



MEETING SUMMARY

CALIFORNIA WATER PLAN UPDATE 2013 TRIBAL ADVISORY COMMITTEE MEETING

9:00 AM – 4:30 P.M.

CENTER FOR COLLABORATIVE POLICY
815 S STREET, SACRAMENTO, CA

MEETING OBJECTIVES:

1. Finalize remaining items of Update 2013 Tribal AC Work Plan
2. Finalize Tribal AC Communication Plan
3. Review TWS Proceedings and Implementation Plan

Table of Contents:

Welcome, Introductions	1
TWS Proceedings Update	1
Tribal AC Work Plan.....	2
Introduction of DWR Tribal Policy Advisor	4
Update from Governor’s Office.....	5
CWP Plenary: Tribal Items	7
TWS Implementation Plan	8
Tribal AC Work Plan (cont’d).....	9
Next Steps.....	12
Attendance	13

Welcome, Introductions

Stephanie Lucero, Tribal AC facilitator, welcomed Tribal AC members and reviewed the day’s agenda. A brief recap of meeting protocols was also provided. Introductions were made around the room and on the conference call.

TWS Proceedings Update

Proceedings for the Tribal Water Summit (TWS) are being finalized. To date, the detailed summary for Day 1 and Day 2 have been sent out to presenters for review. Other sections of the proceedings will include high-level summaries, and the guiding principles and goals (content which was previously contained in the proposed resolution). It was agreed that the table of next steps for TWS implementation should be converted to an outline format for the proceedings. Tribal AC members spent time reviewing and editing the description of the Summit planning process. It was noted that the content in the proceedings reflects statements made at the Tribal Water Summit.



Emily Alejandrino, Water Plan Tribal Lead, explained that once the proceedings are submitted to Publications, it will then take about 2 months to finalize the document for printing. The TWS proceedings will be part of the Reference Guide (Volume 4) of the Water Plan.

The Update 2013 Public Review Draft is anticipated to be released in mid-September, with a 60-day comment period. The Reference Guide and Technical Guide will be released with the final Water Plan, in March. While there was original interest in having the TWS Proceedings available for the Plenary, it was agreed to spend extra time reviewing the entire draft proceedings package before submitting it to Publications.

Discussion

Comment: Tribes can influence water policy by entering into processes as interested stakeholders, rather than requiring status as sovereign entities.

Comment: Tribes should not have to waive sovereign immunity to participate in IRWM processes.

Comment: There is a sensitive issue about the economics of water coming off Tribal lands. If there are restrictions where Tribes cannot take water off their lands, then others should not be allowed to do that.

Response: That topic is captured in the detailed section of the proceedings. Let the facilitation team know if edits are needed for that particular section.

Comment: Tribes are concerned about rivers depleted of water.

Comment: The table on page 3 needs to include Federal as well as state agencies.

ACTION ITEM: Incorporate comments on Summit planning process into updated proceedings.

ACTION ITEM: Post full draft proceedings packet to password protected Tribal AC website.

ACTION ITEM: Resend link and instruction for password protected site.

ACTION ITEM: Tribal AC to submit comments on the proceedings by September 4, 2013.

ACTION ITEM: Say "more than 160" Tribes, in the second paragraph.

Tribal AC Work Plan

IRWM Report and Water Bond

A report by Danielle Dolan has evolved into a white paper on *Opportunities and Limitations for Tribal Involvement in IRWM*. This draft document was created in collaboration with a team of Tribal AC members. The paper summarizes what the IRWM program is about, where Tribes can be involved, and limitations and issues for Tribes. This can be included in the Volume 4 Reference Guide.

DWR has indicated that they will not change the current IRWM guidelines unless there is a new water bond, because most of the funding has already been allocated. Legislation informs the



grant guidelines, including whether Tribes are considered local governments. DWR cannot change legislation. Guidelines may not be contrary to the initiating legislation. It is important to talk about language for the Water Bond, where intent regarding Tribes can be made clear. The Legislative session ends September 13, 2013 and language must be introduced by then.

As background, it was noted that the state Assembly created a water working group to establish principles for the new water bond. The principles were released in July and publicly vetted. In mid-August week, the working group released a water bond framework, with proposals for allocations. Hearings were conducted by the Assembly Committee on Water, Parks and Wildlife and it was proposed that the Water Bond and BCDP should be separate.

