Tribal Infrastructure Task Force Meeting Summary
June 30, 2011 - 2:00 PM

A. Introductions

Jose Aguto, National Congress of American Indians
Dana Baer, Indian Health Service (IHS) Sanitation Facilities Construction Program
Ron Bergman, U.S. Environmental Protection Agency (EPA) Office of Ground Water and Drinking Water (OGWDW)
Jeff Besougloff, EPA American Indian Environmental Office (AIEO)
Sandra Boughton, U.S. Department of Agriculture (USDA) Rural Utilities Service (RUS) Water and Environmental Programs
Jennifer Bullough, U.S. Department of Housing and Urban Development (HUD) Office of Native American Programs
Marta Burg, EPA Region 9 Tribal Caucus
Geraldine Camilli, Horsley Witten Group, Inc.
Kyle Carey, EPA OGWDW
Dave Clark, Rural Community Assistance Partnership
Sheila Frace, EPA Office of Water
David Harvey, EPA OGWDW
Ron Hoffman, Alaska Regional Housing Authority
Rex Kontz, Navajo Tribal Utility Authority
Kellie Kubena, EPA Office of Wastewater Management (OWM)
Shaun Livermore, Poarch Band of Creek Indians Utility Authority
Ken Norton, National Tribal Water Council
Jackie Ponti-Lazaruk, USDA RUS, Water and Environmental Program
Matthew Richardson, EPA OWM
David Saddler, Tohono O'odham Water Utility Authority
Dennis Wagner, EPA Region 10, Alaska
Stephen Poloncsik, EPA Region 5

B. Progress-to-Date and Key Highlights of Outreach Letter (Dana Baer, IHS)

After a welcome to all call participants, Dana Baer provided an overview of two documents: the Outreach Letter, and the Progress-to-Date Report.

<u>Outreach Letter</u>
The letter is composed of three sections:

- A background section with a brief description of the U.S. Tribal component of the Millennium Development Goal, which was a 12-year initiative and commitment by the U.S. Government to reduce the number of homes in Indian Country lacking access to safe drinking water and sanitation.
- A brief description of how the partners have met the commitment, which will be described later during the meeting.

- A "looking ahead section," which points to persisting needs in Indian Country, identifies a slight refocus of the Infrastructure Task Force (ITF) around sustainability, and solicits new members to the workgroup.

EPA is hosting a website for all documents related to the ITF at: http://www.epa.gov/tribalportal/trprograms/. The web address is also provided in the outreach letter.

Progress-to-Date Report

The IHS dataset from which success is measured and needs are evaluated is the IHS dataset. Through the course of the interagency actions, idiosyncrasies were identified in the dataset and IHS is making efforts to correct them. This same dataset is used to distribute IHS funding inter- and intra-area, and to measure the goal.

The statement at the beginning of the Progress to Date Report frames the goal and measure for the progress so far. Originally, the goal had identified 2003 data as a baseline, but the ITF argued to modify the measure of success in terms of percentages. Success measured in terms of number of homes served appears to be substantially better than success measured in percentages. In 2003, out of a total inventory of 233,000 homes, approximately 44,000 lacked access to sanitation. Seven years later, in 2010 when the Report was written, 46,000 homes still lacked access to sanitation, but the inventory had grown to 380,000. This illustrates the point that while the goal was not met in terms of percentages, it was substantially exceeded in terms of overall numbers. During that timeframe, the partner agencies collectively served almost 44,000 homes with first service, and 207,000 homes with some form of sanitation facility upgrade. These homes were considered sanitation deficiency levels 4 and 5 by IHS (i.e., a home with no drinking water, no sewage, or none of either).

As a result of the first iteration of the ITF, several workgroups were formed, most of which have completed their efforts, with at least one remaining active. These workgroups were the following.

