

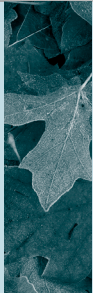


Environmental *VOICES*

Office of Prevention, Pesticides,
and Toxic Substances and
Tribal Environmental
News Exchange

www.epa.gov/opptintr/tribal

In This Issue



- 1 *Effective Tribal Consultation*
- 10 *News and Events*
- 17 *Tribal Strategic Plan*
- 19 *News & Events*
- 11 *Resources, Programs, and Conferences*
- 31 *Kids Page*
- 32 *Calendar of Events*
- 32 *Web Sites and Hot Lines*

Featuring Information and Topics
from EPA's OPPTS Tribal Programs

Following New Paths toward Effective Tribal Consultation

On July 11, 2001, EPA Administrator Christine Todd Whitman reaffirmed EPA's long-standing Indian Policy, originally and formally adopted in 1984, to support the primary role of tribal governments in matters affecting Indian country. Whitman's reaffirmation of EPA's Indian Policy was an important step that allows EPA to continue its progress in establishing more effective ways for EPA to collaborate and partner with Indian tribes and Native Alaskan tribes to protect their environment and safeguard the public health in Indian country. One of the guiding principles of EPA's Indian Policy is to acknowledge and abide by the unique legal relationship with tribal governments that are based on the United States Constitution, treaties, statutes, Executive Orders, and court decisions.

EPA's commitment to the tribes through its Indian Policy was augmented in November 2000 when Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," was issued. Under this Executive Order, EPA and other federal agencies are required to establish and follow various procedures for consulting with federally-recognized tribal governments when an agency plan has a substantial impact on Indian tribes. In September 2001, Administrator Whitman ensured EPA's continuing commitment to implement Executive Order 13175 by sending a letter to the tribal leaders of all federally-recognized tribes asking them to help the Agency define agency actions with tribal implications.

Executive Order 13175 seeks to strengthen the U.S. government-to-government relationships with the Indian tribes and to reduce the imposition of unfunded mandates upon Indian tribes.

continued on page 2

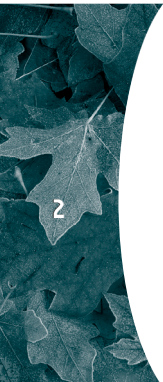


continued from page 1

Administrator Whitman's letter to the tribes appears on page 3.

EPA will seek out every means to conduct meaningful and timely two-way exchanges with tribal officials that provide for an open sharing of information and a commitment to consider tribal views in decision-making and respect of tribal self-government and sovereignty.

In this Winter/Spring 2002 issue of OPPTS Tribal News, we have featured some activities that EPA is currently undertaking to comply with the Order. We also have interviewed some tribal



“Respect means listening until everyone has been heard and understood, only then is there a possibility of ‘Balance and Harmony,’ the goal of Indian Spirituality.”

—Dave Chief,
Grandfather of Red Dog

leaders to include their perspectives regarding consultation and have highlighted environmental projects that we believe have employed effective elements of consultation and coordination between federal agencies and tribal governments.

Finally, this issue contains an overview of activities that contributed to the development of a Tribal Strategy for OPPTS and are being planned to collaborate and consult with Indian tribes. Meaningful consultation is built on the premise that an open and timely exchange of information — about what the Agency has done, what the Agency is planning to do, and the potential impacts to tribes — is critical. The Agency hopes that consultation with, and greater participation by, Indian tribes will help to bring about more effective EPA policies, preserve tribal sovereignty and more respectful government-to-government relationships.

From the Editors...

The staff of OPPTS Tribal News presents this Winter/Spring 2002 issue that highlights EPA's Executive Order 13175 “Consultation and Coordination with Indian Tribal Governments,” and other Agency tribal initiatives, including EPA's Tribal Strategic Plan.

We would like to thank our contributors for their input, expressive articles, and open discussion of EPA and tribal topics included in this newsletter, as well as the wonderful graphics and photographs that accompany many of the articles. A special thank you goes to the tribal interviewees for their participation in interview sessions regarding the Executive Order.

Finally, we would like to remind our readers to visit OPPTS Web site at www.epa.gov/opptintr/tribal to get the latest news and updates on pesticides and pollution prevention tribal programs.

— Mary Lauterbach, OPPT Tribal Coordinator
— Regina Langton, OPP Tribal Coordinator

OPPTS Tribal News *requests interesting success stories about pesticide and pollution prevention programs and projects in Indian country from our readers. If you want to share your experience with our readers, please write or send an e-mail to Karen Rudek (pesticides), 1200 Pennsylvania Avenue (MC7506C), Washington, DC 20460, Rudek.Karen@epa.gov, or Mary Lauterbach (pollution prevention), 1200 Pennsylvania Avenue (MC7408M), Washington, DC 20460, lauterbach.mary@epa.gov.*

OPPTS Mission Statement

- ▶ *Protect and improve human health and the environment*
- ▶ *Achieve risk reduction, sustainability, and environmental justice*
- ▶ *Promote safer designs and use of materials, products, and disposal methods through pollution prevention*
- ▶ *Inform and educate the public on the risks associated with pesticides and toxic substances.*

OPPTS has used reasonable measures to ensure that material contained in this newsletter was correct at the time of production. However, OPPTS gives no warranty and accepts no responsibility for the accuracy or completeness of the material. The content of this publication does not necessarily represent the views of the Agency. No official endorsement should be inferred.

OPPTS Tribal News, Volume 4, Number 2, EPA 745-N-00-001

To be placed on our mailing list, write to:

OPPTS Tribal News, U.S. EPA, OPPT
1200 Pennsylvania Avenue (7408), Washington, DC
20460, or send an e-mail to lauterbach.mary@epa.gov.

OPPTS Tribal News can be viewed on the Internet at
www.epa.gov/opptintr/tribal

Mary Lauterbach, OPPT Editor
Regina Langton, OPP Editor
Shanita Brackett, Writer
Brian Adams, Graphic Design
Selected Photos by Steven Delaney, EPA photographer

Effective Tribal Consultation



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

September 28, 2001

THE ADMINISTRATOR

Dear Tribal Leader:

I respectfully request your assistance in developing internal guidance for compliance with Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments*, which directs all federal agencies to identify policies with tribal implications and to develop and implement consultation processes with tribal officials regarding such policies. I am enclosing a copy of the Executive Order for your information.

