

**RTOC Work Group Report  
October 19-20 Meeting, San Francisco**

**Clean Water Act Workgroup Report  
Region 9 Tribal Operations Committee  
October 18 – 20, 2010**

**Water Quality Standards Regulatory Changes**

EPA is developing proposed rulemaking that relates to water quality standards (WQS) for tribes and states. Under the proposed rulemaking EPA is considering changes to WQS regulations in order to: improve protection for high quality waters, ensure that WQS reflect CWA goals, improve transparency of standards actions to the public, and strengthen EPA oversight. Specific areas where EPA is seeking clarity are: 1) anti-degradation implementation methods, 2) Administrator determination, 3) designated uses, 4) variances to WQS, 5) triennial review scope and requirements, and 6) updating the regulation to reflect court decisions.

Since this rulemaking may affect the content of tribal WQS, EPA is making the effort to consult with tribes early on in the process. EPA has, and will continue to hold informal “listening sessions” for tribes to express their views on the changes that EPA is considering. On August 19, 2010, EPA held the first of several scheduled teleconference sessions in its effort to reach tribes. Several tribes from Region 9 actively participated on the teleconference. Many tribes raised concerns of strengthening anti-degradation policies for tribes and states and how a recent court decision impacting Indian Country (i.e. Oklahoma Rider) will play out in shaping these proposed regulatory changes. It is important to note that regulatory changes in the five areas are currently being developed by EPA and can be influenced by Tribal input.

**Water Quality Assessment Report (WQAR) Pilot**

With input from the CWA Workgroup and other tribes, EPA R9 released the Water Quality Assessment Report Template Version 2010 on September 13, 2010. The WQAR Template was originally developed and released last year by EPA Region 9 and the RTOC Clean Water Act Work group as a mechanism to describe water quality in R9 Indian Country. Version 2010 is expected to be more effective at describing water quality and tribal program needs on R9 tribal lands. Tribes participating in the CWA 106 program are asked to complete the template by February 2, 2011.

**CWA Workgroup Contacts:**

Ken Norton, Hoopa Valley Tribe  
Janis Gomes, EPA R9

\*\*\*\*\*

## **7/28/10 RTOC Drinking Water / Wastewater Workgroup Breakout Session**

Participants: see sign-in sheet

### **1. Regional Interagency Drinking Water / Wastewater Meeting**

Tribes want to have a regional interagency meeting at the Annual Conference.

Participants should include all the funding agencies and technical assistance providers, including: EPA, IHS, USDA Rural Development, USDA Rural Utility Service, HUD, DOE, State, RCAC, Rural Water Association

#### Potential Topics

- Progress report on interagency goal to reduce by 50% by 2015 the number of tribal homes lacking access to safe drinking water and basic sanitation
- Identify solutions to achieve goal in Region 9
- Identify available funds
- Harmonize different agencies' strategies, identify research to benefit other departments, look at commonalities, maximize efficiencies
- Learn from case scenarios globally. How was water managed in the past? How should it be managed in the future?
- Identify collaborative projects that can only be addressed with tribes, multiple agencies and technical assistance providers working together, such as:
  - Kashia high O&M costs, water operators costs, energy costs
  - Update and modernize matrix of federal funds
  - Create a tribal equipment clearing house
  - Others?

### **2. Drinking Water Tribal Set-Aside Ranking Criteria Changes**

EPA is proposing minor changes to the Drinking Water Tribal Set-Aside ranking criteria, which was developed by the RTOC Drinking Water Workgroup (see attached).

These changes are needed to allow higher ranking of projects with significant deficiencies. Currently these needs will receive a high ranking only if the deficiency results in a catastrophic failure; or, for groundwater systems, if the significant deficiency is identified in a sanitary survey which is conducted every 3 years, and the deficiency is not corrected within 6 months, and EPA issues a violation.

