

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

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**Committee
Members**

Dolores Wesson
Chair
California

The Honorable Stephen L. Johnson
Administrator

Dennis Aigner
California

U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Karen Chapman
Ohio

Dear Administrator Johnson,

Irasema Coronado
Texas

The National Advisory Committee (NAC) to the U.S. Representative to the North American Commission for Environmental Cooperation (CEC) held its thirty-first meeting on October 23-24 2008, in Somerton, Arizona, at the Cocopah Nation.

Barry Featherman
Washington, DC

Richard Guimond
Connecticut

Our agenda showcased a series of timely and highly relevant presentations on the management challenges of the Colorado River, particularly in the face of climate change, and bi-national restoration opportunities along its banks in the Limitrophe, both in the US and in Mexico. The NAC unanimously agreed that water conservation and effective management is fast becoming a top priority for communities in bi-national watersheds, where cooperation is of the essence in the face of our changing climate and the pressing need to plan for, adapt to, and manage this increasingly scarce resource. Opportunities for habitat restoration, linked primarily to the need to allocate water for the environment were also showcased in our field trip to the Limitrophe.

Robert Johnson
Washington, DC

Aldo Morell
Delaware

Jerry Pardilla
New Mexico

Carlos Perez
New York

As part of our field trip, the NAC had an opportunity to tour the border crossing at San Luis Port of Entry. This port of entry sees waiting times that range anywhere between two hours and forty minutes, in a community where 80 to 90 percent of the transit is by individuals crossing daily. The new commercial crossing that will be opening a few miles away will add tremendously to the efficiency of this border crossing and ease the environmental pressures brought about by having to manage commercial trucking alongside civilian traffic. An unresolved issue is the added commercial transit encouraged by differences in hazardous materials transport and disposal rules in California and Arizona. The NAC would like to convey this matter to Good Neighbor Board as an issue that warrants further analysis.

Anne Perrault
Washington, DC

Chris Wold
Oregon

The main part of our meeting focused on the following areas of interest identified by EPA: 1) mapping North America's environmental issues; 2) the CEC's 2008 State of the Environment Report; 3) and an update of the biodiversity portfolio of the CEC. We also discussed the operational plan in some detail. Questions developed by EPA for this meeting are listed in Appendix A.

For the regional portion of our agenda, we thank Fred Phillips, with Fred Phillips Consulting, LLP for his evening presentation; Plácido Dos Santos, Arizona Water Institute, and former Chair of the Governmental Advisory Committee, for his overview of regional water issues; Garrit Voggeser, National Wildlife Federation, for his presentation on wetland reforestation projects, and Francisco Zamora, Sonoran Institute, for his presentation on restoration projects in Mexico. We would like to express our appreciation to the invited guests that joined the NAC and GAC on our field trip: Alton Goff and Ana Morales from the International Boundary and Water Commission (IBWC), and John Schwamm, from U.S. Customs and Border Protection.

We thank Silvia Correa, EPA's Office of International Affairs, for her presentation on US priorities; Evan Lloyd, with the CEC, for his participation via phone on the Strategic Plan update; Jay Donnelly, US Geological Survey, for his phone intervention on mapping of environmental issues; Guy Tomassoni, Office of Environmental Information, for his presentation on the State of the Environment Report; Liz English, NOAA's International Affairs, for her participation via phone on biodiversity issues; and Jean Guy Dépot, member of the Joint Public Advisory Committee (JPAC), for his overview of the activities of that committee. We also extend our gratitude to EPA's entire Office of Cooperative Environmental Management for organizing and staffing this meeting, in particular, Rafaél de León, Oscar Carrillo, Jannell Young-Ancrum, Nancy Bradley, and Ann-Marie Gantner.

Finally, a very special recognition goes to Colin Soto, Chairperson Sherry Cordova and the many leaders and members of the Cocopah Nation that met with us, for graciously hosting this meeting and making it such a valuable and memorable experience.

We hope this advice will be of use to you and other US government officials, particularly in this time of transition, and we look forward to continuing our work with EPA in support of the CEC achieving its mission.

Thank you for the opportunity to advise you on these matters.

