

New Issues  
 REGIONAL TRIBAL OPERATIONS COMMITTEE  
 February 7, 2012  
 REGION 9 EPA  
 Gila River, Arizona

2/6/12

	REQUESTED BY	TASK	Follow up Action Assigned to	WHEN	STATUS
1	Mike DeSpain	The tribal gap online steering committee member will provide training to tribes in Nevada, Southern California, Arizona and Northern California.	Mike DeSpain, Mechoopda Tribe		Marie Barry has agreed to host a training for Nevada Tribes.  CA AZ
2	Kate Sloan	Update from EPA on the FY12 budget that Congress just passed and the reported cuts to EPA. We want to know how this will effect tribal programs and which ones and how much.	Willard Chin, EPA	ASAP	Enrique Manzanilla will provide an update on FY 2012 funding at the RTOC. TBD numbers still waiting will send out via email when numbers are obtained.
3	Kate Sloan	Fracking and US EPA's recent decision in Wyoming re: contamination of ground water as a result of fracking. Are there any proposals, plans or permits underway in Region 9 for this practice? Is there any potential for fracking in other areas to contaminate Region 9 ground water?	David Albright, EPA	By Feb. 3	First, it is important to understand that the kind of fracking (hydraulic fracturing) that has grabbed national attention - high-volume fracking of shale for natural gas extraction - is not occurring in Region 9, as far as we know. Moreover, such fracking is not likely to occur in Region 9, because we do not have the shale/gas resources that are present in NY/Pa. (Marcellus Shale), Texas (Barnett

Shale), and Wyoming (Wind River Basin). It is also worth noting that Congress, in the 2005 Energy Policy Act, excluded hydraulic fracturing for oil and gas production from permitting under EPA's UIC Program; the exclusion had an exception for fracking using diesel fuels, which remains under UIC authority. Thus, EPA does not have authority to regulate hydraulic fracturing injection activities, unless diesel fuel is used.

With that context, the Region is aware (mostly through media reports) of interest from the oil and gas industry in using fracking techniques in the Monterey Shale in CA, primarily for oil production. We are not aware of any specific permit applications being processed by the CA Division of Oil, Gas, and Geothermal Resources (DOGGR) for shale oil fracking, nor by the Bureau of Land Management (BLM) for such activity on federal lands, however, given the preliminary efforts underway (e.g., through CEQA), we anticipate that will occur. It is unclear what similarities/differences in technology and practices there would be for shale oil development compared to shale gas development as these are newer/developing technologies. Since the CA

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					<p>DOGGR has authority over oil and gas development in the state, we are working with them to understand what activities are being proposed and to provide assistance as they develop their oversight capacity. EPA at the national level is conducting a study of hydraulic fracturing and its potential for impacting drinking water resources. The Agency is also developing guidance for UIC permitting authorities regarding hydraulic fracturing using diesel fuels. We anticipate that information from the EPA study and the forthcoming permitting guidance will be useful to states, including California, which may be dealing with an increase in hydraulic fracturing activity.</p> <p>EPA has established a website (<a href="http://epa.gov/hydraulicfracturing/">http://epa.gov/hydraulicfracturing/</a>) with a considerable amount of information about hydraulic fracturing and the Agency's activities. In addition, if Ms. Sloan or any other tribal representatives have further questions or specific concerns, the Region 9 Ground Water Office would be happy to schedule a conference call to discuss these issues.</p>
4		Update on the indirect cost	Gwen Brown, EPA	11/7/11	This policy still remains in draft

		rate policy change as proposed. What is the status? I think we asked this last time, but still waiting on a response from EPA on it.			form. Office of Grants and Debarment (OGD) will be reviewing this Interim Policy sometime in FY-13, consulting with Tribes in accordance with the EPA Policy on Consultation and Coordination with Indian Tribes, dated May 4, 2011.
5		GAP Guidance. Once this is finalized, what is the plan for EPA to work with tribes to revise and update their previously approved environmental plans so they are consistent with this new Guidance?	Nate Lau, EPA		The draft guide book consultation period with tribes closed on January 30, 2012. We anticipate that there will be a section on tribal environmental plans in the revised draft guide book which will be made available for review.
6	Nevada	What is the EPA doing to assist Yerington PT with getting the Anaconda Mine listed on the NPL for Superfund?	Jere Johnson, EPA		<p>Yerington Paiute Tribe and Walker River Paiute Tribe strongly support NPL listing of the Anaconda Mine. The Nevada Inter-Tribal Council recently passed a resolution in support of listing. We are currently consulting with the tribes and state to evaluate options for cleanup of the site. EPA will be the meeting with the Yerington Tribal Chair, Linda Howard on February 2.</p> <p>EPA's goal is to ensure clean up of the Anaconda Mine site. We currently have enforcement actions compelling a Potentially Responsible Party (PRP) to work on large portions of the site. We will continue to hold the PRP responsible until cleanup is</p>

				<p>completed. Also, EPA has been using federal Superfund money to investigate the contamination and evaluate cleanup options at the other portion of the property for which there is no viable PRP. This property was recently sold and the new owner is conducting mining exploration activities to determine potential for re-mining on-site ore. EPA and the State have been coordinating our investigation and cleanup activities and schedules with mining exploration activities. As this work proceeds, we have been actively pursuing voluntary commitments to finance fluids management improvements which are critically needed at the property. We are managing the entire site in the same manner and on the same schedule as if it were on the NPL. If agreements to finance the cleanup are not forthcoming, we will pursue NPL listing to position the site for access to federal cleanup funds.</p>
7		<p>The Washoe Tribe would like EPA to evaluate Douglas County's Clear Creek Stormwater Plan that was submitted to NDEP – this county has continually failed to meet any kind of stormwater bmp standards which have NPDES permits</p>		<p>NDEP is in the process of reviewing the revised SWMP and intends to send a letter to Douglas County within the next few days detailing a number of deficiencies. Essentially, Douglas County has made no improvements to the SWMP since the last revision in 2006. NDEP will be requesting</p>

		which continue to cause degradation of Washoe natural resources including surface water quality.			the County provide a response within 30 days to adequately update their SWMP. EPA will keep appraised of the situation, and, if there are any specific comments of non-compliance by the County, the Tribe should forward these issues to NDEP as well as EPA.
8	Central California	When will the NTOC invite work groups to present? What will the protocol be for sending out invitations.	NTOC reps/Clay	Date after next week	Will send to Corn to send to tribes
9		Would it be possible to have the new mining rules as a presentation or session at the Annual EPA Conference?	John Hillenbrand, EPA	Nov 2012	
10	Central California	How do we get information on the process for tribal representation on District Air Board Committees to articulate tribal issues.	Colleen McKaughan, EPA	3/1/12	Possibly contact Cynthia Gomez
11	Tribal Science Workgroup - Tia	Request EPA to support current EPA lead and/or assign and support new workgroup EPA co-lead	Kristin Gullatt, EPA	3/1/12	
12	Nina for the Pesticide Workgroup	Does the state have to notify the tribes if they are testing experimental pesticides that would affect tribal lands or waters? If a tribe has approved WQS do they need to be notified?	Pam Cooper, EPA	3/1/12	
13.	Kate Sloan, Yurok	Concern that EPA considers the webinars consultation, so it limits tribal environmental staff to participate, ie, HQ	Gilbert Pasqua, EPA		Gilbert will follow-up with Kate

		pesticide consultation, issues is staff on webinars cannot be recorded as “consultation”.			
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