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Independent Federal Advisors on the
North American Agreement on Environmental Cooperation

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July 9, 2019

The Honorable Andrew R. Wheeler
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Wheeler:

The National Advisory Committee (NAC) to the U.S. Representative to the North American Commission for Environmental Cooperation (CEC) held its 52nd meeting in Washington, D.C. on May 15-16, 2019. This letter represents our advice resulting from that meeting.

Our meeting included presentations on EPA's structure, the Federal Advisory Committee Act, and on understanding the collaboration between the Office of International and Tribal Affairs and the Federal Advisory Committee Management Division in the operation of our committee. We also received an update on U.S. priorities for the upcoming CEC Council Session from Luis Troche, Senior Advisor for North American Affairs, EPA's Office of International and Tribal Affairs.

The committee received updates on key activities at the CEC Secretariat from Executive Director Cesar Rafael Chavez who updated members on the active 2017–2018 operational plan cooperative projects and grants. We also received a report on JPAC activities from Sabaa Khan, JPAC Chair.

This was the first meeting for many newly appointed members, therefore members became acquainted with each other by each presenting short presentations on hot topics from the sectors and regions they represent. This activity became an excellent way to understand the various trade and environment issues impacting business, academia and NGO's across these sectors and regions. Our advice letter will include data from these presentations.

The meeting was opened by a welcome from Federal Advisory Committee Management Division (FACMD) Director Monisha Harris, who provided an update on FACMD activities, including the role of EPA's advisory committees. The NAC deeply appreciates the excellent support provided by the FACMD and thanks Director Harris,

Jennifer J. Ronk
Texas

Simone Sagovac
Michigan

NAC/GAC Designated Federal Officer, Oscar Carrillo and all the FACMD staff for their support, before, during and after the meeting.

The NAC Members would like to express their appreciation for the opportunity to make a contribution to EPA's work at the critically important nexus of environment and trade in North America. Further, the NAC would like to express its support for the ongoing efforts of the EPA as it encourages and supports Canada and Mexico in establishing parallel advisory committees who can then provide advice accordingly to your peers in those countries.

The NAC Members would also like to extend our most sincere congratulations to Mr. Cesar Chavez on his many accomplishments while serving as Executive Director of the CEC Secretariat and to thank him for his commitment to the mission of the CEC! His contributions to our meetings over the years have been instrumental to our ability to provide sound and well-informed advice.

In closing, it was a pleasure to meet you and your team at the recent 25th CEC Council Meeting in Mexico and I look forward to the opportunity to talk again at a future NAC meeting or next year in Vancouver at the 26th Council Session.

Sincerely,

Theresa A. Pardo

Theresa A. Pardo, Ph.D.,
Chair, National Advisory Committee

cc: Jane T. Nishida, Principal Deputy Assistant Administrator for the Office of International and Tribal Affairs
Monisha Harris, Director, Federal Advisory Committee Management Division (FACMD)
Oscar Carrillo, Designated Federal Officer, FACMD, OMS
Mark Kasman, Director, Office of Regional & Bilateral Affairs, OITA, EPA
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National Advisory Committee (NAC)
to the U.S. Representative to the
Commission for Environmental Cooperation (CEC)

Advice 2019-1
Meeting – May 15-16, 2019

The May 2019 meeting of the National Advisory Committee (NAC) resulted in advice that responds in a number of ways to the priorities of the EPA vis a vis the NAAEC:

- Building disaster resilient communities
- Marine litter and food waste
- The circular economy
- Interconnectedness among the sectors to become more resource efficient
- Extreme events
- Disaster risk resilience (DRR)

The 2019-1 advice from the NAC is organized according to the eight recommendations as follows:

1. Shift Investments from Creation to Dissemination Focused on Local and Regional Take-up and Use of Expert Analysis, Practical Advice Assessment Tools, and After Action Reports, among other Resources.
2. Increase Interconnectedness of Sectors to Drive Efficiency and Effectiveness of Trilateral Trade and Environmental Protection Initiatives
3. Leverage the Unique Role of Academic Institutions in Communities
4. Integrate Review of Disaster Risk Resilience in the Processes of Regulating and Deregulating Industry
5. Raise Awareness of the Environmental and Trade Impacts of Daily, Non-Extreme "Events" that Disrupt Communities, the Environment, and Trade at the Border Regions
6. Expand the Definition of Local in Border Regions
7. Recognize the Critical Transition from Extreme Event Response to Extreme Event Recovery
8. Leverage the Successes of Enforcement Policies at the Border that Create Value for Trade and the Environment.

