

**FLOODPLAIN MANAGEMENT ASSOCIATION  
2008 ANNUAL CONFERENCE  
SPECIAL TRIBAL SESSION**

**Tuesday, September 2, 2008**  
Paradise Point Resort, San Diego

**Summary Notes**

**Meeting participants consisted of California Native American Tribal chairpersons, members or staff specifically authorized to represent their Tribes, as well as Tribal members and staff attending as individuals. No participants spoke for or made statements on behalf of Tribes other than their own. Participants also included State, federal, and local government agency executives and staff. The participants and facilitators volunteered their time.**

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## **1. Welcome and Prayer**

Dorian Fougères, Center for Collaborative Policy (CCP) at California State University – Sacramento, welcomed participants to the special session. Donna Miranda Begay, Tribal Chairwoman for the Tubatulabals of Kern Valley, officially opened the gathering with a prayer.

## **2. Meeting Introduction and Agenda**

Iovanka Todt, Executive Director of the Floodplain Management Association (FMA), thanked participants for attending the special session. She explained that she believed Tribes and floodplain managers shared many concerns, and could benefit from learning about each other. Her aim in hosting the special session was to create a space where California Native American Tribes could identify the range of their concerns, and then bring this into the rest of the conference. Her hope is that next year the session expands and becomes a regular part of the FMA's annual conference.

Donna Miranda Begay provided some context for the meeting. She explained that the California Water Plan (CWP) Update 2009 had convened Tribal Communication Committee (TCC) to improve communication with California Native American Tribes. This group had met nine times, and completed a working draft Tribal Communication Plan in July 2008. One of the issues listed in that plan included flood management as it relates to the protection of sacred sites, post-fire events, and water quality degradation. Donna pointed out that the Plan has been widely circulated, and encouraged FMA to host this innovative session.

Kamyar Guivetchi, Manager of the Department of Water Resources' Division of Planning and Local Assistance, also welcomed participants. He explained that the proceedings from the special session would be used in three important ways.

- (1) The proceedings would be distributed to:
  - a. participants and participating agencies, including FloodSAFE California and the U.S. Bureau of Reclamation; and
  - b. members of the CWP State Agency Steering Committee (20 agencies), Advisory Committee, and Tribal Communication Committee.
- (2) The proceedings would inform the California Water Plan's strategic objectives and recommendations, which already included text from the TCC's Tribal Communication Plan.
- (3) The proceedings would directly inform plans for a CWP Tribal Water Summit in the late summer of 2009.

## **3. Tribal Concerns about Flood Management**

Lisa Beutler, CCP, led the next part of the day. To start, she asked participants to review the draft "mind map" of Tribal flood concerns. (The map consisted of a diagram of the range of Tribal issues and sub-issues related to flood management. These issues were brainstormed during the August 15 TCC meeting to help prepare for the special session. A revised diagram is attached at the end of this document.) In particular Lisa asked participants to identify topics that should be added, subtracted or changed. After reviewing the map, participants reported back to the large group on their conversations and continued with a full group discussion. Participants then broke into groups and continued more in-depth discussions during lunch, later reporting back to the large group.

The following topics were identified and discussed at length during the large group sessions in the morning and after lunch.

## **1. Consultation and Communication**

One theme that emerged is the lack of necessary and appropriate communication between California Native American Tribes and State and local governments. Federally-recognized Tribes and non-federally-recognized Tribes merit official relationships. However, participants noted that the State of California (and its agencies) lacks a single, coherent process for consulting with either recognized or unrecognized Tribes.

At the level of cities and counties, SB 18 requires local governments to consult with Tribes and the Governor's Office of Planning and Research provides guidelines for this. Participants noted that this statutory requirement is frequently overlooked.

Other issues involved the failure of most Integrated Regional Water Management (IRWM) planning processes to include Tribal participation.

It was also noted that the federal government is also involved with non-federally-recognized Tribes insofar as some of these reside on federal allotment lands.

Participants noted that there had been an earlier effort to develop a statewide consultation policy by the California Environmental Protection Agency. However, it was reported the California Environmental Quality Act process, had created a barrier for adoption.