Discussion

Overall, Tribes are not well-informed or noticed about State meetings. It was suggested that the Governor's Tribal Affairs Office assist in this area.

- Tribal contacts need to be established within the legislature.
 - Consider looking into the establishment of a Tribal commission.
 - Connect with Tribal-friendly legislators
 - Establish connection with Committee Chairs and staff
- The Governor's Tribal Affairs office serves as the Tribal contact for Executive.
- Information on other meetings is also needed (Water Masters, water districts, etc.)

There was agreement that all California Native American Tribes need to come together on the issue of water.

- The political resolve to come together needs to come from Tribal leadership.
 - Leverage the work of the Northern Chair and NCAI, where Tribes work together.
 - There should be a forum for Tribes to come together on topics relating to water, resources and education.
 - Look at the role of the California Association of Tribal Governments.
- Coordination between Tribes and agencies would increase effective use of funding.

ACTION ITEM: Identify Tribal contacts for Executive, Legislative and Judiciary to get information out.

A discussion on a legislative strategy included the following concepts:

- Outreach is needed to inform legislators and committees about Tribal perspectives.
- Discussions with the legislative Water Committee could focus on language for recognizing Tribes as local governments, setting precedence for future efforts.
- Consider an inter-agency model, to convene a session with Executive, Legislative and Judicial members.
- Since the legislature is not within the executive branch, legislative meetings are not covered by the Executive Order on consultation. Tribes would have to notify the legislature that they are affecting Tribal water rights.



- Look at the possibility of increasing the Tribal set-aside created within the Clean Water Act.
- Tribes need to work together to create a united front to the legislature.
- Language needs to be developed for the Water Bond to address Tribal funding and decision-authority.
 - Tribal AC members were encouraged to participate in the CIEA conference call regarding the Water Bond.

Tribal AC Communication Plan (Plan)

Stephanie Lucero recapped that the Plan was originally developed by the Update 2009 Tribal Communication Committee. The current Update 2013 TAC decided to review and revise the Plan, to create a tool for communication purposes. The Plan specifically does not address consultation. The TAC did want to describe the difference between consultation and collaboration, communication and coordination. Specifically, there may be occasions where consultation is required according to federal requirements. It was proposed that this be addressed in the introduction to this plan. That language still needs to be written.

It was agreed that the Plan will footnote the current definition for federally-recognized Tribes, as defined by federal code. The Plan will state that:

- when dealing with federally-recognized Tribes, in some situations there may be a need to formally consult
- this plan does not deal with those consultation policies or requirements for consultation
- if consultation is needed, agencies need to contact the Tribe to determine the appropriate consultation process.

ACTION ITEM: Stephanie Lucero will develop a first draft for introductory language regarding federally-recognized Tribes and consultation.

Introduction of DWR Tribal Policy Advisor

Dale Hoffman-Floerke, DWR, Chief Deputy Director, expressed her distinct pleasure in introducing Anecita Agustinez, the new DWR Tribal Policy Liaison. Ms. Agustinez will focus on Tribal and EJ efforts for all DWR programs. Today is Anecita's first day and Ms. Hoffman-Floerke wanted to introduce her to the work of the Water Plan Tribal AC. This is an exciting addition to the DWR Executive Team.

Ms. Agustinez conveyed her appreciation for the opportunity to attend the afternoon session of the Tribal AC meeting. Ms Agustinez' mother is Navajo and her father's lineage is that of the Ilocano people, from the Philippine Islands. She was born and raised in the Central Valley and has been involved with Native American communities and non-profit organizations for more than 30 years. Seven years ago, she moved to Sacramento to work with the Department of Justice, in the Department of Native American Affairs, where she was an assistant to Olin Jones.



She then transferred to the Department of Alcohol and Drug Programs, assisting with the Affordable Care Act. When this position was posted, Ms. Agustinez was drawn to the work. She is dedicated to Tribes and agencies working together, sharing their knowledge and creating partnerships. She thanked the Tribal AC members for their warm welcome.

