NTOC REINVIGORATION ASSESSMENT

REPORT OF OBSERVATIONS, FINDINGS AND RECOMMENDATIONS

EXECUTIVE SUMMARY

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Executive Summary

Between April and September of 2011, Enventive Consulting, LLC (under contract to SRA International) with assistance from EPA staff conducted an assessment of the US Environmental Protection Agency's National Tribal Operations Committee (NTOC). The Agency requested this assessment to address concerns raised about the group's operations by both EPA staff and tribal representatives and to gain a better understanding of the role of the NTOC in the new landscape of EPA's Tribal Programs – these programs have changed significantly since the group was formed in 1994. Specifically, the assessment was designed to:

- Identify the current and anticipated purpose of the group in improving EPA's Tribal Program and tribal environmental programs more broadly;
- Evaluate the NTOC's effectiveness at fulfilling this purpose; and
- Provide recommendations on the most appropriate purpose, role, and structure for the NTOC based on the assessment results.

The assessment process included two elements – 1) a documentation review and 2) discussions with individuals involved with the NTOC or that are part of or familiar with EPA's Tribal Program. The documentation review helped to provide a historical and organizational context for the group as well as the basic framework for its activities. The discussions were structured to get input on the current and potential purpose of the group; what was working well or needed to be improved primarily in the areas of substance, process or structure, and membership; and ideas about alternative approaches or models. The assessment team engaged 50 individuals as part of the assessment process as shown in the table below.

NTOC Reinvigoration Assessment Discussion Results	
Group Represented	Number of Individuals
NTC Members, Alternates, or Designees	15
RTOC Leaders	2
EPA Tribal Partnership Group Leaders	3
National Tribal Group Representatives and Other Tribal Leaders	4
AIEO Staff	6
EPA Senior Leadership	5
EPA Tribal Program Managers	15

Based on the documentation review and the input received from individuals, the assessment team identified 13 key findings. These key findings are summarized below.

Finding 1: Although the underlying purpose and intent of the NTOC is still valid (i.e., EPA and tribes expressed a need for having a forum for dialogue between senior EPA officials and tribal leaders), this purpose as articulated in the Charter is outdated and lacks clarity in key areas such as how the NTC and EPA support this purpose and how the

NTOC functions in the new landscape of EPA Tribal Partnership groups. The lack of a clear, relevant, and well-articulated purpose for the NTOC and roles for the EPA members and the NTC:

- Leads to different expectations among members regarding what they think the group should be or do and their role in making that happen;
- Creates confusion about what should happen at meetings, the parameters of the group's discussions, and who should participate; and
- Limits the value that others see in the NTOC's efforts.

Finding 2: The substantive focus of the NTOC has been limited or has been perceived to be misaligned with the high-level, national scope of the group. In addition, the way that interactions are managed around these topics (including agenda setting, preparation, dialogue, and follow-up) is not consistently well executed. This means that:

- Some important issues may not be addressed;
- Members are often left wondering what to do with the information they receive and have difficulty finding value in the group's interactions; and
- The group has less impact on Agency programs.

Finding 3: The work of the NTC drives the NTOC, yet the resources available to the NTC are not adequate for them to develop products or provide input that meets EPA's expectations for quality and comprehensiveness. Specific resource constraints include:

- Lack of direct technical support to collect and analyze data and produce products,
- Lack of administrative support to assist with communications, and
- Limited staff resources within the Agency (AIEO in particular) to provide this support internally.

In addition to impacting the quality of products and input, this lack of resources impacts the range of work that can be done and the information that can be exchanged among and beyond the group.

Finding 4: The NTC and the NTOC have lacked adequate and appropriate resources to support meetings and coordination. This prevents NTC and NTOC meetings and calls from being conducted in a way that results in productive participation or maximizes the value of participants' time. It also prevents more robust coordination between meetings and calls. This leads participants to question the value of their involvement and motivates them to delegate their participation to lower level staff or not participate at all.

Finding 5: NTC representatives' positions within their tribes or nations are often funded through grants. Because of prohibitions in the way that grant funding can be used, NTC

members are often forced to volunteer their time or find other funding mechanisms to attend meetings and do the work of the group. This problem also prevents NTC members from participating consistently.

Finding 6: There is a lack of clarity about roles and responsibilities of all of the entities associated with the work of the NTOC. This ranged from the NTC Executive Team to internal EPA groups such as the Indian Program Policy Council and National Indian Working Group. The roles and responsibilities that seem to be most problematic are those that delineate the work between AIEO, the NTC members, and the NTC Executive Committee. This lack of clarity has led to mixed messages in both directions, unmet expectations, feelings of frustration, and a lack of action. From an internal perspective, the lack of clearly defined roles and responsibilities hinders internal communication and efforts to advance the tribal program.

