

Responses to R9 Winter 2022 Action Items

Action Item	Tribal Contact	EPA Contact	Notes/Response																
<p>1</p> <p>Program Managers identified broad ranging impacts of the COVID pandemic and many specified that the situation has affected their ability to fulfill their workplan deliverables. The Environmental Programs are experiencing cascading circumstances that include for example:</p> <ul style="list-style-type: none"> - Office (and Business) closures impact work to be accomplished and causes difficulties for workplan timeframes; - Turnover and added difficulties in filling positions; - Tribal Finance staff are also experiencing turnover and new staff are unfamiliar with processes in dealing with EPA's financial offices and systems creating concern about drawdowns and reports being completed in a timely manner; - COVID restrictions of Tribal Government include requirements to work from home (or conversely to be in office workspaces with little or no safeguards) and the disruption of various systems including purchasing, new equipment requirements, restrictions of safety precautions including social distancing, indoor air quality concerns and related issues. <p>The needs identified include:</p> <ul style="list-style-type: none"> - Extensions of time to meet workplans deliverables. 	Tribal Caucus	Ruben Mojica Hernandez, cross-program managers	Response sent to Mervin to share with Caucus on 3/2/22:"It depends. Recipients should contact their Project Officer and provide detailed information regarding any request of adjusting workplans, travel plans/funds, plans for carryover and unspent funds, and personnel changes. Regarding requests for flexibilities due to COVID-19 tribes should also contact the Project Officer/Grant Specialist and provide detailed information on the nature of the COVID19 response activities and/or impacted activities that the recipient wants to carry out, including extension, reallocating, plans for carryover funds, etc. An authorized EPA Official will then provide the recipient with a determination on whether the activities are within the current scope of work or whether EPA will allow the recipient to modify the work plan/ scope of work to include the activities." More information was provided in a written factsheet attached to this spreadsheet.																
<p>Based on the concerns regarding COVID, the questions are:</p> <p>a. Will the Tribes be penalized (loss of funding) if not completing workplan deliverables from FY2021 - FY2022?</p> <p>b. How will EPA work with Tribes on the flexibility of workplans? Most Tribes are closed to the general public, or Environmental Staff are working remotely.</p> <p>c. Project Officers to have discussions with the Tribes to discuss the concerns regarding the COVID impacts. The discussion to include current funding and future funding for the Tribes.</p>																			
<p>2</p> <p>Regarding end of year evaluations - Program Managers identified the challenge regarding the use of percentages in evaluations and how the percentages are determined for tasks? The concern is that programs may not receive fair credit or ratings for the work completed and what discretion can be applied, as a percentage, to deem a task 100% complete?</p>	Tribal Caucus	Ruben Mojica Hernandez (GAP specific)	Response sent to Mervin to share with Caucus on 2/11:"The End-of-year/Joint Evaluation is a process by which EPA and the recipient review together the grantee's reported progress and accomplishments against workplan commitments, deliverables and approved budgets for a specific workplan period to confirm that work performed was adequately documented and supported by funds spent during the period. The process gives the grantee a voice in the evaluation. EPA strives to make this process as collaborative as possible for every grantee by requesting grantee review and input on draft documents." More information was provided in a written factsheet attached to this spreadsheet.																
<p>3</p> <p>When EPA determines that funds for a program will be deobligated funding - what happens to deobligated funds? How does EPA reallocate these funds?</p>	Alvin Crook	Ruben Mojica Hernandez, cross-program tribal program managers	Response sent to Alvin Crook on 2/18: "General Process for De-obligated Funds When funds are de-obligated and recertified and approved by HQ, the funds come back to the region and the Program Result Code (PRC) determines which division the funds belong to. It does not have the grant number attached to the funds coming in, but on the description the grant number that the funds were de-obligated from is listed, this is to let the division know which grants the funds came from. If it is a current year funds and is de-obligated in the same year it comes back to the division's pot." More information was provided in a written factsheet attached to this spreadsheet.																
<p>4</p> <p>Pesticide Funding. Tribes seeking to assume Pesticide programs are not provided funding to support their program. What funding is available through EPA Region 9 to conduct pesticide program funding? Would another media program funding pool be available to support Tribal Pesticide related activities?</p>	Jeremy Phillips	Patti Tenbrook	<p>Response emailed to Jeremy Phillips on 1/28: "Annual appropriations for State and Tribal Assistance Grants (STAG) to fund core pesticide programs has not changed in any permanent or significant way in many years. In FY22 we received, and will distribute, some unexpected additional funding to current grantees (see the chart). We do not know if that additional funding will be appropriated by Congress in the future. Until additional funding is certain, we are not able to add new pesticide programs in Region 9. It may be possible to use GAP funding a tribe to assess the need for a pesticide program, or to develop tribal pesticide ordinances, but that would need to be discussed with your GAP Project Officer."</p> <table border="1" style="font-size: small;"> <caption>Region 9 FY22 Tribal STAG funds-used to support 8 tribes and one tribal consortium</caption> <thead> <tr> <th>FY22 Funding Source</th> <th>Core</th> <th>Added for FY22 OMBV</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>OECA</td> <td>\$888,000</td> <td>\$178,000</td> <td>\$766,000</td> </tr> <tr> <td>OCSPF</td> <td>\$119,000</td> <td>\$88,000</td> <td>\$203,000</td> </tr> <tr> <td>Total</td> <td>\$1,007,000</td> <td>\$266,000</td> <td>\$966,000</td> </tr> </tbody> </table> <p>OECA = Office of Enforcement and Compliance Assurance OCSPF = Office of Chemical Safety and Pollution Prevention</p>	FY22 Funding Source	Core	Added for FY22 OMBV	Total	OECA	\$888,000	\$178,000	\$766,000	OCSPF	\$119,000	\$88,000	\$203,000	Total	\$1,007,000	\$266,000	\$966,000
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5	Appropriate cultural sensitivity training is needed for new Project Officers so that Tribe's Environmental Program officials aren't obligated to invest the time needed to orient new EPA employees on mindful considerations in working with Tribes.	Jeremy Phillips (Nativecorp2018@gmail.com)/ Teresa Romero (tromero@santaynezchumash.org)	Jeremy Bauer	<p>Response sent to Jeremy Phillips and Teresa Romero on 3/7: "We agree with the importance of cultural sensitivity training and regularly provide training for the R9 workforce designed to improve cultural competency, including a recent and ongoing internal training series on "Working Effectively with Tribal Governments" (WETG). At the last RTOC, we summarized the WETG training sessions we offered recently, provided an overview of the sessions we plan to provide during the current fiscal year, and listened to ideas and feedback during the discussion to inform the focuses of future WETG sessions. As we summarized at the RTOC, last year's session topics included: Indian Law 101; Tribal Consultation; Freedom of Information Act and its Relationship to Traditional Ecological Knowledge; and Indian Country and Jurisdiction. For this fiscal year, we're still in the planning phase, and some of the topics we're considering include a refresher on Tribal Consultation; Environmental Justice; land acknowledgement; and traditional ecological knowledge.</p> <p>In the Tribal Branch, new Project Officers receive additional training beyond the WETG sessions. For example, we hold discussions with new Project Officers on background reading that can help increase their understanding and cultural competencies. We orient them towards the many on-demand trainings available to them. We provide guidance to staff before they visit a tribe in person. We also instruct new Project Officers to read about the RTOC, its members, and its purpose and to become familiar with the discussions and action items that have arisen at past RTOC meetings.</p> <p>In addition to the above, the Region regularly offers trainings to the entire workforce including, for example, recent sessions on unconscious bias and microaggressions. In fiscal year 2022, the Region is also planning to enhance cultural competence and a sense of belonging in the workplace by developing opportunities for the workforce to engage in facilitated small-group conversations at the division or branch level about diversity, equity, inclusion, and accessibility; toward building trust; establishing courageous space; and improving awareness and understanding through sharing of experiences.</p> <p>We remain open to additional feedback on competencies to be covered by future training sessions, including any anonymous feedback an individual may want to share via the RTOC tribal caucus."</p>
6	Growing Concern of Mass Tree Die Out. This is not a wildfire issue. Question to EPA is what technical assistance is available? (i.e., Climate Change Research, adaptation of healthy tree stock, or information)	Mike Shaver (Middletown Rancheria), Eric LaChappa (La Posta)	Suzanne Marr	<p>In February, Suzanne Marr reached out to Mike Shaver (Middletown) and Eric LaChappa (La Posta) to set up a follow-up conversation. Mike Shaver and Marr discussed the tree die off issue at Middletown in detail. Marr identified UC Field Station at Hopland and Pepperwood Preserve, both in Middletown ecoregion, as additional contacts for the Tribe, who has already received Forestry Grants, has a Forestry Plan and is applying for 3 more Forestry grants. Marr contacted Hopland and Pepperwood. Marr also reached out by phone and email to Eric LaChappa at La Posta to identify their specific forest health concerns and if they have applied for BIA and/or State grant funds for Forestry actions. Marr contacted the Riverside Office of the BIA to identify the regional Forester. The BIA is currently working to hire a new Forester in that office. In the mean time, Joann Koda (BIA, Southern California Office, Deputy Superintendent/Trust Services) agreed to send Eric LaChappa, at La Posta, a BIA disc on grant funding for Forest health.</p>
7	Drought concerns. What EPA funding is available for aquifer recharge? (other possible funding sources Bureau of Reclamation and ARP).	Alvin Crook	Danielle Angeles	<p>Response sent to Alvin Crook on 2/16: "EPA funding to support aquifer recharge projects may be available under the Clean Water Indian Set-Aside (CWISA) Program or the Drinking Water Infrastructure Grant Tribal Set-Aside (DWIG-TSA) Program. EPA administers the CWISA program in cooperation with the Indian Health Service's (IHS's) Division of Sanitation Facilities Construction with their Sanitation Deficiency System (SDS) data system. EPA Region 9 uses the SDS to identify projects for CWISA program funds. To be eligible for funding, the project would need to address a health deficiency affecting tribal homes and the project must be on IHS's SDS list and fall within our joint funding priorities." More information was provided in a written factsheet attached to this spreadsheet.</p>
8	ARP Funding - Air Quality is included in the ARP funding. Does EPA know how this is going to translate for Tribes as the deadline is approaching quickly.	Meyo Marrufo / Cliff Banuelos	Ed Holman	<p>Response sent to Meyo and Cliff on 2/8/22:"Tribes will be able to compete for community monitoring funding, including projects that promote air quality monitoring partnerships. Review the Request for Applications for the Community Monitoring Grant for more information. Approximately \$2 million dollars of this amount will be awarded to tribal governments under a tribal government set-aside. The deadline to apply is March 25, 2022.</p> <p>Additionally in the Fall of 2021 EPA Region 9 solicited input from tribes on direct awards for continuous morning of PM2.5 and other air pollutants. Solicitation for projects to be funded under the direct award closed in late Fall of 2021 and EPA HQ expects to roll out direct award funding in the Winter of 2022.</p> <p>Besides the air monitoring funding, the 2021 ARP Electric School Bus Rebates offered \$7 million to eligible school districts and private fleet owners for the replacement of old diesel school buses with new electric school buses. Selected applicants that scrap and replace their old diesel buses with new electric buses will receive a rebate of \$300,000 per bus. The ARP application closed on Nov 05, 2021 and EPA HQ expects to rollout awards by March-April 2022."</p>