Participants suggested that the State of California establish a California Indian Affairs Office (at the Executive Cabinet level). This office could create a central location for navigating consultation processes as they affect flood management and other Tribal issues and policies.

## **2. Funding Barriers**

Participants commented that numerous barriers limit or negate the ability of California Native American Tribes to obtain funding for flood and water management. For example, there may be statutory barriers that limit grant recipients to Tribal non-profit organizations rather than Tribes themselves. Similarly, the language of propositions may not explicitly include Tribes. In cases where Tribes can apply for grants, the language of the associated contracts may be inappropriate.

A central issue is the sovereignty of Tribes. Tribes are not willing to sign contracts that diminish their existing rights as sovereign nations. Contract and proposition language must protect this.

Participants noted that two kinds of funding transfer mechanisms are needed. The first is a mechanism that would allow State agencies to transfer federal funds directly to Tribes (a "pass-through"), rather than route this through local governments or organizations. While the federal government has a direct financial relationship with recognized Tribes, in other cases the federal government allocates money to the State for programs that are not specific to Tribes but could be used by them. The pass-through mechanism would help in these situations.

The second is a mechanism that would allow State agencies to transfer State funds directly to Tribes. It was suggested that a Memorandum of Understanding might provide one way of doing this.

In general, participants noted that Tribes have a need for technical assistance with flood management.

### **3. Flooding in Drought and Fire-Prone Areas**

Participants pointed out that drought conditions lay the foundation for fires, and that if rains follow a fire there is a very high likelihood of flooding and mudslides. This is common in southern California, but not limited to that region.

In these drought and fire prone areas, there is a need to plan in ways that anticipate flooding. This includes the location of housing and other facilities, the storing of supplies, and irrigation networks. Funding is needed for this work.

### **4. Emergency Response Planning and Preparedness**

Participants explained that emergency response planning and preparedness are critical to mitigating flooding. This includes planning for evacuation, transportation and roads, shelter, and communication.

This entire topic is closely connected the next, which concerns what people need to be aware of after they are out of immediate danger.

### **5. Post-Flooding Recovery, including Water Quality**

Participants agreed that there is a need to plan – before a flood occurs – for what to do after a flood. This extended to a range of issues, like regaining access to water sources and to land, and access to construction equipment for earth moving and rebuilding.

A participant explained that federally-recognized Tribes could directly access surplus military equipment once it was retired. Tribes had priority access to this equipment, and could obtain it before it was allocated to states (which also receive military surplus and distribute it to local governments).

Participants also noted that there are major issues of public and environmental health. For example, access to clean water for all purposes and to potable water for drinking and cooking are essential. Water conservation efforts may be necessary. Water conditions are also tied to water-borne illnesses and pest control (mosquitoes, rodents), and access to health care clinics is critical. Food sources may also be destroyed or contaminated by flooding.

A participant noted that information resources are critical, and that the California Area Health Advisory Network was a good reference.

### **6. Conveyance, Infrastructure, and Rural Access to Water**

Participants explained that conveyance and infrastructure systems had altered natural river flows, and that past decisions about the location and operation of these systems continued to affect rural

access to water today. In some cases, historical county land use planning efforts had deprived Tribal areas of their natural water flows, and today Tribes were being told they could not develop those areas because of the lack of water. In other cases, Tribes lost access to water when they were forcibly relocated.

## **7. Quantification of Groundwater Recharge and Floodplain Restoration**

Participants explained that in some areas Tribal water serves as a supply for neighboring regions, yet Tribal efforts to recharge groundwater in these areas are not counted. This meant that while Tribal waters are utilized by others, Tribes themselves are not given a right to water that is equivalent to the amount that they contribute through groundwater recharge.

This disconnect prevented more Tribal efforts to restore and manage floodplains in ways that are beneficial for flood control and mitigation, for water supplies, and for the ecosystem. Encouraging these efforts would require quantifying and accounting for Tribal contributions to groundwater, providing incentives for Tribal floodplain management, or both. It was noted that consideration may also have to be given to “safe harbors”, because floodplain restoration might create habitat for endangered species.

