



Budget Priority Guidance

Fiscal Year 2023



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FY 2023 Budget Request and Priority Recommendations

Funding Highlights:

The National Tribal Caucus (NTC) requests funding for a tribal set-aside for environmental programs for FY 2023 in the amount of **\$437.25 million**. To achieve parity in funding for tribal programs, the NTC recommends EPA fund tribes at the same level as it funds states.

Introduction

We, the tribal representatives of the National Tribal Caucus, are charged with identifying and addressing regional and national environmental issues that affect tribal nations and Alaska Native villages. We welcome and look forward to the opportunity to partner with Michael Regan, the new EPA Administrator, and the rest of the agency on the critical environmental challenges that tribes face.

Tribal sovereignty, treaty rights, and the federal trust responsibility inform the concepts of environmental justice and equity as applied to Indian Country. Tribes are not simply a subgroup of the general population but are individual sovereign nations. The impairment of our cultural landscape affects spiritual well-being, food sovereignty, and physical health.

Since EPA adopted the 1984 *EPA Policy for the Administration of Environmental Programs on Indian Reservations* (The 1984 Indian Policy), this policy has guided EPA's implementation of tribal consultation policy (as revised in 2013), and the conducting of consultation with tribal leaders on treaty rights (as revised in 2015). EPA's framework to support federally recognized tribes is much improved; however, its 1984 Indian Policy is still not fully realized. To progress toward realizing this policy, the NTC urges EPA to consider and act upon the following priorities and recommendations.

The following budget priority media areas are not ranked by importance; rather, they are of equal priority within Indian Country.

1. A New Era of Equity and Environmental Justice

Total FY 23 budget request: \$437.25 million

(This amount is the same as the total tribal set-aside amount requested for all FY 2023 priorities, since equity and environmental justice underscore every priority area and recommendation.)

- Fund tribes in an equitable manner to states.
- Remain engaged with tribes on a government-to-government basis. Continue to recognize tribal sovereignty and acknowledge each unique tribal government as the appropriate, primary authority over reservation lands, habitats, and ecosystems.
- Encourage continued funding for and participation in the E-Enterprise Leadership Council and Tribal Exchange Network Group.

- Work with urgency to address climate change and resolve funding inequities, both of which lead to environmental justice challenges for tribes.

2. Air Quality and Climate Change

FY 23 budget request: \$59.25 million

- Increase funding for existing tribal air programs.
- Provide greater support for the Alaska tribes.
- Fund the conducting of tribal air quality needs assessments.
- Provide greater support for the emerging wildfire threat.
- Fund tribal participation in regional haze and climate change planning.
- Increase EPA's interdepartmental coordination on projects that have multi-media effects, particularly in light of recent increases in extractive permits issued for public and ancestral tribal lands.
- Ensure improved communication within EPA regions and with tribes on Tribal Minor New Source Review permitting.
- Fund tribal research, action plans, and mitigation activities for climate change impacts on tribal lands, communities, and food sovereignty.

3. Protections for Water

FY 23 budget request: \$220.5 million

- Establish a funding floor of 5% of the FY 2022 state revolving fund (SRF) allocations to address tribal disparities in access to safe drinking water and sanitation.
- Promulgate baseline water quality standards for tribes that do not have them, to ensure tribal environmental health, lifeways, aquatic ecosystems, and food sovereignty are protected.
- Restructure EPA's National Water Program Guidance under the EPA Strategic Plan to reestablish the initial 13 tribal measures that were later removed and restore the definition of "Waters of the United States" to include and thereby protect ephemeral streams.
- Fund tribal multi-media grants.
- Increase funding for programs under Clean Water Act (CWA) Sections 106, 319, and 104 (b)(3).
- Provide sufficient funds for EPA to sustain and enhance its implementation of EPA's 1984 Indian Policy.

4. Toxics and Chemical Safety

FY 23 budget request: \$10.5 million

- Regulate and oversee pesticide use to protect agricultural workers, natural resources, pollinators, and tribes.
- Strengthen existing tribal pesticide programs and expand them to tribes not currently covered.

- Deliver integrated pest management programs to tribal communities to address emerging invasive species threats.
- Per EPA's commitment under its 2019 Per- and Polyfluoroalkyl Substances (PFAS) Action Plan to obtain bioaccumulation data in 2022, set aside funding for tribes to engage in research in support of the plan.
- Provide funding for tribes to educate tribal citizens and community members on the dangers that toxics pose to communities throughout Indian Country.
- Actively engage tribes in efforts to acquire Pollution Prevention Grants, and remove match requirements/tribal supplemental set-aside funding.
- Offer funding to support tribal communities in blood testing for toxic chemicals and lead.

5. Collaboration and Partnerships

FY 23 budget request: \$31.5 million

- Prioritize the reduction of materials when developing guidance, outreach, and regulations, as well as in discussions with industry groups.
- Provide additional funding so tribes can enact effective and efficient procedures and operate appropriate facilities to address waste reduction, recycling, and composting.
- Encourage the development of regionally based operations that use recycled materials, and provide tribes with a list of potential buyers of recyclable materials by type and region.
- Cooperate and collaborate with tribal professionals, as well as IHS, to ensure operational and data consistency across the regions and the availability of adequate funding and resources for tribes to address illegal dump sites. In addition, when requirements are changed for tribes to access funding, communicate these changes to tribes clearly and consistently.
- Implement the recommendations developed by the Infrastructure Task Force (ITF) work teams, and continue to engage in cross-agency collaborations.
- Prioritize funding and resources to the EPA regions to coordinate onsite waste stream audits for tribes, conducted by a contractor or tribal employees, and provide transparency about how the data may be used and whether it is for the sole benefit of the tribe or will be made public.
- Support tribes in their work on food waste and food sovereignty and security. We encourage EPA to not only work with tribes on this issue, but also with other federal agencies, such as the U.S. Department of Agriculture.
- Design solid waste training courses for tribal staff, using tribal experts as instructors and ensuring tribal involvement in the creation of course materials and resources.
- Continue to provide funding to support tribal Household Hazardous Waste operations and highlight tribal case studies to inform other tribes.
- Expand EPA Office of Land and Emergency Management (OLEM) work on climate change.

