

Environmental Justice Webinar Series for Tribes and Indigenous Peoples

Justice40 Initiative

A Whole of Government Approach to Advance Environmental Justice

November 30, 2021

Please note that this webinar will be **recorded** and posted on EPA's webpage for the webinar series.

Presenters

Matthew Tejada, Director, Office of Environmental Justice, U.S. EPA

Steve Epting, Office of Water, U.S. EPA - Clean Water Act Section 319 Nonpoint Source Program

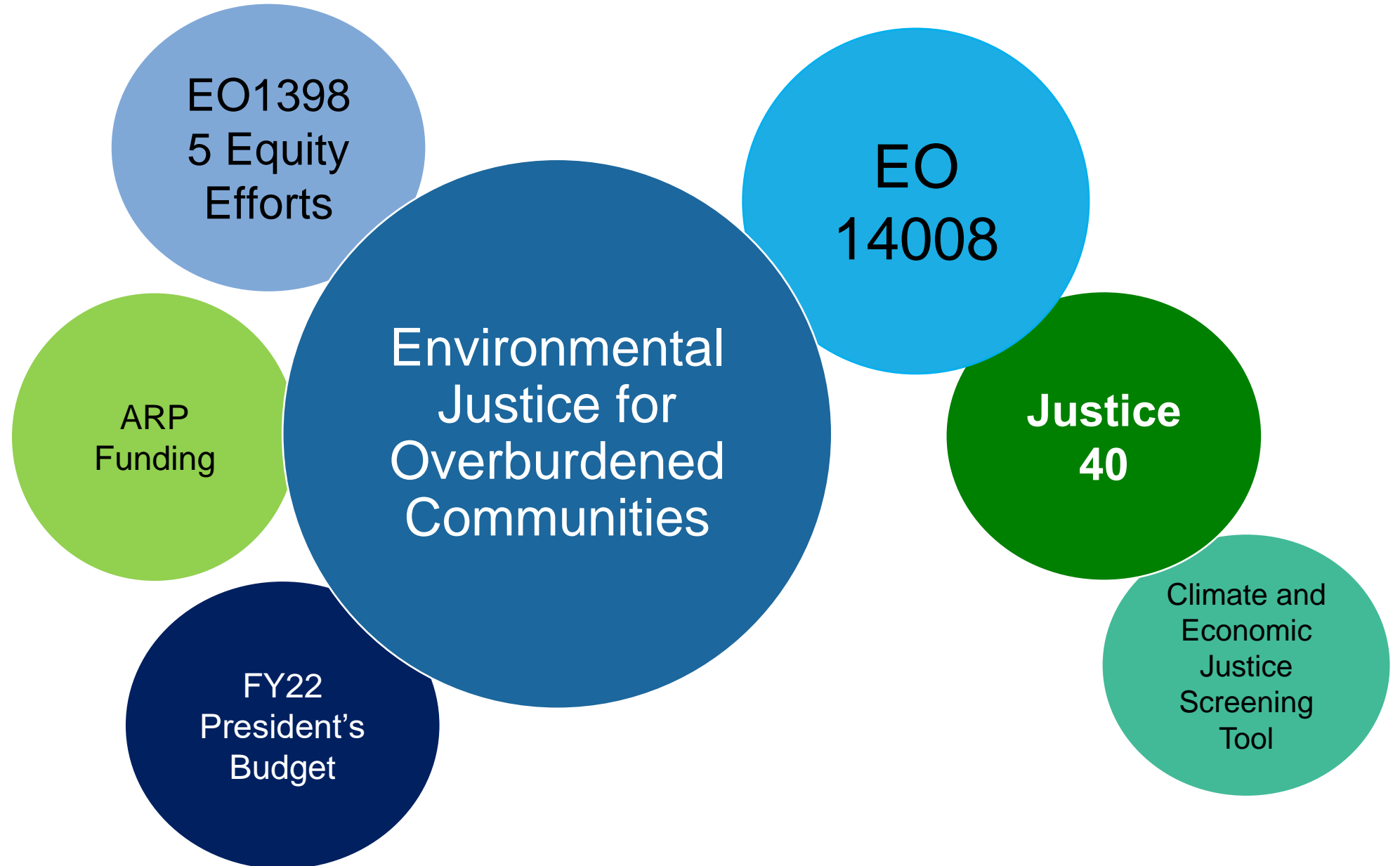
Martina Wilson, Environmental Programs Manager, Office of Environmental Protection, Fort Peck Tribes

Danny Gogal, Tribal and Indigenous Peoples Program Manager, Office of Environmental Justice, U.S. EPA (Facilitator & Presenter)

Justice40 (J40) at EPA

Justice40 is an interagency initiative collectively led by the White House Environmental Justice Interagency Council (IAC), which is convened by the Council on Environmental Quality (CEQ).

