

WATER DIVISION

ALEXIS STRAUSS, DIRECTOR



19th Annual US EPA, Region 9 Tribal Conference

Division Directors Panel

October 19, 2011

AGENDA

- **Introduction & Program Updates**

- Alexis Strauss, Director, US EPA Region 9, Water Division
 - Status of Tribal Water Programs
 - Drinking Water Enforcement
 - Tribal Consultation

- **Waters of the US Rulemaking**

- Damaris Christensen, Office of Water, US EPA Headquarters

- **Future Budget for Tribal Water Programs**

- Alexis Strauss, Director, US EPA Region 9, Water Division

- **Questions from the Audience**



REGION 9 TRIBAL WATER PROGRAMS



Nissah Kah Creek, Hopland Tribe



CWA 106: WATER POLLUTION CONTROL

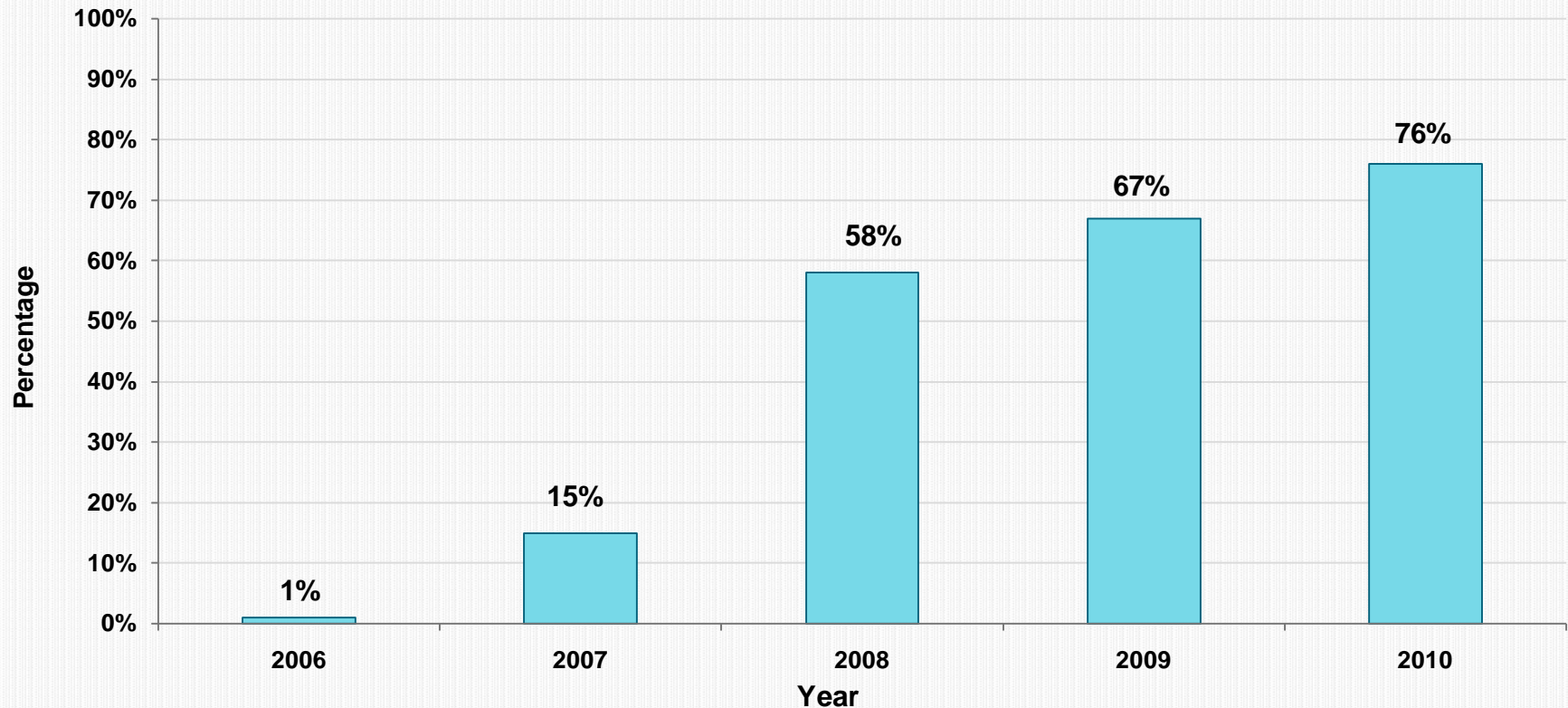
- 102 Tribes eligible to implement the CWA § 106 Program, 261 Tribes nationally
- 4 new Tribes are expected to become eligible for the next funding cycle
- **Water Quality Standards (WQS) Update:**
 - 11 Tribes have EPA authorization to administer the WQS Program, including:
 - **Havasupai Tribe, approved on April 26, 2011**
 - **Dry Creek Rancheria, approved October, 2011**
 - 10 Tribes have pending TAS applications
- Nationally, 47 Tribes have EPA authorization to administer the WQS Program