The projects with significant deficiencies will be added to Category E which was previously reserved for water outages. EPA should consider changing the proposed language "water supply

deficiency” to something like “a condition which presents an imminent threat...” or provide a definition of “water supply deficiency.”

EPA also proposes to create two subcategories in Category L, allowing a higher ranking of project which correct systems defects and a lower ranking of other suggested improvements.

Finally EPA proposes that water conservation efforts be made before funding water supply projects, if per capita consumption is excessive.

The next DWTSA solicitation will be issued at the end of August/early September, with proposals due at the beginning of November. In order to receive funding for construction, completed feasibility studies must be submitted with the proposal. IHS can help tribes create feasibility studies.

### 3. Transfers Between Tribal Set-Asides

EPA’s 2011 budget is expected to allow transfers between the Clean Water and Drinking Water Tribal Set-Asides programs, similar to authority that exists for States. This is very important because in Region 9, the Drinking Water Tribal Set-Aside program has traditionally received less funding than that Clean Water Tribal Set-Aside program, even though there are more drinking water needs than wastewater needs.

EPA HQ will be sending a letter to tribes to initiate consultation on the process for allowing transfers. Regions have advocated for regional control of the transfer process to ensure that it meets the needs of the tribes.

### 4. Drinking Water Needs Survey

The Safe Drinking Water Act requires that EPA conduct a drinking water needs survey every 4 years. EPA last conducted the tribal drinking water survey in 1999. Due to strong support from tribes and NTOC, EPA will conduct the survey in 2011.

The survey is important because it documents needs in Indian Country, and the percent of tribal and state needs will be compared with the percent of tribal set-aside funds. Also, the needs survey is a factor in the distribution of Drinking Water Tribal Set-Aside funds to the regions.

EPA HQ will initiate tribal consultation and conduct conference calls to explain the details of the survey design and statistical analysis. Not every tribal system will be surveyed. The systems surveyed will have either a site visit or a mailed questionnaire.

The Needs Survey will be conducted in parity with States, meaning that the same survey criteria will be used. (That doesn’t work in other programs.)

What about needs of homes not on public water systems which could become part of a public water systems if funds were available?

Should the same needs be included in the Indian country survey as are included in the non-Indian country survey? For example, should economic development needs be included in the tribal needs survey if these needs are included in the non-tribal survey?

During the annual conference, there will be a Needs Survey meeting for EPA, State and Navajo Nation staff conducting the surveys.

Tribes requested a presentation at the conference on the needs survey.

5. ARRA Update

13 drinking water projects: 3 complete/substantially complete, 2 under construction  
 47 wastewater projects: 3 complete, 16 under construction

6. Action Items

What	Who	When
Arrange Regional Interagency Drinking Water / Wastewater Meeting at the annual conference	Linda Reeves Tom Keegan	10/20-22
Have a session at the annual conference on the Drinking Water Needs Survey	Sara Ziff	10/20-21/10
Provide federal requirements for a tribe to bottle drinking water	Linda Reeves	8/31/10
Provide EPA contact person for federal requirements on rain catchment systems	Linda Reeves	8/31/10

\*\*\*\*\*

**RTOC Emergency Planning & Response Workgroup Report  
 Mooretown Rancheria, Oroville, CA  
 July 28, 2010**

Attendees:

- |  |                                      |
|--|--------------------------------------|
| Angie Proboszcz, EPA, co-lead              | Mel Joseph, Lone Pine                |
| Mike DeSpain, Mechoopda Tribe              | Janice Roberts, Lone Pine            |
| Robert Columbro, Shingle Springs Rancheria | Larmie Hill, Guidiville Rancheria    |
| Ron Johnny, Summit Lake Tribe              | Richard Campbell, Coyote Valley Band |
| Tim Fuhey, Santa Rosa Rancheria            | John Feliz, Coyote Valley Band       |
| Marlakay Henry, Tohono O’odham             | Ren Reynolds, Enterprise Rancheria   |

The meeting was held to discuss the emergency preparedness training track at the upcoming Tribal EPA Conference, October 20 – 22, 2010.