Justice40 is Part of a Larger Landscape



What is Justice40? (Sec. 223 of [EO 14008](#) Tackling the Climate Crisis at Home and Abroad - Jan 27, 2021)

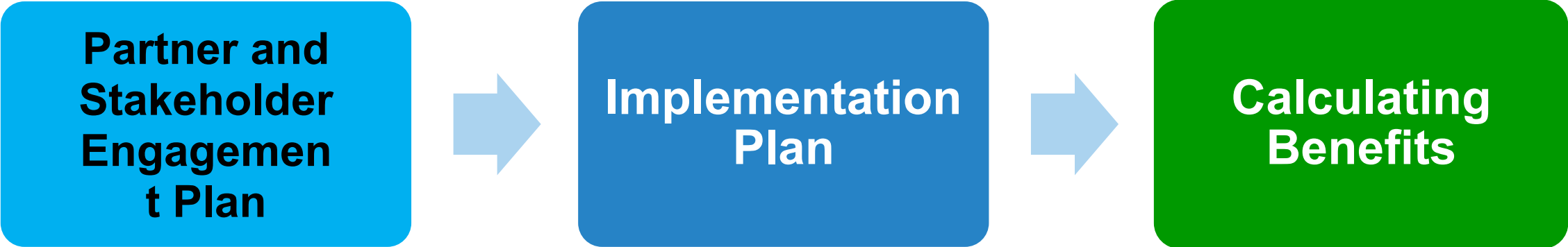
Within 120 days, Chair of CEQ, Director of OMB and the National Climate Advisor, in consultation with the Advisory Council, shall jointly publish recommendations on how certain Federal investments might be made toward a goal that **40 percent of the overall benefits** flow to disadvantaged communities. ... focus on investments in the areas of **clean energy and energy efficiency; clean transit; affordable and sustainable housing; training and workforce development; the remediation and reduction of legacy pollution; and the development of critical clean water infrastructure.**

In developing recommendations, the Chair of CEQ, Director of OMB and National Climate Advisor shall consult with affected disadvantaged communities.

Within 60 days... agency heads shall identify applicable program investment funds based on the recommendations...

EJ Scorecard published by February 2022

6 EPA Programs in J40 Pilot



ALSO IDENTIFYING OTHER POTENTIALLY COVERED PROGRAMS

Received OMB Interim Guidance on Implementing J40 on 7/20/21

30 Days

EPA submitted an overarching partner and stakeholder engagement plan to OMB on August 19th informed by programs, WHEJAC recommendations, etc.

60 Days

- 6 Pilot Programs developed a draft implementation plan
- Agency provided report on other potentially covered programs

150 Days

Agency provides a methodology for calculating covered program benefits with description of any metrics to measure covered program benefits.

More Information on Justice40



EPA is committed to engaging with tribes, states, partners, stakeholders and communities for feedback on Justice40.

[Bi-weekly EPA National Community Engagement Calls](#) (that feature J40 pilot programs)

[Interim Implementation Guidance for the Justice40 Initiative](#) from OMB and CEQ

[Final Recommendations from White House Environmental Justice Advisory Council \(WHEJAC\) on Justice40, Climate and Economic Justice Screening Tool, and Executive Order 12898 Revisions](#)

[Fact Sheet on Executive Orders](#)



Near-term Actions to Support Environmental Justice in the Nonpoint Source Program

Steve Epting, National Tribal 319 Coordinator

Photos from top left to bottom right: Hopi Tribe, Upper Skagit Indian Tribe, Confederated Salish and Kootenai Tribes, and Confederated Tribes of the Umatilla Indian Reservation

Sources of Pollution under Clean Water Act

- **‘Point sources’ regulated under CWA**

- Any “discernable, confined and discrete conveyance including...any pipe, ditch, channel...[etc] from which pollutants are or may be discharged”
- Discharges must be regulated in a manner consistent with state/tribal WQS, e.g., NDPDES permits