Coordinating technical assistance among all partners and providers in Indian Country

- Workgroup members included the five ITF federal agencies, the National Rural Water Association, the Native American Water Association, the Rural Community Assistance Partnership, and at least one tribal partner.
- This workgroup developed:
    - A scheme to formally coordinate technical assistance delivery, which has begun and is underway with uneven results across the country. The IHS operation and maintenance (O&M) coordinators agreed to take the lead at least for the firs round of meetings, which have been held in 8 of the 12 IHS areas.
    - A contact manager so that various technical providers could identify their counterparts at various agencies, and so that Tribes could identify which external partners could provide them with technical assistance. This was developed and hosted by the University of Illinois. The implementation is underway, with the first training scheduled in July, 2011.

Increased access to Navajo Nation

- The primary product of this workgroup was a Geographic Information System (GIS) demo project that reviewed all homes without access that could be located on map. These homes were entered in a GIS database, which was then combined with Navajo Tribal Utility Authority (NTUA) waterlines, Tribal Division of Natural Resources (DNR) well information, data from the Center for Disease Control (CDC), and data from a group investigating access issues looking in the Bennett Freeze area. These GIS data were then packaged into a GIS database and map, currently being hosted by EPA Region 9.
- The workgroup was also instrumental in facilitating an EPA water hauling project which will be operated by the Tribal DNR.
- Finally, the group facilitated a Rural Development commitment to complete an $8 million regional water system in the Eastern Agency (one of the five agencies within Navajo).

Increased access to Alaska Villages

The workgroup identified concerns and contributed to USDA efforts to streamline program delivery of USDA Rural Alaska Village Grant Program (RAVG) and improve accountability of project funding provided through RAVG to Alaska DEC and ANTHC. Working together with other key Alaskan stakeholders, the RAVG program was modified in 2011 and improved controls at Alaska DEC and ANTHC were implemented. Between 2009 and 2010, $76.5 million in USDA RAVG funds and $25.5 million in state of Alaska funds were invested in water and wastewater infrastructure projects in more than 50 rural Alaskan Villages.

Opportunities for streamlining Federal grant and environmental review paperwork

This workgroup identified and prioritized ten opportunities for streamlining multi-agency paperwork requirements for sanitation projects, and is currently reviewing environmental review requirements.

The Report also outlines other milestones, including improved IHS-EPA program coordination through the use of standard interagency agreement (IA) language, and central processing of IAs at EPA's document center in Seattle. This has sped up project funding, but has also provided both agencies the ability to understand expectations from their partner agencies and improved the ability of IHS to report financial progress on these projects to the EPA Cincinnati office.

Regarding the Recovery Act portfolio, EPA provided $90 million to IHS to execute projects through a headquarters-to-headquarters IA agreement, which was a successful endeavor from headquarters' perspective.

Data system improvements were made to make data more accessible and more easily track access issues and progress. IHS is entirely committed to transparency in their dataset, and participants are welcome to contact Dana Baer offline if they are not getting what they need from the data.

Rural Development improved the process for its Rural Alaska Village grant program, which increased program efficiency.

Finally, the Report outlines next steps. Current deficiencies are identified for a total of approximately $1.4 billion in feasible projects, and about double the amount for total identified need (i.e., feasible and unfeasible). The following two workgroups were formally identified as necessary for the immediate next steps: streamlining federal paperwork, led by Matt Richardson, and identifying a mechanism to collect utility O&M costs. There had been discussions about infrastructure costs in Indian Country being negatively influenced by remote geographies and extreme climates, but before the ITF principals could meaningfully discuss the impact of these issues and identify how to resolve them, they felt they needed to know and understand costs for utility O&M. This second workgroup has been charged to develop a mechanism to collect and manage these types of data. The five ITF member agencies are committed to holding ITF together and advancing the process. From IHS' perspective, the ITF has been a success so far as it has significantly enhanced IHS' ability to do their work, improved the communications amongst agencies, and benefited the people being served.

The Report is available online at http://www.epa.gov/tribalportal/trprograms/infra-water.htm. Participants new to the ITF group are encouraged to view the reports posted on the Tribal portal.