## **8. Flood Zone Maps**

Participants pointed out that federal flood zone maps in some cases do not cover Tribal lands (nor military lands). This undermines comprehensive flood and water planning and management efforts. In some cases, the data gaps can be extremely large – one participant noted that 20% of eastern San Diego County consists of Tribal lands that are not included in regional flood zone maps. It was emphasized that this lack of data undermined the flood control efforts of not only Tribes but also those who lived around Tribal lands.

Participants were not clear about whether this information existed in other places. While federal maps may not exist, counties or local governments or other organizations may have their own maps.

This raised the broader issue of the disproportionate impacts of flooding on California Native American Tribes. In some cases Tribes have been relocated to undeveloped, previously undesired floodplain areas. This means that the rights of Tribes to develop these lands may now be restricted for public safety purposes, and that in cases where development is permitted, buildings and people may constantly face a high risk of flooding.

A related example of disproportionate impacts concerned endangered species and multiple-species conservation plans. In some cases, Tribes are not invited to participate in the preparation of these plans, yet their undeveloped lands are designated as species habitat and their development rights are restricted. In this way they are excluded from but impacted by the planning process. This was noted as ironic because federal Tribal lands are designated for the express beneficial use by Tribes.

It was noted that Tribes could create their own flood zone maps, but barriers existed. First, the process is costly. Second, technical assistance is needed. Third, in cases where Tribes already have the technical expertise, their experts still need to be certified by the U.S. Department of Housing and Urban Development before the maps are considered valid.

## **9. Centralized Flood Management Information and Resources**

Participants suggested that publicly accessible, centralized information and resources would help California Native American Tribes and other interested parties be able to find and share data related to flood management in their areas.

It was noted that the system could operate like the Department of Water Resources' Integrated Water Resources Information System, which did not actually hold on to data, but served as a reference guide to the data held by various public agencies and organizations.

Concern was expressed about the proprietary data. In some cases, for example, Tribes may have water rights that are not yet quantified, and information on Tribal water use might be used against them in court at a later date. Or Tribes may have water quality information that would indicate standards are not being met (for example, after a fire, or after a flood), and could have their funding withdrawn.

Participants suggested that any request for information would have to involve direct consultation with individual Tribes, and it would be up to them to decide whether the information was appropriate to share.

It was noted that such an information system would benefit not just Tribal governments, but local governments and anybody working on or concerned with flood management. The need for comprehensive data was universal, and a well-managed information resource would benefit the entire system.

Participants also emphasized that regional data must be examined comprehensively, and the gaps filled in order for flood planning and management to be effective. Jurisdictional boundaries must not be allowed to hinder these efforts – a particularly important consideration given that Tribes and Tribal lands often cross county and state lines.

## **10. Education**

Participants stressed the importance of educating California Native American Tribes about flood threats before floods occurred, and also educating them about public and environmental health and safety issues in the aftermath of a flood. These efforts could parallel those aimed at educating locals in the same area. It was suggested that Tribes could also benefit from education about integrated flood management.

## **4. Tribes and Integrated Flood Management**

Lisa Beutler explained that there would be a session later that afternoon on the concept of “integrated flood management,” and that the session would involve key staff of the California Water Plan and FloodSAFE California. Broadly, this approach to flood management operates at the watershed level and links the use of land and water resources in ways that prevent and mitigate flooding, protect public safety, and provide ecosystem benefits.