Finding 7: There is no system of accountability for the group. This is reflected in the lack of follow-through from meeting to meeting, complaints about lack of responsiveness and feedback from both EPA and tribes and nations, and inconsistent participation on the part of members. One of the major factors contributing to this situation is the lack of group memory related to action items and activities that would serve as the foundation for follow-through. This lack of accountability has several consequences:

- The group has a hard time moving beyond having good conversations when they get together;
- There is little continuity from meeting to meeting or meeting to call; and
- There are no consequences for unmet goals/objectives/requests.

Finding 8: The group does not have a mandate for specific action, a work plan, or a framework (e.g., an overarching tribal strategy) to drive its actions. Without this type of structure, the group's work tends to have a narrow focus on budget and priorities and periodic issues that may arise. It also prevents the group from feeling like it is making progress towards some bigger goal.

Finding 9: The primary focus of data collection and information sharing about NTC priorities and issues is the RTOC (or equivalent). These processes are not well documented or consistent from Region to Region, which means that EPA is left wondering where information and issues come from and whether or not information is being communicated. Tribes and nations also have difficulty in collecting data, which means that priorities may not be complete or reflect consensus.

Finding 10: The process of information sharing between the NTC and other EPA Tribal Partnership groups is largely informal, which means that:

- Information EPA receives from the NTC and these other groups may not be consistent,

- The NTC may lack important programmatic input that could help shape priorities, and
- There is no systematic "filter" to help the Agency identify cross-cutting issues among these groups and understand the relative priority of programmatic needs.

Although there were a range of opinions about how to improve this coordination, there was consensus that each of these groups serves a unique purpose and needs to continue to fulfill their designated missions while increasing their interactions with the NTC in a way that is not overly burdensome.

Finding 11: There were a range of views about involving tribal elected officials. Some respondents expressed interest in increasing the involvement of tribal elected officials in the work of the NTOC although they acknowledged that their involvement would be challenging. These respondents saw elevating the level of participant as a way to improve the quality of the conversation that occurs between the NTC and EPA, add more weight to tribal issues, add a new perspective to environmental issues, and make NTC membership on par with their EPA counterparts.

In contrast, some respondents felt that it was not appropriate to involve tribal officials as NTC members. They felt this would generalize conversations and inject a different political dimension to the discussions. These individuals indicated that the most appropriate level of involvement would be the senior-most tribal environmental leaders.

Respondents identified several implications that would result from involving tribal elected officials:

- The group structure needs to change realizing that tribal officials would likely not be able to engage in the day-to-day activities of the group;
- There needs to be a clear purpose for their involvement and an agenda worthy of their participation; and
- The nature of the conversation with these individuals will be at a more political, less substantive level, which will change the nature of the interactions among the group.

Finding 12: Although the core number of NTC members is 19, the current pool of potential NTC participants includes 49 tribal representatives (including members, delegates, and alternates). Membership is based on a weighted Regional representation model that affords more representatives to Regions with larger tribal land bases. This structure made sense when the NTOC was formed – it ensured that EPA had a wide range of tribal perspectives represented on the group. However, it reinforces the notion that some Regions deserve a stronger voice and diminishes the role of the NTC as a national body. It also provides more opportunity for members with varying degrees of

understanding to rotate in and out of the process, which can create a lack of continuity from meeting to meeting, interrupt work flow, and impede progress. This structure also does not correspond to deep subject matter expertise that is needed to fully engage on topics pertinent to EPA. Although some of the tribal representatives have deep subject matter expertise, it does not appear to be a criterion for selection, which means that the group may have geographic representation but may lack key subject matter experts that can provide input on some topics. The NTC membership structure was developed before EPA had other Tribal Partnership groups that could provide input to the process and assist in providing subject matter expertise. There were also some concerns expressed regarding the length of time some members have participated on the NTC. This long-term involvement may be limiting the input EPA is receiving and/or creating an undue burden on the tribe that is providing the representative.

Finding 13: To a certain extent, asking representatives of tribes and nations to develop "priorities" and represent "national" perspectives runs counter to their culture. This means that their natural tendency is to provide their own perspective or the experience of their tribe. They cannot make decisions for others or represent others' opinions without authorization. This may slow the process down or seem to EPA that their input is not relevant, if the process is not designed to accommodate this type of feedback.

