

# Tribal Infrastructure Task Force

## October 5, 2017 Call Summary

### Participants

Allen	Catherine	US Environmental Protection Agency (EPA), Office of Waste Management (OWM)
Atkin	Hilary	US Department of Housing and Urban Development (HUD), Office of Native American Programs (ONAP)
Baca	Andrew	EPA Office of International and Tribal Affairs (OITA)
Bennon	Brian	Inter Tribal Council of Arizona, Inc.
Bullough	Jennifer	HUD ONAP *
Burg	Marta	Tribal Consultant, Eagle Rock, California
Calkins	Mark	Indian Health Service (IHS) Division of Sanitation Facilities Construction (DSFC)*
Clark	Dave	Rural Community Assistance Partnership (RCAP)
Daily	Alex	IHS DSFC
Frace	Sheila	EPA OWM *
Guernica	Mimi	EPA Office of Land and Emergency Management (OLEM)
Gude	Karen	EPA Office of Water (OW)
Harvey	David	IHS DSFC
Hix	Billy	Cherokee Nation
Kubena	Kellie	US Department of Agriculture (USDA) Rural Development (RD) *
Laroche	Darrell	Bureau of Indian Affairs (BIA)*
Lieberman	Paige	EPA American Indian Environmental Office (AIEO)
Livermore	Shaun	Poarch Band of Creek Indians
Moravec	Krista	Horsley Witten Group, Contractor
Nielson	Hal	USDA RD
Norton	Ken	Hoopla Valley Tribe, Tribal Environmental Protection Agency
Price	Stephen	Alaska Department of Environmental Conservation
Reddoor	Charles	EPA OLEM
Richardson	Matthew	EPA OWM
Roepe	Wayne	EPA OLEM
Russell	Sam	EPA Office of Ground Water and Drinking Water (OGWDW)
Shuman	Ben	IHS
Smith	Garrett	EPA Region 2
Snowden	Kami	Tribal Solid Waste Advisory Network
Wagner	Dennis	EPA Region 10, Anchorage
Wells	Rich	Squaxin Island Tribe
Wilson	Michaelle	EPA OLEM
Windt	Shari	IHS

(\* indicates that person is one of the five ITF Principals.)

## **A. Welcome & Introductions**

Sheila Frace and Matt Richardson welcomed everyone. Sheila acknowledged it has been a long time since the last tribal Infrastructure Task Force (ITF) meeting. They are making a commitment to meet at least twice a year. Target dates will be sent to everyone.

Kami Snowden commented that she was thrilled to see the agencies on the call. This means the world to tribes, tribal consortia, and to all tribal communities. Thank you for being on the line.

### **a. New HUD ITF contact: Hilary Atkin**

Jennifer Bullough from HUD remarked that there is still a reason to continue with this workgroup. It has been useful over the years and the federal partners continue to collaborate over the years. Thank you.

She continued by announcing that she is retiring at the end of the calendar year. She thanked everyone for all the fun times on the ITF. She introduced Hilary Atkin who will be stepping in for her. Hilary has been working on the HUD-lead multi-agency environmental review streamlining effort.

Hilary Atkin thanked everyone for welcoming her to the group. She has some experience with issues around water resources before she joined HUD six years ago. She is an attorney and worked extensively in environmental review in housing and in ONAP. She is familiar with the infrastructure issues of Tribes. She looks forward to learning more about what they do and how she can be helpful.

## **B. Report out of ITF related activities at the recent Tribal Lands & Environment Forum**

Matt Richardson reported on four highlights at the recent Tribal Lands and Environment Forum in August.

1. An EPA contractor delivered a 12-hour training for water and wastewater utilities on a variety of topics, including utility operation and maintenance, asset management and resilience planning.
2. EPA led a tour of a wastewater treatment plant in Tulsa, which has been 100% compliant in last 5 years.
3. Matt participated a session with Brian Bennon (ITCA) on water and wastewater operation certification.
4. Jessica Schinder from OLEM from the subgroup on community engagement for solid waste management also led a session.