6. Enforcement and Compliance for Tribal Environmental Laws

FY 23 budget request: \$115.5 million

- Develop and implement an agency-wide policy to include all unique tribal risks prior to conducting program risk assessments.
- Assist tribes with pilot funding and technical support for ordinance enforcement and environmental justice.
- Restore Resource Conservation and Recovery Act funding for solid waste management.
- Provide funding to each region based on the regional number of federally credentialed tribal inspectors to support tribal and EPA compliance assurance and monitoring activities.
- Increase General Assistance Program (GAP) funding to \$183,750 per tribe and implement the increased spending flexibility intended by Congress and the *Indian Environmental General Assistance Program Act of 1992*.

Expanded Budget Recommendations

The NTC recommendations for EPA for FY 2023 are fully described in the following six sections.

A New Era of Equity and Environmental Justice

Total FY 23 budget request: \$437.25 million

There are 574 federally recognized tribes in the United States, with a collective population of more than one million people who are both tribal citizens and U.S. citizens. Indian country consists of about 70 million acres, which equals 4% of the total U.S. land base. Tribes face many disparities when it comes to environmental justice, such as disparate ambient air quality. The COVID-19 pandemic has further exacerbated many long-standing inequities, leaving many tribal communities disproportionately vulnerable to the pandemic. EPA has a role to play in ensuring parity between tribes and states to improve human health and the environment in Indian country. For EPA to fully achieve a new era of partnership with tribes, several considerations related to tribal funding must be addressed. EPA must act with urgency to address climate change and resolve funding inequities, both of which result in environmental justice challenges for tribes.

Another important partnership consideration is tribal sovereignty. The NTC asks that EPA continue to recognize each unique and separate tribal government as the appropriate and primary authority over all reservation lands, habitats, and ecosystems. Finally, the NTC recommends that EPA enable effective tribal data management and promote data sovereignty by continuing to support the E-Enterprise Leadership Council and the Tribal Exchange Network Group.

Funding

- **Parity in Tribal Funding:** Indian country makes up 4% of the U.S. land base, yet it does not receive adequate funding for its size. For example, in EPA's budget request for FY 2020, the requested amount for grants to support state, local, and tribal air management programs was \$160,924, marking a significant decrease (approximately \$88,000) from funded amounts in the previous 2 years. Of the total requested FY 2020 funding amount, the proposed percentage that would be allocated to tribes increased from prior years. However, because this percentage was

based on a drastic decrease in the overall amount, the resulting proposed tribal allocation was still much lower than previous years (\$8,963, compared to the prior year's tribal allocation of \$12, 829). To achieve true funding parity and sustain crucial programs, tribes must receive both an increased percentage of the overall funding amounts and a higher dollar amount.

The NTC appreciates that EPA aspires to recognize the critical needs of its partners in delivering environmental protection to all U.S. citizens. By increasing funding to tribes and ensuring Indian nations and Alaska Native villages receive funding comparable to EPA funding allocated to the states, EPA can empower tribal communities in a number of important ways and address our critical needs, such as providing employment in green energy and green jobs, improving the quality of the environments where tribal people live and work, and sustaining traditional lifeways. These activities are in line with the *Executive Order on Tackling the Climate Crisis at Home and Abroad*, issued January 27, 2021.

- **Tribal Authority to Implement Environmental Regulations:** Along with providing funding parity, it is critical for EPA to ensure that tribes have the authority to design, implement, and enforce environmental regulatory programs. Under existing environmental policies, tribal regulatory authority is sometimes defined as Treatment in the Same Manner as a State (TAS) status. Achieving this status requires a lengthy application and approval process and is further complicated by additional legal burdens for tribes in certain states. In particular, Oklahoma tribes face significant legal obstacles to achieving TAS status. Because of these circumstances, it is imperative that funding and other assistance available to tribes not be limited only to tribes that meet federal TAS requirements.
- **Ongoing Government-to-Government Engagement Between EPA and Tribes:** An era of partnership between tribes and EPA must be grounded in the government-to-government relationship that exists between the federal government and Indian nations, including meaningful tribal consultation that precedes the implementation of all policies that have implications for tribes and tribal lands. Funding decisions that support this partnership must take place against the backdrop of tribal consultation. Tribal consultation on GAP Guidance is an example of funding-related consultation that would support this goal.

Tribal Sovereignty

- **Continued Recognition of Tribal Governments as Appropriate Primary Authorities:** The NTC asks that EPA continue to recognize unique tribal governments as the appropriate primary authorities to manage and regulate reservation lands, habitats, and ecosystems—thus upholding the 1984 Indian Policy.

E-Enterprise Leadership Council and Tribal Exchange Network Group

The E-Enterprise Leadership Council (EELC) and the Tribal Exchange Network Group (TXG; formerly the Tribal Governance Group, or TGG) support tribes in using innovative, technology-based approaches to managing data to protect the environment. Unlike other tribal partnership groups, the EELC and TXG are multi-media in nature, supporting all EPA program offices.

The EELC promotes collaborative processes and tools related to data systems across EPA, tribes, and states, while the TXG focuses on building tribal capacity to leverage the tools and solutions of the Exchange Network (EN). EELC governance and project work is supported and funded by multiple EPA

program projects; the TXG is supported by the Exchange Network. The NTC recommends the following to ensure these groups can continue to operate effectively.

