

**Tribal Infrastructure Task Force Meeting Summary
October 20, 2011 2:00-3:30 PM**

A. Welcome & Introductions

Steve Bolan, Indian Health Service (IHS) Alaska
Sandra Boughton, U.S. Department of Agriculture (USDA) Rural Utilities Service (RUS) Water and Environmental Programs
Tedd Buelow, USDA Rural Development
Jennifer Bullough, U.S. Department of Housing and Urban Development (HUD) Office of Native American Programs
Marta Burg, U.S. Environmental Protection Agency (EPA) Region 9 Tribal Caucus
Ron Ferguson, IHS, Sanitation Facilities Construction (SFC) Program
Sheila Frace, EPA Office of Water, Office of Wastewater Management (OWM)
David Harvey, EPA Office of Ground Water and Drinking Water (OGWDW)
Rex Kontz, Navajo Tribal Utility Authority
Kellie Kubena, EPA Office of Water, OWM
Shaun Livermore, Poarch Band of Creek Indians Utility Authority
Eric Matson, IHS, SFC Program, Phoenix Area
John Nichols, Alaska Native Tribal Health Consortium
Jacqueline Ponti-Lazaruk, USDA, RUS
Nate Rawding, Horsley Witten Group, Inc.
Linda Reeves, EPA Region 9
Matt Richardson, EPA OWM
David Saddler, Tohono O'odham Water Utility Authority
John Wheaton, Nez Perce
Dennis Wagner, EPA Region 10
Steve Poloncsik, EPA Region 5

Matt Richardson welcomed meeting participants and stated that the purpose of the call is to discuss sustainable infrastructure in Indian Country, to obtain a tribal perspective from David Saddler from Tohono O'odham Water Utility Authority, and to discuss what was learned during the last meeting from Rex Kontz at the Navajo Tribal Utility Authority.

B. Distribution of Previous Meeting Notes (Matt Richardson)

Meeting notes from the last call were emailed out to the Task Force. Any comments, additions, or clarifications, should be emailed to Matt Richardson as soon as possible because the notes will be made available on the website shortly.

C. Update on Recent Changes to Sustainable Infrastructure Goals & Concepts Document (Sheila Frace)

Sheila Frace discussed the Sustainable Infrastructure Goals & Concepts (G&C) document. Some members had expressed concern with information left out of the draft G&C document, and a revised draft was sent out to participants on the previous Tuesday, and again in the morning

preceding this meeting. The revised draft includes additional text to help to put the document in context. It is acknowledged that the changes are not to remove the concept of first time access, but instead to be more efficient for getting first time access, and to continue to focus on access, by improving activities for the long term maintenance of what is built to reduce an increasing demand on federal funds for early repair and replacement.

Sheila requested that meeting participants review the language and send comments back to Matt Richardson. She clarified that there seems to be overall agreement on the direction of the document, but if additional information is needed please let us know. The changes will be made over the next few weeks and then we are looking to finalize the document. In the meantime, the Task Force will continue to make progress by looking at good tribal models for sustainability.

D. Review of ITF Path Forward (Jacqueline Ponti-Lazaruk)

Jacqueline provided a review of the Task Force's timeline of events. Last winter the ITF Principals decided to revise the focus to include sustainability and the components of sustainable access for tribal systems. This revised focus was completed last winter. In the spring, the Task Force defined sustainable management entities and appropriate infrastructure, and a draft paper was completed in the spring. The Task Force then developed the G&C document this summer. This document is still being revised, so any concerns should be communicated to Matt Richardson.

The next series of meetings will focus on listening sessions. The Task Force wants to hear about sustainable approaches, lessons learned, best practices, and challenges and triumphs, so these can be incorporated into the plan going forward. The goal is to combine the lessons learned and best practices into sustainable concepts. Once the Task Force completes the series of listening sessions, it will develop a list of actions to promote sustainability. These actions may be small or large and may come from the federal, state, and local partners. They do not have to be costly, but the actions should be as creative as possible. Members should suggest ideas as the Task Force moves forward.