Your insights will assist us significantly in developing appropriate and useful guidance. In addition to soliciting your input at this time, we are involving tribal leaders in some workgroup sessions to explore the conceptual approaches we are considering. Once the EPA Regulatory Steering Committee has approved the draft guidance, we will present it to tribal governments for additional input.

At this time, I am requesting your thoughts on how to define two specific aspects of the Order:

Policies with Tribal Implications: This is defined in the Executive Order as "regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes." EPA will be considering what types of EPA activities have "Tribal Implications."

Consultation: The Executive Order requires EPA to develop "an accountable process to ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." EPA will be reviewing activities that have had impacts on tribes in the past, identifying what kind of consultation processes have been most effective, and determining how the consultation process could improve.

Please direct your responses to Jose Aguto, U.S. Environmental Protection Agency, American Indian Environmental Office, 1200 Pennsylvania Ave., NW, MC 4104, Washington, D.C. 20460. You can also contact Mr. Aguto by phone, at (202) 260-6084, or by e-mail, at aguto.jose@epamail.epa.gov.

My sincere thanks for your consideration of this request.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Christine Todd Whitman".

Christine Todd Whitman

Enclosure

Internet Address (URL) • <http://www.epa.gov>

Recycled/Recyclable • Printed with Vegetable Oil Based Inks on Recycled Paper (Minimum 25% Postconsumer)

Effective Tribal Consultation

Executive Order 13175 and Tribal Consultation

Executive Order 13175 Tribal Consultation Workgroup at EPA

EPA has undertaken an ambitious and inclusive effort to develop Agency guidance regarding Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” and has created an Executive Order Workgroup to assist in developing such guidance.

In the spirit of the Executive Order, EPA has involved tribal representatives early in the development of this guidance. Each EPA Region has worked with its respective regional tribal caucus and/or individual tribes and has selected nine tribal leaders and five alternates. These tribal leaders have participated in EPA’s Executive Order 13175 Tribal Consultation Workgroup in developing this guidance. Their active collaboration began on November 14-15, 2001 with a “Dialogue with Tribal Leaders on EO 13175” in Washington D.C. EPA Administrator Christine Todd Whitman provided opening remarks.

The Workgroup has worked closely with tribal leaders to identify and acknowledge resource constraints and other practical challenges that both EPA and tribes will encounter when seeking to engage in meaningful consultation. The Workgroup seeks to create tangible processes and identify entities, agreeable to both the Agency and Indian tribes, which greatly facilitate the ultimate purpose of meaningful consultation and interactive dialogue with tribes on Agency actions with tribal implications.

Ultimately, the Workgroup aims to devise a practical guidance that will identify when an Agency action has tribal implications and the scope of consultation that may be necessary for that action.

During the past several months, the Workgroup has explored existing instruments and processes within the Agency and tribal communities that could be used to convey meaningful information to the tribes in an efficient and

comprehensive manner. The Workgroup has also explored how and when tribal input would be most effective. Finally, the Workgroup has worked with EPA Region 9’s tribal office on a tribal consultation pilot project and identified EPA and tribal organizations that could assist in screening EPA actions for tribal implications and in facilitating consultation with elected and duly appointed tribal officials.

Once draft guidance is developed, the Agency will send it to tribal representatives and other interested parties for comment.

For more information on EPA’s Executive Order 13175 Workgroup, tribal representatives assisting with this effort, and recent activities of the Workgroup, please contact Jose Aguto, EPA, 1200 Pennsylvania Avenue, NW, Mailcode 4104M, Washington, DC 20460, 202-564-0289, 202-564-0298 (fax), aguto.jose@epa.gov.



Effective Tribal Consultation

“Dialogue with Tribal Leaders on EO 13175”

At the November 2001 “Dialogue with Tribal Leaders on EO 13175,” EPA Administrator Christine Todd Whitman approved the inclusion of tribal leaders at the early stage of development of the Agency guidance aimed to advise the Agency on how to implement Executive Order 13175. Additionally, in September 2001 Whitman wrote a letter to more than 560 tribal leaders of federally-recognized Indian tribes asking for their insight on “agency actions with tribal implications,” as defined by Executive Order 13175.

Tribal Attendees at EPA’s November 14-15, 2001 Dialogue Meeting on Coordination and Consultation on Executive Order 13175

- Dr. Norman Richards, Environmental Director, Mohegan Tribe (EPA Region 1)
- Francis Boots, Tribal Historic Preservation Officer, St. Regis Mohawk Tribe (EPA Region 2)
- James Ransom, Director, Haudensaunee Task Force on the Environment, (EPA Region 2 Alternate)
- Bernadette Hudnell, Ph.D, Office of Environmental Protection Director, Mississippi Band of Choctaw Indians (EPA Region 4)
- Taimi Hoag, Environmental Director, Little Traverse Bay Band of the Odawa Indians (EPA Region 5)
- Malcolm Bowekaty, Governor, Zuni Pueblo Tribe (EPA Region 6)
- Tamara Martin-Summerfield, Chairperson, Quapaw Tribe of Indians (EPA Region 6 Alternate)
- Mark Versch, Environmental Protection Department Manager, Winnebago Tribe of Nebraska (EPA Region 7)
- Kim Clausen-Jensen, Environmental Department, Oglala Sioux Tribe (EPA Region 8)
- Brian Wallace, Chairman, Washoe Tribe of Nevada and California (EPA Region 9)
- Derrith Watchman Moore, Director, Navajo Nation EPA (EPA Region 9 Alternate)
- Sandy Johnson, Vice Chair, Jamestown S’Klallam Tribe (EPA Region 10)
- Pearl Capoeman-Baller, President, Quinalt Nation (EPA Region 10 Alternate)

Important Goals of the Dialogue

- To initiate rapport and a good working relationship between the tribal representatives and the Executive Order 13175 Tribal Consultation Workgroup.
- To have the tribal and Agency representatives recognize resource constraints and other practical realities and challenges faced by both parties when attempting to engage in consultation and to recognize the challenge of identifying what kinds of Agency actions have tribal implications.
- To have the Agency representatives better understand the uniqueness of tribal governments relative to state and local governments, including, but not limited to, treaty rights, government-to-government liaisons, usual and accustomed places, sacred sites, religious customs, and the great diversity of tribal circumstances (i.e., geographic, economic, political, cultural, etc.).
- To have tribal representatives understand some of the inner-workings of Agency processes that result in an appreciation of the challenges the Agency faces in undertaking consultation.

