Water Division

CWA REGULATIONS

WATERS OF THE UNITED STATES (UPDATED: OCTOBER 2022)

On June 9, 2021, EPA and the Department of the Army announced their intention to initiate a new rulemaking process to revise the definition of "waters of the United States" to better protect our nation's vital water resources that support public health, environmental protection, agricultural activity, and economic growth. In revising the definition of WOTUS, the agencies intend to undertake two rulemakings. First, the agencies intend to propose to restore the regulations defining WOTUS that were in place for decades until 2015, with updates to be consistent with relevant Supreme Court decisions. The agencies then intend to propose a second rule that builds upon that regulatory foundation with the benefit of additional stakeholder engagement.

Since then, on August 30th, 2021, the U.S. District Court for the District of Arizona issued an order vacating and remanding the Navigable Waters Protection Rule in the case of *Pascua Yaqui Tribe v. U.S. Environmental Protection Agency*.

In light of this court order, the EPA and the US Army Corps of Engineers have halted implementation of the NWPR and are interpreting "waters of the United States" consistent with the pre-2015 regulatory regime until further notice. The agencies remain committed to crafting a durable definition of "waters of the United States" that is informed by diverse perspectives and based on an inclusive foundation.

On December 7, 2021, the proposed rule was published in the *Federal Register*. The public comment period for this proposed rule closed on February 7, 2022.

Prior to publication of the proposed rule, the agencies committed to meaningful stakeholder engagement to ensure that a revised definition of WOTUS considers essential clean water protections, as well as how the use of water supports key economic sectors. The agencies held 6 public meetings and 2 Tribal consultation kick-off meetings from August through early September 2021; Tribal consultation was initiated on July 30 and closed October 4. In those public meetings, the agencies have heard from interested stakeholders on their perspectives on defining "waters of the United States" and how to implement that definition as the agencies pursue this new rulemaking process. Through October, EPA hosted listening sessions with state and tribal departments of environment. In addition, EPA and Army jointly hosted a roundtable with representatives from tribes and tribal organizations on the proposed rule on January 20, 2022 (Link for roundtable video recording below).Video Recording of Tuesday, January 20, 2022 Tribal Roundtable

Separate from the current rule making process, the agencies organized 10 roundtables to collect input to better inform a planned second rule. These roundtables highlighted geographic differences and a range of perspectives—including agriculture, conservation groups, developers, drinking water and wastewater managers, environmental organizations, communities with environmental justice concerns, industry, Tribal nations, and state and local governments. Again, the purpose of the roundtables was to collect input to better inform development of the planned second rule, not for the current proposed rule. For more information on those anticipated to

participate in the roundtables, see Waters of the United States Roundtables (pdf) . A recording of each roundtable can be found at https://www.epa.gov/wotus/public-outreach-and-stakeholder-engagement-activities.

Current Status on new Rule:

All responses to the ~114,000 comments have been completed for the proposed rule. The revised definition of WOTUS is now in the state of federal partner review. Pending the outcome of that review, the final rule is expected to be released this winter.

On October 3, 2022, the Supreme Court of the United States heard the case of Sackett v. EPA to dispute EPA's wetlands permitting power under the scope of the Clean Water Act. Federal courts have largely applied the more expansive "significant nexus" test expressed by former Justice Anthony Kennedy in his Rapanos concurrence. The Sacketts have favored Scalia's more restrictive "continuous surface connection" test articulated in his Rapanos plurality opinion. Based on the hearing, most justices seem to be supportive of EPA's position.

Rationale:
Executive Order 13990 on *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis* (Jan. 20, 2021) directed the EPA and Army "to immediately review and, as appropriate and consistent with applicable law, take action to address the promulgation of Federal regulations [including the Navigable Waters Protection Rule]. Upon review of the NWPR, the agencies have determined that the rule is significantly reducing clean water protections. The lack of protections is particularly significant in arid states, like New Mexico and Arizona, where nearly every one of over 1,500 streams assessed has been found to be non-jurisdictional. The agencies are also aware of 333 projects that would have required Section 404 permitting prior to the Navigable Waters Protection Rule, but no longer do.

The agencies' new regulatory effort will be guided by the following considerations:

- Protecting water resources and our communities consistent with the Clean Water Act
- The latest science and the effects of climate change on our waters.
- Emphasizing a rule with a practical implementation approach for state and Tribal partners.
- Reflecting the experience of and input received from landowners, the agricultural community that fuels and feeds the world, states, Tribes, local governments, community organizations, environmental groups, and disadvantaged communities with environmental justice concerns. To learn more about the definition of waters of the United States, visit: https://www.epa.gov/wotus. Link to specific / current definition Current Implementation of Waters of the United States | US EPA Proposed rule https://www.epa.gov/system/files/documents/2021-12/revised-definition-of-wotus_nprm_december2021.pdf

Brianna Wadley, 214-665-2723, wadley.brianna@epa.gov ; Randy Rush, 214-665-7107, rush.randall@epa.gov

PROPOSED CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION IMPROVEMENT RULE (UPDATED: OCTOBER 2022)

On June 1, 2022, the EPA Administrator signed a proposed rule to improve the CWA section 401 certification process. The proposed rule would replace and update the existing regulations at 40 CFR 121, to be more consistent with the statutory text of the 1972 CWA and clarify elements of section 401 certification practice that has evolved over the 50 years since the 1971 regulation was promulgated. On June 9, 2022, the proposed rule was published in the Federal Register. The public comment period ended on August 8, 2022. Comments are currently undergoing review. EPA provided several public outreach and engagement opportunities during the comment period. More information on the proposed rule is available at https://www.epa.gov/cwa-401/proposed-clean-water-act-section-401-water-quality-certification-improvement-rule. ***Daniel Landeros, 214-665-7523.***

BASELINE WATER QUALITY STANDARDS RULEMAKING (UPDATED: OCTOBER 2022)

This rule will establish federal "baseline" water quality standards (WQS) for Indian reservation waters that do not currently have WQS in effect under the Clean Water Act (CWA). This proposed rulemaking recognizes the importance of tribal waters and the need to better protect the water resources that tribes rely on. In June 2021, EPA sent letters to all federally recognized Indian tribes to initiate a 90-day consultation period for the baseline WQS rulemaking. During the consultation period, EPA hosted two tribal webinars to provide information to tribal leaders and staff on this rulemaking effort. Additional information and the presentations from the listening sessions are available at: https://www.epa.gov/wqs-tech/promulgation-tribal-baseline- water-quality-standards-under-clean-water-act.

Establishing federal baseline WQS and implementing them in consultation with tribal governments would ensure human health and environmental protection for these waters and would help support the tribes' own interests in protecting their water quality and use of reservation waters. EPA plans to build on elements of prior efforts for baseline WQS, in close coordination and consultation with tribes, to ensure protection exists for reservation waters. Consistent with EPA's long-standing approach, waters of Indian reservations would include waters located within the boundaries of Pueblos as well as lands held in trust by the United States for an Indian tribe even if the land has not been formally designated as a reservation. EPA does not intend to include off-reservation allotments in a baseline WQS promulgation.

EPA is considering for inclusion in the baseline WQS a combination of CWA section 101(a)(2) designated uses, including a cultural and traditional designated use, as well as water quality criteria to fully protect those uses, an antidegradation policy to ensure protection of high quality waters, and general WQS provisions. EPA is also considering an "opt-out" provision whereby a tribe could elect to "opt-out" of coverage by the baseline WQS promulgation at this time. EPA strongly supports and will continue to encourage eligible tribes to obtain TAS under the CWA in order for tribes to establish their own WQS for approval by EPA and to administer their own WQS program. EPA is currently developing the proposed regulation. EPA plans to provide additional opportunities to solicit comments from tribes and engage in government-to-government consultation once the rule is proposed. EPA's goal is to propose the baseline WQS regulation in March 2023 and finalize this rulemaking within two years.
Diane Evans, 214-665-6677; Jasmin Diaz-Lopez, 214-665-2733; and, Tina Alvarado, 214-665-2709.

TRIBAL RESERVED RIGHTS RULEMAKING (UPDATED: OCTOBER 2022)
Many tribes hold reserved rights through federal treaties, laws, executive orders, or other sources of law to resources in waters where states establish water quality standards (WQS). The EPA's Office of Water is pursuing an amendment to the federal WQS regulation at 40 CFR Part 131 to clarify and prescribe how WQS must protect tribal reserved rights in waters where those rights exist. EPA held a 90-day tribal consultation period from June 15-September 13, 2021. During the consultation period, EPA hosted two listening sessions on this potential regulatory revision. Additional information, including the presentations from the listening sessions and written comments EPA received from tribes and tribal organizations, are available at: https://www.epa.gov/wqs-tech/revising-federal-water-quality-standards-regulations-protect-tribal-reserved-rights.

The changes to the federal WQS regulation that EPA is considering are intended to help states and EPA protect aquatic and aquatic-dependent resources reserved to tribes under federal law when establishing, revising, and reviewing WQS. The rule would lay out how tribal reserved rights must be considered when states are establishing and revising WQS and when EPA is reviewing standards submittals for compliance with applicable laws. This rulemaking is complementary to but distinct from the tribal baseline WQS rulemaking that EPA is pursuing concurrently, which is described in the above entry. This tribal reserved rights rulemaking would protect tribal reserved rights in waters where states establish WQS, whereas the baseline effort would establish WQS for Indian reservation waters that do not currently have WQS in effect under the Clean Water Act (CWA). EPA has drafted a proposed rule, and the proposal is currently under review by the White House Office of Management and Budget. EPA plans to provide additional opportunities to solicit comments from tribes once the rule is proposed. EPA aims to propose and finalize this rule within two years. ***Tina Alvarado, 214-665-2709 and Diane Evans, 214-665-6677.***

NPDES

NPDES PERMITS EPA PLANS TO ISSUED BY 10/1/2022 (UPDATED: OCTOBER 2022)
During FY23, EPA Region 6 plans to reissue the following permits of potential interest to Tribes: NM0020672 City of Gallup, NM0022101 Village of Taos Ski Valley, NM002935 City of Espanola, TX0052809 Alabama Coushatta; OK0044733 Kickapoo WWTP, OK0044733 Kickapoo WWTP, and TX0127582 Alabama Coushatta Tribe of TX. Region 6 will also be working on several general permits: Municipal Separate Storm Sewer System (MS4) General Permit for NM and a new Hydrostatic Test Discharge General Permit proposed 4/28/22 (temporary -usually one time- discharges from hydrostatic pressure testing of pipelines and storage tanks before putting them into service) for Indian Country, Federal Jurisdiction in Oklahoma, and New Mexico.
Brent Larsen, 214-665-7523

TRIBAL GRANTS

TRIBAL CLEAN WATER ACT (CWA) 319 EQUITY CONSULTATIONS (NEW: OCTOBER 2022)
As part of the continued consultation and coordination process, EPA is now soliciting Tribal input on potential changes to the Tribal (CWA) 319 grant allocation formula. Specifically, EPA invites Tribal input on proposed alternative approaches on how the Nonpoint source program

awards Tribal CWA 319 base grants to eligible Tribes. This consultation period will close at the conclusion of the 60-day comment period on December 23, 2022.
Sam Reynolds 214-665-6682

WETLAND PROGRAM DEVELOPMENT GRANTS (UPDATED: OCTOBER 2022)
Wetland Program Development Grants (WPDG) are competitive grants that are part of the EPA Enhancing State and Tribal Programs (ESTP) effort. The ESTP and Core Elements Framework were designed for state and tribal wetland programs that are in the developing stages but can be useful to all states and tribes, including those that are refining more mature wetland programs. Funds from these grants can be used to develop and implement a Wetlands Program Plan (WPP). The Core Elements Framework (CEF) outlines the 4 core elements a WPP may include, which are: Monitoring and Assessment, Regulatory Activities including 401 Certification, Voluntary Restoration and Protection, and Water Quality Standards for Wetlands. The development of a WPP allows states and tribes to implement the CEF based on their individual program goals and available resources.

The WPDG program's Core Elements Framework and FY 2023/2024 Request for Applications are in the process of being updated to consider environmental justice and climate change. Both the CEF and RFA will now include actions and activities for environmental justice and climate resiliency.

Ten percent of the total national WPDG funds are set aside for a national tribal-only competition (about $1.3 million per year). Tribes may apply to both Requests for Applications (RFA) with the same or different proposals. The RFAs are very similar in requirements and selection criteria. Headquarters posted the FY2022 RFA on August 9, 2022. Applications were due October 7, 2022. For additional information on the solicitation please contact Myra Price at price.myra@epa.gov.

