



**Summer Regional
Tribal Operations
Committee Meeting**

August 10, 2016



Opening Prayer

Wicahpiluta Candelaria, Rumsen Ohlone
& Carla Munoz, Costanoan Rumsen
Carmel Tribe



Introductions / Roll Call

Alan Bacock / Jeff Scott; RTOC Co-Chairs



EPA Opening Remarks

Alexis Strauss,
Acting Regional Administrator,
US EPA Region 9



Issues Review from Spring RTOC

SPRING 2016 RTOC MEETING ACTION ITEMS

#	ACTION ITEM	WHO	WHEN	STATUS
1	Investigate any funding available through the Source Water Assessment program for tribes and report back the information gathered.	Gail Louis	2 weeks 4/29/2016	Gail Louis connected Rob Roy (La Jolla) with SWAP 4/19/16
2	Coordinate with workgroups regarding budget issues/requests to identify which media programs need specific letters to EPA Headquarters.	Alan Bacock	By next RTOC	
3	The Inter-Agency Task Force will be contacted to explore if multimedia funding can cover all capacity building needs for water systems. (E.g. operator certification)	Inter-Agency Task Force Alex Cabillo	5/4/2016	Alex Cabillo contacted Felicia Wright 4/25/16
4	Request that Andrew Baca of AIEO provide a summary of GAP Online with: -Analysis of how well it performs for EPA's desires -Update on the replacement for GAP Online and info on how tribes and Region 9 can be involved in the development of this replacement -Cost of GAP Online, the replacement system and where this funding is coming from.	Laura Ebbert	Request will be sent by 4/29/2016 Response by fall RTOC	Laura sent request to AB 4/22/16
5	Report back from National Tribal Caucus (NTC) on progress regarding understanding the role of AIEO and work being done to make the AIEO/NTC relationship more effective.	Region 9 NTC Reps.	Next RTOC	
6	Find historical and other AIEO documents (e.g. mission statement or strategic plan). Send these documents to Co-Chair Bacock and he will forward them to the Tribal Caucus through the email list.	Laura Ebbert Alan Bacock	4/29/2016	Done

SPRING 2016 RTOC MEETING ACTION ITEMS

#	ACTION ITEM	WHO	WHEN	STATUS
7	If RTOC needs information or help during the transition of the next EPA Regional Administrator ask Laura Ebbert or other EPA staff/management.	All	As needed	N/A
8	Schedule an Air Workgroup phone call to discuss issues raised in the EPA presentation on ozone designation, such as attainment vs non-attainment, collaboration, working with states and other issues.	Air Workgroup Sara Bartholomew Ondrea Barber	Scheduled for June	Done
9	Pesticide General Permit & 401 Tribal Certification questions should be forwarded to Gail Louis for resolution.	All tribes	As needed	N/A
10	Follow up with issues regarding grants.gov numbers on Attachment 2 of Guidance letters.	Kate Fenimore	4/20/2016	Alba Espita (EPA Grants Specialist) contacted Alan Bacock 4/19/16
11	Let your Project Officer know if you want to opt in to elect a signatory for ETEP cover memo. (Note: Remember to update when your staff changes).	All tribes	As decided	Done

SPRING 2016 RTOC MEETING ACTION ITEMS

#	ACTION ITEM	WHO	WHEN	STATUS
12	Share examples & documents of work plan modifications that address travel issues and questions regarding GAP related travel. (E.g. Tribal Travel Fund)	Laura Ebbert	Within one month of finalizing travel guidance	Submitted to RTOC website 7/21/16
12a	When draft tribal travel fund guidance is shared, tribes submit comments on the guidance.	All tribes	Comments from caucus to EPA by 5/27/16	Guidance Finalized 6/14/16
12b	Issue updated Tribal Travel Fund Guidance document	Laura Ebbert	Guidance finalized by 6/1/16, issued before August RTOC	Guidance Finalized 6/14/16 Submitted to RTOC website 7/21/16
13	A new requirement for tribes who are cleaning up open dumps is that their match is now to be made up front instead of it being a soft match that could contribute after the project is complete. This newly implemented requirement has created a financial burden on tribes. In addition, tighter restrictions on eligible activities for clean up projects have reduced the ability of tribes to effectively manage solid waste issues. EPA will raise IHS grant & pass/match requirements with IHS Ken Shapiro.	Bridget Coyle	Before August RTOC	This item was withdrawn by the Caucus on 4/21/2016.
14	Provide information to tribes about available funding for direct cleanup activities.	Zoe Heller	4/29/2016	Laura Ebbert emailed request to Zoe Heller and Ruben Mojica 4/21/16

SPRING 2016 RTOC MEETING ACTION ITEMS

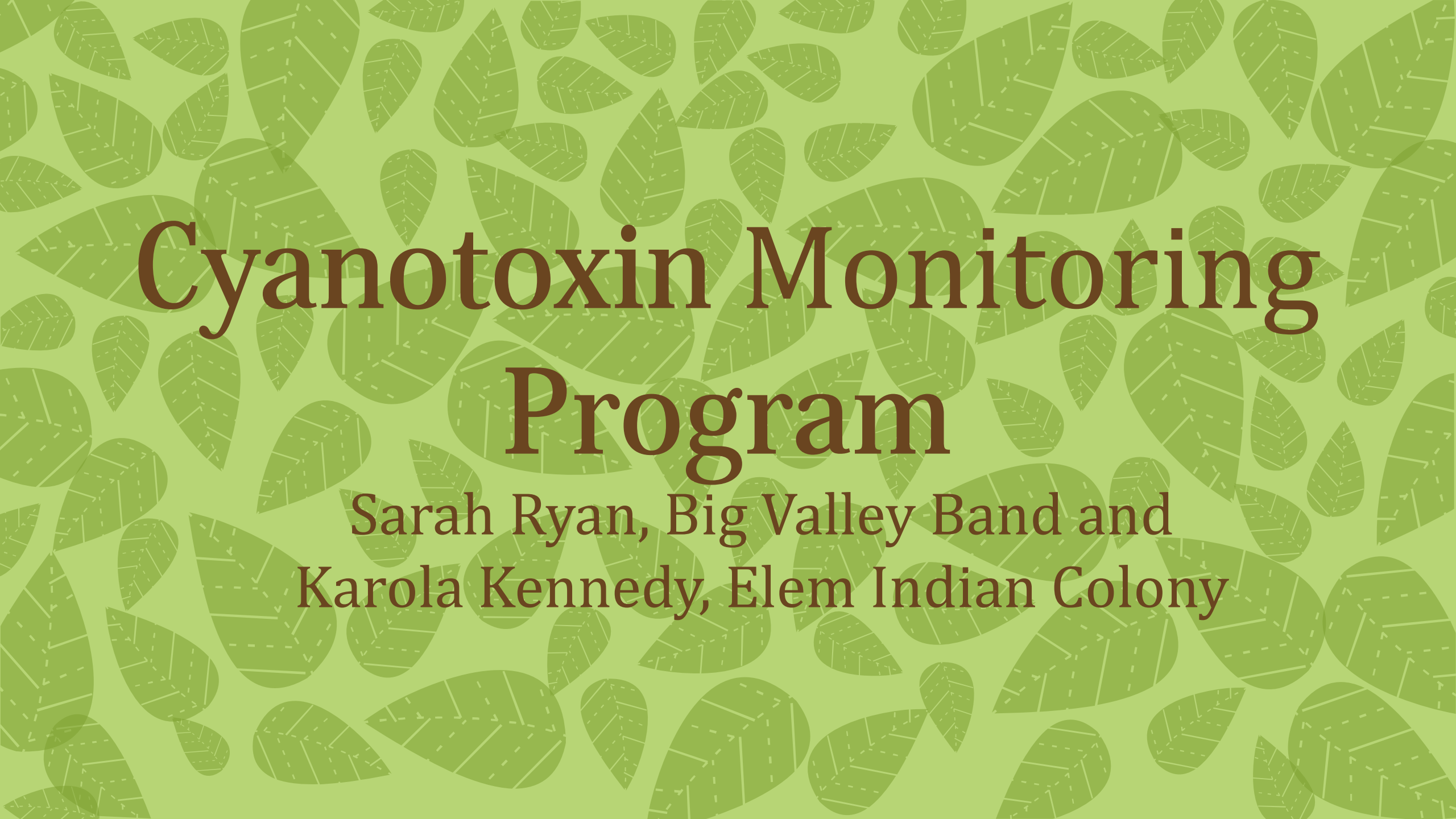
#	ACTION ITEM	WHO	WHEN	STATUS
15	Distribute action item list. Distribute meeting notes.	Joseph Miller	Action Items 4/20/2016 Notes 4/29/2016	Done Action Items sent 4/20/16 Notes sent 4/29/16
16	ITCA requested that EPA facilitate meetings with tribal leaders. As a result, EPA will work with ITCA to set up a meeting with Tribal leaders.	ITCA	TBD	Laura Ebbert will visit ITCA on September 8 th (<i>on the assumption that will include tribal leaders</i>)
19	EPA to share if the waiver for Earth Day/outreach events continue on after 2016?	EPA – Jeff Scott	By August RTOC meeting	In progress—EPA began internal discussion with final decision anticipated by GAP Notification (10/1/16)
20	Concern about the process and short turnaround time to submit Omnibus Solid Waste activities. Why didn't EPA look at previously submitted items?	EPA	Responded in meeting	Done
21	Issues with broken links on the EPA website	EPA & All Tribes	As needed: send any broken links to fenimore.anna@epa.gov and/or Ebbert.laura@epa.gov	Done

