

**National Tribal Water Council and EPA Monthly Conference Call**  
**Wednesday, February 14, 2024**  
**2:00 – 3:30 P.M. ET**

**SUMMARY NOTES**

**I. Introductions** (Elaine Wilson, ITEP)

**NTWC:** Ken Norton (Chair, R9); Brian Patterson (R2); Jaclyn McCasland (R6); Denise Jensen (R7); Chauncey Means (R8); Yolanda Barney (R9); Mary Verner (R10)

**EPA:** Holly Galavotti; Robyn Delehanty (OWM); Samar Khoury (OST); James Ray (OST); Nizanna Bathersfield (OWM); Rory Hytrek; David Jones; Sarah Lehmann; Hugh Sullivan; Amy Weber

**ITEP:** Nikki Cooley; Elaine Wilson; Elaina Doral

**II. NTWC Updates** (Ken Norton, NTWC)

Chairman Norton provided an overview of the topics discussed during the previous NTWC-only call.

- **Letter of Support for the Native Village of Eklutna, Alaska**

NTWC developed a letter of support for the Native Village of Eklutna's project to restore the fish passage of salmon in the Eklutna River. Previously, hydroelectric dams were blocking the fish passage. The letter will be transmitted on February 15, 2024.

- **NTWC's Informational Webinar on the EPA CWA Section 401 Certification Improvement Rule**

NTWC is hosting an informational webinar on the *Final 2023 CWA Section 401 Water Quality Certification Improvement Rule* on February 20, 2024. NTWC will focus on the treatment in a similar manner as a state, especially the certifying authority and neighboring jurisdiction. The webinar will provide more detail on the legal requirements, program implementation, and enforcement. It will encourage tribes to seek the benefits of these initiatives.

- **CWA 106 Grant Program**

NTWC continues to look into enhancing the program and researching program needs.

- **EPA's Proposed Rulemaking for Incorporating PFAS Reporting Requirements into NPDES Application Forms**

NTWC will work with the TAC team and Tribal PFAS Working Group to develop a comment letter on the proposed rulemaking. The deadline to submit the letter is April 1, 2024.

- **NTWC Vice Chair**

The Council is in the process of nominating a vice chair. Voting will occur via Google forms.

- **Region 4 Representative**

During the NTWC-only call, there were not enough members for a quorum to confirm the Region 4 nominee. Confirmation will occur via Google forms.

- **Spring Meeting**

NTWC reviewed the tentative agenda. There is a request to add a speaker to discuss mining and the report on *Recommendations to Improve Mining on Public Lands*.

**III. National Rivers and Streams Assessment (NRSA) (Sarah Lehman, Office of Wetlands, Oceans, and Watersheds)**

Sarah Lehman provided an overview of the National Rivers and Streams Assessment that was released on December 19, 2023. EPA released the results of the 2018-2019 survey of perennial rivers and streams in the 48 contiguous United States. The results from the NRSA can help the EPA better understand the condition of rivers and streams in the United States.

The survey objectives include: (1) assessing the biological and recreational condition and changes over time of the nation's waters; (2) rank stressors based on the relative associations between indicators of condition and indicators of stress; and (3) build and enhance state and tribal monitoring and assessment capacity. For the survey, a representative set of 1,851 sites were sampled and data represents approximately 1,543,290 miles of perennial rivers and streams.

Sixteen tribes participated in the NRSA 2018-2019. Tribes attended field training to learn about sampling methods and conducted field work. Other sites were samples with tribal approval.

Sarah Lehman mentioned the key findings from the survey, which are listed below.

- Healthy habitat occurred in over half of the river and stream miles.
- Over one-third of river and stream miles had healthy fish communities.
- Nutrients were the most widespread stressors.
- Algal toxins were present, but at very low levels.

To review the complete report and additional results and findings, you may view them at the following links. The [NRSA 2018-2019 web report](#) and [NRSA 2018-2019 data dashboard](#).

**Questions/Comments**

Chairman Norton asked if the survey is presented in a congressional form as part of the report out. Sarah Lehmann replied that there is not a specific requirement for reporting out. The survey is funded under the CWA 106 grants. Field and laboratory are supported by state and tribal funds. EPA provides funding for logistics.

Chairman Norton asked if there are discussions about PFAS sampling as a national indicator pollutant. Sarah Lehmann replied that EPA included fish tissue analyses in some past surveys including NRSA 2018-2019, but it is not being implemented in 2023-2024. EPA worked on an initiative last year to request more funding for 106 program that included funding for PFAS analyses. EPA hopes to include the PFAS analysis in the future.

Chairman Norton noted that the analysis occurs every four years. Sarah Lehmann replied, the streams and rivers is a two year survey that occurs five years, and lakes occur every five years and is a one year survey.

Nancy Schuldt stated that Fond du Lac has river and lake sites that were sampled. Does EPA sample the rivers/streams twice two years in a row? Or, do the sampling sites get split up? Sarah Lehmann replied that EPA conducts 2,000 site visits and of those sites, about 10% are revisited twice a year to look for variability and comparison purposes. Nancy Schuldt noted the importance of this report, especially for decision makers.

**IV. Direct Implementation Tribal Cooperative Agreements (DITCAs)** (David Jones, EPA, OITA, American Indian Environmental Office)

David Jones provided information on EPA's Direct Implementation Tribal Cooperative Agreements (DITCAs) as a unique funding authority from Congress for tribes and intertribal consortia. Under the agreement, activities are carried out under federal authority and assist EPA with the implementation of federal environmental programs for tribes.