After the Task Force has collected ideas about how to promote adoption of the sustainable policies and attributes, by Spring/Summer of 2012 the Task Force will incorporate some measurable tasks and identify the resources needed. The goal is to achieve tangible results. The focus of the Task Force is to ensure that communities are set up for sustainability in the long term.

Sheila introduced the guest speaker, David Saddler and mentioned that it is important to hear from the practitioners at the tribal level, because they make it happen, and understand best what works and what does not. Not all Tribes are the same, and the Task Force is attempting to provide a variety of examples. Questions for David Saddler have been prepared in advance, and time will be provided for questions at the end.

E. Tohono O'odham Utility Authority (TOUA) Approach to Sustainability (David Saddler) and Potential Discussion Questions

- 1. Is Tohono O'odham Utility Authority (TOUA) governed by a board of Directors and if so what are the purposes and duties of the Board as an Enterprise of the Tohono O'odham Nation?*

David Saddler, Manager at Tohono O'odham Water Utility Authority, introduced himself and gave a brief description of the Tohono O'odham Nation. The Tohono O'odham Nation is in Southern Arizona, it is approximately 5,000 square miles, and is the second largest reservation in the U.S. David also believes that the TOUA is the second largest privately owned tribal utility in the country.

Their operation is similar to Navajo Tribal Utility Authority (NTUA). NTUA set standards for tribal utilities in the earlier days. TOUA currently operates under what they call the "secondary state of plan of operation". The utility authority started in 1970 because the Tribe was receiving poor service from the electric provider. The TOUA now provides services for electricity, water, wastewater, gas, telecommunications (fiber optics, hard-line, cellular), internet, and is installing digital communications.

After the Tribe decided to start their own utility, they developed their own concept for setting up the utility. The board is composed of seven business or industry professionals, each with a business or industry background, who bring a level of technical and business expertise that is helpful. These individuals provide direction, and set policy for the TOUA general manager. The general manager is responsible for the day-to-day operation of the utility, and creates an annual report to legislative council. This report is a companion document to the TOUA annual audit.

Currently, TOUA's combined plant revenue for all utilities is around \$130 million. The utility board is involved in approving large grants and loans, and is also responsible for reviewing and approving various long range plans. Acquisition of water or sewer projects is typically completed by the general manager, via delegation to the water utility manager. Other utilities have funding sources and requirements that often require more input from the board than those for water and wastewater services.

In water and wastewater, most projects are capital improvement projects. They are completed through tribal procurement or force account. The majority of these are completed using a memorandum of agreement (MOA) process where the funding agencies (such as IHS) participate under an MOA. The MOA describes the duties and responsibilities, the scope of the project, the project location, and provides a cost estimate.

- 2. What kinds of decisions or input does the Board of Directors provide versus the types of decisions provided by the Tohono O'odham Tribal Council?*

In 1970, the Nation enacted a resolution (by the Papago Legislative Council at the time) that outlined a framework for the organization. They developed a plan of operations, and ensured it was kept separate from politics. Some council members were visionaries, and they followed good advice, because most of the time politics and utility operation are not compatible. They

delegated everything except the annual reporting, completed by the general manager, and the MOA approval, signed by the board of directors. In addition, the original resolution outlined the framework that specifies that the chairman selects the candidates for the utility's board of directors, after which the legislative council approves the selected candidates.

3. *What types of ordinances, laws, and or regulations are in place with the Tohono O'odham Nation to allow you to operate?*

The resolution also references the plan of operations, rules and regulations, standard utility operations, the right to change fees, the disconnect policy, and other policies, all of which are established and in place.

4. *What problems do you have with your system of governance?*

The TOUA has been around longer than most representatives on Council. Sometimes the people on the council don't have a good understanding on how the TOUA was formed, how it operates, and the protocols that it follows. The TOUA refers individuals with questions to the original resolution.