[This Photo](#) by Unknown Author is licensed under [CC BY-SA](#)

- **‘Nonpoint sources’ not regulated or specifically defined**

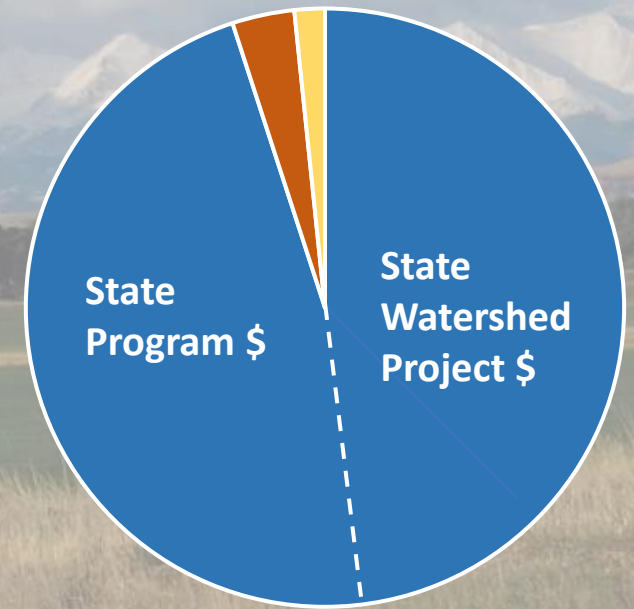
- Any source of water pollution that doesn’t meet point source definition
- Polluted runoff from rain or snowmelt carrying natural and anthropogenic pollutants to waters
- Includes: agriculture stormwater discharge and irrigation return flows

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National Nonpoint Source (NPS) Program

- Established in 1987 under CWA §319.
- EPA provides states, territories and tribes with guidance and grant funding to implement their NPS programs.
- EPA promotes the *watershed approach* for targeting work and engaging stakeholders and partners at the local scale.

