



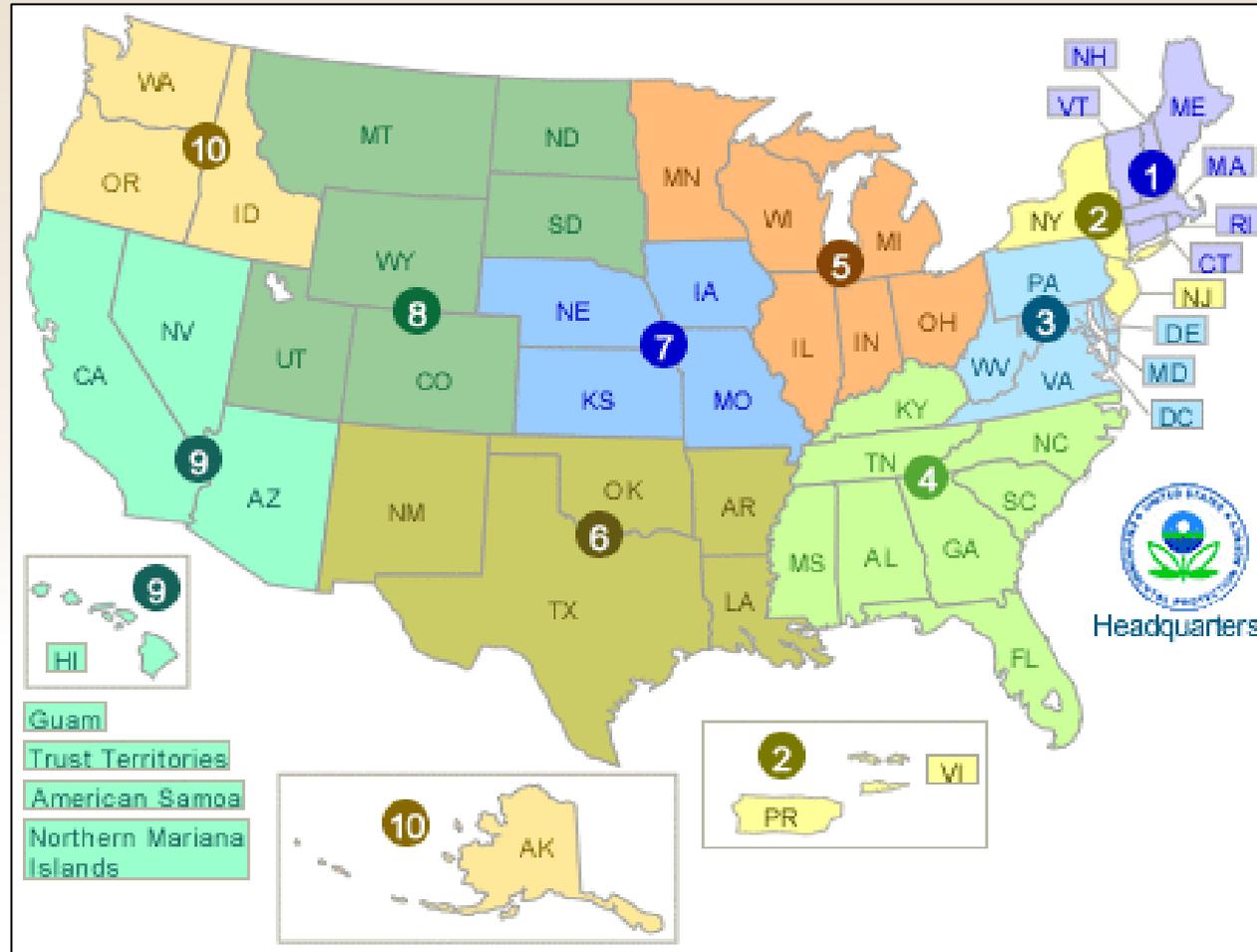
# Building A Tribal Nonpoint Source Program

Webinar #1

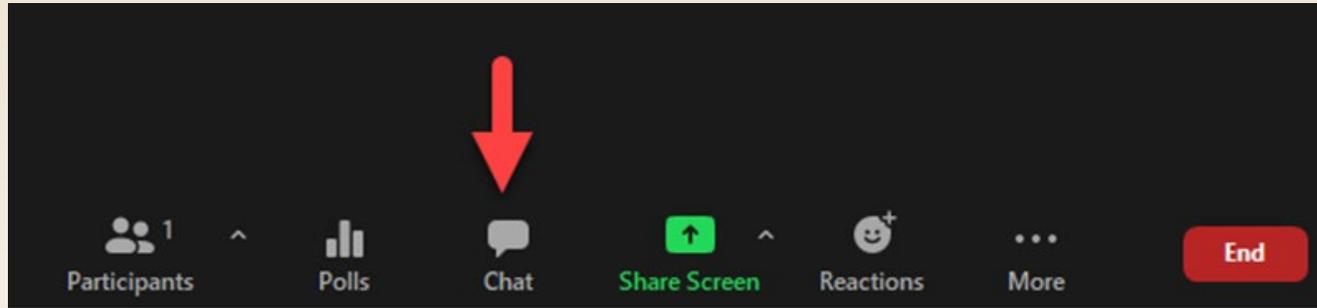
February 9, 2023

2 – 4pm Eastern

# Poll #1: What EPA Region are you in?



# Training Webinar Logistics



- **To ask a question:** Please type your question in the Chat box. We will take questions after presentations.
- **Technical difficulties:** If you are having technical difficulties, please send a message through the Chat to Gabby Vinyard, ERG (host) or email [gabby.vinyard@erg.com](mailto:gabby.vinyard@erg.com)
- **Evaluation:** Please complete the survey evaluation at the end of the training.

# Webinar Agenda

- **Greetings and Introductions**
- **EPA Intro to the Tribal Nonpoint Source Program**
- **Tribal NPS Program Panel Discussion**
  - Steve Kem, Southern Ute Indian Tribe
  - Sharri Venno, Houlton Band of Maliseet Indians
  - Tanya Williamson, Picayune Rancheria of the Chukchansi Indians
- **Participant Discussion**
- **Summary and Next Training Session**

## **Poll #2:**

**Does your Tribe currently have an EPA-approved NPS program under Clean Water Act §319?**

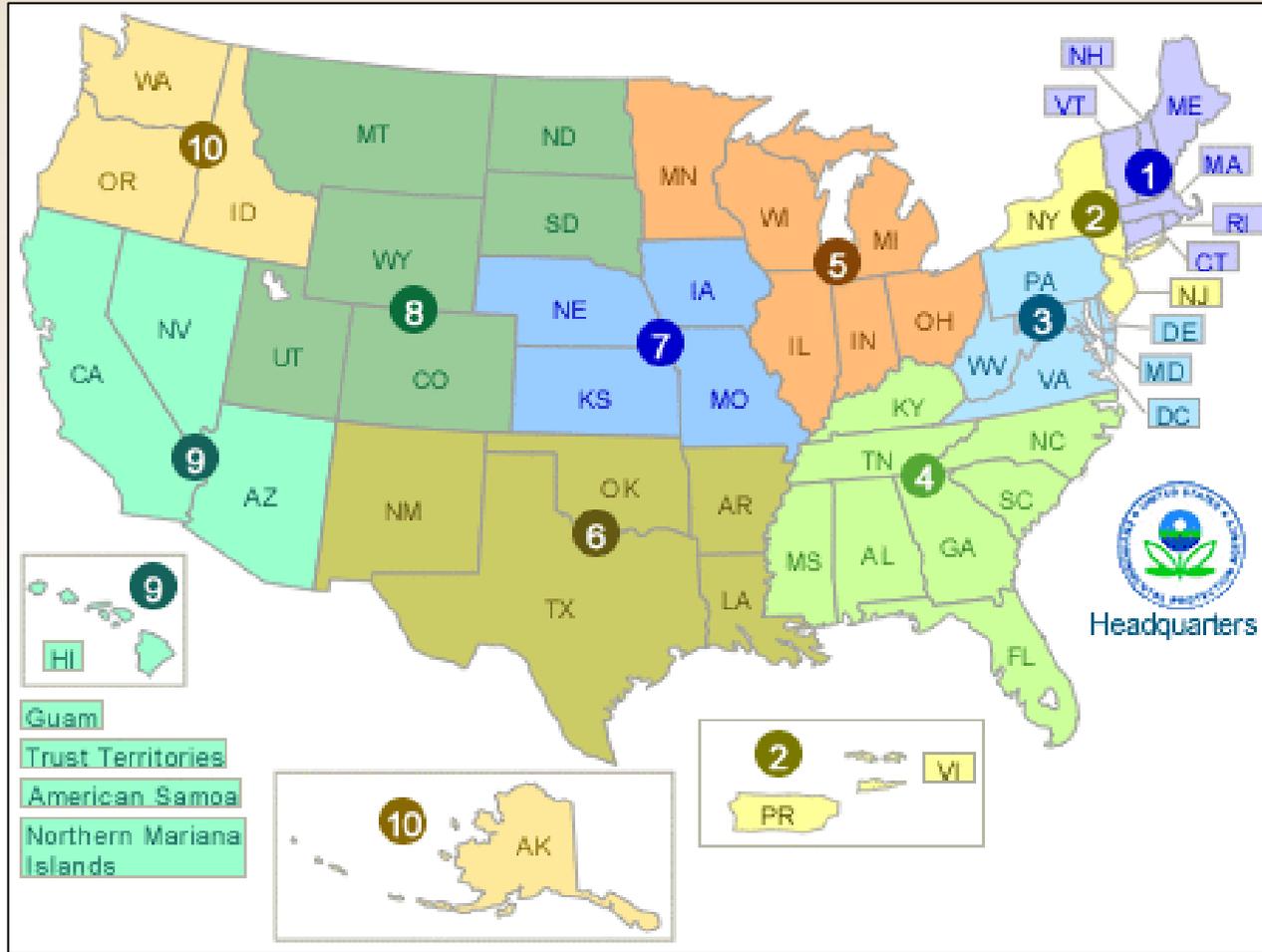
- Yes
- No
- Don't know
- What's 319?

