Office of the Regional Administrator

EPA Region 6 Acting Administrator David Gray will be retiring from EPA on December 31, 2021 after nearly 35 years in Region 6. EPA will conduct a nationwide search for the Region 6 Deputy Regional Administrator position. Cecil Rodrigues from the Region 3 Philadelphia office has agreed to serve as interim Deputy Regional Administrator for Region 6.

EPA Update Regarding Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA)

Consultation Update: From July 15 through October 13, the Environmental Protection Agency (EPA) held tribal consultation on the Agency's October 1, 2020 decision granting the State of Oklahoma's July 22, 2020 request to administer its environmental regulatory programs in certain areas of Indian country within the State. This request was made under Section 10211(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 (SAFETEA). An extension until October 31 for written comments was added to the consultation period.

During the consultation period EPA held two state-wide consultation calls and one national informational conference call. In total eight Tribal Nations requested individual consultations, which were held during this period. Representing EPA in the discussions were Jane Nishida, Assistant Administrator for the Office of International and Tribal Affairs and David Gray, Acting Regional Administrator, Region 6. EPA is reviewing all comments received and will provide further updates as it becomes available. ***Randy Gee, 214-665-8355***

Water Division

WATERS OF THE UNITED STATES (Update November 2021)

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 continue to review the order and consider next steps. This includes moving forward with the rulemakings announced on June 9, 2021. 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 November 18, 2021, EPA and the US Army Corps of Engineers announced a new definition of WOTUS. The agencies propose to put back into place the pre-2015 definition of "waters of the United States," updated to reflect consideration of Supreme Court decisions. This familiar approach to "waters of the United States" would support a stable implementation of "waters of the United States" while the agencies continue to consult with states, Tribes, local governments, and a broad array of stakeholders in both the implementation of WOTUS and future regulatory actions. This proposed rule was informed by 6 public meetings and 2 Tribal consultation kick-off meetings from August through early September; 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. In addition, through October, EPA hosted listening sessions with state and tribal departments of environment.

There is a 60-day public comment period. The agencies will hold three virtual public hearings on the proposed Rule in January 2022 on the 11th (10-1 Eastern), 13th (2-5 Eastern), and 18th (5-8 Eastern). Information on how to participate will be available on EPA's website, https://www.epa.gov/wotus

Link to proposed rule https://www.epa.gov/system/files/documents/2021-11/revised-definition-of-wotus_nprm_pre-publication_version.pdf

Current Status on Second Rule:
EPA and Army remain committed to establishing a durable definition of WOTUS that protects public health, the environment, and downstream communities while supporting economic opportunity, agriculture, and industries that depend on clean water. As you recall EPA and the Army are exploring a second rule making effort that will lead to a more durable rule. This includes regionally focused roundtables that will take place in early 2022. These roundtables will focus on the second rulemaking effort and allow stakeholders with a range of perspectives to engage and discuss their experiences with definitions of WOTUS.

Since there are **two** processes on-going (1. Nov.18 Proposed Definition; 2. Development of a more durable definition] it can be confusing.

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

Randy Rush, 214-665-7107, rush.randall@epa.gov

CLEAN WATER ACT SECTION 401 CERTIFICATION FOR REMAINING 41 DRAFT NATIONWIDE PERMITS (NEW: OCTOBER 2021)
On August 19, 2021, the EPA and the U.S. Army Corps of Engineers (Corps) released a memo extending the reasonable period of time (RPOT) for 401 certifications for 41 Nationwide permits (NWPs) proposed in September 2020 which have not yet been finalized. Such extension would allow certifying authorities to modify certifications which were issued in late 2020.

On October 2020, the Corps requested certification from certifying authorities on all proposed NWPs. Many certifying authorities requested an extension to the 60-day RPOT to review and certify the proposed NWPs. Commenters noted various reasons for such extension requests, including that certifying authorities could not comply with the 60-day RPOT due to public participation requirements and the need for more time to review in light of recent changes to the EPA's regulation for CWA Section 401 and the issuance of the final Navigable Waters Protection Rule. At that time, extensions were not granted. Of the then-proposed NWPs, 16 of the NWPs were finalized in January 2021 and 41 NWPs await finalization.

As a result of stakeholder concerns, the Corps extended the RPOT to the one-year statutory maximum (October 2021). It provided further opportunities for cooperation between certifying authorities and the Corps as well as improved implementation of the 2020 Rule.

EPA is in receipt of the U.S. District Court for the Northern District of California's October 21, 2021 order vacating and remanding EPA's 2020 Clean Water Act (CWA) Section 401 Certification Rule. As the court stated, this order requires a temporary return to EPA's 1971 rule until EPA finalizes a new certification rule. EPA is reviewing the court decision and considering next steps. EPA's own review of the 2020 Rule identified substantial concerns with a number of provisions that relate to cooperative federalism principles and CWA section 401's goal of ensuring that states and Tribes are empowered to protect water resources that are essential to public health, ecosystems, and economic opportunity.

The agency has already begun working on a regulatory effort to address those concerns. Further details about the Agency's plans, including information regarding the current rulemaking process, can be found here. ***Daniel Landeros, 214-665-8077***

BASELINE WATER QUALITY STANDARDS RULEMAKING (UPDATED: OCTOBER 2021)

At the National Tribal Water Council (NTWC) meeting in May 2021, the EPA Office of Water announced that the agency intends to pursue rulemaking to 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. The tribal consultation period concluded in September 2021; EPA will continue to consider comments received after the close of the consultation period to the extent possible as EPA moves forward with decision-making. 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 reviewing tribal input and developing the proposed regulation. EPA plans to provide additional opportunities to solicit comments from tribes once the rule is proposed. EPA's goal is to propose 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 2021)
At the National Tribal Water Council (NTWC) meeting in May 2021, the EPA Office of Water announced that the agency intends to pursue rulemaking to ensure protection of tribal reserved rights in the water quality standards (WQS) context. Many tribes hold reserved rights to resources on lands and waters outside the boundaries of federal Indian reservations, or in areas otherwise subject to state and federal jurisdiction through treaties and equivalent agreements with the U.S. government. EPA conducted a 90-day tribal consultation on revising the federal WQS regulation to explicitly and sustainably protect tribal reserved rights (such as treaty rights) in waters where states have jurisdiction to establish WQS. During the consultation period, EPA hosted two listening sessions on this project. The tribal consultation period concluded in September 2021; EPA will continue to consider comments received after the close of the consultation period to the extent possible as EPA moves forward with decision-making. Additional information and the presentations from the listening sessions are available at: https://www.epa.gov/wqs-tech/revising-federal-water-quality-standards-regulations-protect-tribal-reserved-rights.

The regulation changes that EPA is considering are intended to help states and EPA protect aquatic and aquatic-dependent resources reserved to tribes in treaties and equivalent agreements when establishing, revising, and reviewing WQS. EPA is examining how we could revise the federal WQS regulation to 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 announced at the same time. This tribal reserved rights rulemaking would protect tribal reserved rights in waters where states are responsible for establishing and revising WQS, whereas the baseline effort would establish WQS for tribal reservation waters where tribes have WQS jurisdiction but have not yet exercised that jurisdiction. EPA is currently

reviewing tribal input and developing the proposed regulation. EPA plans to provide additional opportunities to solicit comments from tribes once the rule is proposed. EPA aims to propose and finalize this rulemaking 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 (NEW: OCTOBER 2021)

During FY22, EPA Region 6 plans to reissue the following permits of potential interest to Tribes: NM0024988 Santa Rosa, City f (Main Stp), NM0030686 Rio Puerco WWTP, NM0020583 Farmington, City Of (WWTP), NM0030678 Casa Blanca WWTP, NM0020133 Los Alamos County (White Rock), NM0020141 Los Alamos County - Bayo WWTP LA0124656 Coushatta Casino Resort WWTP, and LA0050971 Chitimacha Tribe of Louisiana. Region 6 will also be working on several general permits: Construction General Permit (storm water); Municipal Separate Storm Sewer System (MS4) General Permits for the following urbanized or designated areas: Los Alamos, Albuquerque, Santa Fe, Farmington, Las Cruces, El Paso (part in NM), and Los Lunas); and Hydrostatic Test Discharges: Indian Country, Federal Jurisdiction in Oklahoma, and New Mexico. ***Brent Larsen, 214-665-7523***

TRIBAL FUNDING

TRIBAL CLEAN WATER ACT (CWA) 106 AND 319(h) AWARDS ARE COMPLETE (NEW: OCTOBER 2021)

EPA awarded CWA 106 and 319(h) grants for FY22. With an effective start date of October 1, 2021. ***Sam Reynolds 214-665-6682***

TREATMENT AS A STATE (TAS) FOR CWA 106 (NEW: OCTOBER 2021)

EPA received a draft CWA 106 Treatment In A Manner Similar To A State (TAS) application from Ponca Tribe of Oklahoma and a CWA 319(h) assessment report and management plan from Choctaw Nation of Oklahoma. Both are currently under review. ***Sam Reynolds 214-665-6682***

WETLAND PROGRAM DEVELOPMENT GRANTS (UPDATED- OCTOBER 2021)

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.

