

# **EPA Tribal Environmental Plan ETEP**

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**Chippewa Cree Tribe and  
U.S. Environmental Protection Agency Region 8**

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**Fiscal Years 2016-20**

**ENVIRONMENTAL PROGRAM DEVELOPMENT  
AND IMPLEMENTATION AGREEMENT**

**CHIPPEWA CREE TRIBE AND U.S. EPA REGION 8  
FISCAL YEARS 2016-2020**

The United States Environmental Protection Agency Region 8 and the Tribal Government of the Chippewa Cree Tribe agree to work together in a government-to-government partnership on the activities identified within this Agreement.

This Agreement between Region 8 and the Chippewa Cree Tribe is for planning purposes only. The document is designed to implement EPA's Indian Policy for working with federally recognized Tribal Governments on a government-to-government basis. The document does not, however, substitute for requirements in federal statutes or regulations, nor is it a requirement itself. This document is not intended to create any right or trust responsibility enforceable in any cause of action by any party against the United States, its agencies, offices or any other person. Thus, it cannot impose legally binding requirements on EPA, and may not apply to a particular situation based upon the circumstances.

# **Environmental Program Development and Implementation Agreement Chippewa Cree Tribe and U.S. EPA Region 8 Fiscal Years 2016-2020**

## **Introduction Statement: Purpose, Description, & Use**

This document is an Agreement for environmental protection on the Chippewa Cree Tribe (CCT) Reservation. While EPA recognizes the CCT as the primary environmental manager on the Reservation, the Agency retains certain responsibilities for implementing federal environmental authorities. This document will identify the following for the next 5 years: CCT environmental program priorities, specific activities related to implementing federal environmental requirements on the Reservation, roles and responsibilities of each party, and Agency support for Tribal program development and implementation activities. This Agreement can be used by each party to forecast work loads for each year, define resource needs, and identify opportunities for partnerships with other federal agencies. EPA and the Tribe will revise this Agreement every 5 years, or update as appropriate by mutual agreement. This will be reviewed annually by both parties.

## **Section 1: Tribal Background**

The Rocky Boy Indian Reservation is a Chippewa Cree Native American reservation located in the U.S. state of Montana. Rocky Boy was established in 1916 in the north central part of Montana near the Canadian border. Today it consists of approximately 125,000 acres of land area and is the smallest reservation of the seven reservations located in Montana.

The reservation encompasses both Chouteau and Hill counties. Only 44,000 acres of land are suitable for agriculture. All Chippewa Cree Tribal lands are held in trust. The 2000 census population of the reservation was estimated around 3,000.

Changes accumulated in the last quarter of the 20th century; in 1984 the Chippewa Cree Tribe (CCT) started Stone Child College, a tribal college, which offers 2-year degrees.

In North Central Montana, the reservation is part of the mixed grass prairie, an ecological transition zone between the short-grass and tall-grass prairies; all are part of the Great Plains. A great variety of plant and animal life flourishes on and adjacent to the reservation, including the endangered black-footed ferret.

The Environmental Department is responsible for administering the Chippewa Cree Tribe Performance Partnership Grant.

## **Section 2: Chippewa Cree Tribe Environmental Program Priorities**

1. Progress towards developing Water Quality Standards, Permitting and Regulatory Processes– the Chippewa Cree Reservation contains a considerable amount of water resources which are of great importance to Tribal members. These areas are constantly under threat from development activities. Establishing water quality standards will assist in the protection of these assets.

**EPA Role:** Reviewing, Updating and Compliance of the WQS will allow the CCT to take great strides toward establishing a Tribal Environmental Quality (Regulatory) office. PPG staff working with the TERAC will help in the phases of TEQ application, approval process and compliance.

2. Individual Sewage Treatment Systems (ISTs) – The Tribe is planning an investigation/survey of ISTs located on Tribal land. The Tribe would like to expand this survey to include Individual well sites located on Tribal Land to gain a more accurate picture of ISTs systems and their correlation on the drinking water throughout the entire Reservation. At the headwaters of the Reservations primary drainage testing has proven that the dilapidated and failing ISTs have had an impact on the surface water quality through seepage. The newly formed Tribal Environmental Quality (TEQ) will use CWA Section 106 and GAP to address this resource priority. Surface Water Quality Program will provide technical assistance to the Tribe for activities listed in work plans and monitoring strategy.

