U. S. Environmental Protection Agency
Region 9, Water Division
Tribal Office

Clean Water Act §106
Clean Water Act §319
FY 2005

Clean Water Act Water Quality Planning and Protection Programs

FINANCIAL ASSISTANCE ELIGIBILITY HANDBOOK FOR INDIAN TRIBES

TRIBES ACHIEVING ENVIRONMENTAL RESULTS WITH CWA GRANT FUNDS

Water Pollution Control Program (CWA §106)

Water Pollution Control Program (CWA §106)

Pyramid Lake Paiute Tribe monitoring the Truckee River's water quality to measure environmental results.

Nonpoint Source Program (CWA §319)

Yavapai-Prescott Indian Tribe protecting water quality by preventing erosion with a gabion structure in an eroded drainage area.

INTRODUCTION

This handbook is designed to assist Indian Tribes with preparing applications for financial assistance eligibility (FAE) under the Clean Water Act (CWA). Once a Tribe submits a complete application and receives approval from the U.S. Environmental Protection Agency, it can support water quality efforts and build institutional capability through the following CWA grants:

- Water Pollution Control Program (CWA §106)
- Nonpoint Source Program (CWA §319)

This handbook provides a summary of the CWA §106 and §319 programs; the FAE Application Checklist; the List of Federally Recognized Indian Tribes; a description of the elements required in a Tribal Attorney Letter to Support Tribal FAE applications, and a List of Region 9 Contacts. In addition, this handbook provides required documents that have been previously accepted by EPA, Region 9, including a Narrative Statement describing how the Tribal governing body is carrying out its governmental duties and powers, an ordinance addressing CWA §504 (Emergency Powers), and associated Contingency Plan. These documents demonstrate the type of information required and should be used as a reference only, as each Tribe differs with respect to geography, capability, history, and administration.

Please note that Tribes' sovereignty will not be affected by applying for or receiving CWA FAE or CWA program grants. Instead, Tribes will be empowered to receive funds directly from EPA and they will be eligible to receive grants for administering water pollution control and nonpoint source programs.

If any questions arise while preparing a FAE application, please contact the appropriate Contact, as identified in Exhibit VII.

SUMMARY OF WATER QUALITY PROTECTION PROGRAMS

Water Pollution Control Program (CWA §106)

The Water Pollution Control Program assists Federally-recognized Indian Tribes with achieving positive environmental results by developing institutional capacity for administering water quality programs to protect, improve, and enhance natural resources. Water Pollution Control Program Grants are negotiated and awarded annually to Tribes who have established CWA §106 financial assistance eligibility (FAE) with EPA. A non-Federal match of 5 percent of the total project costs is required. The eligible activities include, but are not limited to:

- Hiring qualified staff to identify and prioritize water quality issues;
- Performing water quality monitoring and assessments;
- Conducting studies related to water pollution control;
- Leasing/renting office space and purchasing equipment necessary for program implementation;
- Developing Tribal water quality standards;
- Implementing and enforcing pollution control measures;
- Developing and implementing ground water programs;
- Developing a Nonpoint Assessment and Management Program;
- Developing a 305(b) report;
- Training and travel.

For more information on CWA §106, please visit the following website: http://www.epa.gov/owm/mab/indian/cwa106.htm

Nonpoint Source Program (CWA §319)

The Nonpoint Source Control Program assists Federally-recognized Indian Tribes with achieving positive environmental results by developing and implementing polluted runoff control programs that address critical water quality concerns. Prior to receiving a CWA §319 grant, Tribes are required to submit to EPA for approval a Nonpoint Source Assessment Report and Management Program for waters affected by nonpoint source pollution. Tribes who have established CWA §106 FAE with EPA may be eligible for financial assistance through CWA §319. A non-Federal match of 40 percent of the total project costs is required, or a 10 percent match if financial hardship is determined. The eligible activities include, but are not limited to:

- Hiring qualified staff to identify and prioritize water quality issues;
- Implementing physical measures or best management practices (BMPs) that will reduce or eliminate NPS pollution in receiving water bodies, resulting in water quality benefits;
- Implementing the Tribe's approved NPS Management Program;
- Implementing "on-the-ground" watershed projects (i.e., stream restoration, revegetation, buffer strips, installing gabions, tree planing, removal of invasive/non-native species, and more);
- Conducting NPS education programs;
- Training and travel.

For more information on CWA §319, please visit the following website: http://www.epa.gov/owow/nps/

CHECKLIST

TRIBAL FINANCIAL ASSISTANCE ELIGIBILITY (FAE) APPLICATION CWA §106 AND CWA §319 PROGRAMS

TRIBE: **PROGRAM:** *(check one)* **CWA §106** ❒ **CWA §319** ❒ **DATE:**

Please mark the boxes on the left as you locate (or create) documents described in each section. Once you have assembled all information listed, your Financial Eligibility Application (FAE) will be complete and ready for submittal.

1. Tribe must be recognized by the Secretary of the Interior.

❒ Circle name of the Tribe on Exhibit I (List of Federally Recognized Indian Tribes). Remove the page with Tribe's name circled to include in the FAE application.

Comments/Notes:

2. Tribe must have a governing body carrying out substantial governmental duties and powers.

❒ Provide a copy of the Tribal Constitution and/or Articles of Incorporation.

❒ Provide copies of Tribal Codes, Ordinances, and Resolutions demonstrating application of substantial governmental duties and powers.

Comments/Notes:

3. Tribe must be capable of carrying out functions to be exercised in a manner consistent with the terms and purposes of the CWA and of all applicable regulations.

❒ Provide a Narrative Statement describing how the governing body carries out its duties (see Exhibit II for an accepted Narrative Statement). The narrative statement should include:

❒ • Proof of previous or current general managerial experience.

❒ • Evidence of environmental/public health programs administered by the Tribe.

❒ • Description of existing or proposed staff resources; include resumes.

❒ • Description of the Tribe's accounting and procurement system (citing 40 CFR Part 31).

Comments/Notes:

CHECKLIST (cont.)

TRIBAL FINANCIAL ASSISTANCE ELIGIBILITY (FAE) APPLICATION CWA §106 AND CWA §319 PROGRAMS

4. The functions to be exercised by the Tribe must pertain to the management and protection of water resources within the Tribe's reservation.

- ❒ Provide a letter from the Tribal Attorney (or equivalent official) describing the basis for authority over water resources on the Tribe's reservation (see Exhibit III for Components of a Tribal Attorney Letter).
- ❒ Provide copies of pertinent Executive Orders, Land Orders, Treaties, Acts of Congress, etc.
- ❒ Provide detailed and legible maps of reservation and waters over which the Tribe proposes to assert jurisdiction.

Comments/Notes:

5. For CWA §106, the Tribe must have authority comparable to that of CWA §504 (see bottom of page V-ii), including contingency plans to implement such authority.

- ❒ Provide a copy of information (Ordinances, etc.,) addressing CWA §504 authority (see Exhibit IV for an accepted ordinance that addresses CWA §504 authority).
- ❒ Provide a copy of, or detailed description of the Tribe's contingency plan (see Exhibit V for a accepted contingency plan) to implement authority comparable to CWA §504.

