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U.S. Governmental Advisory Committee
Independent Federal Advisors on the North American Agreement on Environmental Cooperation

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May 7, 2015

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator McCarthy:

The Governmental Advisory Committee (GAC) to the U.S. Representative to the North American Commission for Environmental Cooperation (CEC) held its forty-fourth meeting in Washington, D.C., on April 16 and 17, 2015. This letter represents our full advice resulting from that meeting.

During our meeting Karl Brooks, Deputy Assistant Administrator, Office of Administration and Resources Management, was introduced and expressed his appreciation for the committees' work. Neilima Senjalia, Acting Director of the Office of Regional and Bilateral Affairs represented OITA Deputy Assistant Administrator Jane Nishida, and Karin Koslow, Deputy Director of the American Indian Environmental Office represented AIEO Director JoAnn Chase. Deputy Assistant Administrator Nishida briefed NAC Chair Brian Houseal and me by conference call several days prior to the meeting because she and Director Chase were unable to attend due to a schedule conflict.

We also thank Sylvia Correa, Senior Advisor for North American Program in OITA for attending the meeting and providing context for the presentations and answering our questions. As always, her attendance and contribution were much appreciated.

The GAC also wishes to thank the Office of Diversity, Advisory Committee Management & Outreach (ODACMO) Director Denise Sirmons, Associate Director Mark Joyce and NAC/GAC Designated Federal Officer Oscar Carrillo and all of the ODACMO staff for their excellent support work, before, during and after the meeting.

Irasema Coronado, Executive Director of the CEC Secretariat, provided an update on progress at the Secretariat, an overview of the Operational Plan and a status report on the Strategic Plan.

Special thanks are extended to Bob Varney, of the Joint Public Advisory Committee (JPAC), for previewing the JPAC meeting in Monterrey, Mexico, and for his contribution throughout the entire meeting.

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While developing the agenda the committees requested a briefing on the Council priority issue of Traditional Ecological Knowledge (TEK). The briefing was provided by the tribal representative members of the two committees, Octaviana Trujillo, Gail Small, Cecilia Martinez, and Gerald Wagner. Everyone in attendance commented that the session was one of the most inspiring in memory. For those of us who are just becoming acquainted with TEK, the briefing was of enormous value, and served to deepen our appreciation for the perspectives and contributions of our fellow members.

NAC member Gail Small suggested that the committee recommend that the U.S. government advocate for the inclusion of TEK at the UNFCCC COP 21 climate change conference to be held in Paris this December. The committee felt that the recommendation was outside our charge of providing advice relating to the tri-lateral NAAEC treaty so it does not appear among the advice that follows. However it is mentioned here because we felt it is consistent with the Council's priorities coming from last year's Council Session in Yellowknife, Canada.

The GAC deeply appreciates EPA's continued support of our role in advising the United States Government on the enhancement of environmental conditions throughout North America. We look forward to your response, and hope you find the following advice helpful.

Sincerely,

Jeffrey Wennberg, Chair
Governmental Advisory Committee

cc: Jane Nishida, Assistant Administrator for the Office of International and Tribal Affairs
Denise Sirmons, Director, Office of Federal Advisory Committee Management & Outreach
Oscar Carrillo, Designated Federal Officer
Sylvia Correa, Senior Advisor for North American Affairs
Bob Varney, Chair, Joint Public Advisory Committee
Irasema Coronado, Executive Director, CEC
Members of the U.S. National and Governmental Advisory Committees

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Governmental Advisory Committee (GAC)
to the U.S. Representative to the
Commission for Environmental Cooperation (CEC)

Advice 2015-1 (May 7, 2015):
Charge Question: CEC Operational Plan

The first Charge Question sought comments on the Draft Operational Plan which at the time of the meeting was drawing near the end of the public comment period. The Charge Question was:

"1) CEC Draft Operational Plan 2015-16: The Operational Plan is out for public review. Please let us know if you have any additional comments."

The GAC's comments fall into two categories - general comments and observations and CEC project advice.

Our first general comment is to express appreciation for the Plan's attention to Traditional Ecological Knowledge (TEK) through projects 14, "Local Environmental Observer Network," and 15, "Using Ecosystem Function and Traditional Ecological Knowledge together to Build Resilience and Adapt to Climate Change in North America," and through NAPECA grants for the municipality of Huehuetla Hidalgo, and the communities in the municipalities of Bocoyna and Guerrero. The CEC is putting the TEK priority expressed in the cross-cutting theme "Learning from and assisting vulnerable groups and indigenous communities" into action through these grants and projects.