SPRING 2016 RTOC MEETING ACTION ITEMS

#	ACTION ITEM	WHO	WHEN	STATUS
22	GAP presents an administrative burden	EPA & Grants Workgroup	As needed: send requests for additional tools and support through Grants Workgroup	Done
23	Nevada Tribes want to confirm Laura will come	Laura Ebbert	Confirmed 4/18	Done
24	Nevada Tribes want EPA training, and for that training to be available within Nevada	EPA	Locational request noted in meeting	Done
25	Frustration with short turnaround time for Earth Day activities	EPA	Responded in meeting	Done
26	Some Tribes would like to request Guidance Letters be issued electronically rather than paper copies.	EPA and Tribes	Interested tribes should notify their GAP Project Officer	Done
27	GAP Guidance - the PO's are calling the Guidebook the Guidance and vice versa. As new PO's come on, we want to make sure you continue to respect there are 2 separate documents.	Laura Ebbert	Feedback shared with Project Officers on 4/19/16	Done
28	Some tribes would like a change in PO where they have had the same PO for a long time. What is the process for getting a new PO? What is the process for assigning work to new Pos? Can you have some visual aid to help tribes recognize their Pos?	EPA	Will look into providing a "Look Book" or other visual aid to identify new POs at the Annual Conference. POs will be asked to identify what tribes they work with when introducing themselves.	Done

SPRING 2016 RTOC MEETING ACTION ITEMS

#	ACTION ITEM	WHO	WHEN	STATUS
29	When a GAP PO is on leave, what happens to their tribes?	EPA	Responded to in meeting. Tribes are encouraged to contact the manager of the unit if they are unsure how to contact their PO's backup.	Done
30	Clarification on what items can be purchased as promotional items. Point to it in the regulations.	EPA	Responded to in meeting	Done
31	Tribes reports they were told they have to sign the Regulated Facilities Document.	EPA	Responded to in meeting	Done
32	Requirements that we comply with RCRA is a burden, when there are already so may grant conditions.	EPA	EPA requested additional clarification in meeting and will forward question to RCRA/grants expert.	
33	ITCA requests an EPA visit	ITCA and EPA	ITCA will send an invite	Laura will visit ITCA at their September 8 th meeting
34	UST implementation rules - what are the definitions of Class A, B, and C Operators? States have a training program - can we take that? Who else can provide training?	Steve Linder	followed up with Tribe re: training resources	Done
35	Bill Campbell and Clifford Bunuel raised question about the level of funds decreasing for Nevada tribes over time.	EPA	EPA provided data response to this inquiry 4/15/16	Done



Cyanotoxin Monitoring Program

Sarah Ryan, Big Valley Band and
Karola Kennedy, Elem Indian Colony



Clear Lake Cyanotoxin Monitoring Program

Karola Kennedy, Elem Indian Colony

Sarah Ryan, Big Valley Band of Pomo Indians

Tribal Environmental Protection Programs

- Tribes have collected and provided US EPA with Clear Lake data since the 1990's
- Protection of natural resources to continue use for food, ceremony, recreation and water quality
- Reducing disproportionate impact of pollution on sensitive populations

Program Goals

- Protect Tribal beneficial uses of Clear Lake through real-time data collection and education
- Share resources and information in collaborative approach for monitoring the lake
- Determine seasonal water quality trends as related to occurrences of cyanobacteria blooms through collection of shoreline/recreational area water chemistry, bacteria and nutrient data
- Provide data on cyanobacteria related toxins in a timely manner to support public health decisions
- Advocated for signage that indicated safe thresholds for recreational use of Clear Lake
- Formed Task Force to notify local, state and federal agencies of elevated cyanotoxin levels at the Clear Lake shoreline

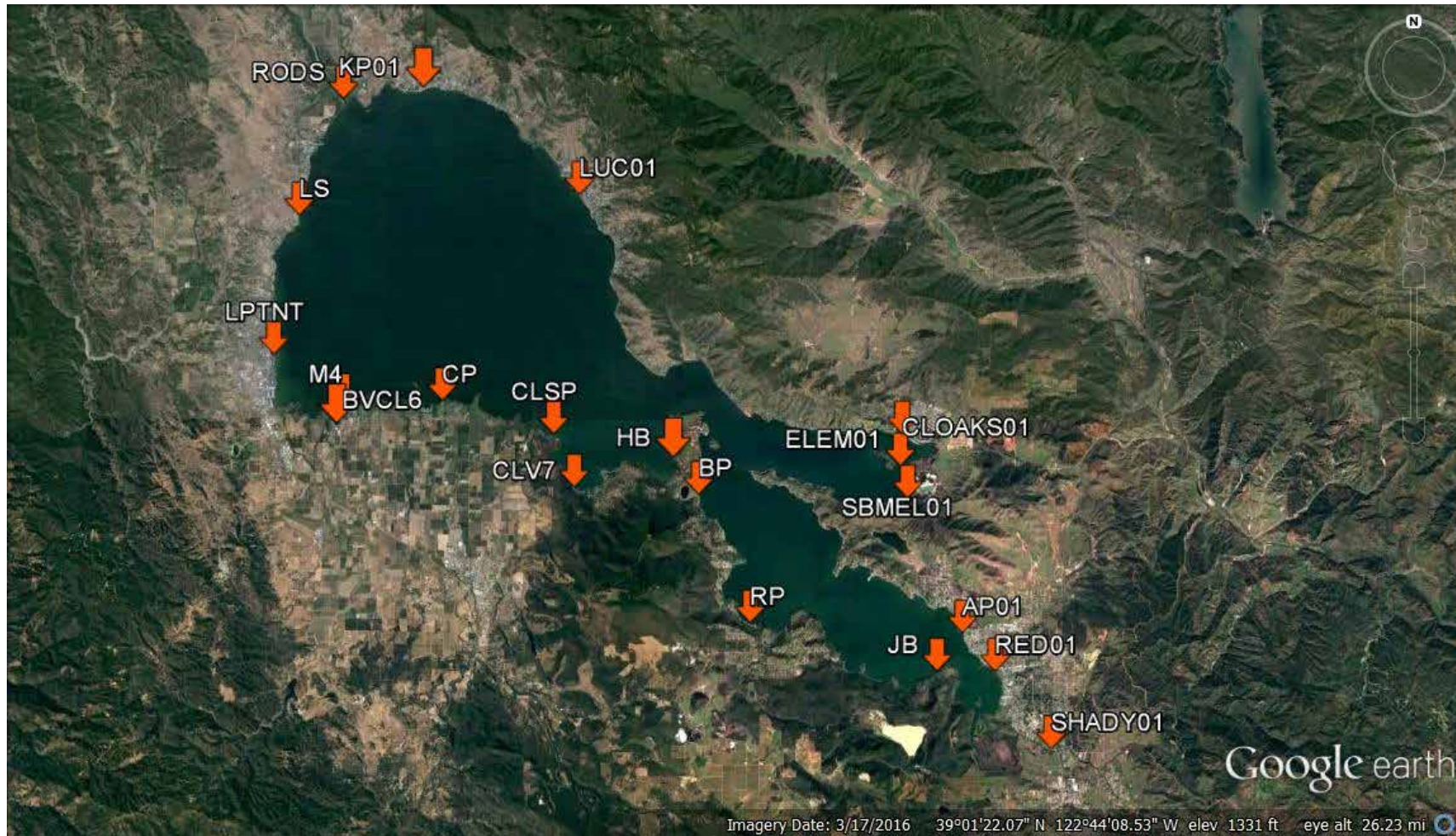
What are Cyanobacteria and Cyanotoxins?