The Region 6 solicitation is on a two- year cycle. Region 6 plans to release the FY 2023/2024 solicitation in the second quarter of FY 2023. For more information, please see https://www.epa.gov/wetlands/wetland-program-development-grants and https://www.epa.gov/wetlands/what-enhancing-state-and-tribal-programs-effort

Brianna Wadley, 214-665-2723; Sondra McDonald, 214-665-7187

TREATMENT AS A STATE (TAS) FOR THE CLEAN WATER ACT (CWA)

PUEBLO OF SAN FELIPE - TAS APPLICATION FOR CWA SECTIONS 303(C) AND 401 (UPDATED: OCTOBER 2022) The Pueblo of San Felipe submitted its application for treatment in a similar manner as a state (TAS) for the water quality standards and water quality certification programs under Clean Water Act sections 303(c) and 401, respectively, in March 2022. The public comment process on the TAS application was initiated and completed in summer 2022. Region 6 is currently working on the decision document for approval of the TAS application. The Pueblo of San Felipe's TAS application and additional documents are posted on EPA's Tribal WQS website (https://www.epa.gov/wqs-tech/epa-actions-tribal-water-quality-standards-and-contacts). ***Diane Evans, 214-665-6677; Jonathan Jimenez, 214-665-2715; and Brianna Wadley, 214-665-2723.***

DRINKING WATER

LEAD AND COPPER RULE IMPROVEMENTS (UPDATED: OCTOBER 2022)

U.S. EPA's first major update to the Lead and Copper Rule was finalized on December 22, 2020. The revised Rule aims to strengthen the LCR through updates including a new lower trigger level of 10 ppb of lead for requiring corrosion control study, increased requirements to identify and replace lead service lines, new sampling protocols which include follow-up sampling and find-and-fix protocols for lead action level exceedances at individual home sites, and additional sampling for schools and child care facilities to better protect children in these facilities from lead exposure.

On December 16, 2021, EPA announced that the agency will begin developing a new regulation to better protect communities from exposure to lead in drinking water. Following the agency's review of the Lead and Copper Rule Revisions (LCRR) under Executive Order 13990, EPA has concluded that there are significant opportunities to improve the rule to support the overarching goal of proactively removing lead service lines and more equitably protecting public health. EPA is announcing a two-prong approach to strengthen this regulatory framework. Beginning December 16, 2021, the Lead and Copper Rule Revisions will go into effect to advance critical lead service line inventories that are necessary to achieve 100% removal of lead service lines. On August 4, 2022, EPA released Guidance for Developing and Maintaining a Service Line Inventory to support water systems with their efforts to develop inventories and to provide states and tribes with needed information for oversight and reporting to EPA. The guidance provides essential information to help water systems comply with the LCRR requirement to prepare and maintain an inventory of service line materials by October 16, 2024. Below is a link to the EPA Guidance for Developing and Maintaining a Service Line Inventory. https://www.epa.gov/system/files/documents/2022-08/Inventory%20Guidance_August%202022_508%20compliant.pdf.

EPA will also develop a new proposed rule, the Lead and Copper Rule Improvements (LCRI), that will strengthen the regulatory framework. EPA intends to propose requirements that, along with other actions, would result in the replacement of all lead service lines as quickly as is feasible. EPA also intends to consider opportunities to strengthen tap sampling requirements and explore options to reduce the complexity and confusion associated with the action level and trigger level, with a focus on reducing health risks in more communities. Additionally, EPA will allocate $2.9 billion in Bipartisan Infrastructure Law funding to states, Tribes, and territories to remove lead service lines. This 2022 allocation is the first of five allotments that will provide
$15 billion in dedicated funding for lead serve lines replacements.

For more information about the LCRR and LCRI, visit https://www.epa.gov/ground-water-and- drinking-water/revised-lead-and-copper-rule.
Andrea Abshire, 214-665-6706; ***José Rodriguez, 214-665-8087***

OTHER INFORMATION

WATER QUALITY CRITERIA SEARCH TOOL (NEW: OCTOBER 2022)

EPA recently completed development of a search feature on the website titled *State-Specific Water Quality Standards Effective under the Clean Water Act*. This website compiles state,

territorial, and authorized tribal water quality standards (WQS) that EPA has either approved or are otherwise in effect for Clean Water Act purposes. This criteria compilation is continuously updated as EPA approves new or revised state and tribal WQS. The criteria search tool provides an easier way to search numeric criteria for various parameters without having to manually search through thousands of pages of state and tribal WQS regulations. Users can search an individual state or tribe's WQS, or search for a specific parameter in all state and tribal WQS. Search results can be filtered by designated uses and sorted by columns in the tool. It's important to keep in mind that some criteria in any state or tribe's WQS, may have been adopted many years ago. Also, the smallest criterion value for a particular parameter, is not necessarily based on the newest science. Search results include a link to the source document to aid in further evaluation of specific criteria. The criteria search tool is available at https://www.epa.gov/wqs- tech/state-specific-water-quality-standards-effective-under-clean-water-act-cwa.

Diane Evans, 214-665-6677; Jasmin Diaz-Lopez, 214-665-9543; Andrew Pressly, 214-665-2758; and Jonathan Jimenez, 214-665-2715.

Air and Radiation Division

Treatment as a State (TAS) for the Clean Air Act (CAA)

Region 6 has no CAA TAS applications currently. Cherokee Nation, Kaw Nation, Peoria Tribe of Indians of Oklahoma, Pueblo of Laguna, Pueblo of Santa Ana, Pueblo of Zia, and Quapaw Nation have received approval for two or more of the following CAA authorities:

- **CAA §105** allows the Tribal applicant to apply for a reduced match of 5%, when managing a programmatic grant;
- **CAA §107(d)(3)** to receive notices from the EPA of the need for redesignation of an area or portion of an area within the Tribe's trust parcels for which it receives TAS authorization;
- **CAA §126** (a) and (b) to receive written notices of the construction of new or modified major stationary sources and of existing major stationary sources which may significantly contribute to levels of air pollution in excess of the national ambient air quality standards in any air quality control region outside the State in which such source intends to locate (or make such modification); and petition the EPA for a finding that any major source or group of stationary sources emits or would emit any air pollutant in violation of the applicable state implementation plan; and
- **CAA §505(a)(2)** for the purpose of giving the Tribe an opportunity to make comments and recommendations on operating permit applications for sources located within 50 miles of the Tribe's trust lands and parcels for which it receives TAS authorization. ***Aunjaneè Gautreaux, 214-665-7127.***

Funding and Grants

For FY2022, the EPA Region 6 received $1,242,000 in federal funding to support assistance agreements under statutory provisions of the CAA §103 and §105. The Region ultimately received thirteen applications from tribes and pueblos. Eight awards were funded under the CAA §103 (projects), two under CAA §105 (program grants), and three under Performance Partnership Grants (PPGs).

All awards were finalized by September 30, 2022.

The notification of funding for FY'23 Region 6 Tribal Air Grants is expected to be sent, via email, to all tribal entities by December 2022. ***Aunjaneè Gautreaux, 214-665-7127.***

Enhanced Air Quality Monitoring Funding under the ARP: On July 7, 2021, EPA announced that it will make $50 million in American Rescue Plan (ARP) funding available to improve ambient air quality monitoring for communities across the United States. This funding for enhanced air quality monitoring builds on the Agency's June 25, 2021, announcement of $50 million for environmental justice projects under the ARP, bringing the total to $100 million in EPA funding designated by Congress to address health outcome disparities from pollution and the COVID–19 pandemic. Additional information may be found at https://www.epa.gov/arp/enhanced-air-quality-monitoring-funding-under-arp.

- **Grant Competition for Community Monitoring**: EPA launched a $20 million grant competition that called for proposals from nonprofit community-based organizations, state, Tribal and local air agencies -- individually or in partnerships -- to conduct monitoring of pollutants of greatest concern in communities with health outcome disparities. EPA announced the grant award selections on November 3, 2022. Grant award selections can be found at: https://www.epa.gov/arp.

- **Direct Awards to Air Agencies for Continuous Monitoring of $PM_{2.5}$ and Other Common Air Pollutants**: EPA is awarding $22.5 million to state, Tribal or local air agencies for enhanced monitoring of $PM_{2.5}$ and five other air pollutants regulated by the National Ambient Air Quality Standards under the Clean Air Act during 2022. EPA R6 received proposals from 2 Tribes and is funding each of those tribes to purchase new equipment and supplies for their ambient air monitoring programs.

- **Enhanced Regional Capacity for Short-term Community Monitoring Needs**: Nationally, EPA will be investing $5 million in agency in a mobile monitoring labs and air sensor loan programs. EPA Region 6 Air & Radiation Division has started the procurement process to build a new monitoring platform and is currently in the process of starting an air sensor loan program. These investments will improve EPA's ability to support communities in need of short-term monitoring and air quality information. ***Jeffrey Robinson, 214-665-6435.***

Bipartisan Infrastructure Legislation: Clean School Bus Program: EPA will make significant investments in the health, equity, and resilience of American communities.

EPA's new Bipartisan Infrastructure Law Clean School Bus Program provides $5 billion over five years (FY 2022-2026) to replace existing school buses with clean and zero-emission models. Eligible recipients include state and local government entities, eligible contractors, non-profit school bus organizations, and tribes/tribal governments/tribal school agencies who provide school bus services to publicly-owned or Bureau of Indian Affairs–funded school systems. On May 20, 2022, EPA announced a Request for Application funding opportunity for $500 million for the Clean School Bus program; applications were due by August 19, 2022. EPA announced the school districts selected in the first round of rebate applications on October 26, 2022. EPA expects to announce another funding opportunity under this program in the Fall 2022 on the following website: https://www.epa.gov/cleanschoolbus. ***Nina Evans, 214-665-8586.***

Diesel Emission Reduction Act (DERA) Tribal and Insular Area Grants: The 2022 DERA Tribal and Insular Area Grants request for applications competition closed on October 26, 2022.

The total estimated funding for this competitive opportunity is approximately $8 million. Approximately $7 million will be made available to tribal governments (or intertribal consortia) and Alaska Native Villages, and approximately $1 million will be made available to insular area governments.

EPA anticipates awarding 10-15 cooperative agreements to tribal governments (or intertribal consortia) and Alaska Native Villages, and 2-4 cooperative agreements to insular area governments. Although funding for both tribes and insular areas is being announced under this single RFA, the applications will be reviewed separately. Additional information may be found at the following website: https://www.epa.gov/dera. ***Aunjaneè Gautreaux, 214-665-7127.***

Guidebook for Energy Efficiency (EE) Evaluation, Measurement, and Verification (EM&V): In June 2019, the EPA released the Guidebook for Energy Efficiency Evaluation, Measurement, and Verification that draws from and builds on decades of state, local, and private-sector experience quantifying and verifying savings from energy efficiency projects and measures. The EM&V Guidebook is designed to help state, local, and tribal air, and energy officials-as well as key stakeholders such as utility energy efficiency implementers-learn about, establish, or refine their EM&V approaches. The EM&V Guidebook can also help air officials understand the basics of EM&V and work with their energy counterparts to capture the air quality and public health benefits of these existing investments. The guidebook is also designed to:

- Describe key EM&V topics, methods, and approaches
- Ensure that customer-funded EE policies and programs are achieving intended results in a cost-effective manner
- Ensure that EM&V is carried out in a well-documented, rigorous, and consistent manner

The EM&V Guidebook may also help jurisdictions who want to collaborate on air and energy goals, evaluate the resulting air and energy impacts, and plan new policies and programs.

Amendment to the Oil and Gas Federal Implementation Plan (FIP) regulations in Indian Country: EPA issued the final rule titled "Amendments to Federal Implementation Plan for Managing Air Emissions From True Minor Sources in Indian Country in the Oil and Natural Gas Production and Natural Gas Processing Segments of the Oil and Natural Gas Sector," 85 **Federal Register** 15,729 on March 19, 2020, effective date was on May 18, 2020. Specifically, the rule allows for concurrent, rather than sequential, submission of two sets of documents:

(1) the Part 1 Form to register applicability under the FIP, and
(2) the screening procedures documentation for ESA and NHPA.

This final rule could reduce, by up to 30 days, the time between a source owner/operator's required submission of Endangered Species Act (ESA)/National Historic Preservation Act (NHPA) screening documents and beginning construction.

In addition, the final rule includes email as an optional form of written notification by the EPA Regional Office to the source owner/operator and corrects several incorrect citations and cross references. Please refer to https://www.epa.gov/tribal-air/final-amendments-federal-implementation-plan-managing-air-emissions-true-minor-sources for additional information.