Effective Tribal Consultation

Tribal Success with Consultation

Mary Lauterbach, EPA

One can think of examples where effective consultation and coordination between federal and tribal governments could have resulted in successful project results and initiatives. However, there are sensitive and complex sets of issues, as well as different and competing views of expectations, methods, and philosophies, that can hinder an effective consultation and coordination effort. This is a challenge that the federal and tribal governments will need to work on in the years ahead.

On the other hand, examples of successful consultation and coordination efforts between the federal government and tribes do exist; we have featured a few examples from the federal and tribal perspectives.

The U.S. Army Corps of Engineers and the Seminoles, Jacksonville District, Everglades Restoration Project

The Jacksonville District, U.S. Army Corps of Engineers, has two federally-recognized tribes, the Miccosukees and the Seminoles, located within the heart of the Everglades in the state of Florida. The Corps recognized the federal government's trust responsibility to the tribes prior to the issuance of the Executive Memorandum in April 1994. The Executive Memorandum recommended coordination and implementation of regulations to the fullest extent possible.

One of the ways that the Jacksonville District has been so successful in its environmental restoration project has been

through its quarterly meetings with the tribes over the last 15 years. These meetings have fostered better working relationships and have increased tribal participation with South Florida water resources initiatives. The following initiatives were undertaken as a direct result of successful partnering: wetland delineations surveying, and aquatic plant control courses; established programmatic general permits; rehabilitated pumps; and floodplain mapping. One of the most successful partnering projects is a large environmental restoration project that is under way at the Seminole's Big Cypress reservation. The Jacksonville District is an excellent example for successful partnering with Native-American tribes.

For more information regarding these efforts, please contact Kim Brooks-Hall, Army Corps of Engineers, 904-232-3155

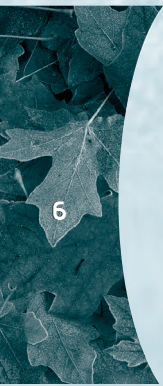
Rio Grande Restoration of the Pueblo of Santa Ana

The Pueblo of Santa Ana (the Pueblo) is a small community of approximately 700 tribal members living along the banks of the middle Rio Grande in central New Mexico. Tribal members have endured through the centuries by maintaining cultural and spiritual traditions and a strong connection to the natural world. River water has a particularly important place in Santa Ana religious life, and rivers are considered veins through which all of life's blood flows.

Within the last century however, the Rio Grande has been

dramatically manipulated by federal and state agencies altering its natural character and the river environment. Dams, levees, drains and other control devices implemented since the early 1900s have now rendered many reaches of the Rio Grande little more than conduits for delivering water to municipalities and other downstream users. These manipulations have resulted in degraded water quality and potentially irreversible changes to natural plant and animal species, many of which hold significant cultural and medicinal value for the Pueblo.

Over the past several years, Pueblo tribal members have emerged as leaders in New Mexico in the restoration of the Rio Grande and have developed an ambitious program that focuses on eradicating non-native phreatophytes (plants that tap the water table) from the floodplain, restoring native riparian forest plant species and hydraulic and geomorphic properties to the river, and restoring habitat for two endangered species — the Rio Grande silvery minnow and the southwestern willow flycatcher. The Santa Ana Tribal Council has appropriated more than \$1.5 million toward the restoration effort, and the Pueblo has successfully utilized these funds to obtain federal dollars in excess of \$12 million. Partnering federal agencies include the Bureau of Indian Affairs, the Bureau of Reclamation, the Army Corps of Engineers, the U.S. Fish & Wildlife Service, and the Environmental Protection Agency.



Effective Tribal Consultation

The Pueblo of Santa Ana has presented its restoration program to the citizens of New Mexico emphasizing that water savings can be achieved through careful restoration planning and implementation. As a result of these presentations, the Pueblo of Santa Ana has formed a historically unprecedented coalition between the state's major water users, including the City of Albuquerque, the Middle Rio Grande Conservancy District, the environmental community, and four of the six Middle Rio Grande Pueblos. This coalition, the Middle Rio Grande Initiative, has successfully implemented significant habitat restoration and other water saving projects along the Middle Rio Grande.

The Pueblo's contribution is a model for effective governance because it demonstrates that self-governing Indian tribes can take the lead in solving complex natural resources management issues that impact the region as a whole. Rather than waiting for the federal government to act effectively in resolving these issues, the Pueblos initiated the process of government-to-government consultations with the agencies to address the problems with their land and water resources, technical expertise, and leadership skills.

EPA Region 9 Pilot Project

The Regional Tribal Operations Committee of Region 9 is working with the Office of Policy, Economics, and Innovation and the Office of Air and Radiation to conduct a pilot tribal consultation project. Under this pilot, EPA will consult with tribal leaders at the earliest stage of rule development to determine the most effective

ways to implement Executive Order 13175.

The statements contained in the following interviews do not represent the views or opinions of the U.S. Environmental Protection Agency, but are strictly the views and opinions of the interviewees.

As a part of this feature on tribal consultation and coordination with federal governments, *OPPTS Tribal News* interviewed tribal environmental leaders in the U.S. in order to communicate to our readers a tribal perspective on Executive Order 13175 and EPA-related initiatives. In April 2002, staff of *OPPTS Tribal News* was able to interview three tribal environmental leaders, including Brian Wallace, Chairman — Washoe Tribe of Nevada and California, Roland Shanks, Director — Alaskan Inter-Tribal Council, and Derrith Watchman Moore, Director — Navajo Nation Environmental Protection Agency (EPA).

Interview, A. Brian Wallace, Chairman, Washoe Tribe of Nevada and California

A. Brian Wallace is the Chairman of the Washoe Tribe of Nevada and California. He is currently serving his third, four-year term in his elected position and has been an elected official for the tribes since 1980.

How do you expect the Executive Order to change the way the government consults with tribes?

The Executive Order is an affirmative effort in the right direction, but not an original idea. We've

worked with many Administrations in the past on similar efforts, but will this really happened this time? Are there really going to be changes? It's certainly welcomed, but the enthusiasm is limited until we see action and operation of this initiative in the field.

I have been very pleased with the involvement of EPA Administrator Christine Todd Whitman and the continuation of this effort from the Bush Administration. There are "a lot of tracks in the snow around this issue, and...I have found Administrator Whitman...to be a decent individual...and believe...that this [tribal consultation and coordination initiative] is a sincere effort. In the recent past, including efforts taken by Administrator Whitman during a visit to the Washoe Tribe last Fall, our staff have been well introduced to government programs, and this is very beneficial.

