



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202 – 2733

NOV 22 2016

The Honorable Edwina Butler-Wolfe
Governor
Absentee-Shawnee Tribe of Indians of Oklahoma
2025 South Gordon Cooper Drive
Shawnee, OK 74801

Re: Notification of Citizen Potawatomi Nation's application for eligibility under Clean Water Act section 518(e)

Dear Governor Butler-Wolfe:

The Citizen Potawatomi Nation, located in Cleveland and Pottawatomie counties in the state of Oklahoma, applied to the U.S. Environmental Protection Agency (EPA) for eligibility under section 518(e) of the Clean Water Act (CWA) for treatment in a manner similar to a state (TAS) for the water quality standards and water quality certification regulatory programs (CWA sections 303(c) and 401, respectively), as well as for the nonpoint source grant program (CWA section 319). This letter and notification relates only to the water quality standards and water quality certification programs.

As a preliminary matter and as required by the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (SAFETEA) (Public Law 109-59, 119 Stat. 1144 (August 10, 2005)), on January 13, 2011, EPA approved an environmental Cooperative Agreement between the Citizen Potawatomi Nation (the "Nation") and the state of Oklahoma for the joint administration of water programs within the Nation. Following that approval, the Citizen Potawatomi Nation submitted the above mentioned application for EPA's determination that the tribe is eligible for TAS. At this time, EPA is reviewing the Citizen Potawatomi Nation's TAS application in accordance with the federal water quality standards regulation at 40 CFR 131.8, which describes the TAS eligibility criteria, application requirements, and EPA procedures for processing TAS applications for the water quality standards and water quality certification programs.

EPA's approval of the TAS application would allow the Citizen Potawatomi Nation to submit water quality standards identical to those of the state of Oklahoma to EPA for review and action under CWA section 303(c) for all surface waters within the lands identified in the Nation's application. These surface waters include portions of the North Canadian River, Squirrel Creek, North Deer Creek, Brier Creek, and several unnamed tributaries. Approval would also provide the Citizen Potawatomi Nation with the authority to issue or deny section 401 certification for federal permits or licenses for activities on these lands that may result in a discharge to surface waters.

The federal regulation at 40 CFR 131.8(c) requires EPA to notify and request comments from “appropriate governmental entities” on the Citizen Potawatomi Nation’s assertion of authority to regulate surface water quality under CWA sections 303(c) and 401 within the lands identified in the Nation’s TAS application. EPA defines the phrase “governmental entities” as “states, tribes, and other federal entities located contiguous to the reservation of the tribe” which is applying for TAS. See 56 Fed. Reg. 64884 (December 12, 1991). Consistent with federal Indian law, EPA treats as reservations trust lands validly set aside for the use of a tribe even if the trust lands have not been formally designated as a reservation.

EPA has identified the Absentee-Shawnee Tribe of Indians of Oklahoma (Tribe) as an appropriate governmental entity and is therefore requesting comments from the Tribe on the Citizen Potawatomi Nation’s assertion of authority to regulate surface water quality under CWA sections 303(c) and 401 within the lands identified in the Nation’s TAS application. We have enclosed portions of Exhibit 9 of the Citizen Potawatomi Nation’s TAS application which include a table and several maps to assist you in preparing comments. Additional information from the Citizen Potawatomi Nation’s TAS application is available at the following EPA Region 6 website: <https://epa.gov/wqs-tech/water-quality-standards-regulations-citizen-potawatomi-nation>. Other maps in Exhibit 9 identify the floodplain for tribal trust lands. Please note that the Nation’s TAS application only includes lands held in trust by the federal government for the Citizen Potawatomi Nation.

In addition, EPA is initiating consultation with the Tribe. This consultation process will be conducted in accordance with the *EPA Policy on Consultation and Coordination with Indian Tribes* (<http://www.epa.gov/tribal/epa-policy-consultation-and-coordination-indian-tribes>). EPA invites you and your designated consultation representative(s) to participate in this process. EPA’s anticipated timeline for the consultation and coordination period is expected to extend from the date of receipt of this letter to January 13, 2017. We have enclosed background information and a consultation plan for this action that includes the process EPA intends to follow and a timeline for both the consultation period.

If you wish to engage in government-to-government consultation, please contact Randy Gee, Office of Environmental Justice and Tribal Affairs Associate Director at (214) 665-8355. You may also contact Randy Gee for any questions about the consultation and coordination process. For questions about EPA’s review of this TAS application, you or your staff may contact Diane Evans of my staff at (214) 665-6677 (evans.diane@epa.gov).

