



NATIONAL TRIBAL CAUCUS



ENVIRONMENTAL PROTECTION FOR INDIAN COUNTRY



**Environmental Resource Needs & Recommendations
For Environmental Protection in Indian Country**

Fiscal Year 2011



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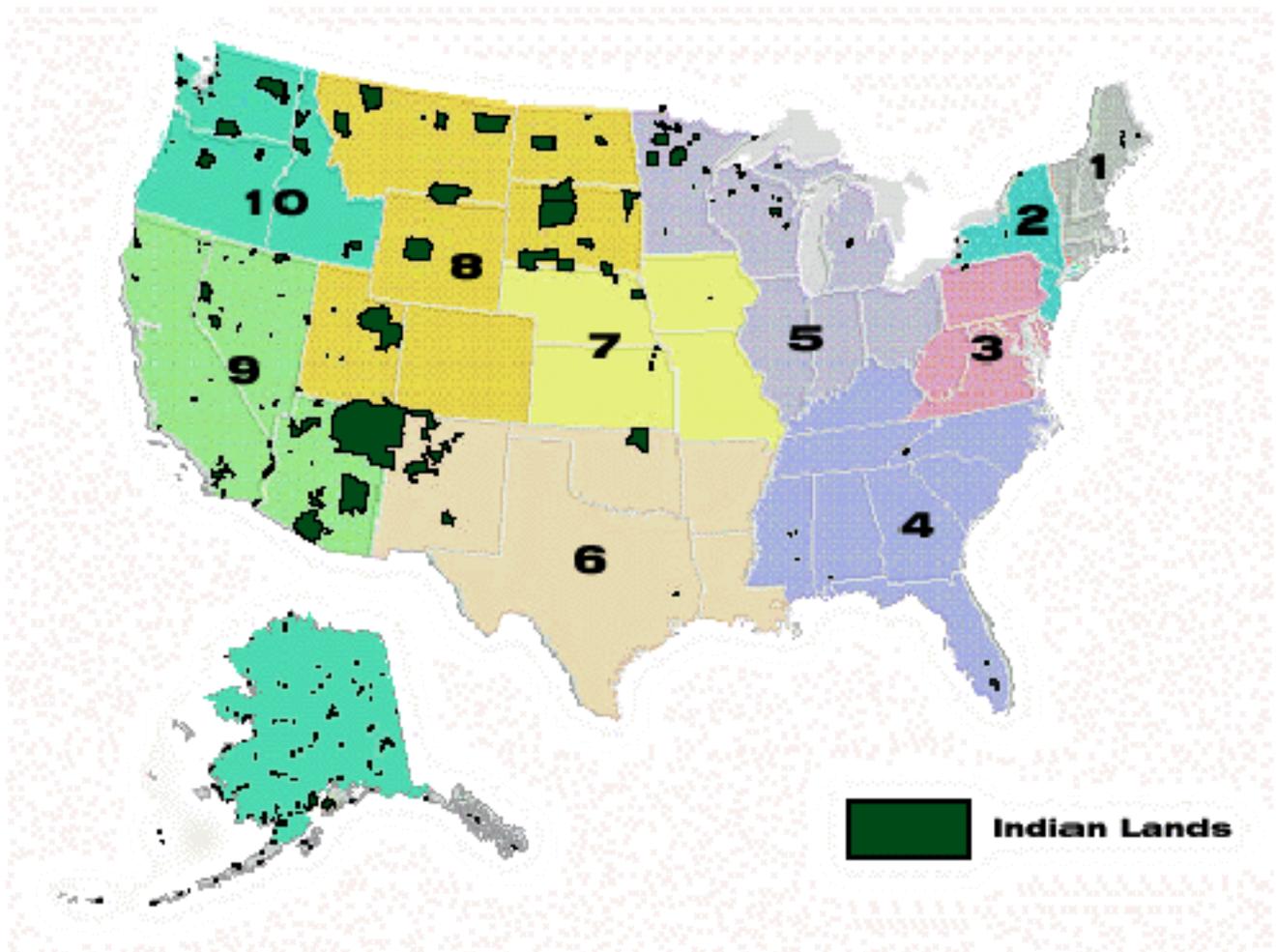
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INDIAN TRIBES BY USEPA REGION



There are 562 federally recognized Indian Tribal* governments located in nine (9) of US EPA's ten (10) Regions. "Indian Country" is defined as all Indian reservations, allotments (individual and tribal trust and/or restricted) and dependent Indian Communities.



Message from the Chairman

On behalf of the 19 representatives of the United States Environmental Protection Agency's (USEPA) National Tribal Operations Committee – National Tribal Caucus (NTC), I am pleased to present this annual compilation of the Fiscal Year 2011 National Environmental Resource Need and Priorities for Indian Country and Alaskan Native Villages.

Over the past year the NTC has been firmly committed to working with the USEPA to effectively meet the Agency's statutory and trust responsibilities to tribes and fulfill the Congressional intent to protect the environment and public health in Indian Country. In so doing, the NTC has actively engaged the USEPA Senior Leadership, both the Indian Program Policy Council (IPPC) and the individual Assistant Administrators of the respective offices, to identify the pressing environmental issues relayed to us by tribal governments from across the Nation. Because every aspect of strategic planning and decision making is directly tied to resources, the NTC continues to work with the USEPA to accurately assess the tribal environmental resources needs for Indian Country.

The recommendations set forth in this document provides approximately 560 million for Tribal set-aside (5% of EPA's Total Budget) for Tribes in FY 2011 which is a 2% increase over the FY 2010 enacted level and indexed for inflation thereafter. As of 2006, EPA funded Tribes 3% of their total budget although Indian Country represents 4% of the United States total land base. As environmental resource decisions are made both by the Congress and the USEPA, we ask that you keep in full consideration the unique legal relationship between the United States and Indian tribes.

