



Shoshone-Bannock Tribes Water Quality Public Comment Process for Tribal Water Quality Standards

September 2008



Overview

On Sept. 5, 2008 the U.S. Environmental Protection Agency Region 10 approved the Shoshone-Bannock Tribes of the Fort Hall Reservation for "Treatment as a State" or "TAS" under the Clean Water Act. That decision means that the Tribes have the authority to develop their own water quality standards for the Fort Hall Reservation that would be in effect under the Clean Water Act. The water quality standards the Tribes adopt will be designed to meet the elements required by EPA to implement Section 303 of the Clean Water Act. The Tribes have been working together with EPA and the Idaho Department of Environmental Quality to develop water quality standards. The Tribes expect to initiate public participation on the standards in Spring 2009.

Public Comment Process

The public will have an opportunity to comment on the Tribes' proposed water quality standards before the standards are adopted in final form and submitted to EPA for approval. The Shoshone-Bannock Tribes have a process which provides for meaningful involvement, public participation and fair treatment in the development and implementation of environmental laws, regulations and laws. In addition, the Tribes' public participation process will follow EPA rules. A summary of the process providing due process follows.

Public Comments

The Shoshone-Bannock Tribes have an established law known as the Administrative Procedures Act (APA), which requires all Tribal environmental agencies, including the Tribal Water Resources Department, to provide fundamental fairness, justice and common sense in proposing regulations and standards. The APA seeks to provide meaningful public involvement, enhance public input, and promote careful consideration of interests and concerns of affected people. By Resolution, the Fort Hall Business Council, which is the governing body of the Shoshone-Bannock Tribes, has taken formal action to apply the APA to the Water Resources Department and any water quality standards or regulations it may develop.

Under the Tribes' APA for the adoption of water quality standards, the Tribes' Water Resources Department is required to 1) give proper public notice and opportunity to submit comments or information, 2) offer a public hearing, 3) prepare reasoned decision-making, and 4) provide judicial review of the agency's action in the Tribal Court. The Clean Water Act and EPA regulations also establish certain requirements for public participation by the Tribes prior to adoption of the water quality standards.

Notice

Under the APA, the Tribal Water Resource Department will publish notice in the Sho-Ban News and local newspapers in Bannock, Bingham, Caribou and Power counties. The Notice will state the substance of the water quality standards, and the date, time, place and manner for submitting comments. Under EPA's public participation rules, the Notice will include the timetable in which a decision will be reached, the issues and alternatives under

consideration, a listing of applicable laws, regulations, and guidance, and the location where relevant documents and supporting analyses may be reviewed or obtained. The Notice will describe the time, date, and location of a public hearing that the Tribes will hold for the purpose of reviewing the Tribes' water quality standards, as provided in EPA's rules. In addition to newspaper notices, the Tribes will mail the Notice to interested and affected parties and organizations. Written comments will be accepted on the water quality standards.

Public Hearing

The Tribes will follow EPA's public participation rules by providing for a public hearing as part of the comment period on its proposed water quality standards. Notification of the public hearing will be publicized well in advance of the hearing. The public and any interested parties will have the opportunity to provide oral comments about the water quality standards at the public hearing.

Adoption by the Tribes

Following the comment period and the public hearing, the Water Resources Department will review all oral and written comments on the standards, make appropriate changes, and prepare a responsiveness summary. Final recommendations will be made to the Fort Hall Business Council, which has the authority to adopt the standards under the laws of the Shoshone-Bannock Tribes.

Administrative Review of Standards

Any interested person may petition the Tribal Water Resources Department for a ruling with respect to the application of the Tribes' water quality standards to the person, property or particular factual situation. If there is disagreement about the agency's ruling, the interested person and Tribal agency may ask the Tribal Environmental Administrative Board to review and issue a judgment on the water quality standards should the rules appear or its application threaten to interfere with or impair the legal rights or privileges of the interested person.

Judicial Review

The parties have the right to request an appeal of the Environmental Administrative Board decision to the Shoshone-Bannock Tribal Court. The Tribal Court may reverse, modify or suspend the agency action, in whole or in part and may send the case back to the agency for further proceedings. The Tribes will ask EPA to review and approve the Tribes' water quality standards under the Clean Water Act, and citizens may challenge EPA's actions under the federal Administrative Procedures Act.

Contact Information

If you have questions about the process described in this fact sheet, you may contact the following persons for more information.

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