Following the specific recommendations to the EPA, we provide a set of vignettes shared by members of the NAC and the Government Advisory Committee (GAC) related to projects that highlight local and regional events and capabilities with respect to disaster risk resilience and the evolving nature of both environmental and trade challenges and local and regional response capabilities and innovations. One piece of "Other Advice" is provided.

1. Shift Investments from Creation to Dissemination Focused on Local and Regional Take-up and Use of Expert Analysis, Practical Advice Assessment Tools, and After Action Reports, among other Resources.

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NAC Members discussed the extensive investments made by EPA, CEC and others in producing expert analysis, practical guidance, assessment tools and other resources to inform or guide actions across a wide range of topics related to the overarching mission of EPA vis a vis the NAAEC agreement. Members agreed that while these resources are well made, future investments should shift some of the focus from creation to dissemination, uptake, and use.

- Members noted that this might require working with a range of actors from across the sectors to increase both capacity and capability for take-up and use of such resources. In particular, the Members agreed that consideration of the numerous relevant resources within context might require the engagement of many local actors including industry, academia as well as government agencies at all levels, and from both sides of the border.
- These actors, they agreed, need to come together to consider the potential relevancy or value of the array of guidance and other documents within context and collectively, determine how and where to use such resources within that local context. Using, or building, interconnections among the sectors as part of this process was recognized as critical to a full consideration of how to maximize the utilization of relevant resources.

NAC Members discussed the value of after action reports as one type of resource that has value upon use. One notable potential use of after action reports, according to the NAC, is the opportunity to document the identification of extreme events which expose or emphasize existing problems or gaps in local, regional, national and bi- or tri-national capability. As such, the use of after action analysis that highlight these problems should, according to NAC, be strongly encouraged, particularly in border communities with their unique contexts, as part of action planning going forward.

2. Increase Interconnectedness of Sectors to Drive Efficiency and Effectiveness of Trilateral Trade and Environmental Protection Initiatives

NAC Members discussed the potential of sector interconnectedness as a way to increase the efficiency and effectiveness of the entire range of activities required to increase trilateral trade and environmental protection initiatives.

In particular, NAC discussed the role of local actors from across the sectors in helping to contextualize an event. A key to the success of this multi-sector involvement is the extent to which local actors are recognized and listened to by non-local actors.

3. Leverage the Unique Role of Academic Institutions in Communities as Part of Disaster Risk Resilience

In the context of an extreme event, NAC noted the unique knowledge and experience that College and University actors who are proximate to an event have about the local, regional, and often, global context and the contribution that knowledge and experience might provide in terms of efficiency and effectiveness, if shared with appropriate people/organizations at the appropriate times. Universities can play a key role in helping to contextualize an event and to assist the non-local actors in identifying key informants for an event. Colleges and Universities

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are often central to local social, economic and technical networks of professionals and could be called on to activate or leverage these networks.

At the same time, Universities are often acting as first responders even in distant regions by organizing humanitarian aid campaigns, doing quick response research right after disasters, and facilitating the movement of displaced students either temporarily or permanently. Including universities as important actors in emergency preparedness, response and long term recovery is essential to guarantee effective disaster management.

4. Integrate Review of Disaster Risk Resilience in the Processes of Regulating and Deregulating Industry

NAC Members discussed the definitions of resilience (defined as the ability to recover from a shock) and disaster risk resilience (defined as resilience in the context of a specific disaster) and considered a range of topics related to strategies for increasing disaster risk resilience (DRR). This conversation included an extensive discussion of the relationship between DRR and environment, trade and public health and safety in the context of ongoing processes of industry regulation and deregulation. They raised a number of points related to the impact of regulation and deregulation on DRR.

