



THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

APR 19 2016

The Honorable Russell Begaye
President
The Navajo Nation
100 Parkway
P.O. Box 7440
Window Rock, Arizona 86515

Dear President Begaye:

Thank you for your March 15, 2016, letter regarding the U.S. Environmental Protection Agency's response to the Gold King Mine release.

Mutual respect and accountability, rooted in the EPA's 1984 Indian Policy, and recognition of the Navajo Nation's sovereignty have been the foundation of our 32-year partnership. The EPA and the Navajo Nation will face many challenges ahead as we address public-health and environmental threats in Navajo communities, including the need to improve water infrastructure and air quality and to clean up abandoned uranium mines. Our success in meeting these challenges will depend on the strength of our partnership.

The Gold King Mine release in August 2015 had a profound effect on our relationship with the Navajo Nation. The incident highlighted the need to respond to the longstanding threats to downstream communities from acid mine drainage from historic abandoned mines in Colorado. To comprehensively manage the source of this problem, the EPA proposed adding the Bonita Peak Mining District to the National Priorities List on April 7, 2016. The district includes Gold King Mine and 47 other mining-related areas in Mineral Creek, Cement Creek and Upper Animas. Placement on the National Priorities List makes the mining district eligible for federal cleanup under the Superfund program.

Since the Gold King Mine release the EPA has expended more than \$22 million on response efforts, including \$1.1 million for agricultural water and hay for Navajo communities along the San Juan River. Further, pursuant to the applications for cooperative agreements from the Navajo Nation that were submitted in late January, the EPA on March 10 provided more than \$157,000 in reimbursement to Navajo agencies for their response costs. The Navajo Nation Department of Justice accepted this payment on April 13. The EPA has requested additional information from the Navajo Nation Department of Justice for substantiation of the remaining reimbursement requests to determine their eligibility under the EPA's response authorities and federal-grant principles. The EPA is looking forward to continuing our collaborative work with the Navajo Nation Department of Justice on this matter.

The EPA understands the crucial importance of providing accurate and timely information about water quality in the Animas and San Juan rivers. Our agency remains committed to full transparency with respect to data-collection efforts. The EPA has continually posted water-quality data to the Gold King Mine website as it has become available and also has shared its interpretation of the data with tribal,

state and local government decision makers and stakeholder groups. I understand your office lifted irrigation restrictions in late August 2015 for three chapters and lifted irrigation and livestock restrictions on the rest of the San Juan River on October 15, 2015. Navajo Nation EPA also notified the Navajo Tribal Utility Authority that the San Juan River posed no threat to the Montezuma Creek Drinking Water system during the late August 2015 time frame. Except for portions of the Navajo Nation, all jurisdictions along the San Juan River lifted restrictions by late August.

The first round of sampling conducted last fall under the EPA's Post-Gold King Mine Conceptual Monitoring Plan for the San Juan River did not show exceedances of Navajo Nation agricultural water-quality standards or of EPA recreational screening levels. The EPA has shared and will continue to share its data and analysis with the Navajo Nation and is fully open to reviewing and discussing any data or analysis generated by your government or other investigators. Our agency has allocated \$465,000 to the Navajo Nation to monitor water quality in the river.

The EPA recognizes that the San Juan River also has great spiritual and cultural significance to the Navajo Nation. Please know that I am committed to continuing our longstanding partnership to protect and restore the river and other vital resources on the Navajo Nation. Since 1984 the EPA has provided more than \$93 million to support your government's leadership in establishing your own environmental programs. In addition, we have provided more than \$100 million for water infrastructure improvements and have partnered with other federal agencies to provide more than \$100 million for the cleanup of abandoned uranium mines. We also support the work of the U.S. Department of Agriculture and other federal, state and tribal agencies that are partnering with the Nation to provide services to Navajo farmers and ranchers.

I appreciate your offer to discuss the issues further and will work to arrange a conversation as soon as schedules allow. Meanwhile, you will find in the attached document more detailed information related to these and other concerns that you raised in your March 15 letter. I also understand that Region 9 Administrator Jared Blumenfeld and his team will be meeting with you and the Navajo Nation Council on April 19 regarding our joint efforts to clean up abandoned uranium mines.

