THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

DEC - 1 2014

MEMORANDUM

SUBJECT: Commemorating the 30th Anniversary of the EPA's Indian Policy

FROM: Gina McCarthy

TO: All EPA Employees

I am proud to recognize the U.S. Environmental Protection Agency's 30th anniversary of its Indian policy, and I want to thank everyone who has worked diligently to establish and sustain the agency's Indian program. As we mark this milestone, I also want to convey gratitude to our tribal-government partners for all their time, expertise and effort in building this important partnership with the EPA.

On November 8, 1984, the EPA issued its *Policy for the Administration of Environmental Programs on Indian Reservations*. In doing so, the EPA became the first federal agency to adopt a formal Indian policy to guide its relations with tribal governments in the administration of its programs. The 1984 Indian Policy represented – and continues to represent – a bold statement on the EPA's commitment to our partnership with federally recognized Indian tribes and to tribal self-governance in implementing environmental-protection programs.

The underlying principles of the 1984 Indian policy continue to guide our unique relationship with, and the federal trust responsibility to, federally recognized Indian tribes as expressed in treaties, statutes, executive orders and court decisions. The agency remains fully committed to engaging tribes as sovereign governments with a right to self-governance, which is a commitment the EPA made and has kept since our agency's founding.

Tribal Treaty Rights

Under the U.S. Constitution, treaties have the same legal force as federal statutes. And the United States' government-to-government relationship with and trust responsibility to federally recognized Indian tribes reinforces the importance of honoring these treaty rights. As such, the EPA has an obligation to honor and respect tribal rights and resources protected by treaties. While treaties do not expand the EPA's authority, the EPA must ensure its actions do not conflict with tribal treaty rights. In addition, EPA programs should be implemented to enhance protection of tribal treaty rights and treaty-covered resources when we have discretion to do so. To help guide the agency's decisions when treaty rights should be considered, the Office of General Counsel and the American Indian Environmental Office will develop an analytical framework, with input and consultation from other EPA offices and tribal governments.

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Intergovernmental Cooperation

Good governance demands that the EPA increase our efforts to work in concert with other federal agencies, tribes, states and local governments to protect human health and the environment. Coming together to set priorities and define mutual roles and responsibilities regarding the administration of environmental-protection programs will build stronger, more efficient and effective partnerships. The EPA remains committed to continue building on the following notable Indian program efforts:

- engaging tribal-elected officials on key environmental and public-health issues through an annual tribal leaders' listening session;
- coordinating with the Environmental Council of the States to include tribal governments in key discussions as co-regulators;
- using the Council for the Commission for Environmental Cooperation to ensure that the U.S., Canada and Mexico continue to work with indigenous communities across North America and recognize the importance of the traditional ecological knowledge and practices of indigenous communities; and
- working with the Department of the Interior to build tribal resiliency regarding the impacts of climate change.

The EPA this year also celebrates the 20th anniversary of the Indian Environmental General Assistance Program. Through this program, the EPA has provided more than $1 billion in direct funding to federally recognized tribes and intertribal consortia to build strong, sustainable tribal environmental-protection program capacity.

Thank you all once more for your hard work and your commitment. I look forward to working with you to achieve much more in the months ahead.