"What little land that we've been able to hold on to has allowed us to survive. In the end, we want our traditional knowledge and land management practices to be passed on to our children."
—A. Brian Wallace, Washoe Tribe of Nevada and California

How will this benefit your tribal community?

The fullest benefit or effect of consultation and coordination projects is here out in the field. The Executive Order in

Effective Tribal Consultation

general gives the tribe a tool to work with. But, the real issue is conflict of interest. For example, the U.S. Department of Interior, BIA has an obligation to trusts, but tribes have their own initiatives and priorities. Which priorities come first? Who gets to say what's important? Also, the national park service has initiatives to make national parks out of tribal lands, and Reno, Nevada is considering a kitty litter waste management mining area near a tribal land. But, for tribes, this land is sacred. What do you do then? It's the landscape and geography that the tribes care about. We have to take care of the land. That's what important.

[Have you been consulted by the federal government in the past on tribal and environmental issues?](#)

Yes, but with varying degrees of success. Basically, conflicts of interest and trusts have been issues of concern in these past consultation efforts. The projects have also suffered from discriminatory opinions about traditional knowledge utilized by the tribes for environmental management projects.

[What barriers do you foresee in the implementation of the Executive Order? And if so, are any resolvable?](#)

What's needed are strong executive support and enforcement, and most particularly conflicts of interest are the barriers. Land issues are most important, and water is a very sacred thing. Discriminatory views and historic ways are not the current ways. In addition, this is a two-way process, the consultation and coordination of the Executive Order. Real consultation is needed,

not just a request to check the box here and give your comment.

Actual input and communication in the development and enforcement of federal rules and regulations are needed. Tribes would like to give their knowledge on important issues of how to take care of the land too. Finally, I believe that a feedback loop is necessary. This will allow tribes to continuously communicate their ideas and work with consultations efforts on a long-term basis. We need to be involved full time. The lack of the feedback loop brings up the old issue of trust and effective communication, and the EPA Tribal Consultation Workgroup has done a good job with this thus far.

Interview, Roland Shanks, Director, Alaskan Inter-Tribal Council

Roland Shanks is the Director of the Alaskan Inter-Tribal Council. Mr. Shanks has served in this position for three years and has been active in environmental issues in Alaska for 30 years.

[How do you expect the Executive Order to change the way the government consults with tribes?](#)

I expect an increase in the levels of discussion with the federal agencies. Tribes were considered a stakeholder group in the past. With the Executive Order, a detailed involvement in the process of federal rules and regulations is expected. The Executive Order truly recognizes the sovereign governments. This is going to be quite a long road to go, however, because the Agency is used to doing a certain way, and tribes will have issues of trust.

[How will this benefit your tribal community?](#)

Well, because I work for a tribal consortium, and not a community, the benefit will be more cooperation and consideration within the tribes and governments. Again the trust issues, along with communication, will play major roles. Consultation requires agency staff to actually visit the sites and recognize the real situations.

[Have you been consulted by the federal government in the past on tribal and environmental issues?](#)

Again because this is a tribal consortium, we have not been consulted in the past. However, we have actually set up some successful consultation meetings with BIA and EPA in the past on behalf of the tribes.

[What barriers do you foresee in the implementation of the Executive Order? And if so, are any resolvable?](#)

In Alaska, there will be a major problem of logistics. For instance, Kivelena, Alaska, is 900 miles outside of Anchorage. How do you get people together for a meeting? Therefore, there is a need for money, time, and an administrative staff. Also, staff is important because tribes staffed with two to three persons deal with 20 or more federal agencies just to get things done, unlike the federal government staffed with many persons. Furthermore, bringing together two different groups that speak different languages will pose some obstacles. Understanding the roles, responsibilities, and issues of each group is vital.



Effective Tribal Consultation

Interview, Derrith Watchman Moore, Director, Navajo Nation EPA

Derrith Watchman Moore is the Director of the Navajo Nation. Ms. Moore has served in this position for three years, and was appointed to the position by Navajo Nation President Begaye. Moore has been active in environmental management and RCRA and Superfund programs for 15 years.

How do you expect the Executive Order to change the way the government consults with tribes?

With the implementation of Executive Order 13175, my expectation is to have tribes involved in rulemaking processes, which affect tribal communities, as early as possible and continually thereafter. Having tribes involved early in the planning would mean that real progress has been made. Tribes have been involved in preparing document outlines and communication efforts involving environmental management policies in the past, but implementation of the Executive Order would result in actual tribal input and the incorporation of tribal, traditional knowledge.

How will this benefit your tribal community? Do you expect more incorporation of tribal issues in government programs and initiatives, etc.?

Because of the larger size and history of the Navajo Nation, we've had the opportunity to consult with federal agencies on different

issues in the past. However, the Navajo Nation has always been an advocate for other tribes, and ...if we (Navajo Nation) are at the table, other tribes will be at the table too. Also, with this consultation and coordination effort, the Navajo Nation will help to define the concept of consultation and to decide how we will be consulted, instead of being told how we will be consulted.

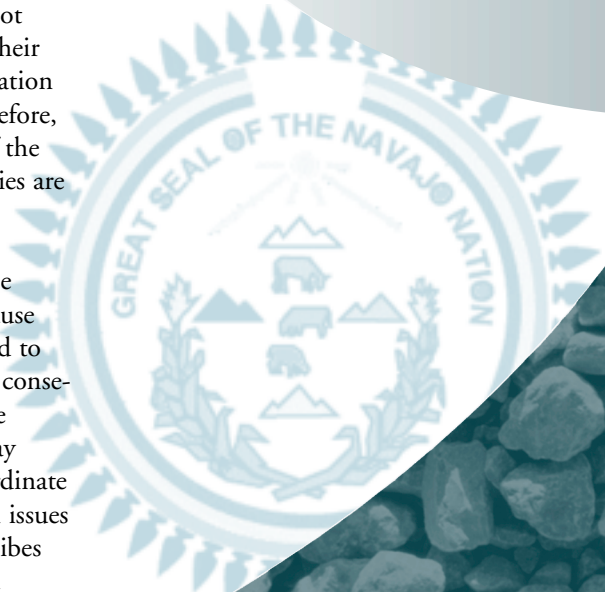
Have you been consulted by the federal government in the past on tribal and environmental issues?

It really depends on the issue and the impact on the tribal community. For the most part, if it has been a Navajo issue, we have been involved in the task at hand. But, this will be the first time that we will be consulted early in the process.

What barriers do you foresee in the implementation of the Executive Order? And if so, are any resolvable?