With DITCAs, EPA directly implements environmental programs while allowing the tribe to participate and gain experience in the programs. The programs remain EPA's responsibility until the program has been delegated to a tribe. Currently, EPA has active DITCAs with 12 tribes that include regulatory authority.

For example, DITCAs provide an opportunity for tribes to develop staff capacity, address specific tribal environmental priorities, and address environmental concerns without having to obtain TAS approval process.

For more information, please visit <https://www.epa.gov/tribal/direct-implementation-indian-country>.

**Questions/Comments**

Chairman Norton stated the NTWC has been reviewing the regulatory language under NPDES, CWA 401, and others in Indian Country, especially when tribes do not have water quality standards. The Council is looking at how DITCAs may be applied on a nationwide basis for tribes that do not have water quality protections. Chairman Norton thanked David Jones for his presentation.

David Jones stated that regions utilize DITCAs more, but the lack of funding is challenging. The program has requested for appropriation for DITCAs from Congress.

Nancy Schuldt added that securing more funding is needed. Fond du Lac has used DITCAs under CWA for wetlands inspection and getting staff credentialed to conduct inspections. The program needs reoccurring sources of funding. DITCAs result in good work. David Jones replied that there are 14 active DITCAs with seven (7) in Region 5.

Chairman Norton noted that tribes start at the regional level to apply for a DITCA, and he asked "Who approves the application?" David Jones replied the regional office makes the final decision and will coordinate with the headquarter office and AIEO for input.

Elaine Wilson asked if the funding amount for DITCAs has stayed the same or increased/decreased? David Jones answered the amount funded is zero. Congress does not fund a specific amount. Program offices determine available funding (from either State and Tribal Assistance Grant (STAG) funds or EPA EPM funding). Once they choose STAG or EPM, they have to continue using that funding source for future DITCAs in that program area. Some regions may have excess dollars that may be used for the program.

Yolanda Barney added that there are a few drinking water systems on the Navajo Nation that are overseen by EPA Region 9, and they use Indian set-aside funds to have the direct implementation program. David Jones replied that he is not sure and recommended asking the Navajo Nation EPA Director for more information.

## V. Upcoming Meetings

- National Tribal Caucus (NTC) and EPA's Tribal Partnership Groups (TPGs) meeting to discuss and prioritize EPA tribal program budget priorities and policy planning priorities, March 19 & 20, 2024.
- EPA National Tribal Caucus' Climate Subcommittee is hosting a Tribal and Indigenous Climate Intensive, June 10 - 14, 2024
  - Monday June 10 (1:00 – 4:30 P.M. ET) – Conducting a Vulnerability Assessment and Writing a Climate Action plan.
  - Tuesday June 11 (1:00 – 4:30 P.M. ET) – Overview of how EPA Programs help address Climate Change
  - Tuesday-Thursday, June 12 - 13 (1:00-4:30 P.M.), Program Office Partnership Group Sessions (June 13, National Tribal Water Council)
  - Friday June 14, Open discussion
- NTWC Spring Meeting in DC, April 16 – 17, 2024
- CWA Tribal Forum in DC, May 14-15, 2024

## VI. Consultation Opportunities

- **Proposed research permit application** pursuant to the Marine Protection, Research and Sanctuaries Act to conduct a scientific research study of a marine carbon dioxide removal technique in ocean waters offshore of Massachusetts and New Hampshire.
  - Consultation and coordination: Begins Feb. 14 for a minimum of 60 days.
  - Region 1 RTOC meeting presentation – Feb. 14
  - Information Webinar - late-February or early-March
  - Notice of a complete permit application - Spring 2024
  - EPA Region 1 Tribal leaders and staff will be notified by email when the webinar and the public comment period are announced.
- **Proposed Rulemaking for Incorporating PFAS Reporting Requirements into NPDES Application Forms**
  - **Consultation and coordination: Closes April 1, 2024**
  - Webinar #1: February 15, 2024, 10:00 a.m. – 11:00 a.m. EST  
Zoom Webinar Registration Link:  
[https://www.zoomgov.com/webinar/register/WN\\_d32TUyYNQ7GgTA4RNq1GvA](https://www.zoomgov.com/webinar/register/WN_d32TUyYNQ7GgTA4RNq1GvA)
  - Webinar #2: March 5, 2024, 2:00 p.m. – 3:00 p.m. EST  
Zoom Webinar Registration Link:  
[https://www.zoomgov.com/webinar/register/WN\\_CNV6PLtOReCeitpfU4Hd1g](https://www.zoomgov.com/webinar/register/WN_CNV6PLtOReCeitpfU4Hd1g)
  - For more information: <https://tcots.epa.gov/ords/tcotspub/f?p=106:5::1859>
- **Proposal of EPA's NPDES Wildfire General Permit**
  - Consultation and coordination period: October 30, 2023 – February 27, 2024.
  - For more information: <https://tcots.epa.gov/ords/tcotspub/f?p=106:5::1856:::>

## VII. Closing (Ken Norton, NTWC)

Chairman Norton thanked everyone for attending the call and for their feedback regarding the upcoming spring meeting. The Council values the interaction with EPA headquarters and program staff. The meeting is helpful in setting mutual water protection goals of the NTWC and EPA. The NTWC's next monthly call is scheduled for March 13, 2024.