Sincerely,



Gina McCarthy

Detailed Information Related to Other Concerns Raised in March 15, 2016 Correspondence

1. Fair And Independent Assessment of the EPA's Role in the Gold King Mine Release

Three separate reviews were conducted after the August 5, 2015 Gold King Mine release: EPA Internal Review: On August 14, 2015, the EPA charged a subgroup of its National Mining Team to conduct a rapid analysis of the events surrounding the release and the potential factors contributing to the release. EPA released the Internal Review Summary Report on August 26, 2016 and an addendum on December 8, 2015. The Summary Report and related documents are available here: <https://www.epa.gov/goldkingmine/press-releases-and-updates-gold-king-mine-response>.

U.S. Department of Interior (DOI) Review: On August 18, 2015, EPA also asked the DOI and the U.S. Army Corps of Engineers to perform an independent evaluation of the cause of the release and steps that could be taken to preclude similar incidents. On October 22, 2015, DOI released the review conducted by its Bureau of Reclamation and peer-reviewed by the U.S. Geological Survey and the U.S. Army Corps of Engineers.

EPA Office of Inspector General (OIG) Review: On August 17, 2015, the independent OIG announced its plan to review the cause of, and EPA's response to, the Gold King Mine release. On November 4, the OIG announced that it was broadening the scope of its inquiry, and provided a list of additional matters that would be addressed in its report. The result of the OIG inquiry is pending.

2. An Interim Claims Process and Fund to Pay Claims on an Ongoing Basis

The Federal Tort Claims Act (FTCA) is the statute that creates an administrative process for agencies to settle certain eligible claims against the government. As detailed in the November 3, 2015 letter from EPA's General Counsel to the Navajo Nation Attorney General (Attachment 1), the FTCA does not permit the establishment of an interim claims process but does allow a claimant up to two years from the date of accrual to assess damages to file a claim. A claimant may amend a timely filed claim in compliance with applicable regulations to account for subsequently discovered damages as more information becomes available.

3. Funds for an On-Site Laboratory on Navajo Land and Emergency Preparedness

Available Funding Sources for an On-site Laboratory: As highlighted in EPA's November 30, 2015 and April 1, 2016 letters (Attachments 2 and 3), the Navajo Nation received \$386,724 in EPA Brownfields 128(a) funds to construct or purchase a new building to house the Navajo Superfund Program, which could include laboratory facilities to support sample preparation, instrument calibration, and equipment storage and maintenance. To date, none of these funds have been expended. As of March 25, 2016, the total amount of funding remaining in Navajo EPA's Superfund and Brownfields cooperative agreements was \$1,491,575. These cooperative agreements will expire on September 30, 2016. As a result, any unspent funds will be swept at that time.

Purchase, operation, and staffing of a laboratory facility requires a large initial and ongoing investment of resources. While EPA cooperative agreements may provide some support, additional Navajo Nation resources would be required for both the initial costs and continued operation of a laboratory. There are many certified labs in Arizona and New Mexico that have the capacity to analyze samples from drinking water and river sources. Our staff in Region 9 would be happy to assist in the evaluation of options available to the Navajo Nation.

Additional Federal Assistance for Emergency Response Capacity Building: The Brownfields cooperative agreement funding may also be used for emergency response capacity building. In addition, EPA's November 19, 2015 letter to the Navajo EPA (Attachment 4 and 4a) lists resources administered by EPA, DOT and FEMA that are available to assist tribes and other jurisdictions in the development of emergency response programs. EPA encourages the Nation to take full advantage of them.

4. Monitoring and Data Sharing

Data accuracy and transparency is of paramount importance to the EPA's mission. To ensure ready and quick access to information, the Agency created a Gold King Mine website, <http://www2.epa.gov/goldkingmine>, which includes comprehensive postings of results, plans, and updates of the EPA's previous, ongoing, and long-term monitoring endeavors. In addition, the EPA encourages third party review and has made funding available to the affected states and tribes, including the Navajo Nation, to conduct their own monitoring.

EPA Monitoring Work: Our work to assess the impact of the Gold King Mine release on downstream water quality has been extensive and on-going, and the data collection process has been open and collaborative.

