Message

From: Matsumoto, Kimi [Matsumoto.Kimi@epa.gov]
Sent: 11/19/2019 4:27:36 PM
To: Matsumoto, Kimi [Matsumoto.Kimi@epa.gov]
Subject: agenda

EPA Region 8, Army Corps of Engineers and Tribal Attorneys Meeting
November 19, 2019
AGENDA

Logistics
Date: Tuesday, Nov. 19, 2019
Time: 10:00 am – 11:30 am, Mountain Time
Call in number: +1 Ex. 6 Personal Privacy (PP)
PIN 97663

Attendees
EPA Region 8 Office of Regional Counsel Attorneys
- KC Schefski, Regional Counsel
- Elyana Sutin, Deputy Regional Counsel
- Brian Joffe, Associate Regional Counsel
- Amy Swanson, Section Chief, Regulatory Enforcement
- Staff Attorneys: Erin Agee, Matt Castelli, Lucita Chin, Abigail Dean, Mai Denawa, Peggy Livingston, Paul Logan, Kimi Matsumoto, Sheldon Muller, Erin Perkins, Amelia Piggott, Everett Volk

Army Corps of Engineer Attorneys
- Kallie Kuehl – Albuquerque District (CO, UT)
- Lisa Clay – Sacramento District (CO, UT, WY)
- TBD – Omaha District (CO, MT, ND, SD, WY)

(Others may join as schedules permit)

Tribal Attorneys

Discussion
- Welcome and Introductions (EPA) - 10 min

- EPA Region 8 ORC Reorganization (EPA) - 10 min

- Legal Matters/Topics of General Interest from Tribal attorneys (Tribal attorneys) – 20 min

- Clean Water Act/Water Resources – Recent Developments (EPA CWA attorneys and Corps attorneys) – 40 min

  - CWA Waters of the United States
    - Link to EPA WOTUS website: https://www.epa.gov/wotus-rule
    - Oct. 22, 2019 Final Rule – Recodification of Pre-Existing Rules (Repeal of 2015 Rule)
    - Link to Repeal of 2015 Rule website: https://www.epa.gov/wotus-rule/step-one-repeal

- Link to Oct. 22, 2019 Final Rule: https://www.govinfo.gov/content/pkg/FR-2019-10-22/pdf/2019-20550.pdf
- Feb. 14, 2019 Proposed Rule – Revised Definition of "Waters of the United States"
- Link to Revised Definition of WOTUS website: https://www.epa.gov/wotus-rule/step-two-revise
- Link to Feb. 14, 2019 Proposed Rule: https://www.federalregister.gov/documents/2019/02/14/2019-00791/revised-definition-of-waters-of-the-united-states

- CWA 401 certifications
  - August 22, 2019 Proposed Rule – Updating Regulations on Water Quality Certification: **Comments due Oct. 21, 2019** https://www.epa.gov/cwa-401/proposed-rule-updating-regulations-water-quality-certification-0
  - June 7, 2019 CWA Section 401 Guidance for Federal Agencies, States and Authorized Tribes https://www.epa.gov/sites/production/files/2019-06/documents/cwa_section_401_guidance.pdf

- EPA Interpretative Statement on Application of the Clean Water Act National Pollutant Discharge Elimination System Program to Releases of Pollutants From a Point Source to Groundwater, April 23, 2019 https://www.govinfo.gov/content/pkg/FR-2019-04-23/pdf/2019-08063.pdf

- CWA TAS – update
  - **CWA – May 16, 2016 EPA Reinterpretation of the CWA as a delegation of authority to tribes. No longer Mt. test. Congressional delegation of authority to Tribes on Reservations.**
  - **Since then, Agency has approved 11 WQS TAS applications nationwide.**
  - **CWA TAS guidance from HQ regarding outreach to local governments in EPA's TAS process. All TAS applications for regulatory programs; not just CWA.**
  - **Regional RA's office will be reaching out to Tribal leadership in R8 with information on that guidance.**
  - **ORC will follow up with this group once that outreach takes place.**
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- CWA June 3, 2019 Policy for EPA Review and Action on CWA Program Submittals
  - Link to Policy: https://www.epa.gov/sites/production/files/2019-06/documents/policy_for_the_epas_review_and_action_on_cwa_program_submittals_0.pdf

- CWA EPA May 2019 Draft Study of Oil and Gas Extraction Wastewater Management Under the Clean Water Act https://www.epa.gov/sites/production/files/2019-05/documents/oil-and-gas-study_draft_05-2019.pdf

- Water Reuse Action Plan
  - Link to Federal Register Notice - Draft National Water Reuse Action Plan: **Comments due Dec. 16, 2019** https://www.federalregister.gov/documents/2019/09/16/2019-19984/draft-national-water-reuse-action-plan

- Safe Drinking Water Act (SDWA) Underground Injection Control (UIC) Program – Draft UIC permits for the Dewey Burdock uranium in-situ recovery project: **Comments due Dec. 9. 2019** https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-draft-area-permits-2019

- Next EPA/Region 8 Tribal Attorneys In-Person Meeting in Conjunction with Spring RTOC and Tribal Leaders meeting at EPA Region 8 (EPA) – 10 min.

- Interest and potential agenda topics
- We are looking to hold the next in-person meeting with Tribal attorneys in March of 2020.
- Similar to the March 2018 meeting, we are hoping to hold our in-person attorneys' meeting in Denver in conjunction with the RTOC (Tribal Environmental Directors) and Tribal Leaders' meetings with R8 Senior managers. That way, attorneys will have an opportunity to accompany their clients to those meetings if they wish and we will look for a good time to have a half-day attorneys' meeting during the same timeframe.
- We are interested in potential agenda topics if anyone on the call has any immediate thoughts.
- We will follow up with an e-mail after the new year.
- We are planning to invite attorneys from the DOI Regional Solicitors' Offices that covers EPA Region 8.