- Cyanobacteria - naturally occurring bacteria microorganisms, obtaining energy through sunlight.
- Cyanotoxins - toxins produced by certain types of cyanobacteria, some can be harmful to health.
- Exposure to cyanotoxins can come through water contact, drinking the water and eating the cyanobacteria mats.

Clear Lake Cyanobacteria Task Force

- Tribes
- Lake County Water Resources
- Lake County Environmental Health
- Lake County Public Health
- US EPA, Region 9 Water Programs and Tribal Programs
- State Water Resources Control Board
- California Office of Environmental Health Hazard Assessment
- California Department of Public Health
- Cal EPA
- Central Valley Regional Water Quality Control Board

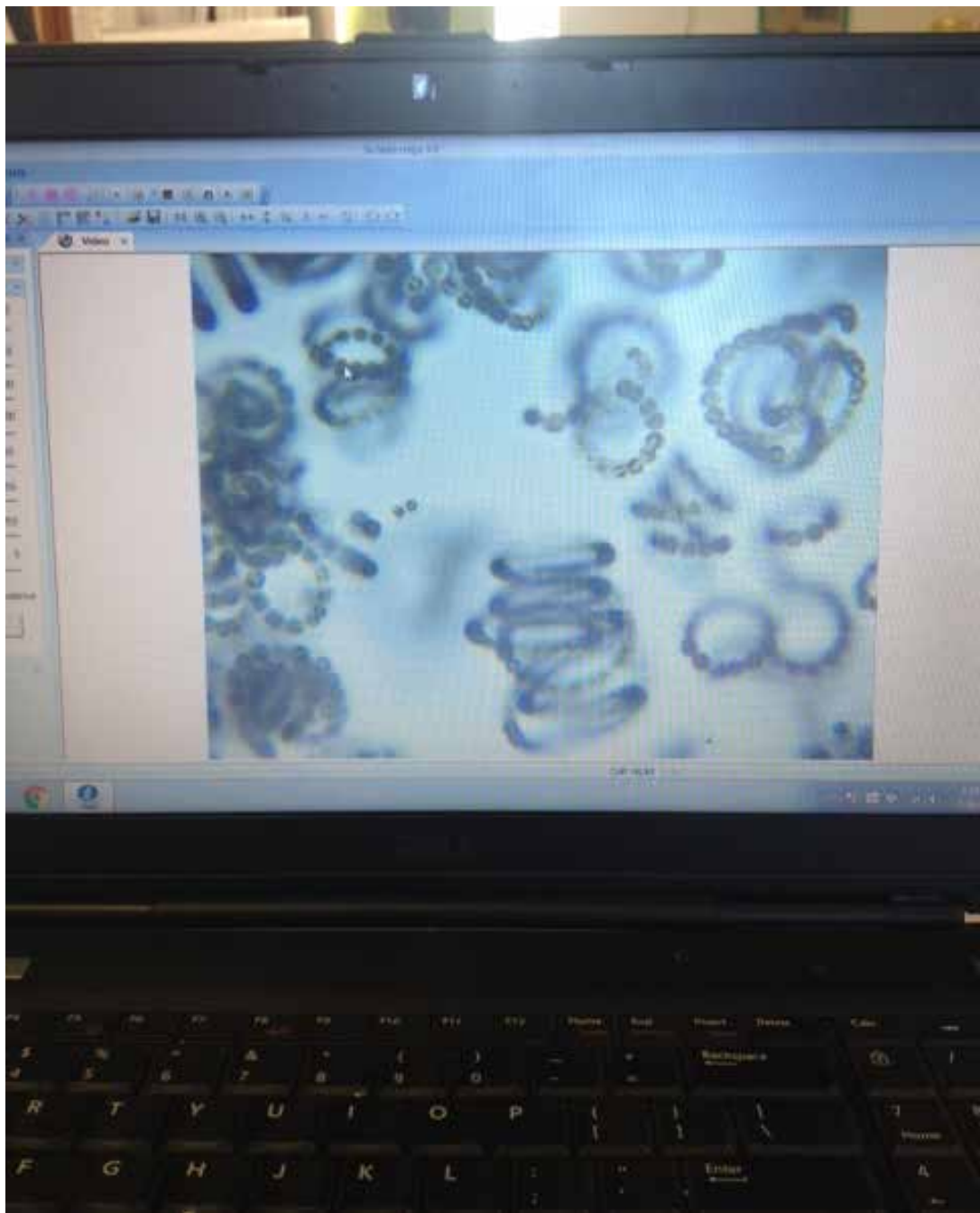
Clear Lake Cyanotoxin Monitoring Locations



Continually Developing Monitoring Program

- 2014 Program
 - Monitored 8 sites
 - Mainly focusing on Microcystin levels – used Abraxis Algal Toxin strip test kits for detection
- 2015 Program
 - Monitoring 18 sites
 - Cyanobacteria cell identification under microscope to determine toxins to test for
 - Analyzing for Microcystin, Anatoxin-a, Cylindrospermopsin, Saxatoxin
- 2016 Program
 - Will be adding more sites in Oak Arm and Lower Arm
 - Using Fluorometer to get chlorophyl-a and phycocyanin levels
 - Microcystin analysis at every site and every sampling event





Types of Cyanobacteria in Clear Lake

Toxin-Producing Cyanobacteria

Genera	Toxin	Type	Short Term Health Effects	Long Term Health Effects
Anabaena, Microcystis, Oscillatoria, Planktothrix	Microcystins	Hepatotoxin	Gastrointestinal, liver inflammation, and hemorrhage and liver failure leading to death, pneumonia, dermatitis	Tumor promoter, liver failure leading to death
Anabaena, Aphanizomenon, Cylindrospermopsis, Lyngbya	Saxitoxins	Neurotoxin	Tingling, burning, numbness, drowsiness, incoherent speech, respiratory paralysis leading to death	Unknown
Anabaena, Aphanizomenon, Oscillatoria, Planktothrix	Anatoxins	Neurotoxin	Tingling, burning, numbness, drowsiness, incoherent speech, respiratory paralysis leading to death	Cardiac arrhythmia leading to death
Aphanizomenon, Cylindrospermopsis	Cylindrospermopsin	Hepatotoxin	Gastrointestinal, liver inflammation and hemorrhage, pneumonia, dermatitis	Malaise, anorexia, liver failure leading to death
Aphanizomenon, Oscillatoria	Lipopolysaccharide	Endotoxin	Gastrointestinal, dermatitis	Unknown
Lyngbya	Lyngbyatoxins	Dermatotoxin	Dermatitis	Skin tumors (Fujiki et al. 1990), unknown

Trigger levels for Signage

Table 1. CyanoHAB Trigger Levels for Human Health

	Caution Action Trigger	Warning TIER I	Danger TIER II
Primary Triggers^a			
Total Microcystins^b	0.8 µg/L	6 µg/L	20 µg/L
Anatoxin-a	Detection ^c	20 µg/L	90 µg/L
Cylindrospermopsin	1 µg/L	4 µg/L	12 µg/L
Secondary Triggers			
Cell Density (<i>Toxin producing cells</i>)	4,000 cells/mL	--	--
Site Specific Indicators of Cyanobacteria	Blooms, scums, mats, etc.	--	--

- a. The primary triggers are met when ANY toxin exceeds criteria
b. Microcystins refers to the sum of all measured microcystin variants. (See Box 3)
c. Must use an analytical method that detects $\leq 1\mu\text{g/L}$ Anatoxin-a

How Often Did Clear Lake Cyanotoxin Monitoring Sites Exceed the Signage Threshold of 0.8 PPB?

