

**MEMORANDUM**

**SUBJECT:** 2015 Certification of Regional Tribal Operations Committee Strategic Plan

**FROM:** Jeff Scott   
Regional Tribal Operations Committee US EPA Co-Chair

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Regional Tribal Operations Committee Tribal Co-Chair

**TO:** Region 9 Regional Tribal Operations Committee

The Region 9 Tribal Operations Committee (RTOC) is a working committee composed of Region 9 EPA personnel and Region 9 tribal representatives. The RTOC has developed this Strategic Plan to address the issues the RTOC has identified and the activities the RTOC intends to carry out between October 1, 2015 and September 30, 2017.

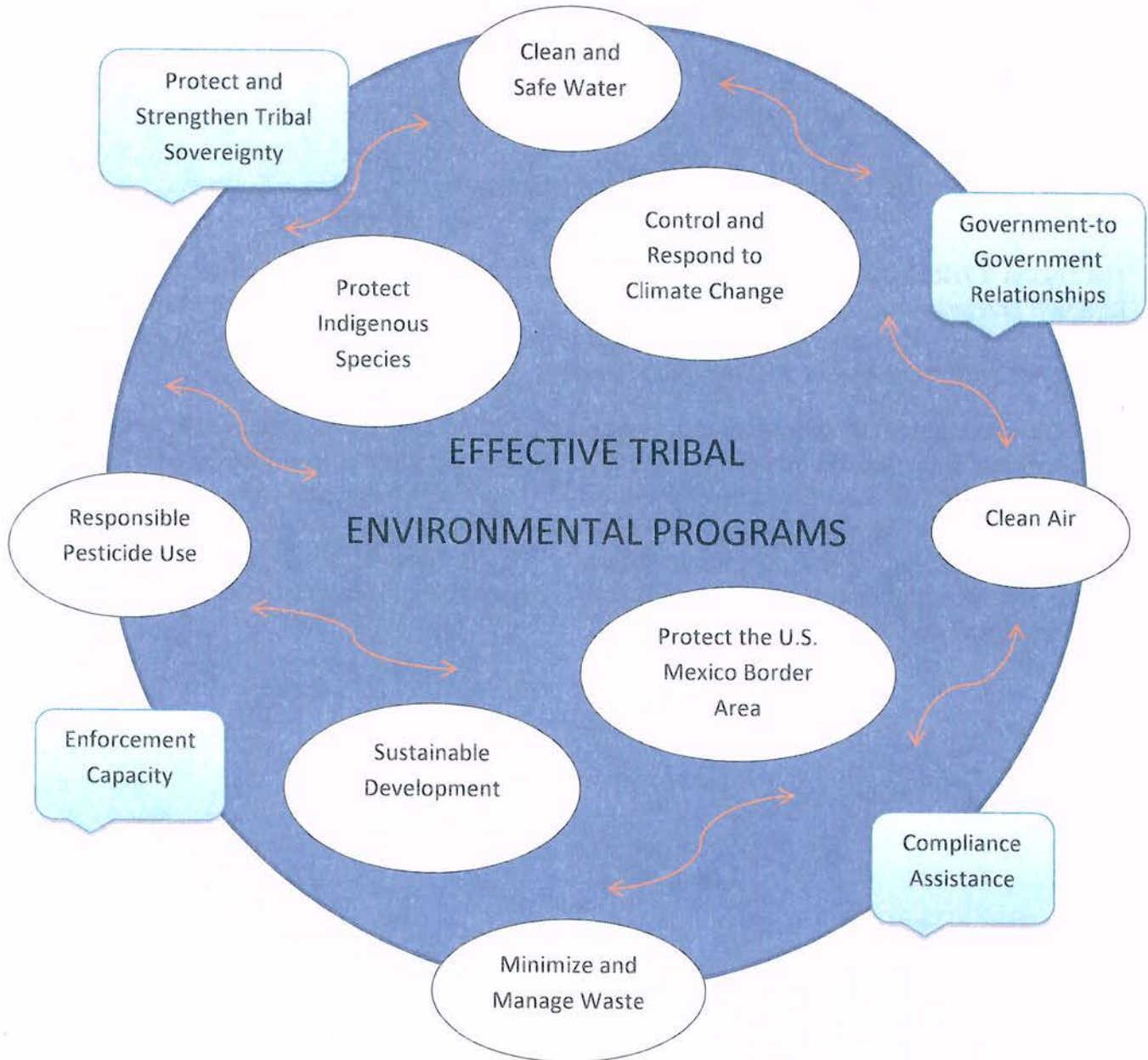
The Plan consolidates into one document a summary of RTOC operations, overarching strategic directions and proposed key actions; the objectives, strategies and tasks identified by and/or assigned by the RTOC to various workgroups to address media-specific and cross-media issues as developed by the Region 9 Tribal Caucus; and other important information to guide the work of the RTOC and ensure its continued success. The RTOC intends to use this Strategic Plan as a working document, to review it annually, and update it biannually or more often as priorities, needs and circumstances change.