Update from Governor's Office

Heather Hostler is the assistant to Cynthia Gomez - the Tribal Advisor to Governor Brown. Ms. Hostler began her update by noting that the Tribal Advisor's Office (Office) works on all types of Tribal issues. The Office tracks legislation and is interested in hearing Tribal perspectives, which can be shared with the Governor when bills arrive at his desk. Recently, the Office has worked with the Franchise Tax Board on personal income tax on Tribal-derived income. The discussions involved Secretary Cavallaro and an interpretation regarding definition of "on-reservation tax." The Tax Board has ceased activities to collect on back taxes and a consultation session will occur on September 18, 2013, to discuss the interpretation of the rule.

Another consultation session has been scheduled by the California State Transportation Agency to discuss that agency's Tribal consultation policy. Transportation is a newly reorganized agency, encompassing CalTrans, CHP and high-speed rail. Secretary Brian Kelly has been very receptive to suggestions on developing their Tribal consultation policy. The Office has been working with numerous agencies, encouraging them to consult with Tribes in developing their respective consultation policies – as Tribes are the best source of information on how agencies should consult with Tribes.

The Office is also working on land acquisition trusts and water issues. One of the areas addresses closures for ceremonial purposes, with strong involvement from Secretary Laird. The Resource Agency Tribal Liaison, Leann Randall, has been incredibly helpful in thinking through policy, and creating a collaborative effort to seek solutions. The agency is being intentional in doing good work. Lastly, California Native American Day will be September 22, 2013 at the Capitol. Everyone is encouraged to attend. Tribal AC members were also updated about the Tribal Office webpage at www.tribalgovtaffairs.ca.gov.

Discussion

Question: What is the policy on state Tribal recognition? Why doesn't California have a Tribal recognition policy?

Response: Ms. Hostler will seek clarification on what the Governor's policy is regarding this issue. Governor Brown's Executive Order addresses all California Native American Tribe, and does not distinguish between federally-recognized Tribes

Comment: Would the Governor take under advisement a suggestion to create a recognition policy?

Response: A letter from the Tribes could be sent with that request. The Office takes direction from Tribal leadership.



Comment: Your office helps track bills. The TAC discussed how Tribes might receive notification when there are legislative sessions on topics that might affect Tribes.

Response: The Office creates a tracking system based on the LegInfo system, searching the site using key words. The Office also hears from Tribes on introduced legislation. To determine the status of a bill, the Office obtains the bill number (on LegInfo, under the header of Laws and Regulations where there is a listing of bills) then searches for it on the website at: <http://leginfo.legislature.ca.gov>.

Comment: It would be helpful if the Tribal Advisor's Office website could post the dates for legislative hearings, rather than have Tribes search through LegInfo.

Response: The office recommends working directly with the authors of a bill, since direct information from the Tribal leaders is important.

Question: How are Tribes supposed to know who the legislative author is, and what their contact information is? There is not yet a Tribal listserv.

Comment: There is a lack of communication between the Tribal Advisor's Office and some of the Tribes. There is frustration. The office needs to establish a conduit for relaying information about legislation. There are opportunities for better communication.

Comment: The Tribal AC is looking to establish Tribal contacts within the Legislature, Executive and Judiciary. Information is being shared about the Water Bond working group.

Response: The Office needs to hear concerns. Governor Brown has his Executive Branch, which extends to the agencies. The DWR Tribal Advisory and the Tribal Affairs office can work together on creating resources.

Comment: There is a need to identify a Tribal contact in the legislature.

Response: Send a letter to our Office, and let us know what you are specifically looking for.

Comment: Meta-data is also helpful, so that Tribes can look up information themselves.

Comment: The Office should have an email listserv of Tribes. Tribes need to understand: how the State works: what efforts Tribes should be tracking; how to find information and do business; and how to submit comments on legislation. It would be helpful to have links to the websites mentioned or particular bills, creating a one-stop shop approach that assists in building capacity.

Comment: There is interest in a toolkit, with an appropriate venue for where to house it. There may be some thoughts that the Governor's Tribal Advisor's Office might be the site to locate the toolkit.

Response: The Office is trying to determine the best solutions for sharing information. The Office is recommending to the agencies that Tribal Liaisons be seated in the Executive Level of the respective agencies.