Outreach and Education

Fanny Ely, Water Quality Programs Manager for the Pyramid Lake Paiute Tribe conducting a macro-invertebrate sampling workshop

R9 Tribes Submitting Water Quality Assessment Report (WQAR) Templates



- The WQAR became a National Reporting Requirement in October 2006 with EPA's release of the CWA 106 Tribal Program Guidance.
- Region 9 & the Clean Water RTOC Workgroup developed the WQAR Template which has allowed Tribes to submit WQ assessment data in a standard, user friendly format.
- In 2010, **76% of the 102 Tribes eligible for receiving CWA 106 funding**, submitted a WQAR Template.

CWA 319: NONPOINT SOURCE POLLUTION

- In FY11, 88 Tribes Eligible to Implement the CWA § 319 Program, Compared to 168 Tribes Nationally
- 51 Tribes Applied Nationally for NPS Competitive Funds, 24 Proposals were Funded
- 13 Tribes Received Competitive NPS Funding this Year
- 4 New Tribes Expected to become Eligible in FY12
- We expect 1/3 of 1% Statutory Cap to be lifted in the FY13 Appropriation



La Jolla Band of Luiseno Indians

FY11 DRINKING WATER INFRASTRUCTURE

- 10 Tribes Received Drinking Water Funding
- 2305 Homes will be Served by Projects Selected in FY11
 - 47 in Navajo
 - 99 in California
 - 2091 in Phoenix
 - 68 in Tucson



Colorado River Indian Tribe

FY11 WASTEWATER INFRASTRUCTURE

- 18 Tribes Received Clean Water Indian Se-Aside (CWISA) Funding
- 3128 Homes will be Served by Projects Selected in FY11
 - 702 in Navajo
 - 704 in California
 - 1667 in Phoenix
 - 55 in Tucson

IMPROVING DRINKING WATER COMPLIANCE



IMPROVING DRINKING WATER COMPLIANCE

○ **2011 Enforcement Response Policy (ERP)**

- *Target:* Public water systems nationwide with health-based violations and those with a history of violations across multiple SDWA rules.
- EPA's enforcement response policies apply to facilities in Indian country.
- EPA should escalate to civil enforcement if a tribal facility cannot be returned to compliance within the time frames allowed for informal action in the applicable enforcement response policy.