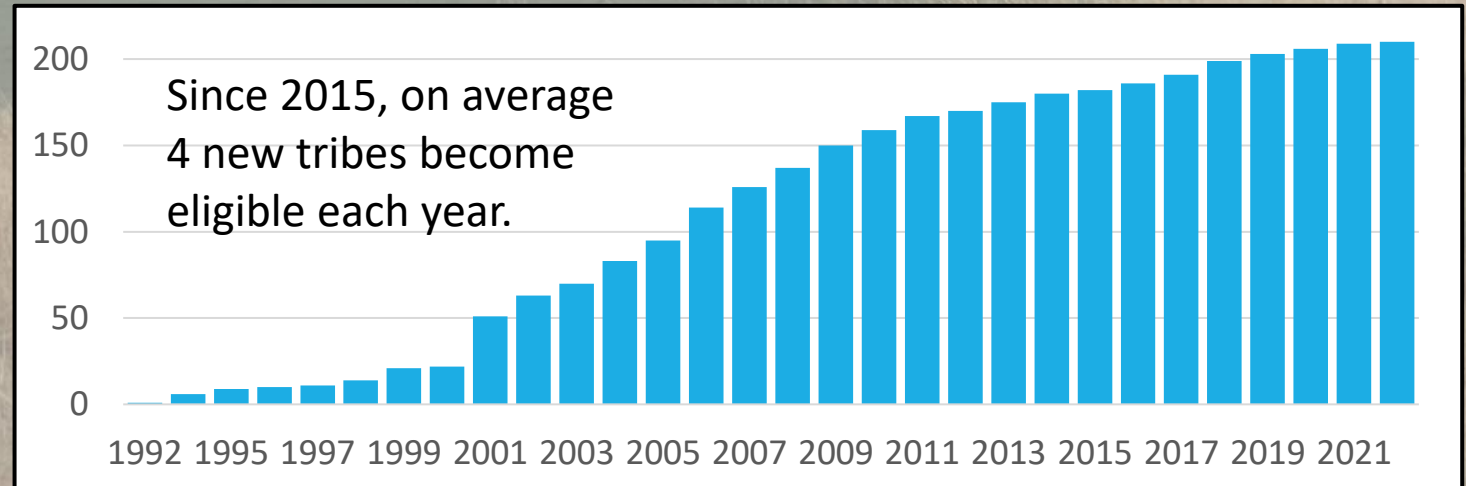
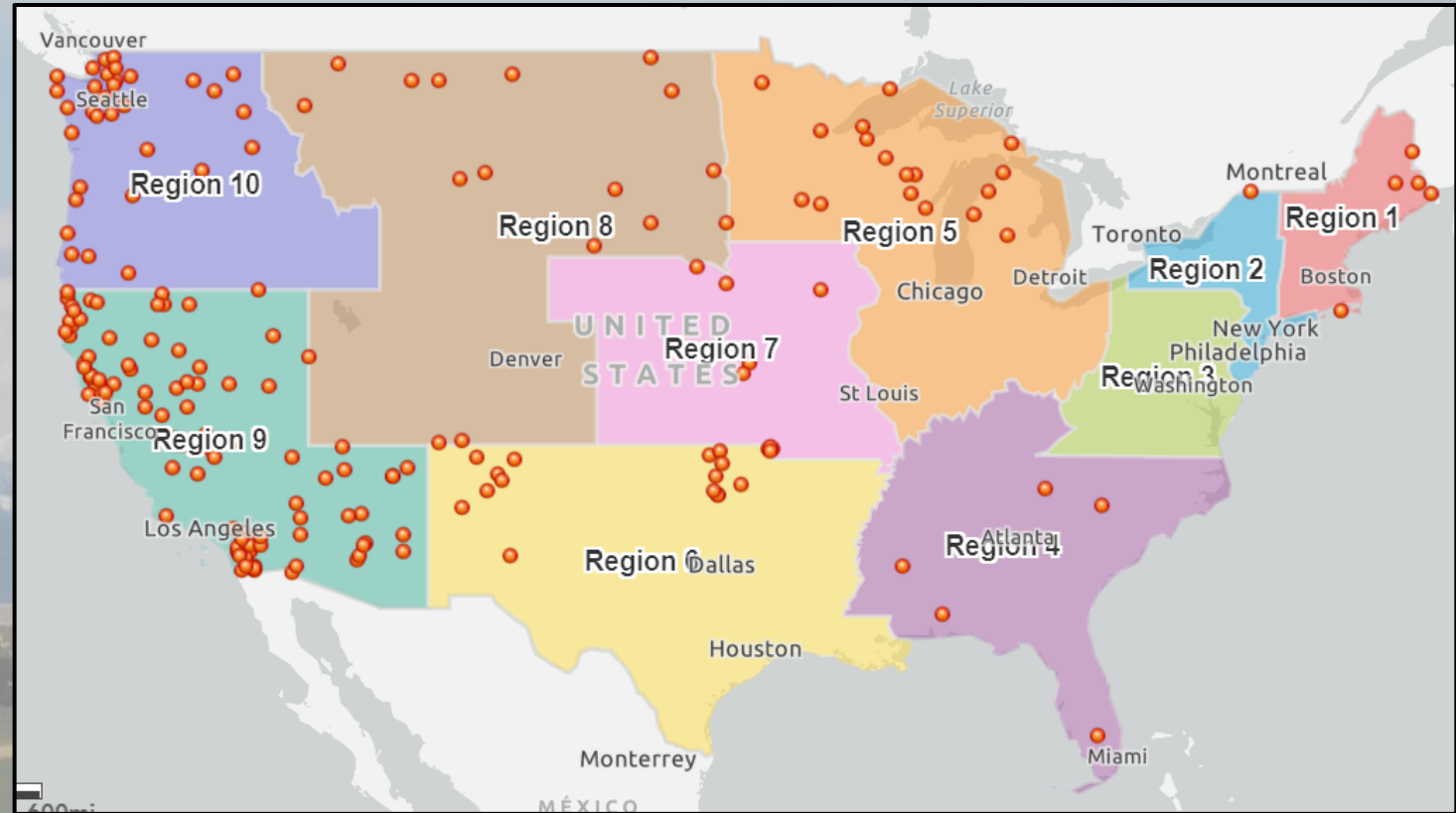
CWA §319 Funding
Annual Avg \$170M, FY2015-2021



- State/Territory Grants
- Tribal Base Grants
- Tribal Competitive Grants

Tribal NPS Program

- **Currently 210 federally recognized tribes eligible under §319.**
- **Tribal Set-Aside: \$8.5M/year**
- **Base Grants (\$30 or \$50K/year):** Primarily tribal staff-led activities to implement NPS program.
- **Competitive Grants (\$100K/project):** On-the-ground projects to protect/restore water quality.