1. The following training sessions were requested by tribal representatives in attendance.

- IS-100a: Introduction to the Incident Command System (ICS)
- IS-200a.: Single Resources and Initial Action Incidents
- IS-700A.: National Incident Management System (NIMS) Introduction
- IS-800B: National Response Framework Introduction

Several tribal representatives requested that training certificates be issued for these sessions. Per Alfreida Jake, Tribal co-lead, this training was also requested by tribal representatives during the February and April 2010 work group meetings.

**ACTION:** Angie Proboszcz to coordinate the requested training with FEMA and submit Call for Topics forms for each session to the conference coordinator, Gwenda Rose.

**STATUS:** Closed. Angie Proboszcz initiated coordination with Tessa Badua-Larsen at FEMA and submitted the Call for Topics for each session on July 28, 2010.

2. The requested training was denied on August 4, 2010 during a conference planning meeting attended by EPA staff and members of the Soboba Tribe at EPA Region 9. Apparently, there has been a long standing *unwritten* policy that training sessions are not allowed at the Tribal EPA Conference. Unfortunately, the work group co-leads and members were not aware of this policy. The reason for this policy is because it is believed that training sessions would deter people from attending presentations and other sessions at the conference.

In the interest of avoiding such miscommunication in the future it has been suggested that a written policy or guidance be included with Call for Topics forms.

\*\*\*\*\*

### **CY 2010 and 2011 RTOC SOLID WASTE PRIORITY**

**Prepared by:** Nancy Sockabasin, US EPA Region 9  
John Mosley, Pyramid Lake Paiute Tribe

**Date Prepared:** March 2010 (original), **October 2010 (update)**

**EPA Division/ Office:** Waste Management Division

**Name of Priority:** Solid Waste

**Tribal Caucus Lead:** **John Mosley, Pyramid Lake Paiute Tribe**

**EPA Lead:** **Nancy Sockabasin, EPA Tribal Solid Waste Team**

**Goal:** Ensure the safe and effective management of solid waste and promote sustainable and culturally appropriate solutions to address solid waste challenges.

**Objective 1:** Increase the number of tribes covered by integrated waste management plans (IWMPs) through grants, EPA-sponsored training, and targeted technical assistance. Work with tribes to develop at least 4 new IWMPs – 2 in FY10 and 2 in FY11.

Status: As of end-of-year FY10, three plans were completed by tribes that met the 5 Critical Elements. EPA has determined that including these elements in an IWMP ensures the greatest opportunity for success. The Critical Elements include: 1) Description of the community service area, 2) Description of the Tribe's waste management program structure and administration, 3) Description of the Tribe's current and proposed waste management practices, 4) Description of the funding and sustainability and the long-term goals of the Tribe's waste management practices, and 5) Documentation of approval of the IWMP by appropriate governing body.

**Objective 2:** Increase the number of dumps that are closed or cleaned up on tribal lands. This work will be done through grants, increased partnerships with other federal agencies such as BIA and IHS, increased cooperation between the Region 9 Tribal Solid Waste Team and the Region 9 Tribal Program Office, and increased cooperation and funding opportunities with Region 9 states.

**Sub-objective A:** Close at least 55 illegal dumpsites – 20 in FY10 and 35 in FY11.

Status: As of end-of-year FY10, 56 dumps were closed or cleaned up.

**Sub-objective B:** Provide leadership on the national dump closure workgroup, which will address issues related to Part 258 regulations and soil sampling.

Status: A scope of work is being prepared for the possibility of having a landfill expert (contractor) assist in the development of this document. We expect to complete a draft of this document by the end of calendar year 2010. The document created will be a flow chart/decision tree to assist tribes and federal agencies determine the best approach to cleanup of managed open dumps.

**Objective 3:** Collaborating with the RTOC Sustainable Infrastructure workgroup, promote sustainable waste collection, recycling, and composting programs for tribes throughout Region 9.