Comments/Notes:

6. Prepare a FAE application submittal cover letter, addressed to the EPA Regional Administrator (WTR-10), which includes the following:

- ❒ For CWA §106 FAE applications, a request for EPA review and approval of the FAE application, citing CWA §106, along with a summary of the contents of the FAE application.
- ❒ For CWA §319 FAE applications, the Tribe should conduct a review of its previously approved CWA §106 FAE application, using this checklist. If the Tribe determines that the information contained in its CWA §106 FAE application is still current and correct, a letter requesting EPA review and approval for CWA §319 should be submitted (see Exhibit VI). If the Tribe determines that elements of the CWA §106 FAE application require update or revision, those revised or updated elements should be submitted, and the CWA §319 submittal letter revised accordingly.
- ❒ For CWA §106 and §319, Tribal representatives/employees that EPA can contact regarding the FAE application.
- ❒ For CWA §106 and §319, the Tribal Chairman or equivalent signatory.

Comments/Notes:

LIST OF FEDERALLY RECOGNIZED INDIAN TRIBES

Federal Register

Friday,
December 5, 2003

Part III

Department of the Interior

Bureau of Indian Affairs

Indian Entities Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs; Notice

LIST OF FEDERALLY RECOGNIZED INDIAN TRIBES

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Entities Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given of the current list of 562 tribal entities recognized and eligible for funding and services from the Bureau of Indian Affairs by virtue of their status as Indian tribes. This notice is published pursuant to section 104 of the Act of November 2, 1994 (Pub. L. 103–454; 108 Stat. 4791, 4792).

FOR FURTHER INFORMATION CONTACT: Daisy West, Bureau of Indian Affairs, Division of Tribal Government Services, MS–320-MIB, 1849 C Street, NW., Washington, DC 20240. Telephone number: (202) 513–7641.

SUPPLEMENTARY INFORMATION: This notice is published in exercise of authority delegated to the Assistant Secretary—Indian Affairs under 25 U.S.C. 2 and 9 and 209 DM 8.

Published below is a list of federally acknowledged tribes in the contiguous 48 states and in Alaska. The list is updated from the notice published on July 12, 2002 (67 FR 46328).

Several tribes have made changes to their tribal name. To aid in identifying tribal name changes, the tribe's former name is included with the new tribal name. We will continue to list the tribe's former name for several years before dropping the former name from the list. We have also made several corrections. To aid in identifying corrections, the tribe's previously listed name is included with the tribal name.

The listed entities are acknowledged to have the immunities and privileges available to other federally acknowledged Indian tribes by virtue of their government-to-government relationship with the United States as well as the responsibilities, powers, limitations and obligations of such tribes. We have continued the practice of listing the Alaska Native entities separately solely for the purpose of facilitating identification of them and reference to them given the large number of complex Native names.

Dated: November 21, 2003.

Aurene M. Martin,

Principal Deputy Assistant Secretary—Indian Affairs.

Indian Tribal Entities Within the Contiguous 48 States Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs

Absentee-Shawnee Tribe of Indians of Oklahoma
Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California
Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona
Alabama-Coushatta Tribes of Texas
Alabama-Quassarte Tribal Town, Oklahoma
Alturas Indian Rancheria, California
Apache Tribe of Oklahoma
Arapahoe Tribe of the Wind River Reservation, Wyoming
Aroostook Band of Micmac Indians of Maine
Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana
Augustine Band of Cahuilla Mission Indians of the Augustine Reservation, California
Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin
Bay Mills Indian Community, Michigan
Bear River Band of the Rohnerville Rancheria, California
Berry Creek Rancheria of Maidu Indians of California
Big Lagoon Rancheria, California
Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California
Big Sandy Rancheria of Mono Indians of California
Big Valley Band of Pomo Indians of the Big Valley Rancheria, California
Blackfeet Tribe of the Blackfeet Indian Reservation of Montana
Blue Lake Rancheria, California
Bridgeport Paiute Indian Colony of California
Buena Vista Rancheria of Me-Wuk Indians of California
Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon
Cabazon Band of Mission Indians, California (previously listed as the Cabazon Band of Cahuilla Mission Indians of the Cabazon Reservation)
Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California
Caddo Nation of Oklahoma (formerly the Caddo Indian Tribe of Oklahoma)
Cahuilla Band of Mission Indians of the Cahuilla Reservation, California
Cahto Indian Tribe of the Laytonville Rancheria, California
California Valley Miwok Tribe, California (formerly the Sheep Ranch Rancheria of Me-Wuk Indians of California)
Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California
Capitan Grande Band of Diegueno Mission Indians of California:
Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California
Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California
Catawba Indian Nation (aka Catawba Tribe of South Carolina)
Cayuga Nation of New York
Cedarville Rancheria, California
Chemehuevi Indian Tribe of the Chemehuevi Reservation, California
Cher-Ae Heights Indian Community of the Trinidad Rancheria, California
Cherokee Nation, Oklahoma
Cheyenne-Arapaho Tribes of Oklahoma
Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
Chickasaw Nation, Oklahoma
Chicken Ranch Rancheria of Me-Wuk Indians of California
Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana
Chitimacha Tribe of Louisiana
Choctaw Nation of Oklahoma
Citizen Potawatomi Nation, Oklahoma
Cloverdale Rancheria of Pomo Indians of California
Cocopah Tribe of Arizona
Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho
Cold Springs Rancheria of Mono Indians of California
Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California
Comanche Nation, Oklahoma (formerly the Comanche Indian Tribe)
Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana
Confederated Tribes of the Chehalis Reservation, Washington
Confederated Tribes of the Colville Reservation, Washington
Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians of Oregon
Confederated Tribes of the Goshute Reservation, Nevada and Utah
Confederated Tribes of the Grand Ronde Community of Oregon
Confederated Tribes of the Siletz Reservation, Oregon
Confederated Tribes of the Umatilla Reservation, Oregon
Confederated Tribes of the Warm Springs Reservation of Oregon
Confederated Tribes and Bands of the Yakama Nation, Washington (formerly