The most important barrier is that the Executive Order is not enforceable. Agencies make their own decisions on implementation of the Executive Order. Therefore, tribes are left at the mercy of the "rule writer." If federal agencies are sensitive to consultation and coordination, then sure, the Executive Order will surely be implemented. However, because federal agencies are not forced to implement, and there are no consequences of not addressing the Executive Order, agencies may decide to not consult or coordinate with tribes on environmental issues that affect Indian country. Tribes are then in the same position as before.

Additionally, some progress was made in the past by a few federal agencies, particularly IHS and BIA, in the way of consultation. EPA could use their models to expand the areas of consultation and coordination to include budgeting, process development, and many other programming areas that affect tribal communities.



Pyramid Lake and the Water Wars of the Truckee River

by John W. Jackson, Pyramid Lake Paiute Tribe

In 1902 Congress passed the first Reclamation Act in history, and this was the beginning of the Pyramid Lake Paiute Tribe's long standing legal battle for water rights to protect and enhance the Cui-ui sucker fish and the world famous Lahontan Cutthroat trout.

Pyramid Lake is a terminal lake and has no outlet. The Truckee River, a watershed that begins at Lake Tahoe, flows 80 miles through Reno, Nevada, downstream and ultimately empties into Pyramid Lake. Congress in 1902 authorized the Bureau of Reclamation to construct Derby Dam on the Truckee River below Reno, Nevada, the Truckee Canal, and Lahontan Reservoir on the Carson River. This effort took some five years, and in 1907, the construction was completed, and the first waters from the Truckee River were diverted out of the basin to the Lahontan Reservoir. The diversions had an adverse impact on the Lower Truckee River and Pyramid Lake, which resulted in an elevation drop that occurred over the next sixty years from 3,865 feet above sea level to 3,785 feet above sea level.

Subsequently, the Pyramid Lake fish suffered because of the large delta that grew and stopped them from going upstream to spawn, and by 1940 the world record Lahontan Cutthroat trout sports fisheries at Pyramid Lake were declared extinct. The Cui-ui sucker fish found only at Pyramid Lake had only survived because of its 50-year life span.

The Endangered Species Act of 1968 became the only hammer the tribe had to compel the upstream users to end unnecessary diversions from the Truckee River. The Lahontan Cutthroat trout was reintroduced to Pyramid Lake through a massive restoration program established by the Pyramid Lake Paiute Tribe in the 50's and 60's. In addition, the Lahontan Cutthroat trout was listed as a threatened species, and the Cui-ui sucker fish were listed as endangered species under the Endangered Species Act in 1971. Water quantity and quality, therefore, became big issues for the Truckee River and Pyramid Lake in the 70's and 80's, and settlement agreements were negotiated between upstream users and the

Pyramid Lake Paiute Tribe.

A Preliminary Settlement Agreement (PSA) was signed in 1988 between the state of Nevada, Department of Interior, Pyramid Lake Paiute Tribe, and municipal water users



Cui-ui sucker fish



Lahontan Cutthroat trout

upstream from Pyramid Lake to control growth of the up-stream municipalities by putting a cap on water demand and allowing for some storage of municipal drought water in Stampede Reservoir. Water quality, however, was still an issue, and in 1996, a Water Quality Settlement Agreement was executed to buy Truckee River surface water rights and dedicate them for instream flows for the improvement of water quality.

The Pyramid Lake Paiute Tribe continues to improve the water quality and quantity of the Truckee River and is currently working on a Truckee River Operating Agreement. For more information, please contact John W. Jackson, Director, Department of Water Resources, Pyramid Lake Paiute Tribe at 775-574-1050 or jjackson@pow.ernet.net.



Pyramid Lake

Sixth National Tribal Conference on Environmental Management, June 4-7, 2002 Hosted by Pyramid Lake Paiute Tribe and EPA

The Pyramid Lake Paiute Tribe and EPA are pleased to invite you to participate in the 6th National Tribal Conference on Environmental Management in Reno, Nevada, June 4 - 7, 2002. The conference is one of the premier environmental events in Indian country. With approximately 900 people expected, the conference provides an opportunity for tribal leaders, tribal environmental managers, tribal scientists, tribal organizations, federal agencies, and other interested entities to share information about tribal environmental programs, network, and discuss issues of vital interest to Indian country.

The National Tribal Conference on Environmental Management (NTCEM) has been held every other year since 1992. This year's tribal co-host, the Pyramid Lake Paiute Tribe, was selected through a national competition. Program offices across EPA have joined to sponsor this important conference, including Solid Waste and Emergency Response; Prevention, Pesticides and Toxic Substances; Research and Development; Air; Water; and the American Indian Environmental Office. The goals are to focus on multi-media environmental issues impacting tribes, familiarize tribes with the

full extent of tribal and federal program environmental activities, and increase the participation of other federal agencies.

The 6th NTCEM conference is being held at the John Ascuaga's Nugget Hotel in Sparks, Nevada,

6th National Conference on Environmental Management



*June 4-7, 2002
Pyramid Lake Paiute Tribe
Pyramid Lake, Nevada*

near Reno, from June 4 - 7, 2002. The Pyramid Lake Paiute Tribe will offer off-site tours and workshops as part of the conference, including trips to their tribal fisheries (located 35 miles north-east of Reno, Nevada) and sites around Lake Tahoe in coordination with the Washoe Tribe of Nevada and California. The conference will also feature a beach barbecue at Pyramid Lake.

To enhance coordination in Indian country, the National Tribal Environmental Council will be conducting their annual environmental conference at the same hotel earlier that same week, from June 2-4, 2002.

The Pyramid Lake Paiute Tribe is actively seeking quality proposals on environmental issues of importance in Indian country and will use selected ideas to shape the conference agenda. Sustainability and intergovernmental coordination are focus areas for the conference. Topics will include, but are not limited to, building tribal environmental programs, water quality, mining, clean air, environmental justice, youth (e.g., education), waste issues, energy, coordination among tribal-related entities, financing environmental projects, and science (e.g., monitoring, modeling, and research and analysis).

Conference information and registration will be available: <http://plpt.nsn.us/> For further information, you can contact Lela Leyva, Conference Coordinator for the Pyramid Lake Paiute Tribe, at (775) 574-1000 (lleyva@power.net) or members of the EPA conference planning team.

Building a Pesticides Program on a Remote Reservation

Marcie Phillips, Shoshone-Paiute Tribes of the Duck Valley Indian Reservation

Tucked into a remote mountain area on the borders of Nevada and Idaho, the Duck Valley Indian Reservation is home to 1,600 Shoshone and Paiute Indians.