Kami continued that TSWAN is in the process of conducting solid waste management training, how to sort, separate, and manifest waste. It is funded through a national grant. Two trainings have been held in Region 10. They are looking for a third party to host another training no later than March 15, 2018. The training is geared towards those who work in solid waste and recycling facilities but are not properly trained. Kami will send to Matt her contact information, which will be sent to the group.

## **C. FY17 funding levels and proposed FY18 President's budget funding levels from each ITF partner agency**

Sheila asked federal agencies to report on budget levels for FY 2017, if there were any significant changes, and talk about what they know or don't know about FY 2018 budgets.

She then reported on the EPA Water Program funding levels. The Clean Water Indian Set Aside was \$30 million for FY 2017. New for this year, \$2 million of that \$30 million will be used for training, technical assistance, and wastewater maintenance. Prior years, there has been this type of funding source on the drinking water side, but EPA didn't have authority on the clean water side until recently. Based on tribal consultation, there is a need and value for hands-on site training. EPA is pursuing these efforts and it will follow up in the future on how it will move forward.

The Alaska Native Village Program was funded at \$19.7 million; public drinking water systems as \$6.54 million, and Clean Water Section 106 at \$26 million for tribes. The congressional continuing resolution funds programs through early December. EPA is waiting for congressional action before that date.

David Harvey report that IHS FY2017 appropriations were more than was in its budget; \$102 million for new and existing homes, In FY2018, \$75 million for the same.

Jen Bullough reported for HUD. The Indian Community Development Block Grant Program (ICDBG) primarily goes to housing but infrastructure can be addressed. Water and wastewater infrastructure projects are eligible as long as the funds are tied to low income housing. The local block grant grantee makes determinations on where the funding goes. In FY2017 \$645 million was appropriated and in FY2018, \$591 million. Technical assistance in FY2017 was \$7 million, and includes water and wastewater as well as block grant assistance for the first time. The loan guarantee program has \$2 million for FY2017 and the proposed budget for FY2018, which includes Title 6 funds, provides additional funding for loans under the loan guarantee program is at \$2 million. ICDBG has \$60 million, including a \$4 million set aside for Tribes and \$56 million through a notice of funding. Applications are in May for the \$4 million set aside. CDBG and ICDBG funding are eliminated in FY2018.

Darrel Laroche from the Bureau of Indian Affairs (BIA) reported that typically their funding supports facilities properties and safety management under BIA and it does not provide grants to tribes. It does support wastewater/sewer improvements at three tribal reservations. For FY2017 the BIA's budget is \$6.2 million.

Kelly Kubena from USDA RD reported that in FY2017 it received \$500 million. Grant money was \$1.7 million; Tribal set aside was \$24 million; and ANV was \$16 million. For FY2018, the program was zeroed out.

### *Questions*

Marta Burg had two questions. Regarding the EPA budget, would the Clean Water Act \$2 million set aside potentially support circuit rider activities?

That is our hope. We heard that issue overwhelmingly in consultation.

Is there any funding information related to solid waste-related programs?

Not at this point. In the state and tribes assistance grants, we really don't know. We are hopeful. There was a little under \$1 million in the hazardous waste program in 2017.

#### **D. EPA's new utility technical assistance authorities**

Sheila Frace reported on EPA's two new utility technical assistance authorities. EPA conducted a tribal consultation for input. The language initially had some challenges for EPA in terms of potentially implementing it. The money is to be used for training, technical assistance, and educational training on wastewater management and treatment as specified under the statute. If funded, it will be used for grants directly to tribes or coordination with IHS as part of its infrastructure program. EPA can work with IHS to help provide these services to tribes. There are 567 recognized tribes and determining grants to individual tribes would be a challenge for both EPA and each of the 567 tribes. It did hear during the tribal consultation call that there may be a possibility of a single tribe with a larger grant that would service more than just their tribe. EPA is interested in trying to find a way to get some of the money out there. The authority was requested in 2018. When we have a specific request that ends up in final budget from Congress, the language tends stay in following years. Therefore, there is a strong likelihood that this will continue. EPA is excited and its priority is on-site technical assistance and training. EPA is having conversations with IHS and leaders at EPA to figure out what is mutually beneficial and what will be the best for our tribal communities.