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. The tribal-only RFA is a two-year cycle starting in FY2020. Headquarters posted the FY2020/2021 RFA on November 2, 2020. Applications were due January 15, 2021. For additional information on the solicitation please see: https://www.epa.gov/wetlands/tribal-wetland-program-development-grant-request-applications or contact Myra Price at price.myra@epa.gov.

The Region 6 FY21/FY22 solicitation was posted to grants.gov on May 12, 2021. Applications were due June 21, 2021. Choctaw Nation of Oklahoma was selected to receive $200,000 federal funds from the FY21 allocations. The funds will be used by the tribe to develop a tribal wetland management program. For more information on the Wetland Program Development Grants, please see https://www.epa.gov/wetlands/wetland-program-development-grants and https://www.epa.gov/wetlands/what-enhancing-state-and-tribal-programs-effort. ***Wanda Boyd, 214-665-6696; Sondra McDonald, 214-665-7187***

DRINKING WATER

LEAD AND COPPER RULE REVISIONS (UPDATED: NOVEMBER 2021)

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 childcare facilities to better protect children in these facilities from lead exposure. On March 10, 2021, the EPA announced that it is extending the effective date of the Lead and Copper Rule Revisions (LCRR) so that the agency can seek further public input, especially from communities that are most at-risk for lead exposure in drinking water. On June 10, 2021, the EPA signed a final Rule to extend the effective date of the LCRR to December 16, 2021 and also extended the Rule's compliance deadline to September 16, 2024.

In July of 2021, EPA hosted a series of virtual roundtables, including one roundtable specifically for tribes and tribal communities on July 19, 2021, during which participants discussed topics relating to the Lead and Copper Rule Revisions. The recording for this roundtable is available at https://www.epa.gov/tribaldrinkingwater. For more information about the LCRR, visit https://www.epa.gov/ground-water-and-drinking-water/revised-lead-and-copper-rule.
Alison Fontenot, 214-665-7482

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. ***Frances Verhalen, 214-665-2172.***

Funding and Grants

For FY2021, the EPA Region 6 received $1,220,828 in federal funding to support assistance agreements under statutory provisions of the CAA §103 and §105. In June 2021, the Region received eleven applications from tribes and pueblos. Six assistance awards were funded under the CAA §103 (projects), three under CAA §105 (program grants), and two under Performance Partnership Grants (PPG). All awards were finalized by September 30, 2021.

The FY2022 Tribal Air Funding Announcement will be sent to all tribes, electronically, by the end of December 2021. ***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 will launch a $20 million grant competition that will call 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.

The Request for Applications is being developed and will be available in Fall 2021. When ready, more information will be available at: https://www.epa.gov/arp/enhanced-air-quality-monitoring-funding-under-arp and on the EPA Air Grants website at https://www.epa.gov/grants/air-grants-and-funding

Direct Awards to Air Agencies for Continuous Monitoring of $PM_{2.5}$ and Other Common Air Pollutants: EPA will award $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. Additional information may be found at https://www.epa.gov/naaqs

Enhanced Regional Capacity for Short-term Community Monitoring Needs: EPA will be investing $5 million in agency mobile monitoring labs or air sensor loan programs. These investments will improve EPA's ability to support communities in need of short-term monitoring and air quality information. ***Frances Verhalen, 214-665-2172.***

Regulations/Guidance/Upcoming Requirements

Affordable Clean Energy (ACE) Rule: On January 19, 2021, the D.C. Circuit issued an opinion vacating ACE and remanding it to the EPA for further proceedings consistent with its opinion. In the same opinion, the court also vacated the amendments to the implementing regulations that extended the compliance timelines for CAA §111(d) plans. On February 12, 2021, the EPA Office of Air and Radiation (OAR) issued a memorandum on the status of ACE and the Clean Power Plan (CPP). The memo clarifies that the EPA interprets the January 19, 2021 D.C. Circuit court decision vacating the ACE rule to mean (1) neither ACE or CPP is in effect and (2) states have no obligations to provide state plans under ACE or CPP. The memo provides that states are not expected to take any further action to develop and submit plans under CAA §111(d) with respect to greenhouse gas (GHGs) emissions from EGUs at this time. For a copy of the memo, please see https://www.epa.gov/stationary-sources-air-pollution/memorandum-status-affordable-clean-energy-rule-and-clean-power-plan

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 day 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/project-emissions-accounting-2

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.

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

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"
This 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 EPA recognizes that the interpretation at issue was a long-standing one and is clarifying and revising its interpretation that a source owner or operator may, prior to obtaining an NSR permit, undertake physical on-site activities - including activities that may be costly, that may significantly alter the site, and/or are permanent in nature - provided that those activities do not constitute physical construction on an emissions unit, as the term is defined in 40 CFR § 52.21(b)(7). Further, under this revised interpretation, an "installation necessary to accommodate" the emissions unit at issue is not considered part of that emissions unit, and those construction activities that may involve such "accommodating installations" may be undertaken in advance of the source owner or operator obtaining a major NSR permit. The EPA accepted comments on this draft guidance through Monday, May 11, 2020. The EPA is currently considering those comments. The complete document is available at: https://www.epa.gov/sites/production/files/2020-3/documents/begin_actual_construction_032520_2.pdf

EPA Proposed Rules to Formalize Guidance documents:
On May 19, 2020, in an effort to curtail the growth in guidance documents, the EPA proposed new rules to formalize the guidance process that has been used to interpret the EPA's rules and the EPA's petition and court orders. This proposal resulted from an Executive Order 13891 "Promoting the Rule of Law Through Improved Agency Guidance Documents" signed by Former President Trump on October 9, 2019. Among other things, the Executive Order directed federal agencies to make active guidance

documents available via an online guidance document portal. However, Executive Order 13891 has been revoked by President Biden. In accordance with the Presidential Directive of January 20, 2021, "Revocation of Certain Executive Orders Concerning Federal Regulation," the EPA rescinded its October 19, 2020, final rule establishing administrative procedures for issuing Agency guidance documents effective May 18, 2021.[1] Guidance that was compiled as part of the proposed rule was placed in a web portal that can be searched here: https://www.epa.gov/guidance.

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 the 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 the 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, are 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. Remaining states in Region 6 continue to work on their SIP submittals. ***Michael Feldman, 214-665-9793.***

[1] 86 FR 26842 (May 18, 2021)

Re-evaluation of designations under the 2015 Ozone National Ambient Air Quality Standards (NAAQS): On October 1, 2015, the EPA revised both the primary and secondary ozone NAAQS to provide increased protection of public health and the environment. Whenever the EPA establishes a new NAAQS or revises an existing NAAQS, the Clean Air Act (CAA) requires the EPA to designate all areas of the country as to whether they are meeting or not meeting the new or revised NAAQS. The EPA designated areas for the 2015 ozone NAAQS in 3 rounds, resulting in 52 Nonattainment areas.

In accordance with our authority under the CAA, the EPA will designate an area as Nonattainment if there are certified, quality-assured air quality monitoring data showing a violation of the 2015 ozone NAAQS or if the EPA makes a determination that an area is contributing to a violation of the 2015 ozone NAAQS in a nearby area. Areas designated Attainment/Unclassifiable are not measuring or contributing to a violation of the standards.