C. The New Focus of the ITF (Sheila Frace, EPA)

The Federal partners have continually been trying to identify the best way forward for providing access. Past efforts and issues identified by Tribes and Federal partners have provided an understanding that in addition to achieving access on Tribal lands, a goal of maintaining that access should be set. Federal partners identified potential barriers to both of these goals, including O&M in general. For example, the entity responsible for maintaining the infrastructure may lack authority to successfully complete its tasks, its structure may add barriers to day-to-day operation and future planning for infrastructure, or it may have a missing link in terms of managerial or technical capacity. This is very similar to situations observed in rural areas or even in some urban areas.

As a result, the ITF focus was modified to ensure that access to safe drinking water and basic sanitation is provided through entities that are sustainable and implemented through integrated agency planning that links the development goals of the Tribe with the need for such services and infrastructure. This new focus looks more holistically at long-term sustainability with the right infrastructure for the needs of the Tribe and seeking to establish entities and mechanisms for long-term planning once the initial infrastructure is in place.

This new focus is aligned with the direction individual agencies were taking in terms of sustainability of the infrastructure and of the community that the infrastructure supports.

D. Proposed Roadmap of the ITF (Jackie Ponti, USDA)

A color diagram of the proposed roadmap was emailed to participants with the agenda to this meeting prior to the meeting.

Jackie Ponti wished to thank ITF members and meeting participants, and emphasized that the ITF is looking forward to continuing its efforts in improving access.

The Federal steering committee, composed of EPA (lead: Sheila Frace), USDA (lead: Jackie Ponti), HUD (lead: Jennifer Bullough), and IHS (lead: Ron Ferguson), has been meeting through the winter of 2011. The committee has been discussing identifying areas where this group could have the most impact moving forward. One of the main lessons learned from the previous ITF workgroup and its accomplishments is that relationships matter. Since the beginning of the ITF efforts, relationships between agencies have blossomed and resulted in stronger coordination and greater discussion even outside the ITF group. The Rural Alaskan Village grant program (described in the Progress-to-Date Report) is a very good example of the strengthened relationships, and of how coordination can improve outcomes. USDA is very satisfied that the USDA process was streamlined and that USDA was still able to obtain the accountability that was needed but had been lacking.

After a series of meetings, the agencies concurred on the concepts of sustainable management entities and appropriate infrastructure as the best way forward. This led to the letter refocusing the ITF, on which agencies invited comments and participation in the process moving forward.

As part of the process, agencies and other ITF participants will be working together to identify activities to help facilitate these new concepts and move them forward. Once all the possible activities are identified, the workgroup will prioritize them to identify the most critical and achievable items that will improve sustainability. These items will then be organized into an action plan, and the workgroup will take action. The process will remain transparent through quarterly meetings and progress reports to summarize efforts.

E. ITF Sustainable Infrastructure Goals and Concepts (Kellie Kubena, EPA & Sandi Boughton, USDA)

As part of the steering committee discussions and refocusing efforts, a goals and concepts paper was developed for the ITF, addressing critical factors for achieving sustainability, which include appropriate infrastructure (e.g., adequate design) and management entities.

<u>Appropriate Infrastructure</u>
The five elements to an appropriate infrastructure are listed in the goals and concepts paper, and were described by Kellie Kubena, who summarized appropriate infrastructure as: "the right thing at the right place at the right time."

The system itself should have a reasonable cost, the ability to be sustained financially, and have an entity able to sustain that infrastructure. Development plans should be coordinated with other development plans. For example, planning the construction of a treatment plant and a road in parallel can help optimize design and costs. Environmental and geographic conditions, and other factors influencing infrastructure selection should also be reviewed. This could include the geographic location of resources needed (e.g., construction equipment). This may also include consideration of future regulations, particularly for drinking water.