Finally, I reiterate the need for the USEPA to continue its work directly with each tribal government in order to identify a more specific accounting of actual tribal environmental resource needs and priorities and provide direct funding to Tribes in the same manner as States. Through our partnership we shall continue to make strides toward protecting the environment in Indian Country.

Sincerely,

Clay Bravo (Hualapai Tribe)

National Tribal Caucus Budget Request





**NTC Board Members
2009**



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Ronald Wasillie, R10
(Newhalen Village Council)

Virginia Washington, R10
(St. Michael IRA Council)

Lee Juan Tyler, R10
(Shoshone Bannock Tribes)

Honorable Brian Cladoosby, R10
(Swinomish Indian Community)

This document highlights the USEPA's National Tribal Operations Committee (NTOC) – National Tribal Caucus (NTC) Fiscal Year (FY) 2011 compilation of general environmental resource needs for Indian Country. The NTC acknowledges that change has occurred and we are hopeful this summary will assist tribes and the Agency in better assessing tribal environmental concerns and conveying those concerns in a manner respectful of the formal government-to-government relationship.

The U.S. Environmental Protection Agency's (USEPA) fundamental objective is to protect human health and the environment. According to the EPA's 1984 Indian Policy the keynote of this effort is to give special consideration to tribal interests in making Agency policy, and to insure the close involvement of tribal governments in making decisions and managing environmental programs affecting reservation lands.¹ The NTC and the Regional Tribal Operations Committees

¹ U.S. Environmental Protection Agency, EPA Policy for the Administration of Environmental Programs on Indian Reservations, November 8, 1984. (Reaffirmed by Administrator Carol Browner, Memorandum EPA Indian Policy, March 14, 1994; reaffirmed by Administrator Christine Todd-Whitman, July 11, 2001; reaffirmed by Administrator Mike Leavitt, September 24, 2005; reaffirmed by Administrator Steven Johnson, September 26, 2005).

("RTOC") are critical partners in the Agency's ability to establish and implement policies that affect tribes as outlined by the USEPA Indian Policy.

Finally, Indian Tribes are positioned to work with the USEPA in meeting its Executive mandate, as established in Executive Order 13175 and in subsequent policy directives by President George W. Bush. Newly elected President Obama's commitment to Indian Nations of this country during his campaign is promising.

National Tribal Environmental Policy Priorities

For FY 2011, tribal governments remain focused on four top environmental policy priorities for the successful implementation of environmental protection in Indian Country. They include:

- Continued implementation of USEPA Indian Policy and increasing accountability
- Implementation of the USEPA 2006-2011 Strategic Plan Tribal elements, goals, objectives and targets
- Increasing the current level of tribal program resources; discouraging under service (and disservice) and providing parity with States
- Continued full support of NTOC operations to accomplish USEPA's/Indian Tribal Governments' goals to improve USEPA environmental programs, specifically, implementing the NTOC Charter and **dedicating adequate resources** to accomplish its annual charge
- Obtaining resources to facilitate climate change initiatives and adaptation

In addressing these priorities, tribes fully expect complete implementation of the 1984 USEPA Indian Policy and formal government-to-government consultation when tribal interests are affected by USEPA actions.

Fiscal Issues

The NTC and RTOCs continue to raise more concerns regarding USEPA's budget decreases in tribal environmental programs. The decreases span the breadth of USEPA funding that is fundamental to tribal environmental program development and implementation. In FY 2005 the Indian General Assistance Program (IGAP) enacted level decreased for the first time. In

addition, the President's annual budget requests for FY 2006 and 2007 reduced funding levels for the IGAP, and proposed smaller net increases in fewer USEPA Tribal program budgets. Furthermore, in FY 2006, USEPA tribal programs were adversely affected by an Agency-wide \$80 million appropriations rescission.

The current FY 2007 enacted budget is the same as the FY 2006 enacted budget due to the Continuing Resolution (P.L. 110-5) that was passed February 15, 2007 to cover the remainder of FY 2007. The Continuing Resolution generally set funding levels consistent with FY 2006 levels.

In April 2007, during a FY 2009 Budget Hearing with USEPA, the NTC reiterated its position against proposed disinvestments in tribal programs, and argued that any disinvestments would undermine the progress made by tribal environmental programs and would weaken the USEPA-Tribal partnership. Furthermore, the NTC reminded USEPA of the gross inequity between current tribal unmet resource needs and USEPA's actual appropriated and enacted funding levels. USEPA has never received consistent appropriations for Tribal programs that meet the NTC requested amounts, in fact even when the budgets were increasing the Tribal Unmet Needs grew.

The NTC proposes that USEPA increase levels across all tribal programs, focusing on the following: **1)** Provide approximately \$560,000,000 for Tribal set aside (5% of EPA's total budget) for Tribes in FY2011 (which is 2% over the President's 2010 budget proposal and indexed for inflation thereafter); **2)** an increase to both the Clean Water Act and Safe Drinking Water Act tribal set asides caps (raise to 3% each); **3)** funding for Direct Implementation Tribal Cooperative Agreements (DITCAs); **4)** increase IGAP funding levels to of \$120 million; **5)** increasing funds for Clean Air Act Section 103 and 105 grants to \$25 million and provide a Tribal set aside for climate change (\$25 million) as well as removing match requirements; and **6)** continuing the grant authority and funding levels for the Information Exchange Network program, adjusting from the completed effort with the states to the continuing effort with tribes.

In addition to extramural resources, tribes rely heavily on the expertise and assistance by the USEPA, commonly referred to as Direct Implementation. This is particularly true for tribes who either do not have existing environmental programs or are in the early stages of program development. As extramural resources decrease, so to does the ability of tribal governments to

develop and implement environmental protection programs. As a result, the need for Direct Implementation and its associated costs to the Agency will increase as well.