- **Investment in the Work of the Tribal EELC and the TXG:** Such investment will support tribal programs in implementing modern and efficient data management systems to collect, analyze and share environmental data. Although GAP supports capacity building for tribal environmental programs, this funding is not sufficient to meet needs related to advancing tribal data management and technical capacity. Though some tribes have technologically advanced environmental programs, many tribes lack the infrastructure or support they need to develop and implement modern data management. Investing in this specific aspect of capacity-building will support the federal administration's priorities related to environmental justice, climate change, and rural and underserved communities.
- **Restored Funding Levels for the EN Grant Program to FY 2007 Levels or Higher.** Original EN grant funds were at \$25 million annually (2002-2007) and have been incrementally decreasing, with FY 2019 funds dropping below \$9 million. Funding for the program was cut by 30 percent in FY 2018 and cannot sustain further cuts without detriment to the services it provides.
- **Continued Funding for Multi-Purpose Grants** Tribes request that EPA continue to fund multi-purpose grants and ensure that eligible tribes get proper set-aside amounts, relative to states. Tribes can leverage these funds to support key activities, such as the implementation, operation, and maintenance of data management systems. Tribal recipients should continue to have flexibilities to direct funds to priority areas, such as tribal data management capacity, and to extend the longevity of tribal projects.
- **Support for Operations and Maintenance:** The NTC recommends that EPA increase existing sources to support this critical need for tribal data systems. EN grants support tribes in creating new data management systems, but they do not provide for ongoing operations and maintenance, which increase in cost over time. Support for operations and maintenance is essential to long-term tribal environmental program capacity, since it enables staff to use their time efficiently to compile, analyze, manage, and share environmental data. It also supports legacy planning for tribal environmental programs, which can experience high staff turnover, by reducing the time required to train new staff to work with existing datasets.
- **Tribal Data Sovereignty:** Using the work of the EELC and TXG, the NTC requests that EPA create and support standards and protocols for sharing, protecting, and managing sensitive data related to tribal knowledge and cultural resources. Further, the NTC recommends increased funding for outreach, engagement, and training that would support tribes in their efforts to uphold data sovereignty and data privacy.
- **Data Management Training for Tribes:** An additional recommendation is to increase funding allocations for EPA staff, enabling the creation of staff positions to provide training and technical assistance regarding data management systems to tribal environmental programs.

Air Quality and Climate Change

\$26.25 million for global climate change

\$33 million to uphold the Clean Air Act Sections 103 and 105 (especially indoor air)

FY 2023 request: \$59.25 million

To develop the recommended allocation amount of \$59.25 million, the NTC worked with the National Tribal Air Association (NTAA) to identify priorities and budget recommendations regarding EPA-funded air quality programs, climate change, and related issues. Over the past year, the COVID-19 pandemic has taught many in America about wide-ranging disparities affecting Indian country. Tribal air quality monitoring programs have highlighted air quality as one such disparity by providing local public health information showing that ambient outdoor air quality has exacerbated the effects of COVID-19 on tribal populations. Whether the ambient pollution was from sources like



A tribal air quality staff member sets up a mobile air monitor in Mounds, OK. Photo credit: April Hathcoat

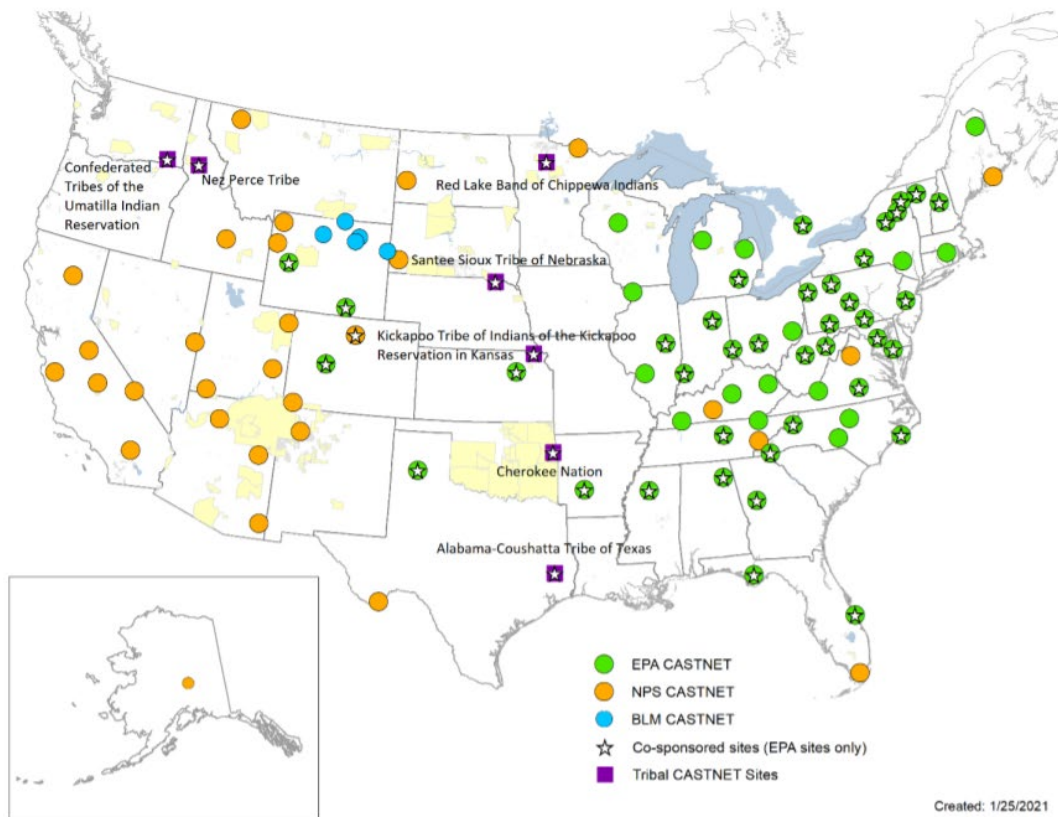
industrial emissions or more elusive sources, such as wildfires, synergistic impacts have been profound, and tribal air programs have done their part to warn and protect their people from the hazards. By distributing information to tribal communities on the Air Quality Index (AQI), guidance about how to reduce risks from the virus, and other information, many tribes have demonstrated strong leadership in this battle. We want EPA to recognize the enormous value of the people and programs who have done this work.