	<p>Wildfires - there was discussion on implementation funding for wildfire impacts.</p> <p>a. What can be done with GAP funding for wildfires, example to purchasing indoor air purifiers.</p> <p>b. Having the flexibility to redirect funding as things change due to wildfires, climate change; Tribes should be able to adjust workplans as needed in an emergency.</p> <p>9 c. If these types of activities cannot be funded with EPA funding, does EPA know other funding resources? This is providing technical assistance and inter agency cooperation.</p> <p>d. Threatened and Endangered species is it possible to use EPA funding to help assess the extent to which T&E species can be monitored with EPA funding? Can there be conversation to identify resources? instead of funding going to wildfire assistance, what if use of fund for prescribe burning?</p>	<p>Kerri Vera, tuleriverenv@yahoo.com</p>	<p>Willard Chin</p>	<p>A. What can be done with GAP funding for wildfires, example to purchasing indoor air purifiers. <i>GAP can purchase air purifiers if the Environmental Department can demonstrate it's needed to support the health and well-being of its staff in the Tribal environmental office. The purifiers can also be used when the Environmental Department conducts outreach events to discuss an environmental topic in a community meeting with Tribal members.</i></p> <p>B. Having the flexibility to redirect funding as things change due to wildfires, climate change; Tribes should be able to adjust workplans as needed in an emergency. <i>If the Tribal Environmental Office is impacted by wildfires, please contact your Project Officer to discuss disruption to the work plan activities. EPA will work with the Tribe to provide the flexibility needed such as extending deadlines or renegotiating specific work plan items given specific circumstances.</i></p> <p>C. If these types of activities cannot be funded with EPA funding, does EPA know other funding resources? This is providing technical assistance and inter agency cooperation. <i>See table of funding opportunities attached.</i></p> <p>D. Threatened and Endangered species is it possible to use EPA funding to help assess the extent to which T&E species can be monitored with EPA funding? Can there be conversation to identify resources? instead of funding going to wildfire assistance, what if use of fund for prescribe burning? <i>GAP can fund a vulnerability assessment that examines impacts on the built infrastructure, public health, natural resources and the overall ecosystem. This analysis can include the critical habitat of threaten or endangered species on the reservation.</i></p> <p>U.S. Fish and Wildlife Tribal Wildlife Grants Goal of the Tribal Wildlife Grant Program: Provide a competitive funding opportunity for Federally recognized Tribal governments to develop and implement programs for the benefit of wildlife and their habitat, including species of Native American cultural or traditional importance and species that are not hunted or fished. https://www.fws.gov/nativeamerican/grants.html</p>
<p>10</p>	<p>The Bipartisan Infrastructure Bill passed by Congress includes funding for recycling and water infrastructure; how does EPA see that funding coming to tribes? How much funding will be available to for funding Tribal Projects in Region 9?</p>	<p>Teri Red Owl</p>	<p>Emmanuelle Rapicavoli, Angela Sandoval</p>	<p>Response sent to Teri Red Owl on 2/15: "Re solid waste infrastructure: The BIL provided \$55M/year for FY22-26 for Solid Waste Infrastructure for Recycling (SWIFR) and \$15M/year for FY22-26 for Education and Outreach (E&O) on waste prevention and recycling. Both will be completely new programs funded with State and Tribal Assistance Grants (STAG) monies, therefore because these are new, the details of these grant programs is not yet built. However, BIL designated the E&O grants to be competitive grants, it is not yet known if the SWIFR grants will be competitive, non-competitive or both. We are anticipating the call for applications for these grants to be late summer, early fall at the earliest. As details for these programs come out, we will keep our Tribal partners apprised of all information concerning these programs.</p> <p>Re Water Infrastructure: Please find attached (will put on Spring 2022 RTOC meeting materials site) a presentation and notes with information about the water infrastructure BIL funding coming to the region, implementation, and a current consultation opportunity that relates to regional funding allocations. I've also attached a general fact sheet on the BIL." More information was provided in a written factsheet attached to this spreadsheet.</p>
<p>11</p>	<p>Hiring of new Project Officers - what is the EPA hiring process with regard to ensuring new Project Officers have worked with Native American Communities or are Native American? What is the percentage of Native Americans being hired? What are the diversity goals of the Agency? Can we know the number of applicants who were Native American?</p>	<p>Cliff Banuelos, cbanuelos@itcn.org</p>	<p>Jeremy Bauer</p>	<p>Response sent to Cliff Banuelos on 3/10/22: "Thank you for your sharing your comments and concerns. We have shared them with our Office of Human Resources for their awareness and review and their support in developing this response. Thank you for your comments on the hiring process and diversity goals. While we cannot target our announcements based on race, culture, ethnicity, etc., we can and do utilize all available tools and resources in our outreach efforts that aim to increase the diversity of our workforce. We also have and continue to build relationships with the RTOC, Minority Serving Institutions (MSIs) and professional organizations that support Native Americans, in addition to focusing outreach efforts and advertising upcoming recruitments with the National Native American Bar Association, United Tribes Technical College Job Board, American Indian Graduate Center Job Board, and National Congress of American Indian Job Board. Thank you for your comments regarding job interviews. Hiring managers write interview questions based on the position they are recruiting for. If the position entailed working with and building relationships with Native American Tribes, then an interview question would be included to gauge a candidates experience in this area." More information was provided in a written factsheet attached to this spreadsheet.</p>
<p>12</p>	<p>Self Governance. Did EPA complete a pilot project on awarding Tribal funds through a Self Governance Agreement?</p>	<p>Erika Partee</p>	<p>AIEO</p>	<p>EPA did not complete a pilot project on awarding Tribal funds through a Self-Governance Agreement. The Agency's position is that we are not named in Public Law 93-638 and that we further tribal self-governance by providing support to tribes to assume tribal environmental protection programs through Treatment as a State (TAS).</p>

13	Provide the unregulated contaminants list and the contaminants to be listed by the EPA that will be forthcoming proposed to be regulated under the SDWA and the CWA.	Mervin Wright	Emmanuelle Rapicavoli	Email to Mervin on 2/15/22: "Under the SDWA, EPA develops drinking water Contaminant Candidate Lists (CCL) to identify priority contaminants for future regulatory determinations. CCLs are a list of contaminants that are currently not subject to any proposed or promulgated national primary drinking water regulations but are known or anticipated to occur in public water systems. Contaminants listed on the CCL may require future regulation under the Safe Drinking Water Act (SDWA). The most recent draft CCL 5 includes 66 chemicals, three chemical groups (per- and polyfluoroalkyl substances (PFAS), cyanotoxins, and disinfection byproducts (DBPs)), and 12 microbes. You can find more information about current CCLs and EPA's regulatory determination process here: https://www.epa.gov/ccl The Bipartisan Infrastructure Law (BIL) includes supplemental funding to address emerging contaminants in both drinking water and clean water. EPA is currently developing implementation guidance for these programs. Under the drinking water emerging contaminant BIL supplement, funding will be focused on projects that address perfluoroalkyl and polyfluoroalkyl substances (PFAS). Projects that address any contaminant listed on any of EPA's Contaminant Candidate Lists (i.e., CCL1 – draft CCL5) will also be eligible." More information was provided in a written factsheet attached to this spreadsheet.
14	In-Person meeting request for Spring RTOC	Mervin Wright	Bridget Coyle	Decision was made to have the Spring RTOC be virtual.
15	How does land status affect funding opportunities for tribes?	Mervin Wright; Lisa Gover	Bridget Coyle; Gretchen Busterud	*response below