## **Poll #3:**

**How long have you been working in Tribal water quality programs?**

- Less than one year
- 1-4 years
- 5-10 years
- Over 10 years
- Since Hector was a pup/ since the last ice age/ a very long time

# Introduction to the Tribal NPS Program



**Bessie Wright**  
EPA Region 1



**Janette Marsh**  
EPA Region 5



**Howard Kahan**  
EPA Region 9



# Introduction to the Tribal Nonpoint Source (NPS) Program

1. What is NPS pollution?
2. How do Tribes attain program authorization from EPA under Clean Water Act §319?
3. What Tribal NPS activities can §319 grant funding support?

# Clean Water Act: Sources of water pollution

## ‘Point sources’

- Regulated under CWA
- Any “discernable, confined and discrete conveyance including...any pipe, ditch, channel...[etc] from which pollutants are or may be discharged”
- Discharges must be regulated in a manner consistent with Nation/Tribe/State WQS, e.g., NPDES permits

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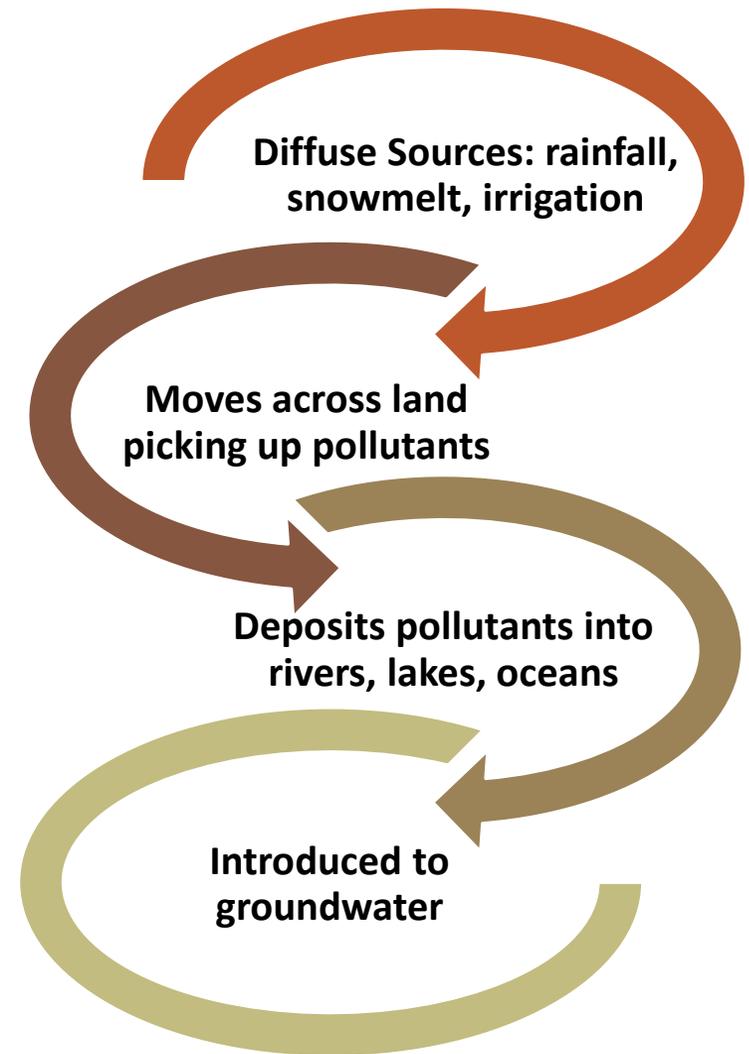
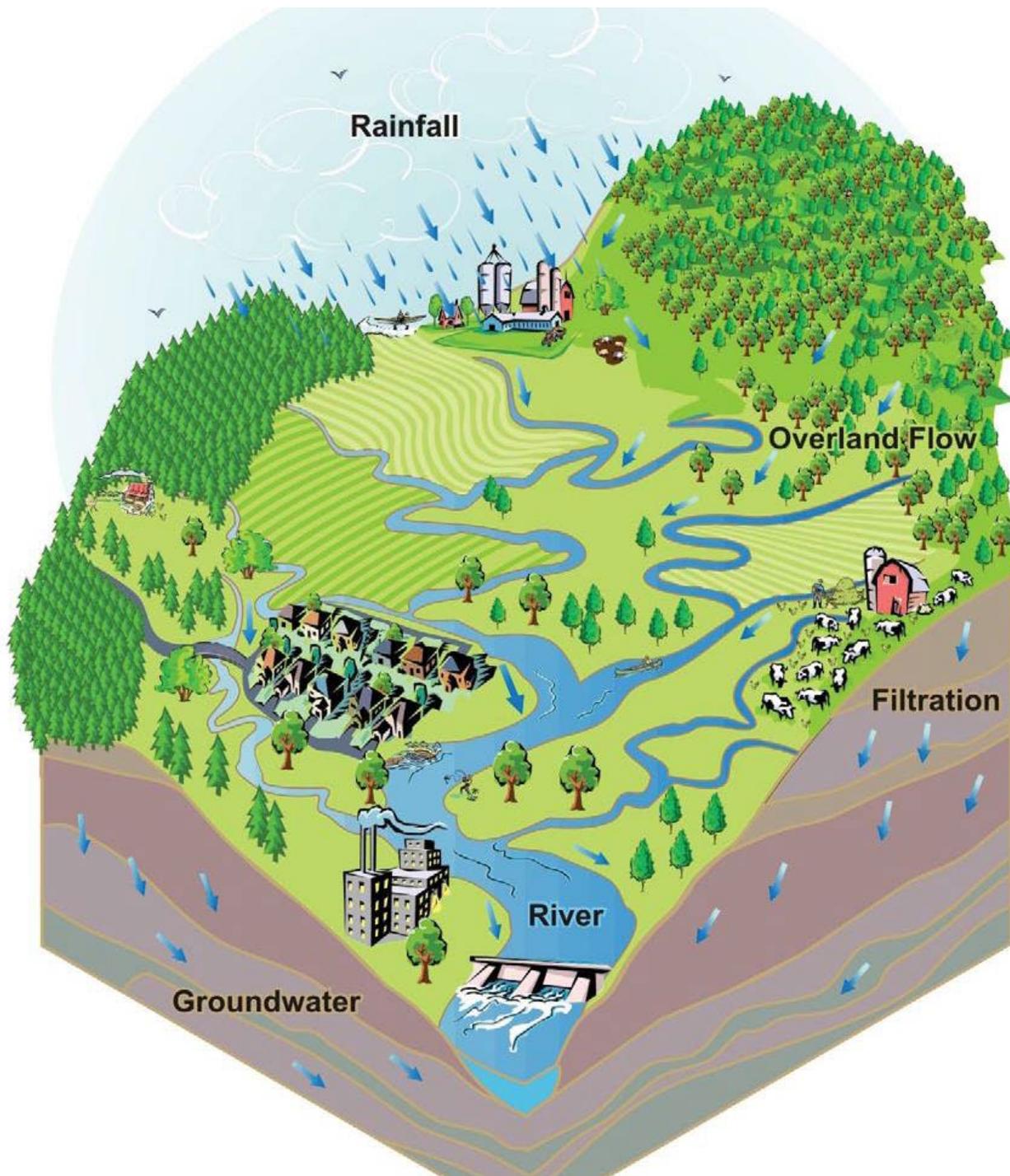
## ‘Nonpoint sources’

- Not regulated under CWA
- Any source of water pollution that doesn’t meet point source definition
- Polluted runoff from rain or snowmelt carrying natural and anthropogenic pollutants to waters
- Includes: agricultural stormwater discharge and irrigation return flows

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# Nonpoint Source Pollution Across the Watershed



# NPS pollution is diverse and dominates water quality issues



## **Agriculture**

Nutrients  
Sediment  
Pathogens  
Pesticides  
metals  
Row crop runoff  
irrigation water  
animal facilities

