

Students gather Camas Root in Hot Springs, Montana, during the Montana Youth Conservation Corps 2011.

Credit: US Fish and Wildlife Service.

ENVIRONMENTAL PROTECTION

Tribal peoples have close spiritual, cultural, practical, and interdependent relationships with their homelands and natural resources. As such, they also face the direct and often disproportionate impacts of environmental degradation, contamination, and climate change. Specific federal support for tribal environmental protection began over twenty years after the commencement of federal and state environmental protection programs that were initiated by the enactment of the Clean Water Act and Clean Air Act in the early 1970s. Tribes are still trying to catch up, and a significant gap remains.

Today, nearly 40 years later, only 40 tribes have Environmental Protection Agency (EPA)-approved water quality standards, which are a cornerstone of the Clean Water Act.

The vast majority of states have been implementing the Clean Water Act through approved water quality standards for decades. Approximately 12 percent of tribal homes lack access to safe drinking water and basic sanitation, an unacceptable fundamental living condition that is nearly 20 times higher than the national average. Significant gaps in environmental protection that should be met through the implementation of monitoring, regulatory, and on-the-ground activities still remain in many areas of Indian Country. The realization of the EPA Indian Policy remains a daunting challenge. In this vein, 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.

Key Recommendations

ENVIRONMENTAL PROTECTION AGENCY

Interior - Environment Appropriations Bill

Indian Environmental General Assistance Program (GAP)

- Increase funding for GAP to \$75 million.

Program capacity building is the number one environmental priority identified by tribes. The General Assistance Program (GAP) is unique among federal programs in that it provides a foundation which tribes and other agencies can jointly 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 inadequate safe drinking water and basic sanitation, 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 that time. Tribal demand for program implementation across various media includes a very 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 2013.

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Multimedia Tribal Implementation Grants Program

- *Authorize and appropriate \$20 million for the Multimedia Tribal Implementation Grants Program.*

This new grant program was proposed by EPA and the tribes in FY 2012 in recognition of the significant gap in program funding necessary to implement the sorely-needed on-the-ground environmental protection activities throughout much of Indian Country. This program would not only provide those resources, but also the flexibility to direct funds to the specific high priority environmental challenges which many tribes have already identified as their lands and waters. Tribes support the continuation of the President's FY 2012 request of \$20 million for FY 2013.

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Clean Water and Drinking Water State Revolving Funds (SRFs)

- *Provide a 3 percent tribal set-aside for Clean Water and Drinking Water State Revolving Funds.*

The pronounced lack of access to safe drinking water and basic sanitation in tribal homes includes more than 36,000 tribal homes without potable water. The fundamental inequity in the quality of tribal water systems must be addressed.

Recognizing the severity of these circumstances, MOUs signed by EPA, IHS, DOI, and USDA resulted in the creation of an interagency Infrastructure Task Force referred to as ACCESS. 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 unmet need is over \$2 billion. An IHS report to the Office of Management and Budget noted that \$67.2 million per year is needed until the year 2018 to reduce the number of tribal homes lacking access by 67 percent. Tribes continue to advocate for a 3 percent set-aside for funds provided under both the Clean Water and Safe Drinking Water Acts for FY 2013 appropriations, noting that this alone will not make a significant dent in the Millennium Goal, but may prevent further deterioration of an already unacceptable condition.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

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Operation and Maintenance Funding for Tribal Public Water Systems (25 USC §1632)

- *Provide \$1 million for this program.*

In addition to inadequate funding for water infrastructure, the operation and maintenance of existing infrastructure are endemic challenges. Many tribes, particularly those experiencing persistent poverty, struggle with the ability to hire, fund, and retain qualified water system operators. The interagency ACCESS workgroup notes that some tribal water systems fail before their intended design life for lack of operations and maintenance, which in turn requires premature recapitalization and the diversion of funds that could be used to provide some tribal communities with safe drinking water and basic sanitation for the first time. The Indian Health Service has the only statutory authority to fund tribal operations and management for water infrastructure under 25 USC §1632(b), but has never done so. Tribes request that \$1 million be provided to tribes to fund and retain operators of tribal water systems with high rates of non-compliance to protect the federal investment in physical infrastructure on Indian lands and to ensure the provision of safe drinking water and basic sanitation.