Carryover from Earlier RTOCs

1	Will EPA work with Tribes and consortia at hosting GAP, CWA, and other EPA approved training? We think it would be more cost-efficient and practical, if a Tribe or consortia hosted training, rather than travelling to expensive San Francisco. The conference sessions are helpful as awareness level training, but they don't do a thorough job at training new tribal staff. (Action Item from Summer 2021 RTOC)	Cliff Banuelos, ITCN	Cliff Banuelos & Ruben Mojica Hernandez	Ruben Mojica Hernandez and Clifford Banuelos met on 8/26/21 to discuss GAP trainings. During this discussion Ruben and Clifford reviewed the current training opportunities that exist like the RTOC, Conference, GAP webinar, etc. Clifford highlighted some extra support in trainings that tribes would benefit from, specifically highlight trainings on GAP grants for new environmental directors. Cliff voiced that he prefers an in-person training. To conclude, Ruben committed to looking into the possibility of doing a GAP 101 course for new environmental directors and will develop an outline or plan for the training. Clifford provided some resources to help develop this plan, which Ruben will review. Ruben will work w Clifford for input to assess the need and possibility of the training. He is currently assessing needs this fiscal year for a FY23 training.
2	What is the current national and R9 appropriation for tribal programs? MPG funding?	Teresa Romero / Rob Roy	Laura Ebbert, Raven Austin	The FY 2022 omnibus was signed by the president. Text - H.R.2471 - 117th Congress (2021-2022): Consolidated Appropriations Act, 2022 Congress.gov Library of Congress (DIVISION G--DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2022, Title II--Environmental Protection Agency) It is anticipated that we will start to see funding coming into the Region late April or early May after the agency's operational plan is approved by OMB.
3	<ul style="list-style-type: none"> The recent move by CARB to move to more serious non-attainment highlights the need for more tribes to have regulatory air monitoring as there is a lack of regulatory data for rural areas We need more discussion about why EPA will not move more tribes to regulatory air monitoring. 	Teresa Romero / Rob Roy	Air Workgroup	Ongoing discussions at the Air Workgroup meeting

*Response to "How does land status affect funding opportunities for tribes?" EPA historically has only provided funding to tribes that have achieved Federal recognition. Moreover, certain grants programs may be limited to federally-recognized tribes, such as CWA Section 106 and 319 grants, CAA Section 105 grants, and Indian Environmental General Assistance Grants. To be eligible for Federal recognition, a tribe must meet numerous factors that are set forth in U.S. Department of Interior regulation 2 CFR Part 83 and be approved by the Department of Interior including but not limited to identification as an American Indian entity on a substantially continuous basis since 1900, and the requirement that a tribe has maintained political influence or authority over its member as an autonomous entity from historical times to the present.

In regard to non-federally recognized tribes, there are a very small number of Federal agencies that have direct statutory authority to provide funds to state-recognized tribes (e.g. Department of Education and Health and Human Services).

More generally, non-federally recognized tribes may be eligible for other EPA grant programs. For example, recently, EPA made a significant change by allowing state-recognized tribes to apply for EPA assistance under the competitive Environmental Justice Small Grants Program, which relies on EPA authorities that fund research, investigations, studies, demonstration projects, surveys, training, etc. The basis for this expansion was not an interpretation of what constitutes a "tribe" under the various statutes, but rather that these particular statutory provisions allow for broad applicability to many sorts of groups, including state-recognized tribes.

Other Non-federally recognized tribes may be eligible to apply for funding under certain assistance programs open to nonprofit organizations if they are incorporated as nonprofits organizations under state law. Since a number of EPA's grant programs are currently available to nonprofit organizations, a non-federally recognized tribe that is incorporated as a nonprofit organization may* be eligible to apply for those grants. (*Would depend on the particular requirements; in some cases, 501C3 may be required, but in other cases only nonprofit incorporation would be required).

EPA competitive grant solicitations include an eligibility section and an EPA point-of-contact. Interested parties should review the eligibility section to confirm they meet the criteria to apply or reach out to the EPA point-of-contact specified in the solicitation with questions. If the criteria are unclear or a point-of-contact is not indicated, please always feel welcome to reach out to the EPA Region 9 Tribal Branch to assist.

Attachment(s) for Action Item #1

RTOC Spring 2021 Action Item: We would like to know how EPA is looking at fiscal year 2022? Adjustments to the workplans, travel funds, solid waste, personnel, etc....is there going to continued flexibility. Carryover?

Extensions? Recission? Reallocating? NOTE: regarding reallocating/carryover balances. What is happening with funding that remains at EPA, what happens to the balance?

RTOC Winter 2022 Action Item: 1. Will the Tribes be penalized (loss of funding) if not completing workplan deliverables from FY2021 - FY2022? 2. How will EPA work with Tribes on the flexibility of workplans? Most Tribes are closed to the general public, or Environmental Staff are working remotely. 3. Project Officers to have discussions with the Tribes to discuss the concerns regarding the COVID impacts. The discussion to include current funding and future funding for the Tribes.

RESPONSE: It depends. Recipients should contact their Project Officer and provide detailed information regarding any request of adjusting workplans, travel plans/funds, plans for carryover and unspent funds, and personnel changes. Regarding requests for flexibilities due to COVID-19 tribes should also contact the Project Officer/Grant Specialist and provide detailed information on the nature of the COVID19 response activities and/or impacted activities that the recipient wants to carry out, including extension, reallocating, plans for carryover funds, etc. An authorized EPA Official will then provide the recipient with a determination on whether the activities are within the current scope of work or whether EPA will allow the recipient to modify the work plan/ scope of work to include the activities.

Here are some responses from some Divisions/Offices about grant flexibilities and more:

TIPD

The General Assistance Program has not received any new guidance on flexibilities. So, GAP Project Officers are expected to make maximum use of our existing flexibilities and best professional judgement to help tribes get through the pandemic. Tribes are strongly encouraged to reach out to their GAP Project Officers if they know they will have unspent funds and would like to carry them over into the new fiscal year. EPA will put language in GAP notification which comes out in the fall about carryover; in the meantime, Tribes need to communicate with their GAP PO ASAP if they know there is unspent funds.

The Tribal Branch would like to emphasize to grantees there is no penalty to giving back unused funds, this includes unused funds due to issues from COVID-19. If unexpended funds remain in the GAP grant, and the grant does not expire at the end of the fiscal year, the grantee and Project Officer will need to discuss options and negotiate the best course of action for the grantee. The possible options may include:

(1) Unexpended funds and the work associated workplan activity/commitment may be carried over into the workplan for the following fiscal year.

a. Note the work activity/commitment will need to be reflected in the new workplan and budget.

(2) Unexpended funds may be negotiated to be used for a new activity, to be completed in the following year.

(3) Unexpended funds may be subtracted from the approved GAP award amount for FY23.

However, if the GAP grant expires at the end of the fiscal year and unexpended funds remain, these funds must be returned to the EPA, with subsequent closeout of the grant. For example, grants for which

FY22 is the close out year, and the grantee anticipates for there to be unspent funds then at the end of FY22, they will come back to EPA.

If work plan activities are not completed and therefore deliverables are not submitted, the grantee will need to notify their GAP PO to inform them the work was not able to be completed, and it's crucial for the grantee not to use any funds allocated for those activities.

GAP POs are ready to be a part of conversations with each grantee they serve to discuss the impacts COVID-19 has had on the tribe and their GAP grants and together should discuss the best next steps. Grantees are encouraged to reach out to their GAP POs as soon as issues arise to discuss the Tribes options.

WD

Office of Water has not provided any program-specific guidance or new flexibilities. So, the Water Division assures that R9 WTR POs are expected to make maximum use of our existing flexibilities and best professional judgement to help tribes get through the pandemic.

ARD

Air Division POs will make maximum use of the existing flexibilities related to the COVID-19 Pandemic. Tribes are strongly encouraged to contact their CAA Project Officer with any difficulties to determine the best course of action to utilize flexibilities and pursue solutions.

Here are some flexibilities the division has been offering to tribes:

- *Approved extensions on quarterly report submittal due to COVID related office closure or personal medical issues.*
- *Travel budget re budgeted for other budget categories; no travel occurring due to ongoing COVID.*
- *We express to our grantees that there is no penalty to giving back unused funds, we also express that unused funds due to COVID difficulties will not affect their future allocations.*
- *COVID flexibilities will continue for the foreseeable future.*

LCARD

Pesticides Office

- *Grantee Funding/Staff Changes*
 - *The Pesticide Office plans to fully fund all our tribal, state and territory grantees for FY22 with the possibility of adding supplemental funding for special projects and EPM funds for pollinator projects (if applicable). We continue to work with each tribe to manage situations involving unused funds and/or workplan adjustments.*
- *Travel Funding*
 - *For FY22, the Pesticide Program plans to resume travel to our tribal, state, and island territory grantees for end-of-year reviews pending authorization from EPA HQ. Other trips include occasional travel for RTOC meetings and other pesticide-related training events, when necessary.*
- *Workplan adjustments*

- *In FY21, the Pesticide Office granted a one-year extension to one of our tribal grantees to complete workplan tasks and expend pesticide funding it received for FY20. If any workplan commitments or activities need to be changed or amended for any of our grantees, our office will continue to work and coordinate with them.*

Tribal Solid Waste Team

The Tribal Solid Waste Team will make maximum use of our existing flexibilities and best professional judgement to help tribes get through the pandemic. Please reach out to your Tribal Solid Waste representative regarding any questions you may have related to solid waste projects.

MSD

Grants Office

The Office Grants and Debarment has not issued additional guidance on COVID-19 flexibilities. Regardless, grantees should contact their EPA Project Officer if there is a need for adjustments to budgets and/or workplans due to COVID-19 related delays. Please send an email to your PO and GS and provide a description of the action they want EPA to take. The email should include a brief justification that includes how the COVID-19 public health crisis has impacted their ability to comply with a requirement in the agreement.

We recommend visiting <https://www.epa.gov/coronavirus/frequent-questions-about-grants-and-coronavirus-covid-19> to read FAQ about grants and COVID

For GAP grants to extend beyond 5 years, there is a formal deviation process we must follow.