## **Onsite septic systems**

nutrients  
pathogens

## **Acid mine drainage**

abandoned mines  
metals

## **Unregulated urban runoff**

Pathogens  
Fertilizer  
pet waste  
oil & grease  
construction sediment

## **Forestry**

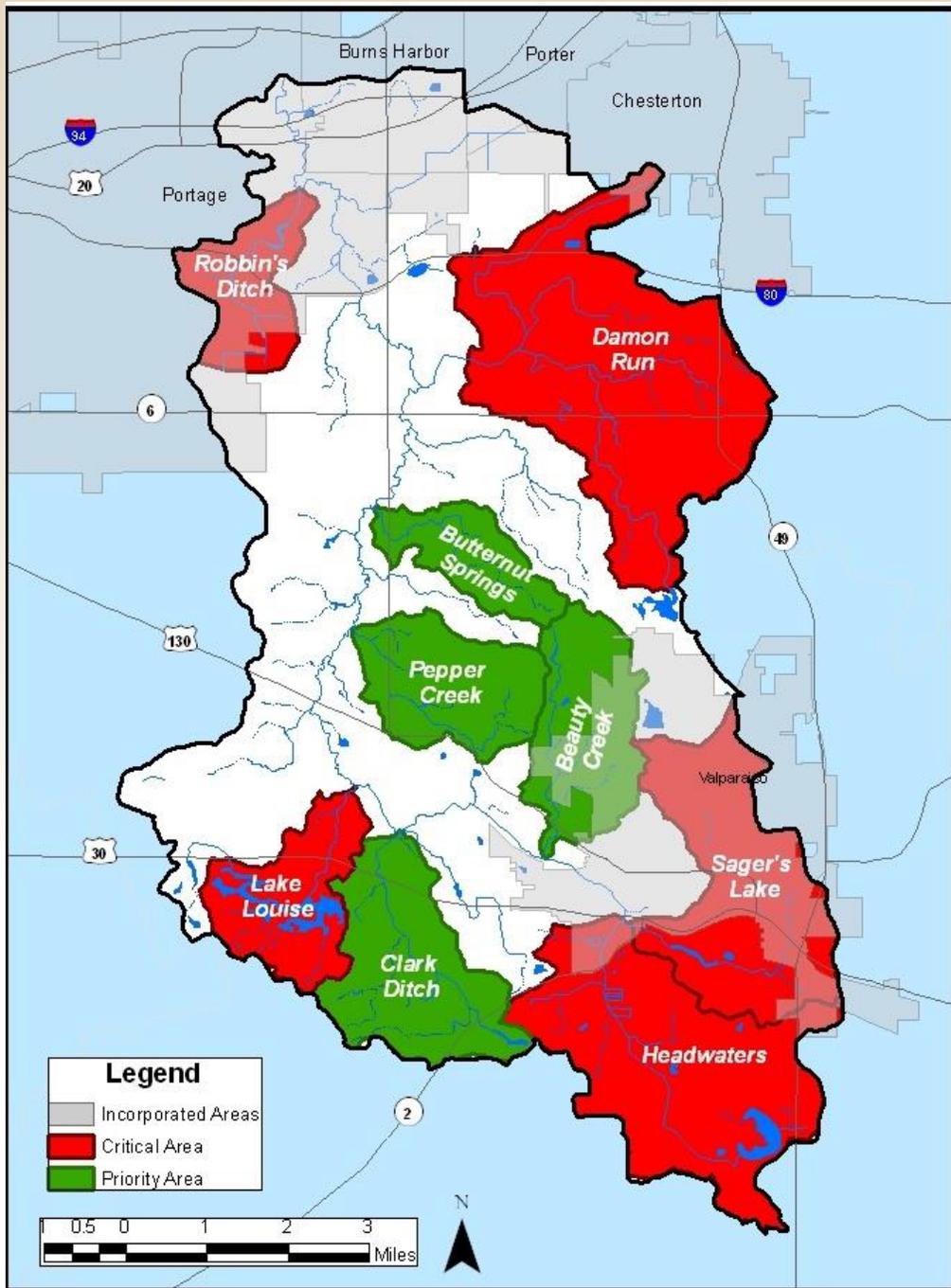
Sediment (slides, road construction, fire)  
temperature

## **Hydro-modification**

dams  
channel straightening  
sediment  
temperature  
habitat destruction



**So, how do we address polluted runoff?**



# The Watershed Approach

- NPS pollution loads vary across a watershed, so management work is typically targeted within priority areas.
- **Critical source areas (red)** contribute the most pollution and must be treated to improve water quality.
- Plans can also target priority areas for **protection (green)** to maintain relatively good water quality.

The **watershed approach** could be supported by one or more plan approaches, such as:

- 9-element watershed-based plan
- Tribal NPS management program plan
- NRCS conservation plan
- BIA Integrated Resources Management Plan

# Managing NPS Pollution

## *Management Measure*

A system of practices to achieve a common NPS pollution management goal.

**Management  
Practice**

**Management  
Practice**

**Management  
Practice**

Source: [https://www.epa.gov/sites/default/files/2015-10/documents/wetmeasures\\_guidance.pdf](https://www.epa.gov/sites/default/files/2015-10/documents/wetmeasures_guidance.pdf)

# Managing NPS Pollution

*Protect Wetland and Riparian Areas*  
to maintain key functions (e.g., filtering NPS pollution)

## **Assessment:**

ID existing functions of wetlands and riparian areas

## **Programmatic**

### **Approach:**

Permitting, acquisition, ordinances, etc.

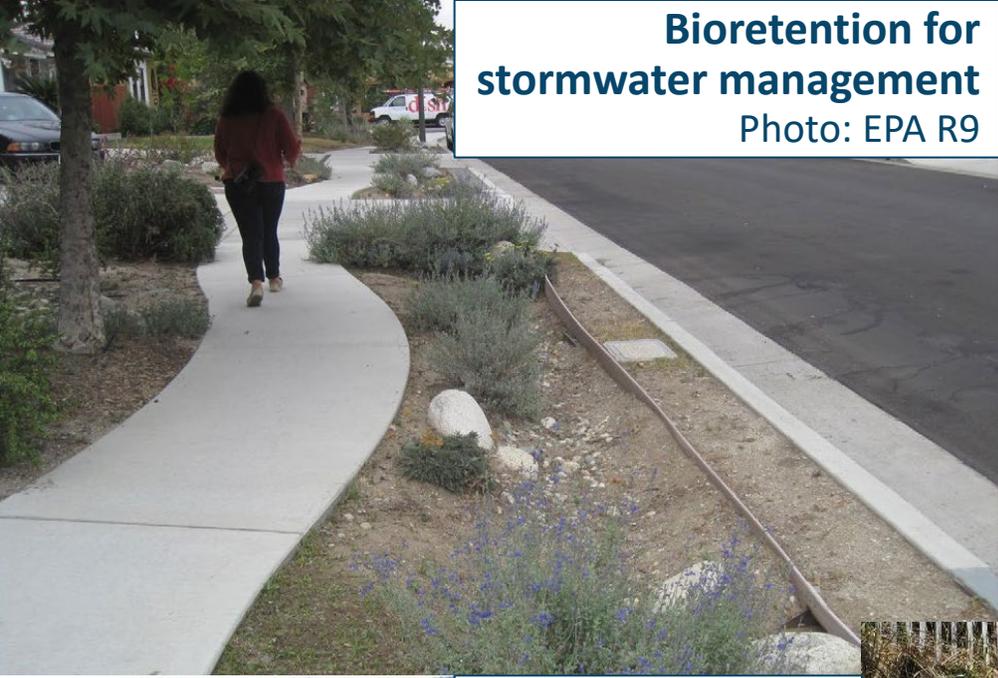
## **Preliminary**

### **Treatment Practices:**

Veg treatment system, detention, or retention basin to manage runoff into wetland

Source: [https://www.epa.gov/sites/default/files/2015-10/documents/wetmeasures\\_guidance.pdf](https://www.epa.gov/sites/default/files/2015-10/documents/wetmeasures_guidance.pdf)





