



August 29, 2018

Daniel Giddings
U.S. Environmental Protection Agency
Office of Water, Resource Management (4101M)
1200 Pennsylvania Ave., NW
Washington, DC 20460

Re: Tribal Consultation Regarding EPA's National Water Program Core Measures – Request for 30-Day Extension & Preliminary Feedback.

Dear Mr. Giddings:

The U.S. Environmental Protection Agency (EPA) has requested tribal feedback on streamlining its National Water Program Measures (NWPM). The proposed streamlining is implemented through EPA's Lean Management System (ELMS), and is designed to reduce the metrics that tracks progress regarding various water program measures. During the current tribal consultation and coordination process, tribes have been asked to identify their water program priorities and select the smallest most meaningful set of performance measures to be incorporated in to the FY2020 – 2021 National Program Guidance and other EPA documents.

On behalf of the National Tribal Water Council (NTWC), I am writing to offer preliminary feedback and request for extending the comment period.

In general, the NTWC is concerned with EPA's implementation process for this proposed initiative, and in particular EPA's engagement with federally recognized Indian tribes. Specifically, the NTWC believes EPA's consultation and coordination timeline is inadequate and inappropriate for meaningful tribal consultation. The timeline does not provide the opportunity for informed tribal input and violates the intent and specific provisions of *EPA's Policy on Consultation and Coordination with Indian Tribes*.

The NTWC urges EPA to extend the National Water Program Core Measures consultation and coordination timeline by an additional 30-days, to allow tribes adequate time to review and evaluate the implications of streamlining the NWPM, including the possible removal of any or all of the 13 existing tribal-specific performance measures. Tribal governments require adequate time to effectively process, develop, and approve their responses to this proposed action. Extending the close of consultation to September 30, 2018 will allow meaningful government-to-government engagement on this important issue.

Of the 143 existing water-related measures that EPA is seeking to streamline only 13 are tribal-specific. It is the position of the NTWC that all of these measures should remain intact, that EPA should consider adopting additional tribal-specific measures, to demonstrate EPA's responsibility and commitment to working with tribes to protect human health and the environment in Indian country in measurable ways. EPA's continued support of tribal environmental protection efforts is critical while tribal capacity is still developing and maturing; in light of the fact that additional program authorizations are slowly but steadily being achieved. For example, in the FY 2018-2019 National Water Program Guidance early engagement process, the NTWC provided EPA a series of metrics addressing the new rules (Final Rules for *the Revised Interpretation of Clean Water Act Tribal Provision*, and on *Treatment of Indian Tribes in a Similar Manner as States for Purposes of Section 303(d) of the Clean Water Act*) which allow Tribes to assume more regulatory programs that are related to water.

The NTWC acknowledges that tracking numerous performance measures may place a reporting burden on the Agency; however, the existing 13 tribal-specific measures are fundamental and concise, while covering multiple aspects of drinking water, waste water, and surface water programs. These measures help track tribal program results and are vital for program management, including EPA's Strategic Plan and budget requests, for the protection of human health and the environment. The NTWC respectfully urges EPA to retain as many of the tribal-specific measures as possible. The tribal measures are already by definition, "lean".

The NTWC has organized the tribal-specific measures into program categories of Safe Drinking Water, Water Quality, Wetlands, and Water Quality Standards, and has designated each measure as 1) "Absolutely Essential" to protect the health of tribal communities and their environments; 2) "Highly Significant" meaning critical to track tribal water program priorities; or, 3) "Negotiable for Improvement", (see Table 1 attached). While recognizing that specific tribes may have different water program priorities, the NTWC believes the Absolutely Essential and Highly Significant measures are critically important to ensure EPA continues to work with Tribal nations and Alaskan Native Villages to protect human health and the environment.

EPA must ensure not only meaningful tribal consultation; but also equitable program implementation through tracking of measures, that will represent how cooperative federalism can be realized in the tribal-federal partnership in protecting our valuable water resources.

We appreciate your attention to these comments and look forward to receiving a response to our request to extend the tribal consultation and coordination timeline, and maintain the existing tribal-specific performance measures. In the meantime, please feel free to contact me if you have any questions or require further information.

Sincerely,

A handwritten signature in black ink that reads "Ken Norton". The signature is written in a cursive, flowing style.

Ken Norton
Chairman

Table 1. Tribal Water Program Core Measures

Program Categories	Safe Drinking Water	Water Quality	Wetlands	Water Quality Standards
Absolutely Essential	<p>SDW-22 Number of American Indian and Alaska Native homes provided access to safe drinking water in coordination with other federal agencies.</p> <p>SDW-SP3 Percent of the population in Indian country served by community water systems that receive drinking water that meets all applicable health-based drinking water standards.</p>	<p>WQ-23 Percent of serviceable rural Alaska homes with access to drinking water supply and wastewater disposal.</p> <p>WQ-24 Number of American Indian and Alaska Native homes provided access to basic sanitation in coordination with other federal agencies.</p> <p>WQ-12b Percent of tribal facilities covered by NPDES permits that are considered current.</p>		
Highly Significant	<p>SDW-01b Number of tribal community water systems (CWSs) that have undergone a sanitary survey within the past three years (five years for outstanding performers or those ground water systems approved to provide 4-log treatment of viruses).</p>	<p>WQ-SP14a Improve water quality in Indian country at baseline monitoring stations in tribal waters (i.e., show improvement in one or more of seven key parameters: dissolved oxygen, pH, water temperature, total nitrogen, total phosphorus, pathogen indicators, and turbidity).</p> <p>WQ-SP14b Identify monitoring stations on tribal lands that are showing no degradation in water quality (meaning the waters are meeting tribal water quality objectives).</p> <p>WQ-06a Number of tribes that currently receive funding under Section 106 of the Clean Water Act that have developed and begun implementing monitoring strategies that are appropriate to their water quality program consistent with EPA Guidance.</p>	<p>WT-SP22 In partnership with the U.S. Army Corps of Engineers, states and tribes, achieve 'no net loss' of wetlands each year under the Clean Water Act Section 404 regulatory program.</p> <p>WT-04 Number of Actions completed by states, tribes, and territories to build programs in four areas of wetland management: regulatory, monitoring and assessment, water quality standards, and restoration and protection.</p>	<p>WQ-02 Number of tribes that have water quality standards approved by EPA.</p>
Negotiable for Improvement		<p>WQ-03b Number, and national percent of tribes that within the preceding three year period, submitted new or revised water quality criteria acceptable to EPA that reflect new scientific information from EPA or other resources not considered in the previous standards.</p>		<p>Number of states and tribes completing triennial reviews on time.</p>