



# COLORADO RIVER INDIAN TRIBES

## *Colorado River Indian Reservation*

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December 27, 2016

Mahfouz Zabaneh  
U.S. EPA Region 9  
LMD-4-2  
75 Hawthorne St.  
San Francisco, CA 94105  
Zabaneh.Mahfouz@epa.gov

RE: Draft RCRA Permit for the Evoqua Water Technologies, LLC Facility

Dear Mr. Zabaneh,

The Colorado River Indian Tribes ("CRIT") submits the following comments regarding the Proposed Resource Conservation and Recovery Act ("RCRA") Permit for Evoqua Water Technologies, LLC facility ("Evoqua") near Parker, Arizona.

First, CRIT stresses the importance of Environmental Protection Agency ("EPA") issuing a final decision on Evoqua's RCRA Permit Application. Evoqua has been operating on an Interim RCRA Permit since August of 1991, one year after the EPA began regulating carbon regeneration facilities. Westates Carbon, now known as Evoqua, applied for a RCRA permit in 1995, with four revised applications being submitted to the EPA since 1995. The EPA has conducted numerous public hearings and requested additional materials over the past twenty-one years, yet no final decision has been made on Evoqua's Permit Application. CRIT is requesting that the EPA expeditiously issue a final decision on Evoqua's RCRA Permit Application.

Evoqua's pending RCRA permit is unique as Evoqua's on-Reservation facility is the only such facility on tribal trust land. This raises unique challenges because the EPA's regulatory responsibilities intersect with its trust relationship toward CRIT, a federally recognized Indian nation. This fiduciary duty does not end upon the issuance of a final Permit Decision by the EPA. If the Permit is issued, CRIT expects the EPA will continue government-to-government consultation throughout the term of any potential RCRA Permit. CRIT has certain expectations of government-to-government consultation. CRIT will send its criteria as to what satisfies government-to-government consultations in a separate letter. In addition to on-going consultation required during the Application review process, government-to-government

consultation shall also occur when a final decision on the Permit is issued and during all Post-Permit monitoring for the term of the Permit.

CRIT requests that, as a final permit requirement, the EPA shall include and indicate in any final permit issued the frequency and extent to which the EPA will conduct routine inspections, testing, and/or compliance monitoring at the Evoqua facility. The EPA shall notify the CRIT Environmental Protection Office (“CRIT EPO”) in a timely manner of any and all inspections conducted by the EPA or its designee and allow the CRIT EPO to be present at any such inspections or testing.

CRIT requests that, as a permit requirement, the EPA conduct, or require Evoqua to conduct soil sampling for semi-volatile, volatile, organochlorine pesticides and polychlorinated biphenyls (“PCB”). CRIT requests this to not only ensure that contamination of the ground soil and water at and near the Evoqua facility has not occurred, but as a basis for comparison when further investigation occurs at the time of closure of the facility. After such testing occurs, CRIT requests government-to-government consultation concerning the results of such testing.

CRIT requests the EPA to provide documentation on the known effects on humans and the environment of the toxins emitted by the Evoqua facility into the air on the CRIT Reservation. After providing this information, CRIT may request government-to-government consultation with the EPA regarding these effects.

If the EPA issues the RCRA Permit, in conformity with the EPA trust responsibility to CRIT, CRIT requires of the EPA as follows:

1. Section I.E.7 of the Permit requires that the Permittees furnish to the Director of Enforcement, when requested, any relevant information to determine whether cause exists to modify, revoke and reissue, or terminate the Permit. CRIT requests that the EPA send CRIT copies of all documents pertaining to this section as documents are received by the EPA. CRIT requests government-to-government consultation with the EPA on any and all proposed modifications, revocations, or terminations of this Permit.
2. In the event the EPA is given notice by Evoqua of anticipated non-compliance pursuant to Section I.E.11 of the Proposed Permit, the EPA shall immediately notify the CRIT EPO by telephone and email of the anticipated noncompliance. EPA shall also notify Tribal Council and the Office of the Attorney General in writing at 26600 Mohave Rd., Parker, AZ 85344.
3. In the event the EPA is notified of noncompliance pursuant to Section I.E.13 of the proposed permit, the EPA shall notify the CRIT EPO by telephone and email immediately upon receiving notification from Evoqua. EPA shall also notify Tribal Council and the Office of the Attorney General in writing at 26600 Mohave Rd., Parker, AZ 85344.
4. With regards to Section I.E.14 and I.E.15 of the proposed Permit, the EPA shall immediately, upon receipt or notification, send copies of any and all reports discussed in these sections to the CRIT EPO.
5. With regards to Section I.K.3 and I.K.4, the EPA shall provide the CRIT EPO with copies of any and all reports, such as the Periodic Demonstration Test (“PDT”),

provided to the EPA under this Section. CRIT requests government-to-government consultation with the EPA after such a trial burn concerning the results of the PDT Report and their potential impact to the people, environment, and culture of CRIT.

6. CRIT requests government-to-government consultation with the EPA when the repairs, upgrades, closures, and testing required in Sections I.K.6., I.K.7, and I.K.8 are completed.
7. In the event of a leak or spill as identified under Section IV.I., the EPA shall notify the CRIT EPO, CRIT Fire Department, and CRIT Homeland Security immediately by telephone of any and all leaks or spills of which the EPA becomes aware. EPA shall also send written notice of any and all leaks or spills to Tribal Council and the Office of the Attorney General, including any and all substances involved, the possible health effects of these substances, and any and all remedial measures taken by Evoqua and/or ordered by or taken by the EPA.

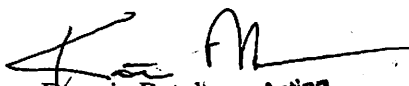
The CRIT EPO can be reached at by phone at (928) 662-4336, by email at [Wilfred.Nabahe@critnsn.gov](mailto:Wilfred.Nabahe@critnsn.gov), or by mail at Environmental Protection Office, 26600 Mohave Rd., Parker, AZ 85344.

The CRIT Fire Department can be reached at (928) 662-4388 or by mail at Fire Department, 26600 Mohave Rd., Parker, AZ 85344. In the event of an emergency, please contact the fire department through CRIT Police Dispatch at (928) 669-1277.

The CRIT Homeland Security Department can be reached at (928) 669-1255.

Thank you for the opportunity to comment on this draft RCRA Permit. If you have any questions or need further information, please contact Rebecca Loudbear, CRIT Attorney General, at (928) 669-1271.

Sincerely,  
COLORADO RIVER INDIAN TRIBES

  
Dennis Patch Acting  
Chairman

CC: Rebecca Loudbear, Attorney General  
Wilfred Nabahe, Director, Environmental Protection Office  
Tribal Council  
Khron