LIST OF FEDERALLY RECOGNIZED INDIAN TRIBES

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the Confederated Tribes and Bands of the Yakama Indian Nation of the Yakama Reservation)
Coquille Tribe of Oregon
Cortina Indian Rancheria of Wintun Indians of California
Coushatta Tribe of Louisiana
Cow Creek Band of Umpqua Indians of Oregon
Cowlitz Indian Tribe, Washington
Coyote Valley Band of Pomo Indians of California
Crow Tribe of Montana
Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota
Death Valley Timbi-Sha Shoshone Band of California
Delaware Nation, Oklahoma (formerly the Delaware Tribe of Western Oklahoma)
Delaware Tribe of Indians, Oklahoma
Dry Creek Rancheria of Pomo Indians of California
Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada
Eastern Band of Cherokee Indians of North Carolina
Eastern Shawnee Tribe of Oklahoma
Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California
Elk Valley Rancheria, California
Ely Shoshone Tribe of Nevada
Enterprise Rancheria of Maidu Indians of California
Ewiiaapaayp Band of Kumeyaay Indians, California (formerly the Cuyapaipe Community of Diegueno Mission Indians of the Cuyapaipe Reservation)
Federated Indians of Graton Rancheria, California (formerly the Graton Rancheria)
Flandreau Santee Sioux Tribe of South Dakota
Forest County Potawatomi Community, Wisconsin
Fort Belknap Indian Community of the Fort Belknap Reservation of Montana
Fort Bidwell Indian Community of the Fort Bidwell Reservation of California
Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California
Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon
Fort McDowell Yavapai Nation, Arizona (formerly the Fort McDowell Mohave-Apache Community of the Fort McDowell Indian Reservation)
Fort Mojave Indian Tribe of Arizona, California & Nevada
Fort Sill Apache Tribe of Oklahoma
Gila River Indian Community of the Gila River Indian Reservation, Arizona
Grand Traverse Band of Ottawa and Chippewa Indians, Michigan
Greenville Rancheria of Maidu Indians of California
Grindstone Indian Rancheria of Wintun-Wailaki Indians of California
Guidiville Rancheria of California
Hannahville Indian Community, Michigan
Havasupai Tribe of the Havasupai Reservation, Arizona
Ho-Chunk Nation of Wisconsin (formerly the Wisconsin Winnebago Tribe)
Hoh Indian Tribe of the Hoh Indian Reservation, Washington
Hoopa Valley Tribe, California
Hopi Tribe of Arizona
Hopland Band of Pomo Indians of the Hopland Rancheria, California
Houlton Band of Maliseet Indians of Maine
Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona
Huron Potawatomi, Inc., Michigan
Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California
Ione Band of Miwok Indians of California
Iowa Tribe of Kansas and Nebraska
Iowa Tribe of Oklahoma
Jackson Rancheria of Me-Wuk Indians of California
Jamestown S'Klallam Tribe of Washington
Jamul Indian Village of California
Jena Band of Choctaw Indians, Louisiana
Jicarilla Apache Nation, New Mexico (formerly the Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation)
Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona
Kalispel Indian Community of the Kalispel Reservation, Washington
Karuk Tribe of California
Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California
Kaw Nation, Oklahoma
Keweenaw Bay Indian Community, Michigan
Kialegee Tribal Town, Oklahoma
Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas
Kickapoo Tribe of Oklahoma
Kickapoo Traditional Tribe of Texas
Kiowa Indian Tribe of Oklahoma
Klamath Indian Tribe of Oregon
Kootenai Tribe of Idaho
La Jolla Band of Luiseno Mission Indians of the La Jolla Reservation, California
La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California
Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin
Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin
Lac Vieux Desert Band of Lake Superior Chippewa Indians, Michigan
Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada
Little River Band of Ottawa Indians, Michigan
Little Traverse Bay Bands of Odawa Indians, Michigan
Lower Lake Rancheria, California
Los Coyotes Band of Cahuilla & Cupeno Indians of the Los Coyotes Reservation, California (formerly the Los Coyotes Band of Cahuilla Mission Indians of the Los Coyotes Reservation)
Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada
Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota
Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington
Lower Sioux Indian Community in the State of Minnesota
Lummi Tribe of the Lummi Reservation, Washington
Lytton Rancheria of California
Makah Indian Tribe of the Makah Indian Reservation, Washington
Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California
Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California
Mashantucket Pequot Tribe of Connecticut
Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan
Mechoopda Indian Tribe of Chico Rancheria, California
Menominee Indian Tribe of Wisconsin
Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California
Mescalero Apache Tribe of the Mescalero Reservation, New Mexico
Miami Tribe of Oklahoma
Miccosukee Tribe of Indians of Florida
Middletown Rancheria of Pomo Indians of California
Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band)
Mississippi Band of Choctaw Indians, Mississippi
Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada
Modoc Tribe of Oklahoma
Mohegan Indian Tribe of Connecticut
Mooretown Rancheria of Maidu Indians of California
Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California

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Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington
Muscogee (Creek) Nation, Oklahoma
Narragansett Indian Tribe of Rhode Island
Navajo Nation, Arizona, New Mexico & Utah
Nez Perce Tribe of Idaho
Nisqually Indian Tribe of the Nisqually Reservation, Washington
Nooksack Indian Tribe of Washington
Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana
Northfork Rancheria of Mono Indians of California
Northwestern Band of Shoshoni Nation of Utah (Washakie)
Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota
Omaha Tribe of Nebraska
Oneida Nation of New York
Oneida Tribe of Indians of Wisconsin
Onondaga Nation of New York
Osage Tribe, Oklahoma
Ottawa Tribe of Oklahoma
Otoe-Missouria Tribe of Indians, Oklahoma
Paiute Indian Tribe of Utah (Cedar City Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)
Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California
Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California
Pala Band of Luiseno Mission Indians of the Pala Reservation, California
Pascua Yaqui Tribe of Arizona
Paskenta Band of Nomlaki Indians of California
Passamaquoddy Tribe of Maine
Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California
Pawnee Nation of Oklahoma
Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California
Penobscot Tribe of Maine
Peoria Tribe of Indians of Oklahoma
Picayune Rancheria of Chukchansi Indians of California
Pinoleville Rancheria of Pomo Indians of California
Pit River Tribe, California (includes XL Ranch, Big Bend, Likely, Lookout, Montgomery Creek and Roaring Creek Rancherias)
Poarch Band of Creek Indians of Alabama
Pokagon Band of Potawatomi Indians, Michigan and Indiana
Ponca Tribe of Indians of Oklahoma
Ponca Tribe of Nebraska
Port Gamble Indian Community of the Port Gamble Reservation, Washington
Potter Valley Rancheria of Pomo Indians of California
Prairie Band of Potawatomi Nation, Kansas (formerly the Prairie Band of Potawatomi Indians)
Prairie Island Indian Community in the State of Minnesota
Pueblo of Acoma, New Mexico
Pueblo of Cochiti, New Mexico
Pueblo of Jemez, New Mexico
Pueblo of Isleta, New Mexico
Pueblo of Laguna, New Mexico
Pueblo of Nambe, New Mexico
Pueblo of Picuris, New Mexico
Pueblo of Pojoaque, New Mexico
Pueblo of San Felipe, New Mexico
Pueblo of San Juan, New Mexico
Pueblo of San Ildefonso, New Mexico
Pueblo of Sandia, New Mexico
Pueblo of Santa Ana, New Mexico
Pueblo of Santa Clara, New Mexico
Pueblo of Santo Domingo, New Mexico
Pueblo of Taos, New Mexico
Pueblo of Tesuque, New Mexico
Pueblo of Zia, New Mexico
Puyallup Tribe of the Puyallup Reservation, Washington
Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada
Quapaw Tribe of Indians, Oklahoma
Quartz Valley Indian Community of the Quartz Valley Reservation of California
Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona
Quileute Tribe of the Quileute Reservation, Washington
Quinault Tribe of the Quinault Reservation, Washington
Ramona Band or Village of Cahuilla Mission Indians of California
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
Red Lake Band of Chippewa Indians, Minnesota
Redding Rancheria, California
Redwood Valley Rancheria of Pomo Indians of California
Reno-Sparks Indian Colony, Nevada
Resighini Rancheria, California (formerly the Coast Indian Community of Yurok Indians of the Resighini Rancheria)
Rincon Band of Luiseno Mission Indians of the Rincon Reservation, California
Robinson Rancheria of Pomo Indians of California
Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota
Round Valley Indian Tribes of the Round Valley Reservation, California (formerly the Covelo Indian Community)
Rumsey Indian Rancheria of Wintun Indians of California
Sac & Fox Tribe of the Mississippi in Iowa
Sac & Fox Nation of Missouri in Kansas and Nebraska
Sac & Fox Nation, Oklahoma
Saginaw Chippewa Indian Tribe of Michigan
St. Croix Chippewa Indians of Wisconsin
St. Regis Band of Mohawk Indians of New York
Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona
Samish Indian Tribe, Washington
San Carlos Apache Tribe of the San Carlos Reservation, Arizona
San Juan Southern Paiute Tribe of Arizona
San Manual Band of Serrano Mission Indians of the San Manual Reservation, California
San Pasqual Band of Diegueno Mission Indians of California
Santa Rosa Indian Community of the Santa Rosa Rancheria, California
Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California
Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California
Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California
Santee Sioux Nation, Nebraska (formerly the Santee Sioux Tribe of the Santee Reservation of Nebraska)
Sauk-Suiattle Indian Tribe of Washington
Sault Ste. Marie Tribe of Chippewa Indians of Michigan
Scotts Valley Band of Pomo Indians of California
Seminole Nation of Oklahoma
Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations
Seneca Nation of New York
Seneca-Cayuga Tribe of Oklahoma
Shakopee Mdewakanton Sioux Community of Minnesota
Shawnee Tribe, Oklahoma
Sherwood Valley Rancheria of Pomo Indians of California
Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California
Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington
Shoshone Tribe of the Wind River Reservation, Wyoming
Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho
Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada
Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota (formerly the Sisseton-Wahpeton