Michaëlle Wilson from IHS added one other group of services available is \$200,000 in grants for peer match and educational programs. It has done some classroom training on topics like integrated waste management plans.

Shelia continued that the second EPA authority is for drinking water, supporting technical operations and management. The drinking water infrastructure grants allow EPA to use some money to fund intertribal operation and maintenance training or certification services for compliance. The amount funded was not capped, but it will be 30% of EPA's annual allotment. This is regionally implemented, and if there is any interest, tribes should reach out to their region.

#### *Questions and Comments*

Kami asked if federal agencies are looking at solid waste impacts on water and wastewater infrastructure. She is aware of 15 out of 32 tribes in her area that have solid waste facilities that are not under control and are having a direct impact on groundwater.

Dave Harvey responded that IHS areas estimate needs for solid waste infrastructure, and if solid waste facilities are impacting drinking water, that would rank as a high priority. If the tribes are not contacting IHS engineers who are helping them to coordinate efforts to raise awareness of their needs, you should encourage them to talk with IHS.

Kami noted that she has not had success with other agencies and if he can help her coordinate with these tribal facilities.

David responded, yes. Let him know which tribes and he will see who should be contacted in the area.

In the new solid waste MOU with EPA, there is a partnership with IHS to oversee and improve capacity of solid waste programs, particularly addressing the acute need of closing open dumps, but the tribes often do not have structures and capacity in place to make it happen.

Kami said she is working with tribes, but she's not hearing solid waste being addressed in the budget numbers.

Marta asked about the status of EPA's General Assistance Program (GAP) funding.

Andrew Baca responded that he will follow up and provide Matt with FY2017 and 2018 numbers. He did not have them at hand.

### **E. Status of IHS/USDA tribal water & wastewater utility cost evaluation**

David Harvey referenced the handout sent with the call agenda.

For water utilities, they are progressing ahead with the study, with Alaska Native Villages (ANVs) and American Indian (AI) utilities as two separate evaluations. For AI, they have 16 tribes that have agreed to participate in the study and data collection has begun. This is a mark of success, and some are on the call now. As part of data collection, staff have been contacted to acquire operating budgets, user rates, and other information on utility infrastructure, conditions, and type. In the second phase of the study an additional 105 utilities will be selected. Data collection and analysis should be completed by May 2018.

For ANV, they are relying on the Alaska Native Tribal Health Consortium (ANTHC) and the Rural Utility Business Advisor (RUBA) programs to gather data. Seventeen communities have committed to the study. Another 75 will be randomly sampled. Data collection is underway and they hope to be done by April 2018.

When it is ready, information will be shared with the ITF group. Please feel free to contact David.

*There were no questions or comments.*

### **F. HUD's tribal NEPA streamlining effort**

Hilary Atkin reported on HUD's tribal NEPA streamlining effort. HUD is the lead for a workgroup on the tribal environmental review process. It is looking at more efficient ways to conduct environmental review for housing and housing-related infrastructure in Indian Country. Agencies involved are EPA and the Departments of Agriculture, Commerce, Energy, Health and Human Service, Interior, Transportation and the White House Council on Environmental Quality. A GAO report in 2014 cited that environmental review that tribes encounter was a burden and in 2016 the Appropriations Committee requested that HUD put together a workgroup to address issues.

HUD and the agencies conducted tribal consultation and conducted research on the process that agencies use to put together environmental reviews, noting the differences and similarities, and where processes may overlap. There is a final report with 12 recommendations. Those recommendations generally take a look at existing processes and how to make them more efficient. There are no statutory solutions. The workgroup continues to work on the following:

1. An inter-agency agreement to encourage use of the NEPA efficiency tool by reference. Agencies would use the tool and other tools under NEPA to get them to work together, especially when there are multiple sources of funding on a project. Companion documents are to be signed with Tribes. HUD hopes to have documents finalized in the coming months.