In addition to these findings, some key themes emerged that helped guide the recommendations presented in the report. These themes included:

- There was general agreement that there is a need for a national tribal group that provides EPA with input on national tribal environmental priorities and budget needs and provides EPA with input on specific high-level or Agency-wide efforts. Although this purpose is consistent with the original intent of the group, the value of the group and their ability to achieve this purpose has been hindered by a variety of operational issues. This seems to indicate that EPA should continue to have such a group but focus on communicating its purpose and enhancing its value.
- This idea that what the group should be doing is not inconsistent with its original intent also means that although all respondents agreed that some degree of change was needed, this change should focus on "reinvigoration" to address implementation-related issues more so than a complete "re-creation" of the group. However, this does not mean that the change that is needed is not significant.
- It was also clear through the assessment process that there is value to having some separation between the NTC and the EPA participants on the NTOC as well as independence between the NTC/NTOC and other EPA Tribal Partnership groups. Each of these entities serves some unique, independent function. There was broad agreement, however, that the interactions among these entities and the internal EPA groups needs to be more strategic and/or more frequent.

The assessment team developed 14 recommendations based on these findings and key themes as well as the other information obtained during the assessment process. Recommendations 1-12 are aimed at addressing the core drivers that were identified through the assessment that would result in the most significant impact on the NTOC. Recommendations 13 and 14 go somewhat beyond the immediate scope of the NTOC but could have an impact on the NTOC's work and the Indian Program more broadly. These recommendations included:

Recommendation 1: Finalize the updated purpose statement. This statement more clearly articulates the vision and mission of the NTOC as a national body. It also more fully states the roles of EPA and the NTC in supporting this purpose.

Recommendation 2: In addition to identifying more robust accountability mechanisms as noted in Recommendation 8, improve the efficiency and effectiveness of the NTC and address concerns about the large pool of NTC representatives, the varying levels of expertise of NTC members, and the lack of turnover in NTC membership by making the following changes to the NTC membership:

A. Streamline NTC membership and make more strategic use of resources from other EPA Tribal Partnership groups. One option is to reduce the number of core NTC members to one primary and one alternate per Region with a federally recognized tribe plus a representative from Alaska and Navajo Nation. This would equate to a total pool of 22 tribal representatives (11 primary, 11 alternates). Another option is to simply reduce by 1 the Regions that currently have multiple members and only allow a single alternate per Region. Under either option, have a designated representative from each of the EPA Tribal Partnership groups (TPPC, TSC, TWC, TWRAP, NTAA, NEIN, as well as the Tribal Toxics group—to be established and TGC—as needed) participate at key NTC meetings during the year to provide input and coordination with the NTC. Their participation could be "virtual" by phone or videoconference for some meetings depending on the agenda topics to be addressed.

B. Require that NTC representatives meet specific criteria consistent with the mission of the NTOC such as: experience managing the implementation of a variety of tribal environmental programs; experience interacting with senior federal officials and senior tribal leaders/elected officials; able and willing to analyze and discuss national, cross-media, and cross-programmatic tribal environmental issues, policies and priorities.

C. Establish four-year term limits for NTC members (approximately 2-3 would rotate per year) starting after the first full year of reinvigoration with the NTC members that have been participating the longest.

D. Have more continuity in NTC leadership. This could involve establishing a Chair and Vice-chair structure for the NTC that allows for staggered term limits and transitions the Vice-chair to the Chair position after one year. This would mean

that leaders serve a total of two years (one as Vice-chair and one as Chair) to provide continuity of leadership.

Recommendation 3: Begin involving tribal officials strategically in the work of the NTOC as a way to promote broader awareness of environmental issues and to begin to get a broader perspective on the issues that the NTOC addresses. This could be done in two ways.

- First, encourage the NTC to meet with the NCAI Committee on Land & Natural Resources at their semi-annual meeting to share the NTC's draft national environmental priorities and explore ways that tribal leaders can support these priorities.
- Second, hold a tribal leaders summit as part of the annual NTOC meeting. This summit would have to be in addition to the normal NTOC meeting (perhaps a half day meeting before the regular NTOC meeting). EPA and tribes would work together to identify a small number of key tribal officials to invite based on the environmental work happening with their tribe or nation. The NTOC could elicit from them how other issues they face impact their environmental decision-making and get advice or guidance on how best to engage them on issues.

Recommendation 4: Develop a calendar of meetings for the year that clearly articulates the timing and purpose of interactions between the NTC, NTOC and other EPA Tribal Partnership groups.

Recommendation 5: Confirm the roles and responsibilities of other EPA Tribal Partnership groups and EPA internal groups in supporting the work of the "new" NTOC. These groups should retain their independent identities but engage with the NTOC more formally and strategically to add value to each other's work.

