



Environmental Protection

Tribal peoples maintain spiritual, cultural, practical, and interdependent relationships with their homelands and natural resources. Consequently, tribal peoples face direct and often disproportionate impacts of environmental degradation including climate change. Federal funding to support environmental protection for Indian reservations was not forthcoming until more than 20 years after the passage of the Clean Water and Clean Air Act. Tribes are still trying to catch up, and significant gaps remain.

Today, now almost 40 years after the passage of these Acts, only 42 tribes have Environmental Protection Agency (EPA) -approved water quality standards, which are a cornerstone of the Clean Water Act. Nearly all states have been implementing the Clean Water Act through approved water quality standards for decades. As indicated above, approximately 12 percent of tribal homes lack access to safe drinking water, and basic sanitation — a figure that is nearly 20 times higher than the national average and one that indicates the unsafe conditions facing many Native families. Significant gaps still remain in environmental protection; and these gaps should be addressed through the implementation of monitoring, regulatory, and on-the-ground activities in many areas of Indian Country.

The realization of the EPA Indian Policy remains a daunting challenge. The federal government must ensure tribes have fair and equal opportunities to realize, preserve, and enhance the environmental quality of Indian Country for present and future generations and to sustain tribal cultures. In the recommendations below, NCAI requests that EPA tribal programs receive, at a minimum, sufficient resources to achieve parity with states through sustainable targeted base funding.

Key Recommendations

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Indian Environmental General Assistance Program (IGAP)

- *Increase funding for GAP to \$75 million.*

Program capacity building is a top environmental priority identified by tribes as part of the EPA National Tribal Operations Committee National Tribal Caucus. The Indian General Assistance Program (IGAP) is unique among federal programs in that it provides a foundation which tribes can leverage to support other greatly-needed programs, such as planning for climate change and natural resource management, energy efficiency activities, and small scale renewable energy projects. GAP funding is particularly critical to Alaska Native villages, where it provides 99 percent of the overall funding to address their fundamental and often dire needs, such as safe drinking water and basic sanitation facilities, and the on-the-ground presence to help confront profound climate change impacts, such as eroding shorelines, thawing permafrost, threats to subsistence resources, and permanent relocation of Alaska Native communities.

This increased collaborative leveraging potential makes GAP a wise investment of federal dollars. However, GAP funding has not kept pace with the growth of tribal environmental programs over the years, forcing tribes to perform the increased duties of maturing programs with fewer funds. Furthermore, the average cost for tribes to sustain a basic environmental program was set at \$110,000 per tribe in 1999 and has not been adjusted for inflation since then. Tribal demand for program implementation across various media includes the pressing need to establish climate change adaptation plans. A \$175,000 per tribe distribution, totaling approximately \$98 million, reflects an equitable adjustment, which tribes seek to achieve incrementally through a \$75 million request for FY 2016.

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Tribal Drinking Water

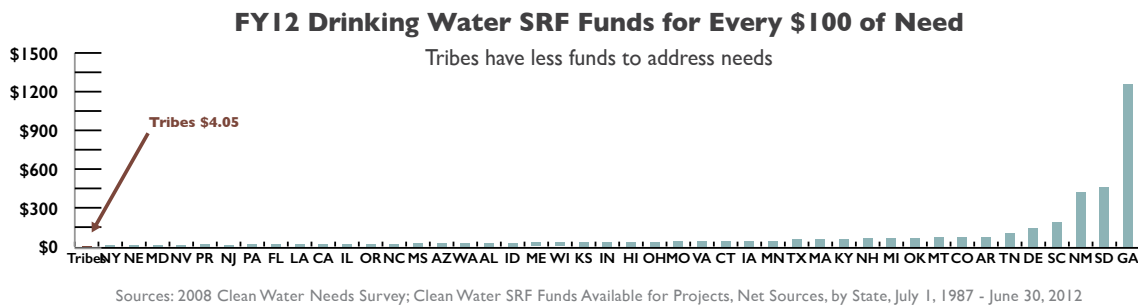
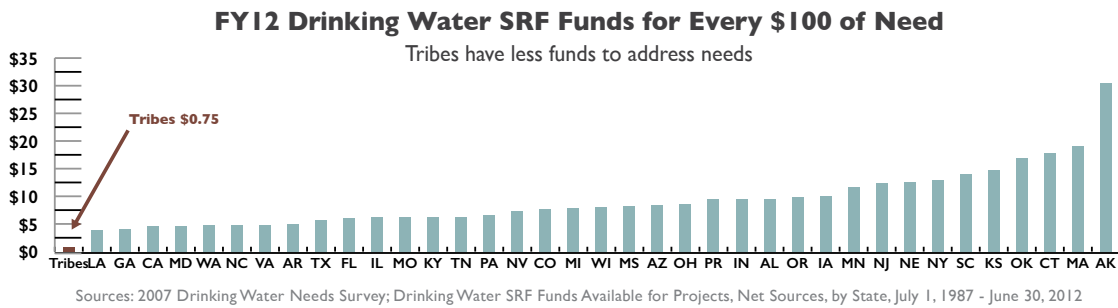
Safe Drinking Water State Revolving Fund (SRF)