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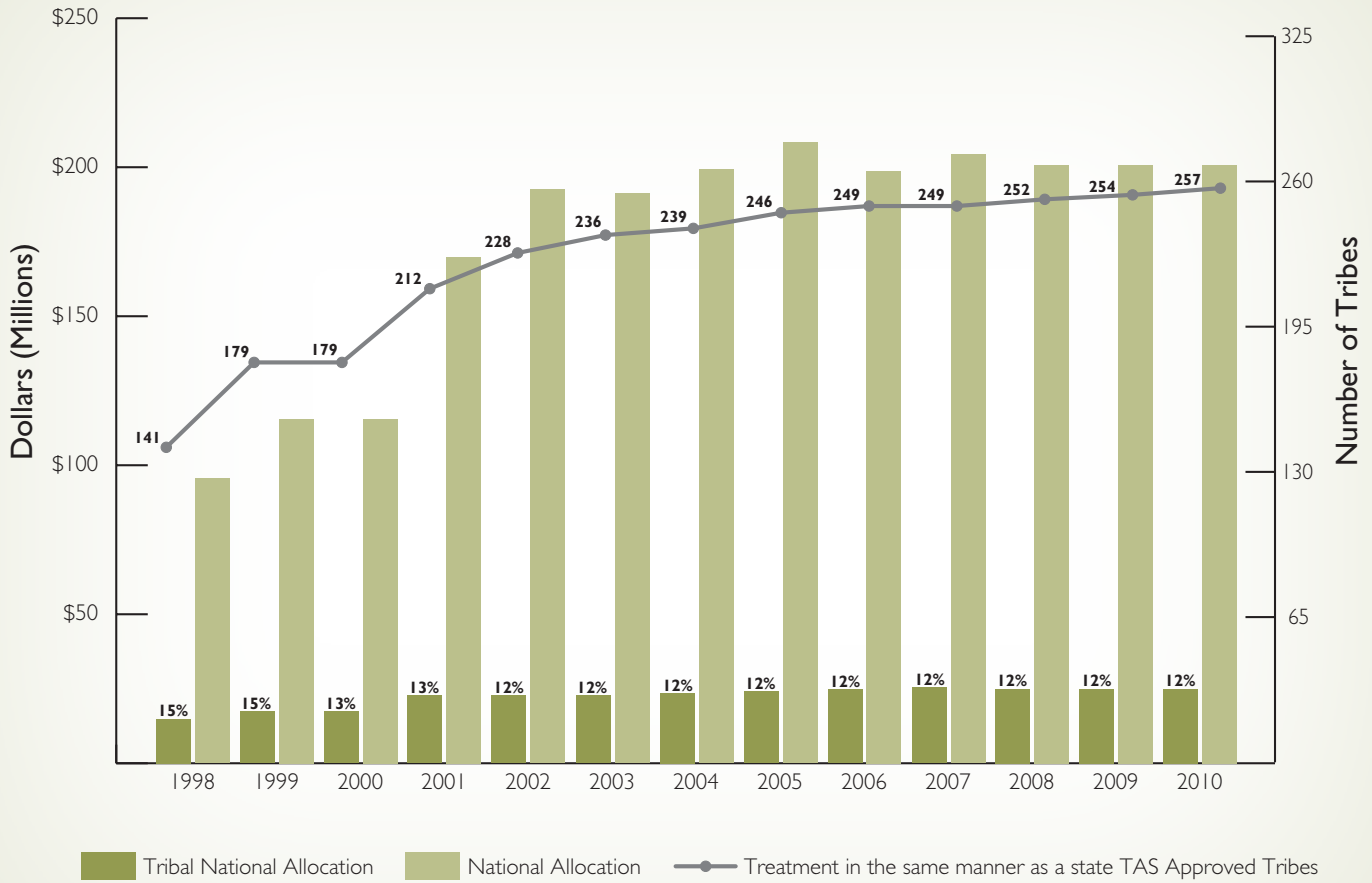
Tribal Water Pollution Control, Clean Water Act Section 106

- *Increase the tribal allocation to 20 percent.*

Clean Water Act Section 106 grants are critical 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. Since 1998, the number of eligible tribes to receive CWA Section 106 funding increased from 141 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). Successful CWA implementation requires at least 20 percent of the national CWA Section 106 allocation to keep pace with the expansion of tribal programs. Furthermore, only 40 of the 565 tribes have EPA-approved water quality standards (WQS), which have been a necessary and fundamental feature of the Clean Water Act since its enactment nearly 40 years ago. In contrast, the vast majority of states have WQS, most of which have been in place for decades. Section 106 grants would enable tribes to bridge this vast gap by supporting the development of EPA-certified WQS.

Figure 4 shows the ongoing disparity between tribal and state allocations for Section 106 grants. The lack of adequate and continuous funding for implementation and enforcement hinder the effectiveness of tribal water programs.

**Figure 4: Tribal Program Clean Water Act Section 106
Total Allocation vs. Tribal Allocation**



Source: US EPA Office of Water. (July 7, 2010). Protecting Tribal Waters and Clean & Safe Water in Indian Country. Presentation at National Tribal Caucus Discussion with Peter Silva (Assistant Administrator) and Michael H. Shapiro (Deputy Assistant Administrator).

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Nonpoint Source Pollutant Control – Clean Water Act 319

- *Eliminate the cap on tribal funding for Nonpoint Source Pollutant Control.*

Clean Water Act Section 319 provides tribes with grants to develop and implement polluted runoff control programs that address critical water quality concerns identified in the 106 program and other monitoring programs. As mentioned above, 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 collaboration across jurisdictions will be required. As tribal demand for this competitive funding exceeds availability, tribes request a permanent elimination of the percent cap placed upon them to help close the vast inequity in funding and programmatic implementation compared with states.

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Exchange Network (EN)

- *Set aside 10 percent of Environmental Information Exchange Network funding for tribes.*

The EPA Exchange Network is an innovative partnership among tribes, states, and the EPA to provide better access to high-quality environmental data and facilitate data management and the submission of data efficiently. Beginning in 1998, states assisted in the development of the Exchange Network and received several million dollars to develop requisite information technology infrastructure. Tribal governments were brought in years later with limited capacity and unequal access to the resources.

At present, all 50 states operate nodes for the exchange of information over the internet, while only ten tribes do (eight tribes operate node clients), with seventeen in the planning phase. Tribes urge sustained funding for tribal access to the Exchange Network, a minimum 10 percent tribal set-aside of such funding to provide development and implementation support for tribes that are just coming on board, and operations and maintenance funding to tribes with operating programs.