Another area of concern is the ability of tribes and USEPA to leverage funds from other sources such as other federal agencies, states, and tribes. Many other federal budgets supporting tribes have been reduced, including the Bureau of Indian Affairs, Indian Health Service and the Department of Housing & Urban Development. As a result, the cumulative effect to tribes is an increase in actual tribal unmet need to address critical environmental and public health issues. Thus, the NTC continues to advocate that USEPA improve its interagency coordination and budget planning to better address the overall federal shortfall felt by tribes.

While the EPA budget trends place more constraints on future tribal grant funding levels and increases the uncertainty for some tribal environmental programs, progress is occurring in other areas. Since FY 2003, the IGAP has been subjected to two reviews under the Program Assessment Rating Tool (PART) by the Office of Management & Budget and an audit by the USEPA Office of Inspector General (OIG) (in process). The program received PART scores of “Adequate” in 2003 and the preliminary results of the 2007 review look improved. These scores show that the program is being effectively/efficiently run, that timely/credible information is being obtained and that both EPA Managers/Tribal Staff are held accountable for performance results. Additionally, the OIG completed an assessment of GAP Best Practices by tribes across the country and reported favorably about the use of GAP funds to complete a wide variety of projects to meet their environmental needs. Based on performance and results that show the IGAP is effective, the NTC continues to advocate that USEPA dedicate more resources to maintain the IGAP and to continue to expand to reach those tribes that still have yet to establish a tribal environmental presence in their communities. Therefore, the NTC highly encourages that EPA increase GAP funding to \$120 million so tribes can continue to produce great results.

Since April 2007, the NTC has noted the changes USEPA is making on the issue of Climate Change. In response to the U.S. Supreme Court’s decision in April 2007 that clarified USEPA’s responsibility to regulate emissions of carbon dioxide (CO₂) as a pollutant, USEPA is currently developing multiple initiatives. The NTC clearly conveyed to the Office of Air and Radiation in April 2007 meetings with the Assistant Administrator that strong tribal participation is needed at the ground level of this important policy and regulatory development. The NTC expects the

USEPA to include tribes in its Climate Change initiatives in FY 2010, and also expects a new resource need of at least \$25 million dollars in FY 2011. This new funding will be enable tribal environmental programs to participate in USEPA's Climate Change programs, adaptation, and in regional efforts in and/or around Indian Country. The opportunity for USEPA to enable tribal governments to participate as equal partners on the issue of Climate Change should not be overlooked. Meaningful involvement of tribes from the beginning on this issue will strengthen the Tribal/USEPA partnership.

The NTC and RTOCs continually strive to obtain input directly from tribal governments on the issues impacting national tribal environmental resource and policy priorities. The results of this work, and efforts from previous years, have led to this compilation of key policy and fiscal issues for EPA consideration and implementation. Moreover, the NTC FY 2011 Budget Recommendations will assist tribal elected officials and others to understand pressing environmental needs and assist in the advocacy necessary to protect both the environment and public health in Indian Country by providing a budget of approximately \$560 million.

Office of Water



Office of Water	
	
CWA §106	\$50,000,000.
CWA §319	\$25,000,000.
CWA §104 3b (wetlands)	\$10,000,000.
DW SRF Set- Aside	\$60,000,000.
CW SRF Set- Aside	\$50,000,000.
UIC Set-Aside	\$2,000,000.
BEIF	\$13,000,000.
ANVs	\$50,000,000.

EPA's Strategic Plan Goal of Safe and Clean Water contain two components: (1) access to safe drinking water and basic sanitation, and (2) protection of water resources. The highest Goals of the NTC with respect to these are:

- To address the lack of access to safe drinking water and basic sanitation that continues to disproportionately affect tribal communities, including funding for infrastructure construction and rehabilitation, as well as ongoing operation and maintenance; and
- To ensure that Indian Nations and Alaskan Native Villages (ANVs) are adequately funded to implement their water resource protection programs.

Over the past eight years, tribal communities have continued to be underserved by drinking water and wastewater facilities, with over 13% of tribal homes continuing to lack access to these facilities compared with the non-Indian national average

of less than 1%. This disparity has continued to exist despite the Congressional policy of providing safe drinking water and basic sanitation to all Tribal homes as soon as possible, and the federal government's international commitment to reduce by 50%, by 2015, the tribal population lacking access.

Additionally, during this same period of time, investments in Tribal water programs have experienced only modest increases or remained relatively stagnant. Inadequate funding for tribal water programs remains a significant barrier for Tribal governments and ANVs as they strive to preserve, protect and restore their waters. It is critical that the current Administration recognize the importance of Tribal water programs in ensuring comprehensive protection to the nation's water resources. To this end, EPA must ensure that sovereign Tribal governments and ANVs are

able to effectively implement their water programs and are taken seriously as co-regulators in the water resources protection arena.

To achieve these commitments and goals, NTC requests the budget shown above left to be enacted for FY 2011 Tribal/ANVs water programs.

Specific Funding Targets for Indian Country/ANVs

For FY2011 the NTC identifies key funding targets for protecting tribal and ANVs waters. These targets identify specific funding needs for improved tribal/ANVs conditions. Each target identify the requested amount, justification for request and types of outcomes that are expected as a result of increasing funding levels to each of these water programs. The eight key tribal water programs for which the NTC identifies specific funding targets are described below.

Tribal CWA §106

Tribal Program Need/Request for Funding

At a minimum, increase the national section 106 Tribal set aside to at least \$50,000,000 (an increase of approximately \$26,060,000 over the FY2006 enacted amount of \$23,940,000).

Justification for Request

Nationwide 252 Tribes are currently eligible to receive Section 106 funding. For FY 2011, Tribes are requesting \$32 million for 265 or 47% of federally recognized tribes to engage in conducting comprehensive water quality assessments of Tribal Waters.