- *The tribal set-aside for the Safe Drinking Water SRF should be increased to 4.5 percent of the national Drinking Water SRF.*

The lack of access to safe drinking water and basic sanitation in Indian Country continues to threaten the public health of American Indian and Alaska Native communities. Approximately 12 percent of tribal homes do not have safe water or basic sanitation facilities. This is 20 times as high as the 0.6 percent of non-Native homes in the United States that lacked such infrastructure in 2005, according to the US Census Bureau.⁸⁹ The fundamental inequity in the quality of tribal water systems must be addressed.

Recognizing the severity of these circumstances, Memorandums of Understanding signed by EPA, IHS, DOI, and USDA resulted in the creation of an interagency Infrastructure Task Force. This group's mission is to meet the US commitment to the United Nations Millennium Development Goal to address lack of access to clean and safe drinking water in tribal communities by 50 percent by the year 2015. The IHS 2008 Sanitary Deficiency Service Database estimates the tribal water and sewer infrastructure needs at almost \$2.4 billion. Further, IHS also reports that \$67.2 million per year is needed until the year 2018 to reduce the number of tribal homes lacking access to safe drinking water by 67 percent.

In 2010, the tribal set-aside under the Safe Drinking Water SRF was funded at \$27 million nationally. Tribal compliance with drinking water standards is consistently below those of other community water systems due to lack of funding for operations and maintenance. The tribal set-aside for the Drinking Water SRF should be increased to 4.5 percent of the national Drinking Water SRF.



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Clean Water Act State Revolving Fund (Tribal Waste Water Facilities)

- Increase the national Clean Water Act SRF Tribal Set-Aside to \$46.5 million.
- Permanently lift the funding cap on the Clean Water SRF Tribal Set-Aside for wastewater facilities.

According to the IHS 2008 Sanitary Deficiency Service Database, close to \$2.4 billion would be needed to eliminate the disparity in tribal water and sewer infrastructure needs and to meet the tribes’ drinking water needs. Basic human health and environmental protection for thousands of tribal homes could be achieved with increased funding for sewage treatment construction programs.

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Tribal Water Pollution Control, Clean Water Act Section 106