0.8 PPB is the CCHAB draft recommended voluntary guidance for public notification of microcystin cyanotoxins present at potential health risk levels

SITE ID	ARM OF LAKE	NUMBER OF TIMES EXCEEDED 0.8PPB (VERSUS NUMBER OF SAMPLING EVENTS)				HIGHEST LEVEL RECORDED (MICROCYSTIN PPB)	
		2014	%age	2015	%age	2014	2015
BVCL6	U	1/6	17%	0/20	0%	1.2	ND
CLV7	U	6/7	86%	0/13	0%	105	ND
M4	U	2/6	33%	0/14	0%	8.3	ND
LPTNT	U	5/6	83%	0/12	0%	877.6	ND
RODS	U	not sampled		0/12	0%	not sampled	ND
CP	U	not sampled		0/11	0%	not sampled	ND
LS	U	not sampled		0/11	0%	not sampled	Trace
LUC01	U	4/6	67%	0/13	0%	13	ND
HB	U	not sampled		0/9	0%	not sampled	Trace
KP01	U	not sampled		0/12	0%	not sampled	ND
ELEM01	O	2/4	50%	4/14	29%	4.4	18.7
SBMELO1	O	7/7	100%	2/10	20%	5,311.70	278
CLOAKS01	O	7/7	100%	5/16	31%	16,920	21
BP	L	not sampled		3/11	27%	not sampled	9.4
RP	L	not sampled		3/10	33%	not sampled	134
SHADY01	L	not sampled		4/10	40%	not sampled	36.1
RED01	L	not sampled		4/12	33%	not sampled	65.5
AP01	L	9/9	100%	7/17	41%	769.2	10,162

Caution action trigger and sign

- Microcystin 0.8 ppb
- Anatoxin-a detection
- Cylindrospermopsin 1 ppb








Warning action trigger and sign

- Microcystin 6 ppb
- Anatoxin-a 20 ppb
- Cylindrospermopsin 4 ppb

WARNING

Toxins from algae in these waters can harm people and kill pets and livestock

 NO SWIMMING	 DO NOT let pets or livestock go into or drink the water, or go near the scum.
 STAY AWAY from scum, and cloudy or discolored water.	 DO NOT eat shellfish from these waters. For fish caught here, throw away guts and clean fillets with tap water or bottled water before cooking.
 DO NOT use these waters for drinking or cooking. Boiling or filtering will not make the water safe.	

For people, the toxins can cause:

- Skin rashes, eye irritation
- Diarrhea, vomiting

For animals, the toxins can cause:

- Diarrhea, vomiting
- Convulsions and death


Call your doctor or veterinarian if you or your pet get sick after going in the water.
For more information, contact:


Danger action trigger and sign


- Microcystin 20 ppb
- Anatoxin-a 90 ppb
- Cylindrospermopsin 12 ppb


DANGER

Toxins from algae in these waters can harm people and kill pets and livestock

 **STAY OUT OF THE WATER UNTIL FURTHER NOTICE. Do not touch scum in the water or on shoreline.**

 **DO NOT** let pets or livestock drink or go into the water or go near the scum.

 **DO NOT** eat fish or shellfish from these waters.

 **DO NOT** use these waters for drinking or cooking. Boiling or filtering will not make the water safe.

For people, the toxins can cause:
• Skin rashes, eye irritation
• Diarrhea, vomiting

For animals, the toxins can cause:
• Diarrhea, vomiting
• Convulsions and death

Call your doctor or veterinarian if you or your pet get sick after going in the water.
For more information, contact:

Evidence of bloom plus toxin levels



Richmond Park	
Date:	Total Microcystins - (LA, LR, RR, YR)
7/21/15	134.0

Evidence of bloom plus toxin levels



Evidence of bloom plus Non Detect toxin levels



AP01	
Date:	Total Microcystins - (LA, LR, RR, YR)
8/31/15	ND

Evidence of bloom plus low toxin levels



Evidence of bloom plus low toxin levels



CLOAKS01	
Date:	Total Microcystins - (LA, LR, RR, YR)
10/7/14	4.9

No evidence of bloom plus toxin levels



CLOAKS01	
Date:	Total Microcystins - (LA, LR, RR, YR)
7/7/15	5.6

No evidence of bloom plus toxin levels



Buckingham Point	
Date:	Total Microcystins - (LA, LR, RR, YR)
7/7/15	134.0

Sources of Nutrients

- Phosphorus
 - Soils from erosion
 - Dirt roads
 - Stormwater runoff
 - Leaching septic tanks
 - fertilizers
- Nitrogen
 - Sewer spills
 - Leaching septic tanks
 - Stormwater runoff

What could help Clear Lake's shoreline?



Drinking water from clear lake

Final Clear Lake Watershed Sanitary Survey 2012 Update



Figure 1-1 Intake Locations of Participating Clear Lake Water Utilities

- DO YOU KNOW WHERE YOUR WATER COMES FROM?
 - Clear Lake or Groundwater
- There are 16 water purveyors pulling drinking water from the Lake
- Clear Lake surface water serves more than 50% of Lake County residents
- Is your water company testing for toxins?

Drinking Water Threshold

- WHO 1990's guidance – 1 µg/L for Microcystin
- US EPA 2015 guidance – 0.3 µg/L for children under 6 yrs old and 1.6 µg/L for adults for microcystin
- US EPA 2015 guidance – 0.7 µg/L for children under 6 yrs old and 3.0 µg/L for adults for cylindrospermopsin

Drinking Water has been minimally tested for cyanotoxins

	Water treatment system/Purveyor	Sampling Dates	<i>Microcystin in raw water</i>	<i>Microcystin in finished water</i>
UPPER ARM	City of Lakeport	8/20/2013	2.36	ND
		7/24/2014	4.3	ND
		9/15/2014	3.3	ND
	Lucerne	8/20/2013	0.16	ND
		7/24/2014	TRACE	ND
OAK ARM	Clearlake Oaks	8/20/2013	0.1	ND
		7/24/2014	13.4	ND
		9/15/2014	7.1	ND
LOWER ARM	Highland MWC	8/20/2013	0.12	ND
		7/24/2014	23.8	ND
		9/15/2014	2.9	ND
		8/4/2015	10	NOT SAMPLED
		8/17/2015	TRACE	NOT SAMPLED
	Konocti County Water District	8/20/2013	4.1	ND
		7/24/2014	18.3	ND
		9/15/2014	4.1	ND

Questions?

Sarah Ryan, Environmental Director

Big Valley Band of Pomo Indians

707-263-5277 x105

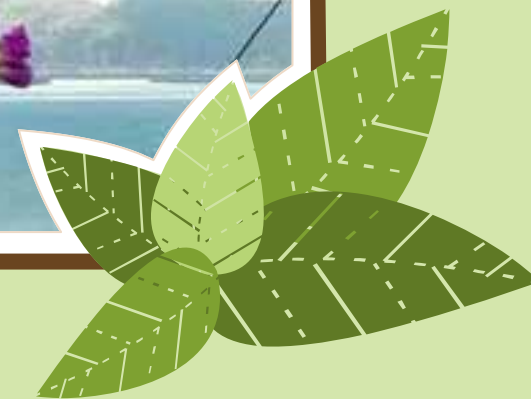
sryan@big-valley.net

Karola Kennedy, Environmental Director

Elem Indian Colony

707-994-3400

k.kennedy@elemindiancolony.org



BREAK



Introduction to National Response Center

EPA Encourages Tribes to be Notified When Spills Occur: National Response Center - Notification Application

Presentation for Region 9 RTOC
August 10, 2016
EPA's Office of Land and
Emergency Management



Session Goals

- Describe the USCG National Response Center
- Explain why tribes should sign up
- Process for applying and receiving notifications
- Q&A

What is the USCG National Response Center?

- Part of the federally established National Response System.
- Sole federal point of contact for reporting all hazardous substances releases and oil spills.
- Receives reports of releases involving hazardous substances and oil that trigger federal notification requirements under several laws.
- Triggers federal notification requirements under several laws.
- 24/7 Communications center - individuals, industry, communities can report spills by phone (800-424-8802) or at www.nrc.uscg.mil

Why Sign Up to Receive Notifications?