5. *What advantages does this system of governance provide?*

The advantages of TOUA's system are that it allows the utility to function like a business and it avoids the numerous potential problems that occur when politics are involved in utility operations. The system removes the micro management by political subdivisions. In other utilities, rates that are tied to politics, are also tied to candidates and promises. This can result in inadequate resources to provide the services utilities are obligated to provide.

TOUA's operations are independent for banking, loans, grants, acquisition of materials, and construction. The utility does not need tribal permission for actions such as putting an addition on a building or building a warehouse, within its assigned lands. If there are problems, or people have complaints, they can go to the tribal council and the tribal chairman is obligated to contact the Board president who then contacts the general manager. The chairman does not come into the utility's operation or start talking to the specific department managers. The chairman goes directly to the Board president.

6. *What else allows TOUA to operate as an effective O&M organization?*

TOUA has an effective O&M program because it is always trying to improve the process. TOUA has a training program. For example, after a safety meeting, a staff member will give an operations class for 45 minutes. The water utility does this every other week to try and enhance the capabilities of its staff. Many staff are certified both in treatment and distribution, some in distribution only, and some have dual certifications in water treatment distribution and wastewater. They also have an apprenticeship program that is sanctioned by the state department of labor and state apprenticeship board. After four years or 8,000 hours staff members receive their dual certification in water/wastewater and are ranked as journey man public utility systems

operator. TOUA has a certificate from the U.S. Department of Labor recognizing their program. It takes about four years for someone to complete the program. In addition, with some of the changes in the Native American operator's opportunities, and with the inter-tribal association in Arizona, the TOUA has some staff going to other trainings and obtaining their actual certifications. TOUA's board and general manager stress training and education, because they see many other organizations struggling with training.

Last year TOUA decided to start an active mentoring program, which allows the utility manager to help small systems that are struggling. The utility manager will visit the utility, and spend some time to help them work out O&M issues or management issues. TOUA is a firm believer in networking. This has been one of the big areas where historically, the Tribes have missed the opportunity to obtain free information from talking to their neighbors. TOUA has been working with some communities up in Northern Arizona with people from reservations and off-reservations regularly.

Finally, the board has allowed the utility to participate in national events to stay abreast of the changing regulatory and political environment. This has helped TOUA with rate projections based on the forecast of what regulatory changes may happen.

7. How are TOUA water and wastewater rates set, how often are they reevaluated?

Every two years TOUA completes a rate review. Everything is categorized by a statement of accounts, and all of TOUA's revenues are structured, with different rates structured at different levels. This allows the utility to identify costs and revenues per rate structure on a monthly basis

After TOUA reviews the data to see if a rate increase is needed; it will initiate a rate increase and develop a schedule of rates. TOUA will review the options with the general manager, including changes in minimum monthly charge, user fees, or both. After reviewing the different rate categories, the schedule of rates is brought to the board for approval. TOUA has a policy that allows a consumer to approach the board directly to complain about rates perceived as unfair. Alternatively, consumers can go to the legislative council, who will contact the president of the board. That has never happened during the time that David has been with the utility (~24 years).

Rate increases are usually set up in a two tier approach. The utility will increase the minimum amount billed, and increase the usage rate the first year. The second year only the usage rate increases. This minimizes the impact on the consumer, but it also minimizes the amount of information for the board to consider. The board reviews the bottom line, and how it gets there is not the most important to them. This helps to moderate the rate increase by spreading it out in time. David is a firm believer in consumer information. Regular and small rate increases plays heavily into consumer education. Consumers expect it, and they are not surprised by it. TOUA also has a deferred payment program that is easy for people to qualify for. This provides them the opportunity to keep their bills current and stay a customer with service. When service is turned off, it is bad for both the customers and the utility. When someone is disconnected, TOUA still has to go by and read the meter and maintain the plant, but it does not get any revenue. TOUA looks at disconnection both from a business aspect and also from a human aspect.