The GAC also wishes to acknowledge our appreciation for the Council's decision to create a tri-lateral experts task force on TEK. This was a recent recommendation of both the GAC and the NAC, and we expect the task force will provide both the focus and guidance needed to ensure TEK is effectively integrated into the deliberations and work of the CEC.

The GAC found the single "communications" line item in the Operational Plan budget insufficient to evaluate whether the Secretariat is expending sufficient resources or whether a revision of the communications budget activities should be considered. A more detailed breakdown would have helped our deliberations. The GAC believes that a more strategic approach to communications would benefit the CEC.

Another general comment revisits advice offered on multiple occasions in the past. While the Secretariat under the leadership of Irasema Coronado and the Council have embraced the need for measureable environmental outcomes, some of the project metric descriptions remain output-focused. An excellent example of good evaluative metrics is found in Project 8: "Accelerating Adoption of ISO 50001 and Superior Energy Performance® (SEP) Program Certifications in North America." The "specific, clear and tangible results" under item three include items like "15 pilots established in year 1" and "3 people qualified (Y1); 45 people qualified (Y2)."

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By contrast, Project 9, "Strengthening conservation and sustainable production of selected CITES Appendix II species in North America" proposes to use project outputs for evaluation:

"1) Fulfilled project outputs

2) Deliverance of outputs in accordance with the task program (below)

3) Budget expenditure (balance) according to the expected exercise of resources

4) Production and value chains on priority species which have successfully incorporated the following elements (always in compliance with the agreed-upon action plans):

a. Sustainable use principles and approaches (e.g., as in Resolution Conf. 16.7);

b. Compliance with regulations (or legality);

c. Traceability schemes; and

d. Engagement of stakeholders such as local communities including indigenous communities, and industry"

The GAC acknowledges that the nature of a project may determine the ease with which such metrics may be applied, but delivery of outputs and expenditure of the budget are by no means effective measures of "specific, clear and tangible results." Many projects involve longer timeframes to show measureable results than the project schedule allows. In such cases pre- and post-project surveys of participants or target populations can provide useful measures of near-term impacts.

Finally, the GAC noted a lack of cross-border air quality projects in the operational plan. Projects 6 and 7 address maritime air emissions but these two represent the total focus in the Plan. Air quality issues in North America correspond to all three of the CEC cross-cutting themes. Unless we look at harmonizing transboundary regulatory compliance and communicate the public viewpoints of air quality, future progress and capacity building will be difficult. An example of a worthy air quality project that was passed over is "Air Quality Monitoring and Public Information" proposed by the U.S. and endorsed in our last advice letter. The GAC appreciates the recent focus on water issues but believes a better balance could have been achieved in the proposed Operational Plan.

Project specific advice is focused on the two projects addressing the Monarch butterfly (projects 12 and 13). The projects have been proposed at the same time that the Center for Biological Diversity has submitted a petition to the U.S. Fish and Wildlife Service for listing as a threatened or endangered species under the Endangered Species Act. A review of this petition will take approximately a year. A major consideration for listing will be an evaluation of the current label restrictions for the use of glyphosate on "Roundup Ready" corn and soybeans by the U.S. EPA Office of Pesticide Programs. Depending upon EPA's response to this evaluation, the U.S. Fish and Wildlife Service may choose to develop a Biological Opinion which may mandate certain restrictions on the use of the herbicide in order to eliminate or reduce the threat to the Monarch butterfly. These restrictions may result in significant changes in the way the herbicide is applied and limit the areas for application. These changes are likely to be regulatory requirements, and

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not voluntary (such as the implementation of Best Management Practices, or BMPs). At this time the issue of glyphosate application and its impact on the Monarch butterfly lies within the regulatory purview of both the EPA and the U.S. Fish and Wildlife Service. The GAC thinks these two projects are premature and will significantly benefit from a delay until the regulatory sideboards are established. This will inform the project proponents as to the scope and breadth of any educational activities or BMPs that may be needed. The GAC therefore recommends that the $600,000 requested by the project proponents can be better redirected to other priorities at this time.

Recognizing that Monarch butterflies are in need of more immediate protection measures, the GAC would support some of the $600,000 to be used to encourage planting of milkweed in critical migratory pathways that are not subject to herbicide use, should such an opportunity be able to be carried out in the time frame of this NAPECA process.