Within the months following the release, the EPA partnered with tribal, state and local jurisdictions to carry out extensive water quality and sediment sampling activities of the Animas River, the San Juan Rivers and Lake Powell. Specifically, water quality samples were collected daily beginning on August 6, 2015, while sediment samples were collected beginning on August 10, 2015, from locations throughout the watershed, including multiple locations in Colorado, New Mexico, and the Navajo Nation. Surface water samples taken prior to the plume's arrival were used to establish a baseline for water quality comparisons. As of October 13, 2015, the EPA had collected 1,489 surface water samples and 1,113 sediment samples. In addition to frequent conference calls with the Nation as these data became available and posting of all analytical results on the Gold King Mine website upon completion of verification, the EPA made detailed presentation on data interpretations during the October 15, 2015 meeting with the Nation in Window Rock.

EPA's Office of Research and Development (ORD) has conducted an analysis of the fate and transport of metals in the Animas and San Juan Rivers. It shared its preliminary analysis with Navajo Nation and other stakeholders during a February 5, 2016 meeting and is about to complete its peer review process. EPA can brief the Navajo Nation and other researchers on EPA's response to the peer review comments and the final analysis.

On March 24, EPA finalized the “Post-Gold King Mine Release Incident: Conceptual Monitoring Plan for Surface Water, Sediments, and Biology.” The first set of sampling for the Post-Gold King Mine Release Monitoring Plan occurred last Fall. EPA compared the data that was collected for the San Juan River with recreational screening levels and Navajo Nation agricultural standards. There were no exceedances of recreational screening levels or Navajo Nation’s agricultural standards. The second round of sampling under this monitoring plan took place the week of March 22, 2016, with assistance from the Navajo Nation EPA in the field.

Third-Party Monitoring Work: Several federal funding sources are available to support data collection by the Navajo Nation and academic researchers.

In response to comments from the affected states and tribes, including the Navajo Nation, the EPA has allocated \$2 million to help states and tribes monitor water quality conditions in the Animas and San Juan Rivers. The Navajo EPA, which will receive \$465,000 of the \$2 million, is currently discussing its draft workplan for the funding with EPA.

On March 10, EPA awarded \$157,756, which included \$63,824 for water sampling and related supplies, to Navajo Nation government agencies for costs incurred during the response to the Gold King Mine release. Once Navajo Nation completes its review of this initial award, EPA will continue to discuss additional reimbursement requests, including future costs for soil monitoring and plant and animal testing.

In addition, University of Arizona researchers Karletta Chief and Paloma Beamer have received a \$434,000 grant from the National Institute of Environmental Health Sciences (NIEHS) to work with the Navajo Nation on assessing exposure and risk perceptions following the Gold King Mine spill.

5. Water Treatment Facility at the Headwaters of the Navajo Nation

Based on conversations my staff had with you on April 5, 2016, I understand that you are interested in re-starting the drinking water treatment facility in Shiprock. EPA Region 9 conducts an annual solicitation for water infrastructure projects and has qualified \$3.7 million for Navajo projects from the \$6.8 million we have available for Tribal drinking water infrastructure funding this year. We did not receive a proposal for a drinking water system in Shiprock. However, we will follow-up with Navajo Tribal Utility Authority, Indian Health Service and Navajo EPA on the status to determine what steps would be necessary to bring the system back on-line and determine how best to proceed.

6. Agriculture along the San Juan River

During the response, EPA spent over \$1.1 million to deliver agricultural water and hay to impacted Navajo farmers and ranchers along the San Juan River, and conducted monitoring activities to ensure that the San Juan River was safe for agricultural and irrigation use under the Nation’s agricultural water supply and livestock screening standards. We are also aware of and support U.S. Department of Agriculture’s extensive efforts on Navajo Nation, including providing over \$5 million to Dine College and Navajo Technical University in 2014 and 2015,

awarding \$2.4 million to the Navajo Nation Division of Health to evaluate and address gaps in food access in selected parts of the Reservation, and providing over \$900,000 of direct technical support to individual producers every year.



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

NOV - 3 2015

OFFICE OF
GENERAL COUNSEL

Ethel B. Branch
Attorney General
Navajo Nation Department of Justice
P.O. Box 2010
Window Rock, AZ 86515-2010

Dear Attorney General Branch:

Thank you for your letters dated October 2 and October 26, 2015, concerning the impact of the Gold King Mine release on the Navajo Nation, and the process under which members of the Navajo Nation may assert claims under the Federal Tort Claims Act (FTCA) for certain damages arising from that incident. I want to assure you that EPA remains committed to its cleanup responsibilities, and to a long-term monitoring strategy to help ensure the future health of the affected rivers.