Expected Achievement (s) With Funding Increase

- By 2011, 57% of tribes currently receiving CWA section 106 funding will have a comprehensive monitoring program strategy.
- By 2011, 70% of tribes currently receiving CWA section 106 funding will have their water quality data in a system accessible for storing in the STORET database.
- By 2011, 10% of tribes that currently receive section 106 funding will be involved in cooperative approaches with states and/or EPA to develop watershed-based plans and/or total maximum daily load allocations (TMDL's) to address threaten water concerns.

- By 2011, 23% of federally recognized tribes that currently receive section 106 funding will have EPA certified water quality standards effective under the Clean Water Act (Currently 39 tribes have certified WQS, projected to increase to 50 tribes by 2011).

Nonpoint Source Pollutant Control (CWA Section 319)

Tribal Program Need/Request for Funding

At a minimum, increase the national tribal non-point source program budget to \$25,000,000 (an increase of \$17,000,000 over the current amount of \$8,000,000). In addition, permanently lift the 1/3 of 1% Tribal funding cap on the nonpoint source program fund.

Justification for Request

For in FY2011 the total funding necessary to support all eligible Tribal programs exceeds the available \$8,000,000. While in FY2008 Congress approved a \$1,000,000 increase over prior years in the total funding available to states and Tribes under Section 319, Tribes did not receive the corresponding proportionate increase. Instead, each year Tribal submittal of 319 Base and Competitive proposals far exceeds the allocated funding to tribes.

Expected Achievement (s) With Funding Increase

- By 2011, 200 tribes receiving CWA Section 319 funding will have a comprehensive assessment and management plans.

CWA§104 Wetlands Program

Tribal Program Need/Request for Funding

At a minimum, increase the Tribal Wetland program budget to \$10,000,000 (an increase of \$8,253,800 over FY2006 enacted amount of \$1,746,200).

Justification for Request

As of 2008, 53 tribes have received 104 CWA grant funding to engage in wetland protection programs. Increase funding will allow continual program development in order to assist EPA to implement its strategy of funding 75 Tribal wetland projects by 2011.

Expected Achievement(s) With Increased Funding

- Increased number of Tribes able to establish wetlands programs, assess and monitor the health of their wetlands, develop plans for wetlands restoration, protection and enhancement, and participate meaningfully in regional wetlands protection by 2008 (set forth in EPA's Strategic Plan) by enabling activities prerequisite to such projects to take place.

Safe Drinking & Clean Water Revolving Fund-Indian Set-Aside

The current levels under SDWA and CWA Tribal Set-Asides do not adequately address the severe needs that tribes and ANVs have to address long standing lack of access to safe drinking water and basic sanitation. In order to address this short fall, the NTC requests the following actions:

An increase or removal of the existing cap on Clean Water Act (from 0.5% to 3.0%) and Safe Drinking Water Act (from 1.5% to 3.0%) State Revolving Fund Tribal Set Aside monies administered by EPA for drinking water and wastewater facilities.

That Provide funding to support needed tribal O&M activities for tribal and ANVs drinking water and sanitation facilities (this will contribute to meeting the Johannesburg commitment of sustainable access, as well as protecting the federal investment in physical infrastructure on Indian lands).

Commit to the recommendations made by the Interagency Access subgroup to meet the US commitment to the UN Millennium Development Goal and comment to the USEPA Strategic Goal to reducing

Tribal Drinking Water [SDWA construction, capacity and supervision grants]

Since 2006, EPA's Tribal Set Aside under the SDWA State Revolving Fund (SRF) has been funded at less than \$ 15,000,000 per year nationally. For 2011, the NTC request \$60,000,000 under Tribal DW SRF Set- Aside.

Tribal Program Need/Request for Funding

At a minimum, increase national SDWA SRF from \$844,475,000 [FY2006] to \$2.33 billion, yielding a national Tribal Set Aside of \$60,000,000.

Justification for Request

Support the United States commitment to international and national forums to reduce tribal lack of access by 50% by the year 2015.

Tribal compliance with drinking water standards is consistently below those of other community water systems due to lack of funding for operation and maintenance.

Expected Achievement(s) With Increased Funding

- Basic human health and environmental protection for thousands of homes in Indian Country can be accomplished over time through continued and increased support for these drinking water construction and capacity development programs. Each year approximately 10,000 additional residences can receive access to clean and safe water through infrastructure construction and enhancement, and increasing number of Tribal governments able to conduct activities necessary to perform fundamental tasks of ensuring clean source water, ongoing monitoring, and effective operation and maintenance of drinking water systems.

Tribal Wastewater Facilities [CWA SRF]

Tribal Program Need/Request for Funding

Increase the national CW SRF by \$35,000,000 for total request of \$50,000,000. In addition, permanently lift ½ of 1% funding cap on CWA SRF Tribal set aside (for wastewater facilities).

Justification for Request

According to the Indian Health Service's 2008 Sanitary Deficiency Service Database (SDS) for 2008, tribal water and sewer infrastructure needs a total of nearly \$2.4 billion. Furthermore, an IHS study to the Office of Management and Budget concluded that additional \$67,200,000 is needed per year until 2018, to reduce to 4 percent the number of tribal homes lacking access.

Expected Achievement(s) With Increased Funding

- Basic human health and environmental protection for thousands of Tribal homes can be accomplished over time through continued and increased funding of sewage treatment construction programs.

Border Environmental Infrastructure Fund (BEIF)

Tribal Program Need/Request for Funding

At a minimum, increase the BEIF by \$5,000,000 for total request of \$13,000,000.