Comment: It would be helpful to have contact info for the Tribal Liaisons.

Response: Please send in those requests on Tribal letterhead.

Comment: The idea of listservs, that can be subscribed to, is a helpful approach and prevents overwhelm by blanket emails. The Tribal Office website is coming along nicely.

Comment: The office is to be complimented on your accomplishments with a small staff.

ACTION ITEM: The Tribal AC can develop recommendations for improving communication and send to the Tribal Advisor office. Letters should also be submitted by Tribes.



ACTION ITEM: Stephanie Lucero to send recap of questions to Tribal Advisor's Office (request for contacts in Executive, Legislative and Judicial branches) and will request that toolkit materials be housed on the Tribal Advisor's website. (The toolkit relates to TWS implementation: how state agencies work, how the legislative process works, and links to LegInfo.)

CWP Plenary: Tribal Items

As background, the Tribal AC is convened to inform the California Water Plan. It is not a DWR Tribal AC, nor a Statewide Tribal AC. However, the work of the Water Plan often informs the work of the legislature and other agencies and programs. The annual Plenary is a session of all stakeholders participating in Water Plan activities. The Plenary provides a broad view of what is happening across the state. It's also a great networking opportunity, to connect with potential political and technical partners

There is an opportunity for several Tribal sessions at the Plenary:

- For the Day 1 working lunch, a panel presentation on the TWS has been proposed. This will emphasize the importance of water-related agencies working with Tribes, involving Tribal presenters from the Tribal Water Summit.
- For a concurrent session on Day 2, a session is proposed regarding Coordination between Tribes and State and Federal agencies and programs
- For Day 1, and evening session on co-management concepts has been proposed.

It was agreed that a recap of the TWS occur during the Day 1 working lunch.

ACTION ITEM: The Tribal AC will look at the list of TWS attendees, to identify panel members (Ron Goode, Gita Kapahi, Don Arnold...). Tom Keegan will serve as moderator.

Discussion

Suggestion: Move the co-management workshop into a concurrent session timeslot.

Suggestion: Consider having the Resource Agency host the co-management present, which would encourage participation and preparation.

Comment: The Department of Fish and Wildlife should also be invited to participate in the co-management session.

There was general consensus that the framework for Tribal, State and Federal coordination may not be ready yet. This would focus on strategic coordination to increase efficiencies. There was an MOU in 1981 on managing water and wastewater between IHS, HUD and other agencies. Common water bodies can leverage state and federal resources for water quality. Some technical assistance is needed to sort out of the questions, then figure out the best approaches. This should consist of a general discussion with everyone.



TWS Implementation Plan

Guiding Principles

September 30, 2013 is the deadline for Tribes to review the Guiding principles, and send in letter of support and any exceptions (if needed). The list of supporting Tribes will be included in the TWS proceedings. To date, four Tribes have sent letter of support for the TWS Guiding Principles. Also the Natural Resources Agency, Department of Fish and Wildlife and DWR have signed onto the principles – and CalEPA is looking at language for acknowledging the principles.

ACTION ITEM: Resend the Guiding Principles to the Tribal AC listserv, with instructions for providing a letter of support.

TWS Implementation Tracking and Update

Stephanie Lucero provided updates on several TWS Implementation Plan items:

- Using a table format, the Tribal Facilitation Team is tracking responses from leads who have stepped forward for next steps. There may also be opportunities to inform the IRWM Strategic Plan and Tribal involvement.
- Discussions are underway with BDCP regarding a Tribal information forum. Both the Department of Fish and Wildlife and the Water Boards would like to be participate.
- CIEA has been working with Water Boards in this area on the topic of Beneficial Use designation for cultural and subsistence uses.
- The State org chart will be updated, including the addition of NAHC, as part of the framework for promoting inter-agency coordination. This relates to a broader interest in a Strategic Framework.

Water Stories

There is interest in using remaining TWS funds to collect additional water stories. Ruthie Maloney and “On Native Ground” are both resources for obtaining water stories. It was also suggested that the role of water in Tribal life be documented, with some visual elements.

