Water Act Section 106 Tribal Grant Guidance (*Robyn Delehanty*, EPA HQ & *Laura Shumway*, EPA R6 presented PowerPoint)**
 - i. Current 106 Tribal Grant Guidance developed in 2007; 15 years old
 - ii. Draft Guidance provides more flexibility for Tribes/Pueblos in developing tribal water quality standards
 - iii. Any Tribe/Pueblo that cannot provide electronic data can file a waiver
 - iv. Consultation period opened 06/13/22 with a 60-day comment period
 - v. Comments due by 08/15/22 with target date for finalizing document by December 2022
 - vi. EPA R6 Tribal Caucus voted on 07/13/22 to prepare and submit letter to EPA R6 requesting 60-day extension to comment on EPA's CWA Section 106 Tribal Grant Guidance [ACTION ITEM]
- d. **Bipartisan Infrastructure Law (BIL) Tribal Water Infrastructure Funding Update (*Salvador Gandara*, EPA HQ)**
 - i. Tribal set-aside and regular BIL funding available
 - ii. EPA co-funds BIL with HUD, BLM, IHS and tribal contributions
 - iii. Gave examples of eligible drinking water and wastewater projects
 - iv. Overview of Sanitation Deficiency System (SDS) process/ranking and priority criteria
 - v. Anticipate identifying FY22 funded projects and reporting same at December 2022 RTOC meeting
- e. **BREAK-10 Minutes**
- f. **Proposed Rule to Update the Regulatory Requirements for Water Quality Certification under Clean Water Act (CWA) section 401 (EPA HQ *Lauren Kasparek* presented)**
 - i. Pueblo of Laguna reported that it will be submitting comments; still going through document
 - ii. Pueblo of Laguna requested information from EPA R6 on hydrostatic testing related to NPDES General Permit [ACTION ITEM]
 - iii. EPA R6 Tribal Caucus voted on 07/13/22 to prepare and submit letter to EPA R6 requesting 60-day extension to comment on EPA's CWA Section 401 Proposed Rule [ACTION ITEM]

LUNCH **12:30 p.m. – 1:30 p.m. CT/11:30 a.m. – 12:30 p.m. MT**

- IX. **EPA Division Report Update (*See EPA R6 Division Report document provided for more detailed information*). *Olivia Balandran*, EPA R6 Office of Communities, Tribes, and Environmental Assessments (OCTEA) facilitated discussions**
 - a. ***Charles Maguire*, EPA R6 Water Division**
 - i. Encouraged Tribes/Pueblos to communicate and coordinate with EPA R6 on current funding questions to maximize all available resources
 - ii. No timeline yet on WOTUS proposed rule

- iii. Sac & Fox Nation of Oklahoma brought up a recent oil spill and fish kill incident in Skull Creek. Oklahoma Corporation Commission is lead agency. EPA R6 Office of Enforcement and Compliance Assurance also involved
- iv. Sac & Fox Nation requested EPA R6 provide responses to the Nation's request for information regarding the incident
- v. EPA R6 to respond to information request pertaining to an oil spill and fish kill event on Skull Creek [ACTION ITEM]
- b. **Kim Ngo, EPA R6 Air and Radiation**
 - i. Discussed SCOTUS ruling, *West Virginia v. EPA* decision 06/30/22 pertaining to Section 111 of federal Clean Air Act
 - ii. Deadline for Clean Air Act 103, 105, and PPGs were due mid-June 2022
 - iii. DERA NOFA should be published soon
 - iv. Clean School Bus Program pushing outreach
- c. **Althea Foster, EPA R6 Land, Chemical, and Re-Development**
 - i. Hand sanitizer disposal, EPA sent letter to USDA – may claim for reuse in manufacturing hand sanitizer
- d. **Curry Jones, EPA R6 Enforcement and Compliance Assurance Division**
 - i. Mescalero Apache 2018 Administrative Order - making progress on correction of deficiencies. Approximately 95% of deficiencies have been addressed
 - ii. CWA Section 404 enforcement at Toltec Lake that caused offsite impacts to Toltec Archeology State Park, Arkansas – EPA R6 in process of approving restoration plan
 - iii. Compliance Assistance Program (CAP) formerly known as Circuit Rider Initiative – contract support available to assist tribal drinking water facilities to develop asset management plans and standard operation procedures
 - iv. ECHO Notify – encouraged Tribes/Pueblos to sign up to receive notifications of facility Drinking Water or NPDES violations
- e. **Lisa Price, EPA R6 Superfund and Emergency Management**
 - i. \$10.5B available in Bipartisan Infrastructure Law (BIL) for Superfund
 - 1. Awarded \$4.4B for various Superfund projects
 - 2. Pueblo of Laguna has a Cooperative Agreement with EPA R6 to remediate the Jackpile Uranium Mine site
 - ii. 49 sites currently on NPL list
 - iii. Tar Creek Superfund Site awarded \$1.2M in BIL funding for site remediation
 - iv. Wilcox Oil – remediation underway. Excavated 25 cubic yards of source materials at 8 tank locations
 - v. BIL funding only used when there are no Potentially Responsible Parties identified
- f. **Olivia Balandran and Mark Allen, EPA R6 OCTEA**
 - i. Dr. Terrance Walker hired to manage GAP grants
 - ii. 31 Tribes/Pueblos in EPA R6 have stand-alone GAP grants; all others are PPGs
 - iii. Invited Tribes/Pueblos to participate in August 15th EJ Caucus meeting before the Brownfields Conference. EPA R6 Regional Administration and EPA HQ staff will be in attendance
 - iv. \$40M allocated for Environmental Justice grants with \$10M for Tribes/Pueblos. RFP coming out later this summer
- g. **EPA R6 Mission Support – see EPA R6 Division Report**
- h. **Dr. Sala Senkayi, EPA R6 Laboratory Services and Applied Science**
 - i. Consultation notice on Revision and Reissuance of Quality Management Plan standards was e-mailed to Tribes/Pueblos this week
 - 1. Consultation timeframe – 07/11/22 to 08/06/22