EPA has undertaken its own internal review of the events leading up to the Gold King Mine incident, including the actions undertaken by Agency and other officials following the release. We also sought an independent evaluation of the events surrounding the Gold King Mine release from various experts at the U.S. Department of Interior, and we recently received the results of that investigation. Finally, the Agency is awaiting a report by the Office of Inspector General (OIG) following its own review of the matter.

The findings and conclusions of these reports and investigations, once complete, will be carefully reviewed by EPA's Claims Officer in order to assess the applicability of the FTCA for purposes of paying legitimate claims against the United States for money damages arising from the Gold King Mine incident. In addition, EPA regulations provide that no award, compromise, or settlement in excess of \$25,000 may be effected without the prior approval of the Attorney General or designee. Further, under these regulations, the EPA cannot settle any claims, even those under \$25,000, that have the potential to set precedent, involve policy, or control disposition of related claims without consultation of the Department of Justice. See 40 C.F.R. §10.10. This process, involving EPA's own Claims Officer and relevant officials from the U.S. Department of Justice, is required by law and regulation, for the receipt and processing of any claims under the FTCA. For any claim presented, we will endeavor to complete that process and analysis under the FTCA as soon as possible.

As your letter requests that the EPA establish certain interim claims processes under the FTCA, I want to point out some applicable limitations imposed by the statute and implementing regulations. As mentioned above, the Agency Claims Officer and the Department of Justice,

upon review of the relevant facts, will determine whether the FTCA provides a means of compensating claims for money damages arising from the Gold King Mine incident.

It is not unusual for FTCA claimants to need additional time to assess their damages. For that reason, the FTCA allows a claimant up to two years from the date of accrual to assess damages and file a claim. 28 U.S.C. §2401(b). If a person chooses to immediately file a claim, the FTCA and implementing regulations, and the SF 95 form language in particular, are meant to allow for the prompt filing of money damages claims; and they do not preclude amendment of claims at a later date, so long as such claims are filed within the relevant two year statute of limitation and in advance of final action on the claim. Once a claim is timely filed, a claimant may amend her claim to account for subsequently discovered damages based upon any additional information available to the claimant, provided that amendment is made "prior to final action by [the Claims Officer], or prior to the claimant's exercise of the option to bring suit under 28 U.S.C. §2675(a)." 40 C.F.R. §10.2(b). By amending a claim as more information becomes available, a claimant should be able to account for all damages upon which a settlement could be reached.

The FTCA requires that a claimant's settlement of a claim be considered a final settlement for that claimant. Under the terms of the FTCA, the settlement of an administrative claim for money damages is final and conclusive as to the settling claimant and a settlement constitutes a complete release for claims relating to the "same subject matter." 28 U.S.C. §2672. In this regard, to settle an administrative claim, a claimant must sign a prescribed voucher for payment whereby the claimant accepts a settlement for all known and unknown claims of any kind. The Department of Justice takes the position that the "subject matter" in this case would be the Gold King Mine release on August 5, 2015, and that any settlement negotiated and agreed to by a claimant would bar all future claims for damages arising from that incident. Consequently, we do not have the ability to establish an interim claims process by amending the Standard Form 95.

EPA will continue to work closely, and cooperatively, with your Office and with President Begaye, to ensure that our collective response to the Gold King Mine incident is fair, effective, and expeditious, and protective of public health and the environment. I am also committed to exploring and considering all options to seek means of providing compensation as allowed by law for legitimate money damages arising from the incident, both within the Navajo Nation, and in other impacted communities. I look forward to working with you and your colleagues to ensure that we move forward with clear purpose and process so that the impacts of the release may be properly addressed.

Sincerely,



Avi S. Garbow
General Counsel



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

NOV 30 2015

Dr. Donald Benn
Executive Director
Navajo Nation EPA
P.O. Box 339
Window Rock, AZ 86515

RE: Request for Support for Laboratory Facilities

Dear Dr. Benn:

Thank you for your request for support to develop laboratory facilities for the Navajo Nation. EPA has approved \$376,790 in Tribal Response funds, and will be providing an additional \$175,000 in Tronox settlement funds to support the design and construction of laboratory facilities contained within a new Navajo Nation EPA office building. This lab will be designed to support sample preparation, instrument calibration, equipment storage and maintenance, and is expected to be completed in FY16.