As a first step in implementing the 2015 ozone standards, the EPA asked states and tribes to submit their designation recommendations, including appropriate area boundaries. None of the Tribes in Region 6 submitted a recommendation. However, after considering the recommendations submitted by Texas, the EPA originally agreed with the recommendation to designate El Paso County as Attainment/Unclassifiable in our designations promulgated on April 30, 2018.

Subsequent to our final designations, multiple petitioners (i.e., several environmental and public health advocacy groups, three local government agencies, and the State of Illinois) filed six lawsuits challenging certain ozone designations that were promulgated on April 30, 2018. In a July 10, 2020, decision, the District of Columbia Circuit Court remanded to the EPA, but did not vacate, the designations for 16 of the challenged counties, including El Paso County, Texas.

In response to the Court’s remand, the EPA re-evaluated the designation for El Paso County by applying its uniform, nationwide analytical method, and interpretation of CAA section 107(d)(1) in considering the specific facts and circumstances for the area using only data available at the time of the original designation. This includes Texas's September 30, 2016, and August 23, 2017, ozone designation recommendations, which were based on 2014-2016 air quality data. Upon re-evaluation of the record, the EPA intends to designate El Paso County Nonattainment as part of the Doña Ana, NM Nonattainment area. Because the EPA intends to modify Texas’s designation recommendation for El Paso County, CAA Section 107(d)(3)(b) requires the EPA to conduct a 120-day notification process which provides Texas the opportunity to demonstrate why any proposed modification is inappropriate. The Technical Support Document for the intended El Paso designation provides a detailed analysis to support our intended designation decision and is posted on the EPA’s Ozone Designations web site at https://www.epa.gov/ozone-designations.

Because the Ysleta del Sur Pueblo is located in El Paso County, the EPA sent the Ysleta del Sur Pueblo an invitation to consult with EPA regarding the intended designation for El

Paso County. The EPA also made its intended designation decision and supporting documentation for El Paso County available to the general public for review and comment. EPA announced a 30-day public comment period in the **Federal Register** on June 14, 2021. In order to remain consistent with the designations across the rest of the country in responding to the court's remand, EPA limited its review to information that was a part of the existing record for the original final area designations promulgated on April 30, 2018. (For example, EPA did not consider more recent ozone design values.)

During the comment period, EPA received comments from the State of Texas, the Texas Association of Manufacturers, and the Texas Oil & Gas Association, the El Paso Chamber, Chaparral Community Coalition for Health and Environment et. al., and individual members of the public. The comments received are posted in the docket for this rulemaking. EPA's Response-to-Comments received will also be posted in the docket. EPA plans to issue the final ozone designation by late Fall 2021. The docket ID is EPA–HQ–OAR–2017–0548 and the docket is found at www.regulations.gov. ***Carrie Paige, 214-665-6521.***

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:

On December 23, 2020, the EPA finalized its decision to retain the Ozone NAAQS without revision: FR - Final Ozone NAAQS Decision. All the review documents for the Ozone NAAQS are posted here: https://www.epa.gov/naaqs/ozone-o3-air-quality-standards. The final **Federal Register** action addressing EPA's decision on the Ozone NAAQS is included on a list of agency actions that Administrator Regan plans to review. At the time of this writing, we do not have information regarding the timing of this review.

On December 4, 2020, the EPA finalized its decision to retain the Particulate Matter (PM) NAAQS without revision: FR - Final PM NAAQS Decision. All the review documents for the PM NAAQS are posted here: https://www.epa.gov/naaqs/particulate-matter-pm-air-quality-standards. The final **Federal Register** action addressing EPA's decision on the PM NAAQS is also included on a list of agency actions that Administrator Regan plans to review. In October 2021, EPA posted a draft document titled, *Policy Assessment for Reconsideration of the National Ambient Air Quality Standards for Particulate Matter, External Review Draft* (Draft PA). This draft document was prepared as a part of the current reconsideration of the 2020 final decision on the NAAQS for PM. When final, the PA is intended to "bridge the gap" between the scientific and technical information assessed in the 2019 Integrated Science Assessment for PM (2019 ISA) and Supplement to the 2019 ISA for PM (ISA Supplement) and the judgments required of the Administrator in determining whether to retain or revise the existing PM NAAQS. Comments on the Draft PA must be received on or before December 14, 2021. A public meeting of the Clean Air Scientific Advisory Committee (CASAC) PM Panel to discuss the EPA's Draft Supplement to the 2019 ISA for PM and the Draft PA is scheduled for November 17-19, 2021, and December 1 and 2, 2021. Please see the CASAC website (https://casac.epa.gov) for more details.

The EPA is also reviewing the secondary (welfare-based) NAAQS for oxides of nitrogen, oxides of sulfur, and PM. We expect to release the draft Policy Assessment this Spring. 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.***

EPA's Advance Program: We remind 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 of 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.

EPA issued the following NSR (Part 49) and federal title V operating permits (Part 71) to facilities located on tribal lands during 2021.***Erica LeDoux, 214-665-7265***

Enterprise Field Services LLC: The Title V operating permit renewal was issued on March 11, 2021, and is effective for five years until renewed (until April 9, 2026). This renewal incorporated the 2018 synthetic minor NSR permit limits. The Lindrith Compressor Station located on Jicarilla Apache tribal land, NM is an existing natural gas compression and transmission facility. All documents related to this action are available at www.regulations.gov, docket # EPA-R06-OAR-2020-0330.

Choctaw Defense Manufacturing LLC: The synthetic minor NSR permit for the metal fabrication plant located in McAlester, OK was public noticed on April 1, 2021 and no public comments were received during the 30 day public comment period. The final permit was issued on May 14, 2021. All documents related to this action are available at www.regulations.gov, docket # EPA-R06-OAR-2020-0609.

Transwestern Pipeline Company LLC – Laguna Compressor Station No. 6: The Title V renewal permit for this existing facility was public noticed April 13, 2021 to May 13, 2021. No public comments were received, and the final permit was issued on May 25, 2021 and is effective for five years until renewed (until May 25, 2026). All documents related to this action are available at www.regulations.gov, docket # EPA-R6-OAR-2021-0195**.**

The Choctaw Pocola Casino and Resort, the minor NSR permit for the gaming facility located at Choctaw Casino & Resort, Pocola was public notice February 11, 2021 to March 12, 2021. No public comments were received, and the final permit was issued March 25, 2021. All documents related to this action are available at

www.regulations.gov, docket # EPA-R6-OAR-2020-0708.

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 June 25, 2021. The final permit will continue to have federally enforceable limits that allow the facility to operate and emit below the major NSR and TV threshold limit.

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 (signed on October 18, 2021) was emailed to the manager of the National Nuclear Security Administration, Los Alamos Field Office, Department of Energy. The letter identifies the need for an updated application and consultation with tribal governments prior to the start of the FTWC operations. The letter also mentions how the region intends to utilize the process outlined in EPA's tribal consultation policy to seek input from the tribal community related to the underlying basis for our approval, including any new information submitted with the updated application. We will expeditiously consider the additional information supplied by LANL in its updated application as well as any concerns expressed by the tribal community before making our decision on the proposed venting process. In order to ensure a complete and meaningful understanding by all potentially affected groups, we encourage that the Department of Energy (DOE) also offer consultation to the tribal governments within a 30-mile radius of the lab. ***George Brozowski, 214-665-8541***

Land, Chemical and Redevelopment Division

RCRA, BROWNFIELDS, AND SOLID WASTE BRANCH

BROWNFEILDS

KICKAPOO TRIBE OF OKLAHOMA BROWNFIELDS CLEANUP GRANT PROJECT COMPLETED: EPA R6 LCRD Brownfields Team is honored to announce that the Kickapoo Tribe of Oklahoma (KTO) completed the goals identified in the Brownfields Cleanup Grant Application from 2017. The cleanup project took place in the Tribal Heritage Center/Gymnasium, and it involved approximately 9000 square feet concrete block and brick building, located in the center of a fifteen-acre block of tribal land north of McLoud, Oklahoma. The former gymnasium had not functioned for about ten years because of mold, asbestos, and faulty water lines. In addition, after the clean-up, KTO had an opportunity to renovate the facility with support from the Kickapoo Health Center CARES funds. The schedule opening day was September 23rd, 2021. KTO is pleased with the result of a vibrant, multi-user-enabled facility that is a benefit to many constituencies within the Tribe and the local community of McLoud, Oklahoma. ***Elizabeth Reyes, 214-665-3163.***

FY 2021 BROWNFIELDS STATE AND TRIBAL RESPONSE PROGRAM GRANT AWARDS: For FY 2021, 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 $700,841 for their Brownfields 128(a) State and Tribal Response programs. The funding can be used for limited site assessments or 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.