Justification for Request

Since 1996 Tribes have used BEIF funding to improve water and sanitation for over 8,000 homes. No funding has been provided for tribes since FY2006. Tribes request \$13,000,000 of the total funding in FY2011 be allocated to support tribal water infrastructure.

Underground Injection Control (UIC) Set-Aside

Tribal Program Need/Request for Funding

At a minimum, increase the UIC by \$1,000,000 for total request of \$2,000,000

Justification for Request

Increased funding will help tribes address groundwater problem associated with wastewater disposal and oil spill prevention practices. Problems tribes have encountered include upland dumping of wastewater, and oils spills associated with drilling over groundwater aquifers that are drinking water sources, both of which have the potential to impact water quality.

Expected Achievement(s) With Increased Funding

- Under the requested funding tribal staff will receive training and materials to address ground water contamination impacts from wastewater disposal and oil spill sources.

Alaskan Native Villages (ANVs)

Tribal Program Need/Request for Funding

At a minimum, increase funding to \$50,000,000. Requested increase of \$25,000,000 over FY2009 allocation amount of \$24,610,000.

Justification for Request

The effects of climate change are being experienced by 239 Tribal Nations Villages on a daily basis. Therefore, it is imperative that funding be allocated to Tribal Nations and ANVs to conduct science/research activities critical to their unique locations with consideration to normal daily activities.

Expected Achievement(s) With Increased Funding

- Under the requested funding approximately 10% of ANVs will begin to address climate change impacts and provide safe drinking water and basic sanitation to at least 20% of ANVs homes by 2015.

NTC - Water Priorities

Targeted Funding

The NTC supports funding targets that assure tribes a level of program funding from year to year so that staff and program continuity could be maintained. In order to initiate this goal, the NTC recommends the following action:

- Revise CWA 106 and 319 allocation formula that provides targeted funding to support the mature tribal water protection programs.

Tribal Water Quality Standards

The NTC supports adequate funding for the development, adoption and approval of water quality standards or, where appropriate, promulgation of federal standards. In order to meet these goals, the NTC recommends the following action:

- Commit significant resources to the tribal CWA § 106 program to increase the number of Tribes with approved WQS by EPA. As result by 2011, a Tribal target is to have 45 Tribes with EPA certified WQS.

Improvement of the “Treatment in the Same Manner as a State” (TAS) process

In order to ensure environmental protection for tribal waters and improve the TAS process, the NTC recommends the following actions:

- Implement GAO recommendation to ensure the stipulated timeframes within the TAS review process is maintained.
- Promulgate federal water quality standards for tribes and ANVs which choose not to seek TAS program delegation.
- Make TAS meaningful by providing direct, targeted funding to Tribal Nations for program implementation, as is done for States under certain statutes.

Direct Implementation Tribal Cooperative Agreements (DITCAs)

Tribes rely heavily on the expertise and assistance from EPA's "Direct Implementation" responsibilities. This is particularly important tribes who either do not have existing water programs or are in the early stages of program development. In order to ensure water protection for these tribes, the NTC recommends the following actions:

- Commit significant resources for DITCA program to be enacted and expanded in each region.
- Support the permanent authority for Direct Implementation Tribal Cooperative Agreements (DITCAs) for tribal and ANVs environmental programs.

CONCLUSION

The NTC's FY2011 budget request for tribal water programs is a substantial increase over the budget requests of the last eight years. This includes \$164,746,200 to Tribal STAG and EMP accounts to ensure that Tribal and ANV water programs can operate to adequately protect their water resources. The increased funding will help bridge the gap between current Tribal/ANVs unmet resource needs and the EPA's actual appropriated and enacted funding levels.

Office of Prevention, Pesticides and Toxic Substances



Office of Prevention, Pesticides and Toxic Substances



FIFRA

\$3,210,000

Lead/Asbestos/PCB
(TSCA allocation)

*\$500,000 increase over
FY 2006 levels*

Subsistence Foods

\$5,350,000

U.S-Mexico and Canada
Borders

TSA water and
wastewater infrastructure
projects \$5,350,000

Homeland Security

\$10,700,000

Pollution Prevention (P2)

\$1,000,000

American Indians and Alaska Natives rely upon healthy and safe ecosystems sustain their human health, aboriginal and indigenous life ways, treaty rights and cultural practices. We face the impacts of exposure to toxic chemicals and degraded ecosystems, climate change impact planning for adaptation and mitigation, capacity to participate meaningfully in international and national transboundary ecosystem and enhanced support for homeland security programs. Native peoples continue to rely heavily on their surrounding ecosystems to support traditional food sources, medicines, treaty rights and natural resources that sustain tribal cultural practices. As a result, tribes are approaching environmental protection in a manner unique to their own respective cultures. This approach is supported by the EPA's own 1984 Indian Policy in which tribal governments are recognized as the appropriate primary authorities to manage and regulate reservation lands, habitats and ecosystems.

Tribal governments are addressing ecosystem and community safety and health protection in a number of ways. First, tribes are assessing tribal environments for toxins such as pesticides, polychlorinated biphenyls ("PCB's") and others that directly affect tribal food sources and cultural resources. Today's consumption rates do not reflect the actual consumption of indigenous life ways, thus impacting human health of native communities. Second, tribes are focusing their efforts on potential human health and ecosystems risks that may directly affect tribal communities such as lead, black mold and asbestos in homes and schools. Third, tribes are developing tribal pesticides, water and education programs to better address comprehensive ecosystem protection in Indian country. Fourth, international and national transboundary ecosystem management, science and policy

efforts are becoming increasingly vital to the sustainability of healthy and safe communities along ALL sides of the borders.

In order to be successful in these efforts, tribal governments rely on various EPA resources including FIFRA funding to support their pesticides programs; TSCA funding to address their lead paint, asbestos and PCB problems; border infrastructure funding to address drinking water and wastewater construction and rehabilitation needs, as well as participation in border-related environmental initiatives; and EPCRA funding for the development and maintenance of emergency response and reporting programs.

