EPA Region 6 Updates Regarding Los Alamos National Laboratory

LOS ALAMOS NATIONAL LABORATORY (LANL) NPDES PERMIT (UPDATED: OCTOBER 2020)
EPA Region 6 proposed reissuance of the NPDES permit for stormwater discharges from Los Alamos National Laboratory in Los Alamos, New Mexico on November 28, 2019. EPA scheduled a public meeting and a public hearing for January 16, 2020 on the proposal in Santa Fe. But, due to a snowstorm, both public meeting and public hearing were cancelled. Due to coronavirus outbreak and travel restriction, EPA scheduled a virtual public meeting and hearing for October 26, 2020. EPA has further extended the public comment period to November 2, 2020. The individual storm water permit regulates storm water runoff from about 400 Solid Waste Management Units (SWMUs) and Areas of Concern. LANL has installed over 1000 BMPs to eliminate or mitigate runoff from those sites. The current permit has been administratively continued. ***Isaac Chen, 214-665-7364***

Radionuclide NESHAPs Update - David Garcia, Air & Radiation Division, signed the approval letter on August 10, 2020, pertaining to the Flanged Tritium Waste Containers operation, in accordance to the regulations set forth in 40 CFR 61 Subpart H. The second virtual information session was held on Thursday November 5, 2020 at 5:00 PM MST. ***George Brozowski, 214-665-8541***

Los Alamos National Laboratory Hexavalent Chromium Groundwater Plume, New Mexico: Potassium dichromate was used in the cooling tower at the Los Alamos National Laboratory (LANL) Technical Area 3 backup power plant from 1956 to 1972. It is estimated that up to 72,500 kg of hexavalent chromium cooling water from the power-plant was discharged into Sandia Canyon. The discharged water traveled perennially downstream approximately two miles to an infiltration point in Sandia Canyon. The chromium-tainted water migrated downward and contaminated the regional aquifer at a depth of approximately 1000 feet below ground surface. The plume size is approximately 1.2 miles long and 0.5 miles wide with a maximum concentration of about 1,200 ppb. One Los Alamos County drinking-water production well PM-3 is located just outside the eastern plume boundary and is closely monitored by the New Mexico Environment Department and LANL. Three other production wells are located southwest of the chromium plume and are also closely monitored. Chromium has been detected in a nearby monitoring well on Pueblo de San Ildefonso (4.30 ppb) at concentrations near the regional Cr background concentration (4.60 to 7.48 ppb). The New Mexico water Quality Control Commission standard for chromium is 50 ppb. An Interim Measures (IM) plume control project was implemented by LANL in 2018 consisting of five extraction wells and five injection wells. Semi-annual status reports are submitted to NMED for the IM. In addition, pilot-scale in-situ remediation testing using chemical amendments was conducted within the plume area at two wells in 2017 and LANL is monitoring the effectiveness of the amendments. An additional monitoring well was installed in May 2019 in the northeast portion of the plume toward the production well. This well is being sampled monthly starting in August 2020 and has chromium concentrations that exceed the standard. LANL is conducting an aquifer assessment around this well to further characterize the northeast portion of the chromium plume in the vicinity of the production well, the assessment report is due to NMED by July 2021. NMED is requiring

additional monitoring wells to delineate the plume to the northwest, southwest and northeast. A Corrective Measures Evaluation for the chromium plume that was due in September 2021 may be postponed to first complete characterization of the plume. ***Laurie King, 214-665-6771***

Water Division

CWA REGULATIONS

WATERS OF THE UNITED STATES (UPDATED: OCTOBER 2020)

On February 28, 2017, President Trump issued an Executive Order (E.O.) 13778 on "Restoring the Rule of Law, Federalism, and Economic Growth by reviewing the 'Waters of the United States' Rule", directing the Administrator of the EPA and the Assistant Secretary of the Army for Civil Works to review the final Clean Water Rule published in 2015, and publish for notice and comment a proposed rule rescinding or revising the rule. To meet the objectives of the E.O. in a clear and expeditious approach, the agencies have decided on a two-step approach:

1. an initial rulemaking to rescind the 2015 rule and reinstate the regulatory approach that has been in place for decades, and thus maintains the status quo; and

2. a rulemaking to revise the definition of waters of the U.S. consistent with direction in the E.O.

The agencies have taken several actions consistent with the E.O. and our two-step approach:

Step 1: The Step One proposed rule: Definition of "Waters of the United States"(WOTUS) – Recodification of Pre-existing Rules, was published for public comment in the Federal Register on July 27, 2017, and the comment period closed on September 27, 2017. There was a supplemental comment period as well that closed July 12, 2018. Over 800,000 comments were received by the agencies, and comments have been posted to the docket, which can be accessed at http://www.regulations.gov, docket number EPA-HQ-OW-2017-0203-0001.

Meanwhile, the U.S. Supreme Court ruled unanimously that challenges to the Clean Water Rule should begin in federal district courts rather than directly in appeals courts. This decision directed the 6th Circuit U.S. Court of Appeals to dismiss the petitions for review filed in that court for lack of jurisdiction, and will revive pending district court challenges to the Rule, a process which was carried out in several district courts.

On February 6, 2018, the agencies finalized a rule adding an applicability date to the 2015 Clean Water Rule, so that it is not applicable until February 6, 2020. However, August 16, 2018, the U.S. District Court of the District of South Carolina issued a decision to vacate and nationally enjoin the EPA and the Army Corps' final rule that added an applicability date to the 2015 Clean Water Rule. Due to additional District Court rulings in North Dakota and South Texas the 2015 Rule was then in effect in 24 states since Colorado and New Mexico withdrew from its previous court challenge.

On October 22, 2019, EPA published the final the Step 1 Rule officially rescinding the 2015 Clean Water Rule. This ended the fractured national map as to which states are under the 2015 Clean Water Rule. This also established a 2019 rule that took effect December 23, 2019. The 2019 rule based from the 2003 and 2008 agency guidance interpreting that definition in light of the *SWANCC* and *Rapanos* Supreme Court decisions.

Step 2: Per EPA policy, we initiated consultation with tribal governments on April 20, 2017 regarding the new definition to be developed under Step 2. The agencies held a series of meetings with various groups as part of the consultation processes and have posted for public review each of the letters received as part of the consultation processes. Letters received from tribes and states are posted on the EPA WOTUS Rule website under "Rulemaking Process". On June 15, 2018, the agencies sent a proposed Step 2 rule to redefine WOTUS to OMB for interagency review. On December 11, 2018, EPA and the Army signed a proposed rule providing a clear, understandable, and implementable definition of "waters of the United States" that clarifies federal authority under the Clean Water Act while respecting the role of states and tribes in managing their own land and water resources. The proposed rule was published in the federal register February 14, 2019 with a 60 day comment period [Docket ID No. EPA-HQ-OW-2018-0149]. Therefore, April 15 was the due date to provide comments. EPA received 620,000 comments. There were a series of meeting with tribes and states on the proposed rule.

In those succeeding months EPA developed responses to the public comments and developed a final version of the WOTUS and coordinating with the Army to implement. On April 21, 2020 EPA and the Army published the final version of the rule, now named the Navigable Waters Protection Rule (NWPR). The NWPR became final June 22, 2020. The NWPR defines four types of waters as WOTUS: Traditional Navigable Waters and Territorial seas, perennial and intermittent streams, lakes-ponds-impoundments, and adjacent wetlands. It also lists 12 types of waterbodies that are excluded. EPA is participating on Army Corps of Engineer Division Implementation Teams. EPA has organized internal workgroups to map jurisdictional waters, for cross agency coordination, headquarters coordination, and training. Since the NWPR took effect there are numerous notices of intent to sue having been filed.

More information about the Waters of the U.S. Rulemaking can be found at https://www.epa.gov/nwpr ***Randy Rush, 214-665-7107***

CLEAN WATER ACT (CWA) SECTION 401 WATER QUALITY CERTIFICATION (WQC) FOR THE PROPOSED 2020 NATIONWIDE PERMITS (NWPs) REISSUANCE (NEW: OCTOBER 2020)

NWPs are a type of general permit issued by U.S. Army Corps of Engineers, designed to streamline the permitting process for activities having minimal impacts to jurisdictional Waters of the United States. Activities can be authorized under a NWP only if that activity and the permittee satisfy all the NWP terms and conditions, including regional conditions. EPA is the certifying authority for those tribes without treatment in a similar manner as a state (TAS) for CWA Section 401 WQC. Corps districts are responsible for requesting certification. As the certifying authority for those tribes without TAS, the EPA will have to act on certification requests by either: (1) granting certification; (2) granting certification with conditions; (3) denying certification; or (4) expressly waiving certification. If the EPA does not act on a request, it will result in a waiver. Region 6 disseminated a Tribal Consultation Offer Letter for this process on 9/22/2020 and held a consultation webinar on 10/14/2020. The deadline for the consultation period is 11/13/2020. EPA expects the certification process for the proposed NWPs to be finalized by late December 2020. ***Daniel Landeros, 214-665-8077***

FINAL RULE: CLEAN WATER ACT SECTION 401 CERTIFICATION RULE (UPDATED: OCTOBER 2020)