If a Tribe needs to extend their GAP grant beyond 5 years, we must follow the formal exception/deviation process on a case-by-case basis. The PO will work with the Tribe to provide a justification. Once the justification is received by EPA, the PO will then work with the Grants Branch to draft a formal memo to be signed by Kerry Drake, R9's Senior Resource Official. This memo will be sent to the Headquarters Office of Grants and Debarment for their review and approval.

For grants other than GAP (such as PPGs):

To request any type of waiver or regulatory exception the recipients should first contact their PO to discuss the action they want EPA to take. If necessary, the recipient will then send an email to the PO and GS including a brief justification that includes how the COVID-19 public health crisis has impacted their ability to comply with a requirement in the agreement.

For any other flexibility requests:

To request any other extensions (e.g., progress reports or FFRs) recipients should first contact their PO to discuss the action they want EPA to take. If necessary, the recipient will then send an email to the PO and GS including a brief justification that includes how the COVID-19 public health crisis has impacted their ability to comply with a requirement in the agreement.

We recommend visiting <https://www.epa.gov/coronavirus/frequent-questions-about-grants-and-coronavirus-covid-19> to read FAQ about grants and COVID.

Attachment(s) for Action Item #2

Winter 2022 RTOC Action Item: Regarding end of year evaluations - Program Managers identified the challenge regarding the use of percentages in evaluations and how the percentages are determined for tasks? The concern is that programs may not receive fair credit or ratings for the work completed and what discretion can be applied, as a percentage, to deem a task 100% complete?

The End-of-year/Joint Evaluation is a process by which EPA and the recipient review together the grantee's reported progress and accomplishments against workplan commitments, deliverables and approved budgets for a specific workplan period to confirm that work performed was adequately documented and supported by funds spent during the period. The process gives the grantee a voice in the evaluation. EPA strives to make this process as collaborative as possible for every grantee by requesting grantee review and input on draft documents.

One of the methods used by GAP Project Officers to determine the progress made in a workplan year is estimate percentages of the completion of a commitment based on the quarterly reports/deliverables submitted. For example,

Scenario 1: Complete Commitment

Commitment in Approved Workplan			Joint Evaluation/End-of-Year Review		
Develop an ISWMP	Commitment Cost: \$1,000	Deliverables: Will submit an approved/final ISWMP in Q4 to EPA.	Final Deliverables Submitted: Final ISWMP in Q4	Estimate of Percent Completed: 100%	Estimate of supported cost: \$1000
Travel and attend Monthly State Water Issues meeting	Commitment Cost: \$500	Deliverables: Summary of meetings attended with action items if any.	Final Deliverables: 12 summaries of meetings attended with attached list of action items.	Estimate of Percent Completed: 100%	Estimate of supported cost: \$500

Scenario 2: Partially Complete Commitment

Commitment in Approved Workplan			Joint Evaluation/End-of-Year Review		
Develop an ISWMP	Commitment Cost: \$1,000	Deliverables: Will submit an approved/final ISWMP in Q4 to EPA.	Final Deliverables Submitted: Draft ISWMP in Q2	Estimate of Percent Completed: 50% (missing a final ISWMP)	Estimate of supported cost: \$500
Travel and attend Monthly State Water Issues meeting	Commitment Cost: \$500	Deliverables: Summary of meetings attended with action items if any.	Final Deliverables: 3 summaries of meetings attended with attached list of action items.	Estimate of Percent Completed: 25% (only 3 of 12 meeting summaries were submitted)	Estimate of supported cost: \$125

Scenario 3: Incomplete Commitment

Commitment in Approved Workplan			Joint Evaluation/End-of-Year Review		
Develop an ISWMP	Commitment Cost: \$1,000	Deliverables: Will submit an approved/final ISWMP in Q4 to EPA.	Final Deliverables Submitted: None.	Estimate of Percent Completed: 0%	Estimate of supported cost: \$0
Travel and attend Monthly State Water Issues meeting	Commitment Cost: \$500	Deliverables: Summary of meetings attended with action items if any.	Final Deliverables: None.	Estimate of Percent Completed: 0%	Estimate of supported cost: \$0

These are estimates determined by the GAP Project Officer which are not made final until the grantee has had an opportunity to review, comment, amend and address the findings of the report, which includes the percentages of completion and estimated costs of commitments. Meaning, if a commitment was evaluated with a lower or higher percentage of completion the grantee should request a revision and provide supporting information to the GAP PO to support a new estimate. As mentioned, this is a joint evaluation effort. No End-of-year/Joint Evaluation report is made final until the grantee has had an opportunity to review the entire draft report and review a revised draft. When a draft report is sent to the grantee, it is important the grantee review it and make revisions and provide justification for those changes and why the percentages should be different to the GAP Project Officer. The key here is to have good communication with each other. It is strongly recommended for both GAP POs and the grantee to have a meeting together to review the draft report and together agree when it is final once every part has been reviewed and justified.

In instances where there are no commitment costs and only component costs, the PO will typically assign an average percentage of completed commitments within that component. This is an initial determination that is the basis for a discussion with the grantee.

As an example:

Component Cost- \$10,000

Commitment 1- 25% complete

Commitment 2- 100% complete

Commitment 3- 0% complete

Average percentage: 41.67%

The component is considered 41.67% complete. \$4,167 is considered justifiable expenditures.

The grantee is welcome to clarify or correct any assigned percentage in the draft end of year document. For example, they may think commitment 2 should be weighed more heavily, since more hours were needed to complete it and the PO can then take that into account. Note that supporting information should be submitted.

EPA cannot provide full credit to any commitments that had no work or only partial work completed in the final report. Tribal grantees and GAP POs must have a dialogue about what work and progress was

completed for a commitment. Based on the quarterly reports and justifications provided by the Tribal grantee the GAP PO will then make an assess and include their findings in the report.

A key aspect of this review is for the GAP PO and Tribal grantee to have constant good communication. Grantees should feel free to inquire with their GAP POs on the process and steps they take to develop a draft EOY/joint evaluation report, similarly GAP POs should be transparent with the grantees they serve on their process. The EPA understands that many challenges can occur, like we have experienced with the COVID-19 pandemic. Therefore, the tribal grantee must let their GAP PO know of any unforeseen challenges or changes as soon as they are aware of them. A grantee can change or amend a workplan as needed, but this must be done with the GAP POs approval, and the goal is to make these changes during the workplan year.

Attachment(s) for Action Item #3

2022 RTOC Winter Action Item: When EPA determines that funds for a program will be de-obligated funding - what happens to de-obligated funds? How does EPA reallocate these funds?

General Process for De-obligated Funds

When funds are de-obligated and recertified and approved by HQ, the funds come back to the region and the Program Result Code (PRC) determines which division the funds belong to. It does not have the grant number attached to the funds coming in, but on the description the grant number that the funds were de-obligated from is listed, this is to let the division know which grants the funds came from. If it is a current year funds and is de-obligated in the same year it comes back to the division's pot.

General Process for when Divisions/Programs Receive De-Obligated Funds

TIPD – GAP

When the GAP Program receives notice of de-obligated funds from GAP grantees, we will immediately ask for those funds to come back to our program. Then we put that money back into our pool of money to use for the current fiscal year we are actively reviewing applications and preparing to award in October of that year. So effectively the de-obligated funds will be made available to tribes once again.

Please note the following about unexpended funds:

If unexpended funds remain in the GAP grant, and the grant does not expire at the end of the fiscal year, the grantee and Project Officer will need to discuss options and negotiate the best course of action for the grantee. The possible options may include:

- (1) Unexpended funds and the work associated workplan activity/commitment may be carried over into the workplan for the following fiscal year.
 - a. Note the work activity/commitment will need to be reflected in the new workplan and budget.
- (2) Unexpended funds may be negotiated to be used for a new activity, to be completed in the following year.
- (3) Unexpended funds may be subtracted from the approved GAP award amount for FY23.

However, if the GAP grant expires at the end of the fiscal year and unexpended funds remain, these funds must be returned to the EPA, with subsequent closeout of the grant. For example, grants for which FY22 is the close out year, and the grantee anticipates for there to be unspent funds then at the end of FY22, they will come back to EPA.

Note: It is crucial for the grantee and GAP Project Officers to work together to keep track of the funds and work completed, partially completed and incomplete work. Grantees should notify their GAP PO as soon as they know they will have unexpended funds. This can also be discussed when finalizing the joint evaluations/end-of-year. This is when both the PO and tribe can identify if there is money left over in a grant and what to do with it.

Water Division

For Tribal Water programs, the programs always request returned funding to be recertified back to the Region. This de-obligated funding is usually placed back into the original program to re-award back to tribes.

LCARD – Pesticides and Solid Waste

Pesticides

De-obligated funds generally come back to our program. As with the GAP program, we fold those funds into our pool and send them out with current year funds.

Solid Waste

For the hazardous waste tribal grant program, here is the action item: **When EPA determines that funds for a program will be de-obligated funding - what happens to de-obligated funds?** The Hazardous Waste Management Grant Program for Tribes (Hazardous Waste Grant Program) is funded through a STAG allocation that is a “no year” appropriation. This means that the funds remain available until expended. However, if the funds are not obligated to the grant in a timely manner (i.e., typically within two years), the funds can be pulled back by EPA’s Office of the Chief Financial Officer (OCFO). Nevertheless, the de-obligating of funds for hazardous waste grants is rare. In the event that funds are de-obligated because may be the grantee has informed EPA that they cannot expend the funds, in that case, the funds are returned to the allowance holder. As it pertains to the Hazardous Waste Grant Program, the grants are awarded in the Region through which the project is selected. Therefore, the funds are returned to the regional allowance holder.

How does EPA reallocate these funds? The funds are reallocated to projects that support hazardous waste management.