2. Implementation strategy for the report's 12 recommendations. An Ideas Document focused on implementation is being developed and will be put out for consultation with tribal leaders. It is in line with HUD's tribal consultation policy, but on behalf of all agencies in workgroup. The Ideas Document will be put out for tribal consultation in February or March. There were listening sessions at the NCAI and TLEF conferences. The document was updated based on the feedback from the listening sessions and a draft implementation plan reflects the comments received. Feedback led the workgroup to refocus several action items that address one or more of the recommendations. The draft implementation plan was sent out to tribes for another round of comments on September 22 and the comment period will close November 21. One of the actions is new and addresses what was heard over and over in the consultation for the Ideas Document: to have one form and one process for tribes to work with. Also, one of the recommendations is to consider expanding the focus of the workgroup beyond housing and housing-related infrastructure. In the ideas document, HUD states it is going to hold off until it gets further along in other implementation items. Overall HUD is looking forward to feedback on the implementation plan.

*There were no questions or comments.*

#### **G. Tribal solid waste ordinance training and the recent MOU between EPA & IHS**

Ben Shuman from IHS reported. In December/January EPA and IHS signed an MOU to reaffirm the roles and responsibilities of the two agencies regarding open dump data and tracking. There are six specific elements of the MOU:

1. IHS continues its responsibility to review and update the open dump inventory.
2. IHS and EPA ensure that the skill set is there to update inventory when needed.
3. EPA is committing to regular assistance to tribal programs for a program's effectiveness in addressing open dumps.
4. IHS is committing to ensuring data is properly entered into SDS, which is used to identify needs and allocate funding.
5. IHS and EPA will encourage tribal governments to clean up and close open dumps.
6. IHS and EPA will work to develop training on solid waste codes and ordinances.

Shari Windt added that IHS is currently conducting training on code development for tribes and is working with the Northern Arizona University's Institute for Tribal Environmental Professionals (ITEP) on two courses:

1. Code and ordinance development.
2. Workshop for graduates of the first course to discuss progress and consultation with peers.

An evaluation guidance document will help them develop two to three training sessions per year. \$400,000 is available. Training will help tribes work through the development of the codes and ordinances and offer support through a help line with experts while they go through process. The support is available for 12 months after the first course. Course material has been sent to the IHS Environmental Help Support Center. The goal is to have comments by mid to late October. There will be 12 participants per class. IHS is asking tribes to submit a statement on their commitment to solid waste management as they apply for the training.

## *Questions and Comments*

Marta stated that she is aware of several tribes who have developed ordinances, but the difficulty is with implementation and enforcement of provisions, especially with nontribal entities, where in some cases they are unable to identify who they are. Are those kinds of situations addressed meaningfully in the training? If there is a tribe that already has one or more ordinances, will there be any training on implementation alone?

Shari responded that the training is geared towards tribes that lack an ordinance, but implementation is something IHS needs to consider. Once it gets the first group through the training it can consider that aspect.

Marta stressed that tribes may still need assistance for effective enforcement. She also asked if EPA has a role in the effectiveness of tribal solid waste management programs, what does that look like, and for what purposes.

Michaëlle responded that they have not developed markers at this point. They are going to work with IHS and ITEP to determine what would be appropriate. EPA wants to ensure that a tribe has a plan in place stating if a site is cleaned up it will not be used again.

Stephen Price asked if there is a way to get a copy of the MOU. It is on the ITF website.

## **H. Managing solid waste in Indian country**

There are three subgroups of the ITF and two of the reports are online. The following updates were provided.

### a. Update on "Assessing Barriers to Sustainable Waste Programs" Report

Michaëlle reported for the subgroup. There is one remaining report from the team, which met on September 6 to talk about next steps. The subgroup submitted a draft report and Michaëlle thanked the agencies that gave comments. She also reported that Marta and Rob will no longer be able to be co-leads for the subgroup but will continue to participate. No one has stepped forward yet to replace them, but there is continued interest in the workgroup. They will be moving forward with the report, but would like to secure tribal co-leads.