On April 10, 2019, President Trump issued Executive Order 13868, "Promoting Energy Infrastructure and Economic Growth," which directed the EPA to review Clean Water Act (CWA) Section 401 and EPA's related regulations and guidance. On June 1, 2020, the EPA finalized the "Clean Water Act Section 401 Certification Rule" to implement the water quality certification process consistent with the text and structure of the CWA, with an effective date of September 11, 2020. The final rule establishes procedures that promote consistent implementation of CWA Section 401 and regulatory certainty in the federal licensing and permitting process. The final rule addresses key areas of the CWA Section 401 Certification Process, including: Timelines for Review and Action; Initiating Certification; Scope of Certification Review; Technical Assistance; and Early Engagement. EPA hosted a three-part webinar series for states and Indian tribes to learn about the final rule and implementation considerations. Webinar presentations were recorded and are posted on EPA's webpage. The final rule and outreach materials can be found at: https://www.epa.gov/cwa-401/final-rule-clean-water-act-section-401-certification-rule. ***Daniel Landeros, 214-665-8077; Brianna Wadley, 214-665-2723; Diane Evans, 214-665-6677.***

TRIBAL FUNDING

WATER INFRASTRUCTURE IMPROVEMENTS FOR THE NATION (WIIN) ACT (UPDATED: OCTOBER 2020)

There are new grant opportunities under the Water Infrastructure Improvements for the Nation (WIIN) Act available to tribes in Fiscal Year 2020. Under the Assistance for Small and Disadvantaged Communities Tribal Drinking Water Grant Program, Region 6 Water Division office received an allocation of $87,000. There is no cost-share requirement for the tribal grant program. Eligible projects for assistance include investments necessary for a public water system to return to compliance with the Safe Drinking Water Act; efforts that benefit a disadvantaged community on a per household basis; programs to provide household water quality testing, and activities necessary and appropriate for a primacy agency to respond to a contaminant. The projects and activities must serve a small or disadvantaged community to qualify for grant assistance. EPA Region 6 awarded the funding through a contract with the Southwest Environmental Finance Center (SW EFC) to provide technical assistance during FY2021.

Under Section 2105 of the Water Infrastructure Improvements for the Nation (WIIN) Act funding is available to tribes in Fiscal Year 2020 to reduce lead in drinking water systems. Under this assistance program, the Region 6 Water Division office received a list of potential projects with lead issues identified in the Indian Health Services (IHS) Sanitation Deficiency System (SDS) list. Region 6 awarded an Interagency Agreement with the Oklahoma City IHS office providing funding for three projects: Quapaw/Ottawa (2) projects, and Chickasaw (phase II of the Francis Water System.) ***Salvador Gandara, 214-665-3194***

TRIBAL CLEAN WATER ACT (CWA) 106, 319(h) AND MULTIPURPOSE GRANT APPLICATION DUE DATES FOR FY2021 (NEW: OCTOBER 2020)

The Tribal CWA 319(h) grant application due date will be on February 26, 2021, and the tribal 106 grant application due date will be on March 5, 2021. The requests for applications are

forthcoming. The multipurpose grant applications were due on October 16, 2020. Eligible tribes who have not submitted their multipurpose grant applications should do so as soon as possible. All applications should be submitted through grants.gov.
Sam Reynolds 214-665-6682

TREATMENT AS A STATE (TAS) FOR CWA 319(h) (UPDATED: OCTOBER 2020)
CWA 106 and 319(h) Treatment In A Manner Similar To A State (TAS) applications were due by April 30 2021. The TAS 106 and 319(h) approved applications allow tribes to receive funding and implement water quality and nonpoint source pollution programs. ***Sam Reynolds 214-665-6682***

STATE REVOLVING FUNDS TRIBAL SET-ASIDES (UPDATED: OCTOBER 2020)
The Clean Water Indian Set Aside (CWISA) and the Drinking Water Tribal Set Aside (DWTSA) Grant Programs have completed the final phase of the FY 2020 award process. Region 6 awarded CWISA Interagency Agreements with a total of $2,062,000 while the DWTSA award totaled $2,194,000.

The Region's 2020 CWISA program finalized its selection process and awarded Interagency Agreements with the Oklahoma City Indian Health Service (IHS) office and the Albuquerque HIS office. The Region 6 CWISA program provided funding for the Wichita and Affiliated Tribes, Cherokee Nation, Pueblo of Santa Ana and the Mescalero Apache Tribe.

The Region's 2020 DWTSA program finalized its selection process with the Oklahoma City Indian Health Service (IHS) office and the Albuquerque HIS office. The Region 6 DWTSA program will be able to fund projects for the Choctaw Nation, Ottoe-Missouria Tribe, Cherokee Nation, Seminole Nation, Pueblo of Jemez, Zuni Tribe of the Zuni Reservation, Pueblo of Santo Domingo and Pueblo of Isleta. ***Gilbert Tellez, 915-533-7273; Salvador Gandara, 214-665-3194***

WETLAND PROGRAM DEVELOPMENT GRANTS (UPDATED-OCTOBER 2020)
Wetland Program Development Grants (WPDG) are competitive grants that are part of the EPA Enhancing State and Tribal Programs (ESTP) effort. The ESTP and Core Elements Framework were designed for state and tribal wetland programs that are in the developing stages but can be useful to all states and tribes, including those that are refining more mature wetland programs. Funds from these grants can be used to develop and implement a Wetlands Program Plan (WPP). The Core Elements Framework (CEF) outlines the 4 core elements a WPP may include, which are: Monitoring and Assessment, Regulatory Activities including 401 Certification, Voluntary Restoration and Protection, and Water Quality Standards for Wetlands. The development of a WPP allows states and tribes to implement the CEF based on their individual program goals and available resources.

Ten percent of the total national WPDG funds are set aside for a national tribal-only competition (about $1.3 million per year). Tribes may apply to both Requests for Applications (RFA) with the same or different proposals. The RFAs are very similar in requirements and selection criteria. The tribal-only RFA is a two-year cycle starting in FY2020. Headquarters indicated that the FY2021/2022 RFA should be released before the end of the calendar year.

The Region 6 solicitation is on a two- year cycle. Region 6 plans to release the FY 2021/2022 notice in the second quarter of FY 2021. For more information, please see https://www.epa.gov/wetlands/wetland-program-development-grants and https://www.epa.gov/wetlands/what-enhancing-state-and-tribal-programs-effort ***Wanda Boyd, 214-665-6696; Sondra McDonald, 214-665-7187***

NPDES PERMITS

STATUS OF NPDES PERMITS (UPDATED: OCTOBER 2020)

During fiscal year 2021, EPA Region 6 will or may be working on several NPDES permits located on or in proximity upstream to potentially affected Tribes: New Mexico: Roca Honda Resources Uranium Mine; Bloomfield WWTP; Navajo Dam DWC & NSW, Aztec WWTP, Cuba WWTP, Los Alamos National Laboratory (Wastewater and Stormwater permits), Rio del Oro WWTF, Jemez Springs WWTP, Socorro WWTP, Sandia Peak Ski Co., two Rio Rancho WWTPs, Bernalillo WWTP, Santa Fe WWTP, Aztec WTP, Rio Grande Resources Corp. – Mt. Taylor Mine, Rio Puerco WWTP, Farmington WWTP, Casa Blanca WWTP. and permits for Municipal Separate Storm Sewer Systems (MS4) in New Mexico. Louisiana: Coushatta Casino Resort WWTP. Multi-state General Permits already proposed or that will be in the works include: Multisector Industrial Storm Water General Permit (MSGP) and Construction Storm Water General Permit (CGP). Affected tribes will receive copies of the draft permits at the time of proposal for review during the public comment period or CWA Section 401 certification as appropriate. Tribal consultation will be available to the affected tribes. ***Brent Larsen, 214-665-7523***

DRINKING WATER

VOLUNTARY LEAD SAMPLING IN TRIBAL SCHOOLS (UPDATED: OCTOBER 2020)

The Region 6 Lead Sampling in Schools 3Ts program is a voluntary, one-time sampling effort to assess concentrations of lead in tribal school drinking water at tribal schools and childcare facilities that get their water from EPA Region 6-regulated drinking water systems. We are in the final year of conducting this EPA-sponsored voluntary program, and we anticipate that we will not collect samples after December 2020. Seventy percent of the tribal Head Starts and education facilities that were initially identified for this project have been sampled. The EPA Region 6 Drinking Water Team has conducted individualized outreach with water systems, environmental offices, and tribal administration regarding this effort since May 2018. Tribes who would like to participate before this program ends should reach out to Brian Dye to discuss initiating the sampling project. ***Brian Dye, 214-665-6441***

Air and Radiation Division

Air Programs Branch

Treatment as a State (TAS) for the Clean Air Act (CAA)

Region 6 has no CAA TAS applications currently. However, in previous years, Cherokee Nation, Kaw Nation, Peoria Tribe of Indians of Oklahoma, Pueblo of Laguna, Pueblo of Santa Ana, Pueblo of Zia, and Quapaw Nation have received approval for two or more of the following CAA authorities:

- **CAA §105** allows the Tribal applicant to apply for a reduced match of 5%, when managing a programmatic grant;
- **CAA §107(d)(3)** to receive notices from the EPA of the need for redesignation of an area or portion of an area within the Tribe's trust parcels for which it receives TAS authorization;
- **CAA §126** (a) and (b) to receive written notices of the construction of new or modified major stationary sources and of existing major stationary sources which may significantly contribute to levels of air pollution in excess of the national ambient air quality standards in any air quality control region outside the State in which such source intends to locate (or make such modification); and petition the EPA for a finding that any major source or group of stationary sources emits or would emit any air pollutant in violation of the applicable state implementation plan; and
- **CAA §505(a)(2)** for the purpose of giving the Tribe an opportunity to make comments and recommendations on operating permit applications for sources located within 50 miles of the Tribe's trust lands and parcels for which it receives TAS authorization.
  Frances Verhalen, 214-665-2172.