3. Agriculture Production – Agriculture is very prominent within the Chippewa Cree Tribe’s Reservation. Maintaining a balance between the agriculture land base and a non-agriculture land base has been historically at the forefront of the Chippewa Cree Tribal planning efforts.

**EPA Role:** EPA does not have a primary role in land use planning. Region 8 will work with the Tribal Departments to ensure that any applicable federal environmental requirements are met at existing and proposed agricultural operations.

4. Solid Waste – The Tribe would like to continue with its solid waste efforts. Focus would be directed towards an update to the integrated solid waste management plan and towards investigating alternatives to the current solid waste disposal system.

**EPA Role:** Tribal Water Resources Department (TWRD) has coordinated with federal, state, or local partners to seek funding and technical resources to fund and implement the integrated waste management plan. TWRD will assist the Tribe to update the plan to meet EPA’s recommended five elements.

5. Emergency Management – The Tribal Environmental Resource Advisory Committee (TERAC) has been created to coordinate Environmental issues on the Rocky Boy’s Reservation. Because of the area in which the Reservation is located, many entities are involved in emergency planning and emergency management. Continued efforts in this area are crucial to the continued success of the Chippewa Cree Tribe.

**EPA Role:** Superfund Division can support this priority through technical assistance and some grant support (Section 128(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) for tribal response program development). Superfund Division also will continue to share information and networking opportunities for the Tribe through invitations to quarterly emergency preparedness conference calls and semiannual Regional Response Team meetings. (See also Comprehensive Environmental Response, Compensation and Liability Act page.)

### **Section 3: Implementation of Federal Environmental Authorities**

The purpose of this section is to provide an outline of how EPA and CCT will work in partnership to ensure that federal environmental programs are implemented within the Reservation. For each major environmental statute, the current federally regulated universe is summarized and the corresponding tribal and federal implementation roles/responsibilities are defined for the next three years.

Please note that this section does not attempt to characterize all federal authorities that may be implemented on the Reservation. As new regulated facilities are proposed, additional federal requirements promulgated, or conditions on the Reservation change, EPA may exercise additional regulatory authorities or provide other assistance to the Tribe. Instead, this document defines for a particular time frame, a list of specific activities in response to the existing universe of regulated facilities and activities. This Agreement does not preclude EPA's discretion to exercise its authorities to protect human health and the environment.

In accordance with the Agency's policies related to working with Tribal Governments, EPA will promote and facilitate communication with appropriate Tribal leaders and staff as it implements its programs. EPA will use best efforts to ensure that outreach, information exchange, and requests for Tribal input will occur early in any Agency process that may affect the Tribe. Full consideration will be given to the policies, priorities, and concerns of the Tribe. As appropriate under the 1984 EPA Indian Policy and Executive Order 13175 Consultation and Coordination with Indian Tribal Governments, EPA will engage in consultation as requested by the Tribal Government.

## Clean Water Act

<b>Federally Regulated Facilities Within Reservation</b>	
NPDES permits	Agency Lagoon System MTG589004 Azure Lagoon MTG589014 Bonneauville Lagoon MTG589008 Box Elder Lagoon MTG589015 Lower Dry Fork Lagoon MTG589005 Multi-Community Lagoon MT0030813 Sangrey Lagoon MTG589016 Middle Dry Fork Lagoon Northern Winz Casino Johnson Lagoon
NPDES storm water construction, industrial, municipal permits – Active	No identified permits
Facilities/Sites subject to Section 404 review	No identified facilities
Oil storage facilities regulated under SPCC program (CWA Section 311)	No identified facilities

### Tribal Implementation Activities:

- The Tribe has expressed interest in developing a program eligibility application for federally approved Treatment Similar as a State. Specific activities anticipated for 2016-2020 include: begin communications with Region 8 staff on development of TSAS; continue to enhance the Tribal Environmental codes and water data for the Tribe’s inventory and standard-setting; possible implementation of biological monitoring.
- The Tribe is working on an inventory of all surface waters and wetlands (approximately 180 acres) on the Reservation. Specific activities slated to be accomplished during 2016-2020 include: continue to gather and compile surface water data for lakes and streams within the Reservation boundaries, and test groundwater near communities that may have be exposed to agricultural chemicals.
- Chippewa Cree Tribe continues to conduct baseline monitoring to characterize the water resources on the Reservation. Specific activities scheduled during 2016-2020 include: continue to gather and compile surface water data for lakes and streams within the Reservation boundaries, and test groundwater near communities that may have be exposed to agricultural chemicals.