**Sub-objective A:** Work with tribal and state contacts to increase recycling rates on tribal lands in Arizona and Nevada.

Status: On July 15, 2010 the US EPA Tribal Solid Waste Team (TSW Team) met with the Nevada Environmental Managers to discuss next steps in the process to increase recycling rates in Nevada. Options include working with the Environmental Finance Center Region 9 (EFC9), partnering with identified corporate entities, or using New Mexico as a model for rural recycling. EFC9 is partnering with at least one tribe in Nevada to develop a business plan for a potential recycling or green business and may be partnering with additional tribes as resources become available. The business plan will

assist the tribe in ensuring that their solid waste management program is sustainable for the long term.

**Sub-objective B:** Provide information and outreach to tribes on a variety of topics. This includes a „print and fill’ brochure on abandoned vehicle removal and recycling; additional web resources for green casinos and other topics; and at least 2 web success stories. Success story topics could include: tire removal, green casinos, greening your event, recycling programs, transfer site management, and managing a dumpsite after a cleanup.

Status: A “print and fill’ brochure on abandoned vehicle removal and recycling is now available on EPA’s website (<http://www.epa.gov/region9/waste/tribal/resources.html>). We have also made requests to tribes for topics for potential success stories to be featured on the EPA website. The TSW Team also completed updates for our [Funding Resources for Green Building](http://www.epa.gov/region9/greenbuilding/funding.html) webpage (<http://www.epa.gov/region9/greenbuilding/funding.html>) and it is now more comprehensive and inclusive of tribes. In addition, we created a new webpage (<http://www.epa.gov/region9/greenbuilding/building-codes.html>) that lists and describes greener building and energy codes. EPA Region 9 is working with EPA HQ to develop a comprehensive green web resource/tool for tribal casino managers and operators. The website should be available by December 2010.

**Sub-objective C:** Maintain communication between US EPA, tribes, federal and state agencies, and other interested organizations. This includes convening events such as the Interagency and RTOC solid waste workgroup meetings.

Status: An RTOC solid waste workgroup session was held at the April 2010 RTOC meeting to discuss improving communication between the TSW Team and tribes. The TSW Team gave a presentation on various waste management topics at the July 2010 meeting of the Nevada Environmental Managers.

**Sub-objective D:** Create and/or organize solid waste presentations for the Annual Tribal/EPA Conference and other events/meetings. Topics could include green building and composting.

Status: Various presentations were created for the February 2010 Green Casinos Workshop. US EPA Region 9 assisted in developing a Tribal and Rural Communities track for the 25<sup>th</sup> Annual BioCycle West Coast Conference held in April 2010. The track included seven tribal presentations, including a presentation by Brian Adkins of the Bishop Paiute Tribe on their innovative food waste composting project. The Tribal Solid Waste Team assisted in development of a Green Casino Webinar that was held in August, and also presented on the subject at the OSWER Tribal Lands Forum. The US EPA Waste Management Division is also organizing 6 sessions for the Annual Tribal/EPA Conference. Topics will include: waste characterization audits, sustainable healthcare, biofuels, underground storage tank management and cleanup, and composting and food waste management.

**Sub-objective E:** Conduct at least 2 Green Casino Workshops for tribes by the end of FY11.

Status: A Green Casino Workshop was hosted by the Gila River Indian Community on February 23, 2010. Topics included: food scrap diversion, pollution prevention, and air quality issues.

**Reporting Dates:** Quarterly at each RTOC

**Assistance Needed from EPA and Tribes:** Participation in workgroup activities, meetings, conference calls; contribution to written documents; collaboration with local, regional, and national partners.

**For Further Information, Please Contact:**

Nancy Sockabasin, EPA Tribal Solid Waste Team, (415) 972-3772

John Mosley, Pyramid Lake Paiute Tribe, (775) 574-0101 x13