Funding and Grants

For FY2020, the EPA Region 6 received $1,156,690 in federal funding to support assistance agreements under statutory provisions of the CAA §103 and §105. On February 7, 2020, the Region received 15 proposals, eleven of which were funded to support CAA §103 projects and four for CAA §105 program grants. All awards were finalized by September 30, 2020.

The FY2021 Tribal Air Funding Announcement will be sent to all tribes, electronically, by the end of December 2020. ***Aunjaneè Gautreaux, 214-665-7127.***

Regulations/Guidance/Upcoming Requirements

Affordable Clean Energy Rule: On June 19, 2019, the EPA issued the Affordable Clean Energy Rule (ACE), an effort to provide existing coal-fired electric utility generating units (EGUs) with achievable and realistic standards for reducing greenhouse gas (GHG) emissions. This action was finalized in conjunction with two related, but separate and distinct rulemakings:

- The repeal of the Clean Power Plan (CPP).

- Revised implementing regulations for ACE, ongoing emission guidelines, and all future emission guidelines for existing sources issued under the authority of the CAA §111(d).

ACE provides states with new emission guidelines that will inform the state's development of standards of performance to reduce carbon dioxide (CO2) emissions from existing coal-fired EGUs – consistent with the EPA's role as defined in the CAA.

More information can be found at:
https://www.epa.gov/stationary-sources-air-pollution/affordable-clean-energy-rule

Guidebook for Energy Efficiency (EE) Evaluation, Measurement, and Verification (EM&V): In June, 2019, the EPA released a new Guidebook for Energy Efficiency Evaluation, Measurement, and Verification that draws from and builds on decades of state, local, and private-sector experience quantifying and verifying savings from energy efficiency projects and measures. The EM&V Guidebook is designed to help state, local, and tribal air and energy officials-as well as key stakeholders such as utility energy efficiency implementers-learn about, establish, or refine their EM&V approaches. The EM&V Guidebook can also help air officials understand the basics of EM&V and work with their energy counterparts to capture the air quality and public health benefits of these existing investments. The guidebook is also designed to:

- Describe key EM&V topics, methods, and approaches
- Ensure that customer-funded EE policies and programs are achieving intended results in a cost-effective manner
- Ensure that EM&V is carried out in a well-documented, rigorous, and consistent manner

The EM&V Guidebook may also help jurisdictions who want to collaborate on air and energy goals, evaluate the resulting air and energy impacts, and plan new policies and programs.

Amendment to the Oil and Gas FIP regulations in Indian Country was finalized on March 6, 2020: Specifically, the rule would allow for concurrent, rather than sequential, submission of two sets of documents:
(1) the Part 1 Form to register applicability under the FIP, and
(2) the screening procedures documentation for ESA and NHPA.

This final rule could reduce, by up to 30 days, the time between a source owner/operator's required submission of Endangered Species Act (ESA)/National Historic Preservation Act (NHPA) screening documents and beginning construction.

In addition, the final rule includes email as an optional form of written notification by the EPA Regional Office to the source owner/operator and corrects several incorrect citations and cross references. Please refer to the EPA Docket ID No. EPA-HQ-OAR-2014-0606 at http://www.regulations.gov for additional information.

Project Emissions Accounting Rule for NSR applicability: On August 9, 2019, the EPA proposed a revision to certain New Source Review (NSR) applicability regulations to clarify the requirements that apply to sources proposing to undertake a physical or operational change (i.e. a project) under the NSR preconstruction permitting program. This rule was signed on
October 22, 2020, and will be effective 30 days after publication in the Federal Register Specifically, this rule would revise the NSR applicability regulations that apply to projects that include a combination of new and existing units clarifying that project emissions accounting is allowed as part of Step 1 of the two-step NSR major applicability test. It should be noted that at this time there are no major NSR permitted sources operating on tribal lands in Region 6. For additional information please refer to: https://www.epa.gov/nsr/project-emissions-accounting-2

Revisions to the Once-In-Always-In Regulation for MACT sources: This rule was signed on October 1, 2020, and will be effective 60 days after publication in the Federal Register. On June 25, 2019, the EPA proposed regulatory text stating that a major source of hazardous air pollutants (HAP) may reclassify as an area source at any time after taking steps to limit emissions. A major source of HAP emits 10 tons per year or more of a single HAP or 25 tons per year or more of a combination of HAPs. Sources that are above major source thresholds and reduce emissions or currently operate to levels below major source thresholds can put in place enforceable emissions limits in a permit and thereby become an area source. For additional information please refer to
https://www.epa.gov/sites/production/files/2020-10/documents/frn_mm2a_2060-
Bonnie Braganza, 214-665-7340

March 11, 2020 – Final New Source Performance Standards (NSPS) for New Residential Wood Heaters and New Residential Hydronic Heaters and Forced-Air Furnaces. (Step 1): This rule amends the 2015 NSPS by removing certain minimum requirements for pellet fuels and clarifying a requirement regarding the use of unseasoned wood in pellet fuel production. However, on May 15, 2020, the EPA proposed amendments to the 2015 NSPS for New Residential Wood Heaters and New Residential Hydronic Heaters and Forced-Air Furnaces. to allow more time for retailers to continue selling Step 1-certified residential wood heating devices, due to the nationwide spread of the COVID-19 virus. If finalized, the EPA's proposed action would extend the date for commercial sales of Step 1-certified devices until November 30, 2020, in order to deplete the businesses' inventories.

The EPA accepted comments on the proposed amendments for 45 days after publication in the Federal Register. On June 8, 2020, the EPA held a virtual public hearing via teleconference on the proposed amendments to the 2015 New Source Performance Standards (NSPS) for New Residential Wood Heaters and New Residential Hydronic Heaters and Forced-Air Furnaces. Additional information on registration is at: https://www.epa.gov/residential-wood-heaters/proposed-amendments-new-source-performance-standards-residential-wood-0

NSR Guidance/Interpretation Concerning "Begin Actual Construction"
This guidance memorandum addresses how the EPA interprets "begin actual construction" as that term is defined under the EPA regulations implementing the major New Source Review (NSR) permitting program and the tribal minor NSR program (40 CFR 49.152). The EPA recognizes that the interpretation at issue was a long-standing one, and is clarifying and revising its interpretation that a source owner or operator may, prior to obtaining an NSR permit, undertake physical on-site activities - including activities that may be costly, that may significantly alter the site, and/or are permanent in nature - provided that those activities do not constitute physical construction on an emissions unit, as the term is defined in 40 CFR § 52.21(b)(7). Further, under this revised interpretation, an "installation necessary to accommodate" the emissions unit at issue is not considered part of that emissions unit, and those construction activities that may involve such "accommodating installations" may be undertaken in advance of the source owner or operator obtaining a major NSR permit. The EPA accepted comments on this draft guidance through Monday, May 11, 2020. The EPA is currently considering those comments. The complete document is available at:
https://www.epa.gov/sites/production/files/2020-3/documents/begin_actual_construction_032520_2.pdf

EPA Proposed Rules to Formalize Guidance documents:
On May 19, 2020, in an effort to curtail the growth in guidance documents, the EPA proposed new rules to formalize the guidance process that has been used to interpret the EPA's rules and the EPA's petition and court orders. This proposal resulted from an October 15, 2019 Executive Order that acknowledged the growth in agency use of non-binding guidance to regulate without following formal rulemaking procedures. In the proposal, the EPA affirmed that guidance documents are not legally binding and are intended only to provide clarification and information to the regulated community on existing statutory and regulatory requirements. Guidance is not intended to create new or additional requirements or limit interpretations of the applicable statutes or rules.

(3) The EPA in conformance with the Executive Order, will place current guidance on a searchable website. Guidance not on the website by June 27, 2020 is considered "rescinded" and may not be relied upon.
(4) The EPA will make a distinction between "guidance documents" and "significant guidance documents," with significant guidance documents required to go through notice and comment.
(5) Modification or withdrawal of active guidance can be sought by regulated entities, which may lead to litigation over the decision to accept or deny the modification/withdrawal request.

The EPA believes that rather than rely on the shifting sands of guidance, businesses can create certainty by aggressively using the applicability determination process to create binding written decisions that can be relied upon and, even in the air context, be incorporated into Title V permits. This process can help create the certainty sought by regulated entities by avoiding the legal uncertainties and now a layer of potential procedural confusion that may be associated with the new "guidance."

40 CFR 60 Subpart OOOOa: Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources Review: On September 24, 2019, the EPA published a proposed rule regarding the Oil and Natural Gas Sector Emission Standards for New, Reconstructed, and Modified Sources Review and opened a public comment period which ended on November 25, 2019. The proposal also included a provision for a public hearing which was held on October 17, 2019 in Dallas, TX.