Project Emissions Accounting Rule for NSR applicability: On August 9, 2019, the EPA proposed a revision to certain New Source Review (NSR) applicability regulations to clarify the requirements that apply to sources proposing to undertake a physical or operational change (i.e., a project) under the NSR preconstruction permitting program. EPA issued the final rule titled "Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR): Project Emissions Accounting," 85 Fed. Reg. 74890 on November 24, 2020. Specifically, this rule revises the NSR applicability regulations that apply to projects that include a combination of new and existing units clarifying that project emissions accounting is allowed as part of Step 1 of the two-step NSR major applicability test. On January 19, 2021, and January 21, 2021, States of New Jersey, Maryland, Minnesota, Oregon, Washington, Commonwealth of Massachusetts and Pennsylvania and District of Columbia, Sierra Club, Environmental Defense Fund, Natural Resources Defense Council, Adirondack Council and Environmental Integrity Project petitioned EPA for reconsideration of the rule. Petitioners requested a stay of the rule during the reconsideration for 90 days and a withdrawal within the 90 days stay period. Also, the petitioners requested that EPA immediately withdraw the memorandum issued by former Administrator Scott Pruitt on March 13, 2018, titled "Project Emissions Accounting Under the New Source Review Preconstruction Permitting Program" ("Pruitt Memo").

On October 12, 2021, Administrator Regan signed a notice and letters denying a petition for reconsideration and request for administrative stay of its November 24, 2020, Project Emissions Accounting final rule. Although EPA is taking no action at this time on the request to withdraw the March 2018 Project Emissions Accounting guidance memorandum, EPA will voluntarily convene a rulemaking process to review and potentially revise its NSR applicability provisions. It should be noted that there are no major NSR permitted sources operating on tribal lands in Region 6 at this time. For additional information please refer to: https://www.epa.gov/nsr/notice-action-denying-petition-reconsideration-and-administrative-stay-project-emissions.

Guidance Memorandum: Withdrawal of the October 9, 2020, Memorandum Addressing Startup, Shutdown, and Malfunctions in State Implementation Plans and Implementation of the Prior Policy: On September 30, 2021, Deputy Administrator McCabe signed the withdrawal of the October 9, 2020, guidance memorandum titled, "Inclusion of Provisions Governing Periods of Startup Shutdown, and Malfunctions in State Implementation Plans". EPA is returning to its 2015 policy explaining that State Implementation Plan provisions that provide exemptions from air emissions limits during periods of startup, shutdown, and malfunction (SSM) or that provide affirmative defense provisions are not consistent with the CAA and would not generally be approvable. The reinstated 2015 Policy will ensure that all modes of source operation, including periods of SSM, have emissions limitations in place that can be appropriately enforced in all communities and populations across the affected states, including minority, low-income and indigenous populations overburdened by pollution. EPA is in the process of developing a proposed action to address a SIP submittal from Oklahoma that was submitted in response to the 2015 SSM SIP call. We intend to offer consultation on this action. EPA has taken final action approving SIP submittals from Albuquerque-Bernalillo

County and Louisiana submitted in response to the 2015 SSM SIP call. We also proposed approval of a SIP submittal from New Mexico on September 30, 2022. EPA also proposed on April 1, 2022, to remove affirmative defense provisions from State operating permit programs and the Federal operating permit program regulations.

In addition, EPA plans to revisit the three related state-specific SIP actions that were finalized in 2020 that withdrew the SIP calls previously issued to Texas, North Carolina, and Iowa. Through notice-and-comment rulemaking actions EPA plans to reconsider whether any of the findings underlying those actions should be retained in light of the Agency's change in policy.

Mercury and Air Toxics Standards (MATs): MATs Appropriate and Necessary Finding Proposal: EPA is proposing to reaffirm the scientific, economic, and legal underpinnings of the 2012 Mercury and Air Toxics Standards (MATS) for power plants, which require significant reductions of mercury, acid gases, and other harmful pollutants. The proposal, which responds to President Biden's January 20, 2021, Executive Order 13990, "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," would reverse a rule issued in May 2020 that found it is not appropriate and necessary to regulate coal- and oil-fired power plants under Clean Air Act (CAA) section 112. This proposal would ensure that fossil-fuel fired power plants continue to control emissions of toxic air pollution, including mercury. EPA is accepting comments on or before April 11, 2022. The agency also held a virtual public hearing on February 24. For additional information on how to comment please refer to https://www.epa.gov/stationary-sources-air-pollution/proposed-revocation-2020-reconsideration-and-affirmation.

Formaldehydes Standards in Stationary Combustion Turbine NESHAP: On February 28, EPA removed a stay of formaldehyde standards in the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Stationary Combustion Turbines. This action was published in 87 FR 13183. This stay applied to certain subcategories of gas-fired turbines at major sources of HAP emissions and has been in place since 2004. For additional information please refer to https://www.epa.gov/stationary-sources-air-pollution/stationary-combustion-turbines-national-emission-standards.

Addition of 1-BP (nPB) to the Clean Air Act List of Hazardous Air Pollutants: On December 22, 2021, U.S. Environmental Protection Agency (EPA) Administrator Michael S. Regan signed the final rule to add 1-bromopropane (1-BP) to the Clean Air Act (CAA) list of hazardous air pollutants (HAP). This action was published in the Federal Register on January 5, 2022 [87 FR 393]. For additional information please refer to https://www.epa.gov/haps/addition-1-bp-npb-clean-air-act-list-hazardous-air-pollutants.

AirToxScreen Release: EPA released 2018 AirToxScreen, its new and improved air toxics risk screening tool. AirToxScreen is a screening assessment designed to provide broad estimates of cancer risk related to air toxics. It is part of the Agency's new approach to air toxics that provides updated data and risk analyses on an annual basis to help EPA more readily identify existing and emerging air toxics issues. This assessment, based on 2018 air toxics data, will help EPA, states, tribes, and local communities evaluate where more detailed analyses are needed to get a more focused idea of actual risks. It will also provide communities – especially those with

environmental justice considerations – with more current and complete information about the impacts of air toxics on their air quality. For additional information please refer to https://www.epa.gov/AirToxScreen.

2020 Toxics Release Inventory (TRI) National Analysis: EPA released its 2020 Toxics Release Inventory (TRI) National Analysis, which shows that environmental releases of TRI chemicals by facilities covered by the program declined by 10% between 2019 and 2020. The 2020 TRI National Analysis summarizes TRI chemical waste management activities, including releases, that occurred during calendar year 2020. More than 21,000 facilities report annually on over 800 chemicals they release into the environment or otherwise manage as waste. EPA, states, and tribes receive TRI data from facilities in industry sectors such as manufacturing, mining, electric utilities, and commercial hazardous waste management. This 2020 Analysis includes enhancements to make data more useful and accessible to communities, including communities with environmental justice concerns. EPA has added demographic information to the "Where You Live" mapping tool, making it easy to overlay maps of facility locations with maps of overburdened and vulnerable communities. Community groups, policymakers, and other stakeholders can use this information to identify potential exposures to air and water pollution, better understand which communities are experiencing a disproportionate pollution burden and take action at the local level. To view the 2020 TRI National Analysis, visit www.epa.gov/trinationalanalysis.

ECHO Notify: New EPA Tool Provides the Public with Customized Updates on Local Enforcement and Compliance Activities. ECHO Notify provides information on all EPA enforcement and compliance activities as well as activities of state and local governments under the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act, and the Safe Drinking Water Act. For additional information, please refer to https://echo.epa.gov/tools/echo-notify.

Revisions to the Once-In-Always-In Regulation for MACT sources: This rule was signed on October 1, 2020 and was effective 60 days after publication in the **Federal Register.** On June 25, 2019, the EPA proposed regulatory text stating that a major source of hazardous air pollutants (HAP) may reclassify as an area source at any time after taking steps to limit emissions. A major source of HAP emits 10 tons per year or more of a single HAP or 25 tons per year or more of a combination of HAPs. Sources that are above major source thresholds and reduce emissions or currently operate to levels below major source thresholds can put in place enforceable emissions limits in a permit and thereby become an area source. However, in accordance with Executive Order: "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis" issued on January 21, 2021, this rule is now under review. Under this review, EPA, as appropriate and consistent with CAA Section 112, will publish for comment a notice of proposed rulemaking either suspending, revising, or rescinding the MM2A final rule. For additional information please refer to https://www.epa.gov/stationary-sources-air-pollution/reclassification-major-sources-area-sources-under-section-112-clean. ***Erica LeDoux, 214-665-7265.***

March 11, 2020 – Final New Source Performance Standards (NSPS) for New Residential Wood Heaters and New Residential Hydronic Heaters and Forced-Air Furnaces. (Step 1): This rule amends the 2015 NSPS by removing certain minimum requirements for pellet fuels and clarifying a requirement regarding the use of unseasoned wood in pellet fuel production. However, on May 15, 2020, the EPA proposed amendments to the 2015 NSPS for *New Residential Wood Heaters and New Residential Hydronic Heaters and Forced-Air Furnaces* to allow more time for retailers to continue selling Step 1-certified residential wood heating devices, due to the nationwide spread of the COVID-19 virus.

The EPA accepted comments on the proposed amendments for 45 days after publication in the **Federal Register**. On June 8, 2020, the EPA held a virtual public hearing via teleconference on the proposed amendments to the 2015 New Source Performance Standards (NSPS) for New Residential Wood Heaters and New Residential Hydronic Heaters and Forced-Air Furnaces. Response to comments and the finalization of the amendments have not yet been published. Additional information on this NSPS can be found here: https://www.epa.gov/residential-wood-heaters. ***Randy Pitre, 214-665-7299.***

NSR Guidance/Interpretation Concerning "Begin Actual Construction"
EPA has dropped plans to finalize its draft guidance allowing new source review (NSR) air permit applicants to start construction on aspects of their projects before obtaining the permit. Prior to this decision, the draft version of the guidance memorandum addresses how the EPA interprets "begin actual construction" as that term is defined under the EPA regulations implementing the major New Source Review (NSR) permitting program and the tribal minor NSR program (40 CFR 49.152). The guidance would have limited EPA's interpretation of the term "begin actual construction" in NSR regulations to construction of an "emissions unit," meaning a piece of equipment that actually emits pollution or has the potential to do so. This narrow definition would allow permit applicants to begin work on activities such as the building of foundations or other ancillary structures, so long as construction of the actual "emissions unit" that will emit pollution is not started without the permit in hand. During a Dec. 8, 2020, virtual meeting of EPA's Clean Air Act Advisory Committee (CAAAC), former acting EPA air chief Anne Austin said the agency will not finalize the guidance and will instead explore "whether this issue is going to be better addressed during a future notice-and-comment rulemaking. Under EPA's current interpretation of this regulatory definition, the Agency, as a practical matter, considers almost every physical on-site construction activity that is of a permanent nature to constitute the beginning of 'actual construction, even where that activity does not involve construction on an emissions unit.

40 CFR 60 Subpart OOOOa: Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review: On November 1, 2021, Administrator Regan signed the proposed rule regarding the Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review. The proposal responds to the President's January 20, 2021, Executive Order (EO) 13990, "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," which directed EPA to consider taking the actions proposed here.

The EPA is proposing to revise the new source performance standards (NSPS) for GHGs and volatile organic compounds (VOCs) for the Crude Oil and Natural Gas source category under the CAA to reflect the Agency's most recent review of the feasibility and cost of reducing emissions from these sources. Second, the EPA proposes emissions guidelines (EG) under the CAA, for states to follow in developing, submitting, and implementing state plans to establish performance standards to limit GHGs from existing sources (designated facilities) in the Crude Oil and Natural Gas source category. Third, the EPA is taking several related actions stemming from the joint resolution of Congress, adopted on June 30, 2021, under the Congressional Review Act (CRA), disapproving EPA's final rule titled, "Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review," 85 FR 57018 (Sept. 14, 2020) ("2020 Policy Rule").