Very truly yours,

Dolores Wesson
Chair, National Advisory Committee

cc: Scott Fulton, Deputy Assistant Administrator for EPA's Office of International Affairs
Rafael DeLeon, Director, Office of Cooperative Environmental Management
Jeff Wennberg, Chair, U.S. Governmental Advisory Committee
Oscar Carrillo, Designated Federal Officer
Jane Gardner, Chair, Joint Public Advisory Committee
Adrián Vazquez, Executive Director, Commission in Environmental Cooperation
Alejandro Lorea H., Chair, Mexican National Advisory Committee
Members of the U.S. National Advisory Committee

National Advisory Committee
To the U.S. Representative to the
Commission for Environmental Cooperation

Advice 2008-5 (December 15, 2008): Response to EPA's request on mapping North America's environmental issues

The NAC and GAC heard a presentation from Jay Donnelly of the US Geological Survey regarding efforts to build the North American Environmental Atlas, which provides a web-accessible, visual representation of environmental information through harmonizing GIS data between Canada, the US and Mexico. A redacted list of the charge questions developed by EPA for this meeting is attached in Appendix A.

Members of the NAC were impressed with the level of collaboration developed among geographic information systems professionals in the three countries to build the base data layers, with the on-going cooperation apparent through the addition of new map layers, and the use of Google Earth to provide interactive features. The NAC feels this project has great merit and provides a very useful and technologically appropriate way to share and disseminate environmental information of interest to the Parties and to the public.

The NAC feels this is an entirely appropriate and useful way to present environmental information to a broad audience, and we believe an informed citizenry should be the intended target audience. One member suggested that a way to promote use of this information might be through training events and/or presentations and posters in academic settings, conferences, symposia, and other gatherings relevant to environmental information.

Of the priority topics listed, the NAC felt that the following order was the most desirable:

- 1) Renewable energy potential (solar, wind, biomass, hydro, geothermal), combined with updated renewable energy capacity (which was listed under a separate bullet),
- 2) Forests,
- 3) Wetlands (including groundwater recharge and surface water interactions)
- 4) Trade flows, and
- 5) Indigenous areas (which might be included in a land cover layer).

In addition, there was interest in including irrigated agriculture/other agriculture uses in the land cover layers.

Members of the NAC felt they were not knowledgeable enough about authoritative data sources to provide advice to EPA on this matter, but that it would be useful to have the committees help locate authoritative data sources.

It was suggested that one way to measure effectiveness might be to search for citations in journal articles posted on the web where the Atlas is listed as a source. A limitation to this strategy is that the original source of information might be cited more frequently than the Atlas itself. However, it would seem that there is good potential for the Atlas to provide background information for journal articles, and that keeping up with current web-available cites might provide a good starting place for measuring effectiveness.

National Advisory Committee
To the U.S. Representative to the
Commission for Environmental Cooperation

**Advice 2008-6 (December 15, 2008): Response to EPA's request on the State
of the Environment Report**

The NAC was very impressed with and complimentary of the state of the environment report entitled *The North American Mosaic: An Overview of Key Environmental Issues*. The report should be widely publicized by the CEC and the parties and distributed throughout North America. Its content in general will be very informative to a variety of audiences including academia, state and municipal governments, industry, and the general public.

The NAC considers that it is informative and useful to keep track of negative and positive trends along the lines of the presentation made to the committees by Guy Tomassoni, from EPA. This is currently not part of the report but can be easily done in a web format. Additionally, the NAC encouraged the CEC to make references available for certain audiences. Although the report as published is an overview document that provides general trends for North America, it can also provide great value to more specialized audiences through the publication of and access to the footnotes and references that are currently not accessible. This wealth of information should be made available to the public and will further validate the good work and robust synthesis of information that this report represents.

The NAC did not have time to discuss each issue in the report, but it did make recommendations with regard to water and climate. On water, the committee noted that water scarcity will become an ever-increasing challenge and that this report can have an important influence in making this message accessible and prominent in the general media. On climate, the committee was very pleased to see that the issue was highlighted as one of the most important issues facing North America. The NAC is very complimentary of this work, its scope and the leadership shown by Executive Director Vázquez and the tri-national working group.

Recommendation: The NAC is very complimentary of the newly ascribed priority given to climate within the CEC by the Parties within this report and others, such as the Green Building report. Climate change indicators will be vital under any scenario and should continue to be included prominently in future Mosaic reports, and in the CEC as a matter of top priority.

Recommendation: Water, water conservation, the relationship of water to energy use as it is transported throughout landscapes and away from its original basins, and the role of water in the conservation of habitats and species is also an issue of growing importance, particularly under the scenarios predicted due to climate change. There is a need for more predictive analysis at a finer scale, and based on smaller grids, to provide communities with information on the impacts of water availability and adaptation analyses. The NAC recognizes this may fall out of the scope of the CEC. However, sharing these methodologies may well be an opportunity to improve management of water, particularly in the case of bi-national watersheds.