This action proposes reconsideration amendments to the new source performance standards (NSPS). These amendments, if finalized, would remove sources in the transmission and storage segment from the source category, rescind the NSPS (including both the volatile organic compounds (VOC) and methane requirements) applicable to those sources, and rescind the methane-specific requirements the (''methane requirements'') of the NSPS applicable to sources in the production and processing segments. The EPA is also proposing, as an alternative, to rescind the methane requirements of the NSPS applicable to all oil and natural gas sources, without removing any sources from the source category. Furthermore, the EPA is taking comment on alternative interpretations of its statutory authority to regulate pollutants under the Clean Air Act (CAA), and associated record and policy questions. The federal register notice can be found at: https://www.govinfo.gov/content/pkg/FR-2019-09-24/pdf/2019-19876.pdf.
Taimur Shaikh, 214-665-6541.

Regional Haze SIPs for the Second Planning Period: States are required to submit periodic SIP revisions to address visibility impairment in certain national parks and wilderness areas (Class I areas) with the national visibility goal of restoring natural visibility conditions to these Class I areas by 2064. The SIP revisions for the second planning period which establishes visibility goals for 2028 for Class I areas based on identification of reasonable controls through weighing of the statutory factors are due in July of 2021. The EPA Region 6 is working closely with the States as they develop these SIP submittals.

ODEQ submitted to the EPA the "2019 Revisions to the Oklahoma Air Quality State Implementation Plan" on May 15, 2020. The EPA is currently reviewing the submittal and anticipates action in 2021.
Michael Feldman 214-665 9793

Review of the National Ambient Air Quality Standards (NAAQS): The Clean Air Act requires the EPA to periodically review the NAAQS to ensure that they provide adequate health and environmental protection, and to update those standards as necessary. The EPA is currently reviewing several NAAQS:

The EPA is reviewing the NAAQS for Ozone. On August 14, 2020, the EPA's proposed decision on its review of the Ozone standard was published in the Federal Register (https://www.govinfo.gov/content/pkg/FR-2020-08-14/pdf/2020-15453.pdf). The comment period closed October 1, 2020. Taking into account information and comments received on

the proposed rule, the EPA expects to complete its review of the Ozone NAAQS early in 2021. All of the review documents for Ozone are posted here: https://www.epa.gov/naaqs/ozone-o3-air-quality-standards.

The EPA is also reviewing the NAAQS for Particulate Matter (PM). On April 30, 2020, EPA's proposed decision on its review of the PM standard was published in the Federal Register (https://www.govinfo.gov/content/pkg/FR-2020-04-30/pdf/2020-08143.pdf). The comment period closed June 29, 2020. Taking into account information and comments received on the proposed rule, the EPA expects to complete its review of the PM NAAQS by the end of 2020. All of the review documents for PM are posted here: https://www.epa.gov/naaqs/particulate-matter-pm-air-quality-standards.

The EPA is also reviewing the secondary (welfare-based) NAAQS for oxides of nitrogen, oxides of sulfur, and PM. On October 19, 2020, the EPA announced the availability of a final document titled, "Final Integrated Science Assessment (ISA) for Oxides of Nitrogen, Oxides of Sulfur, and Particulate Matter-Ecological Criteria" (EPA/600/R–20/278). The link to the Federal Register announcement: https://www.govinfo.gov/content/pkg/FR-2020-10-19/pdf/2020-23100.pdf. The link to all documents associated with the EPA's review of the secondary NAAQS for oxides of nitrogen, oxides of sulfur, and PM:https://www.epa.gov/naaqs/nitrogen-dioxide-no2-and-sulfur-dioxide-so2-secondary-air-quality-standards-integrated-science. The next steps in this review are the draft Policy Assessment and draft Risk & Exposure Assessment -these documents are expected to be released by end of this calendar year.
Carrie Paige, 214-665-6521.

EPA's Advance Program: We remind the tribes to visit https://www.epa.gov/advance to view resources that promote local actions to reduce ozone and fine particulate matter.
Randy Pitre, 214-665-7299

Permitting on Tribal Lands

Title V Operating Permit for Monarch Waste Technologies: On May 20, 2020, the EPA issued the final CAA Title V (Part 71) permit for Monarch Waste Technologies, LLC (Monarch), the owner/operator of a facility located on the Nambe Pueblo near Santa Fe, New Mexico. The facility's Pyromed 550 System is a Hospital Medical Infectious Waste Incinerator (HMIWI), subject to the New Source Performance Standards (NSPS) for HMIWI, Subpart Ec. The administrative record as required by 40 CFR § 71.11, is available at the Regulations.gov website, under Docket #EPA-R06-OAR-2019-0561.
Bonnie Braganza, 214-665-7340.

Title V Operating Permit Renewal for the El Paso Natural Gas Laguna Compressor Station: The Title V permit renewal has been issued on July 30, 2020, and is effective for five years until renewed (July 29, 2025). The Laguna Compressor Station owned and operated by the El Paso Natural Gas Company, LLC (EPNG), a Kinder Morgan company is a natural gas compression station for natural gas and is located on the Laguna tribal land, NM.
Erica LeDoux, 214-665-7265

Choctaw Casino and Resort, Durant, OK: The permit for the gaming facilities at the e Choctaw Casino, Durant was public noticed from July 31st through August 31, 2020. No public comments were received, and the final permit was issued on September 17, 2020. All documents related to this action are available at www.regulations.gov, docket # EPA-R06-OAR-2020-0376
Bonnie Braganza, 214-665-7340.

New Permitting Activities in Region 6:

(6) Enterprise Field Services LLC. has applied for the renewal of their existing Part 71-Title V operating permit for the Lindrith Compressor Station on Jicarilla Apache tribal land, NM. This renewal will incorporate the 2018 synthetic NSR permit limits. The EPA declared the application administratively complete on June 29, 2020. The permit is currently being drafted for public notice for the end of calendar year2020. Letters have been sent to adjacent tribes (Jicarilla Apache Navajo, Jemez and Southern Ute) inviting them to consult with the EPA on this proposed action.

(7) Choctaw Defense Manufacturing LLC has applied for a minor NSR permit for the operations of their current plant located in McAlester, OK. The permit application was declared administratively complete on July 24, 2020, and the EPA is in the process of issuing invite letters to the adjacent tribes for consultation on this potential action. The permit is being drafted for potential public notice by the end of the calendar year.

(8) The EPA has received a permit application from Transwestern Pipeline Company LLC., for the renewal of its existing Title V permit of the Laguna Compressor Station No. 6 on Laguna tribal lands, New Mexico. This permit was declared administratively complete on
September 17, 2020.

(9) The Choctaw Pocola Casino and Resort, LeFlore County, OK, has requested a minor NSR permit for the gaming facilities on Choctaw tribal trust lands. The facility is located approximately 6 miles southwest of Fort Smith, AR. The application was received by the EPA on 10/2/2020 and is being processed for completeness.
Bonnie Braganza, 214-665-7340.

Tribal Registrations: The EPA Region 6 continues to accept only changes in operations or change of ownership of registered facilities that registered with the EPA prior to September 2, 2014. If the changes exceed the minor thresholds limits in Table 1 of 40 CFR §49.153, the facility must apply for a minor NSR permit.
Bonnie Braganza, 214-665-7340.

Land, Chemical and Redevelopment Division

RCRA, Brownfields, and Solid Waste Branch

Regulatory Updates

Coal Combustion Residuals (CCR) Rule: On September 11, 2020, the Texas Commission on Environmental Quality (TCEQ) submitted a Coal Combustion Residuals (CCR) Program Authorization application package to EPA. EPA is currently evaluating whether it meets the necessary elements of 40 CFR §257, Subpart D pertaining to CCR units. On October 19, 2020, the Region kicked off our tribal consultation period for the Texas CCR program with a virtual meeting/conference call. The call was attended by representatives from three Texas tribes (Isleta Del Sur Pueblo, Alabama Coushatta Tribe, and Kickapoo Traditional Tribe of Texas), along with Regional and HQ staff. EPA provided an overview of the CCR program and answered questions from tribal participants. The tribal consultation period ends on December 2, 2020, but the tribes may also provide comments during the public comment period when the proposal is published for the Agency's action on the application. Upon EPA's approval of the Texas CCR registration program, the state program will operate in lieu of federal regulation of CCR facilities. ***Harry Shah, 214-665-6457***

RCRA Facility Updates

Fort Wingate Depot Activity (FWDA), New Mexico: Remediation continues under NMED's RCRA closure/post-closure permit. Removal of explosives-contaminated soils (70,000 cu yd) at the TNT Leaching Beds was completed last year. Major remediation work at the former Open Detonation/Open Burn (OB/OD) Area continues, with over half of the soil excavated and sifted. However, the Army requested from NMED deliverables extensions of 3 – 5 years due to funding and contracting issues. NMED, after some discussions with Army, issued NOVs with stipulated penalties based upon Army's failure to meet Permit schedules; this issue is still in flux. Most of the facility is scheduled to be returned to the Navajo Nation and the Pueblo of Zuni. Twelve of the facility's 25 land parcels, totaling 8,350 acres, were transferred to those tribes last year. Tribal, BIA, NMED and EPA participation continues under the base closure process. The normal semi-annual Base Closure Team meetings in Gallup were cancelled in 2020 due to the pandemic. FWDA is planning to send stakeholders program update information in November 2020. ***Laurie King, 214-665-6771***

EPA/NREL/Kickapoo Tribe Partnership Project: In the Spring of 2020, EPA Region 6, the Kickapoo Traditional Tribe of Texas (KTTT), and the Department of Energy's National Renewable Energy Lab (NREL) formed a partnership to promote renewable energy/energy efficiency (RE/EE) opportunities on Tribal property near Eagle Pass, TX. The project is being funded via an Interagency Agreement between the Region 6 RCRA Program and NREL. KTTT has identified several facilities/locations on their property for a RE/EE feasibility study. The project partners are conducting monthly conference calls to share information and provide status updates. The effort is also being supported by the Region 6 Tribal and Border Offices. ***Jeanne Schulze, 214-665-7254***