### EPA Implementation Activities:

- By September 30, 2017, Surface Water Quality Program will identify any facilities on the Reservation that are required to obtain coverage under the Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity. Facilities that are identified will be sent a notification and Surface Water Quality Program will work with them to obtain permit coverage.
- In 2016-17, Surface Water Quality Program will work with EPA Headquarters to plan three tribal water quality standard (WQS) training sessions: (1) Introduction to WQS; (2) Clean Water Act Section 303/401 Treatment as State and the EPA Treatment as State Strategy; and (3) 5-day WQS Academy.
- Surface Water Quality Program will notify NPDES permittees at least 6 months prior for individual permits and 60 days for general permits prior to expiration dates of their respective

permits that a renewal application should be submitted within 180 days of the permit expiration date. Surface Water Quality Program has received renewal applications from the Chippewa Cree Environmental Health Department, and has drafted new permits. Surface Water Quality Program will send copies of the draft permits to the Tribe prior to public notice for review and comment. The Agency will try to resolve any concerns prior to issuing the permits.

- 3 year cycle for waste water lagoon inspections.
- Surface Water Quality Program will employ the targeting tool in EPA's On-Line Tracking Information System (OTIS) to identify point sources that warrant an EPA compliance evaluation inspection. On a quarterly basis, Region 8 will review reports of NPDES permit discharge violations. As appropriate, EPA will take action to return the dischargers to compliance with the conditions of their permits. If there are concerns about particular sites on the Reservation, the Tribe should contact Surface Water Quality Program.
- Surface Water Quality Program will work with the Natural Resources Department to identify concentrated animal feeding operations within the boundaries of the Reservation and begin the process of issuing federal permits.
- EPA will, as resources and authorities allow, support the Tribal implementation activities identified above and within their Monitoring Strategy through targeting funding under the CWA Section 106 funding program.

## Safe Drinking Water Act

<b>Federally Regulated Facilities Within the Reservation</b>	
Public Water Supply Systems	<b>Rocky Boy Rural Water Systems</b> Eagleman Community PWS#3090074 Rocky Boy Rural PWS#3090075 Rocky Boy Agency PWS#3090079
Tanks	<b>Newtown System</b> Box Elder Tank Newtown Azure Tank ST01 Upper Sangrey Tanks ST02 Bonneauville Tank ST03 St. Marks Tank ST07 3 Mile Tank ST08 <b>Eagleman System</b> Eagleman Tank ST01 Haystack Tank ST02 <b>Parker System</b> Parker Tank ST01 (Inactive)
Wells	Eagleman Well WL01 EP3 Chiefstick Well WL02 EP5 Stanley Well WL03, Pellet Chlorinator TP03 EP 2 Duncan Well WL04 EP1 Bernard Well WL08 EP6 Newtown Anderson Well WL 07 Inactive Azure Well WL12 EP7 <b>Parker System</b> Parker Well WL01 Parker Well WL02 (inactive) Parker Well WL03 <b>Northern Winz</b> NW Well WL01
Pump Houses Treatment Plants	Eagleman Pumphouse PF01, TP01 Chiefstick Pumphouse, Treatment Plant PF02, TP02 4 C's Pumphouse PF03 WL10 Duncan Pumphouse Parker Pumphouse PF01, TP01, EP01 Parker Pumphouse PF02, TP02, EP02 NW Well Control House PF01, TP01

### Tribal Implementation Activities:

- The Tribe has completed a source water protection plan that covers all 6 Tribal well systems listed above. During 2016-2020, the Tribe will continue required monitoring and inventorying any new threats to water quality.

### EPA Implementation Activities:

- By September 2017, Rocky Boy Rural Water System will complete an inventory and verify the compliance status of the public water supply systems located within the Reservation boundaries that are currently regulated by the state of Montana.
- Indian Health Service conducts annual sanitary surveys at community water systems. Sanitary surveys are conducted for non-community systems every five years.



- By September 2017, Rocky Boy Rural Water System will meet with the Tribe to update the existing inventory of Class V UIC wells located within Reservation boundaries. Rocky Boy Rural Water System will seek the closure of any active motor vehicle waste disposal wells (floor drains and shop sinks that receive fluids from motor vehicle maintenance and service activities which drain into drywells, septic systems, etc.)

