

**APPENDIX IV**  
**EPA APPROVAL OF SENECA NATION OF INDIANS**  
**ELIGIBILITY FOR PURPOSES OF CWA § 106 GRANT FUNDING**



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 2

290 BROADWAY

NEW YORK, NY 10007-1866

**AUG 14 2018**

President Todd Gates  
Seneca Nation of Indians  
Cattaraugus Territory  
Irving, New York 14081

Dear President Gates:

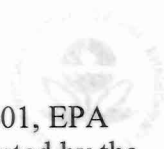
On March 28, 2018 the U.S. Environmental Protection Agency Region 2 (EPA) received the Seneca Nation of Indian's (SNI) Application for Determination of Eligibility for Clean Water Act (CWA) Section 106 Grant Funding and for Authorization to Implement Water Quality Standards and Certification Programs Pursuant to Sections 303 and 401 of the CWA.

Based upon discussions with your staff, it is our understanding that the intent of this application is to determine eligibility for the CWA 106 Grant Program first. EPA has reviewed the SNI's application for determination of eligibility for CWA grant funding. The SNI's application for authorization to implement water quality standards under Section 303(c) of the CWA and for authorization to implement certification programs under Section 401 of the CWA are being evaluated separately and are currently under review.

Section 518(e) of the CWA provides that Nations may, with regard to specifically cited provisions of the CWA, be eligible for authorization if the following four eligibility criteria are satisfied:

- the Nation must be federally recognized by the Secretary of the Interior;
- the Nation must have a governing body carrying out substantial governmental duties and powers;
- the functions to be exercised by the Nation must pertain to the management and protection of water resources that are held by an Indian tribe, held by the United States in trust for an Indian Nation, held by a member of an Indian Nation, if such property interest is subject to a trust restriction on alienation, or is otherwise within the border of an Indian Reservation; and,
- the Nation must be reasonably expected to be capable of carrying out the functions of the specific program.

The SNI has satisfied these basic program authorization requirements. Therefore, the application for the administration of the Section 106 Grant Program is complete. EPA finds that the SNI meets the requirements of 40 C.F.R. Section 131.6 (d) and is eligible to be treated in the same manner as a state for the 106 Grant Program. Enclosed please find the Decision Document which provides detail and the specific basis for approval of the application.



Simultaneous to its review of the SNI's application under CWA Sections 303(c) and 401, EPA intends to work with the SNI in the development of water quality standards. Once adopted by the SNI and approved by EPA, those tribal standards will apply under CWA Section 303(c) to all surface waters within the exterior boundaries of the SNI.

It is our understanding that the SNI may also be interested in seeking authorization for the CWA Section 319 program in the future. EPA looks forward to working with the SNI in mitigating the effects of the various nonpoint pollution sources of concern. EPA will ensure that the SNI is kept informed of all Section 319 guidance documents and will assist the Nation with the development of the annual Section 319 workplans when necessary.

If you have any questions, please call me at (212) 637-5000 or have your staff contact Dr. Javier Laureano, Director of the Clean Water Division at (212) 637-4125.

Sincerely,

Peter D. Lopez  
Regional Administrator

Enclosure

- cc: Seneca Tribal Counsel
- Lisa Maybee, Director, Seneca Nation Environmental Protection Department
- Deleen White, Seneca Nation Environmental Protection Department