Additionally, the Navajo Tribal Utility Authority (NTUA) has been certified by EPA for conducting bacteriological and primary inorganics analyses. A list of the parameters and analytical methods that the NTUA laboratory is certified is found on the NTUA website at http://limsws.ntua.com/Documents/NTUA_Lab_Methods.pdf. The NTUA laboratory has agreements with other contract laboratories for analytical services for which they do not have capability.

As always, I appreciate your partnership in the protection of human health and the environment on the Navajo Nation.

Sincerely,

A handwritten signature in black ink, appearing to read "Enrique Manzanilla", with a long horizontal line extending to the right.

Enrique Manzanilla, Director
Superfund Division



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

APR 01 2016

Dr. Donald Benn
Executive Director
Navajo Nation Environmental Protection Agency
Navajo Nation
P.O. Box 339
Window Rock, AZ 86515

Cordell Shortey
Office of Management and Budget
Navajo Nation
P.O. Box 646
Window Rock, AZ 86515

Re: Financial and Programmatic Management Issues for Cooperative Agreements: RP-00T30601 (CERCLA §128(a)); RP-99T21501 (CERCLA §128(a)); V-00T78601 (Superfund Multi-Site); and V-00T78101 (Superfund Support Agency)

Dear Dr. Benn and Mr. Shortey:

On May 7 and May 8, 2015, the United States Environmental Protection Agency (USEPA) sent the Navajo Nation letters detailing financial and programmatic deficiencies pertaining to the Navajo Nation's management of the above-referenced cooperative agreements (Attachments A & B). USEPA appreciates the extensive efforts that Navajo Nation has made to date to address some of the deficiencies identified by USEPA. The purpose of this letter is to respond to the Navajo Nation's submittals since receiving the May 2015 letters, and to describe the remaining steps needed to meet the requirements of the cooperative agreements.

I. Financial Management Issues

a. Use of Estimated Personnel Costs

USEPA's May 2015 correspondence identified Navajo Nation's use of estimated rather than actual personnel costs as the basis for drawing down cooperative agreement funds as a concern. USEPA has reviewed Navajo Nation's letters of October 9, 2015, October 23, 2015, and February 3, 2016, as well as Lucinda Ben's email of February 2, 2016 (Attachments C, D, E & F). The documentation provided demonstrates that Navajo Nation has made significant progress in adjusting these costs. The documentation indicates: 1) that Navajo Nation has not used

estimated personnel costs since January 2012; and 2) that reconciliation of personnel costs had been completed through FY 2015 by October 23, 2015. However, it appears that there may be some errors in the allocation of non-worked hours that still need to be reconciled and corrected.

In order to fully resolve this issue, USEPA requests that Navajo Nation provide the following information within 60 days of the date of this letter:

- (i) a copy of Navajo Nation's policies and procedures on allocation of non-worked hours among grants, and a statement of how Navajo Nation Office of Management and Budget has performed this allocation among accounts (also called "K accounts") for the four cooperative agreements referenced above, in accordance with 40 CFR §35.6270(a)(6) and (7); 40 CFR §35.6270 (b)(1)-(3); and 2 CFR §200.302(b)(7).
- (ii) a copy of corrections to four sample timesheets from the 2009-2011 time period to ensure that appropriate allocation of non-worked hours has been completed
 - Jerry Begay (pay period ended 10/23/09)
 - Kristina M. Casuse (pay period ended 10/22/10)
 - Stanley Edison (pay period ended 8/27/10)
 - Also need to correct eight (8) hours of annual leave which was charged to sick leave for this individual
 - Eugene Esplain (pay period ended 1/14/11)
- (iii) a confirmation statement that general ledger corrections for non-worked hours before 12/30/2011 have been completed (this will require that Navajo Nation review non-worked hours for the time period before 12/30/2011), and
- (iv) a confirmation statement that all the general ledger correction amounts through FY2015 have been credited to the cooperative agreements and adjusted in the drawdowns.

b. Site/Cost Tracking Issues

Navajo Nation has provided documentation demonstrating that site-specific charging has been carried out for a total of seven (7) specific sites within the Superfund Multi-Site Cooperative Agreement (MS: Quivira (09QMMA00), Mariano Lake (09TAMA00), Ruby Mines (09ZDMA00), Mac and Black Jack (A954MA00), EPNG (A901MA00), NECR (09PMMA00) and Tronox (099RMA00). As identified in the terms and conditions in the Superfund Multi-Site Cooperative Agreement, grant funds must be drawn by site. Additionally, pursuant to 40 CFR §35.6260(b), and 40 CFR §35.6270(a)(6)(i) and (ii), expenses must be tracked by site, activity, and, operable unit, as applicable, according to object class. While Navajo Nation provided a chart showing K accounts in its October 23, 2015 correspondence, this chart did not specify which K account was related to each of the seven listed sites.