The next workgroup meeting is this month (October) to discuss comments on the report, how to move forward as a team, and identifying new co-leads.

### b. Implementation of community engagement approaches for tribal integrated waste management programs

Michaëlle also reported for the subgroup. The completed report is online. They anticipate no further activities other than working with tribes that have questions about the report.

### c. Next steps in improving tribal open dump data

Ben reported for the subgroup. The report has been finalized and is online. The subgroup is evaluating strategies and looking at all the options. There is a need to improve the quality of the data and efforts are being made through the MOU and the ongoing process for updating and improving data in the SDS system. There are three approaches that we could use: IHS staff resources, work with tribes to update data, and hiring a contractor to update data nationwide, or any combination of these.

## I. Discussion

Sheila noted that the ITF has gone through ebbs and flows, but the group has done a tremendous amount of work with the water infrastructure and has made strides in coordination and communication. It has developed summaries based on what it has learned from tribes around the country, about appropriate infrastructure for tribes and what it takes for long-term maintenance. Its work will continue to look at operation and maintenance and other needs. The three subgroups charged on the solid waste front have begun to implement recommendations.

She noted that the federal agencies have a pretty significant to do list. Having said that, if there are particular tribal infrastructure issues of interest to the tribes, things that the tribes would like to talk about, trends they are seeing individually or more broadly, best practices, she invites tribes to let them know and offer presentations for the benefit for the wider audience. We welcome the knowledge of the larger group.

Marta commented that drinking water O&M has gotten a lot of focus lately. She wants to make sure they don't lose sight of those tribes that have circumstances beyond their control to have success, such as limited capacity, remote location, or small population to support funding. She didn't know if that is something that is addressed in the IHS study that is being undertaken. She suggested that this group might want to hear from some tribes that are not successful to understand why, and develop creative ways to address those challenges.

David responded, yes, they randomly selected utilities to participate in the study. Within that realm, he expects that they will encounter tribes with the issues she is describing. It's not solely to highlight the highest performers, but try to get a picture of what the situation is. If there are tribes that are willing to step forward please let him know. It will be de-personalized, but if there are tribes willing to step forward and describe their challenges in maintaining their systems, they would be open to that.

Marta asked who they should contact.

David responded that they have not randomly selected tribes in the lower 48 yet. He asked for Marta to hold off for now in asking for their participation. The topic should be put on a future ITF meeting agenda and it will be discussed again.

Darrel commented that this could also be an opportunity for peer matching.

There were no further questions or comments. Matt thanked everyone for their time and closed the meeting.

Meeting Action Items:



<b>Responsibility</b>	<b>Action Item</b>
All	Consider if you'd like to have a solid waste and recycling training held in your area, if yes contact Kami Snowden at <a href="mailto:ksnowden@tswan.org">ksnowden@tswan.org</a> they're looking to identify a third location to hold a training.
David Harvey (IHS) and Kami Snowden (TSWAN)	Connect to address tribal solid waste issues
Andrew Baca & Matthew Richardson (EPA)	To share with ITF members the FY17 and proposed FY18 funding levels of the General Assistance Program (GAP) program
Kellie Kubena / Hal Nielson (USDA)	EPA's solid waste group is requesting USDA's input on Appendix D of the solid waste barriers report, this is the last step to finalize the report
All	HUD is looking for input on a draft plan to streamline environmental reviews for tribal homes and related infrastructure, see: <a href="https://www.hud.gov/program_offices/public_indian_housing/ih">https://www.hud.gov/program_offices/public_indian_housing/ih</a>
All	Commit to attending full member tribal ITF calls approximately every 6 months (dependent upon schedules)
All tribal members	For future ITF calls, if there are certain topics of interest or presentations you'd like to make please contact either Sheila Frace ( <a href="mailto:Frace.Sheila@epa.gov">Frace.Sheila@epa.gov</a> ) or Matthew Richardson ( <a href="mailto:Richardson.Matthew@epa.gov">Richardson.Matthew@epa.gov</a> )