A historical baseline assessment could be developed from hearing about past conditions. This would compare the stories of what used to be v. what is there now. The elders remember the difference. Getting the information will inform restoration efforts and cultural history. That might reflect the types of water stories we want to tell, focusing on historical conditions. Pictures of historic conditions of the Klamath, at Hupa, could be added into the water stories.

ACTION ITEM: See if extra funds can be used to collect additional water stories, either through Ruthie Maloney or “On Native Ground.”

ACTION ITEM: See if DWR has historic pictures that document past conditions.



IRWM Focus Group and White Paper

It was noted that Stephanie Suess will transition to working for the Chicken Ranch Band of Miwok, located in Jamestown, CA, starting September 1, 2013. It was agreed that Ms. Suess should continue to serve as the Tribal representative for the IRWM focus group. Ms. Suess also provided an update on activities for the focus group. Specifically, concerns were raised regarding the Strategic Plan process and the grant application process. There will be a new series of Strategic Plan workshops in September, and everyone was encouraged to present Tribal perspectives at the workshops. Ms. Suess has taken the TWS Guiding Principles to the focus group. It now seems that IRWM Strategic Planning is back on the right track. Also, Ms. Suess will discuss Tribal perspectives at the upcoming IRWM Roundtable of Regions meeting in Sacramento. The Roundtable is a self-organized consortium of IRWM groups.

Discussion

- It will be helpful to describe examples both the good and challenging experiences of Tribal engagement in IRWM, perhaps as an addendum to the IRWM paper.
- The Tuolumne-Stanislaus IRWM region is going forward with a JPA, which opens the door for the Miwok bands to participate as governments in the IRWM and serve as a direct grantee applicant. While 22 agencies funded the MOU, it's not clear how many entities will form the JPA. It is a really exciting opportunity, which recognizes federally-recognized Tribes as local government agencies. This would be a valuable case study, to document the history of this approach which has future implications.

Tribal AC Work Plan (cont'd)

Document Review

Tribal AC members were appraised that numerous opportunities exist to review Water Plan content at the Plenary, and with the release of the Public Review Draft. Tribal representatives were asked to give special attention to the section on "California Water Today." There are other sections addressing Tribal interests, relating to the Resource Management Strategies and Regional Reports, which were generally written by staff with Tribal input. Tribes are encouraged to provide any additional information that may be missing.

Objective 12 Performance Measures

Tribal AC members reviewed the Objective, reflecting back on the Progress Report and the subsequent recommendations to develop performance measures. A worksheet outlined several aspects relating to performance measures: What metric would be tracked? Who would be the lead? Is funding available? Is legislation required? These elements help clarify what is meant by a particular action.

A recommendation was made to work through one Related Action, as an example.



Related Action #8 (Beneficial Use Designation for Cultural and Subsistence Uses)

- Performance measures might be:
 - a. Definition is developed in collaboration with Tribes
 - b. The definition is adopted.
 - c. Cultural and subsistence uses are adopted into Basin Plans.
 - d. Definition moves from narrative to numeric (including TMDL, quantification, etc.)
- Lead: State Water Boards and Tribal working group
- No legislation needed.

Related Action #2 (Tribal Decision-Authority and Access to Funding)

- Performance measures might be:
 - Appropriate language in Water Bonds
 - Have meetings with committee member staff
 - Tribes develop appropriate language for Water Bond
 - Language adopted in water bond
 - Groundwater Basin Plans adopt language
- Lead: Tribes, working with state agencies (DWR, HHS, BDCP, Water Boards)
- Legislation likely needed.

Discussion on Related Action #6 (Coordination on technical training)

Comment: Item #6 is that framework question.

Question: How can a State recommendation address federal agencies? This might need to be reworded.

Comment: Conversely, technical assistance isn't done in a vacuum and some federal agencies have expressed interest in partnering on technical training.

Comment: Performance measures that would define success for this action might vary across regions.

It was noted that some of the Related Actions could have regional application, while other actions might apply statewide. For example, Action #1 would be included in Basin Plans.

ACTION ITEM: Tribal AC members to return the worksheet on performance measures by September 20, 2013. Participants were encouraged to focus on what could be achieved over the next 5-year cycle of the Water Plan.