**Bioretention for stormwater management**  
Photo: EPA R9



**Water Bars to slow runoff from forestry roads**  
Photo: Penobscot Nation



**Erosion Control**  
Photo: EPA R9



**Exclusion Fencing**  
Photo: EPA R9

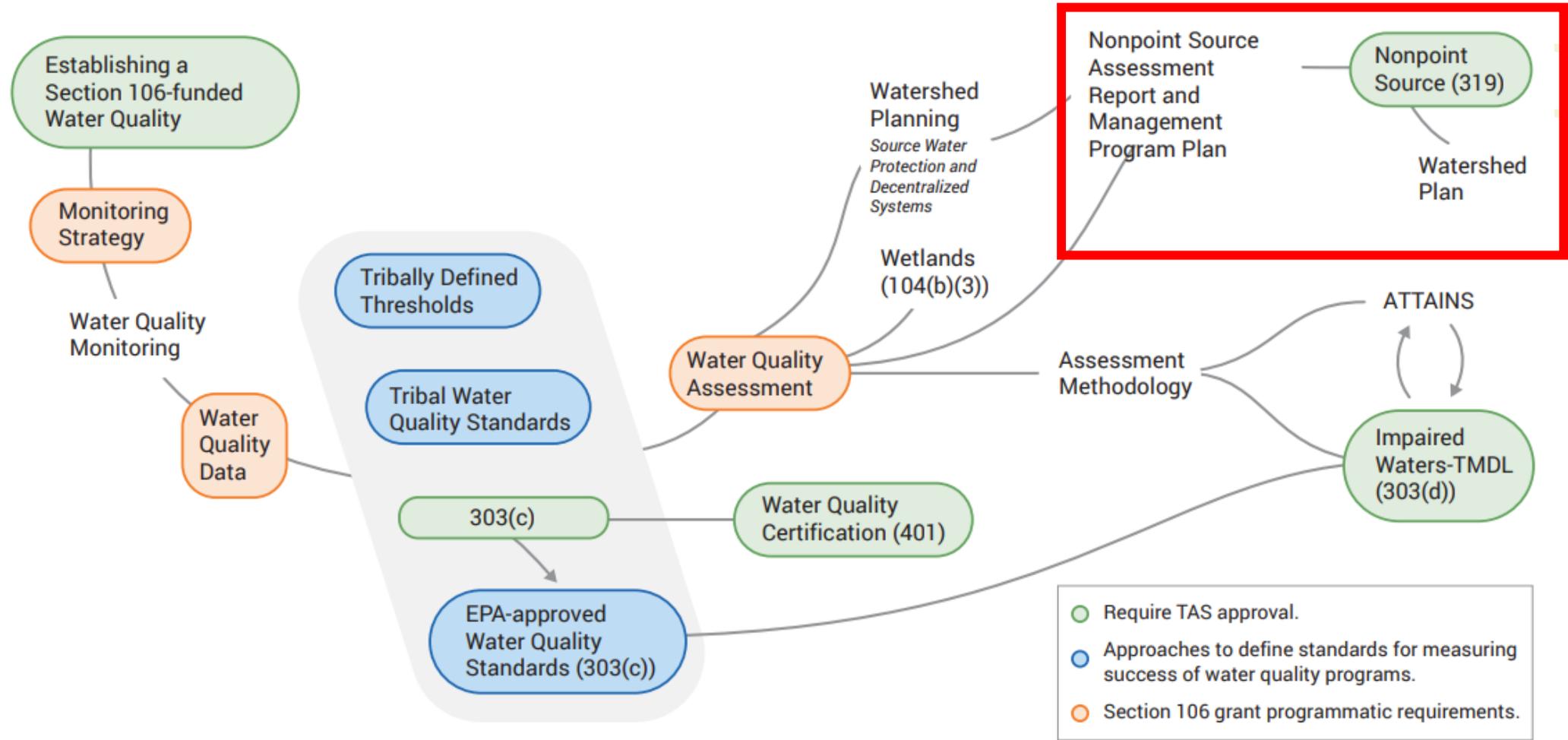


**Culvert sized for climate change**  
Photo: EPA R1



**Dune Grass Planting**  
Photo: EPA R1

**Figure 1:** Common pathways for implementing CWA Section 106-funded water quality programs



**ATTAINS:** Assessment and TMDL Tracking and Implementation System

**CWA:** Clean Water Act

**TAS:** Treatment in a Similar Manner as a State

**TMDL:** Total Maximum Daily Load

Source: EPA Tribal 106 Grant Guidance (2023)



## **Part 2:**

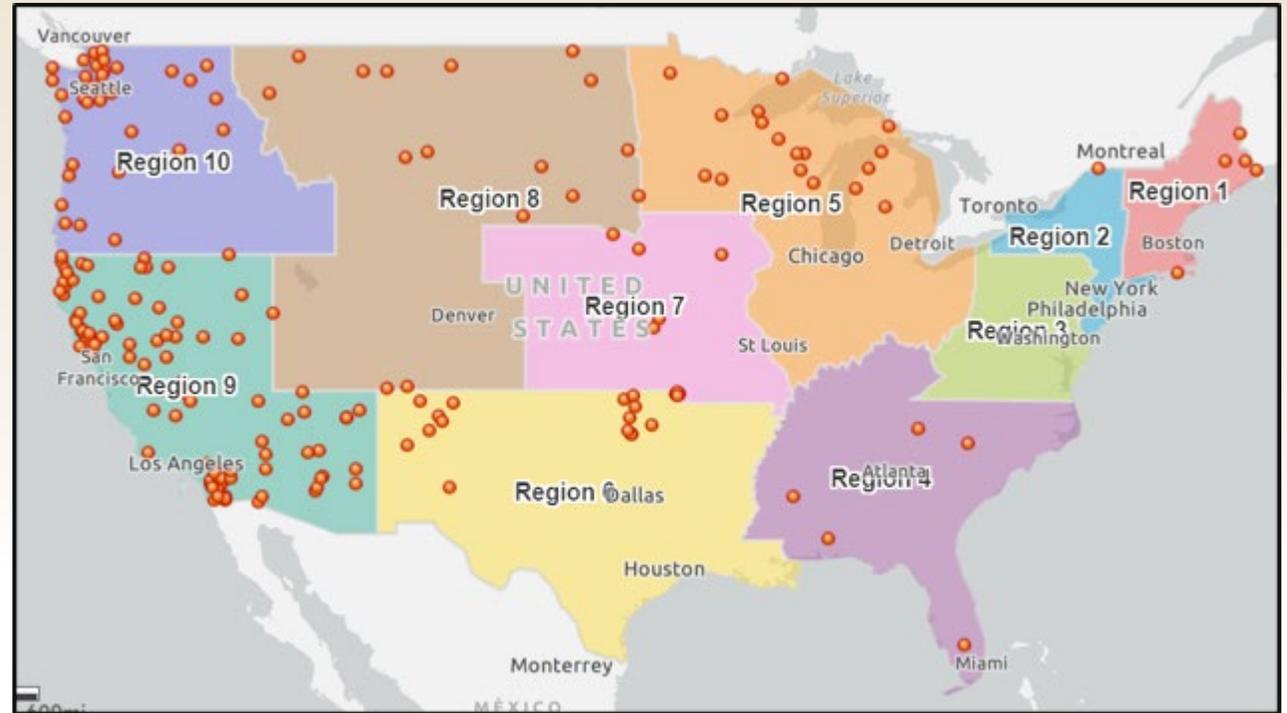
**How do Tribes attain program authorization from EPA under Clean Water Act (CWA) §319?**

# Clean Water Act Section (§) 319

- Established in 1987
- Provides a framework and federal funding for state/tribal and local NPS efforts.
  - §319(b) - NPS Management Programs
  - §319(h) - Grant Program
- Tribes, States and Territories set their NPS program priorities, guided by EPA-approved NPS assessment reports and program plans.

# Clean Water Act §319: Tribal Eligibility Requirements

- Be approved for TAS in accordance with CWA section 518(e)
- Have an approved NPS assessment report in accordance with CWA section 319(a)
- Have an approved NPS management program in accordance with CWA section 319(b)



There are currently 211 federally recognized Tribes, including one intertribal consortium, eligible for CWA §319 grants.

# Treatment in a Manner Similar to States

**Section 518** of the Clean Water Act authorizes EPA to treat eligible Indian tribes with reservations in a similar manner to states (TAS) for a variety of purposes, including administering each of the principal CWA regulatory programs and receiving grants under several CWA authorities.

E.g., 106, 303(c) – Water Quality Standards, 303(d), 319, 401 cert.

## TAS Requirements:

- a. Federal Recognition
- b. Governing body carrying out substantial governmental duties and powers.
- c. Function to be exercised by the Tribe pertains to the management and protection of water resources “held by or for the Tribe or otherwise within the borders of an Indian reservation.”
- d. The Tribe is reasonably expected to be capable of carrying out the program.

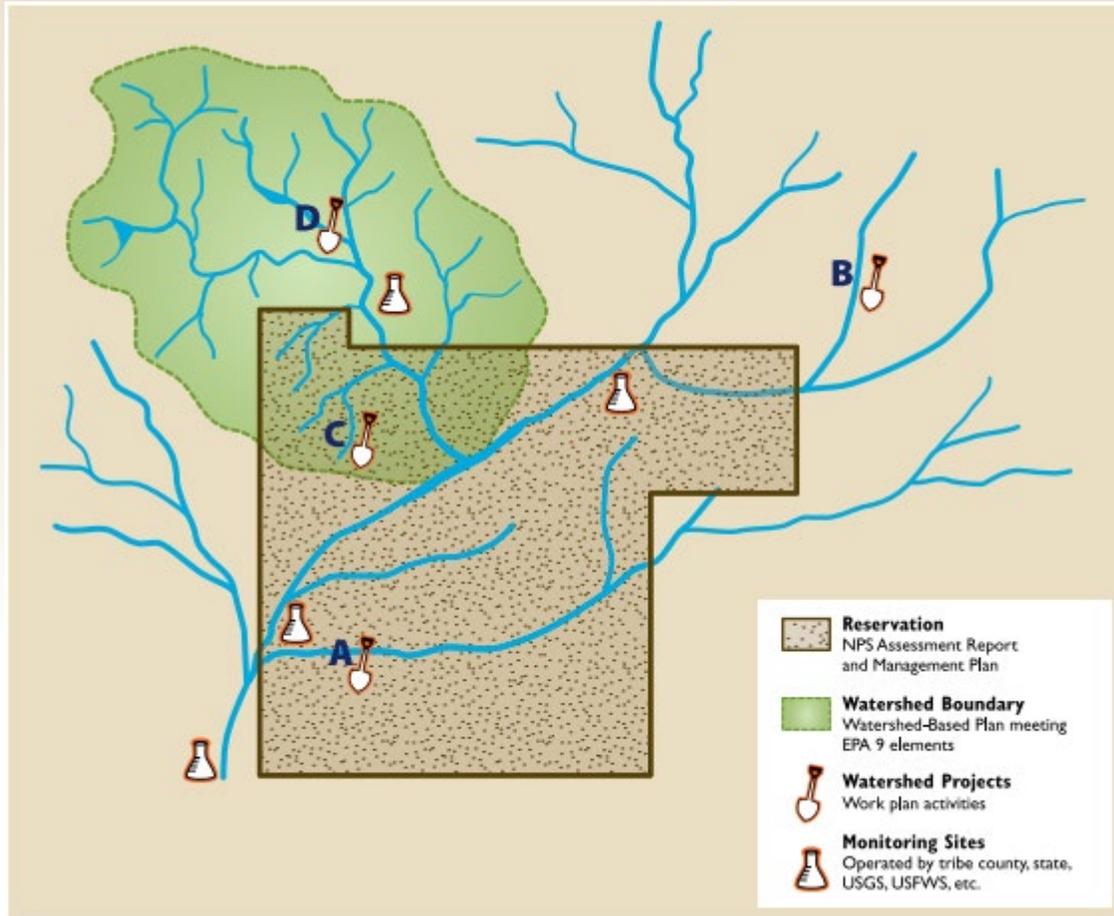
# TAS – Friendly Reminder

Programs allow funding to be spent within the scope of your TAS document.