National Advisory Committee
To the U.S. Representative to the
Commission for Environmental Cooperation

**Advice 2008-7 (December 15, 2008): Response to EPA's request on the
biodiversity portfolio of the CEC**

The NAC and GAC were pleased to have a quick overview presentation on the biodiversity programs of the CEC, including the North American Marine Protected Areas Report (NAMPAN), the Vaquita North American Conservation Action Plan (NACAP), and the upcoming activities of the Working Group on Biodiversity.

As we have commented in the past, it would be beneficial to the flow of information to have the names of members of the Working Group on biodiversity--and all other CEC working groups--posted on the CEC website, as well as its mandate and goals. From the information presented, it is difficult for this committee to separate and evaluate what might be issues for tri-national cooperation generally, and those that are truly within the framework and top-priorities identified as part of the planning process for the CEC's operational plan.

With regard to the NAMPAN, it is a logical next step for the CEC to implement follow-up activities in North America on establishing networks of marine reserves. What are the lessons learned in the North American context? How are no-take marine reserves affecting biodiversity, biomass and adding to the resilience of habitats and key species? Are there opportunities to document and disseminate results, successes from North American efforts?

On the vaquita marina NACAP, the NAC has given advice before on this issue, strongly encouraging the development of this report. We commend the CEC on its leadership on this urgent matter and support further work, as needed, to implement its recommendations. This process has been invaluable in defining needs and priorities; there is much to do for governments, international philanthropy and NGOs in several areas, particularly with respect to alternative fishing gear development (vaquita safe gear), permanent and temporary buy-outs (or rent-outs as they are referred to in the region), surveillance, sustainable alternatives livelihoods, and fisheries management issues. It makes sense now to develop programs as part of the Operational Plan to follow-up on these needs.

Recommendation: The NAC strongly encourages the CEC to continue its planned activities in the area of biodiversity, and to link this portfolio as far as practicable to emerging trends -- in particular, to climate change, and its effect on habitats and species of concern.

Recommendation: Designing and implementing projects following up on the vaquita NACAP is a matter of urgency and should be considered a top priority.

National Advisory Committee
To the U.S. Representative to the
Commission for Environmental Cooperation

**Advice 2008-8 (December 15, 2008): On the Operational Plan
and other miscellaneous issues**

The CEC's Operational Plan. The NAC has provided advice many times on the Operational Plan and on procedural matters that relate to its development (See Advice 2006-6, November 15, 2006; Advice 2007-6, November 19, 2007). In essence, we have supported the development and implementation of projects over a finite period of time with a clear deadline for completion and closure. This concept of a "conveyor belt" as we have referred to in past letters, allows for the design and implementation of new ideas and projects as priorities change over time. For this concept to work, new projects must be part of a thoughtful development process and should meet the priorities, needs, and criteria set forth by the CEC and the parties. At the same time, projects that have been approved should be implemented in the original time frames, and terminated upon completion. The NAC always welcomes the opportunity to comment on specific proposals set forth for the next Operational Plan, and encourages EPA to share draft proposals with the NAC and GAC at its Fall meetings in order to provide timely advice prior to approval of the plan.

The NAC in past advice has questioned the need to evaluate the entire Operational Plan annually and has proposed instead the idea of focusing on the evaluation of new proposals that have yet to be approved and implemented. Making the Operational Plan more accessible to the public by using language that explains the need and justification behind the projects, as well as tracking the budget over the lifetime of a project, is also useful for multiple audiences including the many governmental working groups involved in the CEC's work plan.

On the Puebla Declaration and its three pillars. The NAC has also provided advice in the past on the three pillars set forth in the Puebla Declaration, which have served as the basic three areas of work for the CEC since the 2004 Puebla Council Session where this declaration was approved. The question arose in the last meeting as to whether the Puebla Pillars are now dated, and if so, would the Kobe process be more appropriate for future work within the CEC. The NAC unanimously supports continuation of the Puebla Pillars as a valid framework for the work of the CEC. The Kobe process is not specific to North America, nor is it exclusively environmental. In addition, the NAC feels strongly that the Puebla pillars offer sufficient flexibility for the CEC to undertake any work that may be needed. Instead of re-labeling categories of work, the NAC strongly recommends that we collectively focus on the details of new projects and focus on actionable projects.

On green building and Article 13. The NAC was very pleased to see the publication of the green building report. This report has the potential to become a very successful product with great relevance to North America's environment and to a new economy in the long run. The NAC strongly supports the aggressive dissemination of this report, and the implementation of projects that demonstrate the many design aspects, technology, financing, and public planning elements showcased in the report.