Tribal NPS work is diverse.



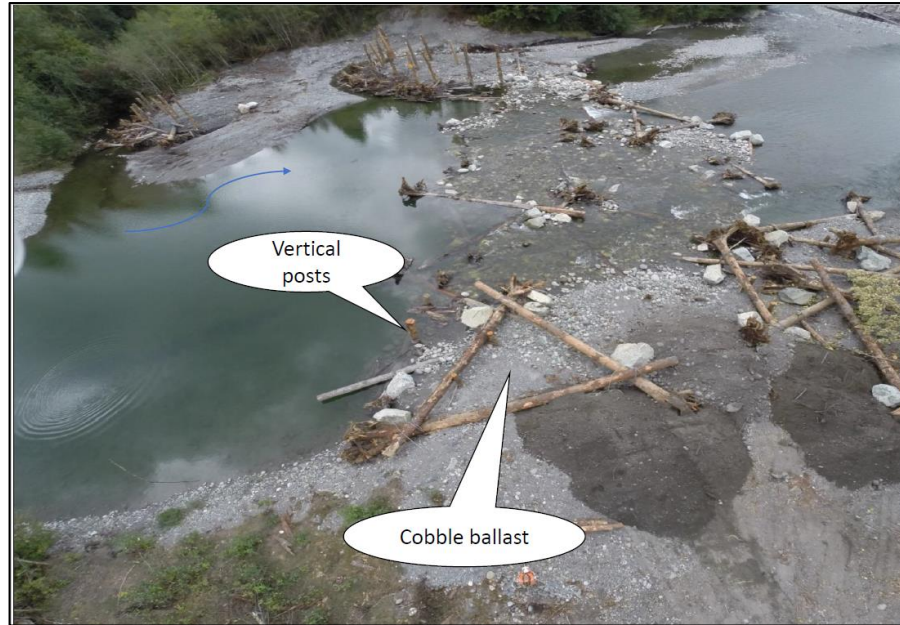
White Mountain Apache. Livestock exclusion fencing and stream stabilization on the North Fork White River.



Eastern Band of Cherokee. Native plant propagation for riparian restoration.



Southern Ute Tribe. Irrigation management and other agricultural conservation practices.



Lummi Nation. Multi-phase channel and floodplain restoration.

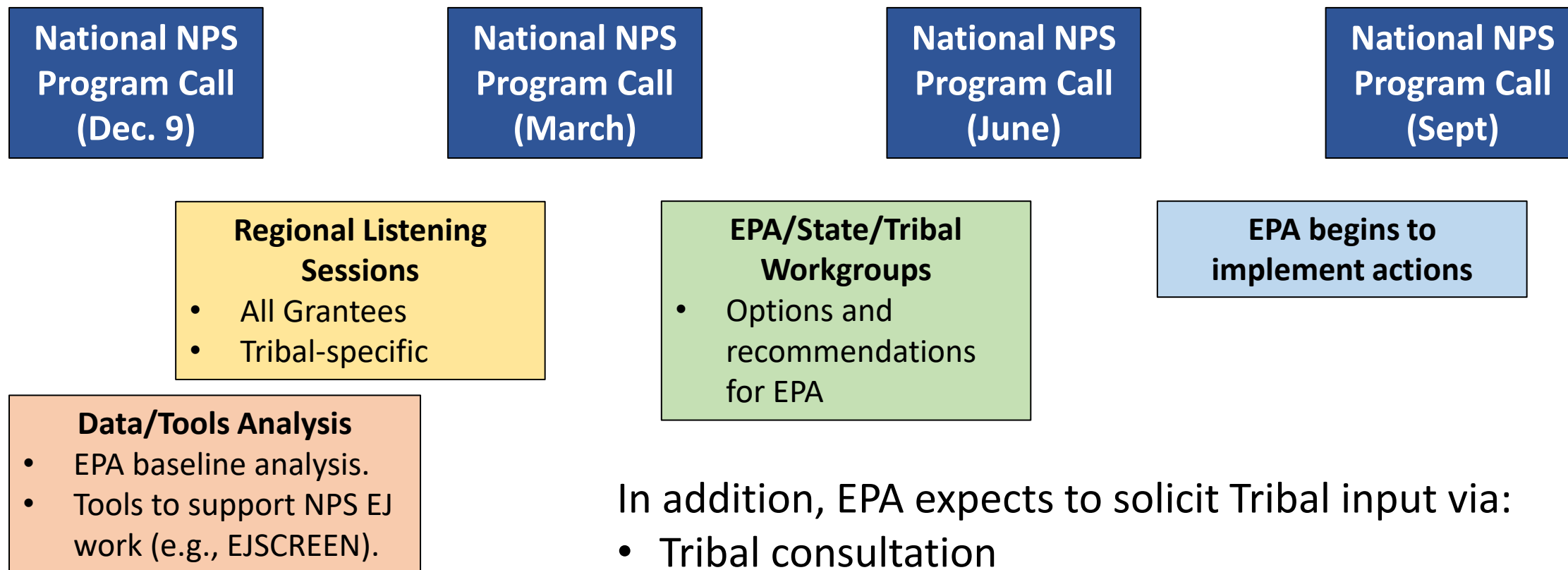
NPS Program Policy Memo:

Near-term Actions to Support Environmental Justice in the Nonpoint Source Program

Issued to state and territory NPS programs on September 27.

1. Acknowledges the role of the Section 319 program in benefitting communities via watershed projects and other actions.
2. Strongly encourages state actions in FY22 to assess and advance delivery of NPS benefits to disadvantaged communities.
E.g., include Tribes as eligible entities in 319 project solicitations.
3. Commits EPA to take a number of actions in support of this goal, including committing to an ongoing dialogue with the NPS community as this work goes forward.

FY2022: National NPS Program Engagement

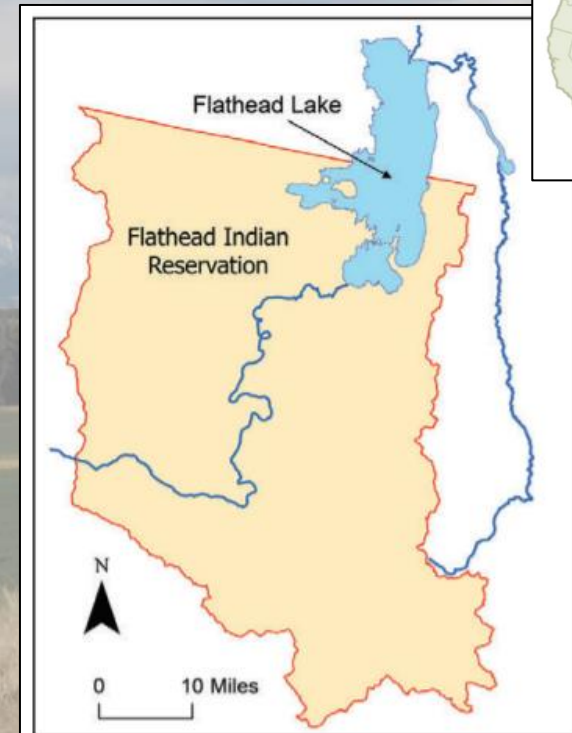


In addition, EPA expects to solicit Tribal input via:

- Tribal consultation
- Engagements with the broader NPS community

Tribal Engagement as part of NPS EJ Work

- Tribal Nations & communities face unique challenges in managing NPS pollution.
 - Competing demands on tribal gov't resources. e.g., Access to clean drinking water, COVID.
 - Recruiting and retaining staff.
 - Adopting the watershed approach. E.g., checkerboard land ownership, upstream pollution sources.
- EPA will engage Tribal §319 grantees in the coming year to discuss these challenges and potential EPA actions to help address them.
- EPA will also engage other Indigenous groups and peoples as part of outreach with broader NPS community.



Spanning 197 square miles across both state and tribal lands, Flathead Lake is the largest natural freshwater lake west of the Mississippi River.