NAC Members recommend the integration of a review of the impact of regulating and deregulating industries on disaster risk resilience, particularly in border regions. In the case of regulation, they raised questions about how to ensure that discussions focused on creating industry regulations do incorporate considerations of the impact of the regulation on DRR. In the case of deregulation, NAC Members raised questions, for example, about how safety concerns embedded in regulation are being considered within the context of deregulation. They raised questions about whether such regulatory processes include considerations of how the same goals and outcomes in terms of both environment, public health, and trade will be achieved.

5. Raise Awareness of the Environmental and Trade Impacts of Daily, Non-Extreme "Events" that Disrupt Communities, the Environment, and Trade at the Border Regions

NAC members discussed the increasingly regular disruptions to communities from events that are not considered "extreme" but do impact the environment, trade and public health, and that often do require cross-border coordination and coordinated actions across the sectors. For example, the duel impacts of extended border wait times and run off from rain storms in the Tijuana/San Ysidro, California on schools and beaches. The air congestion created by vehicular traffic and commercial trucks dirties the air where local elementary and middle school children attend school and enjoy the school playground, forcing the children to not play outside on a regular basis. Additionally, significant rainfall carries trash and other litter from Tijuana to the Tijuana River Valley on the U.S. side of the border to the beaches on a regular basis, forcing beach closures. A third example has to do with "flaring" at the Metropolitan Gas Plant in Detroit. The consequence of the flare being extinguished is that the natural gas is released into the air causing disruption in trade and consequence to the environment and public health.

These events, both in San Ysidro and Detroit, are not "extreme" in the current vernacular, but do have direct, immediate and long-term effects on the environment and trade, and on communities.

Addressing issues with aging water supply infrastructure, particularly in border regions, may provide an opportunity for cross-border and multi-sector collaborations that are focused on efficiency and effectiveness of border region water management programs and the impact on both environment and trade.

6. Expand the Definition of Local in Border Regions

NAC members discussed the challenges facing decision makers who are typically focused on federal spheres of influence when faced with decision making about extreme events, particularly when those events are, as noted in our October 2018 advice letter, "profoundly local". Such federally focused decision making, in the opinion of NAC members, exacerbates complexity due to unique challenges facing extreme events planning, response, and recover in border regions. In such events, "local" includes border regions where local government, industry, academic and other community actors come from two countries, multiple states, and many municipalities, as well as a variety of economic, social and cultural contexts.

7. Recognize the Critical Transition from Extreme Event Response to Extreme Event Recovery

NAC members discussed event management at the point of transition from response to recovery. The members noted the unique challenges faced by the "the ones left behind" when first responders leave. Public and environmental health practitioners, among others, were identified as the ones left behind to work with communities in the often very long term transition from response to recovery. The transition from response to recovery and the associated transition from non-local to local actors was noted as an opportunity for increasing the interconnections among border region multi-sector community actors in the process of collaborative decision making about recovery-related actions (including the use of after action reports) and investments.

8. Leverage the Successes of Enforcement Policies at the Border that Create Value for Trade and the Environment.

NAC members discussed the value that certain enforcement policies are creating and recognized the need for such policies to be reviewed and where possible, expanded. The NAC discussed in particular the example of the Unified Cargo Processing (UCP) program, jointly operated by U.S. Customs and Border Protection (USCBP)-Mexican Aduanas/SAT and which was piloted at the Nogales-Mariposa Land Port of Entry beginning in 2016. According to the North American Research Partnership, the UCP program for trucks on the border reduces emissions by as much as 85%. Such documented results, which contribute to gains in efficiency for industry, dramatic reductions in congestion with direct positive impacts to the environment, contribute directly to the priorities of the EPA and the NAEEC and should be leveraged to the fullest extent possible.

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LOCAL AND REGIONAL VIGNETTES ON DISASTER RISK RESILIENCE

Vignettes are based on five minute lightning talks from NAC Members on local and regional events and capabilities with respect to disaster risk resilience and the evolving nature of both environmental and trade challenges and local and regional response capabilities and innovations. Vignettes are presented in order of presentation to the NAC and GAC Members.

Impacts of Border Delays for People and Trade at the California-Baja California Ports of Entry (POE)

Submitted by Ms. Elisa Arias, San Diego Association of Governments.