Within 60 days of the date of this letter, please submit a K accounts list with the site names corresponding to the seven listed sites.

II. Programmatic Issues

Navajo Nation has done a substantial amount of work to address several of the financial management issues delineated above; however, Navajo Nation appears to have made less progress on the programmatic issues described below:

a. Workplan Commitments

1. *New Staff Not Hired*

Navajo Nation committed to hiring a senior environmental engineer, health physicist, and accountant under the cooperative agreements. However, these positions were not filled.

Within 60 days of the date of this letter, please provide an updated plan to fill these positions or to amend the work plan to use the funds for another purpose.

2. *New Navajo Superfund Program Building*

Navajo Nation received funding in the amount of \$386,724 under its CERCLA 128(a) cooperative agreement (#RP-00T30601) to construct or purchase a new building to house the Navajo Superfund Program (NSP) offices. To date, none of these funds have been expended for this activity.

Please complete contracting for the use of these funds by September 30, 2016, or these funds will no longer be available. Alternatively, NSP may request a work plan amendment to use these funds for another purpose, consistent with the requirements of the cooperative agreement.

3. *Uranium White Paper*

Navajo Nation committed to completing a Uranium White Paper under its CERCLA 128(a) cooperative agreement (#RP-00T30601). USEPA's most recent information indicates that the final invoice for this deliverable has not been paid.

Within 60 days of the date of this letter, please submit documentation showing that the final invoice has been paid.

4. *Performance Reports*

Navajo Nation is delinquent in providing performance reports for all four Superfund and Brownfields cooperative agreements. Under the terms and conditions of these cooperative agreements, Navajo Nation was required to submit end-of-year performance reports for each cooperative agreement by October 30, 2015. To date these reports have not been provided.

Within 90 days of the date of this letter, please submit an end-of-FY15 performance report for each of the four cooperative agreements.

b. Public Record/Inventory

Navajo Nation is not in compliance with the statutory requirement under 42 USC §9628 (b) (1) (C), which requires CERCLA §128(a) assistance recipients to maintain a public record. While Navajo Nation previously maintained a website, that website is not functional.

Within 120 days of the date of this letter, please submit evidence that the Navajo Nation is maintaining a public record with an updated website, or using an acceptable alternative to meet the public record requirements under 42 USC §9628 (b) (1) (C).

III. Expiration of Cooperative Agreement Funding and Opportunities to Apply for New Funding

As of March 25, 2016, the total amount of funding remaining in the above-referenced cooperative agreements was \$1,491,575.00. All four of the above-referenced cooperative agreements will expire on September 30, 2016. As a result, any unspent funds will be swept at that time. In addition, while \$374,630 in Brownfields (CERCLA §128(a)) funding was set aside for Navajo Nation in March 2015, Navajo Nation did not submit a proposed work plan for these funds. As a result, the funds have been released by EPA Headquarters. Navajo Nation did not apply for FY17 Brownfields funding by the January 31, 2016 due date, as a result, no FY17 funds have been allocated.

Once all compliance issues have been resolved, Navajo Nation can apply for FY18 CERCLA §128(a) funding in January 2017. Navajo Nation may also apply for Superfund cooperative agreement funding under 40 CFR Part 35, Subpart O (support agency or multi-site funding).

USEPA appreciates Navajo Nation efforts to institute the financial management controls necessary to ensure that Federal funds are properly expended. USEPA is available to work with Navajo Nation to resolve the remaining grants management issues.

Below, please find a summary of items requested in this letter and the associated time frames. If you have any questions concerning this letter, please contact Fareed Ali at (415) 972-3665 or by email at ali.fareed@USEPA.gov; or Wilson Yee at (415) 947-3484 or yee.wilson@USEPA.gov; or Anna Woods, USEPA Las Vegas Finance Center, at 702-798-2496 or by email at woods.anna@USEPA.gov.