For P2 Grants - For P2, it all depends on what’s going on both at HQs and the region. As far as we know all de-obligated money goes back to HQ. Often, they will let us reprogram it back to the Region and add it to our amount to give away in the next grant cycle. This mainly works if it’s de-obligated in the same year as we’re awarding grants – if it’s one of the “off” years they usually don’t let us hang on to it for a whole other year until the next RFP. But at other times HQs just lets it revert back to the Treasury, especially if it’s very old money. Since most of our money is STAG they can’t just give it back to us as EPM, so unless there’s a way to spend it quickly, we will likely lose it.

For P2 Source Reduction Grants – We have not had this situation in the past where funds were returned, however, these are funded thru EPM funding, therefore the funds would come back to the region, however, these are 2-year funds and if they are expired, we would lose those funds. If they are not expired, we could potentially use this money for another regional priority.

Air

For de-obligated R9 tribal air funds, ARD always asks Headquarters to return the money to us. We then add these recertified funds to our annual tribal allocation and re-award the funds to R9 tribes for air work.

Attachment(s) for Action Item #7

Drought concerns. What EPA funding is available for aquifer recharge?

EPA funding to support aquifer recharge projects may be available under the Clean Water Indian Set-Aside (CWISA) Program or the Drinking Water Infrastructure Grant Tribal Set-Aside (DWIG-TSA) Program. EPA administers the CWISA program in cooperation with the Indian Health Service's (IHS's) Division of Sanitation Facilities Construction with their Sanitation Deficiency System (SDS) data system. EPA Region 9 uses the SDS to identify projects for CWISA program funds. To be eligible for funding, the project would need to address a health deficiency affecting tribal homes and the project must be on IHS's SDS list and fall within our joint funding priorities.

The Drinking Water Tribal Set Aside (DWTSA) program can provide financial assistance to community water systems and non-profit non-community water systems, for drinking water infrastructure projects that serve tribal homes. Projects must either facilitate the system's compliance with national primary drinking water regulations or significantly further the health protection objectives of the Safe Drinking Water Act (SDWA). An aquifer storage and recovery (ASR) system for water storage may be an eligible DWTSA project. These projects could include wells, pumps, pipes, storage tanks, and wellhead structures for ASR systems using recycled water. More information about DWTSA eligibility, and Region 9's annual project solicitation can be found here: <https://www.epa.gov/tribal/region-9-drinking-water-tribal-set-aside-program>

In addition to these potential funding sources specifically for aquifer recharge projects, here is a list of numerous federal funding sources that can support tribal water re-use projects:

https://www.epa.gov/sites/default/files/2020-07/documents/action_2.2.15_milestone_6_federal_funding_sources_for_tribal_reuse_projects_508.pdf

Attachment(s) for Action Item #9

Wildfires Related Resources

February 25, 2022

Agency	Description of program and resources
EPA	<p data-bbox="331 472 373 496">Air</p> <p data-bbox="331 509 1669 732">Smoke from wildfires in the United States is adversely affecting air quality and potentially putting more people at health risk from smoke exposure. EPA, the U.S. Forest Service (USFS) and other federal, state and community agencies and organizations are working together to identify ways the public can prepare to reduce their health risk <i>before</i> a wildfire. Public health officials and others can use the resources in the Smoke-Ready Toolbox to help educate people about the risks of smoke exposure and actions they can take to protect their health.</p> <p data-bbox="430 781 1062 808">https://www.epa.gov/smoke-ready-toolbox-wildfires</p> <p data-bbox="331 854 699 881">General Assistance Program</p> <p data-bbox="331 894 1640 959">Your GAP Project Officer can also assist you in revising your GAP work plan and budget to include the following GAP eligible activities:</p> <ul data-bbox="331 972 1560 1230" style="list-style-type: none"><li data-bbox="331 972 1560 1037">•Coordination and consultation with other federal, State, and local agencies (BIA, FEMA, DTSC, Superfund, etc.)<li data-bbox="331 1050 1087 1078">•Developing MOAs with federal, State, and local agencies.<li data-bbox="331 1091 732 1118">•Attending planning meetings.<li data-bbox="331 1131 1167 1159">•Developing, assessing, and refining Emergency Response Plans.<li data-bbox="331 1172 1394 1200">•Repairing/replacing any damage to environmental office, equipment, or supplies<li data-bbox="331 1213 1016 1240">•Researching emergency funding available to Tribes. <p data-bbox="331 1279 411 1307">Water</p> <p data-bbox="430 1320 1045 1347">Wildfire Impacts on Water and Wastewater Utilities</p> <p data-bbox="430 1360 1310 1388">https://www.epa.gov/sites/default/files/2015-06/documents/wildfire.pdf</p>

BIA	<p>Fuel reduction</p> <p>BIA have two major programs for funding Hazardous Fuel Reduction (HFR). The first is basic fuels reduction, it is broken down into either Wildland Urban InteWUI or non WUI projects on Federal Trust Tribal lands. Lands held by the Federal government for the benefit of the tribe or tribal member. The second is Reserve Treaty Rights Lands (RTRL). The RTRL program is designed for tribes due to the need for fuels work on traditional lands, such as lands held by US Forrest Service (USFS), Bureau of land management (BLM) or Tribal FEE lands protected and governed by State - CalFire (SRA), Counties or Cities Local Government (LRA).</p> <p>Every year a notice for requests for projects is sent to every Federally recognized Tribal Council in the Pacific Region (California). The Tribes then request a document package from the fuels program. All projects are on a four-year planning cycle and projects are selected for funding a year in advance from time of award. BIA have already selected and planned the projects for FY 2022 and is in the process of funding those projects. BIA have also completed the in-take for FY 2023 projects and are in the selection process. BIA would except projects request from tribe still, but with the understanding it is for FY 2024 or if the agency received additional, emergency, or other funding then the project maybe looked at that time.</p> <p>greg.perry@bia.gov</p>
FEMA	<p>Hazardous Mitigation Grant Program https://www.fema.gov/grants/mitigation/hazard-mitigation Building Resilient Infrastructure and Communities</p> <p>FEMA has approved numerous Fire Management Assistance Grants (FMAGs) in 2021. Learn more about how FEMA provides federal support through the FMAG Program.</p> <p>An FMAG authorization also makes funding available to eligible states and territories through the Hazard Mitigation Grant Program (HMGP) Post Fire program, which can help mitigate wildfire and</p>

	<p>related hazards by funding eligible wildfire project types like defensible space measures, ignition-resistant construction, and hazardous fuels reduction.</p> <p>https://www.fema.gov/disaster/wildfire-actions?field_related_locations_target_id=All&page=1#resources</p>
NRCS	<p>1. The Emergency Watershed Protection (EWP) Program, a federal emergency recovery program, helps local communities recover after a natural disaster strikes. The program offers technical and financial assistance to help local communities relieve imminent threats to life and property caused by floods, fires, windstorms, and other natural disasters that impair a watershed.</p> <p>https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/landscape/ewpp/</p> <p>2. The Environmental Quality Incentives Program (EQIP) can play a vital role in assisting producers recover from natural disasters like floods, hurricanes, wildfires, and drought. Through EQIP, NRCS provides financial assistance to repair and prevent the excessive soil erosion caused or impacted by natural disasters. These practices include activities like stream bank restoration, grassed waterways and buffers. NRCS-funded conservation practices protect your land from erosion, support disaster recovery and repair, and can help mitigate loss from future natural disasters.</p> <p>https://www.nrcs.usda.gov/Internet/FSE_MEDIA/nrcseprd1429025.pdf</p>
Cal Fires	<p>CAL FIRE's Fire Prevention Grants</p> <p>Some of the current programs are not accepting new applications but check the website for future funding opportunities.</p> <p>https://www.fire.ca.gov/grants/</p>

BIPARTISAN INFRASTRUCTURE LAW**Investments in Tribal Nations and their Communities**

The Bipartisan Infrastructure Law is a once-in-a-generation investment in infrastructure across the nation.

As a result of this legislation, EPA will be investing more than \$60 billion in the health, equity, and resilience of American communities, including resources for Tribal Nations and their communities. A top priority for EPA is uplifting underserved communities and Tribal Nations and their communities across the country that have endured deeply rooted public health and environmental challenges. Many of these communities have never received their fair share of federal infrastructure funding or benefitted from this funding, and the Bipartisan Infrastructure Law represents an unprecedented opportunity to correct this disparity.

Resources include:

More than \$50 billion to improve drinking water, wastewater, and stormwater infrastructure and to protect our regional waters. For more information see: EPA's fact sheet, [*Bipartisan Infrastructure Law: A Historic Investment in Water*](#).

- The majority of BIL **funding – including funding for Tribes – supports water infrastructure improvements, replacement of lead service lines, and addresses emerging contaminants.** Funding will primarily flow through the existing State Revolving Fund (SRF) and designated funding to tribes will be provided through tribal set aside programs under the Clean Water and Safe Drinking Water Acts.
 - **\$11.7 billion for safe drinking water, \$15 billion to replace lead pipes, \$11.7 billion to ensure clean water for communities, and \$5 billion to address per- and polyfluoroalkyl Substances (PFAS) and emerging contaminants in drinking water and wastewater.**
 - The SRF tribal set asides, which are established through Congressional appropriations, are anticipated to be 2% of total Clean Water and Drinking Water SRF BIL program funding, respectively.
 - **In fiscal year 2022, the BIL is anticipated to provide more than \$154 million in total tribal funding** through tribal set asides of the [Clean Water](#) and [Drinking Water](#) State Revolving Fund (SRF) programs to support infrastructure investments and address lead and emerging contaminants.
 - Historically, EPA has administered the Clean Water SRF funding primarily through Interagency Agreements (IAs) with the Indian Health Service. EPA

Regions work with Indian Health Service (IHS) and tribes to identify, prioritize, and select water infrastructure projects to receive funding. Tribes can then manage their grants either through a direct grant from EPA or request to have the Indian Health Service implement the project on their behalf.