- a. Informational webinars scheduled on 08/16/22 and 08/22/22
- ii. Thanked Tribes/Pueblos for saving paper by participating in online QA training and submitting QAPPs/QMPs electronically

X. AIEO Update, *Felecia Wright*, Acting Director, AIEO

- a. Discussed JoAnn Chase's departure from EPA due to family and other personal commitments. Staff changes/reassignments were also discussed
- b. Will be working with OITA Assistant Administrator Jane Nishida and Principal Deputy Assistant Administrator Rafael DeLeon on tribal issues
- c. Currently 2 concurrent GAP consultations – proposed GAP Guidance revisions and GAP Allocation methodologies; 30 representatives on national GAP Guidance workgroup
- d. Discussed proactive engagement with other federal agencies including White House Council on Native American Affairs (WH Council)
 - i. Advocated need for steady funding and flexibility for tribes
- e. Strengthening tribal treaty rights
 - i. AIEO reviewing current policies in response to President Biden's memo
 - ii. In 2021, WH Council signed MOU to protect tribal treaty and reserved rights in agency decision making
 - iii. Revisions to EPA's Tribal Consultation Policy are forthcoming
 - iv. White House Native Summit to be held Summer 2022
 - v. EPA leading several WH Council committees including Tribal Treaty Tights, Indigenous Knowledge (TEK), and Climate Change
 - vi. Developing Climate Adaption Plans, ensuring tribal treaty rights are considered

XI. Old Business – None

XII. Other Business

- a. **Dates of next meetings**
 - 1. Fall 2022 Virtual RTOC Meeting – November 29, 30 and December 1, 2022
 - 2. April 2023 in-person Summit/RTOC – searching for a meeting space, the week of April 17th will be suggested to EPA R6
- b. **Workshop, Training & General Announcements – RTOC**
 - 1. ITEC Conference – Virtual starting July 26, 2022, on Tuesdays and Thursdays
 - 2. EPA Brownfields Conference August 16-19, 2022, Oklahoma City Convention Center
 - 3. National Tribal & Indigenous Climate Conference, August 29 – September 1, 2022, St. Paul, MN (hybrid)
 - 4. USDA Nation to Nation at Chickasaw Nation's Artesian Hotel, Sulphur, OK for USDA and tribes on August 16-17, 2022 (contact USDA Tribal Liaison Dr. Carol Crouch)
 - 5. USDA APHIS development for disasters on August 18, 2022 (contact USDA Tribal Liaison Dr. Carol Crouch)
 - 6. ITEP Tribal Lands and Environment Forum, August 8-11, 2022, in Milwaukee, WI (hybrid)
 - 7. Pueblo of Isleta hosting in person environmental fair July 30, 2022

XIII. Review of Action Items – *Shawn Howard*, Director, Transportation & Environment, RTOC Secretary, Citizen Potawatomi Nation & *Mark Allen*, Project Officer/Tribal Liaison

- a. EPA R6 Tribal Caucus to draft and submit letter to EPA R6 requesting 60-day extension to

- comment on EPA's CWA 106 Tribal Grant Guidance
- b. EPA R6 Tribal Caucus to prepare and submit letter to EPA R6 requesting 60-day extension to comment on EPA's CWA 401 Proposed Rule
 - c. EPA R6 Tribal Caucus to submit comments to AIEO on EPA proposed GAP Guidance and allocation methodologies
 - d. EPA R6 Tribal Caucus to submit Revised RTOC Charter to EPA R6
 - e. EPA R6 to provide update on LANL Electrical Power Capacity Upgrade (EPCU) proposed new powerline upgrade
 - f. EPA R6 to provide update on LANL Site Wide Environmental Impact Statement (SWEIS)
 - g. EPA R6 to provide update on LANL tritium venting
 - h. EPA R6 to describe permitting process of transuranic waste facility (Pueblo of San Felipe)
 - i. EPA R6 to provide information on radiation management program (Pueblo of Isleta)
 - j. EPA R6 to provide information on disposal methods for expired hand sanitizer and disinfectants for domestic households, tribal entities/governments, and tribal health facilities with a list of companies and costs
 - k. EPA R6 OCTEA to coordinate with other EPA programs/divisions to determine flexibility in extending consultation comment timeframes
 - l. EPA R6 to assist Pueblo of Isleta in finding experts on crop irrigation with elevated *E. coli* concentrations
 - m. EPA R6 to provide information on hydrostatic testing related to NPDES General Permit (Pueblo of Laguna)
 - n. EPA R6 to respond to information request pertaining to an oil spill and fish kill event on Skull Creek (Sac and Fox Nation)

XIV. Closing Remarks – Tribal Leaders; Regional Administrator and Ottawa Tribe of Oklahoma, Co-Chairs

XV. Benediction - None

XVI. Adjournment at 3:03 p.m. CT - *Tabitha Langston*, Deputy Environmental Director, Tribal Co-Chair, Ottawa Tribe of Oklahoma – no motion; adjournment by acclamation