Tribal priorities regarding air programs include the following.

- **Ambient Monitoring Programs and Special Projects:** Most tribes who have air monitoring programs rely heavily—almost exclusively—on EPA funds for their programs. GAP funds for capacity development are often a first step, leading to Clean Air Act (CAA) Section 103 grants to undertake a new or developing project. After that, tribes may undertake a TAS process that may provide the opportunity for CAA Section 105 monitoring grants, limited regulatory authority, or in some cases, full CAA-delegated regulatory programs. Currently, there are 80 tribes with CAA Section 103 grants, 47 with CAA Section 105 grants, 61 with non-regulatory TAS, and 10 with regulatory TAS. Of these tribes, 85 operate air monitors and 74 have up-to-date emissions inventories. Presently, 400 major sources are permitted in Indian country, and there are 113 non-attainment areas that do not meet ambient standards.¹

¹ [2021 Status of Tribal Air Report](#), NTAA, May 2021. Appendix A, Table 3

Air knows no boundaries; many local and state governments and federal programs use tribal air data in their programs. The figure below shows the role of central U.S. tribes as the backbone of data collection and sharing for EPA’s Clean Air Status and Trends Network (CASTNET) program.²

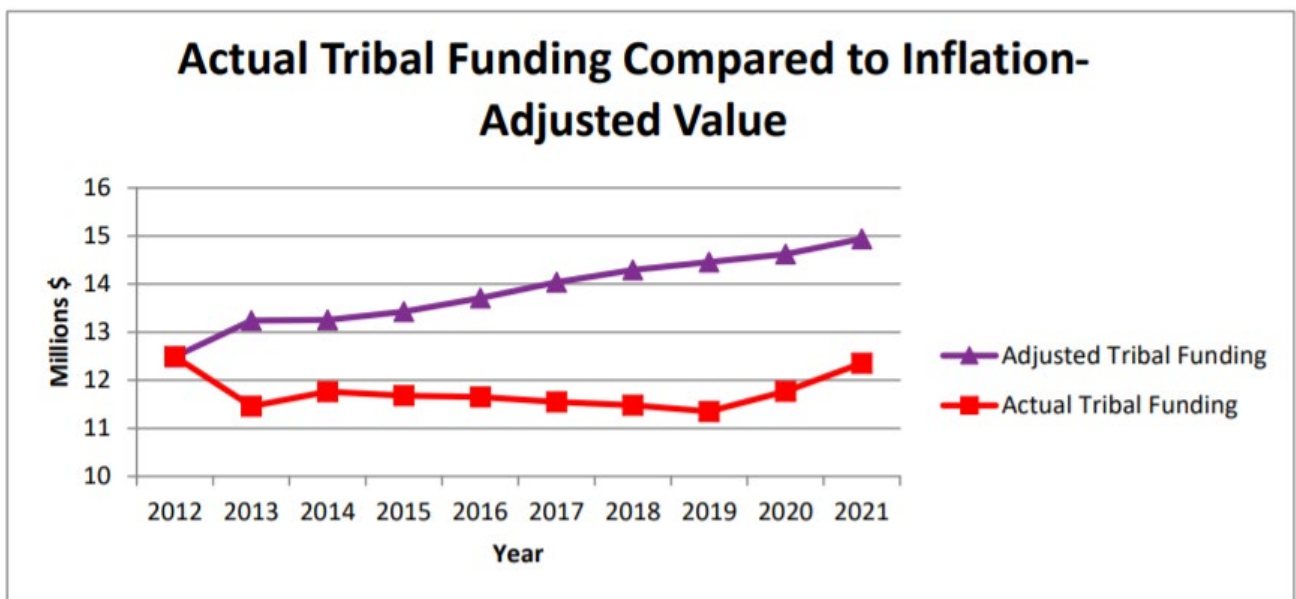


Tribal CASTNET sites

The NTAA estimates that more than half of the monitoring equipment used by tribes is more than 10 years old. Budget limitations in the past several years have caused many air monitoring programs to reduce their equipment and staffing to a bare minimum, and as these pieces of equipment require repair by qualified technicians, total numbers of monitors are reduced to keep those most essential to programs like CASTNET. If tribes cannot repair the equipment, it becomes obsolete, or expensive contractors are hired for repairs instead of building tribal capacity for the long term.

² [2021 Status of Tribal Air Report](#). Appendix A, Table 4

Since the Tribal Authority Rule (TAR) of 1998, funding has been somewhat flat-lined, with a peak in 2012 of \$12.49 million for tribes under State and Tribal Assistance Grants (STAG), which includes the CAA Sections 103 and 105 grants. This funding has not accounted for the increased numbers of tribes who operate monitors, tribes with delegated authorities, and federally recognized tribes overall. The mantra in the last 20 years has been to “do more with less,” and some tribes have been able to do just that. The current level of STAG funding for tribes is \$12.35 million. Considering inflation since the initial allocation of \$11 million in 1996, that amount would need to be \$18.3 million in 2021. Even without accounting for the increase in tribal participation, the current level falls \$5.95 million short of the need. Further, if health care costs for employees are brought into the picture, the total need rises to \$31.8 million, making the shortfall \$19.45 million.³ Clearly, the inadequate allocations need to change. The figure below shows the disparities in STAG funding since 2012.⁴



Tribal STAG funding compared to inflation-adjusted value

The NTC also requests continued support for the NTAA, National Tribal Forum on Air Quality, and the Tribal Air Monitoring Support Center.