BROWNFIELDS

Brownfields Section 128(a) Program – Tribal Grant Awards: Following the FY 2020 Funding Guidance for State and Tribal Response Programs, the Region 6 Brownfields Section awarded a total amount of $640,841 to seven Tribes. The Comprehensive Environmental Response Compensation and Liability Act Section 128(a) program oversees surveys, inventory, assessment and cleanup activities at brownfield sites. In Region 6, there is an inventory of approximately 91 Brownfields sites on Tribal land: Absentee Shawnee Tribe (19 sites), Choctaw Nation (12 sites), Eight Northern Indian Council Pueblos (6 sites), Inter Tribal Environmental Council/Cherokee Nation (8 sites), Kickapoo Tribe of Oklahoma (2 sites), Pueblo of Santa Ana (15 sites) and Muscogee (Creek) Nation (29 sites). Currently, environmental assessment work is taking place on at least 21 Tribal Brownfields sites. This data can be found in the Assessment, Cleanup and Redevelopment Exchange System (ACRES), which is an online database for Brownfields grantees to electronically submit data directly to EPA and/or a public record system established and maintained by the grantee. ***Althea Foster, 214 665-2268***.

2021 National Brownfields Conference in Oklahoma City, Oklahoma: The 2021 National Conference previously scheduled for April 27-30, 2021, has been rescheduled to September 27-30, 2021. The Conference location will remain at the new OMNI Hotel and OKC Convention Center. The Conference is postponed due to the impacts of the COVID-19 pandemic. ***Althea Foster, 214-665-2268***

SOLID WASTE

National Recycling Strategy Released For Comment: EPA Headquarters recently released a draft National Recycling Strategy and is now seeking public input through December 4th, 2020. The draft National Recycling Strategy identifies strategic objectives and actions needed to create a stronger, more resilient, and cost-effective U.S. municipal solid waste recycling system. ***Roger Hancock, 214-665-6688***

EPA Recycling with COVID-19 Resources Site and Videos: EPA HQ has released several videos on YouTube to address recycling with COVID-19, as well as a website with information, resources and links for additional information. These have been sent out to all Region 6 tribes and discussed on RTOC calls. Any new information or fact sheets will be forwarded as soon as we receive them. Here are the links:

- EPA Administrator Wheeler's video message: https://youtu.be/BcGonQ3rx3Y
- Don't recycle Personal Protective Equipment video: https://youtu.be/S1cERI3IbeY
- Recycling during health crisis video: https://youtu.be/_ADZ8vH-r4M

Press release: https://www.epa.gov/newsreleases/epa-stresses-importance-recycling-and-proper-disposal-personal-protective-equipment

This is the Recycling During COVID-19 web page: https://www.epa.gov/coronavirus/recycling-and-sustainable-management-food-during-coronavirus-covid-19-public-health

This last link is also available at www.epa.gov/coronavirus. ***Roger Hancock, 214-665-6688***

EPA and ENIPC Tribal Recycling Workshop: *Please note that this Workshop has been postponed until Fall 2021 due to COVID-19* As part of EPA celebrating America Recycles Day, the Region has committed to hold a tribal recycling workshop in New Mexico. We will co-host the event with the Eight Northern Indian Pueblos Council (ENIPC) and hold it at the Santa Ana Pueblo Wellness Center. We are encouraging tribal solid waste staff, as well as Environmental Directors to come as this will be a hands-on workshop with field training. The first day will feature several Pueblo speakers discussing their solid waste and recycling programs, as well as federal, state and nonprofit officials discussing resources available to tribes. On the second day, we will provide transportation to the attendees to visit three Pueblo transfer stations. Rooms are provided for all attendees. ***Roger Hancock, 214-665-6688***

ITEP Selected Again for National Tribal Solid Waste Training: The Institute for Tribal Environmental Professionals (ITEP) was selected again to be EPA's national training and Peer Matching provider. They have done many national solid waste trainings and will continue to offer them this year. Due to COVID-19, upcoming trainings are planned to be virtual. We will be notifying everyone as soon as we hear of upcoming events and trainings and you can also access more information, presentations and documents at:
https://www7.nau.edu/itep/main/Waste/ **Roger Hancock, 214-665-6688**

UST, Pollution Prevention, Pesticides and Lead Branch

Grants

Pesticide Program Grants: Cooperative agreements were awarded to two tribal consortia, the Inter-Tribal Environmental Council (ITEC) and the Eight Northern Indian Pueblos Council (ENIPC) on September 18, 2020 and September 16, 2020, respectively, to assist member tribes in building capacity to establish and maintain pesticides programs. The goal of the tribal pesticides program is to make tribes aware of the benefits and risks of pesticides and the requirements for their safe use, thereby safeguarding human health and the environment. ENIPC also submitted the final QAPP for the Pesticide Program on August 31, 2020 with only minor changes described in the QAPP cover letter. ***Clarisa Romero, 214-665-6597***

Lead Paint Program Grants: The Cherokee Nation of Oklahoma was awarded a grant in September 2020 to conduct a Lead Based Paint Program. The focus of the program is maintaining the appropriate infrastructure to successfully administer and enforce the lead-based paint program, providing training for lead inspectors, and, conducting inspections of licensed contractors engaged in lead-based activities and taking appropriate enforcement when needed. ***Mike Adams, 214-665-6711***

Region 6 Tribal Sustainable Management of Food Initiative: As part of R6 EPA's continuing work in support of America Recycles Week efforts, R6 has developed videos that highlight important environmental work being conducted by tribes across the region and planned an EPA Tribal Recycling Workshop for March of 2020 (delayed due to COVID-19). In summer 2020, Region 6 awarded two Direct Implementation Tribal Cooperative Agreements for $30,000 each,

one to ENPIC and one to ITEC. This project builds on the video efforts with a focus on the sustainable management of food at tribal schools and colleges, as well as other tribal facilities and cultural events that produce high volumes of food waste. Sustainable management of food is a systematic approach that seeks to reduce wasted food and its associated impacts over the entire life cycle, starting with the use of natural resources, manufacturing, sales, and consumption and ending with decisions on recovery or final disposal. Region 6 will promote innovation and highlight the value and efficient management of food as a resource through our partners ENIPC and ITEC. Through the sustainable management of food, we can help businesses and consumers save money, provide a bridge in our communities for those who do not have enough to eat, and conserve resources for future generations. Building on the familiar concept of "Reduce, Reuse, Recycle," this approach shifts the view on environmental protection and more fully recognizes the impacts of the food we waste. ***Deanna Debose 214-665-6461***

Underground Storage Tanks (UST): The ITEC and ENIPC on-going grants provide compliance assistance to tribal UST owners and operators. The work of these two organizations has been instrumental in maintaining a compliance rate of over 85% at Region 6 Tribal facilities for the last three years. These grants have been fully funded for FY21. ***Audray Lincoln, 214-665-2239***

Program Implementation

Federal Certification of Applicators of Restricted Use Pesticides (RUP) in Indian country: On February 6, 2014, EPA issued a federal certification plan that allows the use of RUPs in Indian country by trained, tested, and certified applicators. The plan also allows EPA to regulate the sale and distribution of RUPs in Indian country. The certification requirements for RUPs help ensure that RUP applicators are competent to use these hazardous pesticides as safely as possible. Currently, there are 17 certified commercial applicators of RUP in Indian Country in EPA Region 6. ***Greg Weiler, 214-665-7564***

UST Inspections: During FY21, EPA Region 6 plans to conduct 50 inspections of UST facilities operated on Tribal lands and provide onsite compliance assistance. This total includes 15 inspections not completed in FY20 due to COVID-19 travel restrictions. Individual notifications for inspections are sent to the owner/operator and the Tribal environmental offices 30 days before the inspection. Compliance at EPA Region 6 tribal facilities has dropped due to new regulatory requirements that went into effect on October 13, 2018. The overall rate has dropped from around 87% to approximately 70%. ***Ruben Moya, 214-665-2755 and Robert Glynn 214-665-8350***

Regulations

Agricultural Worker Protection Standard (WPS): Compliance with most of the revised WPS requirements began on January 2, 2017. Compliance for two additional requirements started January 2, 2018; specifically, the pesticide safety information display including revised content (poster), and pesticide handlers (applicators) will have to temporarily suspend applications if workers or other persons enter into the Application Exclusion Zone (AEZ) during pesticide applications. The EPA finalized updates to the AEZ on October 29, 2020. Changes modified the

AEZ so it is applicable and enforceable only on a farm owner's property, exempt immediate family members of farm owners from all aspects of the AEZ requirement, add clarifying language that pesticide applications that are suspended due to individuals entering the AEZ may be resumed after those individuals have left the AEZ, and simplify the criteria for deciding whether pesticide applications are subject to the 25- or 100-foot AEZ. ***Greg Weiler, 214-665-7564***