- Historically, EPA has administered the Drinking Water SRF through Regional programs that coordinate with local tribes and the IHS to establish priorities and project implementation. Tribes can then manage their grants either through a direct grant from EPA, or through requesting, at the discretion of the Indian Health Service, to partner with IHS on implementation.
- An additional **\$5 billion over five years** will be available for the [Assistance for Small and Disadvantaged Communities Drinking Water Grant](#) program to address emerging contaminants for drinking water.
- BIL invests **more than \$1.8 billion to protect regional waters** over the next five years through place-based programs where EPA is working hand in hand with states and communities to restore natural habitats, remediate pollution, and protect coastal wetlands and neighboring areas in regions around the country. While the BIL funding to protect regional waters does not directly fund tribal programs, tribal lands, waters, and natural resources in these regions will benefit from the protections this funding will provide.
 - BIL provides **\$1.7 billion to EPA’s 12 federally recognized Geographic Programs**, from the Chesapeake Bay to Puget Sound and from the Great Lakes to the Gulf of Mexico, and in certain programs will include competitive and non-competitive funding opportunities for tribes.
 - BIL also provides **\$132 million to the [National Estuary Program](#)**, shared across 28 federally recognized estuaries, to restore water quality across the Atlantic, Pacific, Gulf, and Caribbean coasts of America.
- **Additional water investments** through BIL over the next five years will include:
 - **\$60 million to fund the [Gulf of Mexico Hypoxia Task Force](#)**’s work to reduce nutrient pollution throughout the Mississippi River Watershed and Gulf of Mexico, protecting fisheries, communities, and the recreation across this vital region. This funding will be divided equally across the 12 Hypoxia Task Force states.
 - **\$50 million will support states and tribes as [Underground Injection Control \(UIC\) Grants](#)** and \$25 million to support permitting class VI UIC wells to support carbon sequestration programs build toward a low-carbon future. States and tribes that have received primary enforcement authority for the [UIC program](#) are eligible to receive UIC grant funding.

More than \$5 billion to address longstanding pollution and support solid waste infrastructure for recycling in communities.

- EPA will be using \$3.5 billion provided to the **Superfund Remedial program** to initiate work on all existing backlogged remedial construction projects (some of which have been waiting over four years for funding) and accelerate cleanups at National Priorities List sites across the country, including sites in Indian country and with Native American interest.
- EPA is preparing for a historic \$1.5 billion investment in EPA's **Brownfields Program** over the next five years to support brownfields assessment, cleanup, and reuse to transform communities across the country.
- Over five years, EPA will be awarding \$1.2 billion in brownfields project grants and technical assistance. The Agency will also be allocating \$300 million for State and Tribal Response Program funding to eligible applicants, including Tribal Nations, for: building tribal response program capacity, assessing and cleaning up brownfield sites, training for environmental jobs, and identifying equitable and sustainable reuse options.
- EPA will be awarding \$375 million to support **solid waste and recycling initiatives**. The funding is primarily for the Solid Waste Infrastructure for Recycling (SWIFR) Grant Program and Recycling Education and Outreach Efforts. Tribes are included as eligible recipients for the grant programs; however, the two grant programs provide slightly different definitions of eligible entities.
- EPA is in the early phase of exploring the statutory language and what it means for recipients, as well as options for potential funding mechanisms, and the development of an implementation process. In addition, EPA's Office of Land and Emergency Management is exploring opportunities for providing tribal engagement on the recycling and education/outreach funding.

\$5 billion for decarbonizing the nation's school bus fleet.

- Funding will be available for five years to replace existing school buses with cleaner school buses – zero-emission electric and low-emission alternative fuel school buses.
- Tribes, Tribal organizations, and Tribally-controlled schools responsible for providing bus service to one or more Bureau-funded schools or purchasing school buses are eligible for this funding.
- EPA can consider prioritizing applications that propose to replace school buses that serve Bureau-funded schools and that serve local education agencies receiving basic support payments under the Elementary and Secondary Education Act of 1965 for children who reside on Tribal land.

- Awards up to 100% of the cost of the replacement bus and charging or fueling infrastructure are possible, and EPA may award funding for bus replacement through grants, rebates, or contracts.

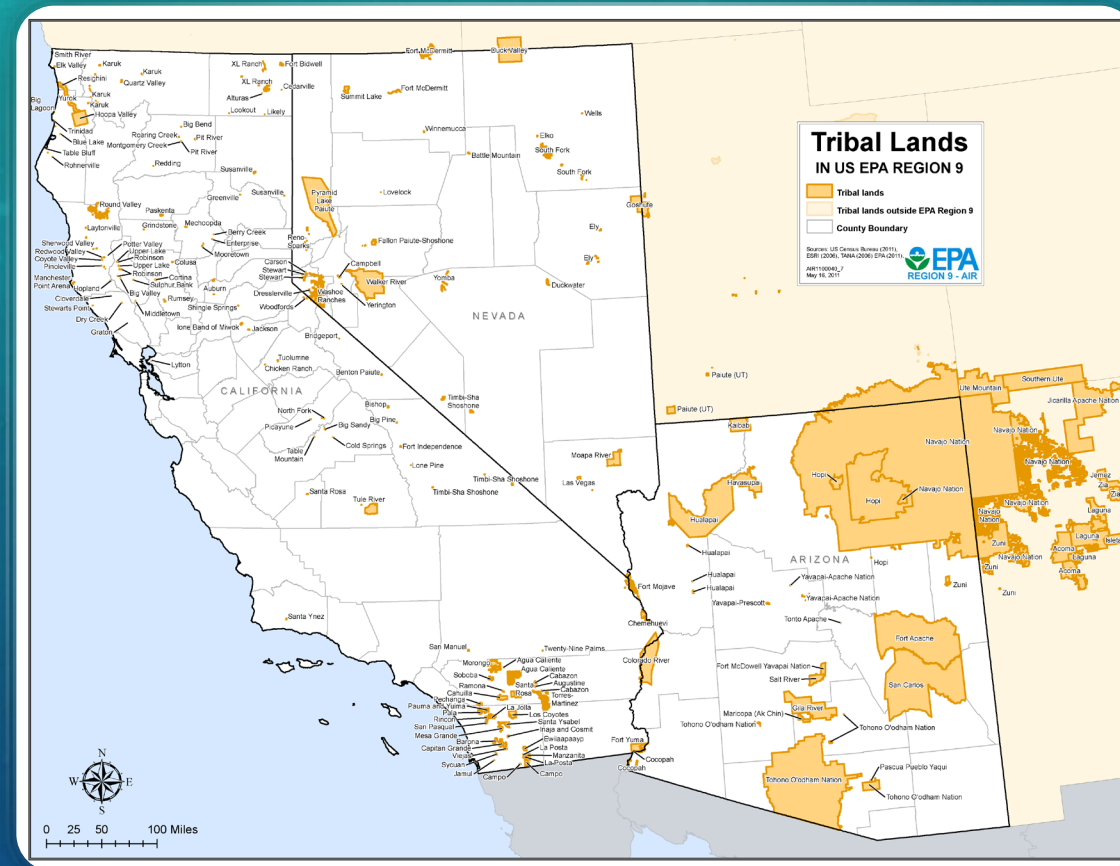
\$100 million for Pollution Prevention (P2) Program grants and the launch of a new program targeting environmental justice.

- Pollution Prevention (P2) means reducing or eliminating pollutants from entering any waste stream or otherwise released into the environment prior to recycling, treatment, or disposal.
- P2 can be especially useful to Tribes and Tribal communities with unique environmental concerns. Many Tribes across the country have successfully implemented P2 practices to prevent waste and protect natural resources.
- As part of EPA's P2 program, the agency offers grants to eligible organizations that will provide technical assistance to businesses in order to help those businesses develop and adopt source reduction practices (also known as P2). States, federally recognized Tribes, intertribal consortia, and other entities are eligible for these competitive two-year grants.
- BIL - funded P2 Grants, awarded over the next five years, will eliminate the requirement of 50% grantee matching funds, which increases access to P2 grants for all communities, including Tribes.
- EPA expects to publish the next request for grant applications (RFA) in late-January/early-February and select recipients by the summer of 2022.
- Funding will also be used to provide ongoing support and outreach to eligible organizations and communities who have previously not participated in EPA's P2 grant program, develop analyses and training tools to support grantees in providing support to businesses across the country, deliver training and measure outcomes to maximize the impact and effectiveness of the grant programs, and to build out additional grant activities that focus on P2 investments for businesses in underserved communities.

In the coming weeks and months, EPA will communicate with Tribes, and share more detailed information on the critical resources in the Bipartisan Infrastructure Law as it becomes available, and how Tribal Nations can gain access to these resources.

