

Summary Notes from 2021 NTOC Meeting

Welcome, Invocation, and Opening Remarks

AIEO Director JoAnn Chase began the meeting by welcoming everyone and recognized NTC member Mervin Wright, Jr., for an invocation. Introductions followed.

EPA Administrator Michael Regan delivered opening remarks. He provided a brief background on the NTOC and emphasized the importance of the meeting. He stated that the Biden-Harris Administration has made clear the intent to protect public health, confront the climate crisis, advance environmental justice, and restore science as the backbone of federal decision-making, while prioritizing engagement and collaboration with Tribes in striving towards these goals. The Administrator thanked the NTC and EPA's leadership and staff in their help in planning the meeting. Finally, the Administrator recognized the establishment of an EPA Region 3 RTOC and election of Dana Adkins as the Region 3 NTC representative, making this NTOC meeting the first representing tribes from across all of EPA's Regions.

NTC Chair Gerald Wagner provided opening remarks. He noted that the NTC, tribes, and EPA can have their differences, but it is important for all these groups to work together. He recognized the NTC's hard work in developing budget recommendations for EPA's tribal programs. He recognized tribes' COVID-19 impacts and a desire to "get back to normal." Finally, he indicated he and the NTC are eager to work with EPA on ensuring tribal program implementation can be flexible and adapted to tribes' needs.

Reaffirmation of the 1984 Indian Policy; NTC Perspective on the Continuing Importance of the 1984 Indian Policy

Administrator Regan signed a reaffirmation memo of the 1984 Indian Policy and promised to distribute it immediately to all EPA employees. He noted that in reaffirming the 1984 Indian Policy, EPA reiterates its recognition that the United States has a unique legal relationship with Tribal governments, including the recognition of the right of Tribes as sovereign governments in self-determination, and the federal government's trust responsibility to Tribes.

NTC Vice Chair Scott Clow then presented on the NTC's perspective of the continuing importance of the 1984 Indian Policy. He noted that the Indian Policy is limited to "reservations" and that smaller, unincorporated tribal areas may not be served by the 1984 Indian Policy. Mr. Clow said that he was encouraged by EPA's environmental justice initiatives for mutual understanding of challenges across tribal jurisdictions. Mr. Clow indicated that tribes and EPA could work in a collaborative and structured way, possibly through MOUs. Mr. Clow noted that EPA's Office of Enforcement and Compliance Assurance has a respectful approach to tribal sovereignty but can be delayed in actions against industry and corporations within Indian country. Mervin Wright, Jr., noted that previous EPA administrators did the same reaffirmation, but implementation is what is important. Mr. Clow concluded that the NTOC can and must play a key role in the inclusion of these principles, target planning, budgeting, and legislative initiatives in tribal-federal relations.

EPA Senior Leadership Tribal Program Priorities

EPA Administrator Regan then led a session outlining the following EPA tribal program priorities:

- ◆ **To strengthen the coordination and consultation process with tribes**

- ◆ **To work tirelessly for the protection of human health and the environment, implementing authorized programs by EPA**
- ◆ **To engage in regular and meaningful consultation with tribal officials**
- ◆ **To invest 40% of federal investments into vulnerable communities**
- ◆ **To provide \$50 million to community-based environmental protection efforts**
- ◆ **To provide \$50 million to improve air quality**

Assistant Administrator Jane Nishida then briefly summarized the importance of the upcoming EPA strategic plan for FY 22-26 and highlighted additional priorities for the Office of International and Tribal Affairs:

- ◆ **Agency-wide review of its consultation practices**
- ◆ **Tribal treaty rights in the agency's actions and decision** – EPA was the first agency to recognize tribal treaty rights and plans to strengthen that consideration.
- ◆ **Federal environmental programs in Indian country** – EPA will work directly with tribes to fully implement federal environmental programs in Indian country and proactively protect human health and the environment.
- ◆ **Quality of life for tribal communities** – In the absence of delegation to tribes, it is EPA's responsibility to protect tribes and ensure quality of life for tribal communities.
- ◆ **Tribal protection programs** – EPA will help build tribes' capacity to create and strengthen tribal protection programs with the assistance of grant programs.
- ◆ **Revise the General Assistance Program (GAP) guidance**
- ◆ **Transboundary pollution** – EPA will address impacts of transboundary pollution on tribal lands.

The NTC representatives made several comments regarding the above priorities. One member noted that EPA must continue to fulfill its promises and also go beyond the above priorities, while NTC Chair Wagner remarked that the plan needs to align with the needs of Indian country and recognize the workload tribes already carry.

FY22 Budget / Funding Allocations and FY23 Budget

Administrator Regan introduced the next session on the budget, acknowledging a prior budget-focused meeting with the NTC Executive Committee in June 2021. He says the big picture is that for FY 2022, approximately \$349.2 million is requested for EPA's Tribal programs, which is an increase of \$38.4 million, approximately 12.3%, from the FY 2021 enacted budget.