Recommendations:

1. ***A more detailed breakdown of the Operational Plan budget should be provided in the future, especially in areas where advice is sought.***

2. ***Project proposers should be required to offer clear, specific and measureable metrics to assess the outcomes of projects ("specific, clear and tangible results") and not merely their products, deliverables or outputs.***

3. ***The $600,000 requested by the Monarch butterfly project proponents (projects 12 and 13) should be redirected to other priorities until the regulatory uncertainty surrounding glyphosate is resolved. If the CEC desires to invest in a response to the threatened loss of the Monarch in the meantime, the GAC recommends funding be applied to grants or projects aimed at encouraging planting milkweed in critical migratory path areas that are not subject to herbicide use.***

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Governmental Advisory Committee (GAC)
to the U.S. Representative to the
Commission for Environmental Cooperation (CEC)

Advice 2015-2 (May 7, 2015):
Charge Question: NAPECA Grants

The second Charge Question seeks advice on the next round of NAPECA grants:

"2) Grants: Provide recommendations on the new cycle of NAPECA grants. The request for proposal is slated to go out in late summer. Do you have any views on how to integrate the Environmental Ministers priorities and the Operational Plan focus with the NAPECA grants? Do you have thoughts on better ways to reach broader audiences for this grants program?"

A grant program like NAPECA was recommended several years ago by the GAC. The CEC implemented the recommendation and the response has exceeded all expectations. Executive Director Coronado stated that there were 1,000 applications for the 18 grants ultimately awarded in the current round. Clearly, the word has gotten out. But with this success has come the concern that the program's lack of prescriptive guidance has caused a large number of applicants to prepare proposals that for one reason or another cannot be funded. This could lead to a decline in interest and potentially a decline in the diversity and quality of applications.

The GAC understands that there is a delicate balance between a wide open process and one that is overly prescriptive. But we believe that some additional guidance is needed to ensure applicants are responding to program and administrative expectations when proposing a project for funding. At a minimum the NAPECA invitation should describe a range of grant awards that place upper and lower limits on awards.

Other concerns included whether the grants should favor first time applicants, whether they should be limited to projects for which other funding sources are potentially available, and how best to reach and encourage indigenous communities to submit applications. The GAC's advice regarding NAPECA grants follows.

1. The first and essential screen for fundable projects should always be the quality of the projects and the degree to which they meet the Administration and Funding Guidelines and Grant Selection Criteria.

2. The list of priority applicants/beneficiaries should include 'vulnerable communities.'

3. The Selection Criteria should mention a preference for projects that are 'replicable' in addition to ". . . environmentally significant for the community and for North America."

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4. Preference should also be given to projects for which other funding sources are limited or nonexistent.

5. The GAC believes first time applicants should be encouraged but not to the exclusion of others. We suggest a limited number of 'first funder' applications be sought and funded in each round. A target of approximately 10% of total applications should be established for the number of awards to applicants who have not sought funding previously.

6. The GAC sees the need for first funders and small, thinly resourced organizations to have the ability to 'mentor' with universities or larger organizations to help support the administrative requirements of the program. Often, small entities will refrain from seeking grants out of fear that inexperience with grant close-out requirements will cause embarrassment or denial of funding when the work is done. We understand that this has been done in the past, but suggest something be included in the solicitation materials to alert these entities of the opportunity.

The GAC also suggests that special efforts be expended to seek applications from indigenous communities using radio communications, such as the syndicated "Native America Calling" program that originates in Albuquerque and reaches 70 radio stations nationally. Also, our tribal members strongly emphasized the need for partnerships with the affected communities. Applicant organizations may propose excellent projects, but unless the community leadership is an active partner in the project the ultimate success of the proposal will be jeopardized. This is already part of the criteria, "*Create partnerships or linkages at the state, local or indigenous community level, within the North American region or beyond*," but for indigenous communities this is not a matter of preference, but of necessity.

Recommendations:

1. ***The NAPECA invitation should provide better guidance regarding the projects sought. At a minimum the invitations should describe a range of grant award amounts that place upper and lower limits on awards.***

2. ***The first and essential screen for fundable projects should always be the quality of the projects and the degree to which they meet the Administration and Funding Guidelines and Grant Selection Criteria.***

3. ***The list of priority applicants/beneficiaries should include 'vulnerable communities.'***

4. ***The Selection Criteria should mention a preference for projects that are 'replicable' in addition to ". . . environmentally significant for the community and for North America."***

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5. ***Preference should also be given to projects for which other funding sources are limited or nonexistent.***

6. ***A limited number of 'first funder' applications should be sought and funded in each round.***

7. ***First funders and small, thinly resourced organizations should have the ability to 'mentor' with universities or larger organizations to help support the administrative requirements of the program.***

8. ***Special efforts to publicize this program and to seek applications from indigenous communities should include the use of radio, such as the syndicated "Native America Calling" program.***

9. ***Applications from indigenous communities should demonstrate a strong partnership with the community and its leadership.***

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Governmental Advisory Committee (GAC)
to the U.S. Representative to the
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Advice 2015-3 (May 7, 2015):
Charge Question: Communications

The final Charge Question was a follow-up to prior efforts to improve communications and general awareness of the CEC and its activities.