IMPROVING DRINKING WATER COMPLIANCE

○ 1984 Indian Policy & Enforcement

- “EPA will work cooperatively with Tribal leadership to develop means to achieve compliance, providing technical support and consultation as necessary to enable tribal facilities to comply.”
- “. . . EPA’s consideration of enforcement against Tribal facilities . . . *should not, result in a lesser degree of human health and environmental protection in Indian country than elsewhere in the U.S*

CONTACT IN REGION 9:

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TRIBAL CONSULTATION



Verde River, Salt River Pima-Maricopa Indian Community



GOALS OF THE NATIONAL POLICY

Final Policy on Consultation & Coordination with Tribal Governments (May 2011)

- Implement E.O. 13175
- National Guidelines
- Strengthen Consultation & Coordination
- Meaningful & Timely Input on Actions that may Affect Tribal Interest



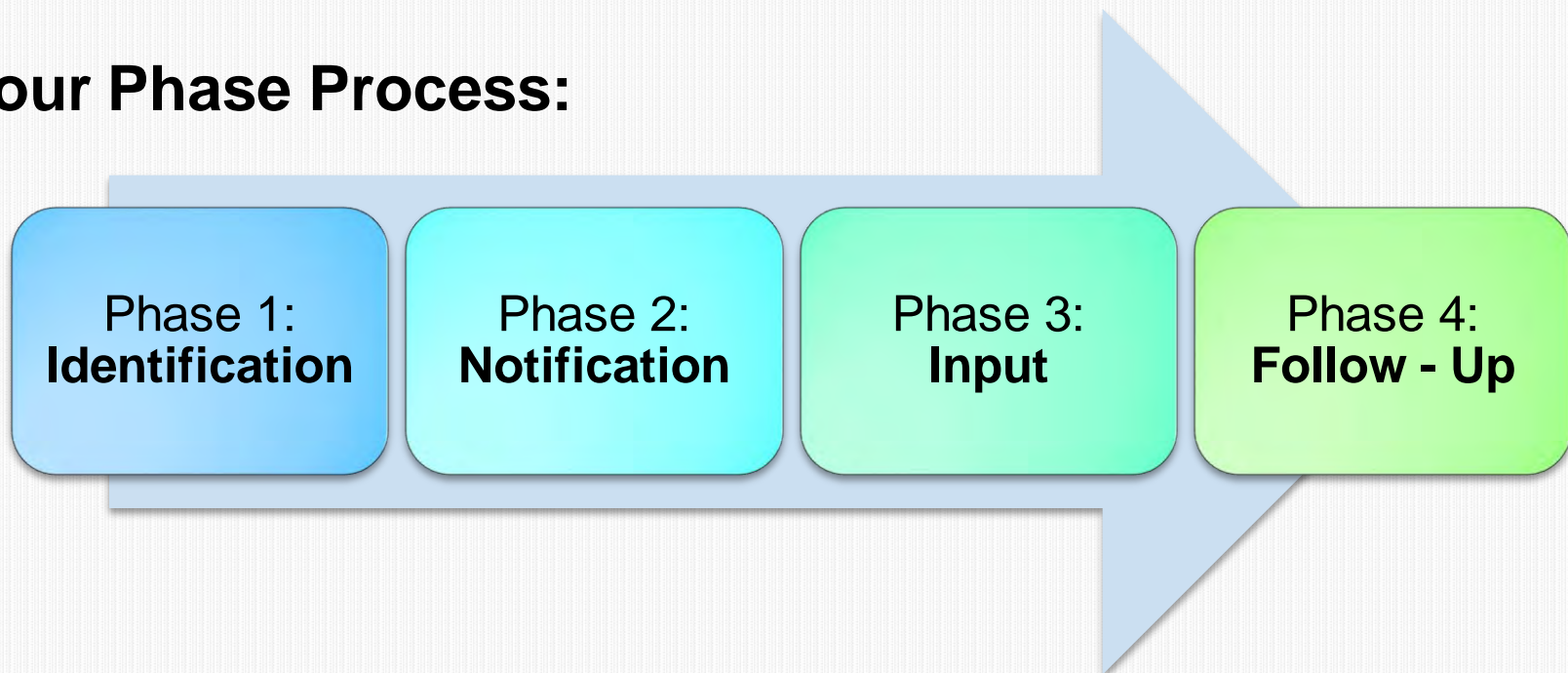
Yurok Tribe, Northern CA

US EPA FINAL POLICY ON CONSULTATION & COORDINATION WITH TRIBAL GOVERNMENTS

Consultation:

“A process of meaningful communication and coordination between EPA and tribal officials *prior* to EPA making decisions that affect tribes”

Four Phase Process:



UPCOMING TRIBAL CONSULTATION NOTIFICATIONS FROM OFFICE OF WATER

Consultation Processes Expected to Begin in October /November:

Action	US EPA Contact	Background Information
Definition of Waters of the US	Damaris Christensen (202) 566-0371	http://water.epa.gov/lawsregs/guidance/wetlands/CWAwaters.cfm
Proposed Perchlorate Rule	Daniel Olsen (202) 564-5239	http://water.epa.gov/drink/contaminants/unregulated/perchlorate.cfm
Finished Drinking Water Storage Facilities	Sean Conley (202) 564-1781	http://water.epa.gov/lawsregs/rulesregs/sdwa/tcr/regulation_revisions.cfm
Proposed Lead and Copper Rule	Rebecca Allen (202) 564-4689	http://water.epa.gov/lawsregs/rulesregs/sdwa/lcr/index.cfm#2006

US EPA, Office of Water, Tribal Consultation Contact: Felicia Wright (202) 566-1886

EPA CONSULTATION OPPORTUNITIES TRACKING SYSTEM:

For the Latest EPA-Tribal Consultation Information, Please Visit:

- www.epa.gov/tribal

Click to: EPA Tribal Portal >> Consultation >> Tribal Consultation Opportunities Tracking System

OR

- <http://yosemite.epa.gov/oita/TConsultation.nsf/TC?OpenView>

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WATERS OF THE US RULEMAKING



Little Colorado River, Hopi Tribe

Damaris Christensen
Office of Water, US EPA Headquarters



WATERS OF THE US RULEMAKING

- May, 2011: US EPA & US Army Corps of Engineers released draft guidance to clarify the extent of waters covered by the CWA. (Tribes were consulted on the guidance.)
- EPA & the Corps are pursuing options for Rulemaking which would require additional tribal consultation & public involvement opportunities.
- EPA is initiating dialogue and feedback with interested tribes and expects to begin consultation activities in October, 2011.

US EPA WATER BUDGET OVERVIEW



Pyramid Lake, Pyramid Lake Paiute Tribe



US EPA INFRASTRUCTURE BUDGET

Program	FY11	FY12*	Tribal Set Aside
Clean Water SRF	\$1,525 M	\$1,600 M*	Pre-FY10: 1.5% FY10: 2%
Tribal Set-Aside	\$ 30.4 M	\$ 31 M*	2%* (R9) \$ 9.5 M*
Drinking Water SRF	\$1,200 M	\$965 M*	Pre-FY10: 1.5% FY10: 2.0%
Tribal Set-Aside	\$18.9 M	\$19.8 M*	2%* (R9) \$ 5 M*

*Based on 2012 President's Proposed Budget

- We expect Tribal Set-Aside to be 2%
- EPA has requested authority to transfer DW & WW funds, similar to states



CLEAN WATER ACT: TRIBAL GRANT PROGRAMS

Program	FY11	FY12*	Tribal Share
Non Point Source (Section 319)	\$201 M	\$165 M*	4%
Tribal Set-Aside	\$8 M	\$8 M**	(R9) \$ 4 M*
Water Pollution Control (Section 106)	\$229 M	\$250 M*	12.2%
Tribal Set-Aside	\$ 27.4 M	\$ 28.3 M*	(R9) \$ 8.8 M*
Wetlands Development Grants	\$16.8 M	\$15.2 M*	(R9) Competitive RFP *

*Based on 2012 President's Proposed Budget

Assume Tribes will be held at \$ 8 M Nationally for NPS Program



QUESTIONS?