Underground Storage Tanks: The new EPA UST regulations provide additional protections for UST facilities on Indian land. Deadlines for requirements taking effect were October 13, 2015, April 11, 2016, and finally October 13, 2018. The October 13 deadline included operator training. The new regulations require training for three classes of operators at all UST facilities: Class A, B and C. The Office of Underground Storage Tanks (OUST) has prepared compliance assistance publications and has a certification test that is available on the web that will provide a certificate of completion for both Class A and B operators. The Intertribal Environmental Council (ITEC) and the Eight Northern Indian Pueblos Council (ENIPC) are providing training to the tribes in support of the required certifications. For more information, visit EPA's webpage at https://www.epa.gov/ust/class-a-and-class-b-ust-operator. ***Ruben Moya, 214-665-2755***

Tribal Outreach

Lead Based Paint Program Webinar: The EPA Region 6 Lead-based Paint Program partnered with the Region 6 Children's Environmental Health Program and the Eight Northern Indian Pueblos Council, as well as EPA Region 8 and Region 9 to hose a webinar on the Tribal Lead Curriculum. Over 150 individuals were able to attend virtually on October 27, 2020. The webinar was offered in response to the delayed Lead Based Pint Program Symposium that is now delayed into 2021. ***Mike Adams, 214-665-6711***

Lead Based Paint Program Certification Training: The EPA Region 6 Lead-based Paint Program is providing RRP Renovator Certification Training for 20 tribal members from the Eight Northern Indian Pueblos Council on October 29th & 30th, 2020 in Albuquerque NM. This training is being provided by the Pediatric Environmental Health Specialty Unit for Region 6. ***Mike Adams, 214-665-6711***
The RRP Renovator Certification Training has been postponed due to the COVID-19 pandemic. All state and local guidelines will be followed before convening the two classes of 10 students each.

Community Integrated Pest Management and Pesticide Safety Program Development: EPA Region 6 Pesticides Program continues to work with partners in the development of Community Integrated Pest Management (IPM) and Pesticide Safety Program Development workshops for Tribal environmental departments, schools, and health clinics. On February 11, 2020, Region 6 staff provided an introduction to community IPM and pesticide safety in Indian Country and the components of an effective facility/division IPM plan to environmental, grounds, and health clinic leadership representing the Muscogee Creek Nation, Cherokee Nation, Iowa Tribe of Oklahoma, Kiowa Tribe of Oklahoma, Delaware Nation, and the Comanche Nation. **K*enneth R. McPherson, 214-665-6754***

Region 6 Healthy Schools Newsletter and COVID-19 Outreach Information: Region 6 has begun to publish a quarterly Region 6 Healthy Schools Newsletter with articles on recycling, pesticides, lead paint, water quality, indoor air quality, Children's Health and more. In response to the ongoing pandemic, Region 6 published and shared to school representatives, including those for Tribal Schools, a special edition Schools Newsletter that focused specifically on the reopening of schools. Region 6 developed letters that were sent to childcare, elementary through high school, and university affiliated staff and management emphasizing the importance of the safe use of disinfectants. Additionally, Region 6 presented on a webinar entitled "Addressing Disease Mitigation in Schools, Daycare Centers and Universities with Sanitizers and Disinfectants." Region 6 continues to conduct outreach to various parties that have questions on the safe and effective use of disinfectants. **K*enneth R. McPherson, 214-665-6754***

Inter-Tribal Environmental Council (ITEC) Pesticides Program: ITEC staff attended the Tribal Pesticides Program Council Fall face-to-face meeting, hosted by the Yakama Nation in Toppenish, WA from October 8-11, 2019. During this meeting, ITEC staff also attended a one-day training on risk assessment and risk communications. ITEC staff attended the NRCS Oklahoma Tribal Conservation Advisory Council and Oklahoma Gas & Electric Pollinator Workshop, hosted by the Citizens Potawatomi Nation in Shawnee Oklahoma on December 4th, 2019.

ITEC Pesticides staff coordinated with the ITEC Conference Coordinator to set up the pesticides session for the 25th Annual ITEC Conference Webinars which took place on July 30, 2020. The pesticides session included the following topics and speakers, "How NPIC Discusses Pesticide Risk with the Public", Costanza Fantoni, National Pesticide Information Center, "Developing a Facility Integrated Pest Management and Pesticide Safety Plan", Ken McPherson, EPA Region 6, and "e-commerce and Pesticides", Kristin Dunbar, EPA Region 6.

ITEC staff have continued to participate in webinars and conference calls, including COVID-19 webinar "Safe and Proper Use of Disinfectants, and Household Cleaners", monthly Tribal Pesticide Program Council (TPPC) executive conference calls, TPPC working group calls groups (Direct Implementation WG, Risk Assessment WG), Tick IPM working group conference calls, the EPA Integrated Pest Management Series Webinars, and the State/Tribal/SLA/EPA mid-year pesticides meeting on May 11-12, 2020.

ITEC staff have also submitted Tribal Pesticides reports to the Tribal Environmental Coalition in Oklahoma (TECO) for the teleconference meetings. TECO is a partnership of several tribes in the State that brings educational and informational resources together for multiple tribes to attend and learn from other professionals.

ITEC pesticide staff have continued to assist and provide information/brochures/fliers/support to tribes who reach out with pesticide concerns. ITEC staff continue to maintain the pesticide application notification. ITEC has been receiving the Casino data from the Allstate pest control company and the Health Clinic data from the PestOff pest control company as well as data from Health Clinics that do not have contracts with a professional pest service.

On March 23, 2020 ITEC staff were required to work from home due to the COVID-19 pandemic. Staff worked from home through May 2020 and returned to the office in staggered shifts on June 1, 2020. ***Clarisa Romero, 214-665-6597***

Eight Northern Indian Pueblos Council (ENIPC) Pesticides Program: ENIPC attended and participated in one EPA Community IPM Workshop and presented on Integrated Pest Management (IPM) techniques at a San Felipe Housing Seminar. The program also participated in several meetings with EPA Center for IPM to discuss potential projects including an IPM workshop, involvement with Tribal Agriculture Programs, and the potential to work with a tribe to create a community IPM plan. The Pesticide Program also made a webpage update outlining all services offered by the program and included a brief definition of IPM and description of facility walk-throughs.

The Pesticide Program also began conducting meetings with Tribal Agriculture (Ag) Programs to assess pest and/or pesticide concerns from an agricultural perspective, learn about what methods the pueblos already use to address pests and whether or not they are working effectively, as well as to assess the needs of the programs to develop training, outreach, materials, and resources. Interested Tribal Agriculture Programs have now been put on a listserv where pollinator and IPM information can be distributed.

ENIPC-OETA worked with New Mexico Department of Agriculture Certification and Training Program to provide two Pesticide Applicator Trainings at two different tribal locations- Santo Domingo Pueblo and in San Felipe Pueblo. Collectively, the two trainings served 37 tribal natural resources staff from 6 pueblos. NMDA covered requirements of state certification, ENIPC provided information on the Federal certification required to apply RUP's on tribal lands. Unfortunately, due to COVID-19, no applicator trainings were held in the 2nd half of FY 20.

In FY 20, ENIPC-OETA Pesticide Program has partnered with two pueblos, San Ildefonso and Santo Domingo, to build pollinator gardens in their communities. The goal is to create gardens and outreach materials (e.g. PowerPoint presentation, website update, flyers, and/or social media posts) that can be used as tools to educate tribal youth, growers, and the general community about protection of native pollinators. The program was also able to solicit donations of native pollinator plants, soil, and mulch from local and tribal organizations. The Pesticide Program worked with each pueblo to finalize a shopping list of supplies unique to each garden. The lists were finalized in late August, and all supplies besides plants, soil, and mulch were purchased by the end of August. The program then worked with the tribes and suppliers to receive the donated items by the end of the second week of September. Santo Domingo picked up all donated items and completed their pollinator garden the day after. San Ildefonso Pueblo had difficulty finding someone to construct the garden bed. The Natural Resource Department of San Ildefonso has not addressed or followed through with assisting with the construction of the garden bed. Although ENIPC-OETA staff is willing to assist, San Ildefonso Pueblo remains closed to non-residents and visitors.

ENIPC staff have continued to provide updates and information about current program services, webinars, virtual pest and pesticide training, and SARs-CoV-2 disinfectants and cleaning methods. ENIPC Staff have also continued to participate in virtual staff meetings and in the semi-annual Region 6 Pesticide Meeting and Pre-SFIREG Conference call. Program updates were provided as well as input for the upcoming FIFRA workplan guidance. ENIPC-OETA participated in two Intertribal Resource Advisory Committee (IRAC) meetings during which the tribes had an opportunity to discuss regional or national environmental policies or issues, as well as hear/provide updates and announcements from the tribes.