Sincerely,



Craig A. Wills
Grants Management Officer
Region 9, Grants Management Office

Summary of Submittals Requested

Financial Management Requirements

1. Estimated vs. Actual Personnel Costs: copies of policies and procedures, copies of corrections, and confirmatory documents (due within 60 days of the date of this letter)
2. Site/Cost Tracking Issues: list of K accounts and corresponding site names (due within 60 days of the date of this letter)

Programmatic Requirements

1. Workplan Commitments:
 - a. Staff Hiring: updated plans to hire or request to amend work plan (due within 60 days of the date of this letter)
 - b. Uranium White Paper: evidence of final payment (due within 60 days of the date of this letter)
 - c. Performance Reports: FY15 end-of-year-reports for all cooperative agreements (due within 90 days of the date of this letter)
2. Public Record/Inventory: evidence of compliance (due within 120 days of the date of this letter)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

NOV 19 2015

Dr. Donald Benn
Executive Director
Navajo Nation EPA
P.O. Box 339
Window Rock, AZ 86515

RE: Request for Support in Developing an Emergency Response Program

Dear Dr. Benn:

Thank you for your request for support in developing a Navajo EPA emergency response program. EPA and other federal agencies have several resources available to assist tribes and other jurisdictions in the development of chemical emergency response programs. As a first step in responding to your request, we have prepared a list of resources administered by EPA, DOT, and FEMA. I am also providing contacts available to find further information regarding each respective program. Please note this is not an exhaustive list of all the available resources regarding Emergency Response that can be applied to Navajo Nation.

After you have had an opportunity to review this list I would be happy to arrange a meeting or call with you and the Navajo Department of Emergency Management to learn more about your goals for a program and the resources that could best be used. In the meantime, feel free to contact me at (415) 972-3843 or ask your staff to call Elena Neibaur at (415) 972-3275.

As always, I appreciate your partnership in the protection of human health and the environment on the Navajo Nation.

Sincerely,

A handwritten signature in black ink, appearing to read "Enrique Manzanilla".

Enrique Manzanilla, Director
Superfund Division

Emergency Response Preparedness Programs

| AGENCY | GRANT/PROGRAM NAME | GRANT/PROGRAM DESCRIPTION | EILIGIBLE APPLICANTS | GRANT PROPOSALS DUE | WEBSITE |
|--------|---|---|--|--|--|
| EPA | CERCLA 128 (a) | <input type="checkbox"/> Help build and enhance a Tribal response program to address contaminated sites <input type="checkbox"/> Capacity building and enhancing a program to identify and address contaminated sites. | States and federally recognized tribes only | Annual non-competitive grant | <input type="checkbox"/> CERCLA 128 (a) <input type="checkbox"/> Eugenia Chow (regional 128 (a) lead), (415) 972-3160, Chow.Eugenia@epa.gov |
| EPA | Indian General Assistance Program (GAP) | <input type="checkbox"/> GAP Grants can be used to build Tribal contaminated site remediation and emergency response program capacities. | Indian tribal governments and intertribal consortium or consortia | Region 9: December 2, 2015 (Vary by regional office) | <input type="checkbox"/> GAP <input type="checkbox"/> Pam Overman; (415) 972-378; Overman.Pamela@epa.gov |
| EPA | Alternative or Innovative Treatment Technology Research, Demonstration, Training, and Hazardous Substance Research Grants | <input type="checkbox"/> A program of research, evaluation, testing, development, and demonstration of alternative or innovative treatment technologies which may be utilized in response actions to achieve more permanent protection of human health and welfare and the environment; <input type="checkbox"/> Technology transfer program including the development, collection, evaluation, coordination, and dissemination of information relating to the utilization of alternative or innovative treatment technologies for response actions. | <input type="checkbox"/> States, territories, Indian Tribes, public & private universities, hospitals, laboratories, other public or private nonprofit institutions, and individuals | <input type="checkbox"/> May 15 (approximate) | <input type="checkbox"/> Alternative or Innovative Treatment Technology Research, Demonstration, Training, and Hazardous Substance Research Grants <input type="checkbox"/> Barbara McDonough; (703) 603-9042; mcdonough.barbara@epa.gov |
| EPA | Superfund Job Training Initiative (SuperJTI) | <input type="checkbox"/> Conduct outreach and recruitment in the community near the Superfund site where cleanup is occurring. <input type="checkbox"/> Assist with screening of candidates for the program. <input type="checkbox"/> Provide oversight and counseling to trainees during the training program. <input type="checkbox"/> Provide follow-up services to each graduate following job placement for a period of six months to one year. | States, territories, Indian Tribes | Limited, year-round basis | <input type="checkbox"/> SuperJTI <input type="checkbox"/> Viola Cooper; (415) 972-3243; Cooper.viola@epa.gov |