Faisal Amin, EPA Chief Financial Officer, provided more detailed budget information. Mr. Amin provided further information on the \$349.2 million request. \$21.4 million is requested for tribal air quality management; \$77.5 million is requested for the GAP program; \$27.2 million is requested for tribes through the Drinking Water State Revolving Fund (DWSRF) for Indian Tribes and Alaska Native Villages; \$25 million is requested to establish a new Tribal Environmental Justice Grant Program; \$37.4 million is requested for tribes through the Clean Water State Revolving Fund (CWSRF); 15.9 million is requested for tribal-capacity building; \$36.2 million is requested for the Alaska Native Villages Program; \$2.5 million is requested to enhance collaboration and tribal participation in the National Environmental Information Exchange Network via grants to tribal partners; and \$1.3 million is requested for

cooperative agreements with tribal partners to support compliance and enforcement activities under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA).

NTC Chair Gerald Wagner expressed support for the budgetary increase requests for Indian country, while Vice Chair Scott Clow noted his desire for a multi-media implementation grant.

**Partnership Groups and Media Priorities:
A Response to Administrator Regan's Request for "What is Working?"**

Ms. Marrufo responded to Administrator Regan's question, "What is working?" and noted what can be improved on behalf of the NTC.

What is working:

- ◆ consistent meetings
- ◆ effective communication
- ◆ cross-participation

What can be improved:

- ◆ Increase funding to the NTC to educate and engage with tribes where technical assistance may not cover
- ◆ Collaborate on regulatory issues to present a strong, united voice on behalf of Indian country
- ◆ Improve the recycling program, which does not work for everyone in Indian country
- ◆ Continue to strengthen communication through cross-media and overlapping issues

Administrator Regan thanked Meyo and said it's important to maintain what is right and that EPA will note these items to foster stronger foundations.

Presentation by the NTC on Cross-Media Impacts of Climate Change

NTC Members Gayla Hoseth and Willard Hand presented on cross-media climate change impacts. Gayla spoke about traditional ways of life being impacted, such as berry picking and identified coastal erosion as another concern, before she relayed a poem about her tribe's struggle against climate change. Willard notes that change isn't "new" to his tribe; the tribe is familiar with change and they adapt. However he expresses the challenges tribes face in adapting.

Deputy Administrator Janet McCabe thanked Gayla and Willard and reflected on a trip to Alaska roughly 10 years ago when the effects of climate change were already visible. She notes that climate change is more than an environmental issue, but also an economic concern. Deputy Administrator McCabe discussed the ways in which the Agency is focusing its resources on working with tribes on climate change issues across Indian country, finally concluding by thanking the NTC representatives for their perspectives and for sharing their stories. A lengthy discussion followed, including NTC Vice Chair Scott Clow expressing concerns with nuclear power and Deputy Administrator McCabe highlighting Administrator Regan's upcoming visit to the Navajo Nation to review abandoned uranium mines. OAR Acting Assistant Administrator Joseph Goffman says it can be difficult to relate to a lived experience and see things through your own eyes. He notes that OAR had analyses climate change impacts to tribes and that they are systematic.

**Advancing Tribal/EPA Partnership and Flexibilities for
Tribal and EPA Environmental Program Implementation**

NTC representative Sharri Venno led this session, starting off by noting that the EPA Indian Policy is a strong foundation but needs additional support to achieve its goals. She walked through the various principles of the Indian Policy and identified specific areas where tribes would benefit for a variation of current EPA practice, focusing on where flexibilities with existing funding could strengthen tribal implementation of environmental programs.

Region 8 Regional Administrator Ed Chu followed Sharri's presentation and provided remarks on EPA's tribal program implementation and responding to Sharri's identification of a need for further flexibility. He noted that regions work to identify implementation issues and problems as they arise and that EPA is working to find tools unique to tribal circumstances. Region 8 manager Kim Varilek noted that PPG flexibility can be embraced, while Deb Szaro, Region 1 acting Regional Administrator highlighted tribal capacity building with youth and PPGs with the Tribes as leverage for continued Improvement tools. NTC Chair Wagner suggests that EPA revisit the usefulness of DITCAs.

NTOC Wrap-Up

OITA Assistant Administrator Jane Nishida reviewed a summary of action items or follow-up items. They include the following:

- JoAnn Chase will hold an opt-in call between AIEO , Willard Hand, and Gayla Hoseth regarding the Alaska Settlement Act
- AIEO will follow up with R10 colleagues on [the 106 Program](#)
- AIEO will work to make the EPA Indian Policy easily available in regional EPA offices
- AIEO will consider the suggestion to evaluate progress toward the goals set forth in the 1984 Indian Policy and how to institutionalize the policy to make it available in regional offices so tribes can access it
- AIEO will share the budget presentation
- AIEO will continue to look at tribal governments' cross-media funding and collaboration needs
- AIEO will consider the recommendation to revisit the multimedia implementation grants
- AIEO will consider the recommendation to involve tribes in the strategic plan public comment period
- AIEO will share EPA's climate adaptation plans with the NTOC
- AIEO will look to holding in-person meeting with the NTC once again
- AIEO will extend the invitation to the administrator to visit the Shoshone-Bannock Tribes
- JoAnn Chase will organize a call with the Alaska participants regarding Alaska's unique circumstances

The meeting concluded with closing remarks from NTC Chair Gerald Wagner and OITA Assistant Administrator Nishida, who thanked the meeting participants for a successful meeting.