ENIPC staff had been working from home since mid-March but was still successful in continuing their outreach and educational goals. ***Clarisa Romero, 214-665-6597***

Enforcement and Compliance Assurance Division

Staff Update

EPA Region 6 congratulates the Enforcement Compliance and Assurance Division Water Enforcement Branch Chief, Jerry Saunders on his retirement after more than thirty-eight years. Through Jerry's leadership, Region 6 continues to be a national leader in water enforcement. He worked tirelessly to build professional growth among his staff, foster partnerships with states and tribal nations, and identify/support solutions that would bring the type of environmental benefits that ensure clean water to drink, play, and enjoy. (Jerry is enjoying spending time with his wife Nan and their grandchildren, as well as planning family trips, fishing, and hunting). In October, Bryant Smalley was hired as the Water Enforcement Branch Chief. ***Bryant Smalley 214-665-7368***

Implementation of the National Compliance Initiative – Compliance Assistance for Tribal land: The EPA implemented the National Compliance Initiative (NCI) for Significant Non-Compliance (SNC) in fiscal year 2019. The SNC NCI puts an increased focus on enforcement at sources (e.g. minors) that have not historically been a focus of EPA's compliance priorities. Potential results include proposed penalties at minor sources. Many small communities including tribes have limited financial and/or technical resources to achieve and maintain compliance. Region 6 conducted a compliance assistance visit to Alabama Coushatta Tribe in February of 2020 to provide training on electronic reporting and effluent compliance.
Bryant Smalley 214-665-7368

Growing Trend of Concern Relative to Drinking Water: There is a growing trend for non-compliant public water supply systems on Tribal or Pueblo Lands in Region 6. We have a total of 4 systems that are not in compliance with varying components of the Safe Drinking Water Act with ETT scores of 11 or higher. Note that some of these already have active administrative orders. Based on site visits and inspections, we have determined that the two most common factors contributing to this growing trend are: 1) failure to adequately fund proper operation and maintenance, and 2) failure to acquire and retain qualified operators. There are some misconceptions about funding for operations and maintenance (O&M). Federal grant allocations cannot fund O&M expenses because they are the tribe's/owner responsibility. Grant funds can be used to support infrastructure improvements necessary to improve the efficiency necessary to meet Safe Drinking Water Act standards. The EPA Office of Enforcement and Compliance Assurance has contract support available to assist tribal drinking water facilities develop asset management plans and standard operating procedures necessary to ensure infrastructure continues to provide clean and safe drinking water. EPA encourages the tribes/pueblos to continue to seek both internal and external resources necessary to maintain proper operations and maintenance and hire staff necessary to provide safe drinking to tribal communities. Failure to do so may result in enforcement action by EPA. ***Curry Jones 214-665-6793***

Mescalero Apache Drinking Water: Protection of drinking water is a key pillar in building strong communities. Mescalero Apache Tribe has 10 public water systems serving about 6,000 people across 50 square miles. These Public Water Supply (PWS) systems have historically had numerous operations, maintenance and management issues that were not addressed for over two decades that negatively impact drinking water. EPA has provided millions of dollars to Mescalero for infrastructure projects ($2,539,400 in 2008; $212,100 in 2015; $787,750 in 2017). EPA issued

a Unilateral Administrative Order, a first of its kind Public Notice order on December 18, 2018, covering 10 systems to the Mescalero Apache Tribe for failure to address 181 significant deficiencies in their drinking water system. This order requires that the tribe post Public Notice of their failure to address these deficiencies and continue to repost every three months until all significant deficiencies are corrected. The Public Notice order concept originated in Region 6 and is the first of its kind in EPA. It has proven to be a very effective tool to reach the citizens consuming the water. EPA continues to work with Mescalero Apache Tribe to promote the need for obtaining necessary personnel and financial resources to address the remaining deficiencies. As a result of the EPA partnership with Mescalero Apache Tribal leadership, the tribe has resolved 151 of the 181 deficiencies within the first 22 months of the unilateral order. This represents a completion of 83% of the significant deficiencies. Some of the remaining deficiencies require construction projects that, once complete will address the issues. This partnership and these meaningful steps will ensure that Mescalero Apache Tribe will be able to provide clean and safe water to tribal members. ***Curry Jones 214-665-6793***

Clean Water Act referral to EPA due to Impact to Toltec Mounds (Arkansas)

In September 2019, the Little Rock District Corps of Engineers referred Clean Water Act Section 404 violations to Region 6 involving the construction of a water control structure and alteration of a levee in Mound Lake, Arkansas. These violations have severe secondary impacts to the Toltec Mounds, an archeological site and designated National Historic Landmark located in an Arkansas State Park. There is also a Keepsafe Cemetery located on the Toltec Mounds Archaeological State Park property that is adversely impacted by the violations. The EPA has contacted the Quapaw Tribe of Oklahoma, the Osage Nation, Caddo Nation, and Tunica-Biloxi Indian Tribe of Louisiana regarding our goal of addressing the violations in a manner that removes the threat of impact to the archeological site. ***Curry Jones, 214-665-6793***

Multi Agency/Tribal Collaborative Advanced Fish Kill Training

On November 20 and 21, 2019, representatives of EPA Region 6 participated in an Advanced Fish Kill training sponsored by the Oklahoma Kill Response Management Taskforce in Edmund, Oklahoma. The purpose of the training was to enhance inspection/investigation skills when responding to an unpermitted release to surface water resulting in fish, mussel or other aquatic species kills. ***Guy Tidmore, 214-665-3142***

Multi Agency/Tribal Collaborative Training

On October 23, 2019, representatives of EPA Region 6 co-hosted a collaborative training with the Oklahoma Department of Environmental Quality and Osage Nation Department of Natural Resources to enhance communications between State, Tribal and Federal partners and leverage resources to address environmental issues from brine releases at oil production operations in Oklahoma. The training had 50 attendees representing 9 Tribes, 4 State Agencies and 7 Federal Agencies. ***Guy Tidmore, 214-665-3142***

Discussions of EPA Credential for Osage Nation Inspectors

The Osage Nation has expressed an interest in obtaining EPA Credential to authorize them to conduct Inspections of SPCC regulated facilities in Osage County, OK on behalf of the EPA. EPA Region 6 supports the concept and has been working with the Osage Nation to

further this effort. Additionally, the Osage Nation has received a Grant from EPA to assist with obtaining the required training for the credentialing process. ***Guy Tidmore, 214-665-3142***

Superfund and Emergency Management Division

TRIBAL CONSULTATION AND COORDINATION

VARIOUS REMOVAL/REMEDIAL ISSUES

Tulsa Fuel and Manufacturing, Collinsville, OK: EPA Headquarters announced the Notice of Deletion in the Federal Register in September 2020, and the Tulsa Fuel and Manufacturing site was officially deleted from the Superfund National Priorities List on September 30, 2020. The TFM Closeout Report was issued in April 2020, the Notice of Intent to Delete was published in the Federal Register, with opportunity to comment from July 17, 2020, through August 16, 2020. The State will continue to optimize post-construction operation and maintenance activities and identify potential beneficial reuse opportunities at the site. ***John Meyer, 214-665-6742.***

Quapaw Nation, Tar Creek, OK: In September 2020, EPA, in conjunction with the Quapaw Nation, completed a remedial action project that restored 17 acres of land and removed over 132,000 tons of chat. EPA continues to work closely with the Quapaw Nation Environmental Office (QNEO) and the Oklahoma Department of Environmental Quality (ODEQ) in implementing the remedial actions for the Tar Creek Superfund Site for Operable Units 2 (OU 2, Residential and High Access Areas) and 4 (OU4, Chat Piles and Other Mining Wastes). Since awarding the first-ever Tribal Remedial Action Cooperative Agreement (CA) in FY2012, the EPA has awarded 9 CAs to QNEO and 4 CAs to ODEQ for remedial action totaling an estimated $86 million. In addition, EPA, QNEO, and the ODEQ continue to review and identify opportunities to reduce costs and optimize cleanup activities. ***John Meyer 214-665-6742***

Tar Creek OU5 (Surface Water and Sediments), OK: EPA continues to work with the 7 Tar Creek Trustee Council Indian Tribes, the Quapaw Nation,, states, community and other federal agencies to plan, report and review the risk assessment and investigation reports, as well as the feasibility study. The final OU5 Characterization Report was issued in April 2020. EPA had two webinars and a follow-up conference call to discuss the risk assessment process and findings with the tribes. The draft human health risk assessment was released for review on May 14, 2020, with an extended comment period through August 17, 2020. EPA continues to review and incorporate comments received on the Draft Human Health Risk Assessment Report for OU5. The EPA will continue to coordinate with the tribes interested in the Tar Creek Site through periodic meetings, conference calls, and document sharing, including planning and discussion meetings in support of watershed technology identification and evaluation. The next target milestone for OU5 is to work through the comments and revise the human health risk assessment. In addition, EPA will work with the group to identify remedial action objectives and preliminary remediation goals. ***John Meyer 214-665-6742***

Wilcox Oil Company, Bristow, OK: In September 2020, EPA issued the contract for the Source Control Interim/Early Action that was documented in the 2018 Source Control Record of Decision. The initiation of the construction is expected in winter 2020. This action will address approximately 25,000 cubic yards of source material located at eight former tank locations and approximately 5,800 cubic yards of lead source material in the lead additive area. Concurrently,

the development of the Feasibility Study (FS) continues and included an August 2020 field event to collect additional data to fill gaps related to ground water nature and extent. The next milestones for the project will be the release of the revised Remedial Investigation Report, the revised Human Health and Ecological Risk Assessments, and the draft FS. The draft FS is scheduled for release and comment by end of calendar year. ***John Meyer 214-665-6742***

Oklahoma Refining Company, Cyril, OK: In September 2020, EPA awarded cooperative agreement funding to the ODEQ to initiate the Operable Unit 2 (North Side) Remedial Action, consisting of excavation of contaminated soils and sediments, on-site disposal of the excavated materials in the hazardous waste landfill, and recovery and monitoring of light non-aqueous phase liquids. The ODEQ anticipates making a contract award by Spring 2021. EPA and ODEQ will continue to coordinate with and inform OK tribes on site milestones. ***John Meyer 214-665-6742***