³ [2021 Status of Tribal Air Report](#), NTAA, May 2021. Appendix A, p.111

⁴ [2021 Status of Tribal Air Report](#). Figure 5

- **Funding and Regulatory Adjustments for Addressing Climate Change:** Tribes are particularly attuned to what has been happening in the last century and culminating in our present climate change crisis. Other agencies have helped many tribes establish climate vulnerability and adaptation strategies, but the reduction of air pollutants must be a multi-agency, multi-national effort. As described by the Department of Energy (DOE), tribes have the potential to be major players in renewable energy development and air pollution reduction. As many tribes are also seeking energy independence or energy sovereignty through micro-grids, many win-win opportunities exist. Increases in GAP and other EPA-funded resources are needed to assist tribes with staffing, consulting, and outreach efforts to take immediate action to address climate change in a way that mitigates impacts on tribal lands, communities, and food sovereignty.

Further, EPA must take immediate action to curb the rollbacks that occurred during the last 4 years and get back on track. Oil and gas producers must be required to reduce emissions to the greatest extent possible. Air pollution controls on chemical manufacturers, refineries, and power generation facilities must be tightened. National ambient air quality standards must be evaluated and modified. The ground-level ozone standard of 70 parts per billion should be reconsidered and reduced. Federal Implementation Plans in Indian Country will play an important role in implementing a holistic strategy toward addressing climate change.

- **Wildfire Impacts:** Tribal communities often rely upon air quality programs to recommend protections for sensitive populations and general public health, which may include stay-at-home recommendations, school and public facility closures, or even evacuations to emergency shelters. Tribal reliance on state and federal agencies to respond to a wildfire and address the subsequent damage stresses those systems and often underserves tribal communities. Tribes may lack fire-fighting capacity completely, or there may be jurisdictional issues at play that hinder responses. Depending on the frequency with which each tribe responds to wildfires on their lands and the remoteness of those locations, there are varying levels of ability to respond. Information sharing, incident command participation, and air quality and meteorological data offered by air quality programs are very important and should be funded adequately. EPA resources for these roles in monitoring and outreach need to be increased on a tribe-by-tribe basis.
- **Indoor Air Quality:** Indoor air issues, such as allergens, radon, asbestos releases, excessive moisture leading to mold growth, secondhand smoke, wood smoke, and lead-based paint exposure are prevalent in tribal homes. Indoor air pollutants are often at much greater concentrations than ambient air pollutants. A majority of Native Americans also continue to use wood for heating. Many tribes struggle to meet their housing needs, and most have multi-generational households where both elders and infants often reside in the same indoor environment—both of whom have unique air quality needs and health impacts. While these issues are especially prevalent in lower-income homes, programs related to indoor air issues are lumped into CAA 103 funding with the other air quality initiatives. We encourage EPA to fund stand-alone initiatives to address specific indoor air quality needs.
- **Air Quality Needs Assessment:** For the nationwide, comprehensive baseline tribal air quality needs assessment, as outlined in the 1998 TAR, EPA will need to plan to provide funding in future years for any needs identified in the assessment that do not fit under an existing program. We recommend that EPA establish a team to act upon the results of the assessment

and identify how funds can be allocated strategically and new programs and initiatives created to follow up on the results of this exciting study.

- **Mobile Sources:** Mobile sources of air pollution, which stem from the transportation sector, including automobiles, trains, and airplanes, are virtually everywhere. Volatile organic compounds, carbon dioxide and monoxide, sulfur and nitrogen oxides, and particulate matter are the most prevalent mobile-source air pollutants. Diesel exhaust is especially prevalent and hazardous. Tribes can be disproportionately affected by mobile-source pollutants because they often have older vehicles that produce more emissions. When programs are created to upgrade vehicles, it will be imperative that decommissioning is required so those vehicles are not “reused” and permitted to continue polluting. We encourage EPA to continue to fund and implement the Diesel Emissions Reduction Act (DERA) and, specifically, the tribal set-aside. We also request that EPA continue to consider tribal set-asides such as the DERA set-aside when settling legal enforcement actions, as well as to create air-quality-related supplemental environmental projects that include tribes.
- **Air Quality and Environmental Justice:** As with many impoverished, underserved, often-ignored communities, tribal communities suffer from air quality environmental justice issues. Issues including the location of a coal-fired generation station, the associated coal mine, hard rock mining, oil and gas emissions, chemical manufacturers, and the nuclear fuel industry perpetuate a legacy of air pollution that emerges on or flows to tribal lands. Tribal consultation and programmatic support will be essential to addressing these issues.

Protections for Water

\$30 million for tribal Multi-Media Implementation Grant Funds

\$55 million for the tribal portion of CWA Section 106 funding

\$21 million for the national tribal CWA Section 319 program

\$18 million for the tribal portion of CWA Section 104 (b)(3) funding

\$90 million or 5% SRF set-aside

FY 2023 request: \$214 million

Water quality is directly connected to Indigenous lifeways, treaty rights resources, and first foods, yet tribes face challenges protecting our water quality on many fronts. The NTC priorities for protecting this sacred tribal resource include the following.

- **Capacity Building:** As an example of the need for capacity-building related to tribal water programs, the increase in tribal CWA Section 106 programs has led to a loss of capacity. Funding for Section 106 of the Clean Water Act has decreased for many years, even as the need for it has grown. This decrease is partly a result of additional tribes taking on CWA Section 106 programs, and it has led to a loss of existing tribal capacity and reductions in new capacity development for basic programmatic functions, such as retaining and training staff, funding operations, and maintaining software and equipment.

- **Climate Change:** At a time of mounting threats to water quality from the warming waters, increased floods, and rising droughts of a changing climate, tribes need to not only regain lost funding, but receive additional financial resources to address such complex issues. Alaska Native Villages provide an acute example of these climate-related challenges and must not be forgotten.
- **Environmental Justice:** Increasing tribal program funding is a fundamental part of addressing the environmental injustice all tribes face and the loss of cultural traditions and practices that result from damage to the chemical, physical, and biological integrity of tribal waters.
- **Regulatory Rollbacks:** Most egregious of these regulatory rollbacks is the redefinition of “Waters of the United States” (WOTUS), which, by omitting ephemeral streams, has allowed some polluters to not respect tribal waters. This lack of protection has been exacerbated by the pandemic.