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Sioux Tribe of the Lake Traverse Reservation)
Skokomish Indian Tribe of the Skokomish Reservation, Washington
Skull Valley Band of Goshute Indians of Utah
Smith River Rancheria, California
Snoqualmie Tribe, Washington
Soboba Band of Luiseno Indians, California (formerly the Soboba Band of Luiseno Mission Indians of the Soboba Reservation)
Sokaogon Chippewa Community, Wisconsin
Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado
Spirit Lake Tribe, North Dakota
Spokane Tribe of the Spokane Reservation, Washington
Squaxin Island Tribe of the Squaxin Island Reservation, Washington
Standing Rock Sioux Tribe of North & South Dakota
Stockbridge Munsee Community, Wisconsin
Stillaguamish Tribe of Washington
Summit Lake Paiute Tribe of Nevada
Suquamish Indian Tribe of the Port Madison Reservation, Washington
Susanville Indian Rancheria, California
Swinomish Indians of the Swinomish Reservation, Washington
Sycuan Band of Diegueno Mission Indians of California
Table Bluff Reservation—Wiyot Tribe, California
Table Mountain Rancheria of California
Te-Moak Tribe of Western Shoshone Indians of Nevada (Four constituent bands: Battle Mountain Band; Elko Band; South Fork Band and Wells Band)
Thlopthlocco Tribal Town, Oklahoma
Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota
Tohono O'odham Nation of Arizona
Tonawanda Band of Seneca Indians of New York
Tonkawa Tribe of Indians of Oklahoma
Tonto Apache Tribe of Arizona
Torres-Martinez Band of Cahuilla Mission Indians of California
Tule River Indian Tribe of the Tule River Reservation, California
Tulalip Tribes of the Tulalip Reservation, Washington
Tunica-Biloxi Indian Tribe of Louisiana
Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California
Turtle Mountain Band of Chippewa Indians of North Dakota
Tuscarora Nation of New York
Twenty-Nine Palms Band of Mission Indians of California
United Auburn Indian Community of the Auburn Rancheria of California
United Keetoowah Band of Cherokee Indians in Oklahoma
Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California
Upper Sioux Community, Minnesota
Upper Skagit Indian Tribe of Washington
Ute Indian Tribe of the Uintah & Ouray Reservation, Utah
Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah
Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California
Walker River Paiute Tribe of the Walker River Reservation, Nevada
Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts
Washoe Tribe of Nevada & California (Carson Colony, Dresslerville Colony, Woodfords Community, Stewart Community, & Washoe Ranches)
White Mountain Apache Tribe of the Fort Apache Reservation, Arizona
Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma
Winnebago Tribe of Nebraska
Winnemucca Indian Colony of Nevada
Wyandotte Nation, Oklahoma (formerly the Wyandotte Tribe of Oklahoma)
Yankton Sioux Tribe of South Dakota
Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona
Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona
Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada
Yomba Shoshone Tribe of the Yomba Reservation, Nevada
Ysleta Del Sur Pueblo of Texas
Yurok Tribe of the Yurok Reservation, California
Zuni Tribe of the Zuni Reservation, New Mexico

Native Entities Within the State of Alaska Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs

Native Village of Afognak (formerly the Village of Afognak)
Agdaagux Tribe of King Cove
Native Village of Akhiok
Akiachak Native Community
Akiak Native Community
Native Village of Akutan
Village of Alakanuk
Alatna Village
Native Village of Aleknagik
Algaaciq Native Village (St. Mary's)
Allakaket Village
Native Village of Ambler
Village of Anaktuvuk Pass
Yupiit of Andreafski
Angoon Community Association
Village of Aniak
Anvik Village
Arctic Village (See Native Village of Venetie Tribal Government)
Asa'carsarmiut Tribe (formerly the Native Village of Mountain Village)
Native Village of Atka
Village of Atmautluak
Atqasuk Village (Atkasook)
Native Village of Barrow Inupiat Traditional Government
Beaver Village
Native Village of Belkofski
Village of Bill Moore's Slough
Birch Creek Tribe
Native Village of Brevig Mission
Native Village of Buckland
Native Village of Cantwell
Native Village of Chanega (aka Chenega)
Chalkyitsik Village
Cheesh-Na Tribe (formerly the Native Village of Chistochina)
Village of Chefornak
Chevak Native Village
Chickaloon Native Village
Native Village of Chignik
Native Village of Chignik Lagoon
Chignik Lake Village
Chilkat Indian Village (Klukwan)
Chilkoot Indian Association (Haines)
Chinik Eskimo Community (Golovin)
Native Village of Chitina
Native Village of Chuathbaluk (Russian Mission, Kuskokwim)
Chuloonawick Native Village
Circle Native Community
Village of Clarks Point
Native Village of Council
Craig Community Association
Village of Crooked Creek
Curyung Tribal Council (formerly the Native Village of Dillingham)
Native Village of Deering
Native Village of Diomede (aka Inalik)
Village of Dot Lake
Douglas Indian Association
Native Village of Eagle
Native Village of Eek
Egegik Village
Eklutna Native Village
Native Village of Ekuk
Ekwok Village
Native Village of Elim
Emmonak Village
Evansville Village (aka Bettles Field)
Native Village of Eyak (Cordova)
Native Village of False Pass
Native Village of Fort Yukon
Native Village of Gakona
Galena Village (aka Louden Village)
Native Village of Gambell
Native Village of Georgetown
Native Village of Goodnews Bay
Organized Village of Grayling (aka Holikachuk)
Gulkana Village
Native Village of Hamilton
Healy Lake Village
Holy Cross Village
Hoonah Indian Association
Native Village of Hooper Bay
Hughes Village
Huslia Village
Hydaburg Cooperative Association
Igiugig Village
Village of Iliamna