In order to prepare for this session, participants spent the last half hour working in small groups to answer a series of questions about integrated flood management, and then sharing their responses with the large group. These included the following:

1. *What is Integrated Flood Management (IFM)? How should it be implemented at the Statewide level? How should it be implemented at the Regional level?*
  - Participants were not familiar with a technical definition, but understood the term to broadly mean managing floods as part of a larger system that includes the ecosystem.
  - A participant offered to explore whether federal agencies were also conducting IFM.
2. *Can you list examples of where IFM is being done today?*
  - A participant noted that she had heard of IFM being done at Fort Independence, but this was something started after a flood event, not during planning.
3. *What are the impediments to IFM, and how can they be removed?*
  - It needs to be explained how flood management was one component of watershed management, hazard management, and emergency management.
  - Different jurisdictions and sets of regulations within a watershed could hinder IFM. For example, Tribes typically worked to meet U.S. Environmental Protection Agency's National Pollutant Discharge Elimination System standards, while counties typically worked to meet standards set by Regional Water Quality Control Boards.
4. *What are the most promising opportunities for IFM?*
  - IFM has the potential to foster long-term, holistic, strategic planning efforts based on an integrated approach. Similarly, IFM could foster "seamless watershed management" that benefited all parties involved.
  - IFM efforts could foster the sharing of information, expertise and equipment, thereby increasing the effectiveness of emergency management efforts.
  - Participants noted that some sources of funding do exist (e.g., the U.S. Bureau of Reclamation's Native American Affairs Program has technical assistance funding that can help jumpstart IFM efforts), and that Tribes could look to partner with agencies like the Bureau of Indian Affairs, the U.S. Environmental Protection Agency, and Indian Health Services.
5. *What role should the State play in this process?*
  - The State should provide trainings on IFM.
  - The State should recognize and respect Tribal jurisdictions.
  - The State should reserve a seat for Tribes at the policy-level flood boards in the northern, central, and southern parts of the State.

## **5. Written Comments**

One invited guest could not attend the meeting but did send in written comments beforehand.

Brian Adkins, Environmental Management Office, Bishop Paiute Tribe, wrote:

"One concern is the availability of funding for the Tribe in the short term to contribute a sum of money to a cooperative floodplain mapping effort for Bishop Creek. The Tribe has an

opportunity in the short term to cooperate with the City of Bishop and potentially other local agencies to chip in on mapping and modeling efforts to create an inter-jurisdictional floodplain map for Bishop Creek. The BITC budget sessions for next year is in October and would be the best time to get some matching funding for our contribution. As the city is looking into CDBG funds and this funding is on a rolling deadline ending sometime early next Spring the window of opportunity is closing as time goes by.

Community block grant funds are not a real option in the short term for the Tribe as the ICDBG funds that the Tribe applies for every year goes for big development type projects.

FEMA Pre-Disaster Mitigation funds cannot be used for floodplain mapping.

Another concern is adequate dam inundation maps from SCE and the issue of upstream dam safety affecting downstream residents.”

## **6. Thank You and Next Steps**

Lisa Beutler and Dorian Fougères reiterated how the meeting proceedings would be distributed, and thanked participants for their time and contributions.