Tribes need help to protect America’s waters, achieve closer parity with states, and address culturally based environmental injustices, in both funding and regulatory infrastructure. In conclusion, we, the NTC, note that a consolidated water grant program may provide benefits for tribes and EPA that could help address the challenges identified above by allowing more spending flexibility to protect water resources in Indian country. Meanwhile, specific requests for FY 2023 are as follows:

- **5% of the Drinking Water State Revolving Fund Set Aside for Tribal Infrastructure:** Increased funding will help address the disparity of access to safe drinking water on tribal lands, where 6% of tribal homes still lack access to safe drinking water, especially in the southwest and in Alaska.
- **TAS Authority and Additional Funding for Tribal Water Regulation:** It is imperative that tribes obtain TAS authority over water quality standards (WQS) and program implementation. Fewer than 10 percent of tribes have EPA-approved WQS, compared to 96 percent of states. WQS are the necessary foundation to engage in water pollution control activities, making this program critical.
- **Targeted Funding for Tribes with Approved Water Quality Standards:** The NTC recommends establishing targeted funding for tribes with Section 303(d) TAS Water Quality Standard programs.
- **Federally Promulgated Water Quality Standards Where Approved:** Universal tribal WQS do not exist, for a variety of reasons: there are numerous circumstances in which tribal authority is not legally recognized, a tribe chooses not to apply for federally delegated authority, or a tribe finds applying for TAS problematic. EPA should move forward on its long-discussed promulgation of federal WQS for such situations to ensure water quality, food sovereignty, health, and traditional lifeways are protected in Indian Country and Alaska Native Villages.
- **Increased Tribal Clean Water Act Section 106 Funding:** To support the goal of achieving funding parity with states and address a large unmet need, we recommend increasing the tribal portion of CWA Section 106 funding to \$55 million.

- **Increased Funding for Tribal Wetland Programs:** Tribal peoples rely on wetlands for sustenance and cultural vitality. The biodiversity that wetlands foster supports species intimately connected with tribal lifeways and traditions that cannot be replaced. Furthermore, across the nation, wetlands are threatened by rising sea levels, drought conditions, and other factors associated with climate change. Thus, we recommend that EPA increase CWA Section 104 (b)(3) funding to \$18 million.
- **Support Tribal Access to Program Funds from Section 319 of the Clean Water Act:** We ask that EPA strengthen tribal partnerships by permanently eliminating the percent cap for tribes and provide parity with states for CWA Section 319 funding. To that end, we recommend that EPA increase the national budget for this program to \$21 million.

Toxics and Chemical Safety

\$5.25 million for the Tribal Pesticide Program (*Federal Insecticide, Fungicide, and Rodenticide Act*)

\$5.25 million for the National Tribal Nonpoint Source Pollution Control Program

FY 2023 request: \$10.5 million

The NTC requests this sum to ensure chemical safety, prevent pollution, and protect traditional food sources, medicines, and cultural practices. Priorities related to these topics include pesticides and toxics.

Pesticides

Agricultural programs are the economic backbones of many tribes. Because the use of pesticides is an important tool for agricultural programs, funding for assessing the need for and implementation of pesticide activities and programs is a critical concern for tribes. Absent funding, tribes can find themselves in a precarious situation where they do not have a clear understanding about the pesticides in and near their communities and the adverse impacts that such pesticides may be having on tribal members and the environment in which they reside.

Tribal Pesticide Program Council (TPPC) and NTC recommendations include increased funding for tribal pesticide programs, along with regulatory assistance to reduce harm to agricultural workers, tribal natural resources, and tribal citizens. The NTC also asks that EPA deliver integrated pest management programs to tribal communities to address emerging invasive species threats. The NTC makes the following specific requests:

- **Assist Tribes with General Pesticide Issues:** The NTC asks EPA to strengthen existing tribal pesticide programs and expand programs to tribes not currently covered by doing the following.
 - Creating more guidance for pesticide programs and other pesticide-related activities and items, such as pesticide sampling, equipment, and laboratory fees.
 - Establishing and enhancing the sustainability of pesticide programs.
 - Increasing tribe-specific training on *the Federal Insecticide, Fungicide, and Rodenticide Act*; conducting inspections; and addressing tribal issues and challenges.
 - Developing new technologies that will enable tribes and their pesticide staff to address pesticide-related issues more effectively and efficiently.
- **Address Pollinator Decline Issues:** The NTC asks that EPA provide funding to assist tribes in developing and implementing pollinator protection plans in accordance with EPA guidance. EPA

should also organize and facilitate meetings with stakeholders to discuss and devise effective communication strategies around addressing the decline of pollinators.

Toxics

Tribes are increasingly vulnerable to the impacts of toxic chemical exposure because tribal people rely upon healthy, safe ecosystems to sustain their indigenous lifeways, health, and treaty rights, and to provide the natural resources that are used in tribal cultural practices. This includes access to clean water, healthy traditional food sources, natural medicines, pesticide- and herbicide-free indigenous plants for weaving, and contaminant-free clay for pottery. Tribal ecosystems have been degraded by legacy contaminants and the continued release of recognized but unregulated chemicals like flame retardants and endocrine-disrupting compounds. Therefore, the NTC asks that EPA do the following.