LIST OF FEDERALLY RECOGNIZED INDIAN TRIBES

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Inupiat Community of the Arctic Slope
Iqurmuit Traditional Council (formerly the Native Village of Russian Mission)
Ivanoff Bay Village
Kaguyak Village
Organized Village of Kake
Kaktovik Village (aka Barter Island)
Village of Kalskag
Village of Kaltag
Native Village of Kanatak
Native Village of Karluk
Organized Village of Kasaan
Native Village of Kasigluk
Kenaitze Indian Tribe
Ketchikan Indian Corporation
Native Village of Kiana
King Island Native Community
King Salmon Tribe
Native Village of Kipnuk
Native Village of Kivalina
Klawock Cooperative Association
Native Village of Kluti Kaah (aka Copper Center)
Knik Tribe
Native Village of Kobuk
Kokhanok Village
Native Village of Kongiganak
Village of Kotlik
Native Village of Kotzebue
Native Village of Koyuk
Koyukuk Native Village
Organized Village of Kwethluk
Native Village of Kwigillingok
Native Village of Kwinhagak (aka Quinhagak)
Native Village of Larsen Bay
Levelock Village
Lesnoi Village (aka Woody Island)
Lime Village
Village of Lower Kalskag
Manley Hot Springs Village
Manokotak Village
Native Village of Marshall (aka Fortuna Ledge)
Native Village of Mary's Igloo
McGrath Native Village
Native Village of Mekoryuk
Mentasta Traditional Council
Metlakatla Indian Community, Annette Island Reserve
Native Village of Minto
Naknek Native Village
Native Village of Nanwalek (aka English Bay)
Native Village of Napaimute
Native Village of Napakiak
Native Village of Napaskiak
Native Village of Nelson Lagoon
Nenana Native Association
New Koliganek Village Council (formerly the Koliganek Village)
New Stuyahok Village
Newhalen Village
Newtok Village
Native Village of Nightmute
Nikolai Village
Native Village of Nikolski
Ninilchik Village
Native Village of Noatak
Nome Eskimo Community
Nondalton Village
Noorvik Native Community
Northway Village
Native Village of Nuiqsut (aka Nooiksut)
Nulato Village
Nunakauyarmiut Tribe (formerly the Native Village of Toksook Bay)
Native Village of Nunapitchuk
Village of Ohogamiut
Village of Old Harbor
Orutsararmuit Native Village (aka Bethel)
Oscarville Traditional Village
Native Village of Ouzinkie
Native Village of Paimiut
Pauloff Harbor Village
Pedro Bay Village
Native Village of Perryville
Petersburg Indian Association
Native Village of Pilot Point
Pilot Station Traditional Village
Native Village of Pitka's Point
Platinum Traditional Village
Native Village of Point Hope
Native Village of Point Lay
Native Village of Port Graham
Native Village of Port Heiden
Native Village of Port Lions
Portage Creek Village (aka Ohgsenakale)
Pribilof Islands Aleut Communities of St. Paul & St. George Islands
Qagan Tayagungin Tribe of Sand Point Village
Qawalangin Tribe of Unalaska
Rampart Village
Village of Red Devil
Native Village of Ruby
Saint George Island (See Pribilof Islands Aleut Communities of St. Paul & St. George Islands)
Native Village of Saint Michael
Saint Paul Island (See Pribilof Islands Aleut Communities of St. Paul & St. George Islands)
Village of Salamatoff
Native Village of Savoonga
Organized Village of Saxman
Native Village of Scammon Bay
Native Village of Selawik
Seldovia Village Tribe
Shageluk Native Village
Native Village of Shaktoolik
Native Village of Sheldon's Point
Native Village of Shishmaref
Shoonaq' Tribe of Kodiak
Native Village of Shungnak
Sitka Tribe of Alaska
Skagway Village
Village of Sleetmute
Village of Solomon
South Naknek Village
Stebbins Community Association
Native Village of Stevens
Village of Stony River
Takotna Village
Native Village of Tanacross
Native Village of Tanana
Native Village of Tatitlek
Native Village of Tazlina
Telida Village
Native Village of Teller
Native Village of Tetlin
Central Council of the Tlingit & Haida Indian Tribes
Traditional Village of Togiak
Tuluksak Native Community
Native Village of Tuntutuliak
Native Village of Tununak
Twin Hills Village
Native Village of Tyonek
Ugashik Village
Umkumiute Native Village
Native Village of Unalakleet
Native Village of Unga
Village of Venetie (See Native Village of Venetie Tribal Government)
Native Village of Venetie Tribal Government (Arctic Village and Village of Venetie)
Village of Wainwright
Native Village of Wales
Native Village of White Mountain
Wrangell Cooperative Association
Yakutat Tlingit Tribe

[FR Doc. 03–30244 Filed 12–4–03; 8:45 am]
BILLING CODE 4310–4J–P

NARRATIVE STATEMENT

NARRATIVE STATEMENT FOR THE CABAZON BAND OF MISSION INDIANS FINANCIAL ASSISTANCE ELIGIBILITY (FAE) APPLICATION

I. General Background Information

The Cabazon Indian Reservation is found within the territory of the people known as the Desert Cahuilla, who became a separate linguistic and culturally independent tribe in approximately 1000 B.C. The Reservation is located on non-contiguous lands in the eastern half of the Coachella Valley, Riverside County, California. It is divided over four sections of land, Sections 19, 30, 32 are located in Township 5,Range 8 and Section 6 is located in Township 7, Range 9. These sections occur adjacent to the cities of Indio, Coachella and the unincorporated communities of Thermal and Mecca.

The Reservation was defined by Presidential Decree in 1876, as consisting of three parcels of raw desert totaling 2,400 acres. The tribe, consisting of 600 members during that period, has dwindled to fewer than 70 descendants. The reservation has decreased in area, to approximately 1,700 acres. Portions of reservation land were taken, first, by the Southern Pacific Railroad and later by the State of California. This land was used to create a railroad and an interstate right-of-way. What is now known as the City of Indio was created out of much of the acreage seized for the Southern Pacific Railroad.