Comprising of 289,820 acres, the terrain of the reservation is diverse.

Under the guidance of Environmental Director Lee

Roberts, the Tribal Environmental Protection Program realized there was a need for regulation of pesticides but did not know to what extent the usage encompassed or if the usage was in compliance with

the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Through OPP's Special Project funding, the Shoshone-Paiute Tribes were able to conduct an assessment to determine the extent of pesticide usage on a commercial level, in tribal programs, and in homes. The findings indicated that (1) the use of pesticides is more extensive than originally envisioned, (2) the understanding on the use of pesticides is limited, and (3) FIFRA regulations on the use of pesticides applications and storage are not being followed.

After the assessment was completed, the tribes again applied to EPA for funding under a Pesticides Cooperative Agreement. Currently operating under the cooperative agreement, the tribes are in the process of building staff capacity; forming partnerships with local, state, and federal agencies; holding pesticides safety training workshops; researching enforcement, groundwater, and endangered species issues, writing a reservation-

specific Tribal Pesticides Ordinance and Worker Protection Standard; and assisting the local Food Distribution Center with Integrated Pest Management techniques.

Marcie Phillips, Environmental Manager, says that building a tribal pesticide program from the ground up has been a fun and interesting

challenge, and they are fortunate to work with Marcy Katzin, an EPA Region 9 Project Officer. The goals in the program are to help the tribal members understand the dangers of pesticides and assist those who cannot speak and defend themselves when it comes to environmental contamination, such as the plants, animals, birds, and water.

In March 2002, Ms. Phillips had the opportunity to present the results of Duck Valleys pesticides assessment at the Tribal Pesticide Program Council (TPPC) meeting in Washington, D.C. Ms. Phillips remarked, "the Tribal Pesticide Program Council is a great group. I was highly impressed by the level of knowledge of pesticides and the enthusiasm expressed by those on the Council. Additionally, EPA Headquarters OPP staff was helpful and genuinely interested in assisting tribes with pesticides issues. The TPPC is a great mechanism for Indian Country."

For more information on the Shoshone-Paiute Tribes Pesticides Program, contact Marcie Phillips, Shoshone-Paiute Tribes of the Duck Valley Indian Reservation, at 208-759-3100, ext. 247 or ShoPaiTR8@aol.com.



Shoshone-Paiute Tribes Environmental Staff, Lee Roberts, Environmental Director, and Marcie Phillips, Environmental Manager.

EPA Releases FY 2001 Annual Report on Regulating Pesticides

On March 6, 2002, EPA's Office of Pesticide Programs (OPP) released its fiscal year 2001 annual report "Partners and Stakeholders: Working Together to Protect Public Health and the Environment." The annual report highlights accomplishments in registration, re-registration, and tolerance reassessment activities, as well as advancements in the area of science policy development and technology. The report also provides snapshots of many other pesticide regulatory and program activities with EPA's regional, state, and tribal partners and many other stakeholders. Readers are encouraged to visit OPP's Web site at www.epa.gov/pesticides for details or other important program activities.

You may order the OPP annual report from the National Service Center for Environmental Publications at 800-490-9198, 513-489-8695 (fax); or www.epa.gov/ncepihom/ordering.html. When ordering, please be sure to note the document title and publication number 735-R-01-004. To order by mail, write to U.S. EPA/NSCEP, P.O. Box 42419, Cincinnati, Ohio 45242-0419. The report also is available at the EPA Web site at www.epa.gov/oppfead1/annual.



U.S. Farmers Adoption of Genetically Engineered Crops Jumped Dramatically

Adapted from Crop Biotech Update, May 3, 2002

According to the Economic Research Service of the U.S. Department of Agriculture, U.S. farmers have increased their use of genetically engineered crop varieties due to expectations of lower production costs, higher yields, and reduced pesticides use. In 1999, 28.7 million hectares were planted to produce genetically engineered crops. This number has increased, and in 2000, 30.3 million hectares were planted, followed by 35.7 million hectares in 2001.

The main reason for using genetically engineered crops, according to U.S. farmers, was the "increased yield through improved pest control," followed by their desire to decrease pesticide costs. U.S. farmers have also noted the increased planting flexibility and environmental benefits. There is a high incentive to use pest management techniques since its objective is to reduce crop yield losses. For more information, please visit the Economic Research Service of the U.S. Department of Agriculture Web site at www.ers.usda.gov/Briefing/biotechnology/chapter.htm.

17th Annual NEJAC Meeting, Seattle, Washington, December 3-6, 2001

The 17th Annual National Environmental Justice Advisory Council (NEJAC) Meeting was held December 3-6, 2001, at the Renaissance Madison Hotel in Seattle, Washington. NEJAC, a federal advisory committee established in 1993, provides advice and recommendations to EPA Administrator Christie Todd Whitman, on matters that will further the integration of environmental justice in the Agency's policies, programs and activities. At the December 2001 meeting participants held discussions on water quality, fish consumption, environmental justice, relationships between water quality standards, subsistence consumption patterns, and environmental justice. NEJAC also examined these policy issues with respect to research methodologies, risk assessment and risk management approaches, remediation and prevention strategies, and the utilization of statutory authorities to protect the health and safety of all people, including minority, low-income, and tribal communities. The three-day conference included presentations by stakeholders on policy issues and many exhibit displays, videos, easels, handout materials, and posters.

For more information, contact Danny Gogal, EPA, at 802-564-2876 or gogal.daniel@epa.gov.



Tribal Strategic Plan

OPPTS Seeks Input in Developing a Tribal Strategic Plan

Caren Rothstein-Robinson, EPA

EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) is pleased to have an opportunity to provide you with an update on its efforts to develop an OPPTS Tribal Strategic Plan. OPPTS, EPA's regional offices, and our tribal partners, have important roles in protecting public health and the environment from potential risks posed by toxic chemicals and pesticides in Indian

country. We are committed to working with tribal governments to protect Indian country, and its people, including children, from harmful chemicals and pesticides. It is important that EPA considers tribal input in its decision making and actions that may have an impact on Native Americans and Indian country.

In 1993, Congress enacted the Government Performance and Results Act (GPRA). The main focus of GPRA is to hold federal agencies accountable for using resources wisely and achieving program results through the development of strategic plans, including annual performance goals, measures and reporting.