<u>Management Entities</u>
The Federal budget is facing challenging years ahead and funding may be increasingly limited,

so resources should be deployed in the best available manner for Native American Tribes. Part of this requires creating sustainable management entities. Six basic core features were identified to achieve sustainable management, and are listed in the goals and concepts paper.

- A stable organizational structure is key to operating and maintaining the funded utility. The management entity should have the ability to communicate well with all stakeholders, including the business or planning departments for a utility.
- Management entities should be willing to look at neighboring communities to identify what may have worked well for them, or develop cost efficiencies (e.g., bulk purchases of supplies, shared billing system).
- Entities should be able to manage funds and assets on a short- and long-term basis. Some assets may be short-lived, and a reserve account should be set up for asset replacement to avoid potential crisis situations when assets fail.
- Sustainable entities are looking ahead to long-term needs so that they can plan for future demand and changing requirements.
- Another key feature to achieve sustainability is an adept workforce through the creation of job opportunities for Tribal members. For example, a certification program could help create jobs and a skilled workforce that will help meet future needs.
- Finally, sustainable entities should be focusing on providing quality water and service in compliance with regulatory requirements.

This document is up for debate and discussion, and review comments from participants, particularly where areas or concepts are missed entirely. Participants should provide comments to Matt Richardson by August 3, 2011.

F. Discussion (all)

Rex Kontz
These are great concepts. Planning for sustainability can be helpful, but utilities have to be able to pay for it. The Navajo Nation is challenged with high unemployment and a low income base. The revenue generated to sustain the sustainability must come from customers' pockets. Funds are available for construction, but not for recurring O&M costs. When it comes out of the customers' pockets, if costs are raised too high, customers disconnect their service in large numbers. It is helpful to discuss sustainability, but if it is not followed by funding, little will change. This is one of the great challenges.

Ron Hoffman
The funding agency efforts to work with Tribal communities are appreciated. There may also need to be a review of how the funding process can be expedited. Ron Hoffman looks forward to working with funding agencies and other regions to improve sanitation delivery. Sustainability is particularly relevant for geographically isolated Tribal communities.

Ken Norton
Ken wishes to acknowledge that the ITF and supporting agencies have a done great job over the past decade. Significant progress has been made on the number of homes that have been served, but there is a concern from Tribal communities about long-term funding. The current fiscal year (FY) 2012 budget is slated for a $1 billion reduction in State-Revolving Fund (SRF) funding,

which will have an impact to the Tribal set-aside under the Clean Water Act and Safe Drinking Water Act that will trickle down to Indian Country. Another area of concern is the strategic revisions occurring in the EPA Office of Water, which is assessing revisions to measures of performance that directly address the goals to reduce the number of homes lacking access by 2015. The time periods have been removed from the measures, so there is no longer a date by which the goal must be met.

Marta Burg
Progress has been made, particularly with the ARRA funding, and the progress is appreciated, but there should be a recognition that progress is still needed. The Millennium goal is one step on the path to achieving the Congressional goal of providing access to all homes as soon as possible, as stated in the statutes. The focus on sustainability and O&M is appreciated, but there is a concern of potential complacency once the physical infrastructure has been completed and is no longer a focus. The reason progress has been made is because of momentum and resources dedicated to the issue, but these need to be maintained to the extent possible. Many Tribes have faced challenges funding the ongoing O&M need for their infrastructure, and O&M funding has always been an issue. The effort by the ITF to understand the O&M needs is a step in the right direction because it may help advocate for future budgeting to resolve the issue.

Shawn Livermore
Although funding is an important issue, it is also important that the ITF raised the O&M funding issue because it is one of the main components lacking to achieve the sustainability of many systems. Beyond funding and revenue, Tribes lack the people to carry out the ongoing O&M. Operator development is a key aspect of the sustainability of the system.

David Saddler
Most reservations are also faced with the issue of escalating operational costs. New initiatives on renewable energies (e.g., solar power) are positive, but decision-makers need to be educated on escalating costs. There is also high demand for operators, who are often hired away from entities that have trained them. The cost of operations is also impacted by compliance changes. All factors have to be included when considering the cost of operation. This is a never-ending issue.