Beginning in stark poverty, on sun baked, and land-locked property, the Cabazon Band of Mission Indians have utilized some expert assistance, and as a result, have created a flourishing array of businesses and opportunities for Tribal members, as well as providing employment opportunities for adjacent communities. After reorganizing themselves in 1980, the Tribe has developed a successful Tribal government. They elect a Tribal Chairperson (the five member Business Committee) every four years. They have established a Tribal Court, formed a Tribal Public Safety Department, and established a Tribal Services Department to coordinate health, education, employment and housing programs.

The Tribe has developed an excellent administrative staff, nearly 30 personnel, who are working to bring prosperity to the Tribe, while seeking to protect the natural environment of the Reservation.

Water Conditions

Flooding

The Reservation lies in an area of very gentle slope, 0-2%. Diversion dikes have been built to the northeast which protect the All-American Canal, and subsequently, Section 19, Wasteway No. 3 serves to divert potential storm flows into the Whitewater River Channel, which occurs south of Interstate 10 and runs southwesterly through Sections 30 and 32 on the Reservation. The Whitewater Rivers serves as the principle drainage for the entire Coachella Valley. However, Section 6 of the Reservation occurs approximately 1.5 miles east of the Whitewater River and will not be able to directly channel flows to this facility.

Water Resources

Most of the Coachella Valley water supply, including that utilized by Tribal lands, draws from the Whitewater Subbasin, which covers approximately 400 square miles. From 1973 to 1988, the subbasin was recharged in the upper Coachella Valley by the Colorado River water brought west by Metropolitan Water District Facilities.

NOTE: This document demonstrates what has been accepted by EPA, the type of information that is required, and should be used as a reference only, as each Tribe differs with respect to geography, capability, history, and administration.
This document has been reformatted by EPA for inclusion in this handbook.

NARRATIVE STATEMENT (cont.)

These facilities pass through the northern portion of the valley. Drought conditions in California and the Pacific Northwest in the past few years have caused the MWD to suspend the Coachella Valley's allocation. Continued drought conditions over a prolonged period could significantly impact long-term availability to recharge water. However, water already in storage has been estimated to be sufficient to address the valley's needs for the next 100 to 200 years. The water resource in this subbasin has been rated as "medium-hard, good quality".

Domestic water service is currently being supplied to Sections 19 and 30 by the City of Indio. Currently, service for Section 32 is provided by the City of Coachella. The water service for Indian Sands, the Tribe's housing development, will be supplied by future Tribal wells. Section 6 currently does not have domestic water service. However, there are two production wells and six monitoring wells located on reservation lands in Section 6. One of the production wells was drilled for the Colmac Energy Facility in the southern portion of the section. It produces approximately 800 gal/min and is approximately 800 feet deep. The other production well was drilled for the Ecology West Technology in the northwest corner of Section 6. It is approximately 600 feet deep and produces approximately 600 gals/min. The monitoring wells are located near the Ecology West facility and are all approximately 15 feet deep.

In Section 19, the Tribe has a well, approximately 400 feet deep that is currently supplying water for construction purposes. It will probably be used for fire and safety purposes in the future.

II. <u>Tribal Capability</u>

1. Examples of previous general managerial experience of the Cabazon Band of Mission Indians include:
   a. Cabazon Gaming Operations
   b. Cabazon Public Safety Department, includes both fire and police protection by 56 POST certified officers
   c. The Indian Trading Center
   d. The Cahuilla Child Development Center
   e. The Players Restaurant
   f. Indian Sands Planned Community
   g. The Cabazon Cultural Museum
   h. Administration of numerous grants, including:
      - HUD Community Development Block Grant
      - Dept. of Education Development Block Grant
      - Aid to Native Americans Grant
      - California Indian Manpower Consortium Grant
      - Aid to Tribal Government Grant
      - Fire Protection Grant
      - US Department of Commerce Economic Development Grant

2. Examples of existing environmental or public health/safety programs administered by the Tribe:
   a. Tribal Services Department, coordinates all aspects of health, education, employment and housing for Tribal members.
   b. The Tribe acts as the financial equivalent of the California EPA, regulating and monitoring industries on Tribal lands, including:
      - The Colmac Mecca biomass power plant
      - Ecology West Technology soil remediation project
      - DDH Enterprises fertilizer manufacturing
      - Indian Sands Housing Development
      - All Gaming Operations

NARRATIVE STATEMENT (cont.)

- Cahuilla Child Care Center
- Metropolitan Theaters Outdoor Market

3. Existing staff resources and resumes (attached):
   a. Chief Executive Officer: MR. MARK NICHOLS
   b. Planning Director: MR. TED NEWMAN
   c. Director of Public Safety: MR. PAUL HARE
   d. Associate Planner: MR. MICHAEL DERRY
   e. Operations Director: MR. DONALD GOODMAN
   f. Director, Cahuilla Child Development Center: MS. SANDRA SHAW
   g. Marketing Director: MR. DAVID REIMER
   h. Director, Tribal Services Department: MS. NANCY DUTEAU
   i. Code Enforcement Officer : MR. DONALD CHANCE
   j. Controller: MR. AL CLARK
   k. Assistant Controller: BEA GILLARD
   l. Environmental Consultant: MS. CHRISTINE LAMBERT

   In addition the Tribal Administration has a support staff of nineteen people.

   The Tribe has identified the following as a potential inventory of individuals and organizations that could provide the necessary technical capability for a water quality assessment/pollution control program. We intend to enter into an agreement with one or more of the following should CWA §106 funds become available.
   a. U.S. Geological Survey, Gil Bertoldi and Scott Hamilton, coordinators
   b. Environmental Consultant Christine Lambert
   c. Soil Conservation Services
   d. Southland Geotechnical
   e. Earth Systems, Inc.
   f. U.S. EPA Office of Pacific Island and Native American Programs
   g. U.S. EPA Office of Underground Storage Tanks, Region 9

4. Tribal accounting and procurement systems.

   The Tribe's general accounting system is maintained by four Tribal bookkeepers and a private accounting firm. They handle all Tribal financial activities, including payroll, ledgers, accounts payable and receivable and program disbursements, in compliance with federal accounting regulations [40 CFR 31.36] and OMB Circular 87. The bookkeepers work with auditors to supply documentation of all financial transactions. Tribal books are audited yearly by Walter Otto and Associates. Please see Exhibits 13 and 14 for results of the separate [most recent] audits for the Tribal Administration and for Tribal Gaming.

   The Tribe's procurement system meets the requirements as described in federal regulations [40 CFR Part 31].

5. Executive functions of the Cabazon Band of Mission Indians Tribal government are carried out the by Tribal Chairperson. Legislative functions are carried out by the five member Tribal Council/Business Committee.