- **Assist Tribes with Tribal Exposure Scenarios:** While the NTC appreciates that EPA recognizes tribal sovereignty, it is often difficult to incorporate tribal exposure scenarios into federal and state policies. Studies related to Indigenous lifeways are often politicized, criticized, and manipulated by the non-tribal public because it can be difficult to understand subsistence cultures in an age of increasing consumerism. Tribes need EPA support as they continue to seek to restore traditional practices and resources for usual and accustomed hunting, fishing, and gathering sites.
- **Ensure Chemical Safety in Indian Country:** Goal 4 of EPA's Strategic Plan includes the objective (4.1) of ensuring chemical safety. For this objective to be achieved in Indian Country, the NTC recommends the following actions:
 - **Increase Support for the Toxic Substance Control Act (TSCA) Lead Program Among Tribes:** The Lead Program is the only TSCA program that tribes have the authority to administer and implement, but it is severely underused by tribal governments. Local implementation is critical, occurring through the regional and local levels. The NTC also recommends that EPA provide additional outreach and technical assistance to tribes on the TSCA Section 402/404 Lead-Based Paint Renovation Programs and fund a national tribe-to-tribe mentor program to engage more tribes in administering these programs.
 - **Identify Tribe-Specific Exposure to Toxics:** National chemical risk management policies must fully consider tribal exposure data, existing body burden levels, and data assessing the risks to tribes. The NTC recommends funding for tribes to conduct toxics monitoring, risk assessments, and bio-monitoring studies, including results for unique tribal chemical exposures. Supplemental funding is needed to perform the information gathering that EPA currently requires. The NTC further recommends funding for the evaluation of synergistic interactions among multiple contaminants during exposure assessments to protect tribes and traditional lifeways. The NTC also recommends support for tribal colleges and universities in increasing education on tribal toxic chemical exposure, including research and educational efforts necessary to understand tribal and cultural assessments and continued support of the Science to Achieve Results program.
 - **Develop Local Ordinances:** The NTC recommends that EPA fund training for tribal governments and staff on ordinance development to reduce the exposure of tribal citizens to chemicals in consumer products and community building and housing materials.

- **Network, Collaborate, and Provide Outreach with and to Tribes:** EPA's Tribal Partnership Groups, like the National Tribal Toxics Council (NTTC), are critical links between EPA and tribal communities. Increased funding is needed for the NTTC to develop outreach materials that engage tribal communities in chemical management; currently complex technical subjects are not currently explained in lay terms within these materials. Additionally, the NTC recommends providing funds for tribal training to build basic "program capacities related to the federal asbestos, pesticides, and toxics programs and evaluate the type of related issues that may be facing the community," as recommended in GAP Guidance. Training is essential for tribes to learn how to gather relevant data they can use to make program development decisions. Training should include engaging tribal communities on chemical safety and pollution prevention issues.
- **Promote Pollution Prevention in Indian Country:** Goal 4 of the Strategic Plan also includes the objective (4.2) of promoting pollution prevention. To achieve this goal in Indian country, the NTC recommends that EPA prioritize the implementation of pollution prevention (P2) solutions specific to tribal needs by developing P2 program policies and procedures that make use of available tribal exposure data and existing body burden levels, and by developing P2 program priorities that align with tribal community P2 priorities. The NTC also asks that EPA provide multi-year grant resources for tribe-specific P2 grants that waive all fund-matching requirements and fund toxic source and waste reduction activities to enhance the implementation of integrated solid waste management programs in Indian country.
- **Provide Resources to Prevent Pollution and Ensure Chemical Safety:** The NTC asks that EPA fund or conduct community-based research, including, but not limited to, consumption surveys, toxics monitoring, risk assessments, and bio-monitoring studies. Also, EPA should improve outreach efforts to engage tribal communities in chemical regulation and management, including pollution prevention. Specifically, the NTC recommends that EPA provide measurable outreach and technical assistance to tribes on TSCA Section 402/404 Lead-Based Paint Renovation Programs and prioritize the implementation of P2 solutions specific to tribal needs.
- **Fully Consider Tribal Populations as a Potentially Exposed or Susceptible Sub-Population Group:** The NTC recommends that EPA quantify and monetize tribal exposures to toxics through their TSCA authority. This should continue to occur in risk evaluations and risk management actions.

Collaboration and Partnerships

FY 2023 request: \$31.5 million

The NTC recommends this sum to clean up and close dumps and support waste management activities in accordance with the Resource Conservation and Recovery Act. We also ask that EPA recognize that the GAP funds cannot be the sole funding source for capacity building and implementation in addressing the quiet crisis of solid waste in tribal communities. The NTC makes the following specific recommendations.

- **Expand Tribal Access to the EJ Screen:** The NTC asks EPA to broaden current efforts to assist EPA offices that are historically "data poor" in being added to the EJ Screen, to better assist tribes and EPA in ongoing environmental justice activities. Specifically, the NTC recommends that EPA do the following.

- Investigate the possibility of using new environmental justice funding to increase the number of tribal and federal professionals engaged in compliance assistance and monitoring work, as well as cleanup work to meet tribal standards at sites of concern.
- Integrate the tenets of the Precautionary Principle with traditional risk assessment paradigms when initiating OLEM-related actions, initiatives, and regulations to support EPA's priorities of addressing the effects of global climate change and environmental justice: issues that significantly affect Native nations and communities.
- Increase and document the use of Traditional Ecological Knowledge (TEK), as defined by tribes, related to exposures, remediation, and mitigation that is consistent with culturally significant and customary practices, while respecting tribal data sovereignty.
- **Participate in Resilience Planning Activities Hosted by Tribes:** Such participation will help federal colleagues increase their understanding of tribal priorities and concerns and will strengthen their relationships with tribal colleagues. Specifically, the NTC recommends that EPA do the following.
 - Leverage resources that support increased tribal capacity to interact in leadership roles for prevention planning, climate resilience, mitigation, response, and recovery. These leadership opportunities should include having tribal participation on advisory and oversight boards, increasing access to technical and scientific mentoring possibilities, and creating additional opportunities for tribal professionals to share their perspectives and participate as peers with their government colleagues.
 - Continue to enhance the tools developed by EPA E-Enterprise activities and integrate them into existing and future EPA projects.
 - Provide direct support to tribes in their work on food waste as they address food sovereignty and security and encourage them to work with other federal agencies, such as the U.S Department of Agriculture.
- **Increase Funding for Tribal Response Programs for Brownfields:** Brownfields in Alaska must be included in this funding. The NTC recommends that EPA take the following actions, specifically.
 - Solicit from tribes suggestions on how evaluation criteria can be changed to enable tribal programs to conduct more site improvements, including reuse based on their specific needs, as part of their grant-funded programs.
 - Increase the number of acres assessed or cleaned up under Sections 104 or 128 of the *Comprehensive Environmental Response, Compensation and Liability Act* on lands defined by tribal treaty, customary and traditional use areas, and traditional cultural properties.
 - Conduct additional outreach to tribes about the use of 128(a) funds for pre-disaster assessments.
 - Provide the Tribal Waste and Response Steering Committee with information on the number of tribes assisted by service providers and, when possible, case studies on the results of these assistance activities.