EPA Region 6 added language to the programmatic terms and conditions of FY21 Brownfields grants awarded to Oklahoma state agencies regarding activities conducted in Indian Country. Specifically, for Brownfields 128(a) State and Tribal Brownfields Response Program grants, the following language was added: "*The recipient may use EPA funds to carry out site specific activities authorized by CERCLA 128(a) only 1) in areas outside of Indian country, or 2) within areas of Indian country (as defined at 18 U.S.C. § 1151) where the relevant tribe provides consent for the recipient to carry out the site-specific activity.*" The Brownfields 128(a) grant program is a non-competitive grant program to provide funds to establish and enhance state and tribal Brownfields response programs. Activities that can be conducted using these funds include conducting site-specific Brownfields assessments. The Oklahoma Corporation Commission and the Oklahoma Department of Environmental Quality are the two state agencies that received 128a grants this year.

Similarly, we also included the following language in the FY21 Revolving Loan Fund grants (or 104K grants): "*If a loan or subgrant will be made in Indian Country as defined by 18 U.S.C. § 1151, the Cooperative Agreement Recipient (CAR) must consult with the EPA Project Officer prior to entering into the loan or subgrant to determine if additional tribal coordination is*

needed." These are competitive grants that can be used for brownfields assessment, cleanup, environmental job training, technical assistance, and research. Revolving Loan Fund (RLF) grant recipients may capitalize on those funds and provide loans and subgrants to eligible entities to carry out cleanup activities at brownfield sites. The Oklahoma Department of Environmental Quality is a current recipient of an RLF grant in Oklahoma. ***Elizabeth Reyes, 214-665-3163.***

NATIONAL BROWNFIELDS CONFERENCE IN OKLAHOMA CITY, OKLAHOMA
The National Brownfields Conference previously scheduled for December 7-9, 2021, has been postponed until further notice. The Conference location will remain at the new OMNI Hotel and OKC Convention Center. The Conference is postponed due to the impacts of the COVID-19 pandemic. ***Althea Foster, 214-665-2268***

TRIBAL SOLID WASTE

EPA Recycling with COVID-19 Resources Site and Videos
EPA HQ released several videos on YouTube to address recycling with COVID-19, as well as a website with information, resources and links for additional information. These have been sent out to all Region 6 tribes and discussed on RTOC calls. Any new information or fact sheets will be forwarded as soon as we receive them. Here are the links:

- Don't recycle Personal Protective Equipment video: https://youtu.be/S1cERI3IbeY
- Recycling during health crisis video: https://youtu.be/_ADZ8vH-r4M

This is the Recycling During COVID-19 web page: https://www.epa.gov/coronavirus/recycling-and-sustainable-management-food-during-coronavirus-covid-19-public-health

This last link is also available at www.epa.gov/coronavirus. ***Roger Hancock, 214-665-6688***

EPA and ENIPC Tribal Recycling Workshop (Please note that this Workshop has been tentatively postponed until Spring 2022 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. If conditions are still unfavorable for an in-person training in the next couple of months we plan to postpone until next Spring so that we can have a safe, responsible workshop. ***Roger Hancock, 214-665-6688***

EPA HQ Relaunches Tribal Solid Waste Peer Matching Program: On September 9, 2021, EPA announced that we have relaunched the national Tribal Peer Matching Program with an offer for interested tribes to fill out an online form to be a mentor or mentee or both. 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 can also be provided for free for participants. ***Roger Hancock, 214-665-6688***

IHS HQ Will Work Directly with Tribes to Verify Open Dumpsites: IHS recently informed EPA they are planning to reach out to tribes through their Area Offices to verify priority dumpsites over .5 acres that are documented in their WSTARS database by 12/31/21. They are also working on a virtual open dump assessment training that is planned to be available to everyone by March, 2022. This might lead to some sites receiving funding from IHS for cleanup. ***Roger Hancock, 214-665-6688***

ITEP Selected for National Tribal Solid Waste Training
The Institute for Tribal Environmental Professionals (ITEP) was selected again to be EPA's national training and Peer Matching provider. They have done many national solid waste trainings and will continue to offer them this year. Due to COVID-19, upcoming trainings are planned to be virtual. We will be notifying everyone as soon as we hear of upcoming events and trainings and you can also access more information, presentations and documents at: https://www7.nau.edu/itep/main/Waste/ ***Roger Hancock, 214-665-6688***

EPA to Continue Offering Tribal Solid Waste Online Webinars
Over the past year, EPA HQ has offered several online webinars and trainings covering topics such as waste characterization, sustainable materials management and managing small-scale transfer stations. Due to the excellent participation rate and interest, we are planning to continue to offer more trainings and will keep everyone updated as soon as they are announced. ***Roger Hancock, 214-665-6688***

RCRA GRANTS

TRIBAL HAZARDOUS WASTE GRANT AWARD
For FY2021, the Choctaw Nation of Oklahoma was awarded a Tribal Hazardous Waste grant for a funding amount of $100,000.00 to support a hazardous waste management plan. Under the Resource Conservation and Recovery Act, EPA's Tribal Waste Management Program encourages environmentally sound waste management practices that promote resource conservation through recycling, recovery, reduction, clean up, and elimination of waste. EPA's Hazardous Waste Management Grant Program for Tribes provides financial assistance to tribal governments and tribal consortia for the development and implementation of hazardous waste programs; for building capacity to improve and maintain regulatory compliance; and for developing solutions to address improper management of hazardous waste on tribal lands. Tribes can use the funding for activities such as developing codes and regulations, implementing hazardous waste management plans, and holding collection events. ***Elizabeth Reyes, 214-665-3163.***

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 last year. 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 NOVs 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 excavating 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 Preliminary Assessment will begin at FWDA in late 2021. A Fort Wingate Depot Activity Base Closure Team Virtual meeting will take place November 3, 2021. ***Laurie King, 214-665-6771***

EPA/NREL/Kickapoo Tribe Partnership Project

In the Spring of 2020, EPA Region 6, the Kickapoo Traditional Tribe of Texas (KTTT), and the Department of Energy's National Renewable Energy Lab (NREL) formed a partnership to promote renewable energy/energy efficiency (RE/EE) opportunities on Tribal property near Eagle Pass, TX. The project was funded via an Interagency Agreement (IA) between the Region 6 RCRA Program and NREL. KTTT identified several facilities/locations on their property for a RE/EE feasibility study. The effort was also supported by the Region 6 Tribal and Border Offices. The NREL modeling results for the renewable energy feasibility study indicated that renewable energy was likely not a cost-effective option at this time due to the low cost of electricity; however, it might be a consideration based on other Tribal goals. NREL/Region 6 offered to further assist the Tribe by developing an energy strategic plan for the Tribe, funded via the IA, including an energy efficiency audit. Typically, this entails an on-site visit by NREL staff; however, NREL has recently begun preparing them remotely. The Tribe accepted the offer and the workgroup has been meeting (generally biweekly) since August 2021 to develop the strategic energy plan. Currently, the projected time frame for completing the plan is the first quarter of calendar year 2022. ***Jeanne Schulze, 214-665-7254***