COMPONENTS OF A TRIBAL ATTORNEY LETTER

The tribal attorney letter must describe the basis for authority over water resources on the Tribe's reservation to support CWA §106 and §319 FAE applications. Funds available under CWA §106 and §319 may be awarded to an Indian Tribe, if EPA determines that the Indian Tribe meets the requirements set forth in 40 C.F.R. § 130.6(d),[1] and 40 C.F.R. §§ 35.583, 35.633, respectively. The regulations found at 40 C.F.R. § 130.6(d) provide that an Indian Tribe is eligible for a grant under CWA [2] §106 and §319 if:

> (1) the Indian Tribe has a governing body carrying out substantial governmental duties and powers;
> (2) the functions to be exercised by the Indian Tribe pertain to the management and protection of water resources which are held by an Indian Tribe, held by the United States in trust for Indians, held by a member of an Indian tribe if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation; and
> (3) the Indian Tribe is reasonably expected to be capable, in EPA's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the Clean Water Act and applicable regulations.

Section 518(e)(2) of the CWA authorizes EPA to treat an Indian tribe as a State only if:

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

The preambles to EPA's April 11, 1989 and March 23, 1994 regulations state that to document its authority in this area, a tribe should provide EPA with a statement from its **Attorney General or an equivalent official "explaining the legal basis for the tribe's regulatory authority over its water resources"**. 54 Fed. Reg. 14354, 59 Fed. Reg. 13814. To satisfy this requirement, such statements should affirm that the Tribe exercises jurisdiction over the lands and waters of the Reservation. Generally, such statements are based on an analysis of the Tribe's Constitution (where relevant), the Tribe's federally reserved water rights, and general principles of tribal sovereignty, as set forth in federal case law and statutes.[3]

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[1] The requirements of 40 C.F.R. §130.6(d) are the same as those set forth in section 518(e) of the CWA.

[2] The requirements of 40 C.F.R. §130.6(d) are applicable to all CWA assistance programs administered under 40 C.F.R. Part 35, Subparts A, B and H.

[3] Once EPA makes a determination that a Tribe meets the jurisdictional criteria of section 518(e)(2) of the CWA, EPA does not need to conduct a separate review to verify that a Tribe meets such criteria in subsequent Tribal applications under the CWA, unless the subsequent application "raises different legal issues." 59 Fed. Reg. at 13816.

ORDINANCE ADDRESSING CWA §504 AUTHORITY

ORDINANCE PROHIBITING THE DISCHARGE OF ANY POLLUTANT INTO [TRIBAL WATERS ON TRIBAL TRUST] LANDS

The Tribal Council of the Big Lagoon Rancheria does hereby ordain as follows:

SECTION 1 - FINDINGS AND DECLARATION:

The Tribal council for the Big Lagoon Rancheria finds and declares that:

1. It wishes to eliminate all discharges of pollutants into waters of the Big Lagoon Rancheria.
2. Elimination of all discharges of pollutants into waters of the Big Lagoon Rancheria is necessary at this time in order to maintain water quality for consumption and other domestic purposes by residences of the Rancheria.
3. This Ordinance is being enacted at this time as an emergency measure to maintain the quality of the Rancheria waters until such time as the Big Lagoon Rancheria Tribal Council can enact a new water ordinance comprehensively regulating water quality and discharge of pollutants on the Rancheria.

SECTION 2 - PROHIBITED DISCHARGES:

No person shall discharge any pollutant into the water of the Rancheria.

SECTION 3 – DEFINITIONS:

For the purposes of this ordinance, the following words shall have the following meanings:

1. "Council" shall mean the Tribal Business Council of the Big Lagoon Rancheria.
2. "Person" shall mean any individual, corporation, firm, partnership, joint venture, association, social club, estate, trust, the United States, Tribe, State, County, City, District, or other political subdivision of any state or any other group or combination acting as a unit.
3. "Pollutant" means any substance that will alter the quality of the waters of the Rancheria.
4. "Quality of the water or water" means any chemical, physical, biological, bacteriological, radiological and other properties and characteristics of water which affects its use.
5. "Rancheria" means all land, air, and water located within the exterior boundaries of the Big Lagoon Rancheria or held in trust by the United States for the benefit of the Big Lagoon Rancheria.
6. "Water or Waters" means any water, surface or underground located on or running through the Rancheria.

SECTION 4–CIVIL PENALTY:

Any person discharging any pollutant into the waters of the Rancheria shall pay a civil fine in an amount not to exceed one thousand dollars ($1,000) for each day in which the violation occurs. The civil fine required by this section shall be imposed by any court of competent jurisdiction in accordance with sections 5 and 6 of this ordinance.

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ORDINANCE ADDRESSING CWA §504 AUTHORITY (cont.)

SECTION–5 CLEAN UP AND ABATEMENT:

Any person that discharges any pollutant into the waters of the Rancheria shall immediately, but in any case not less than twenty-four (24) hours from the time of the discharge notify the Tribal Council of said discharge and shall fully disclose to the Tribal Council any and all information regarding the discharge, including but not limited to the type of pollutant discharged and any other information required by the Tribal Council. Any person who discharges any pollutant into the water of the Rancheria shall be liable for any and all costs associated with or necessary to clean up, abate or remove any pollutants from the waters of the Rancheria and restore the quality of the waters of the Rancheria to their condition as they existed immediately prior to the discharge.

SECTION 6–COURT ACTION AND INJUNCTIONS:

Upon failure of any person to comply with any of the provision of this Ordinance, the Tribal Council, by and through its attorney, shall petition a court of a competent jurisdiction for the issuance of an injunction requiring such a person to comply therewith. In any such suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, and to levy such fines in accordance with Section 4 of the Ordinance, as the facts may warrant.

SECTION 7–EMERGENCY ENFORCEMENT:

Notwithstanding any other provisions of this ordinance, the Tribal Council, upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where such endangerment is to the livelihood of such persons, may bring suit on behalf of the tribe in any court of competent jurisdiction to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contribution to such pollution or to take such other action as may be necessary.

SECTION 9–EFFECTIVE DATE:

The Ordinance shall take effect immediately upon passage.

CERTIFICATION

The foregoing Ordinance was passed at a Tribal Council meeting held on *(date)* by the following:

Vote: _____ For _____ Against _____ Abstain

*(Authorized Signature)*_____
Virgil Moorehead, Tribal Chairman

ATTEST:

*(Authorized Signature)*_____
Tribal Secretary

CONTINGENCY PLAN TO IMPLEMENT AUTHORITY COMPARABLE TO CWA §504

CONTINGENCY PLAN IMPLEMENTING EMERGENCY TRIBAL AUTHORITY OVER TRIBAL WATERS ON TRIBAL TRUST LANDS

I. Purpose: To qualify for treatment as a state under the federal Clean Water Act, Environmental Protection Agency rules require that the tribe exercise emergency powers comparable to those granted the EPA Administrator under CWA Section 504 (54 Fed. Reg. 14358 (Interim Revision of 40 C.F.R. §35.260(b)), and have adequate contingency plans to implement such authority. This plan sets forth a statement of emergency tribal authority and the tribe's implementing contingency plans.

II. Emergency Powers: Section 7 of the Big Lagoon Rancheria Ordinance Prohibiting Discharge of Any Pollutant Into the Waters of Reservation Lands establishes authority in the Tribal Council that is equivalent to that of the power granted the EPA Administrator under the Clean Water Act. Section 7 provides as follows:

> "SECTION 7-EMERGENCY ENFORCEMENT
>
> Notwithstanding any other provisions of this ordinance, the Tribal Council, upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where such endangerment is to the livelihood of such persons, may bring suit on behalf of the tribe in any court of competent jurisdiction to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contribution to such pollution or to take such other action as may be necessary."