Furthermore, the tribal emergency response and reporting programs should appropriately be tied into the broader homeland security efforts by state, local and federal governments. Thus, it is essential that tribal governments have direct access to adequate funding under the various Homeland Security initiatives to protect and enhance the security of the nation from terrorism.

To be effective in protecting tribal communities and ecosystems and achieving the EPA's Objectives associated with the Goal of Healthy Communities and Ecosystems, each of the funding sources listed above must be adequately funded. Secondly, there is a need to enhance international and transboundary ecosystem programs and funding to address realistic approaches to provide healthy ecosystems. Thus providing adequate funding and program development for tribes allows us to collaborate effectively in ecosystem approaches.

Collaborative efforts are key to enhancing and sustaining environmental progress domestically and abroad. EPA works with other U.S. government agencies and cooperates with other nations and international organizations to identify, develop, and implement policies for addressing environmental problems. (EPA Strategic Plan, 2009-2011) Tribes are impacted by international and national transboundary issues, thus impacting vital environmental issues such as surface and ground water, quality and quantity of aquifers, habitat restoration and protection and forestry are often faced with multi jurisdictional issues, thus constraining science and policy opportunities. EPA may benefit by enhancing international and national transboundary opportunities to federally recognized tribes, thus enhancing its goals to provide healthy ecosystems and communities along ALL borders of the United States.

Tribes continue to focus their attention on the impact to their cultural life-ways and the contaminations arising from various pollution sources. In addition, toxics that affect human health are increasingly and issue as more and more tribes complete environmental assessments of their ecosystems and communities.

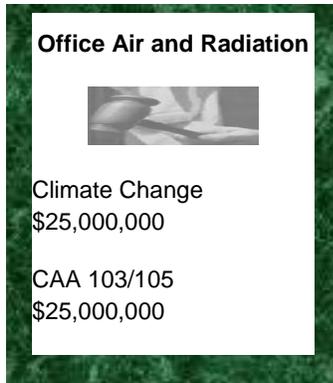
Tribes have identified the following Healthy Ecosystems and Communities goals for federally recognized tribes:

- Provide an increase in technical and science support for tribes to participate in the enhancement of seven sub objectives on human health, ecosystems, human health risk assessment, global climate change, endocrine disrupting chemicals, pesticides and products and homeland security.
- Protecting tribal subsistence, treaty and federal agreement rights, aboriginal and indigenous life ways and cultural practices.
- Implementing tribal pesticide regulatory programs that restore and protect human health of tribal communities, with respect to unique tribal governmental situations.
- Addressing lead, asbestos, PCBs – legacy chemicals in tribal homes, community building and schools systems
- Water Quality assessment and studies under the new strategic measure for improved water quality along ALL Borders.
- Addressing the insurgence of Methamphetamine Labs within federally recognized tribal communities.
- Federal recognized tribal communities suffer from many issues on Brownfield's projects and need to enhance present efforts and fulfill unfinished projects.
- Addressing human health in food consumption rates and relation to water quality and health standards
- Enhance tribal programs and funding for international and national transboundary approaches for sound science and policy for ecosystems on ALL Borders.

Pollution prevention grants generally are competitive, small in size, and often require large Tribal matches. To make these grants more available to Tribes the EPA should provide Tribal-specific funding and waive all matching fund requirements.

- Conduct monitoring and science/research activities critical to Tribes at their reservation locations and within ceded territories.
- Perform pollution prevention activities, including implementation of integrated solid waste management programs in Indian country.

Office of Air and Radiation



Tribal Governments continue to prioritize the need for air quality monitoring, baseline development, program delegation "TAS" and standards development under the Clean Air Act ("CAA"). In addition, it's time for USEPA to fund Tribes in the same manner as States. The clean air and climate change goals for Indian Country include:

- Meaningful involvement by Tribes in USEPA's Climate Program Activities. Provide \$25,000,000 for assessment, monitoring, adaptation and mitigation throughout Indian Country.
- Every tribe will know their air is safe to breathe.
- Assure that Tribes have adequate training and capacity to interact with all regulating jurisdictions.
- Provide for CAA Section 103 & Section 105 Tribal Programs \$25,000,000 and index for inflation from this point forward. Set reasonable targets for "TAS" Tribes.

Every Tribe needs to know whether their air is safe to breathe. It is the EPA's mission to protect human health and the environment, however nationally Tribes and Alaska Native Villages still experience a disproportionate share of adverse health and environmental impacts from air pollution and air toxics. These pollutants affect all aspects of Tribal Life ways, including their subsistence, culture, environment, and health. Tribes have a basic right to live free of these hazards. Tribal needs are critical within air quality programs; with more resources and funding necessary to address ever increasing air quality issues.

Climate Change Priorities:

- Provide Tribal Governments meaningful participation in Climate Change initiatives and funding to begin monitoring, adaptation, and mitigation of climate change impacts;
- Fund assessments, monitoring, adaptation, and mitigation throughout Indian Country.

Air Priorities:

- ✦ Increase funding for Air Programs to include 103 and 105 programs; mature funding levels for mature programs; fund Indoor Air, Air Toxic and Mercury Programs;
- ✦ Continue to work with Tribes to establish the Minor New Source Review Program.