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 1000 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. Semi-annual status reports are submitted to NMED for the IM. In addition, pilot-scale in-situ remediation testing using chemical amendments was conducted within the plume area at two wells in 2017 and LANL is monitoring the effectiveness of the amendments. An additional monitoring well was installed in May 2019 in the northeast portion of the plume toward the production well. This well is being sampled monthly starting in August 2020 and has chromium concentrations that exceed the standard. LANL completed an aquifer assessment around this well to further characterize the northeast portion of the chromium plume in the vicinity of the production well and concluded that there is no risk to the production well from this contamination source. Drilling to install two new wells was completed in October and will be incorporated into the facility-wide groundwater monitoring plan to further characterize the nature and extent of chromium, perchlorate and other contaminants in the regional aquifer. NMED is requiring additional monitoring wells to delineate the vertical extent of the plume and to replace the wells that were permanently altered by the 2017 chemical amendment injection pilot study. A Corrective Measures Evaluation for the chromium plume that was due in September 2021 may be postponed to first complete characterization of the plume. ***Laurie King, 214-665-6771***

UST, POLLUTION PREVENTION, AND LEAD BRANCH

GRANTS

Lead Paint Program Grants
The Cherokee Nation of Oklahoma was awarded a grant in September 2021 to conduct a Lead Based Paint Program. The focus of the program 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 and taking appropriate enforcement when needed. ***Mike Adams, 214-665-6711***

Pesticide Program Grants
Cooperative agreements were awarded to two tribal consortia, the Inter-Tribal Environmental Council (ITEC) and the Eight Northern Indian Pueblos Council (ENIPC) on September 24, 2021 and September 28, 2021, 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. In September, ENIPC requested a 90-day extension to give more time to finish out the FY21 grant. This extension will end on December 31, 2021. ***Sierra Moline, 214-665-2177***

Underground Storage Tanks (UST)
The ITEC and ENIPC on-going grants provide compliance assistance to tribal UST owners and operators. The work of these two organizations has been instrumental in maintaining a compliance rate of over 85% at Region 6 Tribal facilities for the last three years. These grants have been fully funded for FY20. ***Tameka McCaskill, 214-665-8578***

PROGRAM IMPLEMENTATION

Federal Certification of Applicators of Restricted Use Pesticides (RUP) in Indian country
On February 6, 2014, EPA issued a federal certification plan that allows the use of RUPs in Indian country by trained, tested, and certified applicators. The plan also allows EPA to regulate the sale and distribution of RUPs in Indian country. The certification requirements for RUPs help ensure that RUP applicators are competent to use these hazardous pesticides as safely as possible. Currently, there are 40 certified commercial applicators and 19 private applicators of RUP 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. ***Eric Nystrom, 214-665-6752***

UST Inspections
EPA Region 6 is currently not conducting inspections of UST facilities. For FY22, the region is planning to conduct 64 inspections of UST facilities operated on Tribal lands and provide onsite compliance assistance. Annual Notification of Inspection letters have been mailed out. Individual notifications for inspections will be sent to the owner/operator and the Tribal environmental offices 30 days before the inspection. Compliance at EPA Region 6 tribal facilities has dropped due to new regulatory requirements that went into effect on October 13, 2018. The overall rate has dropped from around 87% to approximately 70%. ***Ruben Moya, 214-665-2755 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 AEZ so it is applicable and enforceable only on a farm owner's property, exempt 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 December 20, 2021 but could be extended as the litigation is ongoing. At this time, 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***

Underground Storage Tanks
The new EPA UST regulations provide additional protections for UST facilities on Indian land. Deadlines for requirements taking effect were October 13, 2015, April 11, 2016, and finally October 13, 2018. The October 13 deadline included operator training. The new regulations require training for three classes of operators at all UST facilities: Class A, B and C. The Office of Underground Storage Tanks (OUST) has prepared compliance assistance publications and has a certification test that is available on the web that will provide a certificate of completion for both Class A and B operators. The Intertribal Environmental Council (ITEC) and the Eight

Northern Indian Pueblos Council (ENIPC) are providing training to the tribes in support of the required certifications. For more information, visit EPA's webpage at https://www.epa.gov/ust/class-a-and-class-b-ust-operator. ***Ruben Moya, 214-665-2755***

TRIBAL OUTREACH

Lead Paint Program Outreach

The Region 6 Lead-Based Paint Program and the Children's Environmental Health Programs are partnering with their counterparts in Regions 8 & 9, HUD and the Eight Northern Indian Pueblo Council to offer a large Lead Paint & Children's Health symposium in Albuquerque during Lead Poison Prevention week 2022. We will offer a two-day event with guest speakers from HUD, Indian Health Services, New Mexico Department of Health and Texas Tech Health Science Center to educate participants in preventing lead exposure in children from old lead-based paint. We will be able to offer travel scholarships to tribal members from Regions 8 & 9 and expect a large tribal audience from across the southwestern US. ***Mike Adams, 214-665-6711***

Inter-Tribal Environmental Council (ITEC) Pesticides Program

ITEC staff have continued to join the Tribal Pesticide Program Council (TPPC) monthly executive council calls. ITEC staff also joined monthly EPA Tick IPM Working Group conference calls and the EPA Integrated Pest Management Webinar Series that covers a different topic each month. ITEC staff submitted a Tribal Pesticide Program report to the Tribal Environmental Coalition of Oklahoma during their bi-monthly meeting. ITEC pesticide staff have continued to assist and provide information to support tribes especially as more tribes reopen their offices. ITEC staff continue to record the pesticide application notifications they receive into the Pesticide Application Notification database. The Cherokee pesticide staff were contacted by Cherokee Nation Health Services to provide information on herbicide usage and how to dispose of old chemicals. ***Sierra Moline, 214-665-2177***

Eight Northern Indian Pueblos Council (ENIPC) Pesticides Program

ENIPC-OETA Pesticide Program provided pollinator garden information to Santa Ana Pueblo and received updates from Santo Domino and San Ildefonso Pueblos about their pollinator gardens. The goal of the pollinator gardens was to create gardens and outreach materials (e.g. PowerPoint presentation, website update, flyers, and/or social media posts) that can be used as tools to educate tribal youth, growers, and the general community about the protection of native pollinators.

ENIPC staff attended webinars about a variety of topics including Tribal Sustainability hosted by Muskogee Creek Nation, PFAS in agriculture, Children's Health Navigating Wildlife Smoke Issues in Tribal Communities and Lead Curriculum Train-the-trainer. ENIPC staff registered and was accepted to attend the Pesticide Inspector Residential Training Program held in April. Staff continues to provide any pesticide related information assistance to pueblos and tribes. Due to the continued closure of the Pueblos, the ENIPC pesticide program has done all work plan related activities through email, phone and online meeting platform.
Sierra Moline, 214-665-2177

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 for Summer of 2022 (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, and 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***

Choctaw Nation Pesticide Program
Region 6 Pesticide Program staff met with the Choctaw Nation in September to discuss developing their pesticide program under Federal Insecticide, Fungicide and Rodenticide Act. The proposed program includes both programmatic and enforcement activities for the tribe. EPA staff have previously provided resources through the Region 6 OCTEA to Choctaw Nation about Federal Inspector Credentials, Cooperative Agreement Guidance and the Tribal Pesticide Program Council. During this meeting, Region 6 pesticide staff requested that Choctaw Nation provide additional information on the specifics of enforcement targets and other proposed activities. After the meeting. Choctaw Nation was provided with the link to the EPA Pesticide Certification website where they can read about the Options for Tribes to Establish EPA-Recognized Certification Programs in Indian Country. ***Sierra Moline, 214-665-2177***

Discussion with ITEC and ENIPC about FIFRA Enforcement on Tribal Lands
On September 7, 2021, Pesticide Program and Pesticide Enforcement staff met with Inter-Tribal Environmental Council and Eight Northern Indian Pueblos Council to discuss future inspections on tribal lands and current needs of the tribes. Enforcement is developing a plan that would focus on three types of inspections producer/establishment, marketplace and worker protection. Neither ITEC nor ENIPC believe to have pesticide producing establishments on their lands so that type of inspection will not be used, although the regional staff will confirm with the establishment registration database. Marketplace and worker protection inspections will depend on the number of retail locations, farms, greenhouses, etc that could be possible targets. Under FIFRA, EPA is responsible for enforcement on tribal lands because all tribal cooperative agreements in the region are only programmatic and no Region 6 tribes have an enforcement program. The tribes and Region will continue to collaborate on identifying potential inspection targets in Indian Country. ***Sierra Moline, 214-665-2177***