8. *What are TOUA's other challenges, if any, to providing water and waste water in a sustainable manner?*

The main challenge is revenue. TOUA looks at various ways to cover its capital costs. One of the key accomplishments has been to develop a good relationship with all of the federal agencies (e.g., IHS, EPA, USDA). David is a firm believer of the team approach. The federal partners have funding that the Nation does not, and the Nation is successful in completing projects. This works for all parties involved.

The utility is challenged by the stagnant economy and very high unemployment. There are no large projects, such as the HUD housing projects, so TOUA is looking at ways to be more efficient. It is also letting attrition cover part of the problem. The utility is preparing for some of the regulatory changes that are coming. TOUA has been fortunate so far, in its ability to find the funds to adjust to changes, but it does not happen quickly. The water department is one of the largest customers of the electric department. TOUA operates many wells, and when the cost of electricity increases, the water utility costs also increase. Both material costs and fuel costs have gone up. The workforce is aging and the utility is having trouble recruiting young people that are eager to come in and fill the positions. Escalating insurance costs are also a challenge to the utility. The utility also keeps track of any changes in the political front, regulations, or attitude in the enforcement front.

The utility also looks for alternative sources of revenue. It started a propane delivery business because there was a need for it. It rolls over the profit from the propane delivery into the water department. Other sources of revenue include administration fees for contract management on all water and sewer project that are built through tribal procurement. Occasionally, they do some for-profit-contracting, which can be a quick job with limited liability. TOUA also started a plumbing service because there is a need for it in the Nation.

Question and Answer

Following David Saddler's discussion, questions were asked by participants. David responded to each question.

Sandra Boughton: How much of a problem has TOUA had with people not paying bills?

The TOUA write-off for customers who don't pay is probably 1% a year. David expressed that consumer education is important for customers to pay on time. One of the first TOUA written policies was its disconnection policy. TOUA always been very consistent in its operations, the level of service provided, the level of response, and effort to address everything professionally. If someone does not pay their bill, they can come in and set up a deferred payment plan. If a consumer does not make arrangements with TOUA to pay their bill, they are disconnected. Most disconnected customers have a history of multiple disconnections. TOUA turns the water off, the customer pays their past bills with additional fees, and the system is turned back on again. Eventually, customers realize that they are paying more for disconnection fees than they are for utility service.

Jennifer Bullough: Is the support of the tribal court or government needed to get a low level of non-paying customers?

TOUA has never had to involve the tribal court in any of their collection problems. TOUA spells out rates in its plan operations. This helps to get a low level of non-payment.

Jennifer Bullough: Is TOUA different than other utilities run by Tribes in keeping their non-payment low?

Many tribal nations are very relaxed with their disconnection policy. Many still have flat rates and do not even collect the flat rate. Other nations may question the need to pay for utilities such as water, since they believe that water was given to them by the creator. David explained that the TOUA does not “sell water” but that it sells the convenience of having it at the tap. There are costs associated with delivering quality drinking water at the tap and most of the people in the nation understand that now. The only way that utilities can determine the amount of resource that a person can use, is by metering that resource.

Jennifer Bullough: The TOUA may be in a unique situation.

Many Tribes run the water utility as a department of the Tribe, which is a political entity. This creates a challenge for those Tribes because of the politics involved. For example, when people’s elections to council are tied to a rate or disconnection policy, it is very difficult to operate as a business.

David Harvey: How does the tribal council appoint people to the utility board?

The chairman selects and the council approves candidates to the utility board. In addition, TOUA advertises openings for the board statewide. TOUA takes applications, conducts background checks, and submits candidates to the chairman. The chairman makes his selection and then submits it to council. Some of the current board members are retired from the utility industry (electric and telecommunications). Two other board members have a business background. TOUA also has had retired people from the regulatory sector and engineering field on the board. The board has a good mix of backgrounds. All of the board is trained and certified. David Sadler is certified to conduct board training, but he does not train TOUA’s board. David explained that he has observed problems with other boards and councils regarding stewardship responsibilities. Some board members go into it with an agenda, which results in micromanagement. Stewardship is not micromanagement. Board members with an agenda want to drive the train instead of setting the path for the train.