Fansteel Site, Muskogee, OK: The EPA Removal Program is compiling information needed to document the release or threat of release of contaminants from the site and potentially affected nearby human and environmental receptors. A newly completed streamlined radiological risk review of the on-site soil stockpile indicated excess risk for outdoor workers at 3.35×10^{-03}. An evaluation of the existing on-site ground water treatment system did not identify any operational changes that would result in significant cost savings. The removal program will determine the best strategy to reduce risk and the likelihood of release from the soil stockpile. ***Craig Carroll, 214-665-2220***

Henryetta Iron and Metals, Henryetta, OK: On September 3, 2020, the Henryetta Iron and Metals site, a 3-acre scrap metal yard on the western side of the city of Henryetta, in southern Okmulgee County, OK, was listed on the National Priorities List.is. Historical operations consisted of metals recycling since the 1930s. Electrical transformers containing polychlorinated biphenyls (PCBs) were reportedly recycled on-site beginning in the 1950s. The facility continues to accumulate and store scrap metals on-site. In addition to PCBs, soils at the Site include numerous polycyclic aromatic hydrocarbons (PAHs), volatile organic compounds (VOCs), semivolatile organic compounds (SVOCs) and metals. Total petroleum hydrocarbons (TPHs) have been found in Dutch Creek, which runs along the western portion of the site. The EPA Removal Program will be conducting an assessment at the site in November 2020. EPA has notified the nearby Muscogee Creek Nation of these planned assessment activities, which include sediment sampling of Dutch Creek upstream and downstream of the site. ***Craig Carroll, 214-665-2220 and John Meyer 214-665-6742***

Jackpile-Paguate Uranium Mine Site, Paguate, NM: Work associated with the Remedial Investigation is coordinated with the Pueblo of Laguna. Field sampling plans for groundwater and surface water evaluation, sampling and analysis are in the final stages of development by Atlantic Richfield (AR), the Potentially Responsible Parties for the site. Recently, AR performed road improvements to gain better access to site locations; field teams also conducted physical evaluations and vegetation clearing in order to i.e., install monitoring and sampling devices at hard to reach areas, and monitoring wells at strategic locations including along stream channels. Groundwater monitoring wells are expected to be installed during winter 2020-2021. ***John Meyer 214-665-6742***

New Mexico Abandoned Uranium Mines – Five Year Plan: EPA is developing the 2021-2025 Five-Year Plan for the Grants Mining District. Input has been garnered from community meetings, meetings with NM agencies, and from meetings with the Pueblos of Acoma and Laguna. Once a plan is drafted incorporating ideas and input from stakeholders, it will be shared with plan partners and released for public comment. EPA plans to finalize the document in 2021. ***Susan Webster 214-665-6784***

New Mexico Abandoned Uranium Mines – Tronox Mines: On September 28, 2020, Region 6 transferred the lead authority for the Tronox Section 32/33 Mines Site to EPA Region 9 due to the presence of Navajo Nation residents at the Site and scheduling challenges. Region 6 completed the draft final Engineering Evaluation/Cost Analysis (EE/CA) for the Section 10 Mine and the East Geographic Sub-Area (GSA) Mines and expects to complete the West GSA and the Central GSA Mines by the end of November. This work is funded by proceeds from the Tronox Settlement. Region 6 continues to participate in regular coordination meetings Region 9, Navajo Nation, NMED, and NM MMD to discuss priorities. ***Craig Carroll 214-665-2220***

San Mateo Creek Basin Legacy Uranium Mines Site, NM: Field work associated with the groundwater Remedial Investigation and Feasibility Study of the Lower San Mateo Creek Area is expected to begin in Spring 2021. The EPA reached an agreement in November 2019 with three former mine operators to investigate the nature and extent of the groundwater contamination and develop potential cleanup alternatives. ***Susan Webster 214-665-6784 and John Meyer 214-665-6742***

Johnny M Uranium Mine, Grants, NM: The EPA is currently finalizing an Agreed Order on Consent for the removal action in order to initiate negotiations with Hecla Mining Company for the Johnny M. Mine cleanup. ***Craig Carroll, 214-665-2220***

North Railroad Avenue Plume Site, Española, NM: On September 21, 2020, EPA completed a focused Remedial Investigation (RI) for vapor intrusion at the North Railroad site and a focused human health risk assessment, a recommendation in a Five-Year Review for a residential area and Santa Clara Pueblo land known to have shallow groundwater contamination by tetrachloroethene (PCE) and trichloroethene (TCE). No further action to mitigate indoor air vapors is warranted. The soil vapor plumes are related to a second phase of groundwater contamination discovered in 2016. This new groundwater plume is not associated with the North Railroad Site but sourced from a second dry cleaner facility. This new plume is currently being addressed by the NMED. At the request of the Governor of Santa Clara Pueblo, the Regional Administrator committed to future meetings with the Pueblo and NMED to discuss site activities. The EPA will schedule a virtual meeting the Pueblo and NMED in the next few months. ***John Meyer 214-665-6742***

Office of Communities, Tribes and Environmental Assessment

THANK YOU

The Office of Communities, Tribes and Environmental Assessment (OCTEA) thanks all of our tribal partners for providing office status updates and other information during this difficult time of the pandemic. We hope you and your families are safe and healthy.

STAFF UPDATE

EPA Region 6 congratulates Office of Communities, Tribes and Environmental Assessment (OCTEA) Director Arturo Blanco on his retirement on October 30, 2020. Gerardo Acosta is serving as the interim OCTEA Director in November and Robert Houston will serve as interim OCTEA Director in December. ***Gerardo Acosta, 214-665-8042 and Robert Houston, 214-665-8565.***

TRIBAL FUNDING

Region 6 General Assistance Program (GAP): OCTEA completed processing of forty-three General Assistance Program (GAP) grants awards and fourteen Performance Partnership Grants (PPGs) totaling $7,415,397 in FY 2020 GAP funding. OCTEA is finalizing the FY 2021 GAP funding announcement with an expected due date for applications of February 5, 2021. ***Randy Gee, 214-665-8355 and Jay Harris, 214-665-2260.***

EPA-TRIBAL ENVIRONMENTAL PLANS

Seven years ago, Region 6 tribal partners joined our office to implement the 2013 GAP Guidance requirement of an EPA-Tribal Environmental Plan (ETEP) for every GAP grantee in the Region. Our office is starting the ETEP renewal process with ETEPs submitted in 2015, which is twenty-two in total.

The primary goal of our office in the first phase of developing ETEPs was to make sure every GAP grantee had an ETEP so GAP funding could continue to be awarded to the Pueblo/Tribal Nation. Our office goal for the renewal is an ETEP that is a better document for your use. Your feedback is welcome and encouraged. ***Randy Gee, 214-665-8355 and Ira Hight, 214-665-8137.***

TRIBAL CONSULTATION AND COORDINATION

EPA Policy on Consultation and Coordination with Indian Tribes: Opportunities for Consultation: The following tribal consultation opportunities are ongoing:

- *Consultation and Coordination regarding the Coal Combustion Residuals (CCR) Permit Program Application from the State of Texas.*
- *EPA Clean Water Act Section 401 Water Quality Certification for Nationwide Permits Reissuance*

- *Delaware Nation Consultation on Koppers Inc NPL Site*
- *Delaware Tribe of Indians Consultation on Koppers Inc NPL Site*

Mission Support Division

BUDGET UPDATE

On September 30, 2020, President Trump signed the "Continuing Appropriations Act, 2021, and Other Extensions Act" (Public Law 116-159). This Continuing Resolution (CR) provides the U.S. Environmental Protection Agency with funding through Dec 11, 2020. Congress is still deliberating on the FY 2021 full year funding levels. ***John Spelman, 214-665-7425.***

Laboratory Services and Applied Science Division

STAFF UPDATE

EPA Region 6 congratulates Laboratory Services and Applied Science (LAS) Division Director Ben Banipal on his retirement after over thirty-eight years of leadership and environmental engineering work. Ben served EPA for 20 years in RCRA (staff & section chief), Superfund (branch chief), and Laboratory Services and Applied Science Division Director. Ben has participated in several RTOC meetings over the years and has worked with several Tribal partners on a number of items. He recently sent out a message wishing everyone continued success, and he seems to be enjoying retirement!!! Wes McQuiddy is currently serving as the interim Director for the Division.

QA PROGRAM

- EPA Region 6 provided Quality Assurance Training in Oklahoma City, OK (Feb 25-27) and in Addison/Dallas, TX (March 10-12). Over 100 QA Representatives were in attendance including 11 Tribal members. Due to the current COVID situation, no further trainings are scheduled, however those announcements will be distributed once these trainings become available. Quality Assurance program coordinated with tribal partners on these trainings and will continue to provide training notices to tribal community in future as well.
- Region 6 is continuing to work with HQ on a QAPP Lean project. Benefits from this Agency Lean project include reducing the review/approval time of QAPPs submitted by States and Tribes, improved consistency within regional processes, and increased transparency to the review/approval process. The Agency's Enterprise Quality Management Division (EQMD) has provided presentations to our partners upon request and will continue to work with our stakeholders as this Lean project continues.
- During the "Shelter in Place" Order, Region 6 QA staff worked with Regional Counsel on guidance for grantees who wanted to electronically submit their QA documents as they work from home or request extensions till all staff are back in the Office. Once the Region reopens, QA staff will reach out to those tribal partners who were given extensions and work with these stakeholders to help them update their currently approved pre 2020 QMP/QAPP(s). The Region would like to thank our Tribal Grantees for working with us during these unique times.
  Sala Senkayi, 214-665-6477