As potential ideas for future reports or projects, the NAC briefly discussed the importance of addressing water use and conservation measures in buildings, and the built environment, as well as landscaping practices associated with buildings that are more friendly to the environment, in an effort to make urban landscapes more sustainable from multiple perspectives, such as using water more effectively, minimizing hard surfaces, and promoting the use of native plants.

On environmental enforcement. The NAC encourages the distribution and outreach of the CEC's work in the enforcement of wildlife laws. The committee was surprised to learn that the border officials at San Luis Border Station were unaware of any of the work done by the CEC on this issue.

National Advisory Committee
To the U.S. Representative to the
Commission for Environmental Cooperation

Advice 2008-9 (December 15, 2008): On Articles 14 & 15

The citizen submissions process of the North American Agreement on Environmental Cooperation (NAAEC) is an important element for achieving the NAAEC's goal to promote transparency and public participation in the development of environmental law, to strengthen cooperation, to develop and improve environmental practices, and to enhance compliance with, and enforcement of environmental laws. The citizen submission process also provides a valuable opportunity for North Americans to address enforcement issues in the context of regional free trade. It is widely regarded as the most innovative and closely watched aspect of the NAAEC. Many have regarded this process as a potential model for accountability and governance for a new breed of international institutions—a positive response to globalization that gives civil society a voice in the often-impenetrable affairs of international organizations.

Throughout the history of the NAAEC, the NAC has repeatedly urged the United States to participate more positively in the citizen submission process. Most recently, the NAC recommend in May 2006 that the United States support the development of factual records concerning enforcement efforts of the United States and take a vote to approve the development of such factual records at the first alternative representatives to the Council meeting, following the publication of the recommendation from the Secretariat.¹ One year later, we again requested that the United States vote on two requests—Lake Chapala (SEM-03-003) and Coal-fired Power Plants (SEM-04-005)—to prepare factual records that had been outstanding for more than two years.²

We are pleased that Council has finally voted to approve the preparation of factual records concerning the Lake Chapala and Coal-fired Power Plants submissions. Nonetheless, we note that Council took more than 1,000 days to vote on the Lake Chapala submission, and more than 1,200 days to vote on the Coal-fired Power Plant submission. This failure to act in a reasonable timeframe is unnecessary given the frequent meetings of the Council and its alternative representatives. For that reason, we respectfully disagree with the United State's response on February 6, 2008 to our November 2007 Advice, in which the United States noted that additional rules were not necessary to ensure the timely consideration of requests to prepare factual records.

Recommendation: The NAC once again urges the US to take action on citizen submissions in a timely fashion. In past advice the NAC recommended that "the US propose a rule, to be adopted by Council, that directs the Council to vote on recommendations of the Secretariat to prepare factual records within 90 days of the recommendation." The NAC could not be more emphatic on the need for the Parties to be diligent about maintaining this process in an expedient manner.

¹ NAC, Advice 2006-4 (May 5, 2006).

² NAC, Advice 2007-7 (November 19, 2007).

(APPENDIX A)

CHARGE QUESTIONS FOR OCTOBER, 2008

1. Mapping North American Environmental Issues

- Should the Atlas primarily serve geographic information professionals or an informed citizenry?
- How can we promote use of the Atlas more effectively within this community?
- Which five of the potential future topics listed above are our highest priorities?
- What role will the committees have in determining authoritative data sources?
- How might we measure effectiveness?

2. The CEC's State of the North American Environment Report, 2008

- Would like general reactions to the report and, more specifically, to the key findings (e.g., do they believe the findings accurately reflect the available data and understanding?)
- What are the greatest priorities for cooperative action? (e.g., what specific priorities do they believe warrant and would benefit from increased trilateral cooperation?)
- How might the SOEAG best work with States and Tribes?
- To what extent should the effort seek input from the general public?
- How should CEC-SOE related activities be integrated with and take advantage of the international activities to organize environmental observations and environment performance under the Global Earth Observations System of Systems (GEOSS) and the OECD Country Assessment process?
- How might we measure progress and create effective feedback mechanisms?
- Are there other projects/products or approaches to explore?

3. Biodiversity

- Has the species and spaces approach been effective in conserving biodiversity?
- In 2010-2015, what thematic areas should the biodiversity portfolio address?
- How can the membership of the US BCWG be more representative of all stakeholders?
- How can we strengthen relationships across working groups?