Overarching Goals/Priorities

- ✦ Continue the use of Regional Planning Organizations (RPOs);
- ✦ Enhance science and research

Realities:

- ✦ Non-attainment is generally caused by off-reservation sources – Tribes need adequate training and capacity to interact with regulating jurisdictions;
- ✦ Tribes are disproportionately affected by impacts that are not generated in Indian Country; USEPA actions must ensure that this does not continue to happen;
- ✦ Indoor air quality issues, such as mold and radon, pose significant health issues in Indian Country, but remain largely unfunded and unaddressed;
- ✦ Air pollution impacts cause health issues such as asthma, visibility issues;
- ✦ Air toxics and Mercury are ever increasing problems that affect Tribal members;
- ✦ Tribes need technical capacity to understand and meaningfully comment on EPA rules affecting tribal air quality and activities;
- ✦ Clean Air Act funding is critical to support these Tribal needs and must be increased;
- ✦ The broad effects of global climate change directly affect Tribal life ways, particularly as they relate to subsistence resources;
- ✦ Climate change affects all environmental media's including water quality, water quantity, land, air quality, human health, aquatic life, wildlife, and natural resources;
- ✦ At this time there is no funding to address climate change. The majority of mandates are unfunded. Tribes have to use their limited resources to comply with these mandates;

- Tribes also have to use their limited resources to fill in the gaps that the lack of funding leaves them; purchasing their own air monitoring equipment and running their own air programs.
- For Tribes without TAS for 105 there is a 40% match which is a barrier to Tribes having these programs. This barrier needs to be removed or a request for a hardship waiver needs to be available.
- Tribes are at different levels of capacity which needs to be recognized within air programs.

Needs:

- Support Tribal sovereign authority to determine priorities for air quality program development.
- Increase funding to allow for Tribes to conduct baseline assessments, programs and monitoring as requested.
- Increase and continue funding for programs and monitoring already in place.
- Increase funding for Indoor Air, Air Toxics, Mercury, Radon, Lead, and Asbestos programs.
- Include Tribes in national climate change strategies.
- Fund Green House Gas Assessments for Tribes.
- Tribes who obtain Treatment as a State status should receive targeted funding comparable to states and territories.
- Continue and improve science and research
- Support for renewable/sustainable energy to reduce air pollution from mainstream energy sources.
- US/Border Tribes need additional funding for air monitoring
- Tribes in non-attainment areas (which are caused by off-reservation sources) need training and capacity to interact with regulating jurisdictions in an effort to comment on non-attainment issues and offer outreach and education to their members.

- Continue the use of Regional Planning Organizations (RPOs).
- Seek permanent authorization of Direct Implementation Tribal Cooperative Agreements (DITCAs) and establish a set-aside fund for DITCAs.
- Remove 40% match barrier to 105 programs.
- Allow for CAA 103 programs to be funded under Performance Partnership Grants.
- Mature funding levels are needed for mature programs.

National numbers:

- As of 2007 only 53 Tribes had completed Emission Inventories.
- As of 2008 only 75 Tribes have CAA 103 programs, 20 Tribes have 105 programs, and 4 Tribes have DITCAs (for direct implementation).
- 202 Tribes are located within nonattainment areas (including maintenance areas and Tribes in non-attainment for multiple pollutants).
- 30 Tribes have approved TAS with an additional 7 pending approval.
- The FY09 Federal allocation of STAG to Tribes is 10,940,000 million plus 2,360,000 million for addressing emissions related to energy development (new) for a total of 13,300,000 million. Of this total 1,198,000 million is used for ITEP's AIAQTP program. 1,600,000 million from OAR funding is used for programs like NTAA, and other contracts and support activities not funded by STAG.
- There are 91 Tribal Title V permits with Navajo having 14 permits under their part 71 authority. There are 143 Title V sources in Indian Country.

Office of Solid Waste and Emergency Response

Office of Solid Waste and Emergency Response



Solid Waste Management
(RCRA)

\$25,000,000.

Hazardous Waste
Management (RCRA)

\$15,000,000.

Tribal Open Dump Clean
up Fund

\$6,000,000.

Emergency Planning
(CEPPO)

\$4,000,000.

Underground Storage
Tanks (UST)

\$6,000,000.

Leaking UST (LUST)
Remediation Trust Fund

\$15,000,000.

Spill Prevention

\$5,000,000.

Superfund (CERCLA)

\$4,000,000.

Superfund Cooperative
Agreements \$5,000,000.

Superfund Core Program

\$10,000,000.

Superfund Clean-up and
Removal/Remediation

\$5,000,000.

Brownfields

\$7,000,000

Tribes' relationship with the land is grounded in long standing cultural ties that set the foundation for tribal religious and ceremonial practices. Moreover, the direct link between tribal subsistence foods and the land are inseparable. As a result, the preservation and restoration of tribal lands are of extreme importance to all tribes. Tribes are focusing their environmental efforts on protecting healthy environments and cleaning contaminated land. Tribes place a very high value on their land base. Our land base is an important tie to our identity and a geographical focal point. The increasing disputes being had over jurisdiction is not to establish jurisdiction but really a fight about boundaries, which is why preservation is so important.

The overarching land preservation and restoration goals for Indian Country include:

- Tribes have a serious request for increase adequate funding for solid waste programs
- Tribes shall develop national recycling and backhauling programs to address and remove solid waste and hazardous materials out of Indian Country and Alaska Native Villages.
- Tribes shall be prepared to address hazardous incidents on and near Indian Country and Native Villages
- Abandoned trailers and meth clean-ups, electronic waste, hazardous waste transport.
- Tribes shall clean up with the assistance of their

Brownfields and EPA's Superfund Programs sites on tribal lands and participate in cleanup of sites that affect tribal resources

- UST's/LUST and AST's Implementation programs
- Tribes shall close open dumps and successfully manage Integrated Solid Waste Management Plans programs within Indian Country
- Creation of National SWTC workgroup, Solid Waste Code Development, Baseline funding, funding for (struggling) existing solid waste programs
- Tribal Recycling, Electronic recycling, Fluorescent light bulb disposal,
- Tribes shall be full partners in addressing homeland security Solid Waste impacts from Border crossing.
- Tribes and Alaska Native Villages shall have full cooperation by the states to expedite all the above
- Tribes and Alaska Native Villages shall have full cooperation by the mining companies and have full access to any and all reports under the FOIA to ensure that EPA Standards are being met. This is to prevent irreparable damage to Native lands, life ways, water and air.