Emergency Response Preparedness Programs

| AGENCY | GRANT/ PROGRAM NAME | GRANT/PROGRAM DESCRIPTION | EILIGIBLE APPLICANTS/ INFORMATION | GRANT PROPOSALS DUE | WEBSITE |
|--------|---|--|---|-------------------------------|---|
| EPA | National Environmental Information Exchange Network Grant Program | The Exchange Network Grant Program provides funding for projects that develop the Network and enable timely, on-demand access to environmental data through innovative technologies, improved support systems, and expanded collaboration using shared tools and services. EPA and its state, tribal, and territorial partners continue to expand the Exchange Network. | States, territories, Indian Tribes | November 13, 2015 for 2016 | <input type="checkbox"/> Exchange Network Grant Program <input type="checkbox"/> Salena Reynolds; (202) 566-0466; reynolds.salena@epa.gov |
| EPA | Tribal ecoAmbassadors Program | Promotes environmental protection and improve economic opportunities by supporting Tribal environmental research in one of the following: <ul style="list-style-type: none"> <input type="checkbox"/> Water Quality <input type="checkbox"/> Air Quality <input type="checkbox"/> Waste Minimization and Management <input type="checkbox"/> Climate Change Adaptation <input type="checkbox"/> Climate Change Mitigation <input type="checkbox"/> Pollution and Toxics <input type="checkbox"/> Toxics Release Inventory <input type="checkbox"/> Environmental Education | Tribal Colleges and Universities | Application Deadline: July 31 | <input type="checkbox"/> Tribal ecoAmbassadors <input type="checkbox"/> Marissa McInnis; (202) 564-2467; mcinnis.marrisa@epa.gov |
| EPA | The Emergency Planning and Community Right-to-Know Act (EPCRA) | <input type="checkbox"/> Emergency planning and preparedness technical assistance to Tribes <input type="checkbox"/> EPCRA is designed to improve community access to information about chemical hazards and to facilitate the development of chemical emergency response plans by tribal governments. EPCRA establishes reporting obligations for facilities that store or manage specified chemicals <input type="checkbox"/> Tribes can establish tribal emergency response commissions (TERCs), which are responsible for coordinating certain emergency response activities. | Federally recognized tribes | N/A | <input type="checkbox"/> EPCRA <input type="checkbox"/> Bill Jones, (619) 235-4776; Jones.Bill@epa.gov |

Emergency Response Preparedness Programs

| AGENCY | GRANT/ PROGRAM NAME | GRANT/PROGRAM DESCRIPTION | EILIGIBLE APPLICANTS/ INFORMATION | GRANT PROPOSALS DUE | WEBSITE |
|--------|--|--|--|---------------------------|---|
| DOT | HMEP | The purpose of the Hazardous Materials Emergency Preparedness (HMEP) grant program is to increase State, Territorial, Tribal, and local effectiveness in safely and efficiently handling hazardous materials accidents and incidents, enhance implementation of EPCRA, and encourage a comprehensive approach to emergency training and planning by incorporating the unique challenges of responses to transportation situations. | State, Territorial, Tribal | April 3rd | <input type="checkbox"/> HMEP <input type="checkbox"/> (202) 366-1109; Hmep.grants@dot.gov ; |
| FEMA | SAFER | <input type="checkbox"/> The Staffing for Adequate Fire and Emergency Response (SAFER) Grants was created to provide funding directly to fire departments and volunteer firefighter interest organizations to help them increase the number of trained, "front line" firefighters available in their communities. <input type="checkbox"/> The goal is to enhance the local fire departments' abilities to comply with staffing, response, and operational standards. | Fire departments and volunteer firefighter interest organizations | N/A | <input type="checkbox"/> SAFER <input type="checkbox"/> http://www.fema.gov |
| FEMA | Assistance to Firefighters Grant Program | Aid in meeting the firefighting and emergency response needs of fire departments and nonaffiliated emergency medical service organizations | Fire departments/nonaffiliated emergency medical service organizations | Announcement coming soon | <input type="checkbox"/> Assistance to Firefighters Grant Program <input type="checkbox"/> http://www.fema.gov |