Example Tribal Engagement Topics

- 1. Challenges facing Tribal Nations/communities and their impact on managing NPS pollution**
 - E.g., What challenges, including disproportionate human health and environmental impacts, does your community face? How do these challenges impact your ability to manage NPS pollution?
- 2. Current Tribal NPS program resources & key capacity challenges**
 - E.g., What are the most significant barriers you face in building and sustaining your tribal NPS program capacity?
- 3. Tribal §319 Grants**
 - E.g., Beyond FY 2022, should EPA consider changes to the current base/competitive allocation approach?
- 4. Funding & partnerships to address NPS program priorities**
 - E.g., In addition to §319 grants, what resources, including technical or financial assistance, has your tribe successfully obtained to address your NPS program priorities?

The background features a dark blue gradient with faint, light blue circular patterns and a scale. The scale is a large circular arc on the left side, with numerical markings from 140 to 260 in increments of 10. Several smaller circular elements, some with arrows, are scattered across the background, suggesting a technical or scientific theme.

FORT PECK TRIBES ENVIRONMENTAL PROJECTS

MARTINA WILSON
FORT PECK TRIBES-OEP
ENVIRONMENTAL PROGRAMS MANAGER

PROJECTS HIGHLIGHTED

- Poplar Airport Cleanup
- Poplar Sludge Pit Cleanup
- Jolly Swagman Cleanup

POPLAR AIRPORT

- **70 Acre Site in Poplar, MT:**
- The site is located on Trust Land and originally used for farming and ranching. Starting in approximately 1944, local farmers used the old airport site for fueling, loading crop dusting fertilizers, herbicides, and pesticides, and storing small crop-dusting planes. From 1964 to 2010, the Fort Peck Assiniboine and Sioux Tribes leased the land to the City of Poplar and County of Roosevelt for building, maintaining, and operating the Poplar Airport .
- **PRIMARY CONTAMINANTS:** Petroleum, lead, pesticides, herbicides, organics.

CONTAMINATED SOILS CLEANUPS

UST SOILS:

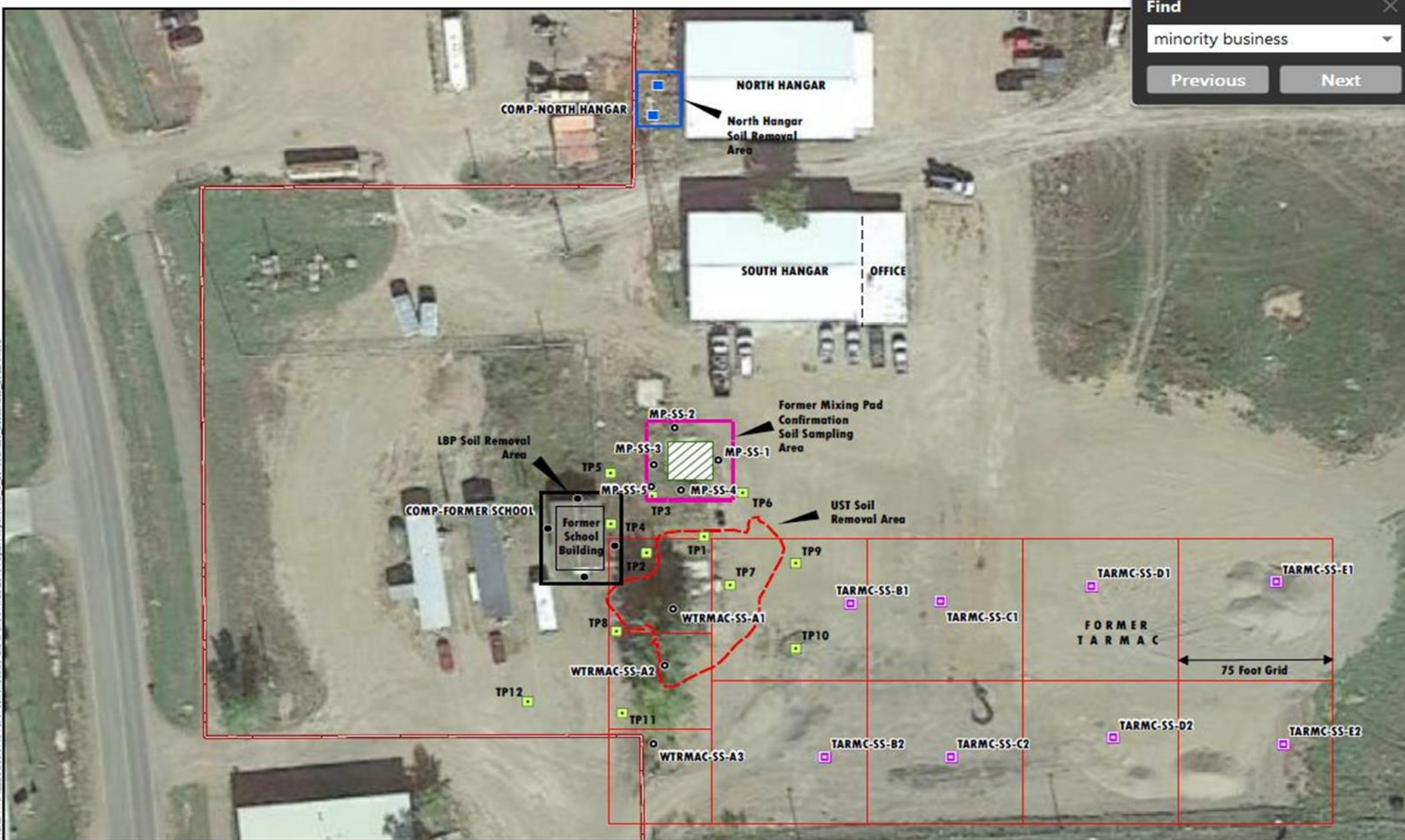
The excavation around the former UST occurred from November 9 through November 18, 2015. Soils were land farmed and tilled on a 2 acre area on top of the old Poplar Landfill site during 2016. Fuel Contaminated soil was land farmed on-site until the hydrocarbons reached regulated standards. Clean, land farmed soil was returned to UST area excavation in November 2016