- To receive notifications when oil and hazardous materials incidents happen in Indian Country.
- Tribal organizations with NRC agreements in place receive notifications based on
 - 1) jurisdictional information provided (you can list more than one); and
 - 2) incident type they requested to receive information about (can click all).

How do I apply and receive notifications?

- Email nrc@uscg.mil to receive applications
- Print and fill
- Send completed applications to: nrc@uscg.mil or fax (202)267-1322
- Tribes will be notified at the contact information provided on the application (email)
- USCG handles most questions and entire application process.
 - Use nrc@uscg.mil to direct questions about application

Important Notes

While the applications states “all email addresses must be either a .gov or .mil domain they will accept, email address with different domains (.com, .net, .us, .org)

Questions?

For more information on reporting spills and environmental violations go to:

<https://www.epa.gov/emergency-response/national-response-center>

Want more info?

- Jessica Snyder, OLEM Tribal Coordinator, 202-564-1478, snyder.jessica@epa.gov
- Nick Nichols, OEM Tribal Coordinator, 202-564-1970, Nichols.Nick@epa.gov

Tribal Treaty Rights and EPA Actions

Andrew Baca, Senior Advisor

U.S. EPA American Indian Environmental Office

Ethan Shenkman, Deputy General Counsel

U.S. EPA Office of General Counsel



Tribal Treaty Rights and EPA Actions

Region 9 Tribal Operations Committee
August 10, 2016

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Roadmap

- Tribal treaty rights guidance
- CWA §518 TAS Interpretive Rule
- Proposed regulations for CWA §303(d) TAS

EPA National Indian Policy

- Based on the 1983 Presidential policy stressing tribal self-determination, EPA was the first federal agency to adopt a formal Indian policy in 1984
- Policy specifies how EPA will interact with tribal governments and consider tribal interests in carrying out its programs to protect human health and the environment
- Policy has been reaffirmed many times, most recently by Administrator McCarthy in Dec. 2014, 30th Anniversary Memo



Former EPA Administrator
William D. Ruckelshaus

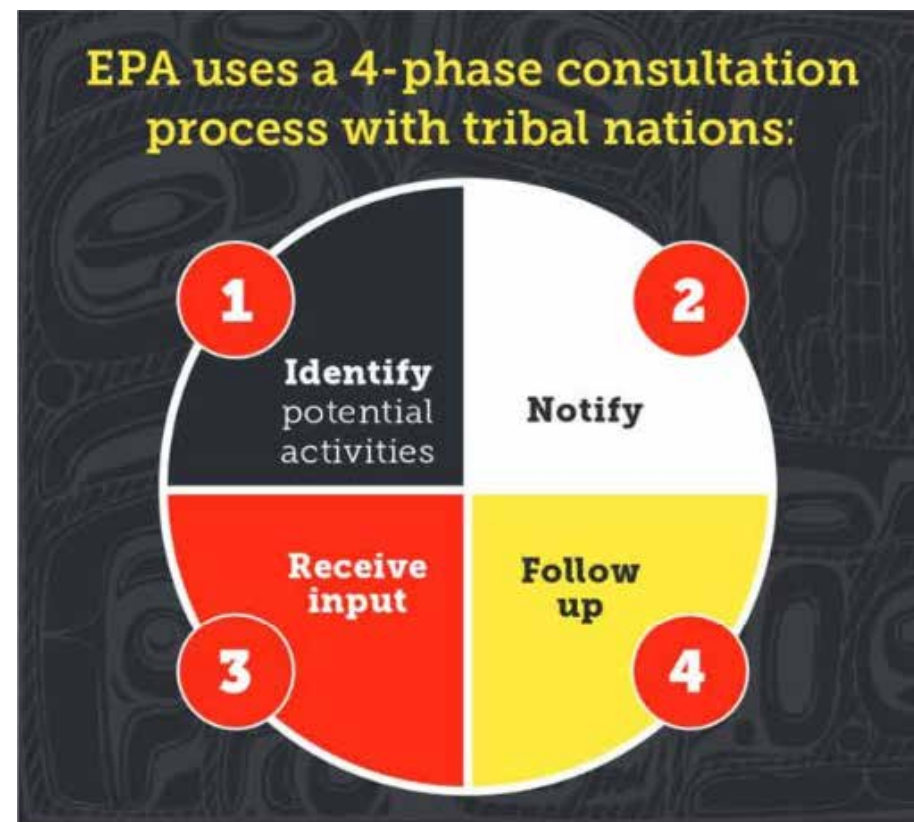


Administrator's Statement on Tribal Treaty Rights in 30th Anniversary Memo of EPA Indian Policy

- Commemorated EPA's 1984 Indian Policy and focuses attention on treaty rights
 - "While treaties do not expand the EPA's authority, the EPA must ensure its actions do not conflict with tribal treaty rights. In addition, EPA programs should be implemented to enhance protection of tribal treaty rights and treaty-covered resources when we have discretion to do so."
- Directed OGC and the American Indian Environmental Office to develop, in consultation with tribes, an EPA framework document to help guide EPA when treaty rights should be considered

EPA's 2011 Policy on Consultation and Coordination with Indian Tribes

- “EPA’s policy is to consult on a government-to-government basis with federally recognized tribal governments when EPA actions and decisions may affect tribal interests”
- Follows on Executive Order 13175 and President Obama’s 2009 memo on it, but broader
- Designed to allow tribes opportunity to provide early and meaningful input on Agency actions, including those affecting tribal treaty and other rights



EPA's 2016 Guidance on Discussing Tribal Treaty Rights

- On February 22, 2016, Administrator McCarthy signed new Guidance for Discussing Tribal Treaty Rights, which complements EPA's existing consultation policy by focusing attention on tribal treaty rights
- The Guidance informs consultations on EPA actions in specific geographic areas when treaty rights related to natural resources may exist in, or treaty-protected resources may rely upon, those areas





EPA's 2016 Guidance on Discussing Tribal Treaty Rights, continued

- Guidance directs EPA staff to ask 3 questions during such consultations:
 - Do treaties exist within a specific geographic area?
 - What treaty rights exist in, or what treaty-protected resources rely upon, the specific geographic area?
 - How are treaty rights potentially affected by the proposed action?
- Guidance focuses on consultation in the context of ratified treaties.
 - EPA recognizes that there are similar tribal rights in other sources of federal law such as statutes and that the Guidance may be informative in these other contexts
- EPA will use the information and recommendations provided during consultation to inform its legal and policy analysis and help ensure:
 - That EPA's actions don't conflict with treaty or other rights
 - That EPA implements its programs to further protect treaty rights and resources when it has discretion to do so



Considering Tribal Treaty & Other Rights in EPA Actions

- EPA's American Indian Environmental Office, Office of General Counsel, and staff across EPA Regions are building institutional knowledge of tribal treaty and other rights, including information gained through consultation
 - We're developing educational resources for EPA attorneys and staff, including tools based on Kappler's treaty database and Royce maps of tribal land cessions, and sharing best practices for tribal rights analyses
- Analyses of tribal treaty and other rights are complex, and necessarily done on a case-by-case basis due to the uniqueness of both tribal reserved rights as well as EPA actions
- Two current case examples illustrate how EPA harmonized tribal fishing rights in actions under the Clean Water Act

Maine Water Quality Standards

- Tribes' reserved fishing rights were memorialized in a unique federal land claims settlement act
- EPA found that the State's water quality standards (WQS) must protect the tribes' sustenance fishing practices as a designated use of tribal waters
- EPA disapproved the State's water quality criteria because they did not adequately protect the tribal sustenance fishing use
- Litigation continues over EPA's disapprovals, and EPA has proposed and is working on finalizing a federal promulgation



Washington Water Quality Standards

- In Sept. 2015, after detailed consultation, EPA proposed WQS protective of high fish consumption rates of tribal consumers with treaty rights.
- As in Maine, EPA determined that the WQS must protect a designated use based on tribal rights
- The rulemaking process integrated consideration of CWA, off-reservation fishing rights, and tribal fish consumption rates
- WA submitted its proposed WQS in August 2016, and EPA has until November 2016 to act/promulgate