TAS documents are a snapshot in time.

Consider updating regularly (every 5-10 years) to include newly acquired Trust lands and waters into the scope of your TAS.

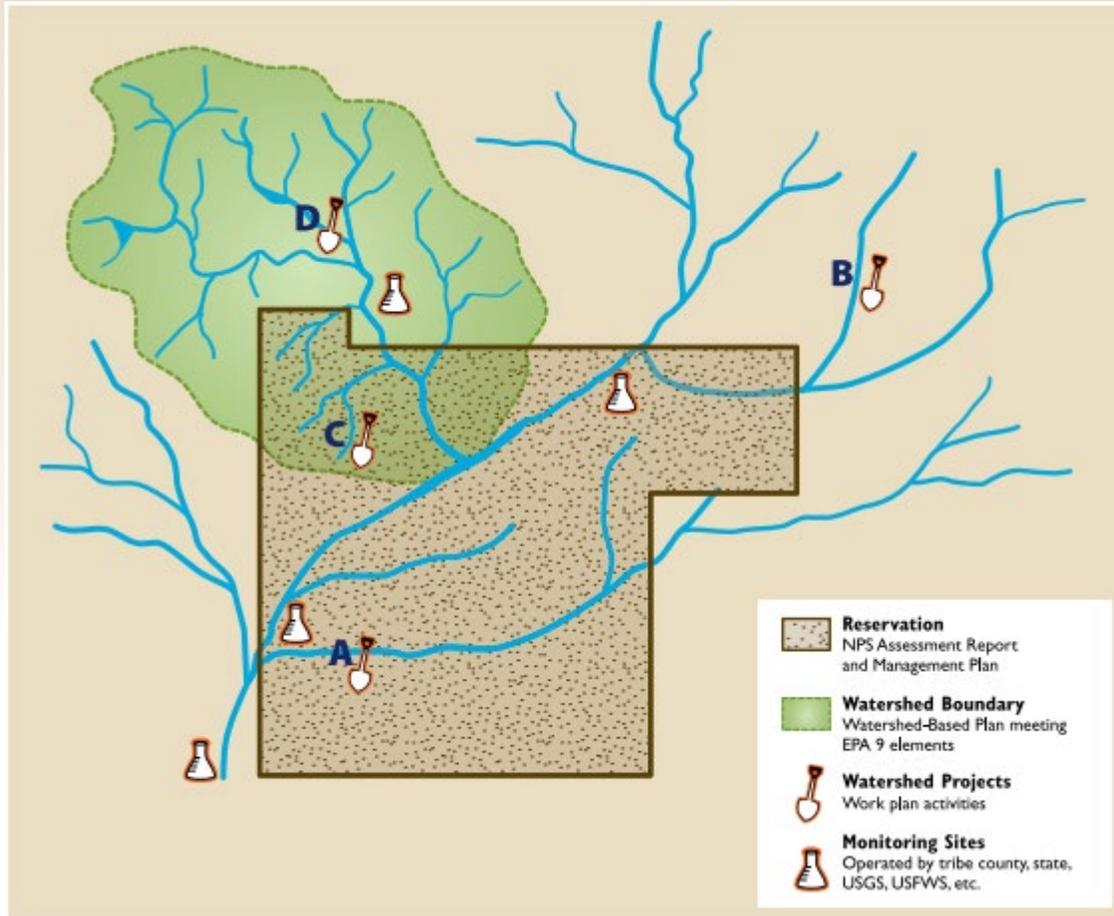
# Where can Tribal CWA §319 funds be used?



## Clean Water Act Section 518(e)(2):

“The functions to be exercised by the Indian Tribe pertain to the management and protection of water resources which are held by an Indian Tribe, held by the United States in trust for Indians, held by a member of an Indian Tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation.”

# Where can Tribal CWA §319 funds be used?

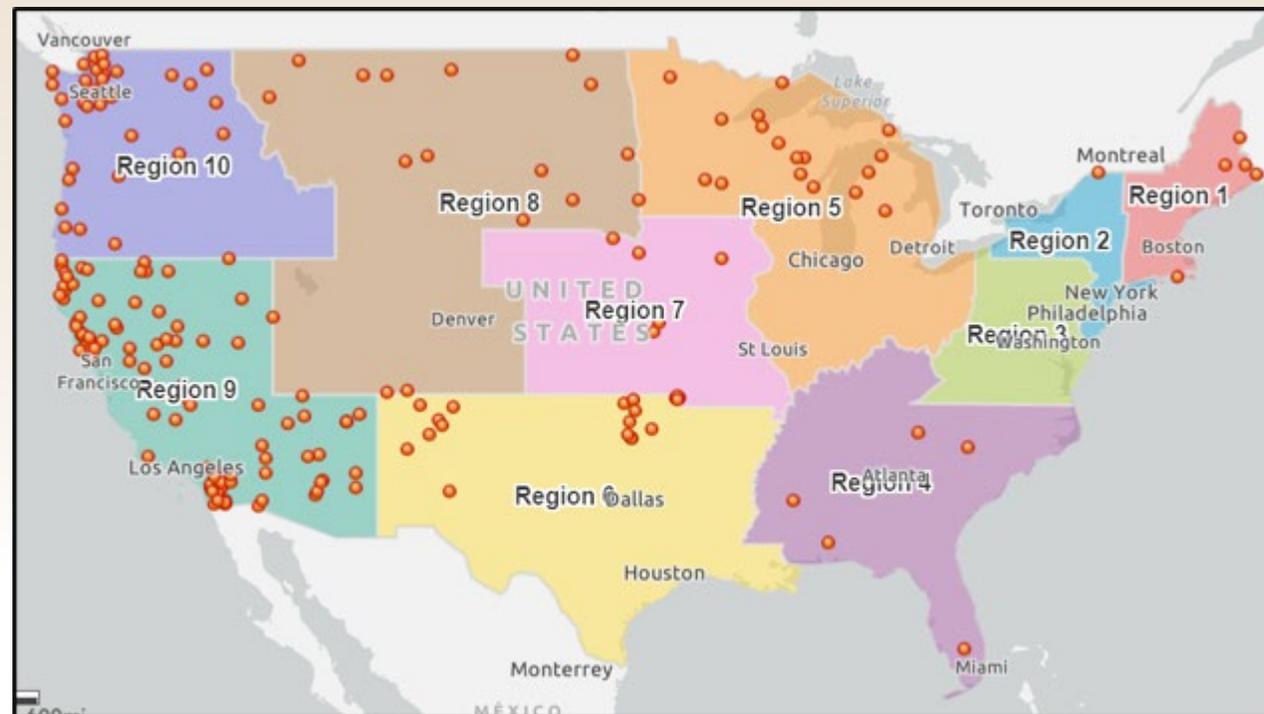


## In other words...

- CWA §319-funded activities must pertain to “reservation waters”, which includes waters on the reservation and off-reservation federal trust lands.
- Your TAS package must include all “reservation waters” you plan to address through NPS program work.
- CWA §319 funds can be used off Tribal lands, but must pertain to “reservation waters.” e.g., upstream restoration to reduce NPS loading impacting Tribal waters.

# Clean Water Act §319: Tribal Eligibility Requirements

- Be approved for TAS in accordance with CWA section 518(e)
- **Have an approved NPS assessment report in accordance with CWA section 319(a)**
- Have an approved NPS management program in accordance with CWA section 319(b)



There are currently 211 federally recognized Tribes, including one intertribal consortium, eligible for CWA §319 grants.

# Tribal NPS Assessment Report

## According to the Statute:

1. Identify waters that cannot be expected to attain or maintain Tribal water quality standards/goals without the control of NPS pollution.
2. Identify NPS pollution categories and subcategories contributing to water quality problems for waters.
3. Describe how Tribe will ID the BMPs needed to control each identified NPS pollution source and how Tribe will use the BMPs.
4. Describe existing Tribal, state, federal, and other programs that could provide funding or technical assistance for NPS work on Tribal lands.