Dennis Wagner: How does the water utility determine a sustainable/reasonable rate?

TOUA reviews existing rates and how successful they have been at collecting payments. TOUA also identified the bare minimum is needed for the foreseeable future, which then guides the rates that are set. TOUA also looks at alternative businesses to bring in additional revenue. TOUA tries to minimize any rate increases, but David explained it is impossible not to raise rates. TOUA does not raise rates very much. Rates are raised in small increments. During David’s time at the utility they have never had a complaint about the rates charged.

Dennis Wagner: What types of rates does TOUA charge?

There are multiple rates that vary based on category and meter size.

Jennifer Bullough: What types of alternative revenue sources have been identified by the water utility?

TOUA has started a propane business because there is a need among their customers. Also, when the utility conducts 648 contracting, a profit can be achieved based on the federal guidelines. When the utility is doing force account work, although the utility cannot make a profit, it does relieve the O&M budget. For tribal procurement, they are able to get administration fees on the project, which are used to offset the salary of some of the utility's employees because they get an administration fee of 2.5%-3:0% per project. TOUA is also very active about recycling old scrap materials. Revenue from this is put towards the cost of operation.

Jackie Ponti-Lazaruk: Does TOUA interact with technical assistance providers?

TOUA solid waste department and the water utility have worked with them on occasion to move materials. Concerning Technical Assistance Providers, the utility has previously used the rural water circuit riders on occasion. TOUA was instrumental in getting the tribal technicians started. As far as RCAP, the TOUA has not used them. David mentioned that the Nation does not have a lot of people stopping by to see them.

Jackie Ponti-Lazaruk: Is the master plan coordinated with other utilities projects?

When the utility is doing projects, they integrate the other utilities as necessary. The primary utility that the water utility coordinates with is the electricity utility because of the need for power at drinking water well sites. They also coordinate with telecommunications as necessary. Every well that the utility can retire, through regional projects, saves the utility about \$5,000 a year in regulatory costs. If the utility can retire four or five wells a year, these resources can be used to meet other needs. The funding sources for other utilities are different than that used by the water utility. Yet, they are able to communicate and plan ahead in order to save on costs when projects.

Jackie Ponti-Lazaruk: How can the federal partners cultivate more utility leaders like those at TOUA?

The best way is to pick up the phone and ask them to participate directly. Federal partners should contact individuals they are interested in working with directly. David explained that when people send a broad inquiry, it may go to the Nation but not make it to the specific utility. As a result the individual that may be selected may not have experience in utility operations. If there are individuals that the Task Force is interested in working with, David suggested that they contact them directly by phone. David further explained that Tribes are not all structured in the same way. For example, if a message is sent to the Navajo Nation, Rex might not hear about it through NTUA. Also, each village is autonomous in the Hopi Nation. The best way to reach a specific person is to directly contact them directly. It is up to the individual to get permission from the Tribe. If they cannot get permission, they will let you know.

Jackie Ponti-Lazaruk: A goal of the Task Force is to get people like David Saddler to train other Indian Nations. How can the Task Force ensure that the concepts learned are passed along to other tribal utilities?

David wishes to see all tribal utilities be successful. When he talks to other Tribes around the nation about tribal utility economic development and sustainability, they already have the infrastructure. However, they are not taking advantage of using the infrastructure to support a

positive and professional business environment. It may take time for Tribes to move away from the historical way of doing things. Virtually every Tribe has water and sewer, but they are not being managed like a business. They are just sitting there, and spinning their wheels. IHS and EPA are throwing money at it, but this may not solve the problem. If it is set it up and run like a business, it will start to be self sustaining. Running a utility like a business also helps to build marketable job skills, and can achieve economies of scale or regionalization for many small systems. David mentioned that there are many different ways to consolidate operations. The issue is that the people at these utilities do not know. They need someone to visit with them and tell them about what has worked elsewhere.