Water Quality in Indian Country: The Picture Today



CWA Program	Number of Tribes with TAS
Pollution Control Program Grants (§106)	271
Nonpoint Source Grants and Planning (§319)	186
Water Quality Standards (§303(c)) and §401 Certification Authority	53 (42 of these TAS tribes have approved WQS)
Listing and TMDLs (§303(d)) Authority	0
NPDES (§402) Authority	0
Dredge or Fill Permit (§404) Authority	0

Data as of July 2016

TAS: Clean Water Act §518

- 1987: Congress added CWA §518, which authorizes eligible Indian tribes to administer the principal regulatory programs under the Act, if the tribe:

- | |
|---|
| 1. Is federally recognized and has a reservation. |
| 2. Has a governing body carrying out substantial governmental duties and powers. |
| 3. Has appropriate authority to regulate the quality of reservation waters. |
| 4. Is reasonably expected to be capable of carrying out the functions of the program. |

- 1991: EPA took a cautious approach and interpreted CWA §518 to mean that each tribe seeking TAS must demonstrate its inherent regulatory authority.
- 2016: EPA reinterpreted §518 as an express delegation by Congress to eligible tribes to administer CWA regulatory programs over their reservations irrespective of who owns the land.

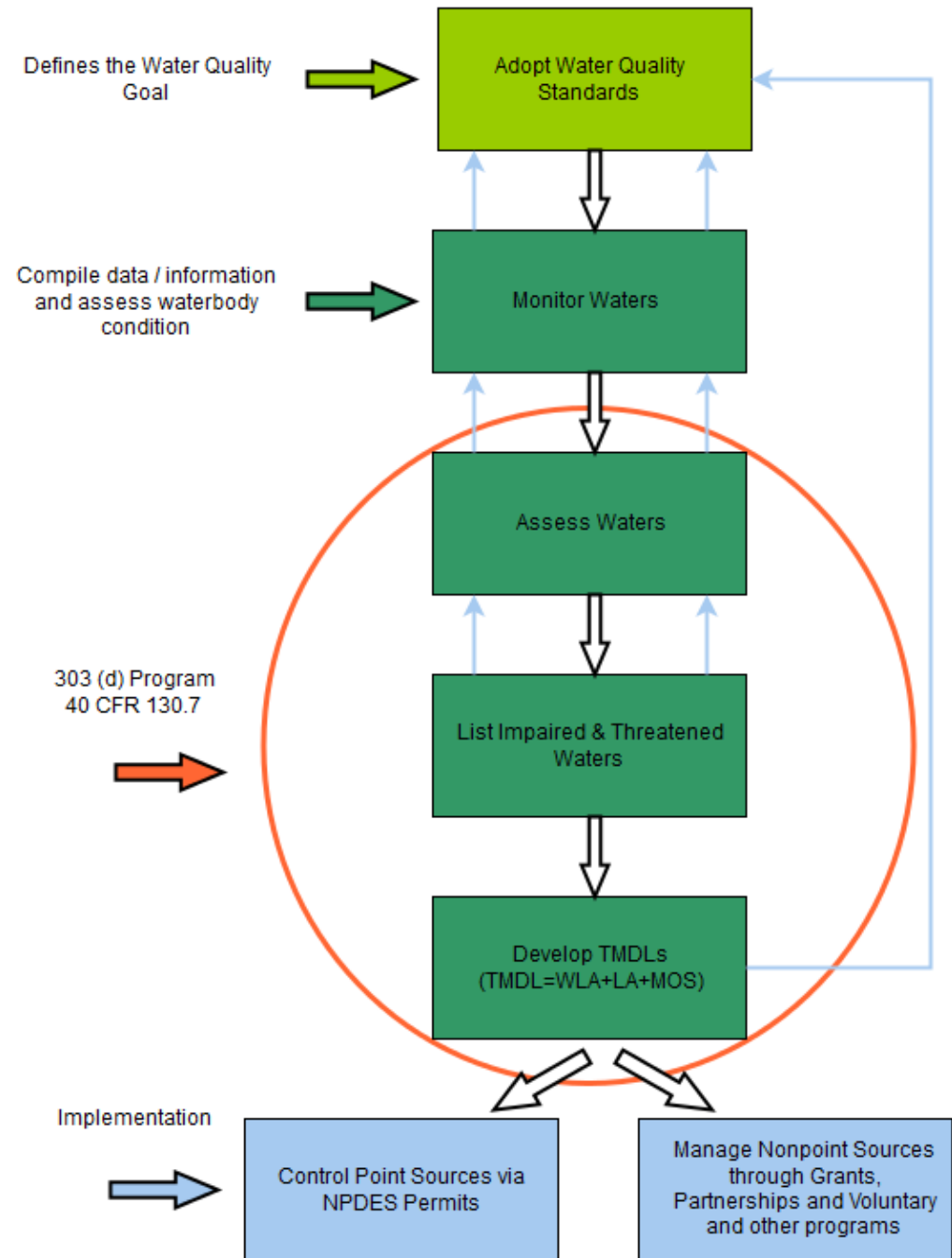


Revised Interpretation of CWA §518

- Streamlines TAS process for CWA regulatory programs.
- Promotes increased coverage of CWA regulatory programs by tribes.
- Eliminates unnecessary TAS application requirement not specified in the statute.
- Retains existing regulatory opportunities for states and other governments to comment on tribal assertions of regulatory authority.
- Brings approach to TAS under the CWA in line with TAS under the CAA.

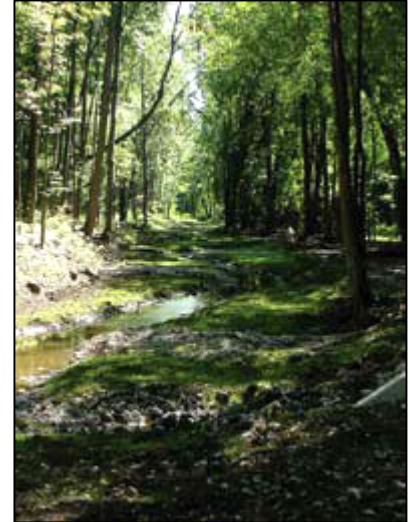
CWA 303(d): Context

Water Quality-Based Approach of the Clean Water Act

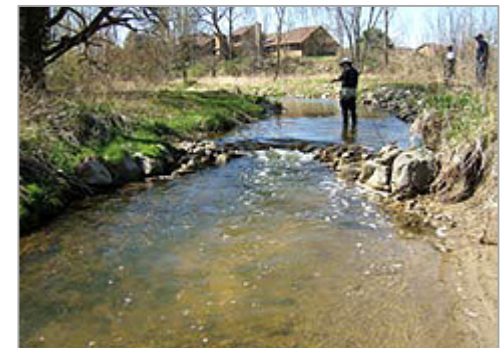


CWA 303(d) Program

- States, territories, and authorized tribes:
 - Assemble and evaluate existing and readily available water quality data and information
 - Develop lists of impaired waters every two years
 - Establish total maximum daily loads for waters on the list



- National Picture:
 - Approx. 43,000 waters listed as impaired
 - Top causes: pathogens, metals, nutrients, sediment, temperature





Proposed Rule Establishing TAS Process for CWA §303(d)

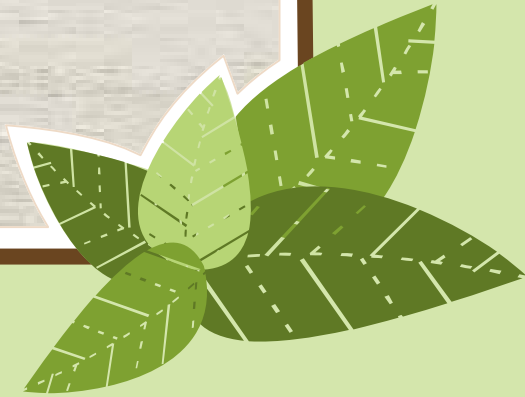
- In the CWA, Congress authorized TAS for purposes of administering §303.
- EPA has promulgated regulations establishing a process for tribes to obtain TAS authority for the other principal CWA regulatory programs.
 - However, existing regulations do not expressly establish TAS procedures for the water quality restoration provisions of §303(d).
- To remedy this gap, EPA has proposed regulations establishing a TAS process for the §303(d) program.
- Status:
 - Proposed on January 19, 2016.
 - Comment period closed on March 21, 2016.