For more information visit: <https://www.epa.gov/infrastructure>

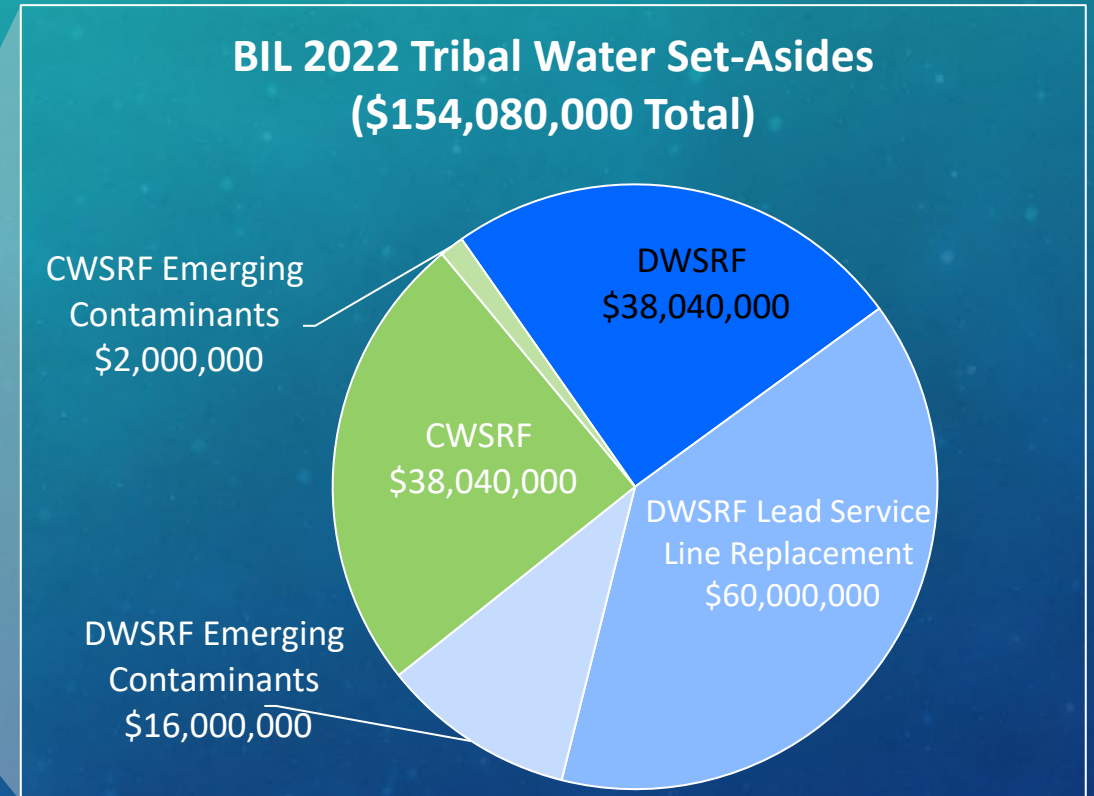
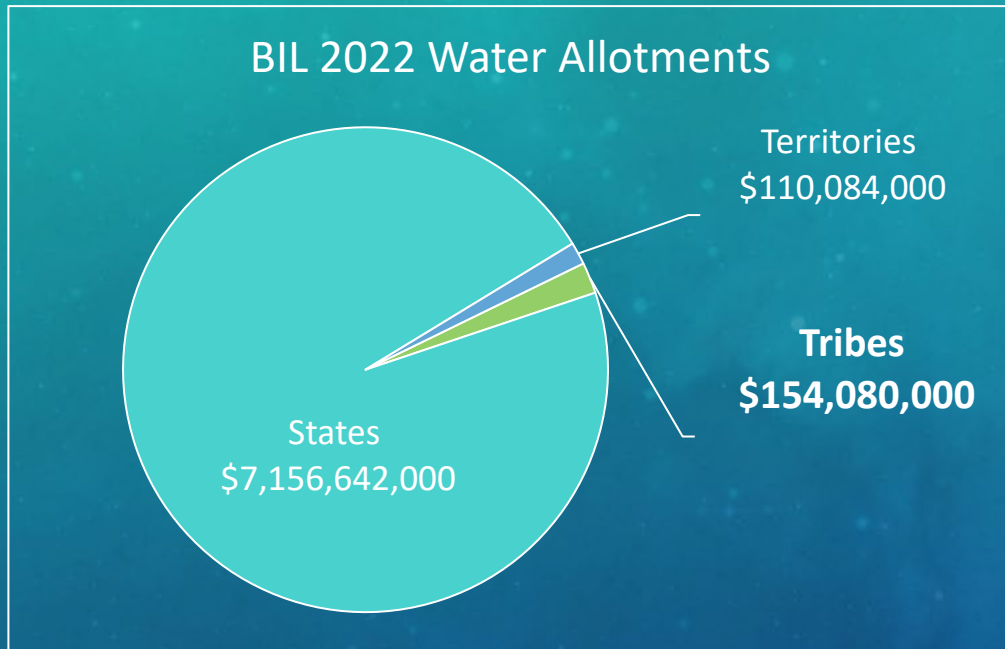
THE BIPARTISAN INFRASTRUCTURE LAW (BIL)



Bipartisan Infrastructure Law (BIL) - Water and Wastewater Infrastructure

February 2022

BIPARTISAN INFRASTRUCTURE LAW (BIL) OVERVIEW



Source: December 2021 Fact Sheet <https://www.epa.gov/system/files/documents/2021-12/fy-2022-bil-srfs-allotment-summary-508.pdf>

Find the latest EPA numbers here: <https://www.epa.gov/infrastructure/water-infrastructure-investments>

REGION 9 IMPLEMENTATION OF BIL FUNDING

- DWWSA and CWWSA BIL Supplements
 - Anticipate using existing processes
 - Project solicitation for drinking water projects
 - SDS list for wastewater projects
- Lead Service Lines and Emerging Contaminants
 - Additional implementation guidance is forthcoming
 - R9 reviewing existing project proposals with these new funding authorities in mind

ADDITIONAL BIL FUNDING
EMERGING CONTAMINANTS GRANTS FOR SMALL AND
DISADVANTAGED COMMUNITIES

- \$5B Nationally for grants for addressing emerging contaminants
 - \$1B per year 2022 through 2026
- Implementation information coming Spring 2022

TRIBAL DRINKING WATER CONSULTATION

- 90-day consultation: January 31, 2022 – May 2, 2022
- Tribal informational webinars and listening sessions:
 - **March 1** - https://www.zoomgov.com/meeting/register/vJlIsf-ysrzlvGSgJ3E2_S8BQIYofNtdQSjg
 - **March 10** - <https://www.zoomgov.com/meeting/register/vJlItc--vqDsiHmlv2Gr5FeSVXBzjMR9-exE>
- Topics for Consultation:
 - DWIG-TSA Regional Allotment Formula
 - Bipartisan Infrastructure Law (Lead Service Lines and Emerging Contaminants)

BIPARTISAN INFRASTRUCTURE LAW (BIL) -Drinking Water Tribal Set Aside

Tribal Water Set-Aside Allotments = \$154M

DWSRF Supplement – The BIL will provide a \$38M national supplement to the Drinking water Tribal Set Aside (DWTSA) program in FY22. Regions expect to receive their allocation in the Spring of FY22. Region 9 conducts a separate project solicitation for funding under the DWTSA. More information about our regional program and application material can be found here: <https://www.epa.gov/tribal/region-9-drinking-water-tribal-set-aside-program>

This year we received 29 proposals with requests for funding totaling over \$43 million. Region 9 is currently evaluating these proposals and considering them for funding under both the base program and the BIL supplement.

ADDITIONAL BIL FUNDING EMERGING CONTAMINANTS GRANTS FOR SMALL AND DISADVANTAGED COMMUNITIES

\$5,000,000,000 for grants for addressing emerging contaminants under subsections (a) through (j) of section 1459A of the Safe Drinking Water Act (42 U.S.C. 300j-19a): FY22 to FY26 appropriations to remain available until expended through fiscal year 2026 at \$1,000,000,000 per year. No cost share requirement. No underserved community requirement.

Status: The national allocation memo is anticipated for Spring 2022. The development of an implementation document for the program is also underway and will align guidelines and eligibilities as those in the SRF program.

The U.S. Environmental Protection Agency (EPA) is initiating consultation and coordination with federally recognized Indian tribes to inform potential revisions to the Drinking Water Infrastructure Grant Tribal Set-Aside (DWIG-TSA) allocation formula. The allocation formula is used to determine how DWIG-TSA funds are distributed among the EPA Regions with federally recognized Indian tribes (currently all 10 EPA Regions). These funds are then distributed by EPA Regions to eligible tribal drinking water infrastructure projects within each Region.

TRIBAL DRINKING WATER CONSULTATION

90-day consultation: January 31, 2022 –May 2, 2022

EPA will hold two identical tribal informational webinar and listening sessions on Tuesday, March 1, 2022 from 3-4 pm ET and on Thursday, March 10, 2022 from 2-3 pm ET. The webinars will provide tribal representatives an opportunity to ask questions and learn more about this consultation opportunity and the potential revisions to the DWIG-TSA allocation formula.

Through this consultation and coordination process, EPA seeks to better understand tribal priorities with respect to the distribution of DWIG-TSA funds to EPA Regions. Specifically, EPA seeks comments to better understand tribal priorities by answering the following multi-part question:

- How can EPA more equitably distribute the DWIG-TSA funds among the ten EPA Regions?

- What factors should be considered and prioritized in determining the drinking water infrastructure funding needs for tribes in an EPA Region?
- What factors should be considered and prioritized in determining the drinking water funding needs related to lead service line identification and replacement for tribes in an EPA Region?
- What factors should be considered and prioritized in determining the drinking water infrastructure funding needs related to emerging contaminants (such as PFAS) for tribes in an EPA Region?

Tribal informational webinars and listening sessions:

March 1 -https://www.zoomgov.com/meeting/register/vJIsf-ysrzlvGSgJ3E2_S8BQIYofNtdQSjg

March 10 -<https://www.zoomgov.com/meeting/register/vJItc--vqDsiHmlv2Gr5FeSVXBzjMR9-exE>

Attachment(s) for Action Item #11

Original Winter RTOC Action Item: Hiring of new Project Officers - what is the EPA hiring process with regard to ensuring new Project Officers have worked with Native American Communities or are Native American? What is the percentage of Native Americans being hired? What are the diversity goals of the Agency? Can we know the number of applicants who were Native American?

Response also addresses later follow-up questions and comments related to this action item provided via email by Cliff Banuelos to the RTOC tribal co-chair Mervin Wright Jr. and Ruben Mojica Hernandez on 1/31/22.