The EPA FY 2000 - 2005 Strategic Plan has ten long-term goals that provide the basis for establishing annual goals, measures, and reporting. Each of the ten goals has a series of objectives that identify what environmental



Caren Rothstein-Robinson, EPA, at the Tribal Strategy Focus Group meeting in Anchorage, Alaska.

outcomes or results the Agency seeks to achieve within a defined time frame.

To support the Agency's Strategic Plan, OPPTS is developing a Tribal Strategic Plan. Development of the Plan includes input from the tribal community. The Strategic Plan will provide guidance and direction to the OPPTS offices and the regions to maximize the use of our limited resources to

achieve the most effective protection of human health and environmental gains in Indian country. The OPPTS Tribal Plan is part of a larger Agency-wide strategic planning process. Please visit www.epa.gov/ocfopage/plan/plan.htm to learn more about the Agency's Strategic Goals:

Why an OPPTS Tribal Strategic Plan?

OPPTS' Tribal Strategic Plan will serve as a guide for EPA Headquarter's and Regional Program Managers as they develop and implement initiatives to support successful pesticide, toxics management, and pollution prevention programs with our tribal partners. OPPTS hopes that it can impact the Agency's overall Plan with the important input and direction it is receiving from the tribes through our Tribal Strategic Plan development process.

OPPTS will work to promote the inclusion of tribal needs and priorities in Indian country — as expressed by our tribal partners including, the national and regional Tribal Operations Committees (TOC and RTOC) and Tribal Caucus, the Tribal Pesticide Program Council (TPPC), the Forum on State and Tribal Toxics Actions (FOSTTA) Tribal Affairs Workgroup and other key tribal organizations and representatives.

The foundation of the OPPTS Tribal Strategic Plan will be EPA's Indian Policy, which was issued in 1984 and reaffirmed by Administrator Whitman in July 2001. In it, EPA "recognizes tribal governments as the primary parties for setting standards, making environmental policy decisions, and managing programs [in Indian Country]... consistent with Agency standards and regulations." The Tribal Strategic Plan will also be consistent with the Executive Order addressing "Consultation and Coordination with Indian Tribal Governments" (effective November 6, 2000), and Executive Order 13084 on Government to Government Relations (effective August 12, 1998).

In order for this to be an effective tool, OPPTS recognizes that there must be a genuine partnership with tribal leaders, tribal environmental managers, and other interested tribal representatives. For this reason, OPPTS, with support from Ecosystems, Inc., a tribally owned company based in Albuquerque, New Mexico held six

Tribal Strategic Plan

Tribal Focus Group Meetings around the country.

Beyond this, OPPTS has made presentations at various tribal entities including the Tribal Operations Committee, Tribal Pesticides Programs Council, and Forum on State and Tribal Toxics Actions (FOSTTA) and will be reaching out to tribal participants at the upcoming 6th National Tribal Conference on Environmental Management being hosted by the Pyramid Lake Tribe in Sparks, Nevada, June 4-7, 2002.

What Has OPPTS Done Thus Far?

OPPTS Headquarters and Regional management and staff met to discuss OPPTS' tribal programs, the purpose and focus of a Tribal Strategic Plan, and options for developing the Strategic Plan

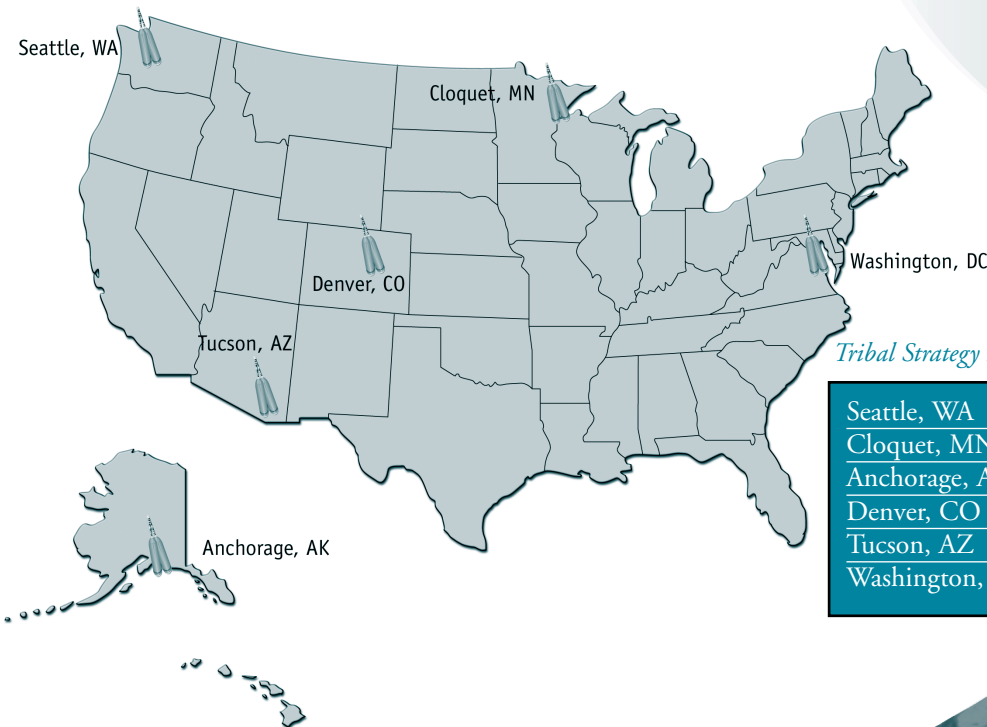
and time frame for developing a final Plan. Based on this meeting, in May 2001, OPPTS contracted with EMI, a tribally owned company based in Albuquerque, New Mexico to assist OPPTS in the development of the Tribal

Strategic Plan. EMI was tasked, in consultation with OPPTS and the EPA Regional offices, with undertaking the following:

- Based on feedback received from



From left to right and continuing clockwise, TOC Chairman Apesanahkwat, Region 5; Gila River Pesticides Safety Scouts video clip; Native performer; Gila River Pesticides Safety Scouts video clip.



Tribal Strategy Focus Group Meetings

Seattle, WA	September 23, 2001
Cloquet, MN	October 18, 2001
Anchorage, AK	October 30, 2001
Denver, CO	November 29, 2001
Tucson, AZ	December 10, 2001
Washington, DC	January 30, 2002

Tribal Strategic Plan



Pictured from left to right, Bill Hevron and Karen Rudek, EPA, at the Tribal Strategy Focus Group Meeting in Anchorage, Alaska.



David Enoch in Anchorage, Alaska.