# Tribal NPS Assessment Report

## Statute Connections:

1. ID Waters with NPS Problems

2. NPS Categories/Subcategories

3. Which BMPs & How

4. Funding & Technical Assistance

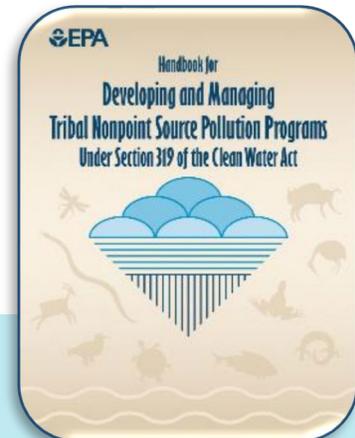
## Suggested Contents:

- Cover Page
- Table of Contents
- Text (Body of the Report)
  - Overview
  - Introduction
  - Methodology
  - Land Use Summary
  - Surface and Ground Water Quality
    - Results
    - Discussion
  - Selection of BMPs
  - NPS Control Programs
- References
- Appendices
- Acronyms of Abbreviations

## Programmatic Connections:

106 Program  
WQ Reports

Wetland  
Program



# Tribal NPS Assessment Report

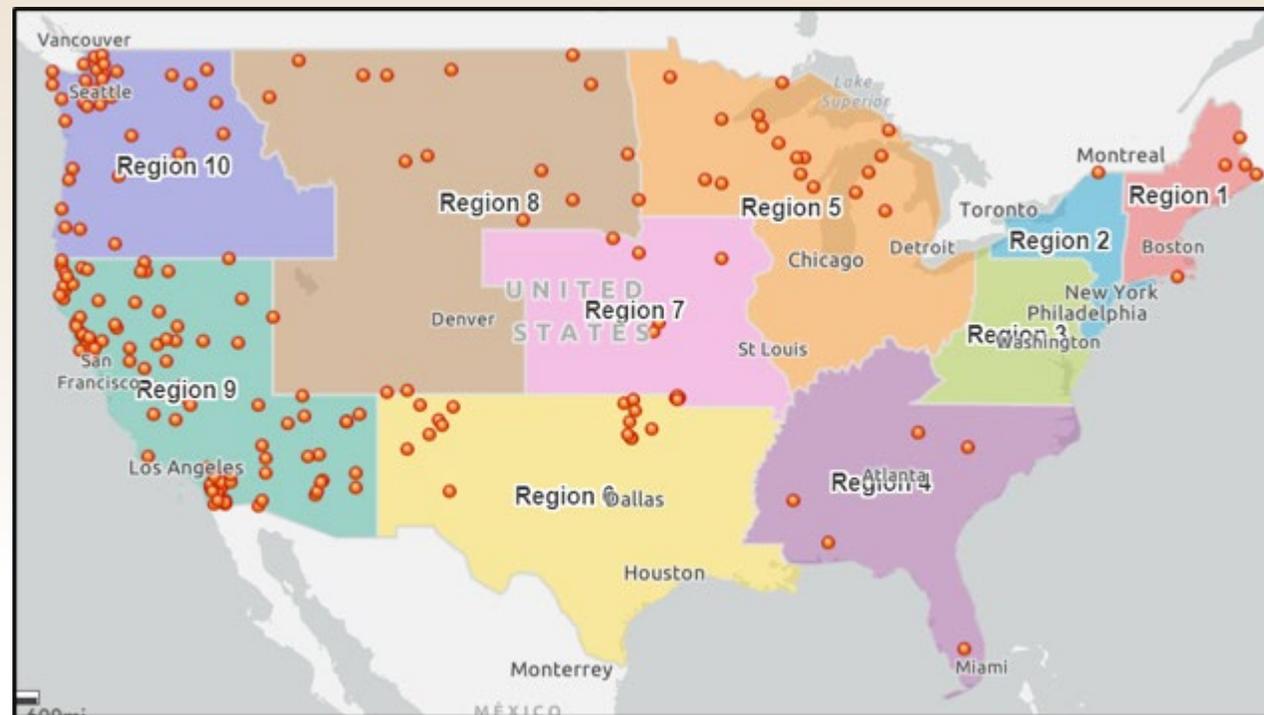
How do you make this document work for you?

- Plan holistically, rather than to the statute
  - What do you want to do beyond what Section 319 can pay for?
  - What waters are most important to you regardless of TAS status?
  - How else should you consider the whole watershed?
- How can you reduce/minimize duplication of effort?
  - IRMP, NRCS CMP, other?
- Focus on parts of the report that help you
- Add sections that work for you
  - Example: Information gaps



# Clean Water Act §319: Tribal Eligibility Requirements

- Be approved for TAS in accordance with CWA section 518(e)
- Have an approved NPS assessment report in accordance with CWA section 319(a)
- **Have an approved NPS management program in accordance with CWA section 319(b)**



There are currently 211 federally recognized Tribes, including one intertribal consortium, eligible for CWA §319 grants.

# Tribal NPS Management Program Plan

1. Identify BMPs you plan to use to address identified NPS categories
2. What programs are available to help implement your program
3. Annual Milestone Schedule for BMP implementation
4. Provide the Certification of Tribal authority
5. Identify potential sources of federal and other assistance programs
6. Review federal projects affecting Tribal waters for conflicts or redundancy
7. Subject matter experts that will assist you in NPS work

\*To maximum extent possible, develop plan on watershed basis

# Tribal NPS Management Program Plan

## Statute Connections:

1. BMPs and NPS Categories

2. Available Programs for Support

3. Milestone Schedule

4. Certification of Authority

5. Potential Funding Sources

6. Review Other Federal Projects

7. Subject Matter Expert List

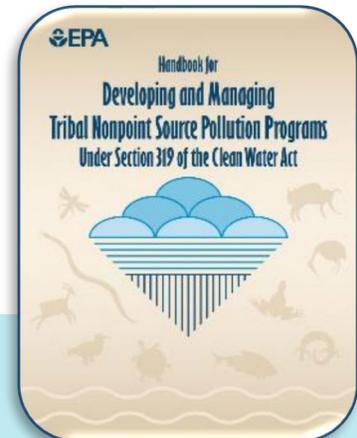
## Suggested Contents:

- Cover Page
- Table of Contents
- Text (Body of the Report)
  - Overview
  - Introduction
  - Summary of Tribal Management Program
  - Management Program Plan:
    - Possible BMPs and NPS categories
    - Available Programs for support
    - Available Funding for support
  - List of Local and private experts
  - Milestone Schedule for BMP Implementation
  - Certification of Authority
- References
- Appendices
- Acronyms of Abbreviations

## Programmatic Connections:

Environmental Program Description

NPS Assessment Report



# Tribal NPS Management Program Plan

The contents of your Management Plan dictate how you spend Section 319 funds:

- What **NPS categories** have you included in the plan?
- What **potential BMPs** have you included for implementation and how are they connected to the listed NPS Categories?
- What is in your 5-year **milestone schedule?**
  - What do you want to achieve over 5 years?
  - Have you built in flexibility in case of emergency or surprise opportunity?
  - Remember to reflect your milestone schedule in your annual workplans

\*Keeping your milestone schedule, NPS categories, and potential BMPs up to date is essential for making Section 319 funding work for your program\*



# NPS Program Milestone Schedule *Fond du Lac Band of Chippewa*

<http://www.fdlrez.com/RM/downloads/NPSManagementPlan2021.pdf>

Table 2. Actions, Outcomes and Timelines for Forestry Projects

Non-Point Source Pollution Category						
Forestry						
Action	5-Year Measurable Outcomes	Timing				
		2021-2022	2022-2023	2023-2024	2024-2025	2025-2026
<i>Forest Roads</i>						
Add forest road condition data to attribute tables in our shared road geodatabases	Continuously updated and shared forest road condition data	•	•	•	•	•
Prioritize forest road work by level of damage	Prioritized list of forest road issues that affect water quality		•		•	
Consult with Forestry and Land Departments on their plans to repair forest roads as needed, including during and after logging activities	Number and length of forest roads repaired during and after tribal logging activities	•	•	•	•	•
Consult with Carlton and St. Louis counties and the MN DNR on their plans to repair forest roads during and after logging activities	Number and length of forest roads repaired during and after county or state logging activities	•	•	•	•	•
Apply for additional funding if needed	Number of funding sources and amount of financial support			•	•	•



# Tribal NPS Management Program Plan

How do you make this document work for you?

- Plan holistically, rather than to the statute
  - What do you want to do beyond what Section 319 can pay for?
  - What waters are most important to you regardless of TAS status?
  - How else should you consider the whole watershed?
- How can you reduce/minimize duplication of effort?
  - IRMP, NRCS CMP, other?
- If you tailored your Assessment to your needs, how can those details apply to this plan?
  - Example: Information Gaps



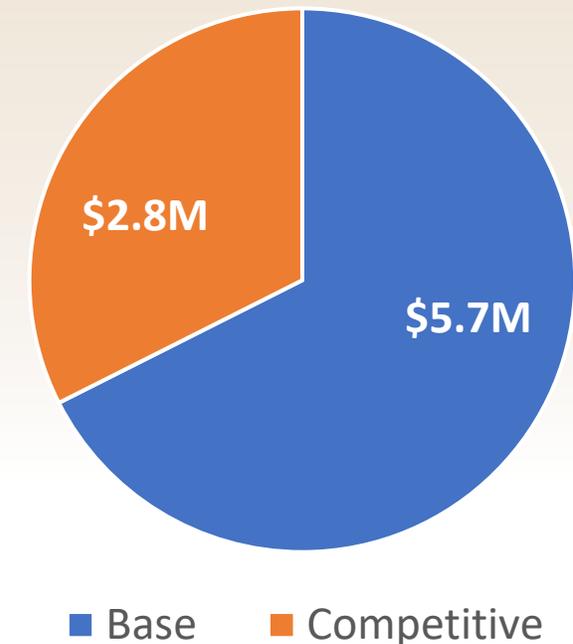


**Part 3:**  
What Tribal NPS activities can §319 grant  
funding support?

# Tribal CWA §319 Grants

- Each year Eligible Tribes can apply for both:
  - **Base grant** (currently \$36K or \$60K) – primarily staff-led activities to implement NPS program, and
  - **Competitive grant** (up to \$125K/project) – on-the-ground projects to protect or restore water quality
- Per the CWA, §319-funded work must be activities that are related to reservation waters.
- **Non-federal match:** if included in a Performance Partnership Grant (PPG), match is waived. If not, match is 40% or 10% (hardship waiver) of total project cost.