Per the 2007 Economic Impact from Border Delay Study (commonly called SANDAG), the increase in vehicle crossings at the Baja California U.S.-Mexico Port of Entry (POE) (ie border crossing) has resulted in congestion, delays and reduced air quality. The SANDAG study was expanded in 2017 to include survey data on air quality variables (e.g., vehicle fleet and fuel) and showed that heavy-duty vehicles crossing the border are newer than passenger vehicles and those crossing into California are subjected to regulations related to model-year engines. Pollutant emission rates vary by fuel purchase location and border crossers tend to purchase fuel in the United States. The Mexican government is aligning fuel regulations with standards set in the Paris Accord agreement. Ms. Arias highlighted the efforts underway to improve air quality in the California-Baja California region, including infrastructure changes at POEs and air quality and border wait time monitoring.

Puerto Rico Extreme Event: Lessons Learned in the response to Hurricane Maria in Puerto Rico and the impact of stakeholder engagement

Submitted by Dr. Marla del Pilar Perez Lugo, University of Puerto Rico-Mayaguez.

In the wake of the category 5 hurricane that hit Puerto Rico, the longest power outage occurred in U.S. history, affecting 200,000 families and resulting in 2,975 deaths. Since the resulting deaths were within the families affected, the vulnerable population could easily be identified. Dr. Lugo detailed the lessons learned. Electricity is more than just technology; it has social, cultural and political dimensions. Electricity is so embedded in our society that it influences every aspect of a person's life. Vulnerability, recovery and disaster response are bigger problems, and a large number of stakeholders are involved. Problems are not resolved; they get "worked on." Placing the emphasis only on resilience hides the power of relationships. Situations may give people no choice but resilience. Universities are critical infrastructures and the largest repository of local knowledge, but they are not considered as such. For example, the University of Puerto Rico was systematically excluded from the reconstruction process. The largest repository of knowledge of Puerto Rico's electrical system and social economic conditions of the communities is embedded in the universities, but this was ignored. This phenomenon may be repeated at Tribal universities and colleges, and more research is needed in this area.

Dr. Lugo argued that universities are first responders, but they often are not considered in this capacity and are not organized to fulfill this function. The United States has approximately

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5,000 universities. From 1989 to 2018, 19 extreme events affected more than 65 Hispanic institutions. Knowledge about the vulnerabilities of the communities has been created from these events. At the time of Hurricane Maria, a student mobility program was organized. Students and faculty were treated as environmental referees, but they were not organized. Human and humanitarian aid are brought into disaster areas, including Puerto Rico, but these efforts are not well organized. Thirty universities were in the field 2 weeks after the event, intervening with communities that did not have water or electricity. These groups arrived on the scene before FEMA and were emulating a government response. The communities were unaware that these universities were not going to provide long term aid. Among the lessons learned is that universities need to be trained as emergency response actors and integrated into response programs. Dr. Lugo emphasized that resilience is more than just achieving pre-event conditions. If pre-existing conditions were not good initially, then the community will be returned to that situation.

The Plastics Industry and The Circular Economy
Submitted by Ms. Jennifer J. Ronk, Dow Chemical Company.

From the plastics industry perspective, the aim is on preventing marine debris and producing materials that are circular. The plastics industry is seeing challenges with the onset of China's import ban, as well as with opportunities for industries to grow and infrastructure investments. Resolving these challenges will positively affect marine litter and debris.

Border Watersheds: Revisiting policies affecting U.S-Mexico and U.S.-Canada border watersheds
Submitted by Mr. Luis E. Ramirez Thomas, Ramirez Advisors Inter-National, LLC.

Mr. Ramirez Thomas called attention to the International Outfall Interceptor (IOI) sewage pipeline, which transports an average of 14 million gallons per day of raw sewage from Nogales, Sonora, Mexico to the to the Wastewater Treatment facility at Rio Rico, approximately 10 miles north of the border, that is owned and operated by the International Boundary and Water Commission (IBWC). The cost of maintenance and modernizations and improvements to the IOI are burdensome on the local level. The City of Nogales, which is bearing the cost, has a population of 24,000 whereas Nogales, Sonora, Mexico has a population closer to 350,000. The responsibility for maintaining and conducting the long-term repairs of the IOI remains an ongoing challenge. There is a continued dialogue between the state of Arizona, the City of Nogales and the IBWC but the long term solutions are still pending. Recent breaches of the pipeline have left millions of gallons of raw sewage flowing on the surface and into the Nogales Wash, creating severe threats to the environment. Water treaties exist, but none specifically address the responsibility for maintenance and repairs that reflect the binational nature of these facilities.