EPA's tribal partners and discussions with OPPTS and EPA's Regional Offices, determine what work OPPTS and tribes are currently doing locally and nationally to address toxic chemical and pesticide issues in Indian country;

- Obtain tribal perspectives on where OPPTS should focus their efforts
- Provide EPA with information on the similarities and differences between what OPPTS is doing and tribal perspectives on where OPPTS should focus its efforts
- Review the information previously provided to OPPTS and the Regional Offices by the tribes, the current status of all EPA base-line assessments for toxics, pesticides, and pollution prevention, and provide recommendations to the Agency on addressing appropriate issues.

In order to ensure strong tribal input as required by OPPTS, EMI developed a three-part tribal outreach program that included a 15-minute video, development of a project-specific Web site, and a series of six tribal focus groups. The 15-minute video provides a concise,

yet comprehensive, presentation to acquaint the tribal viewer with OPPTS' programs. The video articulates OPPTS' mission, vision, principles, strategies, and tactics regarding the toxic chemical and pesticide issues that face tribes. The creation of a project-specific Web site will allow tribal employees and

members, and interest groups to learn more about OPPTS' programs. The Web site would allow visitors to provide feedback on key program areas where OPPTS should focus its efforts. It will also enable the Agency to provide a continual update of its progress in addressing toxic and



“The Region Operation Committee tribes in EPA 8 appreciate OPPTS for coming out and participating in a focus group meeting in Denver. We would like to have more interaction with OPPTS. It was a great venue for us to focus on some issues

that we feel warrant further attention, such as asbestos, lead and blood lead screening, black mold, and radon. These are issues that have a direct impact on human health, with the elderly and children being the populations hardest hit. We would like to have more attention focused on having tribes receiving additional technical assistance (Native American Liaisons) in these areas. The strategy for funding tribes in these areas with emphasis placed on planning and implementation should be well thought out and should include input from tribes before the notice is placed in the CFR. Some tribes choose not to develop programs due to the limited funds and barriers between tribes and EPA.”

—Gerald Wagner ROT/TOC/TPP

Tribal Strategic Plan

Lead in Indian Country Fred Corey, Environmental Director, Arroostook Band of Micmacs

The final OPPTS tribal Strategy Focus Group meeting was conducted on January 30, 2002, in Washington D.C. in conjunction with the Natural Resources Committee meeting of the United South and Eastern Tribes Association (USET). A significant portion of the meeting focused on lead issues in Indian country, including blood-lead testing concerns. There were suggestions that EPA could assist tribes with the development of model legislation for the utilization and protection of blood-lead data by tribal health, environmental, and housing professionals. Development of a mechanism to promote cooperation among federal agencies to assist with resolving issues, such as lead-based paint that are the responsibility of more than one

federal agency, was also discussed. Because tribal lead-based paint and asbestos programs are often administered through tribal housing and realty programs, and pesticide programs are often administered through tribal agricultural and forestry programs, the Workgroup noted that lines of communication are needed by EPA in addition to EPA's Regional Tribal Operations Committee and the Tribal Operations Committee. One potential mechanism recommended was to overcome budget limitations to create other



communication tools and to encourage other tribal workgroups to develop issue papers. Other issues discussed included concerns regarding toxics in fish and drinking water, environmental impacts on tribal lands from off-reservation pollution sources, and the circuit rider approach to increasing EPA's presence in Indian country and the potential for developing innovative strategies to address toxics and pollution prevention.

pesticide issues in Indian country.

The six focus group meetings were designed to educate tribal groups on OPPTS programs and obtain tribal input and perspectives on OPPTS related issues and provided recommendations on how OPPTS can develop a more effective partnership with tribes. At the meeting, EMI also addressed how to better focus its limited resources to address tribal priority programs in Indian country. Close to 100 tribal representatives participated in the various focus group meetings located in Seattle, Washington; Denver, Colorado; Cloquet

Minnesota; Tucson, Arizona; Anchorage, Alaska; and Washington, DC.

Each meeting addressed tribal participation in OPPTS programs, OPPTS-related issues and high-risk areas, and tribal recommendations for future OPPTS actions.

EPA is currently working with EMI to consolidate the information gathered through the six focus groups and to begin the development of a draft Tribal Strategic Plan. A preliminary review of comments appears to suggest that there are several issues common to the majority of tribes in both the

lower 48 states and Alaska. Differences in issues identified among tribes in the lower 48 states do not appear to be pronounced. There were however, issues raised in the Anchorage focus group meeting that seem applicable only to Alaskan tribes.

The first draft of the Tribal Strategic Plan is currently being developed. The first draft will be reviewed and revised by EPA Headquarters and

Tribal Strategic Plan



Family from Tuntutuliak preparing black fish

regional management and staff. The draft will then be distributed to all federally-recognized tribes and appropriate interest groups for review and comment. OPPTS will ensure that tribes have sufficient time to undergo a thorough review, which includes an opportunity for the Tribal Environmental Managers to obtain input from their tribal leaders.

In addition, OPPTS will place the draft Strategy on the OPPTS Web site and solicit comments electronically. Updates on the Tribal Strategic Plan schedule will

also be placed on the Web site. Please visit www.epa.gov/oppts/tribal.htm for more information. OPPTS' goal is to finalize the Tribal Strategic Plan within the next 18 months to dovetail with the Agency's overall Strategic Plan revision process.

Questions or concerns regarding the OPPTS Tribal Strategy should be addressed to the following workgroup members: Caren Rothstein-Robinson, EPA, OPPTS Tribal Coordinator, 202-564-0544; Mary Lauterbach, EPA, OPPT, 202-564-8821; Karen Rudek, EPA, OPP, 703-305-6005; Dave Combs, EPA Region 8, 303-312-6021; and Emma Avant, EPA Region 5, 312-886-7899.

For tribes interested in providing input regarding the Tribal Strategic Plan, visit www.epa.gov/oppts and www.epa.gov/oppts/tribal.htm to learn more about our programs and tribal-specific initiatives.

EPA Regional Role in Strategy Development and Implementation

The EPA regional offices provide input into the development of Agency rules, regulations, strategies, and operating policies and help ensure a national perspective and consistency in program development and implementation. They provide technical assistance, guidance, and financial support to Indian tribes, states, local governments, and interests groups and associations in the development and implementation of programs to protect human health and the environment. Based on rules, regulations, and policies, the regional offices delegate programs to the Indian tribes and states and are responsible for program oversight. The regional offices conduct direct implementation and enforcement of a non-delegated programs. The Regional Offices are the main communication link between the Indian tribes, states, local governments, interests groups and EPA's national program offices.