## **7. Attendance**

**Sara Agahi**, County of San Diego

**Donna Miranda Begay**, Tubatulabal of Kern Valley

**Heidi Brow**, Pala Band of Mission Indians

**Lisa Beutler**, Center for Collaborative Policy

**Robert Columbro**, Shingle Springs Rancheria

**Michael Connolly Miskwish**, Campo Kumeyaay Nation

**Wayne Cooley**, La Jolla Band of Indians

**Michael DeSpain**, Greenville Rancheria

**Dan Flory**, California Department of Water Resources

**Dorian Fougères**, Center for Collaborative Policy

**Louie Guassac**, Kumeyaay Diegueno Land Conservancy

**Kamyar Guivetchi**, California Department of Water Resources

**Chris McCready**, California Department of Water Resources (FloodSAFE California)

**Jesse Patterson**, Santa Ynez Band of Chumash Indians

**Patricia Rivera**, U.S. Bureau of Reclamation

**Kyle Self**, Greenville Rancheria

**John Simmons**, Santa Ynez Band of Chumash Indians

**Jason Soto**, Cher-Ae Heights Indian Community of the Trinidad Rancheria

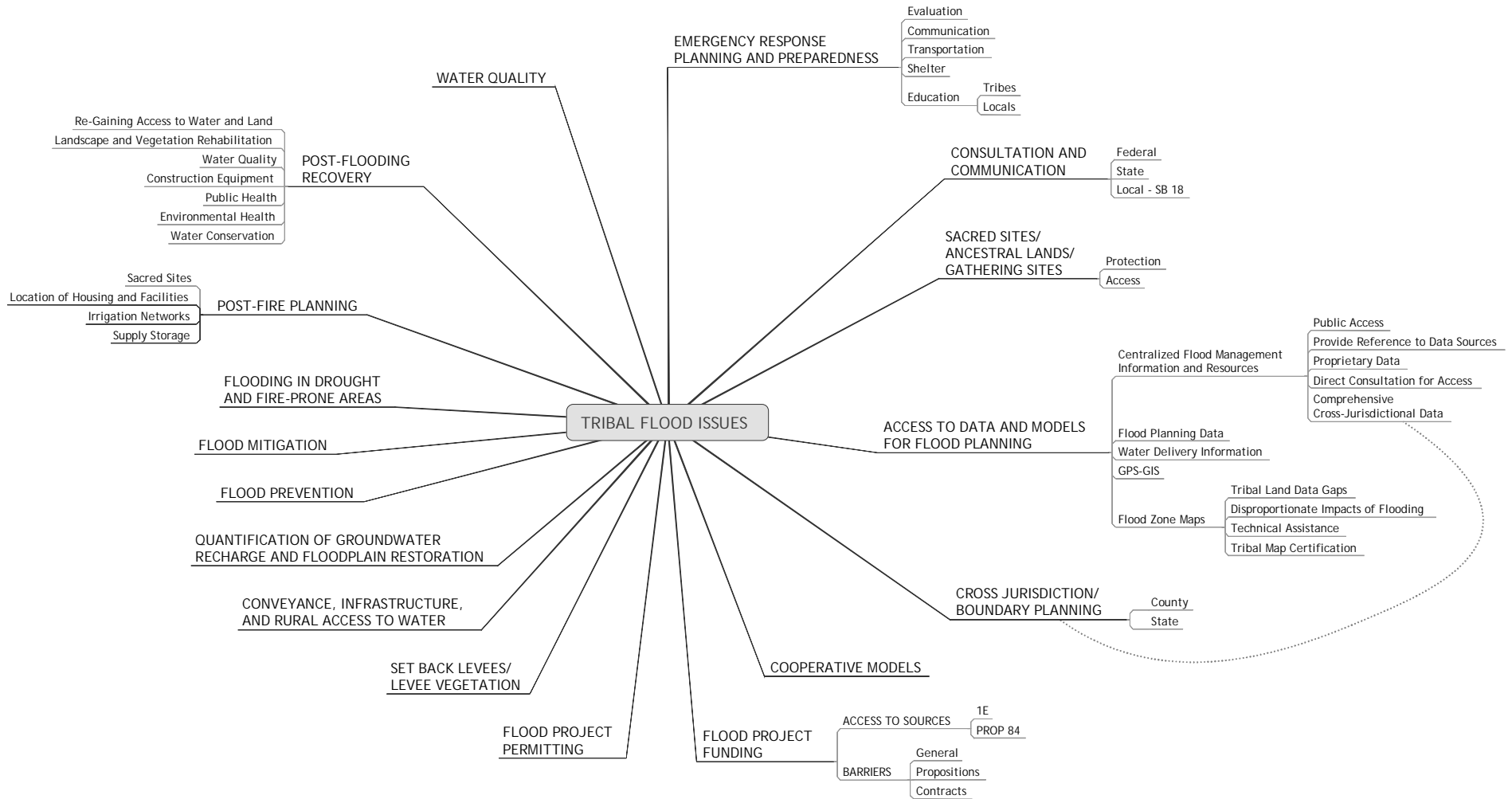
**Joshlynn Tanner**, Native American Environmental Protection Coalition

**Susan Tatayon**, The Nature Conservancy

**Iovanka Todt**, Floodplain Management Association

**BryAnna Vaughan**, Bishop Paiute Tribe





This mind map was generated by participants in the Special Tribal Session of the Floodplain Management Association's 2008 Annual Conference, held on September 2, 2008, at the Paradise Point Resort in San Diego, California.