The proposed rule language can be found at: https://www.epa.gov/system/files/documents/2021-11/san-8510-ong-climate-review-proposal-frn-2021-11_1.pdf. ***Taimur Shaikh, 214-665-6541.***

Regional Haze SIPs for the Second Planning Period: States are required to submit periodic SIP revisions to address visibility impairment in certain national parks and wilderness areas (Class I areas) with the national visibility goal of restoring natural visibility conditions to these Class I areas by 2064. The SIP revisions for the second planning period, which establishes visibility goals for 2028 for Class I areas based on identification of reasonable controls through weighing of the four statutory factors, were due in July of 2021. The EPA Region 6 is working closely with the states as they develop these SIP submittals. Texas submitted their SIP to EPA on July 20, 2021. Arkansas and Oklahoma submitted their SIPs to EPA in August 2022. Remaining states in Region 6 (Louisiana and New Mexico) continue to work on their SIP submittals. On August 25, 2022, EPA made a finding that certain states, including Louisiana and New Mexico, have failed to submit regional haze implementation plans for the second planning period. ***Michael Feldman, 214-665-9793.***

Oklahoma Volatile Organic Compound Emission in Nonattainment and Former Nonattainment Areas: On July 29, 2022, the EPA published in the Federal Register a final action on the Oklahoma state implementation plan (SIP) submittal that addressed changes identified in Oklahoma's annual SIP review of Subchapter 39 of the Oklahoma Administrative Code Title 252 Chapter 100. This final action approved updating the ozone season for nonattainment and former nonattainment areas based on the 2015 Ozone National Ambient Air Quality Standard (NAAQS) under Clean Air Act (CAA), allowed for the use of alternative testing methods for leak inspections as outlined in the most recent EPA regulations and removed an incorrect citation to a revoked rule. On July 15, 2021, the EPA sent letters to tribal governments whose lands are located in Oklahoma County and Tulsa County offering consultation during the proposal stage of this rule. We did not receive comments or requests for consultation on the proposed rule from tribal governments. The 30-day public comment period on the proposed rule ended on August 23, 2021. We received one comment letter on the proposed rule. The final rule includes a response to the comment received. The comment and final rule are posted in the docket (link to docket). ***Sherry Fuerst, 214-665-6454.***

Review of the National Ambient Air Quality Standards (NAAQS): The Clean Air Act requires the EPA to periodically review the NAAQS to ensure that they provide adequate

health and environmental protection, and to update those standards as necessary. The EPA is currently reviewing several NAAQS. You can follow the EPA's review process for any or all of the NAAQS at https://www.epa.gov/naaqs. The following are recent updates:

Particulate Matter (PM): The EPA is reconsidering the previous administration's decision to retain the PM NAAQS, which were last strengthened in 2012. The Final Policy Assessment (PA) for the Reconsideration of the PM NAAQS was posted to the EPA's website on May 31, 2022. The PA presents a staff analysis of the scientific evidence and technical information, along with conclusions regarding the 24-hour and annual primary $PM_{2.5}$ standards, the primary 24-hour PM_{10} standard, and the secondary 24-hour and annual $PM_{2.5}$ and 24-hour PM_{10} standard for consideration by the Administrator prior to rulemaking. The final PA reflects consideration of the advice and comments from the chartered Clean Air Scientific Advisory Committee (CASAC), as well as public comments, on the draft PA released in October 2021. The final PA document is available at *https://www.epa.gov/naaqs/particulate-matter-pm-standards-policy-assessments-current-review-0*.

The final PA concluded that: the scientific evidence and information support revising the level of the annual standard for the $PM_{2.5}$ NAAQS to below the current level of 12 ug/m^3 (and down as low as 8 ug/m^3) while retaining the 24-hour standard; and the scientific evidence and information does not call into question the adequacy of the current Primary PM10 Standard or PM Secondary Standards. The EPA's proposed decision regarding review of the PM NAAQS is undergoing interagency review and is expected to be released to the public by the end of 2022. The proposed decision will provide an opportunity for public review and comment. Taking into account comments received on the proposed rule, the EPA will issue a final rule, probably by late summer, 2023.

Ozone: The EPA is also reconsidering the December 2020 decision to retain the Ozone NAAQS. The Draft Policy Assessment for the Reconsideration of the Ozone NAAQS was released in April 2022 and is posted at *https://www.epa.gov/naaqs/ozone-o3-standards-policy-assessments-current-review*. The preliminary conclusion for the reconsideration is to retain the current standard without revision. However, there will a virtual public meeting of the Chartered Clean Air Scientific Advisory Committee (CASAC) and CASAC Ozone Review Panel to discuss a draft CASAC report on EPA's 2020 Ozone Integrated Science Assessment (ISA). The meeting will be held on November 14 and 15, 2022, from 11:00 a.m. to 3:00 p.m. (eastern time). For details on how to access the meeting and to review the documents to be discussed, please visit https://casac.epa.gov.

Lead: The EPA anticipates release of the Draft Integrated Science Assessment (ISA) for Lead early in 2023. The draft ISA will provide a public comment period and provides the scientific basis for the EPA's decisions, in conjunction with additional technical and policy assessments. Documents for the current review of the Lead NAAQS are posted at *https://www.epa.gov/naaqs/lead-pb-air-quality-standards*.

The Secondary (welfare-based) NAAQS for oxides of nitrogen, oxides of sulfur, and PM: We expect to release the Draft Policy Assessment for Review of the Secondary NAAQS early in 2023. The review documents for these secondary NAAQS are posted here:

https://www.epa.gov/naaqs/nitrogen-dioxide-no2-and-sulfur-dioxide-so2-secondary-air-quality-standards. ***Carrie Paige, 214-665-6521.***

Interstate Transport for the 2015 Ozone National Ambient Air Quality Standard (NAAQS): Under the CAA, each state is required to submit a State Implementation Plan (SIP) that provides for the implementation, maintenance, and enforcement of each primary or secondary NAAQS. A key CAA requirement for these SIPs is that they assure that sources within the state do not contribute significantly to nonattainment or maintenance problems with of any NAAQS in other states (known as the "interstate transport" or "good neighbor" provision). On February 22, 2022, EPA proposed disapproval of 19 state SIP submittals (includes Arkansas, Louisiana, Oklahoma, and Texas) and on February 28, 2022, EPA proposed a Federal Implementation Plan (FIP) to help states fully resolve their CAA "good neighbor" obligations for the 2015 ozone NAAQS. A state with a disapproved SIP may choose to submit a revised plan at any time for EPA's review and approval, even after EPA has issued a FIP for that state. EPA held tribal consultation meeting with the Oklahoma tribes for the proposed disapproval of the 2015 ozone transport on March 3, 2022. EPA is under a court ordered deadline to issue a final decision by December 2022.

EPA's Advance Program: We invite the tribes to visit https://www.epa.gov/advance to view resources that promote local actions to reduce ozone and fine particulate matter. ***Randy Pitre, 214-665-7299.***

Permitting on Tribal Lands

In Region 6, facilities may still qualify to *register minor source facilities* using the **existing source registration program if the facility existed prior to 2013**. This eligibility is a case-by-case site-specific determination that permittee should contact EPA to discuss. Also, Region 6 continues to accept changes in operations or changes in ownership of facilities that registered with the EPA prior to September 2, 2014. However, if the changes exceed the minor source thresholds limits in **Table 1 of 40 CFR § 49.153**, the facility must apply for a minor New Source Review (NSR) permit.

Current Permitting Activities in Region 6 for the following NSR (Part 49) and federal Title V operating permits (Part 71) to facilities located on tribal lands. ***Erica LeDoux, 214-665-7265.***

The Pueblo of Sandia Resort and Casino – the application to modify the Federal Synthetic (syn) Minor New Source review (NSR) permit in Indian Country permit #R6NSR-NM-001 was received on 5/13/21 from the Pueblo of Sandia and deemed complete on June 25, 2021. The final permit modification will continue to have federally enforceable limits that allow the facility to operate and emit below the major NSR and TV threshold limit. The Tribal Consultation letters for the Tribal Nations within a 50-mile radius was sent April 4, 2022. Nine (9) letters were sent to the Tribal Nations. In addition to notifying the Tribal Nations of the proposed permit action, the letters included an invitation for government-to-government consultation on the proposed action. The consultations would have extended through the public comment period, but no requests for Tribal consultations were made. The public comment period for the draft permit began May 4, 2022, and concluded June 3, 2022. Also, during the public comment period. there

were no requests for a public hearing and no comments were received. The final permit was issued on June 10, 2022. All documents related to this permit action are available at www.regulations.gov, under docket #EPA-R06-OAR-2022-0316.

The Choctaw Nation of Oklahoma Pocola Casino and Resort, submitted an application to revise the existing Federal Minor NSR permit R6NSR-OK-003 on October 11, 2021, and the application was deemed completed on November 9, 2021. The permit administrative amendment for this facility was issued on June 7, 2022.

Harvest Four Corners, LLC – E&H Receiver, EPA received a permit application from Harvest Four Corners LLC for the renewal of its existing Title V permit of the E&H Receiver facility on Jicarilla Apache Tribal Lands, Rio Arriba County, New Mexico on December 13, 2021. This permit application was declared incomplete on February 15, 2022. EPA is working with facility to obtain the additional information needed to propose a draft permit for public comment.

Harvest Four Corners, LLC – Los Mestenios Compressor Station, The EPA received a permit application from Harvest Four Corners LLC for the renewal of its existing Title V permit of the Los Mestenios Compressor Station facility on Jicarilla Apache Tribal Lands, Rio Arriba County, New Mexico on February 4, 2022. This permit application was declared incomplete on April 5, 2022. EPA is working with facility to obtain the additional information to determine what type of permit this facility should have moving forward.

DJR Operating, LLC (DJR)– Largo Canyon West Pad #8 (LCW8), submitted the threatened and endangered species and historical properties screening documents and Part 1 Registration Form with general facility information on August 29, 2022. DJR is utilizing the Oil and Natural Gas Production and Natural Gas Processing Federal Implementation Plan (FIP) The FIP applies to new true minor sources and minor modifications at existing true minor sources in oil and gas production in Indian Country. EPA provided a notification letter on September 22, 2022, to DJR for satisfactorily completing the screening procedures and therefore, being able to begin construction of new equipment for natural gas compression at the station within 30 days of receipt of notification letter.

Activities with Federal Facilities

Flanged Tritium Waste Container (FTWC) Operations at Los Alamos National Lab - On October 18, 2021, A letter from the Acting Regional Administrator to DOE regarding Flanged Tritium Waste Container (FTWC) Operations was emailed to the manager of the National Nuclear Security Administration, Los Alamos Field Office, Department of Energy. In response, DOE submitted supplemental information regarding the Application for Remediation of the Flanged Tritium Waste Containers at Los Alamos National Laboratory on January 28, 2022. This supplemental information provided updates to information previously submitted in the May 2019 Application for Pre-Construction Approval and the Notification of Scope Change, submitted in March 2020. The preconstruction application was approved on May 22, 2019. EPA is reviewing the submitted supplemental information, in accordance with the National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, Subparts A and H, as it relates to the potential

emissions of radionuclides from the proposed project. On March 10, 2022, we sent a letter to all New Mexico Tribal Nations and Pueblos offering consultation regarding the updated application. We are continuing discussions with LANL and Tribal Nations and Pueblos requesting formal consultation. We will consider the additional information supplied by LANL as well as any concerns expressed by the tribal community before making our decision on the proposed venting process. ***George Brozowski, 214-665-8541.***

Pre-Construction Application for the Radiological Liquid Waste Treatment Facility (RLWTF) at LANL

On November 2, 2021, the U.S. Department of Energy (DOE) - National Nuclear Security Administration, Los Alamos Site Office submitted an application to construct a new Radioactive Liquid Waste Treatment Facility -Transuranic Liquid Waste (RLWTF-TLW) facility for transuranic waste streams, which will be located at the Los Alamos National Laboratory (LANL). The application states that the reason for a new construction is because the existing RLWTF-TLW is more than 50 years old and is nearing the end of its functional and operational life. A letter offering tribal consultation was sent on November 11, 2021, to all New Mexico Tribal Nations and Pueblos. The Pueblos of Santa Clara and Tesuque responded. Santa Clara's consultation was held on November 23, 2021, and Tesuque's consultation was held on December 14, 2021. The application was reviewed in accordance with the National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 61, Subparts A and H and approved on April 19, 2022. Closeout documents were sent to both pueblos when EPA made its final determination on the application. On April 28, 2022, LANL sent notification of construction stating that the RLWTF-TLW construction is planned to begin on or shortly after May 31, 2022. On August 10, 2022, ground was broken. Scheduled completion by August 2027. ***George Brozowski, 214-665-8541.***

Land, Chemical and Redevelopment Division

RCRA, BROWNFIELDS, AND SOLID WASTE BRANCH

BROWNFIELDS

FY 2022 BROWNFIELDS STATE AND TRIBAL RESPONSE PROGRAM GRANT AWARDS

For FY 2022, EPA Region 6 Tribes (Absentee Tribe of Oklahoma, Cherokee Nation for Inter-Tribal Environmental Council, Eight Northern Indian Pueblos Council, Choctaw Nation, Muscogee Creek Nation, Kickapoo Tribe of Oklahoma, and Pueblo of Santa Ana) were awarded a funding amount of $706,193 for their Brownfields 128(a) State and Tribal Response programs. The funding can be used for limited site assessments or small cleanups at brownfield sites; for other activities that increase the number of response actions conducted or overseen by a tribal response program; to purchase environmental insurance; or to develop other insurance mechanisms for brownfields cleanup activities. ***Elizabeth Reyes, 214-665-3163***

FY 2022 BROWNFIELDS STATE AND TRIBAL RESPONSE - INFRASTRUCTURE LAW FUNDING

Due to the passage of the Bipartisan Infrastructure Investment and Jobs Act ("Infrastructure Law"), the Region is in the process of preparing FY 2022 Section 128(a) - Infrastructure Law grant awards. During the annual Environmental Tribal Summit, Tribal partners were encouraged to take advantage of these supplemental funding opportunities to carry out additional assessment and cleanup activities. The Infrastructure Law funding requests were due to the Region by June 3, 2022. Region 6 received five funding requests from five Tribes. ***Elizabeth Reyes, 214-665-3163***

NATIONAL BROWNFIELDS CONFERENCE IN OKLAHOMA CITY, OKLAHOMA

The National Brownfields Conference took place in the new OMNI Hotel and Oklahoma City Convention Center on August 16-19, 2022. Thirty attendees from 10 different tribes registered for the conference. The National Brownfields Training Conference is the largest event in the nation focused on environmental revitalization and economic redevelopment. This is also an opportunity to share knowledge about sustainable reuse and celebrate the EPA brownfields program's success. ***Althea Foster, 214-665-2268***

FY 2023 BROWNFIELDS SECTION 128(a) STATE AND TRIBAL RESPONSE PROGRAM AND THE INFRASTRUCTURE LAW FUNDING GUIDANCE

EPA's Office of Brownfields and Land Revitalization issued the FY23 Section 128(a) Funding Guidance on October 6, 2022, for funding that would be provided by EPA's Annual Appropriation Act and the Infrastructure Law. The Infrastructure Law does not alter the underlying statutory authority for the CERCLA Section 128(a) Program, but simply provides additional funds to support it. EPA anticipates that it may allocate approximately $57.9 million in Section 128(a) Infrastructure Law funds under this FY23 Funding Guidance. In addition, the Brownfields program has authority to allocate up to $1.5 M of CERCLA 104(k) funding for

technical assistance grants ("Section 128(a) TAG") to assist small communities, Indian Tribes, rural areas, or disadvantaged areas in carrying out activities described in Section 9604(k)(7)(A), such as providing training, research, technical assistance to individuals and organizations and, as appropriate, to facilitate the inventory of brownfields sites, site assessments, remediation of brownfield sites, community involvement, or site preparation. By law, the maximum amount per Section 128(a) TAG is $20,000. FY 2023 funding requests are due to the Region on December 16, 2022. Here's the link for guidance announcement:
https://www.epa.gov/system/files/documents/2022-10/FINAL%20FY23%20Section%20128a%20Funding%20Guidance_10-6-22_0.pdf
Elizabeth Reyes, 214-665-3163.