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## Resource Conservation and Recovery Act

<b>Federally Regulated Facilities within the Reservation</b>	
RCRA C treatment, storage, disposal facilities	No identified facilities
RCRA C hazardous waste generators – Active	<b>Small Quantity Generators</b> Name [Identification Number] Name [Identification Number] Name [Identification Number] Name [Identification Number] Name [Identification Number] Name [Identification Number]
RCRA D solid waste disposal facilities	N/A
RCRA I underground storage tanks	Old Police Department Old Pastime Lamere's Station John Morsette Ranch Denny Station
RCRA I leaking underground storage tanks	

<b>Open Dumps Currently Inventoried on Reservation</b>	
Reported to wSTARS Operation and Maintenance Data System	0

**Tribal Implementation Activities:**

- The Tribe has an existing solid waste management plan that requires updating due to increases in population and commercial businesses. The Tribe would like to apply for funding to update the Tribal Integrated Waste Management Plan.
- The Tribe has an existing solid waste ordinance that covers solid waste handling, disposal, and storage and is in the process of being updated. Compliance investigations are handled by Tribal Water Resources Department and complaints routed to Tribal Court. An updated ordinance should be submitted to Tribal Council by the end of FY 2017.
- The Tribe operates a collection and transfer station system to transport solid waste off-Reservation for final disposal.
- The Tribe maintains an inventory of illegal open dumps and tracks clean-up status.
- The Tribe is interested in working with EPA to obtain federal inspector credentials for the UST Program. During 2015-2016.

**EPA Implementation Activities:**

- During FY2016-2020, TRWD will coordinate with federal, state, and/or local partners to seek funding and technical resources to fund and implement the integrated waste management plan. TWRD will assist the Tribal Public Works Department to update the plan to meet EPA's recommended five elements.
- During FY 2016-2020, TWRD will coordinate the open dump inventory with the IHS wSTARS inventory. TWRD will coordinate with Brownfields and other federal, state, and/or local partners to seek funding and technical resources to clean up any open dumps. TWRD will conduct enforcement investigations to determine the appropriateness of enforcement action to address specific incidents of illegal dumping on the Reservation.

- At a minimum of once every three years, TWRD will inspect the USTs identified on the Reservation.
- During 2015-2016, TWRD will review any information submitted by the Tribe regarding the status of the leaking underground storage tanks (LUSTs) located within the Reservation boundaries in order to identify the LUST inventory, identify any Tribal-specific concerns, gather information on the status of responsible parties, and discuss prioritizing eligible sites for assessment and/or remediation.
- TWRD is interested in working with the Tribe to have Tribal staff become federally credentialed UST inspectors. During 2015-2016, TWRD will provide technical assistance and ensure that Tribal staff is adequately trained to become credentialed inspectors.
- EPA will, as resources and authorities allow, support the Tribal implementation activities above through targeting funding under GAP.

**Comprehensive Environmental Response, Compensation and Liability Act  
(Including Emergency Planning and Community Right-to-Know Act and  
Small Business Liability Relief and Brownfields Revitalization Act)**

<b>Federally Regulated Sites and/or Facilities</b>	
Facilities that must report to LEPC/TERC	No identified facilities
Facilities that must report under the Toxic Release Inventory (EPCRA Section 313)	No identified facilities

<b>Contaminated Sites Addressed Under CERCLA</b>	
Emergency Response and Removal Actions	No current activities
NPL Site Remediation	No current activities

<b>Contaminated Sites Addressed Under Non-CERCLA Authorities</b>	
Targeted Brownfields Assessment Projects	1
Number of Brownfields Sites Inventoried and/or Assessed	3

<b>Formal Organization under EPCRA</b>	
Tribal Emergency Response Commission	

Tribal Implementation Activities:

- In 2015, the TERAC will actively participate in a table-top exercise, update the emergency response plan, and assist in developing mutual aid agreements with surrounding jurisdictions.
- In 2015, the Tribe will request the Superfund Division to provide training and outreach to assist the Tribe in EPCRA compliance and implementation. This may include a “Title III on Indian Lands” presentation, First Responder-Awareness Level Course, EPCRA plan review/comment, working with the Tribe to conduct a HAZMAT exercise, soliciting Tribal participation in a non-Tribal lead HAZMAT exercise, and advising the Tribe on other compliance and implementation issues as needed.
- In 2015, the Tribe is interested in requesting funding under the CERCLA Section 128(a) grant program to enhance the Tribal Response Program (TRP).
- In 2015, the Tribe will request EPA to conduct a Targeted Brownfields Assessment for specific soil contamination site identified above.

