

Clean & Safe Water
in Indian Country
July 21 – 22, 2009

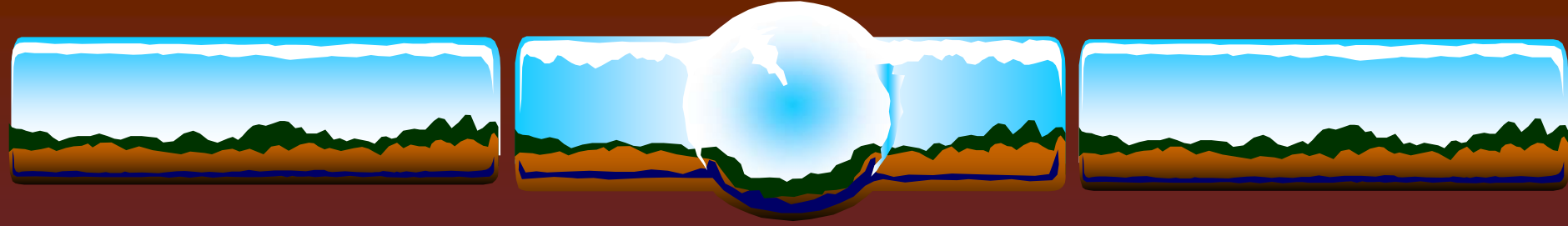
National Tribal Caucus Discussions with
Michael H. Shapiro, Acting Asst. Administrator
Nanci Gelb, Acting Deputy AA
USEPA Office of Water



Goal 2: Clean & Safe Water

Has two components:

- ❖ Access to safe drinking water and basic sanitation; and
- ❖ Water resources protection and pollution control.



Tribal Drinking Water/Wastewater Goals

- ❖ Provide safe drinking water and adequate sanitation to every tribal home as soon as possible (Congressional policy, per 25 U.S.C. § 1632(a)(5)).
- ❖ As an interim measure, reduce by half, by 2015, the number of tribal homes lacking access to safe drinking water and basic sanitation (per UN Millennium Development Goals to which the U.S. committed in Johannesburg, South Africa in 2000)
- ❖ Achievement of these goals requires that both physical infrastructure and operation & maintenance (O&M) needs be addressed.



Tribal Infrastructure Needs

- ❖ 10% of tribal homes continue to lack access to safe drinking water and basic sanitation, compared to less than 1% of the national non-Indian population
- ❖ I.H.S. Marginal Cost Study concluded an additional \$62.7 million per year beyond existing funding levels is needed just to achieve a 50% reduction in the number of homes lacking access by 2018.
- ❖ The funding need to achieve the goal of complete access is clearly much greater.
- ❖ For example, in Region 9 alone, in FY2009-10, \$1.7 billion was requested for 81 drinking water projects that would serve up to 72,747 homes; and \$86.7 million was requested for 84 wastewater projects that would serve up to 63,225 homes.



Primary Barriers to Access

- ❖ Inadequate funding to address all tribal infrastructure needs
- ❖ NO federal funding for ongoing operational and maintenance needs



Requested Solutions

- ❖ Remove, or at least raise to 3%, the cap on the SDWA SRF tribal set aside in EPA's annual budget request
- ❖ Remove, or at least raise to 3%, the cap on the CWA SRF tribal set aside in EPA's annual budget request
- ❖ Provide funding for tribal drinking water and wastewater infrastructure O&M, and support appropriations to I.H.S. for the same purpose
- ❖ Support the other recommendations made by the National Interagency Task Force's Access Subgroup to meet the Johannesburg Commitment of reducing by half, by 2015, the number of tribal homes lacking access to safe drinking water and basic sanitation



Tribal Water Resource Protection Goals

- ❖ Ensure tribal water programs can effectively contribute to comprehensive water resources protection across the nation
 - ❖ - a large part of the nation's watersheds are located in Indian Country
 - ❖ - most of the nation's remaining pristine waters and habitats are under tribal jurisdiction
- ❖ Ensure tribal programs are able to protect their waters to the degree necessary to support unique tribal cultural and subsistence needs and values
- ❖ To achieve these goals requires that tribes be treated in the same manner as states with respect to funding and jurisdictional authority.