Thank you for your sharing your comments and concerns. We have shared them with our Office of Human Resources for their awareness and review and their support in developing this response.

Thank you for your comments on the hiring process and diversity goals. While we cannot target our announcements based on race, culture, ethnicity, etc., we can and do utilize all available tools and resources in our outreach efforts that aim to increase the diversity of our workforce. We also have and continue to build relationships with the RTOC, Minority Serving Institutions (MSIs) and professional organizations that support Native Americans, in addition to focusing outreach efforts and advertising upcoming recruitments with the National Native American Bar Association, United Tribes Technical College Job Board, American Indian Graduate Center Job Board, and National Congress of American Indian Job Board.

Thank you for your comments regarding job interviews. Hiring managers write interview questions based on the position they are recruiting for. If the position entailed working with and building relationships with Native American Tribes, then an interview question would be included to gauge a candidates experience in this area.

Thank you for your comments on changing the minimum education requirements. The Office of Personnel Management (OPM) establishes minimum qualification requirements: therefore, we are unable to forgo any positive educational requirements. Some positions do allow for a combination of education and experience, but again, this is established by OPM.

Thank you for your comments and questions related to race and national origin (RNO) information on individuals that apply for EPA positions. We do not have access to this data for applicants. Once an individual is hired, they are encouraged to self-report their RNO data, but we cannot mandate an individual to provide this information.

EPA publishes an annual Management Directive 715 Report (MD-715). MD-715 is the policy guidance which the U.S. Equal Employment Opportunity Commission (EEOC) provides to federal agencies for their use in establishing and maintaining effective programs of equal employment opportunity. I encourage you to review the published reports which contain RNO agency data: https://www.epa.gov/sites/default/files/2021-05/documents/md-715_report_fy20_final_28_apr_21_signed.pdf and <https://www.epa.gov/system/files/documents/2021-12/supplemental-workforce-tables-a-b-2-fy20.pdf>.

Thank you for your comments suggesting the creation of an EPA Native American Employee Committee to support recruitment, retention, and advancement. Region 9 has an American Indian/Alaska Native Employment Program (AIANEP), which is part of our Special Emphasis Program. The Program Manager of the AIANEP is a member of the regional recruitment cadre and provides support and outreach to the Native American community.

Thank you for your comments on primary work location. We are in the process of exploring options.

Thank you for your comments on employee performance metrics. While personnel matters such as employee performance are internal, we thank you for the suggestions.

Thank you for your comments on an intern program. The Region has and continues to leverage the [Pathways Internship Program](#).

Attachment(s) for Action Item #13

Provide the unregulated contaminants list and the contaminants to be listed by the EPA that will be forthcoming proposed to be regulated under the SDWA and the CWA.

Under the SDWA, EPA develops drinking water Contaminant Candidate Lists (CCL) to identify priority contaminants for future regulatory determinations. CCLs are a list of contaminants that are currently not subject to any proposed or promulgated national primary drinking water regulations but are known or anticipated to occur in public water systems. Contaminants listed on the CCL may require future regulation under the Safe Drinking Water Act (SDWA). The most recent draft CCL 5 includes 66 chemicals, three chemical groups (per- and polyfluoroalkyl substances (PFAS), cyanotoxins, and disinfection byproducts (DBPs)), and 12 microbes. You can find more information about current CCLs and EPA's regulatory determination process here: <https://www.epa.gov/ccl>

The Bipartisan infrastructure Law (BIL) includes supplemental funding to address emerging contaminants in both drinking water and clean water. EPA is currently developing implementation guidance for these programs. Under the drinking water emerging contaminant BIL supplement, funding will be focused on projects that address perfluoroalkyl and polyfluoroalkyl substances (PFAS). Projects that address any contaminant listed on any of EPA's [Contaminant Candidate Lists](#) (i.e., CCL1 – draft CCL5) will also be eligible.

Under the BIL clean water supplement, EPA is considering the following primary categories of emerging contaminants to eligible for project funding:

- **Per- and Polyfluoroalkyl Substances (PFAS) and other Persistent organic pollutants (POPs)** such as polybrominated diphenyl ethers (PBDEs; used in flame retardants, furniture foam, plastics, etc.) and other global organic contaminants such as perfluorinated organic acids, PFAS free foam flame retardants;
- **Biological contaminants and microorganisms**, such as antimicrobial resistant bacteria, pathogens in wastewater;
- **Some compounds of pharmaceuticals and personal care products (PPCPs)**, including a wide suite of human prescribed drugs (e.g., antidepressants, blood pressure medications, hormones), over-the-counter medications (e.g., ibuprofen), bactericides, fragrances, UV filters (sunscreen agents), detergents, preservatives, and repellents,³⁰
 - Insect Repellents, Cosmetics and UV filters: DEET, Methylparabens, Benzophenone³¹
 - Fragrances: HHCb and AHTN (7-acetyl-1,1,3,4,4,6-hexamethyl-1,2,3,4-tetrahydronaphthalene; CAS 21145-77-7; Tonalide)³²
 - Cosmetic and food preservatives: BHA (butylated hydroxyanisole) and BHT (butylated hydroxytoluene)³³
 - Veterinary medicines such as antimicrobials, antibiotics, anti-fungals, growth promoters, investigational new animal drugs, and hormones;
 - Substances that illicit endocrine-disrupting chemicals (EDCs), including synthetic estrogens (e.g., 17 α ethynylestradiol, which also is a PCPP) and androgens (e.g., trenbolone, a veterinary drug), naturally occurring estrogens (e.g., 17 β -estradiol, testosterone), as well as many others (e.g., organochlorine pesticides, alkylphenols)
- **Nanomaterials** such as carbon nanotubes or nano-scale particulate titanium dioxide, of which little is known about either their environmental fate or effects.
- **Microplastics/Nanoplastics:** synthetic solid particle or polymeric matrix, with regular or irregular shape and with size smaller than 5 mm, of either primary or secondary manufacturing origin, or larger plastic materials that degrade into smaller pieces, including from tire wear (such

as 6PPD), which are insoluble in water.³⁴ Primary microplastics include particles produced intentionally of this very small dimension, like pre-production pellets used as intermediate in plastic production, microbeads for abrasive functions or microfibers that form from synthetic textiles.³⁵

Follow-up from Winter 22 RTOC Mining Session

Question	Name - Affiliation	Response
is Financing correct here? I find it's usually at the beginning (reference to slide 6- Mine Startup)	Cliff Banuelos- ITCN	The presentation is not exhaustive of all mining startup details. There are also initial and periodic funding. (Hugo)
Does the EPA look at mineral concentrations when the groundwater is pumped onto the land?	Catherine Buchanan - Elk Valley Rancheria	Groundwater (dewatering water) that is pumped into a waterbody requires NPDES permit and concentrations are monitored. Groundwater that is pumped to the land (and does reach a waterbody) may require groundwater discharge permit (issued by a state agency) if the groundwater infiltrates back into the groundwater table, and concentrations will likely be monitored. If groundwater is pumped to the land and just evaporates, no permit may be required and concentrations may not be monitored. (John Tinger, NPDES) This is also a focus area of our concerns that we address under NEPA in recommendations to authorizing federal agencies. (Hugo)
Could you define "discharge"? Is discharge letting it move to a water of the US?	Sally Manning- Big Pine Paiute Tribe	Yes, within the context of NPDES permitting, a "discharge" is any pollutant in wastewater that reaches a water of the United States; these require NPDES permits. (John Tinger, NPDES)
Does EPA play any role where mining activities are depleting aquifers?	James Gatzke - Washoe Tribe	This is a focus area of our concerns that we address under NEPA in recommendations to authorizing federal agencies, but EPA does not have authority to regulate groundwater quantity/availability. (Hugo)
What about mountain top removal coal extraction?	Catherine Buchanan - Elk Valley Rancheria	Note there is no mountain top coal mining in R9. The coal mines in R9 have extensive reclamation requirements post-mining which generally require the land be reclaimed to similar conditions prior to mining. (John Tinger, NPDES)
Who regulates the excluded waste?	Cliff Banuelos- ITCN	Depending on the waste and mine stage, Bevill-exempt waste may be regulated by states under their own laws or under CERCLA. (Hugo)
How does Superfund relate to Administrative Order on Consent?	James Gatzke - Washoe Tribe	James - Superfund will often use enforcement instruments like administrative orders on consent to have willing potentially responsible parties perform cleanups (Will Duncan)
EPA is not a NEPA lead agency or "the	Sally Manning- Big Pine Paiute Tribe	Mining activity requires multiple environmental permits, including an NPDES permit under the Clean

<p>decision maker" but yet it issues "permits." Root word of "permission"? Does EPA develop the terms of the permit? A miner can't legally mine without a certain permit, but get a permit and go ahead, is how it sounds sometimes.</p>		<p>Water Act. NPDES permits only authorize the discharge of wastewater or stormwater from the mine to surface waters. NEPA is required for new facilities, and the development of a NEPA Environmental Impact Statement is usually coordinated with all agencies with a permitting action related to the facility. EPA may or may not be lead agency for NEPA, but has a permitting responsibility if the facility seeks authorization to discharge wastewater or stormwater. Where the discharge is to tribal land, EPA is the NPDES permitting authority and determines the terms of the permit, such as effluent limitations and monitoring requirements. These requirements included in the NPDES permit are designed to protect water quality by incorporating applicable water quality standards.</p>
<p>Do administrative orders on consent provide an opportunity for public input or tribal consultation?</p>	<p>James Gatzke - Washoe Tribe</p>	<p>NPDES may issue Administrative Orders on Consent on Tribal lands. R9 offers formal Tribal Consultation in the process of issuing an AOC to receive comments from potentially impacted Tribes. (John Tinger, NPDES)</p>