Jackie Ponti-Lazaruk: Should the information on running a sustainable utility go to the utility managers or the tribal council?

Talking to the utility manager is like preaching to the choir. It is the tribal council that needs the information. Sometimes the tribal council is concerned with what it is going to cost them, but they have to understand what is good for the community. They need to be provided information on how to do it.

Jackie Ponti-Lazaruk: Is the message is best delivered by a federal partner or tribal organization?

Tribes would likely not listen to the federal as much as a tribal organization. David explained many people at a federal agency do not have the experience of running a business. As a result, the message is better received from someone who is working in the industry and has a proven track record. Rex Kontz has done an excellent job, and he is a good speaker. He can get people's attention, and stimulate their conversations.

Kellie Kubena: What does TOUA do with Onsite Wastewater Systems?

There has not been a tribal entity to build septic systems, so TOUA has agreed to facilitate the process for IHS. Without this arrangement there was no way to get them built for consumers without going through a direct federal contract. Direct federal contracts escalate costs and make the process very difficult. TOUA has the onsite systems built, IHS puts owners through a homeowners training program, and the Tribe has two pumpers that they use to service the systems. The pumpers are allowed to treat the pumped waste at the wastewater treatment plant. The pumpers are not part of TOUA's staff, but David is hoping that the tribal Solid Waste Department will get into the onsite wastewater system business. He believes that it would be good work for them, since it would also provide an additional revenue stream for them.

Has TOUA had an contact with National Tribal Environmental Council (NTEC) ? They could possibly organize a technical training program to train Tribes.

TOUA has not had any contact with them.

Sandra Boughton: How could a training program be organized for other Tribal Nations?

Someone at the national level who knows the individuals who should be involved. A vision is needed first, then participants can be identified, after which phone calls have to be scheduled.

Linda Reeves: The Task Force should keep in mind that some of the successes may not be relevant to all the tribal systems.

People have to approach operations differently than they have historically. There is little success to be had with volunteer operators. If there are several small systems in a geographic area, and these can be covered by one or two people, then it makes no sense to have people on the payroll that are not needed. Once systems are brought up to a level of maintenance that is good, it becomes a matter of checking it and staying on top of it. A tribal interest could consolidate the operations of several small communities and have a central management. Each community would still be able to have its own rates structure as long as they pay their fair share of the costs. There are many ways to approach alternative methods of operation that are often not discussed.

John Nichols mentioned that the Alaska Rural Utility Collaborative has many parallels to what David described.

F. Discussion and Recap of NTUA Sustainability Activities (Shelia Frace)

Sheila thanked David for the information that he has shared with the Task Force. Sheila mentioned that the Task Force is identifying additional questions as they conduct listening sessions and asked if other members would prefer to have one or two additional listening sessions prior to a separate call for an opportunity for recap and discussion.

Jennifer Bullough suggested that it would be beneficial to hear from some of the smaller Tribes or some Tribes that are struggling to learn about their issues. David Harvey responded that they have reached out to a smaller Tribe in Nevada to learn about how they are trying to improve their utility operations. He has also identified a few more examples of smaller systems that may be able to talk to the Task Force.

One call participant agreed with Sheila's proposal to have a separate call for the recap and discussion of the information from the listening session. Hearing no further comments regarding the proposal, Sheila stated the Task Force will hold a separate call for recap and discussion of the information from the listening sessions.

G. Thank You & Next ITF Call (Matt Richardson)

Because of a conflict of date and timing with the National Tribal Water Council meeting, the next call is rescheduled from November 9th to Thursday November 3rd from 2:00 -3:30 p.m.

H. Review of Action Items (Matt Richardson)

- Participants who wish to comment on the revised Sustainable Infrastructure Goals & Concepts should email their comments to Matt Richardson.
- David Saddler to review the meeting summary for this call to make sure it reflects TOUAs structure and efforts.