Questions and Discussion



Lunch



NTOC Report/Updates

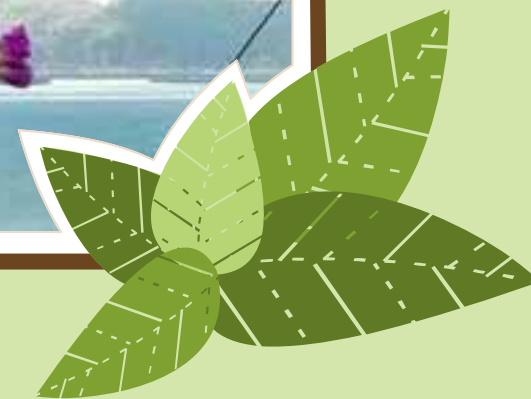
Alex Cabillo, (AZ), Paula Britton
(CA), and Clifford Banuelos (NV)



Tribal Caucus Report

Alan Bacock, Tribal Co-Chair





BREAK



E-Enterprise

Andrew Battin, Director E-Enterprise for the
Environment
Office of Environmental Information,
EPA Headquarters



E-ENTERPRISE
for the environment

Modernizing the business of environmental protection

Andrew Battin, Director E-Enterprise for the Environment
Tribal Consultation on Draft E-Enterprise Governance Charter
RTOC Region 9

Agenda

- E-Enterprise and Exchange Network Overview
- Tribal consultation on the draft Charter to strengthen tribal inclusion in joint governance
- Revisions to the draft Charter based on previous consultation and comments received
- More tribal participation in E-Enterprise projects
- Questions

Drivers for E-Enterprise: Collaboration Can Generate Needed Efficiencies

- Growing challenges for environmental protection:
 - Complexity of problems
 - Scope of affected communities
 - Operational interconnectedness of co-regulators
 - Managing in face of flat or declining resources
- Imperative for co-regulators to share efficiencies
 - Streamlining operational processes
 - Interoperability of systems and sharing of services
 - Our communities expect more efficient services and transparent operations
- Collaboration to develop, share, and reuse efficiencies enables a more effective *national environmental protection enterprise*



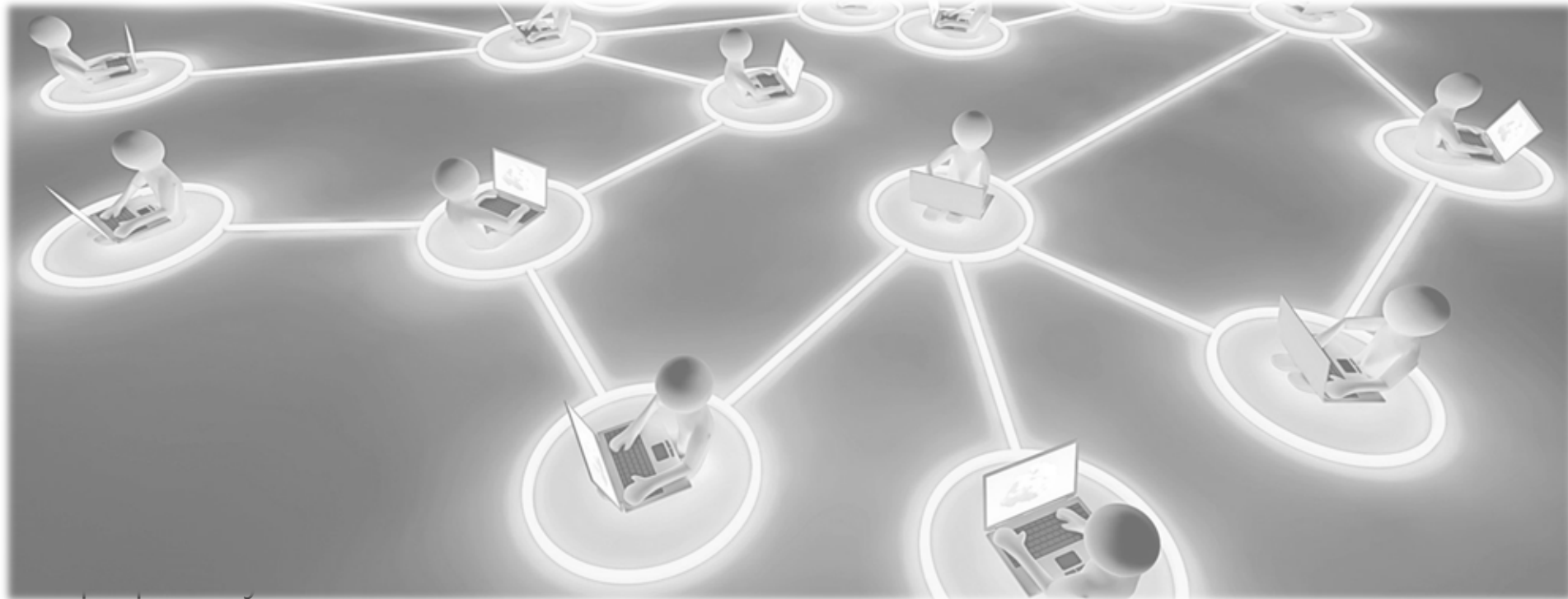
Modernizing the Business of Environmental Protection

E-Enterprise for the Environment is a new model for collaborative leadership among environmental co-regulators aimed at simplifying, streamlining and modernizing the implementation of our environmental programs. Together, we enable the nation's environmental protection enterprise to be more informed, timely and productive to achieve better health and environmental outcomes.



The Exchange Network

E-Enterprise for the Environment builds upon the foundation of the Exchange Network, by ensuring through joint governance that we are first streamlining and modernizing the underlying business processes before implementing technology solutions. E-Enterprise will be woven into the Exchange Network grant program.



Goal 1: Modernize Business Processes

E-Enterprise for the Environment simplifies regulations by streamlining and modernizing the implementation of our environmental programs.



Goal 2: Enhance Services to Users

Examples of Shared Services:

- Training and Assistance
- Applications – eReporting/ePermitting
- Infrastructure – E-Enterprise Portal
- Authoritative Data – Facility, Chemical
- Information Exchange – eSignature



Goal 3: Joint Governance

Co-managed through collective conversation, negotiation and direction-setting in which the states, tribes and EPA work and make decisions together