III. Contingency Plan: Since all lands subject to tribal regulation under the tribe's Ordinance are trust lands, the Tribe may exercise both regulatory authority, and authority as beneficial owners of the land and resources at issue. Discharge of prohibited pollutants in or on tribal territory, in addition to violating tribal standards subjecting a violator to civil penalties, is unlawful and an unauthorized use of tribal resources and thus may be immediately restrained.

The Tribal Council, upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where such endangerment is to the livelihood of such persons, by and through its attorney, shall petition a court of a competent jurisdiction for the issuance of an injunction to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contribution to such pollution or to take such other action as may be necessary.

NOTE: This document demonstrates what has been accepted by EPA, the type of information that is required, and should be used as a reference only, as each Tribe differs with respect to geography, capability, history, and administration.
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CONTINGENCY PLAN TO IMPLEMENT AUTHORITY COMPARABLE TO CWA §504 (cont.)

The Tribal Council, by and through its attorney, shall select a judicial forum in which to petition for injunctive relief according to the following priorities:

1. The forum's jurisdiction over all parties to dispute is certain.
2. A clear and definite mechanism is available to enforce the court's orders protecting the water resource.
3. Tribal law will be applied.

CERTIFICATION

The foregoing Contingency Plan was passed at a Tribal Council meeting held on *(date)* by the following:

Vote: _____ For _____ Against _____ Abstain

*(Authorized Signature)*_____
Virgil Moorehead, Tribal Chairman

ATTEST:

*(Authorized Signature)*_____
Tribal Secretary

CLEAN WATER ACT §504 EMERGENCY POWERS

CWA § 504: "Notwithstanding any other provisions of this Act, the Administrator upon receipt of evidence that a pollution source or combination of sources is presenting an imminent and substantial endangerment to the health of persons or to the welfare of persons where such endangerment is to the livelihood of such persons, such as the inability to market shellfish, may bring suit on behalf of the United States in the appropriate district court to immediately restrain any person causing or contributing to the alleged pollution to stop the discharge of pollutants causing or contributing to such pollution or to take other such actions as may be necessary."

SAMPLE CWA §319 FAE APPLICATION SUBMITTAL LETTER

November 1, 2002

Mr. Wayne Nastri, Regional Administrator
U.S. Environmental Protection Agency, Region 9 (WTR-10)
75 Hawthorne Street
San Francisco, California 94105-3901

Dear Mr. Nastri:

This letter and enclosures constitute the Stovell Indian Tribe's application for Financial Assistance Eligibility (FAE) for the Nonpoint Source Control Program under the Clean Water Act's (CWA) Section 319.

As you are aware, the CWA requires the following criteria to be met with respect to FAE approvals:

1. The Indian Tribe is Federally recognized by the Secretary of the Interior and exercises governmental authority over a Federal Indian Reservation.
2. The Indian Tribe is a governing body carrying out substantial governmental duties and powers.
3. The functions to be exercised by the Indian Tribe pertain to the management and protection of water resources which are held by an Indian Tribe, held by the United States in trust for Indians, held by a member of an Indian Tribe, if such property interest is subject to a trust restriction on alienation, or otherwise within the borders of an Indian reservation.
4. The Indian Tribe is reasonably expected to be capable, in the Administrator's judgment, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of the Act and of all applicable regulations. The Tribe must demonstrate adequacy in the following areas:
   a. Previous or potential general managerial experience.
   b. Existing environmental or public health programs administered by the Tribe in place.
   c. Accounting and procurement systems of the Tribe in place.
   d. The executive, legislative, and judicial functions of the Tribe in place.
   e. Existing or proposed staff resources and stability and continuity of staff.

With respect to this application, criteria 1 through 4 were addressed in and satisfied by the Stovell Indian Tribe's CWA Section 106 FAE application, which was approved by and is on file in your office. Further, there have not been any changes with respect to the above since the time of our application's approval. **[See NOTE below.]**

To further demonstrate the fourth criterion, especially items (4)(e), the Stovell Indian Tribe has enclosed the resumes and qualifications of the Stovell Environmental Programs staff and of Greene, Zimpfer and Strauss, Inc., an environmental consulting firm, that together with our own staff, will provide the technical and administrative capability for developing and managing a NPS program.

If you have any questions regarding this letter or the enclosed materials, please call *[EPA Project Officer name and phone number]*. We look forward to continued interaction with your staff concerning the management and protection of the quality of our resources.

Sincerely,

Philip Charles Woods
President

Enclosures:

NOTE: If the CWA Section 106 FAE application is not current or requires revision, the updated and revised documents should be submitted with and described in the submittal letter.

TRIBAL CONTACTS / PROJECT OFFICERS *

U.S. EPA, R9 WATER DIVISION (WTR-10)
CWA §106 & §319

PROJECT OFFICERS	TRIBES
Danielle Angeles (415) 972-3441 (415) 947-3537 (fax) angeles.danielle@epa.gov	No. California: Elem, Kashia–Stewarts Point, Manchester Pt. Arena, Middletown, Pit River, Round Valley, Shingle Springs, Trinidad Rancheria
Tiffany Eastman (to contact this person, you must dial 1-800-735-2922 for an operator to assist you with your call) (415) 972-3404 (415) 947-3537 (fax) eastman.tiffany@epa.gov	Central California: Big Pine, Big Sandy, Bishop (PPG), Chemehuevi, Cold Springs, Ft. Independence, Lone Pine, Owens Valley Water Commission, Picayune, Santa Rosa Rancheria, Table Mountain, Timbisha, Tule River Nevada: Fallon, Moapa, Pyramid Lake (PPG), Washoe Arizona: CRIT, Ft. Mojave, Kaibab **Central CA. Contact for 1st Time Applicants**
Jenée Gavette (415) 972-3439 (415) 947-3537 (fax) gavette.jenee@epa.gov	Arizona: Ft. McDowell, Gila River, Salt River (PPG), Yavapai-Prescott So. California: Campo, Cuyapaipe, La Jolla, Torres-Martinez **So. CA Contact for 1st Time Applicants**
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Loretta Vanegas (415) 972-3433 (415) 947-3537 (fax) vanegas.loretta@epa.gov	Arizona: Ak-Chin, Cocopah, Quechan, San Carlos, Tohono O'Odham Nation, White Mountain Apache No. California: Hoopa Valley (PPG), Resighini, Yurok (PPG) So. California: Rincon **AZ Contact for 1st Time Applicants**
Jared Vollmer (415) 972-3447 (415) 947-3537 vollmer.jared@epa.gov	No. California: Big Valley, Cahto, Dry Creek, Hopland, Robinson Rancheria, Sherwood Valley, Smith River, Susanville Nevada: Summit Lake, Yerrington **NV Contact for 1st Time Applicants**
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