EPA Implementation Activities:

- By June 30, 2016, Superfund Division will initiate work with the Tribe to develop a Tribe-specific profile for the Area Contingency Plan describing the Tribe’s preparedness status, resources, and capabilities of an incident or spill within the Reservation.
- By November 30 each year, Superfund Division will notify the Tribe of the opportunity to request CERCLA Section 128(a) funding and will work with the Tribe to identify an appropriate amount of funding to request. Funding, as available, will be awarded by September 30 for eligible activities to support development of the Tribe’s site response program, including emergency preparedness work and addressing open dumps with contamination or potential contamination.

- In 2015, Superfund Division will review the candidate soil contamination site to identify an eligible site for a single Targeted Brownfields Assessment, as funds are available.
- Superfund Division will continue to make the Tribe aware of the annual opportunity to apply for CERCLA Section 104(k) Brownfields assessment grants and can refer the Tribe to non-EPA resources to help the Tribe prepare an effective grant proposal. If the Tribe is selected for this grant in the national competition, Superfund Division will award the funds by September of the year of selection and will work with the Tribe in the following three years to help the Tribe be successful in accomplishing work under the grant.
- Superfund Division will provide EPCRA training at mutually agreeable dates.
- Superfund Division will review the revised emergency preparedness plan for compliance with EPCRA and advise the Tribe about any changes needed.
- Superfund Division will assist in planning or facilitation of hazmat exercises.
- Annually, Superfund Division will provide Brownfields training to tribal staff.

## Federal Insecticide, Fungicide and Rodenticide Act

<b>Federally Regulated Sites and/or Facilities</b>	
Registered pesticide producing establishments	No identified facilities
Retail establishments selling regulated pesticides	No identified facilities
Facilities (i.e., bulk agrichemical establishments) that must comply with the container containment requirements	No identified facilities
Level/type of pesticide use activity on Reservation	High level of pesticide use on the Reservation related to agricultural operations (estimated 150 farms)

### Tribal Implementation Activities:

- Currently there is two Tribal facilities using restricted use pesticides.
- Historically, the Tribe has operated a pesticide program through a grant? funding. Currently, the Tribe is developing a strategy for compiling an inventory of facilities with bulk containers of pesticides. This activity will be completed by the end of 2015.
- Chippewa Cree Tribe Pesticide Program will conduct 25 inspections throughout the Reservation in fiscal year 2015. Staff anticipates similar inspection numbers for fiscal year 2015 and 2016.

### EPA Implementation Activities:

- TWRD is committed to continuing funding and supporting the Chippewa Cree Tribe PPG, contingent on availability of funds and fulfillment of all requirements under the PPG.

## Toxic Substances Control Act (Lead-Based Paint and Asbestos)

<b>Federally Regulated Sites and/or Facilities</b>	
Amount of pre-1978 housing and child-occupied facilities (pre-school, daycare, etc.)	Inventory under development through Chippewa Cree Tribal Housing Office
K-12 schools	Rocky Boy Public School Box Elder Public School

Tribal Implementation Activities:

- CCT has been working on a lead-based paint compliance plan

EPA Implementation Activities:

- The federal lead-based paint regulations require the use of safe work practices when work is being conducted in pre-1978 housing and/or child occupied facilities. Based on funding availability, EPA will work with the Hill and Chouteau County to continue and expand services on the Chippewa Cree Tribe Reservation under the lead-based paint program, if requested, for both newly acquired housing and/or child-occupied facilities.
- By September 2015, TWRD and the Tribal Assistance Program will work with the Tribe to identify the universe of K-12 schools on the Reservation that were constructed prior to October 12, 1988.
- By September 2015, TWRD will provide compliance assistance to the Local Education Agency to ensure compliance with the TSCA Title 2 Asbestos Hazard Emergency Response Act (AHERA).
- During 2014-2015, TWRD will conduct 25% of its ACS-committed inspections in Indian country, at K-12 schools that were constructed prior to October 12, 1988, to determine compliance with AHERA.