Other Soils:

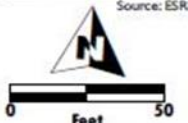
Nov. 2015 soils from the pesticide mixing pad area and LBP soils around the school house were excavated. On November 21, 2016, soils from the north hangar area were excavated and hauled to the Glasgow Landfill.



P:\BROWNFIELDS\0143 Fort Peck Tribal\GIS & GRAPHIC\03\0018 Poplar Airport\FIG_3_2015\Faces_Subsurface_LocM.mxd



Source: ESRI World Imagery



- Approximate Poplar Airport Facility Boundary
- Former Mixing Pad
- Tarmac Sample Grid
- 2015 UST Test Pit Location
- North Hangar TCLP Composite Subsample (0.5, 1.5, and 2.5 ft)
- Former School Building TCLP Composite Subsample (Surface Soil)
- Tarmac Baserock Composite Subsample and Native Soil Grab Sample
- Mixing Pad & Tarmac grab sample (Surface Soil)





“Make it Right” Houses at the Former Poplar Airport Brownfields Site
(20 houses built)

POPLAR SLUDGE PIT

- Funding for remedial action was provided by a site-specific Cleanup Grant from EPA
- Sludge pit has existed for more than 45 years.
 - Aboveground tank located at the site stored crude oil from surrounding tribal oil development in the 1970s to 1980s
 - Old pipeline may have transported crude from oilfields west of Poplar to the above ground tank
 - The sludge pit is likely a relic of former oil and gas operations on the site

CONTAMINATED SOILS CLEANUP

- Removal of the sludge material and contaminated soil immediately below the sludge
- Disposal of sludge material and contaminated soil at the Dishon Disposal Special Waste Landfill southwest of Williston, North Dakota
- Collection of confirmation soil samples; and
- Collection of groundwater confirmation samples.



JOLLY SWAGMAN HOTEL CLEANUP

- Used PPG carryover funds
- Phase I & II performed for cleanup process
- Old hotel in Poplar
 - Broke up into 2 phases of asbestos/lead removal and then demolition
 - Asbestos and lead waste disposed of in Glasgow landfill
 - Other materials disposed of in Wolf Point landfill



SUMMARY

- Poplar Airport Cleanup
- Poplar Sludge Pit Cleanup
- Jolly Swagman Cleanup

- Potential Future Projects if Funding Becomes Available
 - Presbyterian Church – Fort Kipp, MT (Lead and Asbestos)
 - Gateway Hotel –Poplar, MT (Lead and Asbestos)

Questions and Answers

**Please complete the online Webinar
Evaluation by clicking on this link:**

<https://forms.gle/6jcTBABJ4AhPVgrR6>

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Section 319 Nonpoint Source Program

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