TRIBAL SOLID WASTE

NEW TRIBAL SOLID WASTE GRANT COMPETITION

EPA recently announced a ***new*** Tribal Solid Waste Grant competition. A Notice of Intent was sent out on 6/9/22 with the official Request for Applications following and a due date of July 29th. This grant is not funded from the Bipartisan Infrastructure Law (BIL) but is a separate and smaller grant competition with $700,000 available for tribes only. Region 6 had five tribes apply for the grant and announcements should be coming from HQ by the end of October 2022. ***Roger Hancock, 214-665-6688***

TRIBAL LAND AND ENVIRONMENTAL FORUM HELD AUGUST 8-11, 2022

The Forum was held as a "hybrid" this year for the first time with both in-person and virtual sessions. It was held in Milwaukee, WI at the Hilton Milwaukee City Center, and the Wisconsin Center. For more information including presentations from this and past TLEFs, please go to: https://www7.nau.edu/itep/main/Conferences/confr_tlef The next TLEF is scheduled for August 14-17, 2023 in Syracuse, New York. ***Roger Hancock, 214-665-6688***

EPA AND ENIPC TRIBAL RECYCLING WORKSHOP: *PLEASE NOTE THAT THIS WORKSHOP WAS POSTPONED FROM MARCH 2020 TO MARCH 28-29, 2023 DUE TO COVID-19*

As part of EPA celebrating America Recycles Day, the Region has committed to hold a tribal recycling workshop in New Mexico. We will co-host the event with the Eight Northern Indian Pueblos Council (ENIPC) and hold it at the Santa Ana Pueblo Wellness Center. We are encouraging tribal solid waste staff, as well as Environmental Directors, to come as this will be a hands-on workshop with field training. The first day will feature several Pueblo speakers discussing their solid waste and recycling programs, as well as federal, state, and nonprofit officials discussing resources available to tribes. On the second day we will provide transportation to the attendees to visit three Pueblo transfer stations. Rooms are provided for all attendees. We will be sending out agendas and invitations with more specifics as soon as we have everything finalized. ***Roger Hancock, 214-665-6688***

EPA TRIBAL SOLID WASTE PEER MATCHING PROGRAM

This is a reminder that last year EPA relaunched the national Tribal Peer Matching Program with an offer for interested tribes to fill out an online form to be a mentor, mentee, or both. You can find the form here: https://www.epa.gov/tribal-lands/forms/request-participants-form-national-

tribal-waste-management-peer-matching-program.The program can help tribes assist one another in addressing waste management issues by providing direct technical assistance through a peer-to-peer mechanism. Travel expenses may also be provided for free for participants. ***Roger Hancock, 214-665-6688***

RCRA CORRECTIVE ACTION

FORT WINGATE DEPOT ACTIVITY (FWDA), NEW MEXICO

Remediation continues under NMED's RCRA closure/post-closure permit. Removal of explosives-contaminated soils (70,000 cu yd) at the TNT Leaching Beds was completed in 2021. Major remediation work at the former Open Detonation/Open Burn (OB/OD) Area continues, with over half of the soil excavated and sifted. However, the Army requested from NMED deliverables extensions of 3 – 5 years due to funding and contracting issues. NMED, after some discussions with Army, issued Notice of Violations (NOV) with stipulated penalties based upon Army's failure to meet Permit schedules; this issue is still in flux. Most of the facility is scheduled to be returned to the Navajo Nation and the Pueblo of Zuni. Twelve of the facility's 25 land parcels, totaling 8,350 acres, were transferred to those tribes last year. Tribal, BIA, NMED and EPA participation continues under the base closure process. Army announced the recent signatures by all parties including Pueblo of Zuni, Navajo Nation, NM, Army, and the Advisory Council on Historic Preservation on the FWDA Programmatic Agreement regarding BRAC Closure and Disposal/Corrective Action Activities. The normal semi-annual Base Closure Team meetings in Gallup were cancelled in 2020 due to the pandemic. However, fieldwork has been ongoing at Parcel 3, as well as Interim Groundwater Monitoring with appropriate health protections in place. The Army has been conducting excavation and processing operations associated with the HWMU, Parcel 3, since August 2017. The USACE and the US Army BRAC Office are initiating PFAs investigations at FWDA. A Fort Wingate Depot Activity Base Closure Team Virtual meeting took place May 10, 2022. Fort Wingate is hoping to work with the Tribes on new Land Use Plans this year. ***Laurie King, 214-665-6771***

RCRA FACILITY UPDATES

LOS ALAMOS NATIONAL LABORATORY HEXAVALENT CHROMIUM GROUNDWATER PLUME, NEW MEXICO

Potassium dichromate was used in the cooling tower at the Los Alamos National Laboratory (LANL) Technical Area 3 backup power plant from 1956 to 1972. It is estimated that up to 72,500 kg of hexavalent chromium cooling water from the power-plant was discharged into Sandia Canyon. The discharged water traveled perennially downstream approximately two miles to an infiltration point in Sandia Canyon. The chromium-tainted water migrated downward and contaminated the regional aquifer at a depth of approximately 1,000 feet below ground surface. The plume size is approximately 1.2 miles long and 0.5 miles wide with a maximum concentration of about 1,200 ppb. One Los Alamos County drinking-water production well PM-3 is located just outside the eastern plume boundary and is closely monitored by the New Mexico Environment Department and LANL. Three other production wells are located southwest of the chromium plume and are also closely monitored. Chromium has been detected in a nearby monitoring well on Pueblo de San Ildefonso (4.30 ppb) at concentrations near the regional Cr background concentration (4.60 to 7.48 ppb). The New Mexico Water Quality Control

Commission standard for chromium is 50 ppb. An Interim Measures (IM) plume control project was implemented by LANL in 2018 consisting of five extraction wells and five injection wells.

Annual status reports are submitted to NMED for the IM. NMED's review of the past three IM status reports resulted in technical comments that had concerns regarding the efficacy of the IM. LANL submitted a new IM work plan and characterization plan to NMED on September 29th that is currently under NMED review. The preliminary results of the pilot-scale chemical amendment indicated that this approach may not be an effective alternative for remediation. Both NMED and LANL recognize that LANL must replace at least one of the test wells damaged from the pilot study. Two additional chromium monitoring wells were completed late 2021 at the southwest and northwest corners of the plume, respectively. Both wells will be integrated into the facility-wide groundwater monitoring plan to further characterize the extent of chromium plume, perchlorate, and other contaminants in the regional aquifer. LANL completed an aquifer assessment at the northeast corner of the chromium plume mid-2021 to further characterize the northeast portion of the chromium plume in the vicinity of the nearby County production well. While LANL concluded that there is no risk to the production well from this contamination source, NMED does not concur with this conclusion based on its own assessment. NMED and LANL agreed that another regional aquifer monitoring well is required in this area to further investigate the vertical and lateral extent of chromium toward the County production well.

A new monitoring well R-73 was drilled in the northeastern portion of the plume beginning in April 2022. The well was drilled into a deeper hydrogeologic formation where the majority of water is produced for the county production well. Due to issues that occurred during drilling and well construction operations, the well seals are compromised and LANL is proceeding to plug & abandon R-73. The monitoring well will be re-drilled after the current well is plugged and investigations into the well construction failure are completed. In addition, NMED is requiring two more regional aquifer monitoring wells to delineate the vertical extent of the center of the chromium plume and to replace the one well permanently altered by the 2017 chemical amendment injection pilot study. The replacement well and one vertical delineation monitoring well are scheduled for completion by mid-2023. A Corrective Measures Evaluation for the chromium plume that was due in September 2021 has been postponed until characterization of the chromium plume is complete. ***Laurie King, 214-665-6771***

UST, POLLUTION PREVENTION, AND LEAD BRANCH

GRANTS

LEAD PAINT PROGRAM GRANTS

The Cherokee Nation and Choctaw Nation of Oklahoma were awarded grants in September 2022 to conduct Lead Based Paint Programs. The focus of the programs is maintaining the appropriate infrastructure to successfully administer and enforce the lead-based paint program, providing training for lead inspectors, and conducting inspections of licensed contractors engaged in lead-based activities, taking appropriate enforcement when needed. ***Mike Adams, 214-665-6711***

INTER-TRIBAL ENVIRNOMENTAL COUNCIL AND EIGTH NORTHERN INDIAN PUEBLOS COUNICL PESTICIDE PROGRAM GRANTS

Fiscal Year 2023 Cooperative agreements were awarded to two tribal consortia, the Inter-Tribal Environmental Council (ITEC) and the Eight Northern Indian Pueblos Council (ENIPC) on September 20, 2022, and September 27, 2022, respectively, to assist member tribes in building capacity to establish and maintain pesticides programs. The goal of the tribal pesticides program is to make tribes aware of the benefits and risks of pesticides and the requirements for their safe use, thereby safeguarding human health and the environment. ***Bryan Irwin, 214-665-6408***

CHOCTAW NATION PESTICIDE PROGRAM GRANT

On September 29, 2022, the FY23 FIFRA Cooperative Agreement Award was issued to the Choctaw Nation of Oklahoma. In early 2021, Choctaw Nation approached the R6 LCRD Pesticides Program about the possibility to begin a Tribal Pesticide Program. Over the past year the Pesticides Program has worked with the tribe and EPA HQs on the process for developing a new tribal pesticide program as funding became available. This is the first year Choctaw Nation has received a cooperative agreement from the R6 Pesticide Program to start, develop, and expand their program. The tribe will begin to implement the program this quarter to include training and building staff capacity, tracking applications and products being used, providing education and outreach to tribal members, and coordinating with other tribes on pollinator protection activities. ***Sierra Moline, 214-665-2177***

UNDERGROUND STORAGE TANKS (UST)

Cooperative agreements were awarded to two tribal consortia, the Inter-Tribal Environmental Council (ITEC) and the Eight Northern Indian Pueblos Council (ENIPC) for FY23. The ITEC and ENIPC on-going grants provide compliance assistance to tribal UST owners and operators. ***Tameka McCaskill, 214-665-8578***

TRIBAL SUMMIT

The Sustainable Materials Management (SMM) and Tribal Solid Waste Programs presented an educational outreach webinar at this year's Tribal Summit on May 10, 2022. EPA presented a 1.5-hour webinar on the new SMM Infrastructure funding. During the session we provided a brief overview of EPA's new National Recycling Strategy and movement toward a circular economy. We also shared information on new grant programs to improve recycling infrastructure, recycling education and outreach. Under the Bipartisan Infrastructure Law, EPA is developing three new waste prevention, reuse, and recycling programs. The Solid Waste Infrastructure for Recycling Grant Program; the Recycling Education and Outreach Grant Program, Model Recycling Program Toolkit & School Curriculum: and the Battery Collection Best Practices and Voluntary Battery Labeling Guidelines. ***Deanna DeBose, 214-665-6461***

P2 GRANTS

EPA announced New Environmental Justice-Focused Pollution Prevention Grant Opportunity Funded by a $100 Million Investment from President Biden's Bipartisan Infrastructure Law. The new grant opportunity will encourage businesses that are working in, or working with, underserved or overburdened communities to adopt P2 practices in a way that advances the Biden-Harris Administration's bold environmental agenda.