Tribal communities are subject to significant health and safety risks resulting from releases of harmful substances and other emergencies that exist on and around Indian Country. Examples of real and potential emergencies to Indian tribes and Alaska Native villages include oil spills, toxic industrial air releases, accidents involving railway and trucking transport of toxic and harmful substances, sea port cargo accidents, radio active releases from nuclear facilities and circumstances resulting from natural disasters such as hurricanes, earthquakes and forest fires. The Alaska Tribal communities have diverse solid waste issues such as class three open dumpsites, which are defined as open sewer dumpsites that include human waste, gray water waste and un-recycled household waste. This issue is a threat to the community's ground water, natural resources and human health. Some Alaska Tribal Communities have taken the initiative to implement recycling and best management practices, but are unable to remove the recycled materials from the community due to the high cost of transporting and the lack of funding to pay for the expense. Tribes play a critical role in preventing, preparing for and responding to these

emergencies. Moreover, tribes are often key partners with federal, state and local governments when responding to regional efforts to address emergency response situations. In addition to emergency response and preparedness, tribal governments are concerned about the significant issue of waste management and disposal in Indian Country. Indian tribes are the primary authorities to ensure appropriate waste disposal and that required and best management practices are being utilized. In order to be successful, tribes rely on various federal funding sources including GAP funding for emergency response planning and preparedness; and RCRA funding for waste disposal and management; RCRA UST funding for underground storage tank assessment and remediation; and the CERCLA Superfund (addressed below) and Brownfields Program funding for contaminated site remediation. Tribal governments must have access to adequate funding under each of these grant programs to be successful in addressing the current waste and emergency planning needs for Indian Country. Furthermore, adequate resources are necessary to assure success in accomplishing the EPA's own Strategic Plan Goal 3-Objectives and Sub-Objectives associated with the Goal to Preserve and Restore the Land in Indian Country.

Enforcement & Compliance in Indian Country



Office of Enforcement and Compliance Assurance



Compliance, Enforcement & Monitoring (including OECA's tribal priority, drinking water, and water quality)
\$8,000,000

DITCAs
\$6,000,000

Tribes and Alaskan Native Villages have identified continued environmental tribal program capacity building as their number one priority. As Tribes develop this capacity, the need for media specific environmental programs, community education and involvement, environmental compliance, and program implementation become high priorities. Tribes and Alaskan Native Villages strongly urge the EPA to improve compliance and enforcement of federal environmental statutes in Indian Country by considering the following:

- The Agency has acknowledged that there continues to be significant gaps in the implementation of its statutory responsibilities in Indian Country. Therefore, the Agency should devote the resources needed to fully meet its Direct Implementation responsibilities for regulatory programs.
- EPA should coordinate its compliance and enforcement activities in Indian Country with the appropriate Tribal Governments by developing environmental plans that define how compliance and enforcement activities will be conducted at each reservation.
- EPA should increase the use of direct implementation tribal cooperative agreements (DITCAs) by dedicating funds to implement the DITCA authority throughout Indian Country.
- EPA should increase the number of tribal staff with federal inspector credentials to help tribes assume greater leadership over compliance activities in Indian Country.

The EPA should continue to maintain OECA's National Indian Country Enforcement and Compliance Assurance Priority. The current priority areas – drinking water, schools and solid waste – continue to be priorities for most Tribal governments and Alaskan Native Villages. The Agency should ensure that all public water systems in Indian Country are provided compliance assistance, including those operated by non tribal members. Tribes and Alaskan Native Villages require

compliance and technical assistance to address solid and hazardous wastes. The appropriateness of enforcement actions to address specific incidents of illegal dumping should be determined.

Other national Tribal environmental priorities include: CWA enforcement, NPDES storm water enforcement, RCRA/UST enforcement, CERCLA Superfund sites, and natural resource damages.

Indian General Assistance Program



Tribes and Alaskan Native Villages have identified continued environmental tribal program capacity building as their number one priority. As Tribes develop this capacity, the need for media specific environmental programs, community education and involvement, environmental compliance, and program implementation become high priorities. Tribes and Alaskan Native Villages strongly urge the EPA to continue its investment in Tribal capacity building by considering the

following:

- Increase Indian General Assistance Program (IGAP or GAP) funds to account for inflation. The average cost for tribes to sustain a basic environmental program was set at \$110,000 in 1999 and has not been adjusted. With the comprehensive Tribal program development underway today, a \$175,000 average cost estimate is more reasonable.

IGAP is the one EPA program that provides resources to Tribes and Alaskan Native Villages for their core environmental programs. IGAP is particularly critical to Alaskan Native Villages, as it provides 99% of the overall funding to address their basic environmental needs. IGAP funding has not kept pace with the growth of Tribal environmental programs. As a result, a greater number of Tribes are forced to make due with fewer funds available to perform increased duties of maturing programs.

The need in Indian Country and Alaskan Native Villages to advance IGAP beyond the “planning and developing” stage is also a top priority. It is time to afford the same opportunities to Tribes that EPA has given to the states for many years by encouraging and funding Tribes to *establish*, i.e. implement their programs. This could include: conducting environmental education, and pollution prevention activities; implementing water quality standards and other permitting authorities; managing drinking water, waste water, and other systems; as well as conducting compliance and enforcement activities.

Environmental Education



Environmental education grants generally are small in size, extremely competitive, and often require substantial Tribal matches. To make these grants more available to Tribes the EPA should provide Tribal-specific funding and waive all matching fund requirements.

- Expand environmental education opportunities in Indian country.