



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

OFFICE OF THE
REGIONAL ADMINISTRATOR

MEMORANDUM

Subject: EPA Region 9 Approach to Consultation with Tribal Governments Regarding Non-Enforcement Related Matters ("Regional Consultation Approach")

From: Wayne Nastri
Regional Administrator

To: Region 9 Division Directors

I am pleased to announce that today I have signed the *EPA Region 9 Approach to Consultation with Tribal Governments Regarding Non-Enforcement Related Matters* ("Regional Consultation Approach").

The Regional Consultation Approach, which was prepared in response to requests from EPA Region 9 staff and a number of tribes in Region 9, is intended to share information regarding how Region 9 initiates consultation with tribal governments with respect to matters other than enforcement. As you may recall, consultation in the context of enforcement in Indian Country is addressed in the *January 2001 Guidance on Enforcement Principles Outlined in the 1984 Indian Policy*, issued by the Office of Enforcement and Compliance Assurance ("2001 OECA Guidance") and the *EPA Region 9 Approach for Consultation and Coordination with Tribes Concerning Enforcement Against Non-Tribal Facilities and Inspections in Indian Country*, which was signed on December 15, 2004.

The Regional Consultation Approach was compiled by a workgroup composed of representatives from Region 9's Regional Indian Program Steering Committee ("RIPSC") who surveyed their respective programs, identified common practices, and met with tribal representatives from the Regional Tribal Operations Committee ("RTOC") consultation work group to discuss tribal perspectives.

The process identified that Region 9 and the tribes share an interest in maintaining flexibility, and most importantly, that each tribe will have a unique perspective on how, and whether it wishes, to consult. Accordingly, the Regional Consultation Approach identifies general principles and common practices, but is not intended to be a binding policy or to impose detailed procedural requirements. The approach also discusses why EPA consults tribes, how the

Region views consultation and provides examples of past consultation actions taken by the Region.

The Regional Consultation Approach has been circulated for review by Region 9 staff, the Office of General Counsel (“OGC”), the Regional Tribal Operations Committee (“RTOC”) and Region 9 tribal governments.

If you have questions regarding this document please contact Danita Yocom, Office of Regional Counsel at (415) 972-3885 or Gilbert Pasqua, Tribal Program Office at (415) 972-3788.

[Full text of the memo]

October 25, 2005

MEMORANDUM

(signed page)

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