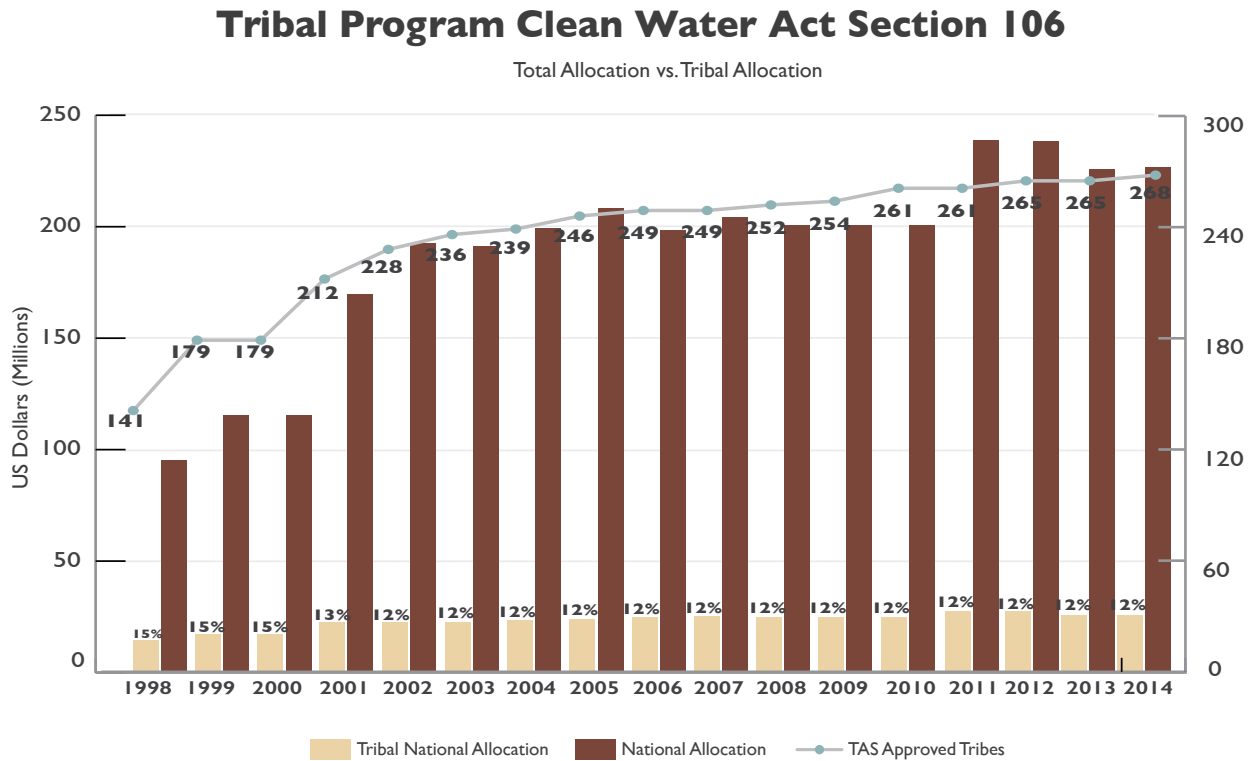
- Increase the tribal allocation to 20 percent.

Clean Water Act Section 106 grants are key to tribal efforts to control water pollution, including water quality planning and assessments; developing and implementing water quality standards and total maximum daily loads; ground water and wetland protection; and nonpoint source control activities. The number of eligible tribes to receive CWA Section 106 funding increased from 141 in 1998 to 257 in 2010. Tribal recipients are now required to submit their water quality data through the Water Quality Exchange (WQX) as part of their Section 106 reporting requirements without any increase in Section 106 program funding. The national CWA 106 allocation to tribes has flat-lined and – in certain cases – decreased in some years during the same time period (e. g., 15.49 percent in 1998 to as low as 11.55 percent in 2005). The current tribal allocation of 12.42 percent is still

too low; successful CWA implementation requires at least 20 percent of the national CWA Section 106 allocation to keep pace with the expansion of tribal programs.

Figure 11 shows the ongoing disparity between tribal and state allocations for Section 106 grants. The graph shows that the number of tribes developing their water quality programs has far outpaced the funding available to tribes to maintain water quality programs. The lack of adequate and continuous funding for implementation and enforcement hinders the effectiveness of tribal water programs.

FIGURE 11



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Nonpoint Source Pollutant Control – Clean Water Act Section 319

- *Permanently eliminate the percent cap on tribal funding for Nonpoint Source Pollutant Control.*
- *Provide \$13 million for the Tribal Nonpoint Source Pollutant Control.*

Clean Water Act Section 319 provides tribes with grants to develop and implement polluted runoff and other non-point source control programs that address critical water quality concerns identified in the 106 program and other monitoring programs. Few 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, particularly as climate change will significantly affect water quality and as collaboration across jurisdictions will be required.

As tribal demand for this competitive funding exceeds availability, tribes request a permanent elimination of the one-third of one percent cap placed on the tribal allocation to help close the vast inequity in funding and programmatic implementation compared to states.