"3) Communication: In a previous advice letter the NAC/GAC provided a "CEC 101" presentation for the purpose of educating audiences on the work of the CEC. Please describe how NAC/GAC members have reached-out within your networks about the work of the CEC, (i.e., any presentations or other type of outreach you have engaged in during the past year). Do you have suggestions as to how EPA can help in these efforts?"

Several GAC members have used the "CEC 101" presentation, and generally agreed that it was useful but required significant follow-up for the awareness of the CEC to translate into understanding. Other members indicated an interest in making similar presentations. Members will continue to explore opportunities to help spread the word, including the use of social media. During the meeting NAC and GAC members brainstormed various ideas. One suggestion was for EPA to establish a set of social media connections for use by the committees and their members. The discussion included several ideas for creating or adopting "hashtags" for Twitter that allow those interested in the CEC or EPA's international programs to follow the NAC and GAC, and by extension, the CEC.

Recommendations:

1. ***The Secretariat should seek greater opportunities to use social media as a means of increasing awareness and improving communications.***
2. ***EPA should establish a set of social media connections for use by the committees and their members.***

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Governmental Advisory Committee (GAC)
to the U.S. Representative to the
Commission for Environmental Cooperation (CEC)

Advice 2015-4 (May 7, 2015):
Article 13 Report on Hydraulic Fracturing

A recent NAC advice letter contained a recommendation for the Secretariat to undertake an Article 13 report on the issue of hydraulic fracturing gas and oil shale deposits as a means of extracting these fuels. The economic and geopolitical benefits to the U.S., Canada and Mexico are generally understood but the technology's short and long term impacts on air and water quality remain controversial. New York State recently chose to prohibit the practice, while other jurisdictions are allowing it with varying degrees of regulatory controls. The practice is also creating trans-boundary concern where fuel derived from the practice is delivered across an international border for use in jurisdictions that have banned the technology.

The CEC would seem an ideal entity to examine the technology and its environmental impacts by reviewing the work done by subnational jurisdictions, academia, industry and others. Gaps or conflicts in the research could be identified and recommendations for additional research proposed.

Recommendation:

The GAC joins the NAC in recommending that the U.S. propose an Article 13 report on the environmental impacts of hydraulic fracturing technology.

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Governmental Advisory Committee (GAC)
to the U.S. Representative to the
Commission for Environmental Cooperation (CEC)

Advice 2015-5 (May 7, 2015):
Community Reaction to Renewable Energy Development

Solar photovoltaic arrays and wind turbines have been widely developed in all three jurisdictions and continue to be promoted through public policy and various financial incentives. The Border Environment Cooperation Commission (BECC) and North American Development Bank (NADBank) have promoted these installations in economically distressed communities along the border with Mexico. Host communities often encounter local opposition on a variety of grounds including environmental, human health, economic, and cultural.

What appears lacking in these discussions is documentation of local attitudes following the installation of the renewable generation. The CEC is in an excellent position to survey the attitudes and concerns of residents and community leaders at various times following project completion. This information could then help members of communities where projects are proposed to know which concerns tend to persist and which do not.

The EPA is a member of the Board of Directors of the BECC/|NADBank and should encourage the institutions to assure that the project development criteria, especially pertaining to community involvement and transparency, are adhered to in developing these renewable energy projects along the U.S./Mexico border.

The GAC does not identify whether the study should rise to the level of an Article 13 report or a less ambitious study, but we believe such a report would be of significant value to communities facing these questions in the future.

Recommendation:

The U.S. Government should propose a CEC study on the attitudes and concerns of residents and community leaders at various times following completion of a renewable energy generation project.

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Governmental Advisory Committee (GAC)
to the U.S. Representative to the
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Advice 2015-6 (May 7, 2015):
Oil Trains Briefing

The GAC members are hearing a great deal of concern about the "oil trains" but are not sufficiently versed in the subject to offer any comment or recommendations at this time. We respectfully request that a briefing on the subject be part of a future meeting agenda.

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