REGION 9 TRIBAL OPERATIONS COMMITTEE

STRATEGIC PLAN

(October 1, 2014 – September 30, 2016)

STRATEGIES FOR MAINTAINING AND ENHANCING THE TRADITIONAL RELATIONSHIP  
BETWEEN TRIBAL COMMUNITIES AND THE ENVIRONMENT



## **INTRODUCTION**

The Regional Tribal Operations Committee (RTOC) is a working committee of EPA and Tribal personnel co-chaired by an EPA representative and a Tribal representative. The RTOC has developed this Strategic Plan to provide a comprehensive guide to issues the RTOC intends to address and activities the RTOC intends to implement between October 1, 2014 and September 30, 2016 to achieve its goals consistent with the RTOC Charter. The Plan consolidates into one document a summary of RTOC operations, overarching Strategic Directions and proposed Key Actions; the objectives, strategies and tasks identified by and/or assigned by the RTOC to various workgroups to address media-specific and cross-media issues; and other fundamental information to guide the work of the RTOC and ensure its continued success. The RTOC intends to use this Plan as a working document, to review it annually and update it biannually or more often as priorities, needs and circumstances change. This document and subsequent updates will be adopted by consensus of the RTOC at a regularly scheduled meeting.

## **ABOUT THE TRIBES IN REGION 9**

Of the nation's 572 federally recognized Indian tribes, 148 are located in the states of Arizona, California and Nevada. The areas over which the Region 9 tribes have jurisdiction and primary management authority comprise over 27 million acres, more than 10% of the land in the Region. The population, land base, government structure, history, and culture of Region 9 tribes varies widely, as do tribal environmental issues, needs and priorities reflecting the Region's ecological diversity. Underlying these variations, the tribes share a unique and significant relationship with the environment, as their histories, traditions and cultures are deeply rooted in the natural world and they face similar challenges in their efforts to protect the health of their people and the environment.

Tribal communities continue to experience significant disparity in economic, health and environmental conditions compared with the rest of the nation as a whole: nearly one-third of tribal homes remain at or below the poverty level; well over 10% of tribal homes lack access to safe drinking water or basic sanitation facilities; which can cause increase prevalence of environmentally-based illnesses.

Lacking an ability to raise independent revenue via taxation, most tribal governments are dependent on Federal assistance to support core government services, including support for environmental and community health protection efforts. See Table 1 for Funding Information for each EPA Tribal Program. Funding limitations present one of the most significant barriers to the establishment and maintenance of effective tribal environmental programs.

## **ABOUT EPA**

EPA's fundamental objective in carrying out its responsibilities in Indian country is to protect human health and the environment. EPA works directly with federally recognized tribes as sovereign entities with primary authority and responsibility for each tribe's land and membership, and not as political subdivisions of states or other governmental units.

EPA recognizes the federal government's trust responsibility, which derives from the historical relationship between the federal government and Indian tribes as expressed in certain treaties and federal Indian law. EPA ensures the close involvement of tribal governments and gives special

consideration to their interests whenever EPA's actions may affect Indian country as a whole or the interests of specific tribes.

## **ABOUT THE RTOC**

Originally established in or about 1995, the Region 9 Tribal Operations Committee is composed of EPA management and staff as well as tribal representatives selected by tribal leaders from eight (8) geographic areas within the Region.

The RTOC serves as a forum to identify policy and action that maximizes the effectiveness of EPA's tribal programs and protection of tribal environmental priorities, interests and needs. Consistent with its [Charter](#), the RTOC's role is to discuss general positions, views, beliefs and concerns of the tribes in Region 9 and EPA's programs, policies, and approaches in Indian Country, as well as to facilitate the provision of technical assistance to tribes by EPA, other agencies and entities, including other tribes; the RTOC is not intended to replace government-to-government relationships between tribes and the federal government or to represent the interests of any specific tribe to the Agency.