David Harvey
The overall idea behind the group is that all agencies are all facing diminishing resources in their infrastructure programs, so they are trying to identify the best way to build the infrastructure with the money available, and make it last as long as possible so that diminishing dollars can be used to build infrastructure for people who do not have the infrastructure. Some funds have to come from the tribal, which is a concern with high unemployment, low wages, and other issues. The effort is trying to focus the agencies on identifying the best path to sustainability so that future funding can be used for needed infrastructure. The ITF hopes to set definitions and review programs to optimize them with the participation of the Tribes.

Jackie Ponti
The agencies are committed to addressing the infrastructure needs across Indian Country, and are not looking to rest on their laurels. They all agree that much more work is needed, but they are

all facing budget challenges so they are trying to identify how best to leverage resources from agencies, Tribal communities, and technical assistance programs. This will be a long-term process. This group is not being formed for the purpose of developing a list of funding needs. Agencies are aware of funding needs. Additional funding needs may arise from the sustainability discussions, and the focus should be to identify what can be done with the funds and resources available.

Jose Aguto

The Memorandum of Understanding (MOU) that originally formed the ITF was signed at the highest level of the agencies. We are currently in a fiscal crisis, so there will not be any increases in funding, but agencies at the highest level can advocate for equitable shares of funding for the Tribes for drinking water and sanitation. As was previously mentioned, a lot of the success was due to the ARRA funding, so funding is still one of the primary parameters for success. Tribes would like to see the 2% Tribal allocation under SRFs made permanent. This is a mission of the ITF. Tribes have looked at the ITF as one of the shining examples of successful inter-agency coordination, which will be increasingly needed across all aspects of Tribal life (e.g., energy, health, climate change). At the same time, they would like to see political involvement by the political appointees of these agencies to recognize the need for increased funding to meet the Millennium goal needs. These goals cannot be met with the current and short-term outlooks for funding.

Regarding O&M, on the statutory level, statutes have been identified that could potentially allow for Tribal O&M funding, specifically 18 USC section 1632, under which IHS could provide direct funding for O&M. The Farm Bill 2008, Section 6006, has a rural water and wastewater circuit rider program authorizing $25 million a year. Tribes would like to see USDA advocate for a tribal circuit rider program. This is another well-identified need that could serve some of the smaller Tribes in a cohesive geographic area.

There has been some attempt at streamlining paperwork, but have the agencies investigated delegating some of the processes to lead federal agencies to ensure consistency in the streamlining.

Rex Kontz

Rex Kontz wished to clarify that his previous comment was not an attempt at criticism and negativity. The goals and concepts document is very clear and concise. He suggests that answers to the sustainability issue can be found under item #2 in the document, addressing management entities. It has been repeated several times by different people that leveraging, collaboration, and collective effort are very important. Once these ideas are shared down to the working level, collaboration will be very important, but can be challenging. Many people tend to focus on what cannot be done, rather than what can be accomplished. Global planning can be challenging.

Jennifer Bullough

The ITF is hoping to address issues more holistically. New homes should be planned and constructed with access to drinking water and sanitation. Upfront coordination across agencies will help provide better infrastructure. Alaska is a very good example of coordination and

streamlined process, with IHS designated as the lead agency for on the environmental review process. Agencies came to an agreement and signed an MOU. That process is a very good working model. There is definitely a need for funding, but there are many creative ways to explore for optimizing the funding.