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Great Lakes Restoration Initiative

- *Maintain funding at \$3 million for tribes as part of the Great Lakes Restoration Initiative.*

Tribes in the Great Lakes region have joined together to establish a tribal-federal-state collaboration, which stands as a model for replication across the country. The Great Lakes Restoration Initiative is the largest investment in the Great Lakes in two decades. A task force of 11 federal agencies developed an action plan to implement the initiative. This action plan covers Fiscal Years 2010 through 2014 and targets the most significant problems in the ecosystem, such as aquatic invasive species, nonpoint source pollution, and toxics and contaminated sediment. Over 100 Projects and programs are to be implemented through grants and agreements with states, tribes, municipalities, universities, and other organizations. This initiative received an overall allocation of \$475 million in FY 2010 for restoration activities in the Great Lakes region. Of this amount, \$3 million was allocated to tribes. Funding for tribes under the Great Lakes Restoration Initiative should be maintained in FY 2016 at the FY 2010 enacted level.

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Tribal Capacity to Collect, Manage, and Transfer Data

- *Provide \$10 million for Tribal Information Exchange Network (IEN) grants.*
- *Provide \$500,000 to support tribal-based technical IEN committees, such as the Tribal Governance Group.*

Data plays a critical role in demonstrating the need for and benefits of funding tribal environmental programs. To advance tribal information technology infrastructure and data capacities, greater parity must be achieved between states and tribes in the award of Information Exchange Network (IEN) grants and the EPA funding that supports data collection, data management, and data transfer. Compared to state awards of IEN grants, tribes have historically averaged 15.1 percent of IEN funding. From 2002 to 2012, of the 564 IEN grants awarded, only 130 were tribal awards. This equates to a 23 percent IEN grant tribal share. These lost opportunities have decreased tribes' technical and programmatic capabilities.

In 2011, only 93 of the 565 federally recognized tribes had IEN capacity, whereas all 50 states were implementing the IEN initial phase and moving into Phase II. While tribes are making steady progress in adopting the IEN system, the funding will end before tribal needs in this area are met. For the past 10 years, the number of tribes applying for IEN funds has greatly outnumbered the number of tribes that have received them. Since 2002, 679 grants worth over \$173 million have been awarded to states, tribes, and territories. However, there have been significant disparities in the number of grants and dollar amounts awarded:

- To states – 508 awards worth \$144 million
- To tribes – 153 awards worth over \$26 million

- To territories – 18 awards worth over \$3.5 million
- To the Environmental Council of the States (award for associated program support) – \$8 million

Tribes face various issues with technology resources that extend beyond the period of a grant project. While initial grant funding is available, it is also very competitive. Many tribes miss the opportunity to participate in the Exchange Network. Also, tribes do not have the same goals as EPA and state partners do to which Exchange Network funding is tied. Frustration has led to tribes not applying at all or looking at alternative methods to participate in the Exchange Network including using program funding. Tribal concerns seem to have little to no effect on the EPA Exchange Network and direction that tribes will not be catching up with and as new initiatives are brought forward with little communication with tribal partners.

Furthermore, tribes need the opportunity to expand their data readiness and analytical tools in ways that do not take funding away from program implementation. Additional funding needs to be provided to tribes to accommodate data management efforts, whether or not they participate in the IEN. This will allow tribes to plan for and address climate change impacts in Indian country and Alaska Native villages, and develop adaptive strategies for a changing environment.

Therefore, NCAI recommends:

- *Offer future IEN grant opportunities to provide tribes the option of undertaking components of database and GIS data layer development, to work toward the completion of Phase I activities.*
- *Increase funding to \$20 million for all tribes to support their data management efforts, whether or not they participate in the IEN program.*
- *Support tribal-based technical IEN committees, such as the Tribal Governance Group at \$500,000.*

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- ***Fully Support the National Tribal Operations Committee (NTOC) Operations***

This support includes dedicating ample resources to implement the full mission of the NTOC and to address the changes that will result from the reinvigoration process. Without full support, the NTOC will not be able to do its part in helping achieve environmental protection in Indian country and Alaska Native villages, or improve EPA's tribal environmental programs. The NTOC is expected to be the high-level policy body that serves as a hub of information between tribes and EPA, but it cannot fulfill this role without adequate resources.