Legislative Toolkit Concept

Tribal AC members expressed the need for a flow diagram on how to develop legislation and how to work with legislators and committees. The workflow needs to be documented for the entire process – tracking support by staff, as well as leadership; how to contact legislators, developing political approaches and developing public relations approaches. Templates and



boiler plate for letters to legislators would also be helpful. This could be the basis for a workshop, as well as information packets.

For example, the Attorney General's office held a workshop on propositions. Participants learned that propositions have to be read by the Attorney General and the Governor. It costs \$200 to submit a presentation, or a Title and Summary. This is a relatively inexpensive process to raise political awareness.

Another option is to hold joint training sessions (for both agencies and Tribes) on topics such as Communication 101, and Collaboration.

Remaining Tribal AC Meeting Dates

- October 29-30, 2013: Plenary
- November 7, 2013: optional webinar for the Tribal AC Communication Plan
- December 12, 2013: Tribal AC meeting
- Spring 2014: Final CWP meeting - Joint Public and Tribal AC Meeting



Next Steps

Tribal Water Summit Proceedings

ACTION ITEM: Incorporate comments on Summit planning process into updated proceedings.
Post complete draft proceedings packet to password protected Tribal AC website.

ACTION ITEM: Resend link and instruction for password protected site.

ACTION ITEM: Tribal AC to submit comments on the proceedings by September 4, 2013.

ACTION ITEM: Say “more than 160” Tribes, in the second paragraph.

Tribal AC Workplan

ACTION ITEM: Identify Tribal contacts for Executive, Legislative and Judiciary to get information out.

ACTION ITEM: Stephanie Lucero will develop a first draft for introductory language regarding federally-recognized Tribes and consultation, which will be added to the Tribal AC Communication Plan.

Tribal Advisor’s Office

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Plenary Agenda

ACTION ITEM: The Tribal AC will look at the list of TWS attendees, to identify panel members (Ron Goode, Gita Kapahi, Don Arnold...). Tom Keegan will serve as moderator

Tribal Water Summit Implementation

ACTION ITEM: Resend the Guiding Principles to the Tribal AC listserv, with instructions for providing a letter of support.

ACTION ITEM: See if extra funds can be used to collect additional water stories, either through Ruthie Maloney or “On Native Ground.”

ACTION ITEM: See if DWR has historic pictures that document past conditions.

ACTION ITEM: Tribal AC members to return the worksheet on performance measures by September 20, 2013. Participants were encouraged to focus on what could be achieved over the next 5-year cycle of the Water Plan.



Attendance

Tribal Advisory Committee Members and Alternates:

Steve Archer, Buena Vista Rancheria
Miles Baty, Big Sandy Rancheria
Kayla Brown, Hoopa Tribe
Mia Brown, Hoopa Tribe
Paul Britton, Habatemotel of Upper Lake
Regina Chichizola, Hoopa Tribe
John Covington, Morongo Band of Mission Indians
Rob Cozens, Resighini Rancheria
Aaron Dixon, Susanville Rancheria
Bill George, Pit River Tribe
Rob Jacob, Elk Valley Rancheria
Tom Keegan, Dry Creek Rancheria
Frank Ramirez, National American Indian Veterans
William Speer, Shasta Indian Nation
Stephanie Suess, Tuolumne Me-Wuk Tribal Council
Danielle Vigil-Masten, Hoopa Tribe

Others:

Denise Baker, Cal OES Tribal Liaison (webinar)
Sharon Fuller, Graduate Student, UC Berkeley
Chuck Jachens, US Bureau of Indian Affairs, Pacific Region
Patricia Rivera, US Bureau of Reclamation (webinar)

Anecita Agustinez, DWR, Tribal Policy Advisor
Emily Alejandrino, DWR, Tribal Coordinator Work Team Lead
Tito Cervantez, DWR, Water and Supply Balance Work Team Lead (webinar)
Michelle Dooley, DWR, South-Central Office Tribal Liaison
Kamyar Guivetchi, DWR, Manager, Division of Statewide Integrated Water Management
Dale Hoffman-Floerke, DWR, Chief Deputy Director
Tim Nelson, DWR, North-Central Office Tribal Liaison

Facilitation Team: Stephanie Lucero, Tribal Facilitator; Judie Talbot, Facilitation Support – CCP