

Date Signed: March 1976

MEMORANDUM

SUBJECT: Indian Reservations-Distinction between EPA
Jurisdiction over Public Water Systems and State Jurisdiction

FROM: Victor J. Kimm, Deputy Assistant Administrator
for Water Supply (WH-550)

TO: Regional Water Supply Representatives

The question of the definition of water supplies on Indian lands for which a State will be responsible has been raised. This memorandum sets forth our interpretation of the intent of the regulations and the factor that determines whether the State or EPA will have primary enforcement authority.

Section 142.3(b)(2) National Interim Primary Drinking Water Regulations Implementation, states that "In order to qualify for primary enforcement responsibility, a State's program for enforcement of primary drinking water regulations must apply to all other public water systems in the State except for public water systems on Indian land with respect to which the State does not have the necessary jurisdiction or its jurisdiction is in question". The purpose of this sub-section is to require State responsibility only for public water systems in areas where the State has the necessary jurisdiction. If the State does not have the necessary jurisdiction, then EPA is required to provide the surveillance in these areas.

The determining factor is not who owns or operates the water system, but who has the necessary jurisdiction over that particular area. If a State claims jurisdiction over a particular reservation, that State will be responsible for providing surveillance over all public water systems within that reservation within the State. The list of reservations over which a State claims jurisdiction will be obtained from their program grant application.