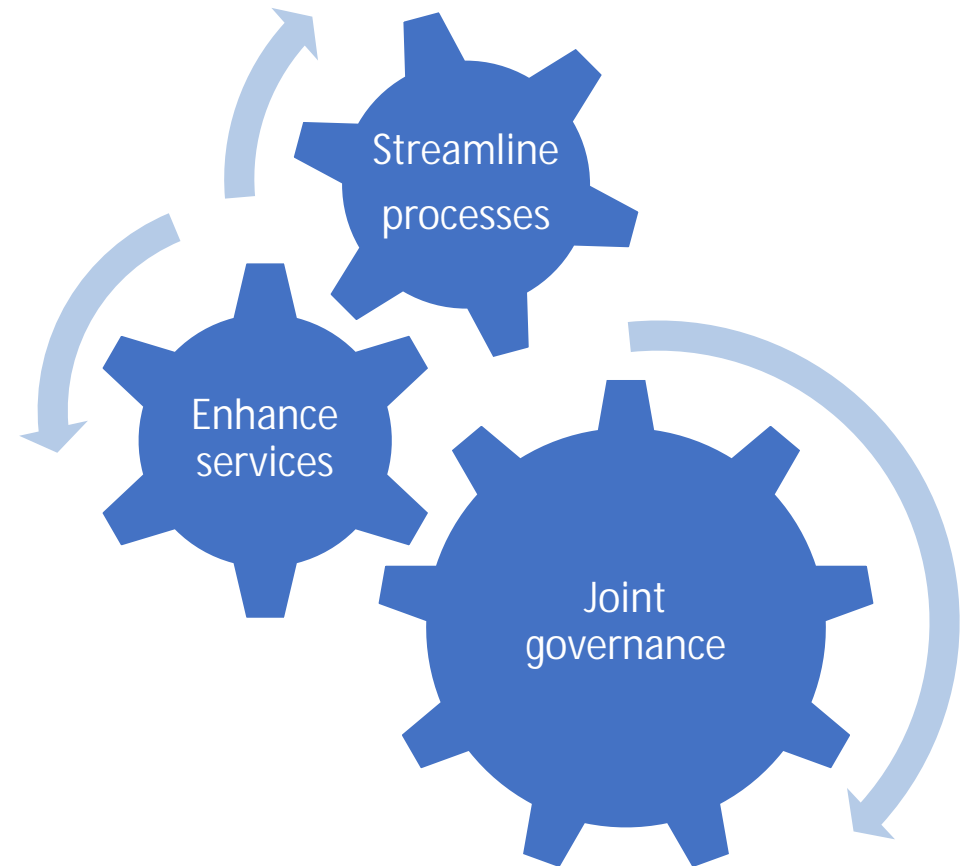


A New Approach

- **E-Enterprise Leadership Council (EELC)** provides strategic leadership for both E-Enterprise and the Exchange Network
- **Management Board** reports to the EELC and provides oversight of E-Enterprise and Exchange Network projects
- **Interoperability and Operations Team** provides ongoing O&M for projects and data flows
- EPA's FY2016 Partnerships Action Plan calls for expanded tribal participation in E-Enterprise

Why We Seek Alignment with All Three Goals

- We need improvements to **streamline and reform processes** and management to generate efficiencies to be delivered
- We – the states, tribes, and EPA – need to **enhance services** through IT tools to deliver process efficiencies, transparency, burden reduction, to regulated community and public
 - IT without process change will automate inefficient processes
- We need **joint governance** to drive improvements that are integrated among EPA/states/tribes
 - Process improvements without joint governance will further entrench inter-governmental fragmentation as each invests in incompatible improvements



Draft Charter and Tribal Consultation

- Revision of E-Enterprise Charter
 - September 2013 version established E-Enterprise Leadership Council (EELC) only
 - Summer 2015 EELC initiated review and revision of Charter
 - Strengthen mutual coordination by integrating Exchange Network with E-Enterprise
 - Create a more defined structure of E-Enterprise governance bodies in the charter
 - Provide for full tribal participation in E-Enterprise governance
- Tribal Consultation (March 9-April 16, 2016)
 - For tribes to review and comment on the draft E-Enterprise Governance Charter before finalization
 - Comments from tribes:
 - Consultation was too short and did not allow for adequate discussion
 - Several ideas on how to identify and appoint tribal members to the Leadership Council, and how to support the participation of tribal members of the Leadership Council
 - Many comments on the number of tribal members on the Leadership Council

Draft Charter and Tribal Consultation cont'd

- Second consultation provided more time (May 27-July 29) and requested feedback focused on the following three areas:
 - EPA is proposing that tribal representatives to the Leadership Council be selected using a model similar to that currently used to identify members of the National Tribal Caucus.
 - EPA is proposing that the Leadership Council have up to ten members each from EPA, states, and tribes; and that there be one EPA, one State, and one Tribal Co-chair.
 - EPA is proposing to sustain an organization tasked to support the tribal members of E-Enterprise governance bodies in sharing information, views, and feedback amongst tribes and with the Leadership Council.
- Comments in second consultation focused on future role of tribal participation in E-Enterprise and its governance

E-Enterprise Leadership Council (EELC)

EPA	State	Tribal Participation – April 2016 EELC meeting in Nashville, TN
Stan Meiburg, Acting Dep. Admin., co-chair	Tom Burack, New Hampshire, co-chair	NTC - Gerald Wagner, Blackfeet Nation
David Bloom, DCFO, OCFO	Sara Pauley, Missouri	TGG - Frank Harjo, Muscogee Nation
Shari Wilson, DAA, OECA	Victoria Phillips, Massachusetts	TGG - Ryan Eberle, Gila River Indian Community
Betsy Shaw, DAA, OAR	Ben Grumbles, Maryland	NCAI - Colby Duren
Mike Shapiro, DAA, OW	Martha Rudolph, CO (ECOS President)	
Nitin Natarajan, DAA, OLEM	Andy Putnam, Colorado	
Louise Wise, DAA, OCSP	Scott Thompson, Oklahoma	
Ann Dunkin, DAA, OEI	Bryan Shaw, Texas	
Mark Hague, RA, Region 7	Becky Keogh, Arkansas	
Curt Spalding, RA, Region 1	Myra Reece, South Carolina	

E-Enterprise Projects

Regulatory and Public Portal

Combined Air Emissions Reporting

Local Government Portal

Smart Tools for Inspectors

Interoperable Watershed Monitoring

Pesticides Label Matching

Air Reporting (CEDRI) through Portal

NPDES eReporting Pilot

Lead Recertification through Portal

Lean / IT Integration Toolkit

Title V and e-SIPS tie into 111D

Shared Facility ID Pilot

Import-Export Hazardous Waste Rule
w/E-Reporting

Tribal Roadmap for Water Quality

Leak Detection and Repair (LDAR)

E-Permitting

Advanced Monitoring Integration Strategy

RCRA Waste Generation Wizard

Respectful Use of Data

Share Services IPT

Shared Identity Management IPT

E-reporting

Lean replication: RCRA Facility Investigative
process

Current Tribal Participation in E-Enterprise Projects— Just the Beginning: Need More Tribal Participation

- **Tribal Roadmap**

- Angie Reed Penobscot Nation – Tribal Co-Chair
- Bruce Jones Northwest Indian Fisheries Commission
- Carey Pauquette Saginaw Chippewa Indian Tribe of Michigan
- Eloisa Britton
and Heather Downey Round Valley Indian Tribes
- Linda Robins Chickasaw Nation
- Peggy Obear Prairie Island Indian Community
- Sue Flensburg Bristol Bay Native Association
- Terry Dock Colorado River Indian Tribes

- **Local Government Portal**

- Gerald Wagner Blackfeet Tribe

- **E-Enterprise Portal**

- April Hathcoat Cherokee Nation
- Bryanna Vaughan Bishop Paiute Tribe



Further Opportunities for Broader Tribal Participation in E-Enterprise

- Examples of other E-Enterprise projects where tribes may consider participation
 - Integrated Watershed Monitoring Networks
 - Advanced Monitoring
 - Respectful Use of Data
- Broadening State, Tribal, and Regional participation in setting E-Enterprise project agenda
 - NPM Guidance “encourages states, tribes and other offices to ... participate in [current E-Enterprise] projects where they see complementary priorities, processes, or objectives.”
 - FY2016 Partnerships Action Plan starts a continuing process that asks regions to work with states and tribes to bring forward their own priority, joint projects for business process modernization
 - As potential, nationally scalable E-Enterprise projects or further joint “local” work
 - One example – Region 6 work with tribes on tribal water tool

Next Steps on Partnerships Action Plan Projects

- Regions have proposed more than 20 projects for joint work by EPA, States and Tribes!
- Next phase is about “Broadening Participation”
- Regions, States and Tribes
 - With NPMs, consider national scalability of projects
 - Strongly encouraged to continue priority work on aligned “local” projects not selected for national scalability
- Guidance on tradeoffs and NEPPS forthcoming shortly

For More Information:

- EPA E-Enterprise website: <http://www2.epa.gov/e-enterprise>
- FY 2016 Partnerships Action Plan website:
<http://www.epa.gov/sites/production/files/2015-12/documents/fy16-partnerships-action-plan.pdf>

Contact Names:

- Andy Battin (EPA): battin.andrew@epa.gov
- Beth Jackson (EPA): Jackson.elizabeth@epa.gov
- Emily Heller (EPA): heller.emily@epa.gov

Questions?



Treatment as a State for Water Quality Standards presented to Cortina Band

Alexis Strauss,
Acting Regional Administrator,
US EPA Region 9



EPA Response to Tribal Caucus Report



Issue Review from Summer RTOC



Closing Comments

Alan Bacock/Jeff Scott; RTOC Co-Chairs

Thank you for joining us!

You can find all the information from today on the RTOC website:

<https://www.epa.gov/tribal/regional-tribal-operations-committee-region-9>