Allocation of Tribal §319 funds  
(annual avg., 2016-2021)



# Base Grants

- Tribal NPS management program plan should guide base grant-funded work
- Primarily Tribal staff-led activities to implement NPS program:
  - Staff time to pursue add'l NPS assistance (e.g., competitive grants)
  - Staff time working with watershed partners, landowners
  - NPS education/outreach events
  - NPS monitoring/assessment work
  - BMP demonstration projects
  - Staff training, travel
- Key grant terms & conditions
  - Reporting requirements
  - Federal Financial Report
  - 319-funded monitoring data submitted to WQX with 'CWA319' tag

# Base Grant Workplan Example

Santa Rosa Rancheria (R9)

Task	Activity	Deliverables	Due	Estimated Workplan Component (FTE)	Estimated Cost	Status
1	<p><b>GOAL: Implementation of water quality education &amp; public outreach program for Tribal community.</b></p> <p>Task 1a – Hold a minimum of 2 public outreach meetings with Tribal members.</p> <p>Task 1b – Create and send Quarterly newsletters to educate Tribal Community members on various Environmental topics, including NPS concerns.</p> <p>Task 1c – Attend and participate in two (2) Tribal earth day events.</p> <p>Task 1d – Meet with local water protection organization(s) and discuss ongoing or prospective water issues.</p> <p>1e – Submit monthly Director’s report to Tribal Council to be sent out to SRR Community.</p> <p><b>ENVIRONMENTAL RESULTS: The public is more educated about water quality &amp; will help increase participation in water quality protection &amp; cleanup efforts.</b></p>	<p>*Sign-in sheets, brochures, photos</p> <p>*Copies of educational brochures/newsletters</p>	12/30/23	PM: .02	PM: \$1,000	Task 1a)
			3/30/24	AA: .05	AA: \$1,000	Task 1b)
			6/30/24	ES: .03	ES: \$1,000	Task 1c)
			9/30/24	SWC: .02	Office supplies (paper, ink): \$100 Travel: \$300	Task 1d)
2	<p><b>Goal: Removal of invasive species and restoration of native vegetation within and along a</b></p>	<p>*Before/after photos of restoration area.</p>	12/30/22	PM: .01 AA: .03	PM: \$1,000 AA: \$1000	Task 2a) Task 2b)

# Base Grant Budget Example

Santa Rosa Rancheria (R9)

<b>PERSONNEL</b>	<b>Hours</b>	<b>Rate/Hr.</b>	<b>Total</b>
Program Manager	229	\$ XX	\$ XX
Environmental Specialist	312	\$ XX	\$ XX
Administrative Assistant	312	\$ XX	\$ XX
Solid Waste Coordinator	62	\$ XX	\$ XX
		<b>TOTAL</b>	\$ 20,000
		<b>Rate/Hr.</b>	<b>Total</b>
Program Manager		25%	\$ XX
Environmental Specialist		25%	\$ XX
Water Technician		25%	\$ XX
Solid Waste Coordinator		25%	\$ XX
		<b>TOTAL</b>	\$ 5,956
			\$ 2,500
<b>TRAVEL/TRAINING</b>			
Attend 2 Tribal Earth Day Events		\$ 300	
Annual EPA Conference		\$ 1,000	
Additional Local Meetings		\$ 200	
RTOC Conferences		\$ 1,000	
			\$ 1,200
<b>SUPPLIES</b>			
Office Supplies		\$ 200	
Creek Restoration Supplies		\$ 500	
Field Supplies		\$ 500	
			\$ 6,344
<b>CONTRACTUAL</b>			
Creek Restoration Hyroseed and Plantings		\$ 6,344	
			\$ -
<b>TRIBAL MATCH</b> (None - 319 is part of PPG)			
		<b>TOTAL</b>	\$ 36,000
<b>FEDERAL FUNDS</b>	\$ 36,000.00		
<b>TRIBAL MATCH</b>	\$ -		
<b>GRAND TOTAL</b>	\$ 36,000.00		

# Base Grant Workplan Example

## Forest County Potawatomi Community (R5)

Commitment 1:				
Work Plan Commitments/Activities:	Outputs:	Environmental Outcomes:	Timeframe:	Deliverables:
<p><b>2.1</b> Continue to Resolve Existing and Prevent Additional Erosion and Sedimentation Concerns within the FCPC Non-Point Source Pollution Management Area</p>	<p><b>2.1.1</b> Replace an existing hydrologically impaired stream crossing structure on Newman Creek off Newman Trail.</p>	<ul style="list-style-type: none"> <li>◦ A stream crossing structure that allows for more natural hydrological conditions of Newman Creek.</li> </ul>	<p>A new stream crossing structure will restore the natural hydrological condition to the entire 3.12 miles of Newman Creek. The structure will reduce non-point source pollution from sedimentation and thermal impacts, as well as provide aquatic organism passage through the stream corridor.</p>	<p>FY2023</p> <ul style="list-style-type: none"> <li>◦ Semiannual and annual progress reports</li> <li>◦ BMP Implementation design plans</li> <li>◦ Implementation photos and detailed project description</li> </ul>
	<p><b>2.1.2</b> Implement Storm water Best Management Practices (BMPs) surrounding the FCPC Campus, Natural Resources Department, and Forestry yard.</p>	<ul style="list-style-type: none"> <li>◦ Installation of Storm water BMPs, including such things as: bio-filters, bio-swales, rain gardens, detention ponds, retention ponds, slope stabilization, etc.</li> <li>◦ Stabilized slopes and restored erosion concern areas.</li> </ul>	<p>Upon implementation of the storm water management plan and the installation of each plan's respective Storm water BMPs, the quality and volume of storm water runoff from these areas will be drastically improved. The enhanced quality and reduced quantity of storm water runoff will lessen the contaminant loadings that are the downgradient waters receive from these urban runoff management areas.</p>	<p>Ongoing</p> <ul style="list-style-type: none"> <li>◦ Semiannual and annual progress reports</li> <li>◦ BMP Implementation detail in said reports</li> <li>◦ Implementation photos and detailed project description</li> </ul>

# Competitive Grants

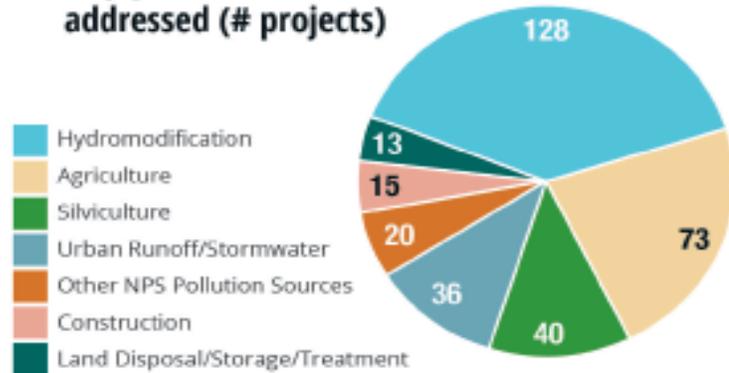
- Up to \$125K for projects that will directly improve/protect water quality by implementing on-the-ground management practices
  - $\leq$  25% of funds can be used for 'other eligible activities' to support BMP work (e.g., watershed planning)
- National competition open to all CWA 319-eligible Tribes
- Typically ~40 applications/year
- 15-page application + supporting materials

# How competitive grant applications are scored

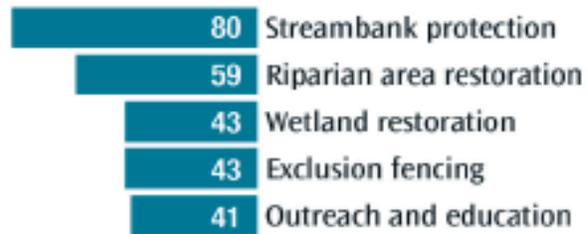
Ranking Criterion	Points (total = 100)
A. Subcategories of NPS pollution	10
B. Water quality problems/threats	10
C. Project goals, workplan, BMP descriptions, location	30
D. Water quality benefits of proposed work	10
E. Watershed Approach	10
F. Environmental outputs/outcomes & applicant past performance	10
G. Project Budget	10
H. Project Schedule	5
I. Roles & Responsibilities	5

## Competitive Grant-Funded Projects (2013-2018)

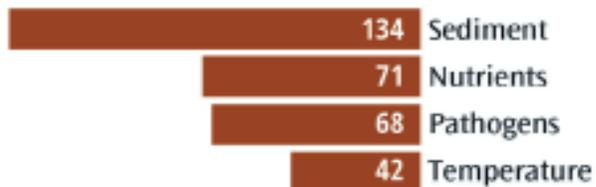
### Top pollution sources addressed (# projects)



### Top practices implemented (# projects)



### Top pollutants addressed (# projects)



**White Mountain Apache Tribe:** North Fork White River restoration (stabilization, livestock fencing) with funding support from EPA, NRCS, USFWS, US Army Corps, BIA, etc.