Tribal Water Resource Protection Needs

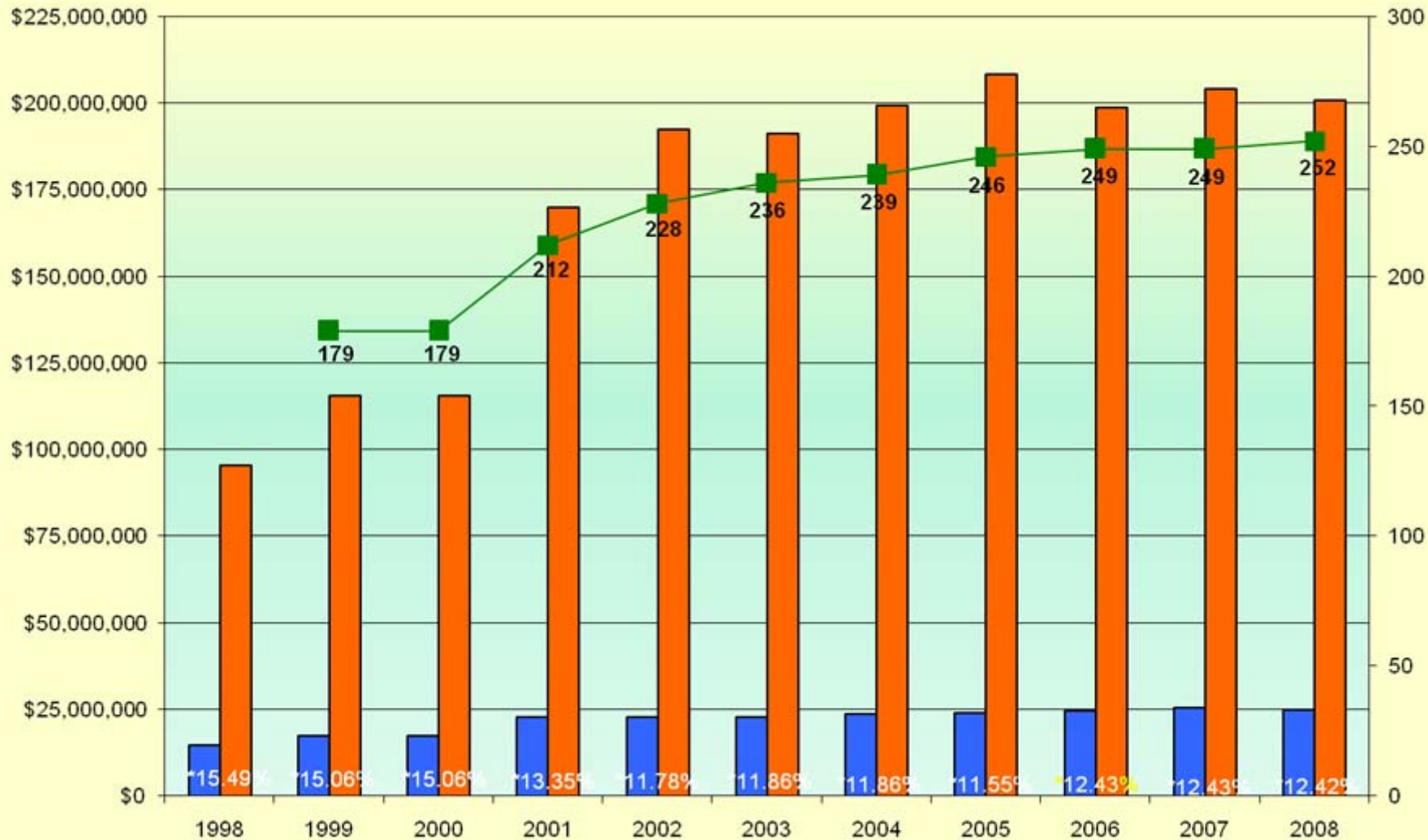
- ❖ Adequate funding to enable tribal programs to engage in all the activities state programs do, including funding for full staffing, and to conduct the data collection and ongoing monitoring needed to set baseline standards, ensure they are being met, and take appropriate action against violators when they are not.
- ❖ Continuity of funding to enable realistic planning for future program activities, and to maintain staff.



Barriers to Effective Tribal Water Programs

- ❖ Ongoing disparity between tribal and state programs:
 - ❖ - lack of adequate funding
 - ❖ - lack of continuity in program funding
- ❖ Lack of funding/support for tribal enforcement programs (implementation funding)
- ❖ Difficulties processing CWA § 303 TAS applications for water quality standards
 - ❖ - length of time
 - ❖ - burdensome submission requirements

Tribal Program Clean Water Act § 106 Total Allocation vs. Tribal Allocation





Suggested Remedies

- ❖ Increase tribal and ANV water program allocations in EPA's annual budget request process.
- ❖ Targeted, continuous funding to assure tribes a level of funding for meeting staff and program continuity needs.
- ❖ Permanently lift the CAP on CWA § 319 funding in EPA's annual budget request process and/or through legislative amendment.
- ❖ Tribal Water Quality Standards: develop guidance for tribally adopted standards in permitting actions under CWA.
- ❖ Improve Tribal WQS (TAS) process: implement GAO recommendation to establish time for the TAS review process.



Suggested Remedies (cont'd)

- ❖ Direct Implementation Tribal Cooperative Agreements (DITCAs): support permanent authority for DITCAs for tribal and Alaskan Native Villages (ANVs) environmental programs.
- ❖ Allocate funds directly to ANVs for environmental protection implementation purposes.
- ❖ Seek permanent authorization of Direct Implementation Tribal Cooperative Agreements (DITCAs) and establish a set-aside fund for DITCAs.



Budget Recommendations

- ❖ Tribal CWA § 106 program (50 million).
- ❖ Tribal CWA § 319 program (25 million).
- ❖ Tribal CWA § 104b Wetlands (10 million).
- ❖ SDWA SRF Tribal Set Aside (60 million).
- ❖ CWA SRF Tribal Set Aside (50 million).
- ❖ U.S. Mexico Border Infrastructure (13 million).
- ❖ Underground Injection Control (UIC) Set Aside (2 million).
- ❖ Alaskan Native Villages (ANVs) (50 million).



Cross Media Issues

- ❖ Climate Change
- ❖ Wetlands
- ❖ Enforcement/Compliance Assistance – NPDES permitting; tribal enforcement program support
- ❖ Information Sharing – OEI use of WQX
- ❖ Environmental Justice Issues – lack of tribal drinking water/wastewater access; disparity between tribal and state water program funding
- ❖ Enforcement/Compliance Assistance – Tribal Program development, DITCAs.



NTC Special Recognition

- ❖ Mr. Fred Leutner, Senior Advisor, National Water Quality Standards Branch - EPA Office of Science and Technology.
- ❖ Friend and Colleague to Indian Country.