Eligible applicants for P2 grant programs include states, state entities such as universities, U.S. territories and possessions, and federally recognized tribes and intertribal consortia. For grant

funding opportunities, EPA is strongly encouraging applicants to address environmental justice and/or climate pollution in their project(s). EPA launched a new P2-EJ Facility Mapping Tool which allows users to identify industrial facilities located in or adjacent to communities with EJ concerns. Information on the various P2 grant opportunities can be found at https://www.epa.gov/p2/grant-programs-pollution-prevention - ***Stephanie Cheaney, 214-665-8057***

PROGRAM IMPLEMENTATION

FEDERAL CERTIFICATION OF APPLICATORS OF RESTRICTED USE PESTICIDES (RUP) IN INDIAN COUNTRY

Under the 2017 Certification of Applicators Final Rule, EPA provides three options for tribes to establish valid EPA-recognized/approvable certification programs in Indian country, along with a fourth "opt-out" option (Restricted Use Pesticides (RUP) cannot be applied in Indian country). The three options for establishing a certification mechanism are as follows: Tribal Reliance on Certifications Issued by Specified Jurisdictions (Tribal-EPA Agreement), Certifications Issued by a Tribe (Tribal Certifications), and EPA-administered Certification Plan (EPA Plan). Within Region 6, all tribes are currently on and would continue operating under the EPA Plan option that allows applicators to obtain certification from adjacent states and then apply for an EPA license to apply RUPs in Indian Country. Currently, there are 43 certified commercial applicators and 52 private applicators of RUPs in Indian Country in EPA Region 6. EPA posts the list of federally certified applicators at the following link: https://www.epa.gov/pesticide-applicator-certification-indian-country/applicators-certified-under-epa-plan. ***Sierra Moline, 214-665-2177***

UST INSPECTIONS

EPA Region 6 has resumed inspections of UST facilities as of March 29, 2022. FY22 inspections have been completed. FY23 inspections are currently being planned and will take place in a phased approach, with priority sites taking precedent. Three criteria were assessed to rank UST facility priority - compliance history, EJ and Climate factors, and days since the last inspection. Annual Notification of Inspection for tribal facilities due for inspections in FY23 have already been mailed out. Individual notifications for inspections will be sent to the owner/operator and the Tribal environmental offices 30 days before the inspection.
Joshua Ridley, 214-665-7117 and Robert Glynn, 214-665-8350

REGULATIONS

AGRICULTURAL WORKER PROTECTION STANDARD (WPS)

The EPA finalized updates to the 2015 WPS Rule on October 30, 2020. Changes modified the Agricultural Export Zone (AEZ), so it is applicable and enforceable only on a farm owner's property, exempted immediate family members of farm owners from all aspects of the AEZ requirement, added clarifying language for resuming pesticide applications that are suspended due to individuals entering the AEZ, and simplified the criteria for deciding whether pesticide applications are subject to the 25- or 100-foot AEZ. In December 2020, two petitions were filed in the U.S. District Court for the Southern District of New York and in the U.S. Second Circuit Court of Appeals challenging the 2020 Rule (now consolidated as case number 20 Civ. 10642).

A preliminary injunction has halted the implementation of the Final Rule until February 22, 2023 but could be extended as the litigation is ongoing. Currently, the 2015 WPS remains in effect with no changes to the AEZ provisions due to the preliminary injunction. The 2020 Rule is concurrently undergoing review per the Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis. ***Diego Garcia, 214-665-2292***

TRIBAL OUTREACH

INTER-TRIBAL ENVIRONMENTAL COUNCIL (ITEC) PESTICIDES PROGRAM

Inter-Tribal Environmental Council (ITEC) staff have continued to join the Tribal Pesticide Program Council (TPPC) monthly executive council calls. ITEC staff also joined monthly EPA Tick Integrated Pest Management (IPM) Working Group conference calls and the EPA IPM Webinar Series that covers a different topic each month. ITEC staff attended Region 6 Pre-SFIREG meeting hosted by Louisiana Department of Agriculture and Forestry on May 25-26, 2022, and the meeting hosted by Region 6 on October 25-26, 2022. ITEC Hosted the ITEC Tribal summit with presentations from EPA Region 6 on pesticide topics in Intro to FIFRA & Consumer Awareness, Pollinator Health & Pesticide Use, and Safe Pesticide Application in the Home and the Field on May 12, 2022. ITEC staff submitted a Tribal Pesticide Program report to the Tribal Environmental Coalition of Oklahoma during their bi-monthly meeting. ITEC pesticide staff have joined the Oklahoma Invasive Species Counsel monthly webinars. ITEC staff continue to record the pesticide application notifications they receive into the Pesticide Application. ***Bryan Irwin, 214-665-6408***

EIGHT NORTHERN INDIAN PUEBLOS COUNCIL (ENIPC) PESTICIDES PROGRAM

ENIPC Pesticide Program gave a presentation to the Haak'u Learning Center that was created specifically for children about pesticide use and pollinator protection. Attended the environmental Tribal Summit sessions*; Climate Adaptation Planning and Exchange Network/ E-Enterprise sessions, PFAS and Pesticides, Surface Water and Drinking Water/ Surface Water updates, and Current trends in Air Quality and Permitting*. Attended the EPA Region 6 Inspector Training. ENIPC attended the New Mexico Tribal Drought Response Workshop and NM Tribal Resilience Action Network meeting. ENIPC staff attended a webinar *Taking a Closer Look: How Strawberry Disease Varies with Microclimates at the Canopy Level*. ENIPC staff continue to have monthly OETA staff meetings providing updates on attended webinars and pollinator garden progress. ENIPC staff with Region 6 Pesticide Staff presented on a series of webinars over the course of about five months. The focus was on Integrated Pest Management and Pesticides in Water. The topics were *Reducing pesticide in surface and ground water: an introduction to the problem, Integrated approaches to control invasive and noxious plants in riparian areas and watersheds, Integrated pest management in agriculture using low toxic pesticides and biological control, and Integrated pest management in agriculture along rivers and streams*. The primary audience was for the tribes in and around the Rio Grande River in New Mexico, Pueblos and Tribes rely heavily on the Rio Grande River for irrigation and cultural uses. The secondary audience will be all Tribes in the United States. Staff continues to provide any pesticide related information and assistance to pueblos and tribes when requested. ***Bryan Irwin, 214-665-6408***

REGION 6 BEE-KILL MAILER CAMPAIGN
EPA Pesticide Program staff sent the mailers with information on how to properly report a suspected pesticide related bee-kill incident to the Pesticides staff at Eight Northern Indian Pueblo Council and Inter-Tribal Environmental Council in August 2022. These included mailers specific to the respective Councils, as well as for the states of New Mexico and Oklahoma for tribal members living off of the reservations. These are currently available through tribal pesticide program staff. Honeybees and other pollinators may be exposed to harmful levels of pesticides when foraging in agricultural or residential areas, or through the use of in-hive products, either properly or off-label. If you suspect a pesticide incident has occurred, these should be immediately reported. The EPA reviews these reports to identify patterns of bee kills that help inform pesticide regulatory decisions. ***Chrissy Mogren, 214-665-6579***

REGION 6 TRIBAL SUSTAINABLE MANAGEMENT OF FOOD INITIATIVE
As part of R6 EPA's continuing work in support of America Recycles Week efforts, R6 has developed videos that highlight important environmental work being conducted by tribes across the region and planned an EPA Tribal Recycling Workshop (delayed due to COVID-19). In summer 2020, Region 6 awarded two Direct Implementation Tribal Cooperative Agreements for $30,000 each, one to ENPIC and one to ITEC. This project builds on the video efforts with a focus on the sustainable management of food at tribal schools and colleges, as well as other tribal facilities and cultural events that produce high volumes of food waste. Sustainable management of food is a systematic approach that seeks to reduce wasted food and its associated impacts over the entire life cycle, starting with the use of natural resources, manufacturing, sales, consumption and ending with decisions on recovery or final disposal. Region 6 will promote innovation and highlight the value and efficient management of food as a resource through our partners ENIPC and ITEC. Through the sustainable management of food, we can help businesses and consumers save money, provide a bridge in our communities for those who do not have enough to eat and conserve resources for future generations. Building on the familiar concept of "Reduce, Reuse, Recycle," this approach shifts the view on environmental protection and more fully recognizes the impacts of the food we waste. ***Stephen Sturdivant, 214-665-6673***

TRIBAL SUMMIT
The Underground Storage Tank (UST) program presented two webinars at this year's Tribal Summit on May 15, 2022. During the 1.5 hr session, EPA presented an overview of the inspection process including relevant programmatic updates and a presentation on the EPA UST tribal compliance pilot program. ***Rachel Snavely, 214-665-6736***

OUST-OBLR DISCUSSION PAPER
Staff and management from the R6 Underground Storage Tank (UST) and Brownfields sections with OUST continue to make progress on a whitepaper that will serve as a programmatic guide to outline the opportunities for partnership between UST and Brownfields programs at the Regional, State, and local level in wake of the new Infrastructure Investments and Jobs Act (IIAJ) funding. The paper was distributed to the UST Program RPMs and Brownfields program on March 23, 2022, and is open for review and comments until April 5, 2022. ***Rachel Snavely, 214-665-6736***

Enforcement and Compliance Assurance Division

SDWA Administrative Order on Consent with Jicarilla Apache Nation
EPA and Jicarilla Apache Nation entered into a jointly agreed upon Administrative Order on Consent (AOC) on October 18, 2022, to address significant deficiencies at Jicarilla Nugget Casino PWS and Jicarilla South Woodyard PWS. The AOC requires the Nation to correct outstanding significant deficiencies at both public water systems dating back to sanitary surveys conducted in 2014 and 2017. Some corrections are underway via fully funded construction projects, while others require additional planning and financial resources. EPA continues to work with Jicarilla Apache Nation to secure funding and develop corrective action plans for the remaining unaddressed significant deficiencies. This partnership will ensure that Jicarilla Apache Nation will be able to provide safe and reliable drinking water to tribal members and the community. ***Curry Jones 214-665-6793 / Sami Doupnik 214-665-7495***

Clean Water Act Section 404 enforcement case protecting Toltec Mounds (Arkansas)
EPA is in the process of settling a Clean Water Act, Section 404 enforcement case at Mound Lake, Arkansas that has been causing offsite impacts at Toltec Mounds Archeological State Park, located a mile upstream from the site of the unauthorized discharges. The unauthorized activity raised the water level of Mound Lake, causing accelerated erosion of the Toltec Mounds, a designated National Historic Landmark. There is also a Keepsafe Cemetery located on the property that has been adversely impacted. EPA has coordinated with the Quapaw Tribe of Oklahoma, the Osage Nation, Caddo Nation, and Tunica-Biloxi Indian Tribe of Louisiana regarding our goal of addressing the violations in a manner that minimizes the threat of flood impacts to the archeological sites. EPA is in the final stages of our enforcement action. The spillway causing increased flooding has been restored to its pre-violation elevation.
Curry Jones, 214-665-6793 / Tom Nystrom, 214-665-8331

CWA NPDES AOC for Cherokee Nation (update)
On August 11, 2022, EPA-R6 and the Cherokee Nation finalized a CWA Administrative Order on Consent (AOC) to stop sanitary sewer overflows (SSOs) that periodically occur in Cherry Tree, Oklahoma; a community that is served wastewater treatment and collection services by the Nation. SSOs threaten the public health and the environment via wastewater that can enter the community and downstream streams, creeks, or other bodies of water. The AOC was the result of the combined efforts and coordination between the Nation, the Indian Health Service, the Cherry Tree Rural Water District, and EPA which lead to a long-term solution to abate and eliminate SSOs.
Roberto Bernier 214-665-8476 / Damon McElroy 214-665-7159

CWA NPDES Administrative Complaint and Proposed Penalty Order to Rio Rancho, NM
On November 1, 2022, EPA issued a CWA complaint and proposed penalty order to the City of Rio Rancho, NM for effluent violations of the NPDES wastewater discharge permit and for failure to properly operate and maintain the facility in a manner to which will minimize

discharges of pollutants into the Rio Grande. Discharge reports indicate that Rio Rancho violated several permit parameters numerous times between January 2019 and September 2022, mostly for E. coli. In addition, overflows report indicates that between March 2019 and October 2022, approximately 111,900 gallons of untreated sewage were discharged at unpermitted locations. These exceedances and overflows are a main concern for communities along the river, including the Pueblo of Sandia across the river. The CWA specifies that Rio Rancho is liable for penalties not to exceed $23,989 per day for each day during which a violation continues, up to a maximum of $299,857. With this complaint, EPA is proposing a penalty of $194,000. A Public Notice was concurrently issued affording the public 30 days to provide comments on the Complaint and proposed penalty. ***Roberto Bernier 214-665-8476 / Anthony Loston 214-665-3109***