# Annual Tribal 319 Grant Schedule

**Both:**

Date for Tribes to be eligible for CWA 319 grant funds	<b>Second Friday in October</b>
--	---------------------------------

**Base Grants:**

Deadline for funding requests (draft work plan) to your assigned CWA Grants Project Officer	<b>Fall-Winter</b>
Tribes submit final grant application to grants.gov	<b>Spring</b>

**Competitive Grants:**

Request for Applications opens (60 day application period)	<b>October-November</b>
EPA notifies Tribes of selections for funding	<b>Spring</b>



# For more information about EPA's Tribal NPS Program

## Tribal NPS Program Web Page:

<https://www.epa.gov/nps/tribal-nonpoint-source-program>

EPA Region	Coordinator
HQ	Steve Epting Margot Buckelew
1	Bessie Wright
2	Aimee Boucher
3	Jason Challandes
4	Sharon Brown
5	Janette Marsh
6	Sam Reynolds
7	Ann D'Alfonso
8	Erika Larsen
9	Howard Kahan Larry Maurin
10	Krista Mendelman

# Tribal NPS Program Panel Discussion



**Tanya Williamson**

Picayune  
Rancheria of the  
Chukchansi  
Indians



**Sharri Venno**

Houlton Band of  
Maliseet Indians



**Steve Kem**

Southern Ute Indian Tribe

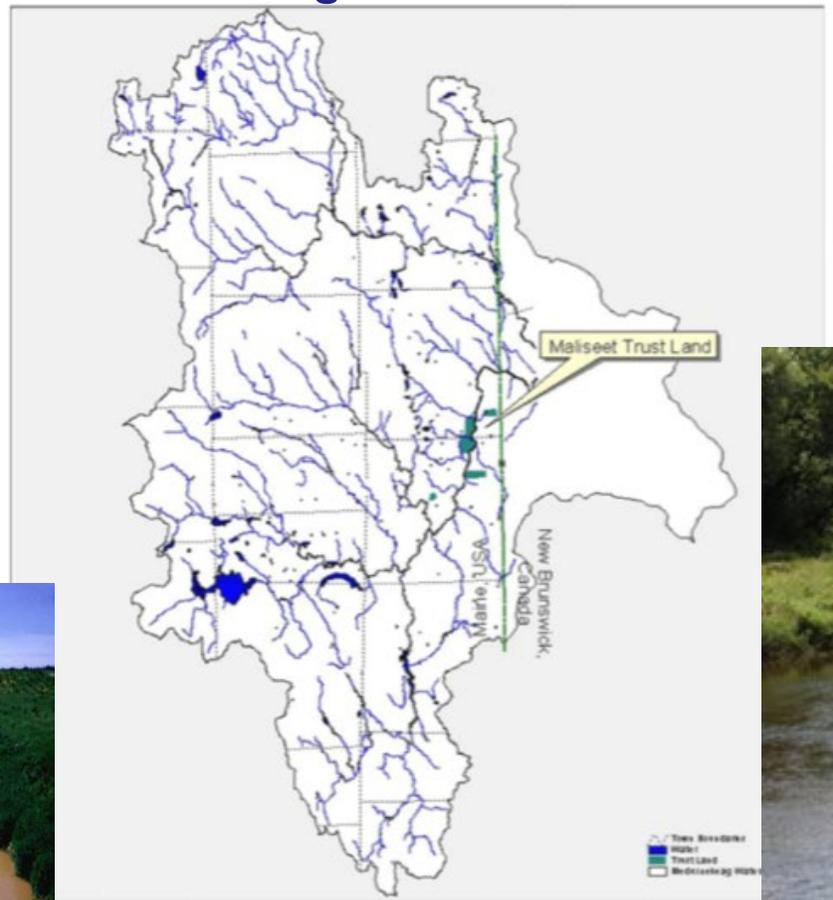




Eagles nesting  
on our Land.



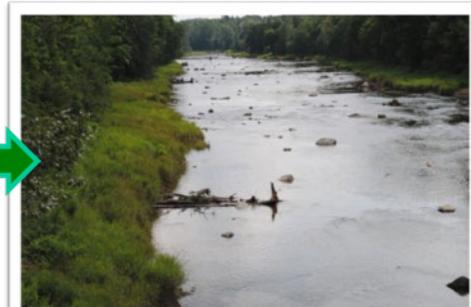
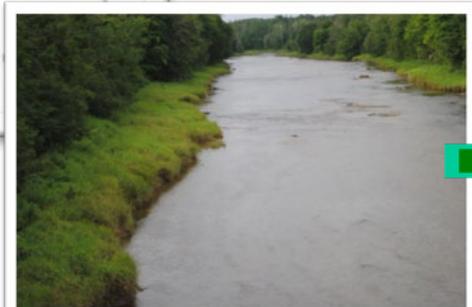
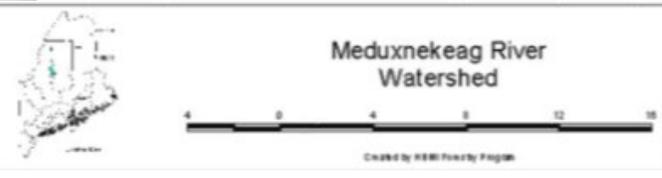
# HBMI's NPS Program Restoring the Meduxnekeag Watershed



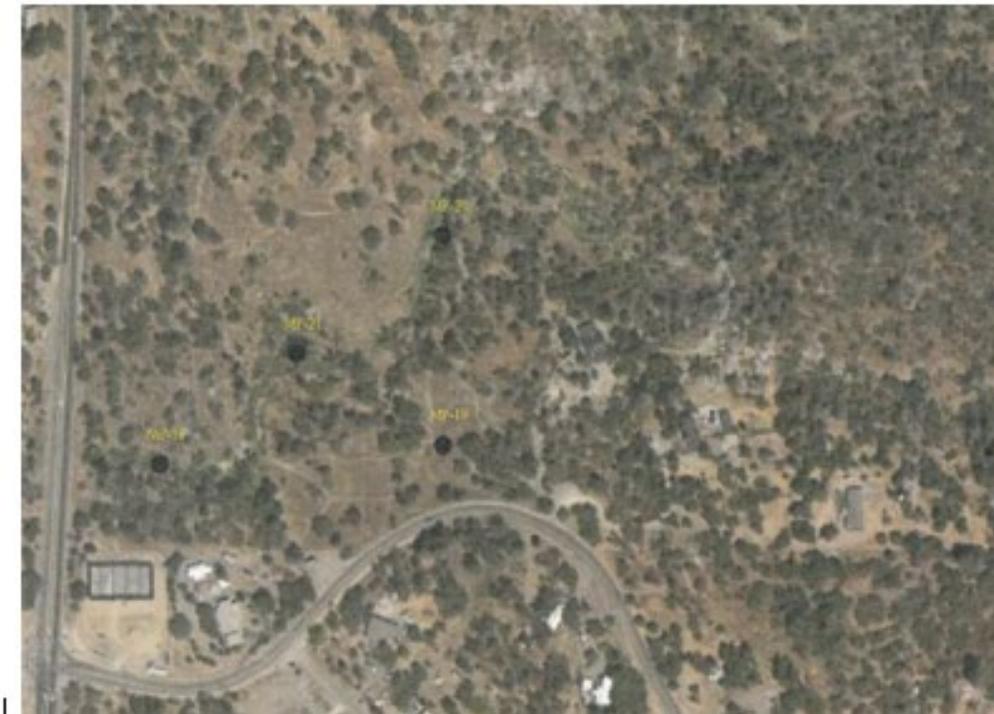
*Metahksonikewiyik*  
People of the  
Meduxnekeag River



Salmon  
spawning in our  
River.



# PICAYUNE RANCHERIA OF THE CHUKCHANSI INDIANS



- PRCI has 528 acres that have streams, creeks, wetlands, & ponds.
- PRCI main NPS is storm water runoff, & designated uses for all surface water traversing on our properties.
- Projects currently are reinforcing our spillways and berms and the continuation of addressing additional acquired lands and improvements.

# Break-out Instructions and Discussion Questions

- You will automatically be moved to your randomized breakout room. The breakout session will last approximately 25 minutes and will *not* be recorded.
- Based on the panel discussion, do you have thoughts on how the 319 program can further Tribal goals?
- What is a 319-funded project or activity that has been effective in helping achieve your Tribal NPS program goals?
- The panel discussed challenges and program sustainability. What does a sustainable Tribal NPS program look like to you?

# Upcoming Tribal NPS Training Webinars

2. [Incorporating Indigenous Knowledge to Target Tribal NPS Work](#). Thurs, February 23
3. [Adopting the Watershed Approach in Managing NPS Pollution](#). Thurs, March 23
4. [Integrating Climate Resilience and Hazard Mitigation in Tribal NPS Work](#). Thurs, April 27
5. [Implementing On-the-Ground Tribal NPS Projects](#). Thurs, May 25
6. [Addressing Agricultural NPS Pollution: Key Partners & Strategies](#). Thurs, June 22.

\*All webinars will be 2-4pm Eastern

Zoom registration links also available at <https://www.epa.gov/nps/tribal-nps-resources-and-training>