Recommendation 6: The NTC and NTOC should employ good meeting practices regardless of structure (meetings/calls, formal/informal): using a facilitator, developing an agenda in advance with input from participants, having a clear purpose and anticipated outcomes, developing notes and action items, having guidelines or clear roles to encourage good meeting behavior, establishing follow-up mechanisms for action items, etc.

Recommendation 7: Establish mechanisms to help ensure that the NTC has the support they need to do their work – collect data from EPA and tribes and nations, analyze data and information, communicate regularly with each other and with constituents, and develop briefings and products. It is particularly important to rectify the resource constraint that prevents GAP funds from being used to engage in NTOC work. This support should be aimed at assisting the NTC convey issues in a way that demonstrates urgency and impacts and garners high-level attention and action.

Recommendation 8: Develop a system of accountability for the most important aspects of the NTOC's activities, such as action item tracking and follow-up and member participation. It should be clear under this system what the expectations are of individuals and organizations and what the consequences are for not meeting prescribed expectations. Regarding membership and participation, these accountability mechanisms must be coordinated with RTOCs to ensure that there is consistency between selection/membership information in the RTOC Charters and the NTOC Charter.

Recommendation 9: Establish systems that will help ensure that substantive issues raised through the NTOC reflect the broad range of issues that would need to be addressed to improve environmental conditions in Indian country[1] and improve the Agency's tribal programs (e.g., national, cross-cutting, policy-oriented, long and short-term). This includes developing an orientation course for new NTOC members and establishing criteria and a process for data collection and issue identification.

Recommendation 10: Shift the focus of the group from developing budget recommendations to identifying funding gaps that are associated with achieving substantive priorities. The current 5-year budget plan was an attempt to move in this direction. The group may need to revisit this concept in future years depending on the overall budget climate in the federal government.

Recommendation 11: Implement a periodic NTOC organizational assessment process to help assess the impacts of the reinvigoration changes that are implemented and to continue to identify areas for continued improvement.

Recommendation 12: Although many of the recommendations in this report are focused on the NTC as the drivers for the NTOC's work, several recommendations speak to steps that the Agency must take to make the reinvigoration successful and make the NTOC and NTC more effective. This recommendation calls out these recommendations and identifies additional actions the Agency should consider, including:

- Provide the dedicated resources that are needed to support the work of the groups (both NTOC and NTC).
- Provide additional resources and improve the Agency's support for data and information collection processes related to the group's work specifically and to tribal program implementation overall.
- Have a more coordinated and systematic approach to interacting with the NTC, especially during calls and meetings. This is particularly important related to requests that the Agency is making of the NTC and tribes for input.

[1] Indian country as used in this document includes reservations, dependent Indian communities, Indian allotments, and Alaska Native villages.

- Clarify the roles and responsibilities of each of the EPA internal groups as it relates to the reinvigorated NTOC and NTC.

In addition to the items above, the NTC provided a list of ideas for how EPA could improve NTOC operations at its November 2010 meeting as a result of the review process for this document.

Recommendation 13: Develop a state of the environment report for Indian country to identify program progress and gaps that need to be addressed. This will help shape a work plan or areas of focus for the NTOC and confirm or aid in identifying new tribal priorities. This type of document could also help shape EPA's Tribal Program as a whole by demonstrating how the environment is changing as a result of the program's activities and provide good information on what the Agency and tribes know or don't know about environmental conditions. This report could serve as the first substantive focus of the reinvigorated NTOC. The first step in the development process should be a scoping effort involving tribes and EPA to determine what the document will be and how it will be used. The Agency should incorporate lessons learned from previous similar efforts to ensure that the document is completed in a timely way and is useful.

Recommendation 14: Provide a separate forum for issues associated with Alaska Natives. The challenges that these individuals face are related to the issues faced by tribes and nations in the lower 48, but they have distinct legal differences that must be addressed. The Agency should convene a task force or working group to clearly articulate these unique challenges and determine an appropriate path forward for addressing them. Incorporating them into the broader conversation of tribal issues can cause confusion and adds a level of complexity to conversations that typically cannot be addressed without more focused investigation and discussion.

Following the review of this report, the Agency will:

- work to develop their proposed approach to moving forward based on implementation feasibility and available resources (which may involve vetting preliminary recommendations or implementation options internally and with the NTC or impacted EPA Tribal Partnership groups),
- consult with tribes and nations on this proposed approach, and
- decide and begin implementing the reinvigoration process.