Enforcement and Compliance Assurance Division

Clean Water Act Section 404 Enforcement to Protect the Toltec Mounds (Arkansas)
Region 6 is continuing work to address Clean Water Act Section 404 violation that raised the water level of Mound Lake, Arkansas. Unauthorized levee modifications are causing secondary impacts to the Toltec Mounds, an archeological site and designated National Historic Landmark located in Toltec Mound Archeological State Park. There is also a Keep safe Cemetery in the state park that is adversely impacted by the violation. EPA continues to coordinate with the Quapaw Tribe of Oklahoma, the Osage Nation, Caddo Nation, and Tunica Biloxi Indian Tribe of Louisiana regarding our goal of addressing the violation in a manner that reduces the threat of flood and erosion impacts to the archeological and cemetery sites. EPA has completed an onsite inspection, reviewed the extent of federal jurisdiction, and analyzed historic survey data to develop the most effective enforcement resolution. Additionally, The Arkansas Department of Parks, Heritage and Tourism (ADPHT) conducted a hydrology study to determine a lake level that will protect the archeological resources from flooding. ***Curry Jones, 214-665-6793 / Tom Nystrom, 214-665-8331***

Osage Nation
EPA Region 6 Water Enforcement Branch is working with the Osage Nation Department of Natural Resources to obtain federal inspector credentials for two of their inspectors in the Oil Pollution Act (OPA) and underlying Spill Prevention Control and Countermeasures (SPCC) requirements. Upon completion of the training and field work (following and leading inspections under the guidance of a credentialed inspector), it is anticipated that the Osage Nation inspectors will enhance the environmental regulatory presence in Osage County, Oklahoma. ***Guy Tidmore, 214-665-3142***

Concern Relative to Drinking Water
Currently, there are only two public water supply systems on Tribal or Pueblo Lands in Region 6 that have ETT scores of 11 or higher, for violations of the Safe Drinking Water Act. Based on site visits and inspections, we have determined that the most common factors contributing to this growing trend are: 1) failure to adequately fund proper operation and maintenance, and 2) failure to acquire and retain qualified operators. Federal grant allocations cannot fund O&M expenses because they are the tribe's/owner's responsibility. Grant funds can be used to support infrastructure improvements necessary to improve the efficiency necessary to meet Safe Drinking Water Act standards. ***Curry Jones 214-665-6793***

Mescalero Apache Drinking Water
Protection of drinking water is a key pillar in building strong communities. Mescalero Apache Tribe has 10 public water systems serving about 6,000 people across 50 square miles. These Public Water Supply (PWS) systems have historically had numerous operations, maintenance and management issues that were not addressed for over two decades that negatively impact drinking water quality. The EPA has provided significant grant money to Mescalero for infrastructure projects from 2008 - 2017. The EPA issued a Unilateral Administrative Order, to the Mescalero Apache Tribe for failure to address 181 significant deficiencies in their drinking water system. This order requires that the Tribe post public notice of these deficiencies and continue to repost every three months until all significant deficiencies are corrected. Four of the

ten systems have addressed all significant deficiencies and no longer need to post public notice. The public notice order has proven to be an effective tool to reach the citizens consuming the water. The EPA continues to work with Mescalero Apache Tribe to promote the need for obtaining necessary personnel and financial resources to address the remaining deficiencies. As a result of the EPA partnership with Mescalero Apache Tribal leadership, the Tribe has resolved 159 of the 181 deficiencies (88% of the deficiencies) within the first 34 months of the unilateral order. Some of the remaining deficiencies require construction projects that, once complete will address the issues. This partnership and these meaningful steps will ensure that Mescalero Apache Tribe will be able to provide clean and safe water to tribal members. ***Curry Jones 214-665-6793 / Tonia Biggs, 214-665- 8551***

OECA Compliance Advisor Initiative

The EPA is assisting tribal partners through direct technical assistance. The EPA's Office and Enforcement and Compliance Assurance (OECA) has contract support available to assist tribal drinking water facilities to develop asset management plans and standard operating procedures necessary to ensure infrastructure continues to provide clean and safe drinking water. The EPA encourages the tribes/pueblos to continue to seek both internal and external resources necessary to maintain proper operations and maintenance, as well as hire staff necessary to provide safe drinking water to tribal communities. Two Region 6 tribes are currently participating in the Compliance Advisor (formerly known as Circuit Rider) program supported through the OECA funding. ***Curry Jones 214- 665-6793 / Tonia Biggs, 214-665-8551***

Superfund and Emergency Management Division

TRIBAL CONSULTATION AND COORDINATION

VARIOUS REMEDIAL /REMOVAL ISSUES

New Mexico Abandoned Uranium Mines – Five Year Plan: EPA is developing the 2022-2026 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 2022. ***Susan Webster 214-665-6784***

Office of Mountains, Deserts, and Plains: The Office of Mountains, Deserts and Plains (OMDP) is a western lands-focused office to address cross-cutting issues unique to the EPA Regions. It houses oversight responsibilities for federal hardrock mining cleanup sites west of the Mississippi River; serves as a central contact for other federal agencies, states and tribes with responsibility for or impacted by these sites; and develops innovative technologies and adaptive management approaches to address legacy pollution. Additionally, the office supports efforts of conservation organizations to voluntarily undertake projects to improve conditions at abandoned mines (Good Samaritan projects). In Region 6, OMDP is supporting investigations and cleanups at three Superfund sites: Homestake Mining Company Superfund Site (NM), United Nuclear Corp Superfund Site (NM), and Tar Creek Superfund Site, Operable Unit 5 (OK). Additionally, OMDP is supporting Region 6 and 9 in meeting EPA Inspector General commitments (prioritization of the mines and funding allocation for mine cleanups) tied to the Tronox Navajo Area Uranium Mines. 20 of 54 Tronox mines are located in the Ambrosia Lake area of the Grants Mining District. ***Susan Webster 214-665-6784***

Jackpile Paguate Uranium Mine Site: In support of the on-going Remedial Investigation, the installation of thirty-three (33) groundwater monitoring wells for the sitewide investigation was completed in October 2021. Surface water sampling began in late October 2021 and is expected to be completed by the end of the calendar year. The surface water investigation will focus on the three major drainage areas of the Rio Paguate, Rio Moquino, and Oak Canyon and will rely on dedicated automated stations and grab samples. Sampling of groundwater, sediments, and surface water are planned to begin in early January 2022. ***John Meyer 214-665-6742***

San Mateo Creek Basin Legacy Uranium Mines Site, NM: The Remedial Investigation and Feasibility Study work plan, field sampling plan and a conceptual site model developed by the three former mine operators (Working Group) were approved by EPA in June 2021. The Working Group is currently is obtaining access agreements for private lands, state land, and federally managed lands where a geophysical seismic survey will be conducted as the first phase of the field investigation. Applications for right-of-entry (ROE) and right-of-way were submitted to the New Mexico State Land Office (SLO) and Bureau of Land Management (BLM) in October 2021 as part of this effort. Cultural surveys and a public and tribal notification process will be performed as part of the SLO and BLM requirements for the ROE and ROW applications. The geophysical seismic survey is scheduled to begin in February 2022 and last

about a month. EPA and the New Mexico Environment Department will perform oversight of the field activities. ***John Meyer 214-665-6742***

Tronox Navajo Area Uranium Mines East, West and Central Geographic Sub-Areas and Section 10 Mine, Grants Mining District, NM: On October 13, 2021, EPA Region 6 and Region 9 presented the Tronox Allocation Strategy to Navajo Nation and the State of New Mexico. The strategy allocates funding to all the Tronox NAUMs in tandem with enforcement efforts to obtain the remaining funding needs from potentially responsible parties. Comments were requested by November 1, followed by a follow-up meeting on November 8. Region 9 is working to schedule consultations with Navajo Nation for late November or early December. EPA Region 6 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 (UMTRCA) in the area adjacent to the Rio Algom Mill Site. To support this work, EPA has and will continue to discuss a draft Comingled Contamination Investigation Work Plan with the NRC, the State, and Rio Algom. The work plan proposes a protocol for delineating mining related waste from milling waste. The work plan includes the development of a reference library of representative samples of mill and mine waste. Collection of samples for the reference library has occurred for both Mt. Taylor Mine and the Rio Algom Mill Site. EPA is in the process of evaluating whether the analyses selected for the reference library samples provide definitive results for the purpose of determining if the areas are contaminated by mine waste, mill waste, or comingled waste. EPA plans on producing a draft executive summary by mid-November 2021. ***Craig Carroll, 214-665-2220 and Susan Webster 214-665-6784***