As described in its Charter, the RTOC's mission includes assisting EPA to meet its trust responsibility to tribes; providing support for tribal programs in Region 9; strengthening tribal environmental and public health programs; enhancing responsiveness to tribal needs; and facilitating communication and information exchange among tribes, the National Tribal Operations Committee, and EPA.

The Charter defines the goals of the RTOC to include enhancing the government-to-government relationship between EPA and all tribes; promoting and strengthening tribal efforts to manage environmental and public health programs; assisting EPA to meet the principles set forth in its 1984 Indian Policy; and fostering and encouraging partnerships between EPA and tribes.

The scope of RTOC activities identified in the Charter focus on three key areas: (1) policy and management of EPA's tribal programs; (2) coordination and communication among Tribes, EPA and other agencies; and (3) education.

For the last several years, RTOC meetings have been held quarterly, and generally include a day-long Tribal Caucus, various breakout sessions on specific issues, and a full day plenary session. While the body as a whole focuses on advancing its overarching priorities, the RTOC utilizes both standing and ad-hoc workgroups to focus on specific issues. The workgroups convene as needed between RTOC meetings to review, discuss and draft documents, and perform other assignments. Workgroup activities are reported out at RTOC meetings.

Through workgroup efforts and strategic focus of the larger group, the RTOC has been able to advance several of its goals on both the national and regional levels. For example, its role in providing comments on EPA's national consultation policy which was finalized in 2012 was essential. RTOC briefings and coordination with other tribal organizations strongly encouraged the President's stimulus package to ensure funding for tribal projects. RTOC work also encouraged the reinvigoration of the National Infrastructure Task force to address critical tribal drinking water and wastewater needs, and the ongoing participation by RTOC representatives in this and other national level organizations, such as the National Tribal Water Council, have ensured that the work of those organizations takes into account the concerns and perspectives, and appropriately addresses the needs, of Region 9 tribes. More locally, RTOC workgroups have assisted EPA in developing regional policies and guidance documents, such as a FOIA guidance governing public requests for tribal

information; dispute resolution procedures for tribal grantees; drinking water infrastructure funding guidance; and guidance regarding enforcement actions against off-reservation activities that impact tribal lands and resources.

## **RTOC PRIORITIES ~ STRATEGIC DIRECTIONS AND KEY ACTIONS**

Over the last several years, the RTOC has engaged in an annual exercise to define and clarify priority environmental issues for action by the RTOC and/or its workgroups. While numerous important issues have been brought to the RTOC, at the highest level the RTOC as a whole is focused on the following Strategic Directions:

- Ensuring EPA actions and policies reflect tribal priorities and EPA's trust responsibilities and consultation obligations;
- Promoting the protection, sustenance and enhancement of tribal program funding, technical assistance and other resources to support tribal environmental protection efforts.
- Facilitating coordination between tribes, EPA and other government agencies to comprehensively identify, assess and address tribal environmental protection needs; and
- Providing a forum to gather and share information and assist EPA and tribes to document achievements

To advance these Strategic Directions during the next two years, the RTOC intends to focus its efforts on one or more Key Actions, by identifying and implementing tasks to achieve the following objectives:

- Protect core tribal environmental program funding;
- Protect tribal water program funding;
- Reinvigorate support for tribal multi-media implementation funding;
- Ensure all Region 9 tribes have access to technical assistance for their drinking water and wastewater facilities; and
- Protect and enhance solid waste program funding and ensure agency policy reflects tribal solid waste management and implementation needs.

## **WORKGROUP FOCUS AREAS**

The RTOC has identified nine (9) media-specific and cross-media areas of focus:

- Facilitate the development and maintenance of effective core tribal environmental programs;
- Protect and enhance water quality in Indian Country;
- Ensure tribal access to safe drinking water and basic sanitation in parity with non-tribal communities;

- Support programs to effectively minimize and manage solid and hazardous wastes in Indian country;
- Protect and improve air quality;
- Support the capacity of tribal communities to mitigate and adapt to impacts of climate change;
- Protect tribal environments and community health in the U.S./Mexico border area;
- Facilitate access to resources that support the development of sustainable infrastructure in tribal communities; and
- Ensure other cross-media issues, such as pesticides and invasive species, are considered and addressed.

While the RTOC focuses on advancing its Strategic Directions through the Key Actions identified above, RTOC workgroups intend to continue their work on a wide variety of specific tasks to address these and other issues, as reflected in the attached in the appendices are Focus Area Workplans.