CWA NPDES Administrative Order to ABCWUA, NM

On November 1, 2022, EPA issued an Administrative Order to the Albuquerque-Bernalillo County Water Utility Authority (ABCWUA) for effluent violations of their NPDES wastewater discharge permit. The AO cited ABCWUA's failure to properly operate and maintain the facility in a manner to which will minimize discharges of pollutants, and failure to do an immediate notification to the Pueblo of Isleta of a sewer overflow impacting the River. Discharge reports indicate that ABCWUA violated several permit parameters numerous times between November 2019 and July 2022. In addition, ABCWUA experienced a sewer overflow bypassing the WWTP that discharged approximately 6.74 million gallons of untreated wastewater, with about half of it reaching the Rio Grande. These exceedances and overflow are a main concern for communities along the river, including the Pueblo of Isleta downstream. The Order requires ABCWUA to take measures to comply with all permit conditions within 30-days or submit a comprehensive plan to comply within the shortest time possible if compliance is not possible within 30 days for review and approval as appropriate. ***Roberto Bernier 214-665-8476 / Anthony Loston 214-665-3109***

Superfund and Emergency Management Division

TRIBAL CONSULTATION AND COORDINATION

EPA continues to award contracts and cooperative and interagency agreements with funding from the Bipartisan Infrastructure Law (BIL) for the construction of remedies at fund-lead Superfund sites, such as the Tar Creek Superfund site in Oklahoma. ***Chris Villarreal, 214-665-6758***

VARIOUS REMEDIAL /REMOVAL ISSUES

New Mexico Abandoned Uranium Mines – Five Year Plan: EPA is developing the 2023-2027 Five-Year Plan for the Grants Mining District. Input has been garnered from communities, New Mexico agencies, and the Pueblos of Acoma and Laguna. A draft plan will be shared with plan partners and then released for public comment. EPA plans to finalize the document in 2023. ***Susan Webster, 214-665-6784***

San Mateo Creek Basin Legacy Uranium Mines Site, NM – Central Study Area Groundwater Investigation: The geophysical seismic survey, which is part of the Remedial Investigation and Feasibility Study (RI/FS) for the San Mateo Creek Basin, began in September and will be completed by the end of October of this year. A community fact sheet announcing the start of seismic survey field activities was mailed out prior to the start of the field work. This work is being conducted by the three former mine operators (Homestake Mining Company of California, United Nuclear Corporation, and Rio Algom Mining, Inc.) Cultural surveys and a public and tribal notification process have been performed as part of the New Mexico State Land Office and U.S. Bureau of Land Management requirements for the right-of-entry and right-of-way applications. EPA is overseeing the seismic field activities. ***Chris Villarreal, 214-665-6758***

Tronox Navajo Area Uranium Mines East, West and Central Geographic Sub-Areas, Grants Mining District, NM: EPA is investigating the potential comingling of waste from abandoned uranium mines and material regulated by Nuclear Regulatory Commission (NRC) under the Uranium Mill Tailings Radiation Control Act in the area adjacent to the Rio Algom Mill Site. EPA has worked with NRC and Rio Algom to develop a pragmatic approach to determine the comingled areas using existing data and recognizing CERCLA's ability to adapt to conditions in the field when cleanup work begins. Rio Algom submitted a technical memorandum to NRC in March 2022 to support development of the approach. This technical memorandum is being reviewed by NRC and EPA to determine how to address risk to human health in the Ambrosia Lake area. ***Craig Carroll, 214-665-2220 and Susan Webster, 214-665-6784***

Tronox Navajo Area Uranium Mines Section 10 Mine, Grants Mining District, NM: On July 18, 2022, the Emergency Management Branch (EMB) started the process of revising the Engineering Evaluation and Cost Analysis (EE/CA) document for the Tronox Navajo Area Uranium Mines Section 10 Mine Site. The estimated completion date for the EE/CA revision is Fall of 2022. EMB also started internal coordination for access agreement and consultation with tribal and state partners. EMB has put together a draft timeline for the Non-Time Critical

Removal Action and will update it as appropriate once further coordination with involved parties takes place. ***Craig Carroll, 214-665-2220 and Susan Webster, 214-665-6784***

Homestake Mining Company Former Uranium Mill and Tailing Disposal Superfund Site, NM: EPA is currently overseeing the performance of a CERCLA Feasibility Study (FS) and Technical Impracticability (TI) evaluation by Homestake under a 2020 EPA Administrative Settlement Agreement and Order on Consent. The FS will evaluate a range of remedial alternatives for the groundwater operable unit and the long-term tailing stabilization, surface reclamation, and site closure operable unit. The EPA National Remedy Review Board (NRRB) selected this site for review in 2020. Initial meetings were held by the NRRB with Region 6, the State of New Mexico and the Pueblos of Acoma and Laguna, and Homestake, the Bluewater Valley Downstream Alliance (BVDA), and the Multicultural Alliance for a Safe Environment (MASE) in March 2021 to discuss the site and the expectations of key stakeholders regarding a CERCLA cleanup. The NRRB submitted a number of recommendations to Region 6 in June 2021 related to the FS, the TI evaluation, and other aspects of the CERCLA activities. Region 6 agreed with the recommendations in a response letter dated October 2021 and is currently in the process of having the recommendations implemented. A follow-up meeting was held on June 8, 2022, between the NRRB and Region 6 to discuss a draft FS technical memorandum on the development and screening of remedial alternatives, which was submitted by Homestake in February 2022. Homestake also submitted a draft work plan, in April 2022, for collecting site-specific empirical data to support its TI evaluation. EPA provided comments on the work plan in September 2022 and held a meeting with Homestake to discuss the comments in October 2022. EPA is also nearing completion of a background reassessment that will support the development of preliminary remediation goals in the FS for groundwater. EPA continues to meet monthly with BVDA and MASE to provide updates on all site related CERCLA activities. ***Chris Villarreal, 214-665-6758***

Jackpile-Paguate Uranium Mine Superfund Site: On September 12, 2022, EPA hosted an information booth at the Pueblo of Laguna Fall Feast Day. Over 100 EPA hand-fans were given away to booth visitors and individuals interested in the project activities. On September 12 through September 30, 2022, EPA conducted field oversight for the Phase 1 Remedial Investigation/Feasibility Study (RI/FS) multi-media sampling activities. Four quarters of data will be collected and assessed before preliminary risk analysis can begin to be assessed to support next steps. On September 13-14, 2022, EPA and a team of expert consultants visited the site with Atlantic Richfield to assess the summer monsoon storm erosional damage and become more acquainted with the site conditions. Atlantic Richfield is working with EPA and Pueblo of Laguna – Environmental and Natural Resources Department and planning a focused gamma radiation survey, tentatively planned for November 2022 to focus on specific areas of interest, including areas undergoing extensive erosion over time. An early December site visit is planned so that the collective subject-matter-experts from Atlantic Richfield and EPA can better assess the project needs that support Phase II RI/FS activities. ***Chris Villarreal, 214-665-6758***

SPCC/FRP Outreach Event Conducted in Farmington, NM: On August 18, 2022, the Emergency Management Branch Facility Response Plan and Spill Prevention, Control, and Countermeasure (FRP/SPCC) Coordinator conducted an eight-hour compliance assistance presentation at the San Juan Basin Regulatory Workgroup Workshop in Farmington, New

Mexico. EPA provide guidance on compliance assistance to increase awareness of EPA's FRP/SPCC programs for the Oil Industry, municipalities, and Tribal Programs. Attendance included roughly 50 people from the oil industry, Bureau of Land Management (BLM), Department of Energy (DOE), multiple companies, and regulators from the Southern Ute Mountain Nation. The Southern Ute Mountain Nation is currently working to build their inspection program due to the large number of oil and gas sites on their tribal lands. EPA will continue to provide assistance to Southern Ute Mountain Nation with any referrals and interactions to help improve their inspection program. ***Craig Carroll, 224-665-2220***

Wilcox Oil Company Superfund Site, Bristow, OK: In June 2022, EPA began construction, using Bipartisan Infrastructure Law (BIL) funding, of the Source Control Interim/Early Action at the Wilcox Oil Company Superfund site. As of October 11, 2022, construction has addressed 23,124 tons (15,730 cubic yards) of source material located at former tank locations. Future construction will address approximately 10,671 cubic yards of lead source material in the lead additive areas. ***Chris Villarreal, 214-665-6758***

Tar Creek Superfund Site, OK: Investigation and remediation work for Tar Creek continues, including remediation work under Operable Unit (OU) 4 (Chat Piles and Other Mining Wastes) addressing a total of 7.7 million tons of chat, with a total of 1,137acres reclaimed, and under OU2 (Residential Properties), remediating a total of nearly 3000 residential properties, with remedial designs having recently been completed for 13 residential properties. At the end of May 2022, reconnaissance had been completed at 20 properties. In addition, 109 Tribal/HUD properties had been reconned for potential sampling activities. Sampling at 69 of the 109 identified Tribal/HUD properties has been completed. Analytical results for 16 of the 69 sampled properties indicate lead in concentrations less than 500 ppm. ODEQ is currently waiting for the analytical results of the remaining 53 sampled Tribal/HUD properties. Based on sampling results, properties requiring remediation will be identified by December 2022. ***Chris Villarreal, 214-665-6758***

Tri-State Watershed, Lower Spring River (Surface Water and Sediments), including portions of Tar Creek OU5 OK, KS and MO: In July 2022, EPA implemented a biochar pilot study within the Oklahoma portion of the Tri-State Watershed at the Tar Creek Superfund site at two locations: Elm Creek, and the Central Repository Seep; performance monitoring is ongoing. EPA continues the collection of data in support of the watershed modeling effort for the Upper and Lower Watersheds and continues to work with the seven Tar Creek Trustee Council Indian Tribes, the Quapaw Nation, states, communities, and other federal agencies to plan, report and review the risk assessment and investigation reports. ***Chris Villarreal, 214-665-6758***

Oklahoma Refining Company Superfund Site, Cyril, OK: Early 2023, remedial activities are expected to be completed at Operable Unit 2 (North side) of the Oklahoma Refining Company Superfund Site. The remedial activities consist of the excavation of contaminated soils and sediments, on-site disposal of the excavated materials in the hazardous waste landfill, and recovery and monitoring of light non-aqueous phase liquids. EPA and ODEQ will continue to coordinate with and inform Oklahoma tribes on site milestones. ***Chris Villarreal, 214-665-6758***

Osage Nation Outdoor Health Complex, OK: On October 31, EPA will be attending a site visit to a planned Osage Nation Outdoor Health Complex, at the invitation of ODEQ Brownfields and the Osage Nation Environmental Department, to walk the 30-acre site and view areas where elevated lead levels have been detected and discuss appropriate actions needed for those areas. ***Susan Webster, 214-665-6784***

Bordwine Hand Sanitizer Response, Chickasha, OK: On August 13, 2022, EPA responded to a fire at a facility in Chickasha, OK. EPA conducted air monitoring to determine if there were any potential off-site risks to the public from combustion products. The fire was apparently caused by the improper storage of large quantities of hand sanitizer. The fire started on August 7, 2022, and had reduced to a small flame on the inside of the building by the time EPA was notified of the event and mobilized to the site. The main facility, located at S 4th Street, had completely burned down. EPA was granted access to the main facility by the Potentially Responsible Party (PRP) for only visual inspections. In addition to the main facility, there were two other facilities involved with the improper storage of hand sanitizer by the PRP. EPA inspected the facility located at Quail Rd. after being granted legal access from the property owner, who leases the property to the PRP. EPA observed a large quantity of hand sanitizer stored inside and outside of the building. No off-site impacts were observed at the Quail Rd site. Following the visit to the Quail Rd site, the EPA team met with ODEQ officials at Pike's Peak Rd., where additional quantities of hand sanitizer were being stored and three roll-off boxes full of hand sanitizer had caught fire on August 11, 2022. Due to EPA not having legal access, the Pike's Peak Property was not assessed. One air monitoring reading was taken outside of the facility's fence line, and all readings were below detection limits. On August 14, 2022, EPA met with ODEQ at the main facility to continue off-site monitoring. ODEQ staff collected soil samples from various locations at the main facility. EPA found no off-site impacts. The PRP revoked EPA's access for the Quail Rd facility therefore EPA could not accompany ODEQ onsite. EPA found no off-site impacts at the Quail Rd site. In addition, EPA conducted off-site air monitoring at the Pike's Peak Property, and all readings were below detection limits. On August 15, 2022, it was determined that since the facility was in operation, CERCLA was not the appropriate legal authority to address the situation. After continuing to observe no off-site impacts at all three locations, the EPA demobilized from the area. ***Craig Carroll, 214-665-2220***