Oak Canyon Residential Site, Pueblo of Laguna, NM: On June 30, 2021, EPA participated in a follow-up visit at a residential property with Pueblo of Laguna Environmental Department. EPA completed an assessment of health and safety concerns based on the proposed actions in the radon abatement plan and received the assessment report in July 2021. The recommendations will be incorporated in the proposed work plan. EPA anticipates starting the removal action in January 2022. ***Craig Carroll, 214-665-2220***

Los Lunas Chemical Cache, Los Lunas, NM: On September 7, 2021, EPA mobilized to the Los Lunas Chemical Cache site to dispose of 53 bulked chemical containers. The containers held various hazardous substances including acids, caustics, flammables, metal containing wastes, water reactives, oxidizers, and cyanides. Forty-eight containers were shipped for disposal on September 11, 2021. The five remaining containers of Radium-226 waste were shipped for disposal on September 28, 2021.
Craig Carroll, 214-665-2220

FY 2021 Oklahoma Superfund Cooperative Agreements: EPA Region 6 added the following language to the programmatic terms and conditions of FY2021 Superfund Cooperative Agreements awarded to Oklahoma state agencies regarding activities conducted in Indian Country: "*EPA Region 6 is awarding this FY2021 cooperative agreement to the State to ensure that remedial work will continue without interruption, including on Indian reservation land, to protect public health. The EPA and/or State will ensure increased notification to and coordination with tribes within Indian county within the site regarding activities conducted*

pursuant to this agreement. EPA Region 6 will initiate Tribal consultation to determine whether changes to the roles of the relevant tribes within Indian County to protect tribal sovereignty." ***Lisa Price 214-665-6744***

Quapaw Nation, Tar Creek, 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 6.5 million tons of chat, and under OU2 (Residential Properties), remediating a total of nearly 3000 residential properties, with remedial designs having recently been completed for 35 residential properties. Through September 2021, remediation has been completed at 22 properties, with 7 additional properties expected to be remediated in November 2021. An additional 50 properties are being sampled in the next few months, with residential remediation planned where appropriate. ***John Meyer 214-665-6742***

Tri-State Watershed, Lower Spring River (Surface Water and Sediments), including portions of Tar Creek OU5 OK, KS and MO: EPA 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, as well as the feasibility study (FS). EPA released the Human Health Risk Assessment Report in March 2021. EPA released the revised Preliminary Remediation Goals, v1.3 (PRG) Memorandum on August 20, 2021, after receiving input. The Feasibility Study (FS) Phase of work is underway, with Region 7 as the lead contact. Region 6 and 7 are conducting field pilot study activities to provide information on available technologies and to support evaluation and development of remedial options while providing monthly conference call updates. The next target milestone for the Tri-State Watershed is to implement 2 pilot studies (Biochar pilot on Elm Creek, and biochar/wetlands pilot on Wilson Lake) in 2022, collect data in support of the watershed modeling effort, collect data gaps in support of the investigation and risk assessment for the Upper Spring River, continue coordination on Lost Creek data sampling, and continue efforts to develop better communication strategy for site information. ***John Meyer 214-665-6742***

Wilcox Oil Company, Bristow, OK: In September 2020, EPA issued the contract for the Source Control Interim/Early Action according to the 2018 Source Control Record of Decision. Construction is expected to spring 2022 to address approximately 25,000 cubic yards of source material located at eight former tank locations and approximately 5,800 cubic yards of lead source material in the lead additive area. The revised Remedial Investigation Report and the revised Human Health and Ecological Risk Assessments were posted on the site's web page in March 2021. The draft Soil Feasibility Study was released for comment on June 2, 2021, with comments requested by July 9, 2021. The final Soil FS was released in August 2021 and posted to the site's web page. ***John Meyer 214-665-6742***

Oklahoma Refining Company, Cyril, OK: ODEQ contracted with IKON Environmental Solutions, LP (IKON), to perform the Operable Unit 2 (North Side) Remedial Action (RA) at the Oklahoma Refining Company Superfund Site in Cyril, Oklahoma. The RA consists of 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. IKON began RA activities on May 17, 2021 and is currently scheduled to complete remedial

activities in March 2022. EPA and ODEQ will continue to coordinate with and inform Oklahoma tribes on site milestones. ***John Meyer 214-665-6742***

Kickapoo Radium Dial Site, Shawnee, OK. On July 21, 2021, EPA mobilized to the Kickapoo Nation of Oklahoma at the tribe's request to assist in the disposal of 4 radium dials. The Kickapoo Nation of Oklahoma operates a white goods collection center on tribal property and the dials were discovered in materials intended for recycling. On August 5, 2021, the four radium dials were picked up for transportation and disposal from the Kickapoo Nation. ***Craig Carroll, 214-665-2220***

Oklahoma Tire Recycling Fire, Bristow, OK: A fire occurred at Oklahoma Tire Recycling in Bristow, Oklahoma on August 2, 2021. The Bristow Fire Department responded and contained the fire. Concerned about impacts to the surrounding residential community, the Oklahoma Department of Environmental Quality (ODEQ) on August 5, 2021, requested technical support from the EPA to conduct air monitoring and assist in minimizing emissions from the site. EPA provided air monitoring downwind of the site during operations to assess impacts to the surrounding community. Operations continued until August 13, 2021, when the fires at the site were extinguished. ***Craig Carroll, 214-665-2220***

NEOLAMP Drums Site, Davis, OK: On August 4, 2021, the three radioactive cylinders (Krypton-85) were picked up from the NEOLAMP site and transported to the reuse facility in North Carolina. This completed the removal of all hazardous materials from the site. ***Craig Carroll, 214-665-2220***

Wildcat Creek Oil Spill, Stephens County, OK: On August 6, 2021, an 800-barrel spill from a ruptured flowline, containing sweet crude oil and produced water, impacted the Wildcat and Salt Creeks near Elmore, OK. The Responsible Party completed the creek cleanup as well as digging up and capping the impacted line. On September 22, 2021, EPA conducted its final inspection of the site. ***Craig Carroll, 214-665-2220***

SPCC and FRP Inspection of Wynnewood Refinery, Wynnewood, Garvin County, OK: On September 8, 2021, EPA conducted a Spill Prevention Control and Countermeasure (SPCC) and Facility Response Plan (FRP) inspections of the Wynnewood Refinery owned by Wynnewood Refining Company, LLC. The Inspection is being conducted as a result of a plan review that noted the facility did not appear to have adequate secondary containment for the majority of their above ground storage tanks. After multiple conversations with the company, the facility has not corrected these noted deficiencies and is currently out of compliance with the SPCC/FRP regulation. The facility is located approximately 0.8 miles from the Washita River. ***Craig Carroll, 214-665-2220***

Lake Oologah-Winganon Area Oil Removal, Rogers County, OK. Beginning the week of September 27, 2021, EPA began well plugging operations on two wells at Lake Oologah. In addition, the Oklahoma Corporation Commission had identified two additional wells for evaluation and these two wells were also plugged. The Cherokee Nation sent a representative to observe the well plugging operations. ***Craig Carroll, 214-665-2220***

Henryetta Iron and Metal, Henryetta, Okmulgee County, OK: EPA conducted a removal site evaluation on November 2 - 13, 2020. The removal site evaluation involved the sampling of surface soil, subsurface soil, creek sediment, creek banks, a radiation (naturally occurring radioactive material - NORM) survey of soils and oil field piping, as well as performing a certified property survey. The removal site evaluation action was coordinated with the EPA Remedial Program and the Oklahoma Department of Environmental Quality as this site is on the National Priorities List. EPA has completed the radiation background study to define area background and the radiation cleanup goal. EPA also collected six samples for Total Chromium and Hexavalent Chromium to help determine the final cleanup goal for Chromium. EPA is evaluating the final laboratory data to determine next steps. ***Craig Carroll, 214-665-2220***