## **GUIDING PRINCIPLES**

All work undertaken by or on behalf of the RTOC will be guided by the following overarching principles:

All Things Are Related. The RTOC recognizes the interrelationship between and among its priority issues, and acknowledges that no issue can be defined and effectively addressed in a vacuum. The RTOC should strive to identify all aspects of each priority issue and ensure that its efforts to address issues are undertaken in the broadest, most inclusive possible manner.

The Link Between Environmental Values and Culture. The RTOC recognizes the fundamental cultural values that define each Tribe's relationship with the natural world and inform Tribal environmental priorities and protection efforts. The RTOC should always acknowledge, honor and seek to ensure the consideration of these values.

The Protection of Tribal Sovereignty. The RTOC recognizes the importance of protecting and advancing Tribal sovereignty in all of its efforts to address environmental issues.

The Importance of the Government-to-Government Relationship. The RTOC recognizes that meaningful government-to-government relationships between Tribes and EPA (as well as other federal, state and local agencies) are critical to effective environmental protection, and shall strive to facilitate and strengthen these relationships for the benefit of the tribes in Region 9.

## **SPECIAL UNDERSTANDINGS**

As required by the Antideficiency Act, 31 U.S.C. 1341 and 1342, all commitments made by EPA in this Plan are subject to the availability of appropriated funds. Nothing in this Plan, in and of itself, obligates EPA to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations that would be inconsistent with Agency budget priorities. The parties agree not to submit a claim for compensation for services rendered to

EPA in connection with any activities it carries out in furtherance of this Plan. This Plan does not exempt the parties from EPA policies governing competition for assistance agreements. Any transaction involving reimbursement or contribution of funds between the parties to this Plan will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.

This Plan does not create any exemptions from federal policies and/or regulations relating to public involvement, employment, and competition for grants and contracts. Nothing in this Plan exempts the parties from complying with any applicable federal, state, or local law or regulations.

If the parties find that an activity undertaken pursuant to this agreement may result in the creation of intellectual property or may require the sharing of proprietary information, the parties agree to negotiate separate agreements to address those matters. None of the parties shall construe any part of this Plan as an endorsement of the products or services of the other. Nothing in this Plan shall be construed as an endorsement of the fundraising activities of any of the parties. None of the parties shall make statements pursuant to this Plan that imply such endorsements.

The parties acknowledge that under 5 § C.F.R. 2635.702(c), EPA may not endorse the purchase or sale of commercial products and services provide by tribal participants. The Parties agree to ensure that promotional material describing or resulting from this Plan do not contain statements implying that EPA endorses any of the products or services of the participants. This includes statements to the public in news releases, publications on web sites or any other media. The Parties agree not to initiate or distribute any press releases, publicity matters or other promotional materials related or referencing the subject matter of this Plan without prior approval of the other parties.

This Plan is not intended to result in any legal obligations on the part of either EPA or any of the parties. This Plan does not create any right or benefit, enforceable by law or equity, against the parties, their officers or employees, or any other person. The parties agree that this Plan is entered into on a non-preferential basis, and either party may undertake similar Plans with other entities on a non-preferential basis. This Plan does not direct or apply to any person or entity outside of the parties to this Plan.

To carry out the joint activities described in the Plan, the some Parties may need to disclose proprietary information to EPA. Proprietary information is defined as information that an affected business claims to be confidential and is not otherwise available to the public. The Parties agrees to clearly identify confidential business information disclosed to EPA in writing; and to clearly memorialize in writing, within a reasonable time, any confidential information initially disclosed orally. EPA agrees not to disclose, copy, reproduce or otherwise make available in any form whatsoever to any other person, firm, corporation, partnership, association or other entity information designated as proprietary or confidential information without consent of the Parties except as such information may be subject to disclosure under the Freedom of Information Act (5 U.S.C. 552), and EPA's regulations at 40 C.F.R. Part 2, or as otherwise authorized by law.

# TABLE 1



# Table 1: FY15 Funding for Region 9 Tribes

Program	# of Tribes & Consortia Receiving Funding	FY15
General Assistance Program	158	\$16,415,000
Drinking Water Tribal Set-Aside	8	\$6,581,000
Clean Water Indian Set-Aside	13	\$10,737,422
Clean Water Act 106	89	\$8,669,000
Clean Water Act 319	77	\$2,560,000
Clean Air Act	30	\$2,910,663
Clean Water Act 104(b)3 (Wetlands)	5	\$1,575,875
Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (OECA & OPP)	10	\$900,326
Brownfields (Superfund) – 128(a)	10	\$1,761,949