Energy Transfer Oil Spill, Bradley, OK: On August 18, 2022, EPA responded to the Energy Transfer Oil spill site. While on-site, the EPA conducted air monitoring on-site and in downwind communities. EPA observed measurements for VOCs and benzene above the instrument detection limits in the immediate spill area but not in downwind communities. EPA did not observe measurements above the Acute Exposure Guideline Limits for any of the monitored parameters in the immediate spill area or in downwind communities. As of August 19, 2022, the responsible party (RP) had reported recovering approximately 80 bbl of the released 100 bbl of crude oil and believed an additional 10-15 bbl were contained within excavated soils which were being appropriately stockpiled off-site at the RP's terminal. EPA notified and consulted the US Fish and Wildlife Services (USFWS), Chickasaw Nation's Environmental Services department, the Chickasaw Nation Historic Preservation Office, and the Oklahoma Historic Society while on-site. EPA will continue to receive updates from the RP and coordinate with the USFWS, Chickasaw Nation, and state authorities. ***Craig Carroll, 214-665-2220***

Enable Midstream Crude Oil Pipeline Spill, Tuttle, OK: On August 24, 2022, EPA conducted a final site walk at the Enable Midstream Oil Spill site. The objectives of final site walk were to verify that the threat of a discharge into a navigable waterway had been mitigated by the responsible party response and removal actions. EPA sent a final Pollution Report documenting the findings to the Chickasaw Nation, Oklahoma Corporation Commission, ODEQ, and US Fish and Wildlife Service. ***Craig Carroll, 214-665-2220***

Holly Energy (Skull Creek) Crude Oil Spill Response, Cushing, OK: On September 9, 2022, EPA organized and facilitated an in-person meeting between EPA, Sac and Fox Nation, Bureau of Indian Affairs (BIA), U.S. Fish and Wildlife Service (USFWS), and Holly Energy (Osage Pipe Line Co.) regarding the Holly Energy crude oil spill impacting Skull Creek that occurred on Sac and Fox Nation tribal trust land on July 8, 2022. The meeting was proposed by EPA as an opportunity for the Sac and Fox Nation to ask questions, make comments, and express concerns regarding the response and coordination among Sac and Fox Nation and the Agencies involved in the response. The first half of the in-person meeting was held at the Sac and Fox Nation Complex in Stroud, Oklahoma, between EPA, Sac and Fox Nation, BIA, and USFWS. The second half of the in-person meeting was held at Osage Pipe Line Co. office space in Cushing, OK. Osage Pipe officials also provided a tour of their wildlife rehabilitation facility associated with this response as well as a tour of the spill site and clean-up operations. ***Craig Carroll, 214-665-2220***

Lake Oologah-Winganon Area Oil Removal, Rogers County, OK: On September 19 through 24, 2022, EPA plugged one leaking oil well and repaired significant road damage on a landowner's property that occurred during well plugging activities in 2018-2019. Both the well and the road repair are in Rogers County. The Cherokee Nation was notified of the activities. ***Craig Carroll, 214-665-2220***

Broken Arrow Radiation Site, Broken Arrow, OK: On October 3, 2022, EPA mobilized to the Broken Arrow Landfill Site to begin removal activities to address soils contaminated with radioactive thorium waste. During excavation activities, up to ten times more in volume than what was expected was encountered. Removal activities were halted, and exploratory holes were dug to better determine the full extent of contamination. The Nuclear Regulatory Commission and ODEQ were informed about this situation. On October 21, 2022, EPA and ODEQ discussed potential options to address the Broken Arrow site. EPA will hold a meeting with ODEQ, the Muscogee Creek and Cherokee Nations, the City of Broken Arrow, and Tulsa and Wagoner Counties in November 2022. ***Craig Carroll, 214-665-2220***

Henryetta Iron and Metal Superfund Site, Henryetta, OK: EPA is preparing to conduct a removal action at the Henryetta Iron and Metal site, as well as rights-of-ways surrounding the site, and Dutch Creek which runs through the site. The contaminants of concern associated with the facility are antimony, arsenic, cadmium, copper, lead, mercury, Polychlorinated biphenyls (PCBs), benzidine, benzo(a)pyrene, and radium-226. On May 10, 2022, EPA met with the State, Tribe, Local government entities to discuss the proposed action pending agency approval. The removal activities will involve the excavation and disposal of contaminated soils. ***Craig Carroll, 214-665-2220 and Chris Villarreal, 214-665-6758***

Tulsa Gamma Ray Response, Tulsa, OK: EPA is arranging for the transportation and disposal of the remaining drums of non-radioactive abandoned wastes (used oils and solvents) located at the Tulsa Gamma Ray site. On June 17, ODEQ contacted EPA requesting support at a radiological situation located in both Moore and Tulsa. ODEQ was made aware of a radiological camera company that had recently gone out of business and abandoned four cameras containing Cobalt-60 (gamma emitting radiation source) at their two locations. The Nuclear Regulatory Commission (NRC) requires that these sources be secured at all times, since the radiation sources inside these cameras are considered high risk if mishandled or misused. The four radioactive cobalt sources were removed from the site on August 24, 2022. ***Craig Carroll, 214-665-2220***

Office of Communities, Tribes and Environmental Assessment

NEW NATIONAL OFFICE DEDICATED TO ADVANCING ENVIROMENTAL JUSTICE AND CIVIL RIGHTS

On September 24, EPA officially launched a national program office dedicated to environmental justice and external civil rights. This new office elevates these critical issues to the highest levels of our agency and solidifies our shared commitment to delivering justice and equity for all.

The new office will dedicate more than 200 EPA staff in EPA headquarters and across 10 regions towards solving environmental challenges in communities that have been underserved for far too long. These staff will engage with communities with environmental justice concerns to understand their needs, as well as Tribal, state, and local partners; manage and disburse historic levels of grants and technical assistance; work with other EPA offices to incorporate environmental justice into the agency's programs, policies, and processes, as allowed by law; and ensure EPA funding recipients comply with applicable civil rights laws. The office will be led by a U.S. Senate-confirmed Assistant Administrator, to be announced at a later date.

"President Biden and I have been clear: we must ground our work to address the climate crisis and our greatest environmental challenges in justice and equity," said Vice President Kamala Harris. "The establishment of a new office dedicated to advancing environmental justice and civil rights at EPA will ensure the lived experiences of underserved communities are central to our decision-making while supporting community-driven solutions."

"From day one, President Biden and EPA have been committed to delivering progress on environmental justice and civil rights and ensuring that underserved and overburdened communities are at the forefront of our work," said EPA Administrator Michael S. Regan. "With the launch of a new national program office, we are embedding environmental justice and civil rights into the DNA of EPA and ensuring that people who've struggled to have their concerns addressed see action to solve the problems they've been facing for generations."

The new office will oversee the implementation and delivery of a $3 billion climate and environmental justice block grant program created by the Inflation Reduction Act, a critical component of the law's historic $60 billion investment in environmental justice. The office also will ensure EPA's implementation of other funding programs provided by the Inflation Reduction Act, Bipartisan Infrastructure Law, and regular appropriations meet or exceed the President's Justice40 Initiative.
Gerardo Acosta, 214-665-8042

STAFF UPDATE

Environmental Justice Team: Kathryn Vogle has joined the staff in the Office of Communities, Tribes and Environmental Assessment (OCTEA) as a summer intern, which continues in the Fall, while finishing graduate school. Kathryn has a Bachelor's degree in Anthropology from University of North Texas and is scheduled to complete Master's degree with a major in Natural Resources Development and minor in Wildlife Science.

Also, thanks to Gloria Vaughn, who is on detail in the Office of the Regional Administrator, Agatha Benjamin will serve as Acting EJ Team Leader effective November 7. Agatha Benjamin is a Registered Engineer, a certified Environmental Management Professional and a Lean Six Sigma Black Belt. She has a Bachelor of Science in Civil Engineering, a Master of Business Administration and a Bachelor of Science in Spiritual and Intellectual Studies.

OCTEA welcomes Kathryn and Agatha to their positions on the EJ Team!

TRIBAL AFFAIRS

Region 6 General Assistance Program (GAP): In FY2022, OCTEA supported tribal capacity activities by awarding General Assistance Program (GAP) grants and Performance Partnership Grants (14 grants funded) to 49 tribal partners and two tribal consortiums. The total amount awarded was $7,653,116.

OCTEA and the EPA American Indian Environmental Office are planing to hold training on the new GAP guidance on Tuesday, December 6 and Thursday, December 8. Information and a calendar invite will be sent soon. ***Randy Gee, 214-665-8355 and Jay Harris, 214-665-2260.***

BORDER UPDATE

Judith L. Puente of Kickapoo Traditional Tribe of TX have been appointed as the US Committee Chair for the Amistad (Northern Coahuila – Texas Border region) Environmental Education U.S. Committee

Evaristo Cruz, of Ysleta del Sur Pueblo is contributing on the Good Neighbor Environmental Board (GNEB) publication "WATER AND WASTEWATER INFRASTRUCTURE IN THE U. S.-MEXICO BORDER REGION"

Border 2025 welcomes Fort Sill Apache Tribe of Oklahoma as U.S.-Mexico Border Program 27th Tribal member represented by Jennifer Heminokeky
Robert Houston, 214-665-8565.

TRIBAL CONSULTATION AND COORDINATION

EPA Policy on Consultation and Coordination with Indian Tribes: Opportunities for Consultation: The following tribal consultation opportunities are ongoing:

- *Consultation Regarding Los Alamos National Laboratory Flanged Tritium Waste Container Operations*
- *City of Espanola Wastewater Treatment Plant NPDES Permit*

Randy Gee, 214-665-8355

Mission Support Division

FY23 BUDGET UPDATE

On September 30, 2022, President Biden signed the "Continuing Appropriations Act, 2023, and Other Extensions Act" (Public Law 117-103), which provides the U.S. Environmental Protection Agency with funding through December 16, 2022. During the term of the Continuing Resolution, all offices should operate in a conservative manner. As Congress is still deliberating on the FY23 funding levels, the final budget amounts for the Agency may be significantly different from the CR levels. The CR funds Agency accounts at 77/365ths of the FY22 Enacted level.

- The FY23 CR provides a total of $93,747,593 for Region 6 through December 16th.
  - The most significant category is assistance agreements (grants and cooperative agreements), which accounted for $63,428,300 or 67.7% of Region 6's funds. Grants are used to: (1) financially support continuing environmental programs administered by state, tribal, and local governments, and (2) fund other environmental projects with various partners.
  - The second largest category at 24,241,100 or 25.9%, is Payroll, Compensation and Benefits (PC&B). This account covers salaries, benefits, overtime, and awards for employees.
  - The third largest category is contracts and interagency agreements, which accounts for $4,567,883 or 4.9% of all Region 6 FY23 CR funds. Examples of contracts include Remedial/removal contracts in Superfund projects, IT Support and Records Center.
  - The fourth largest category is Expense (e.g., special account increases, administrative support, etc), with $297,800 or 0.3% percent of all CR funds. This covers training, as well as remaining expenses in support of the workforce and ongoing operations and maintenance of the regional office including the Houston Laboratory.

- FY22 and FY23 Investment Infrastructure Jobs Act (IIJA) funds are not subject to this CR guidance and have received the full year allocation.
  - FY22 BIL funds total $1,019,451,166 (Superfund Supplemental funds remain in FY22 for the life of the program)
  - FY23 BIL funds total $884,984,000

Laboratory Services and Applied Science Division

EPA REGION 6 QUALITY ASSURANCE (QA) ONLINE TRAINING AND GRANTEE QA DOCUMENTS: Region 6 (R6) Laboratory Services and Applied Science Division has provided a 2022 Computer-Generated Quality Assurance (QA) Training for Grantees and non-EPA R6 QA employees! The Regional QA program has transferred to online sessions to accommodate schedules during the current shelter-in-place order. The free online training discusses the EPA Quality Program. It details the requirements for conducting quality management activities for environmental data collection and environmental technology programs performed by or for the Agency. The training will take several days to complete, and attendees will have a year (until January 31, 2023) to complete the training. Please review all the provided material before moving forward to take the quiz and obtaining your automated e-certificate. Note, R6 QA staff are also electronically notified once someone completes the training! Nonetheless, please obtain a screenshot of your certificate for your records. The revamped training is in lieu of the previously offered four-day classroom training, and thus will be considered as equivalent. You can access the training by clicking on the following link: https://www.epa.gov/quality/r6-qa-training-grantees-and-other-qa-personnel. The QA staff would like to thank all who've taken the training and our R6 Tribal Partners/Grantees for providing all the necessary electronically signed/approved QA documents to the R6 QA staff. ***Sala Senkayi, 214-665-6477***

UPDATED STANDARDS: The R6 QA staff would like to remind our Tribal Partners of our ongoing Agencywide QA Standard updates. Please contact Linda Himmelbauer (Himmelbauer.Linda@epa.gov) via HQs, to learn more about these efforts and all the work being done to update other Requirement and Guidance documents found on the Agency-wide Quality Program Documents webpage. ***Sala Senkayi, 214-665-6477***