Dana Baer

None of the comments were taken negatively. Before these current budget times and long-term outlooks were more positive, agencies were already having discussions about optimizing federal resources. IHS is required to report deficiencies in Indian Country to Congress on an annual basis. To place needs into perspective, the last report showed a total deficiency of approximately $1.4 billion of feasible need, and $2.8 billion of total need (i.e., feasible and non-feasible). Funds running through IHS are approximately $200 million a year. These funds are combined from IHS, EPA, USDA Rural Development, some State of Alaska, and other funds. Additional funds are likely to be invested in Indian Country outside of IHS, but they are likely to be much less than $200 million. With a constant situation (i.e., unchanging needs), it would take approximately seven years to fund the feasible need, but things are changing every day. When a marginal cost study was conducted about five years ago, there was an incremental need of $55 million a year to satisfy all feasible needs over a 10-year period. Capital investment is an issue faced by all (e.g., Tribes, federal agencies, citizens of these communities). The intent of this workgroup is not to resolve the issue, but rather to manage available funds effectively. Even if it is insufficient, $200 million is a substantial amount of money. Regarding the IHS statutory authority to operate and maintain, there is some debate about it within the agency, but regardless, these funds are not currently available. The purpose of this task force is to manage current funds effectively.

Participation from non-federal ITF members is critical to helping the agencies do a better job. ITF federal agency members hope that other members will stay engaged, because their participation and perspective are needed.

Marta Burg

During the first few meetings of the initial ITF workgroup, budget conversations were being raised and it was agreed that funding needs could not be ignored, even if optimal funding was not available. The document that came out of the workgroup acknowledged the issue of needs exceeding demand, recognizing that there may not be sufficient funding available in the near or long-term future to address all the needs, and addressing what could be done in the meantime with the funds available. Issues need to be identified realistically, including insufficient funding.

David Harvey

The document referenced by Marta Burge is available on the Tribal portal, and the statement about funding needs is made both in the document, and in a summary document (also on the website) signed by the leadership of the agencies. The ITF workgroup has acknowledged the need for infrastructure funding and that the goals cannot be met without this funding. As Dana Baer indicated, at this time, the workgroup is trying to maximize investment, knowing that there is insufficient funding.

Sheila Frace

The need is not necessarily at odds with non-tribal lands. Identified needs for capital investment at the national level for drinking water and wastewater are on the order of $360 billion. This is an issue on both tribal and non-tribal lands. This workgroup is trying to focus on how we take what is available and make the best use out of it. We need to ensure that we are building the right infrastructure and maintaining it.

Jennifer Bullough
In their budget request, HUD documents the results of the ITF in the hope that Congress takes into account that agencies are working collaboratively and doing good work, and rewards them with federal appropriations. At least one of the outcomes of the workgroup is information and backing for budget justifications.

Rex Kontz
Capital funds are different than the O&M funds, but sustainability comes from having O&M funds to keep utilities running. Capital funds are an investment, which can then be maximized by keeping it running as long as possible, but that is challenging without a continuous source of O&M funds. Even if additional funding becomes available to build more infrastructure, it only increases the challenge of long-term O&M and sustainability. NTUA has put a lot of effort in meeting these challenges and has implemented some solutions that have worked well and could potentially be transferred to other Tribes.

David Harvey
NTUA's efforts and innovative ideas would be a valuable topic for the next meeting's agenda.

G. Action Item Review & Next Steps (David Harvey, EPA)

- Participants will contact Dana Baer offline if they are not obtaining the data they need from the IHS database.
- Participants will provide comments on the Sustainable Infrastructure Goals & Concepts document to Matt Richardson by August 3rd.
- Bios were sent out as a draft for the group, participants should email comments, edits, and additional bios to David Harvey by August 3rd.
- Rex to contact David Harvey about what NTUA has done to increase sustainability.
- The next meeting is proposed for September 7th, with the main focus to finalize the Sustainable Infrastructure Goals & Concepts document.

H. Closing Remarks (Sheila Frace, EPA)

Sheila thanked everyone who signed up for this workgroup. She acknowledged that there are significant challenges, which will not be resolved in a year or a decade, but the agencies are appreciative of individual contributions regarding challenges and solutions. Agencies want to be as effective as possible, and see non-federal agency participants as a key component to the discussions. Sheila looks forward to getting comments back, and to the next meeting.