Fansteel (FMRI) Site, Muskogee, OK: A streamlined radiological risk review of the on-site soil stockpile indicated excess risk for outdoor workers at 3.35 x 10-03, therefore EPA anticipates placing a cover and soil shielding over the soil stockpile to reduce the exposure risk to outdoor workers. EPA also completed a review of on-site wastewater treatment system operations to identify ways to improve efficiency and reduce operating costs. The review did not identify any potential ways to significantly improve efficiency and reduce costs. EPA anticipates conducting a site walk in December 2021 and will notify the Oklahoma Department of Environmental Quality (ODEQ), Tribes, and the Nuclear Regulatory Commission when the site walk is scheduled. ODEQ and Tribal representatives from the Muscogee (Creek) Nation and Cherokee Nation expressed interest in participating. ***Craig Carroll, 214-665-2220***

Office of Communities, Tribes and Environmental Assessment

ENVIRONMENTAL JUSTICE UPDATE

On Monday, November 15, EPA Administrator Michael S. Regan began a week-long "Journey to Justice: Real EJ Conversations on Your Corner" trip through Mississippi, Louisiana, and Texas to spotlight longstanding environmental justice concerns in historically marginalized communities and hear firsthand from residents dealing with the severe impacts of pollution in these areas.

Over the course of the trip, Administrator Regan joined roundtable discussions to hear directly from residents, advocates, and stakeholders, toured neighborhoods severely affected by pollution, and met with environmental justice activists and community leaders to discuss solutions to these deep-rooted problems, the need for more progress, and the commitment to action by the EPA and the Biden-Harris Administration.

STAFF UPDATE

Interim Director: Olivia Balandran has been appointed as the interim director for the Office of Communities, Tribes and Environmental Assessment (OCTEA). Olivia has been with EPA for 29 years. Before joining OCTEA, Olivia served as the Staff Director for the Outreach, Community Involvement and Engagement Office, at EPA Region 6 Office of Public Affairs (R6). As the Staff Director, she oversaw the implementation of the community involvement activities for the Superfund program and the outreach and community engagement for all other R6 programs.

Olivia has served in several acting senior leadership positions as External Affairs Director, Deputy Director for the Air and Radiation Division, and Senior Advisor to the Acting Regional Administrator (RA). During her Senior Advisor detail, she assisted the Acting RA with re-launching Beyond Translation Plus, a creative initiative focused on reaching out and meaningfully engaging with linguistically isolated communities – two of the largest in R6 being Spanish and Vietnamese speaking communities. Throughout her career, she has held different leadership roles as well in environmental justice, water, FEMA long-term recovery, and Superfund programs. Prior to working at EPA, Olivia served as Assistant to the City Manager in the City of Fort Worth, Texas. She holds a master's degree in social psychology from the University of Missouri – Columbia and received SES candidate certification from OPM in 2014. ***Olivia Balandran, 214-665-7257.***

Tribal Team: Alexa Olson has moved from the OCTEA Tribal Team to the Environmental Justice/ Environmental Education Team. Congratulations to Alexa on her new position at OCTEA!

TRIBAL AFFAIRS

Region 6 General Assistance Program (GAP): OCTEA completed processing of thirty-eight General Assistance Program (GAP) grants awards and fifteen Performance Partnership

Grants (PPGs) totaling $7,520,887 in FY 2021 GAP funding. OCTEA is finalizing the FY 2022 GAP funding announcement with expected due dates for GAP applications of February 11, 2022. ***Randy Gee, 214-665-8355 and Jay Harris, 214-665-2260.***

GAP Guidance Workgroups: The EPA American Indian Environmental Office (AIEO) has been working with EPA Regional Tribal Offices and Tribal partners across the nation in weekly discussions on GAP Guidance Workgroups. Ira Hight participated in the GAP Hub workgroup and Curtis Hicks filled in behind Alexa Olson in the Test Drive workgroup. The goal is to update GAP guidance by incorporating input and recommendations from Workgroups by Spring of 2022. ***Curtis Hicks, 580-436-8561 and Ira Hight, 214-665-8137.***

TRIBAL CONSULTATION AND COORDINATION

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

- *Oklahoma Annual Network Monitoring Plan and SO2 Data Requirements Rule Annual Report*
- *Los Alamos National Laboratory Radioactive Liquid Waste Treatment Facility*

Randy Gee, 214-665-8355

Mission Support Division

BUDGET UPDATE

On September 30, 2021, President Biden signed the "Continuing Appropriations Act, 2022, and Other Extensions Act" (Public Law 116-159). This Continuing Resolution (CR) provides the U.S. Environmental Protection Agency with funding through December 3, 2021. Congress is still deliberating on the FY 2022 full year funding levels. ***Heather Chandler, 214-665-8032.***

On November 5th, the Senate passed the Bipartisan Infrastructure Deal that was later signed into law by President Biden on November 15th. This is a historic investment in EPA, in our mission to protect people's health and the environment, and in the American people. This action makes historic investments in many of EPAs key programs and initiatives including:

- More than $50 billion for clean water projects which is the single largest federal investment in water ever made. With these funds, EPA will take action to address the 6 to 10 million lead service lines still in the ground across the country, the threat of PFAS pollution facing communities, and protections for critical water bodies that are important to communities and the economy – including the Gulf of Mexico.
- More than $5 billion for cleaning up longstanding pollution at Superfund and brownfields sites and for making improvements to waste management and recycling systems, helping to restore the economic vitality of communities that have been exposed to pollution for far too long.
- $5 billion for decarbonizing the nation's school bus fleet, improving air quality for more than 25 million children who ride the bus to school each day.
- $100 million for the Pollution Prevention Program, including the launch of a new program focused on delivering environmental justice which will help businesses reduce toxic pollutants, cut water usage, improve efficiency, and lower business costs, while better protecting the communities they serve.

While those are big numbers, it's really about the people and the communities we serve. These investments mean that millions of American families will no longer have to worry about lead in their drinking water, communities that have been plagued by pollution for decades will finally see progress, and kids riding the school bus can do so with cleaner air to breathe.

SMALL BUSINESS ENGAGEMENT

The Small Business Administration (SBA) is responsible for ensuring that the government-wide goal for participation of small businesses is established annually and EPA's achievements are relative to the goals.

Each year Region 6 contracting is responsible for and measured on the percentage of small business contracts. This effort presents opportunities for small businesses to provide needed environmental services to the agency and specifically, Region 6. The depiction below provides EPA FY2020 small business performance in Small Business overall (SB), Small Disadvantaged

Business (SDB), Women-Owned Small Business (WOSB), Service-Disabled and Veteran-Owned Small Business (SDVOSB), and designated HUBZone small business.

As part of the larger agency, Region 6 is on track to sustain its small business goal performance for FY21 and actively manages small business contracts to achieve our small business goals. ***Tongee Flemming, 214-665-3186.***

GRANTS

Tribal PPG Cost Share Regulatory Class Exception

On September 30, 2021, OGD approved a regulatory class exception from the cost share regulations at 40 CFR 35.536. As of October 1, 2021, cost share is no longer required for new or supplemental awards for PPGs to tribes and tribal consortia. This class exception waives the required cost share from tribal and intertribal consortia PPGs and better aligns PPGs with their intended purpose. Elimination of cost share requirements will ensure equitable financial assistance to tribes, foster partnerships, and increase the ability for EPA and tribes to work together to address mutual priorities such as climate change and environmental justice. ***Chris Watkins, 214-665-6568.***

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 2021 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, 2022) 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 QA documents to the R6 QA staff. ***Sala Senkayi, 214-665-6477***

UPDATED STANDARDS AND HQs FY22 THREE (3) DAY MEETING: The R6 QA staff would like to remind our Tribal Partners of the ongoing comment period on our Agencywide QAPP Standard which is being updated to replace EPA Requirements for QA Project Plans (QA/R-5). 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. Also contact Katherine Chalfant, (Chalfant.Katherine@epa.gov) with HQs to learn more about a three (3) day meeting that's scheduled for early FY22. HQs is in the planning stage with respect to this meeting so more to come. ***Sala Senkayi, 214-665-6477***