Mr. Ramirez Thomas highlighted examples of cooperation, such as establishing a partnership with the Arizona Department of Environmental Quality (ADEQ), and its Sonora counterpart, to develop a binational Environmental Strategic Plan that is adopted by both states. Strategic Plan jointly defines action items and top priorities, and conditions to be addressed from a binational perspective. The Arizona-Mexico Commission has been in existence for 60 years and has a 16-committee structure, one of which is focusing on environment and water.

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Mr. Ramirez Thomas then described a "process" example. A number of Homeland Security initiatives have had a positive impact on the quality of life of border residents. For example, the new program, Unified Cargo Processing (UCP), has reduced the US and Mexican customs process from an average of 3.5 to 8 hours to as little as 30 minutes on average while ensuring enhanced security for both nations. In the UCP model, Mexican and U.S. customs officers work side by side, stopping the truck only once and both agencies inspect the truck simultaneously. Reports show that the logistical savings to companies is high, and the environmental impact is positive.

Michigan Mobility-Related Activity and Economic Development Efforts
Submitted by Ms. Simone Sagovac, Southwest Detroit Community Benefits Coalition.

At the state level, Michigan has been tracking economic development and mobility-related technologies and that several have been patented. Ford Motor Company is bringing its mobility-related activity and trade to downtown Detroit, and a Chrysler Fiat manufacturing facility is being considered. These new activities will be supported by border infrastructure, specifically the Canada Highway International Bridge. Canada is the United States' number-one partner in trade, and Detroit is the busiest crossing point. The Canada Highway International Bridge provides a direct connection between the U.S. and Canadian through-way systems. If not for the bridge, use of the existing crossing tracks requires navigating numerous traffic signals, which can be timely and inconvenient.

The issue is that the bridge is landing in an impoverished community and would cause new health impacts. In collaboration with Canada, community mitigation efforts are underway and programs are being implemented to enable people to move from the area if they choose. Forty state monitoring stations have been installed.

Waters of the United States: Impact to Tribes / Tribal Relations
Submitted by Ms. Ann Marie Chischilly, Northern Arizona University.

NAC member, explained that new decisions on the Waters of the United States (WOTUS) will be detrimental in the Tribal communities throughout the US. However, Alaskan Native Villages living in Alaska will be most impacted because they rely heavily on the lakes and rivers for their water supply and sustenance. The National Tribal Water Council (Council) developed a comment letter regarding WOTUS detailing their concerns. All of the Council's Comment letters regarding water issues are available to the public, including the WOTUS Comment letter at this site: http://www7.nau.edu/itep/main/ntwc/PolicyResponseKits/Index
Ms. Chischilly also pointed out that the issues of respecting tribal sovereignty between states and Tribes are ongoing. In terms of emergency response, Tribes often engage the state, local governments, EPA offices, in times of emergency, and many times those relations are not friendly or often overlooked. She emphasized how it was fundamental for state officials including EPA officials, to understand how treaties impact Tribal relations which are within their state.

Tijuana River Valley Pollution
Submitted by Mr. Andrew P. Carey, U.S.-Mexico Border Philanthropy Partnership.

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Tijuana River Valley pollution is an issue that the United States and Mexico together will need to address. Several strategies are being proposed and Congress just approved $30 million to begin the cleanup process. Several transboundary flows of trash enter the United States from Mexico and causes problems when it rains. The issue is that there is no regular trash collection in the municipality of Tijuana. The nearby U.S. Mexico border beaches have been closed for a total of 1,600 days because of pollution.

OTHER ADVICE

To ensure that the contribution of the NAC, in the form of advice letters, continues to provide value to the EPA within the context of the new agreement, NAC members suggest that a consideration of the form and format of the advice provided by NAC over the years might allow for the identification of opportunities for improvement that would increase the value of the NAC advice to the EPA. If there is interest on the part of the EPA in such a consideration, NAC Members are available to participate in that conversation accordingly.

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