- **Provide Resources for Managing Underground Storage Tanks:** The NTC recommends that EPA broaden training opportunities and outreach in Indian country across all programs to improve understanding of underground storage tank (UST) issues. The NTC also recommends that EPA do the following.

- Create a collaborative task force of tribal professionals, EPA staff, and subject matter specialists to identify ways to improve compliance rates at tribal UST facilities.
- Engage owners/operators about what tools they need to achieve compliance and assist in the creation of site-specific training and guidance to meet these needs.
- Foster opportunities for tribal professionals to mentor one another directly as an additional way to improve compliance rates at tribal UST facilities.
- Create more opportunities for tribal participation in Direct Implementation Tribal Cooperative Agreements (DITCAs) and for tribes to receive STAG funding to provide base funding and flexibility.



Treatment Plant at Coeur d'Alene Basin Cleanup Superfund Site

- **Assist Tribes with Superfund Sites:** The NTC recommends that EPA take the following actions to support tribes in addressing Superfund sites.

- Engage the Office of Water and Office of Superfund with tribes at the national and regional levels during the development of remedial investigations, feasibility studies, remedial design, and implementation phases.
- Recognize and respect that tribal standards and tools used by tribal Superfund programs are critically important in protecting downstream waters, lands, and traditional lifeways.
- Ensure tribal data is secure and considered in decision making.
- Increase funding to support tribes in the development of their own tribal Superfund cleanup programs and their capacity to oversee, coordinate, and administer Tribal Remedial Response Cooperative Agreements, including local tribal cultural resource monitoring with EPA on National Priorities List sites.
- Ensure commensurate funding for Superfund Management Assistance Grants and increase awareness of their availability.



Coeur d'Alene Basin Cleanup Superfund Site

- **Improve Emergency Response Collaboration:** The NTC recommends that EPA take the following actions toward collaborative, effective emergency response.

- Address concerns in Indian country regarding above-ground storage tank issues and increase inspections of these facilities to ensure compliance with regulations.
- Clearly define EPA involvement in emergency response activities, including across OLEM offices, as well as articulating where other federal agencies play roles
- Encourage EPA personnel to participate in regional Federal Emergency Management Agency exercises and work with tribal colleagues to foster cross-agency cooperation and communication.
- Encourage tribal environmental emergency response programs to be involved with their regional and local response agencies through Local Emergency Planning Committees.
- Facilitate tribal use of National Response Center communications and outreach tools at national and local levels.

Enforcement and Compliance for Tribal Environmental Laws

FY 2023 request: \$115.5 million

The NTC asks that EPA provide \$115.5 million for GAP funds, establishing a new GAP funding formula base at \$183,750 per tribe. This adjustment would enable tribes to establish and implement environmental protection programs under Section 502(d) (1) of the *Indian Environmental General Assistance Program Act* (as amended) and as Congress intended. The NTC further recommends that EPA do the following.

- **Incorporate Tribal Risks in Risk Assessments:** Develop and implement an agency-wide policy to include all unique tribal risks prior to conducting program risk assessments.
- **Allocate Funds Based on Numbers of Tribal Inspectors:** Provide funding to each region, based on the number of federally credentialed tribal inspectors, to support tribal and EPA compliance assurance and monitoring activities.
- **Promote EPA's Enforcement and Compliance Support to Tribes:** Increase awareness of the compliance and enforcement assistance available to tribes from the EPA Office of Enforcement and Compliance Assurance.
- **Address the Most Highly Exposed and Disproportionately Impacted Populations:** EPA should develop and implement a formal, agency-wide directive on evaluating tribal exposure pathways to address these populations. We recommend including tribal exposure pathways in risk assessments of toxic chemicals and in clean-up standards.

The NTC believes that institutionalizing the evaluation of tribal exposure pathways is a priority for Air Quality (EPA Strategic Plan Goal 1), Water Quality (EPA Strategic Plan Goal 2), Clean-Up Standards for Contaminated Sites (EPA Strategic Plan Goal 3), Toxic Chemicals in Consumer Products (EPA Strategic Plan Goal 4), and Environmental Justice (EPA Strategic Plan Goals 1–5).

- **Remain Engaged with Tribes on a Government-to-Government Basis:** The NTC recommends that EPA do the following.
 - Continue participating in tribal meetings and conferences.

- Institutionalize the consideration of treaty rights and cultural resources in all EPA decisions.
- Ensure that cooperative agreements and memoranda of understanding with states always include a language requirement to “consult and coordinate with tribes.”
- Recognize the nation-building aspect of tribal governments and associated challenges to sustainability.

Conclusion

It is our vested responsibility to work with this new administration to restore crucial losses from previous budget cuts. The NTC respectfully urges Administrator Regan to maintain and continue work on institutionalizing EPA’s programs on tribal lands. As we know, tribes are expected to do more with less funding than states, a serious and unfair disparity. The NTC looks forward to working closely with EPA through the American Indian Environmental Office and the Office of International and Tribal Affairs in helping to make our requests a reality, and in moving toward a new era of government-to-government partnerships between tribes and EPA. Thank you for your thoughtful consideration of these crucial budget requests.