Comments may be submitted by mail or email (R6TAScomments@epa.gov) to EPA Region 6 no later than the close of business on January 13, 2017. Following EPA's and the Citizen Potawatomi Nation's review and consideration of all comments, EPA will make a final determination of the Citizen Potawatomi Nation’s eligibility for TAS for CWA sections 303(c) and 401. We will notify you of EPA’s final determination.

If you have any questions, please contact me at (214) 665-7101. I look forward to hearing from you on this important matter.

Sincerely,



William K. Honker, P.E.
Director
Water Division

Enclosures

1. Exhibit 9 from TAS application (table and maps of tribal trust parcels)
2. Background Information/Tribal Consultation and Coordination Process and Timeline

cc: Ken Jones, Environmental Director
Absentee-Shawnee Tribe of Indians of Oklahoma

John Barrett, Tribal Chairman
Citizen Potawatomi Nation

Arthur Muller, Environmental Director
Citizen Potawatomi Nation

Background information

The Citizen Potawatomi Nation, located in Cleveland and Pottawatomie Counties in the State of Oklahoma, has applied to the U.S. Environmental Protection Agency (EPA) Region 6 for eligibility under section 518(e) of the Clean Water Act (CWA) for treatment in a manner similar to a state (TAS) for the water quality standards and water quality certification regulatory programs (CWA sections 303(c) and 401, respectively).

EPA’s approval of the TAS application would allow the Citizen Potawatomi Nation to submit water quality standards identical to those of the State of Oklahoma to EPA for review and action under CWA section 303(c) for all surface waters within the lands identified in the Nation’s application. These surface waters include portions of the North Canadian River, Squirrel Creek, North Deer Creek, Brier Creek, and several unnamed tributaries. Approval would also provide the Citizen Potawatomi Nation with the authority to issue or deny section 401 certification for federal permits or licenses for activities on these lands that may result in a discharge to surface waters.

The Citizen Potawatomi Nation’s TAS application is available at the following EPA Region 6 website: <https://epa.gov/wqs-tech/water-quality-standards-regulations-citizen-potawatomi-nation>. Portions of exhibit 9 of Citizen Potawatomi Nation’s TAS application include a table and maps of the lands over which the Nation asserts authority to regulate surface water quality under CWA sections 303(c) and 401. Other maps in Exhibit 9 identify the floodplain for tribal trust lands. The Nation’s TAS application only includes lands held in trust by the federal government for the Citizen Potawatomi Nation.

Tribal Consultation and Coordination Process and Timeline

Date	Event	Contact Information
Receipt of letter dated November 22, 2016	Start of Tribal Consultation period with Absentee -Shawnee Tribe of Indians of Oklahoma	<p><i>Please submit comments to:</i> Mr. William Honker, P.E. Water Division Director EPA Region 6 (6WQ-EW) 1445 Ross Avenue, Suite 1200 Dallas, TX 75202</p> <p><i>For questions about the consultation and coordination process:</i> Mr. Randy Gee, (214) 665-8355 gee.randy@epa.gov</p> <p><i>For questions about EPA’s review of this TAS application:</i> Ms. Diane Evans, (214) 665-6677 evans.diane@epa.gov</p>
November 22, 2016	Notification to state, federal, and other entities (comments due January 13, 2017)	
December 1, 2016	Anticipated publication of public notice in <i>The Shawnee News-Star</i> and <i>The Countywide News</i> (comment period closing on January 13, 2017)	
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1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202 – 2733

NOV 22 2016

The Honorable Bill Anoatubby
Governor
The Chickasaw Nation
P.O. Box 1548
Ada, OK 74821-1548

Re: Notification of consultation and coordination on Citizen Potawatomi Nation's application for eligibility under Clean Water Act section 518(e)

Dear Governor Anoatubby:

The U.S. Environmental Protection Agency (EPA) is initiating consultation and coordination with the Chickasaw Nation on EPA's review of an application from the Citizen Potawatomi Nation (the "Nation") for eligibility under §518(e) of the Clean Water Act (CWA) for treatment in a manner similar to a state (TAS) for the water quality standards and water quality certification regulatory programs (CWA sections 303(c) and 401, respectively). While the Nation's application for eligibility also includes the CWA section 319 nonpoint source grant program, this letter and notification relates only to the water quality standards and water quality certification programs.

As a preliminary matter and as required by the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (SAFETEA) (Public Law 109-59, 119 Stat. 1144 (August 10, 2005)), on January 13, 2011, EPA approved an environmental Cooperative Agreement between the Citizen Potawatomi Nation (the "Nation") and the state of Oklahoma for the joint administration of water programs within the Nation. Following that approval, the Citizen Potawatomi Nation submitted the above mentioned application for EPA's determination that the tribe is eligible for TAS. At this time, EPA is reviewing the Citizen Potawatomi Nation's TAS application in accordance with the federal water quality standards regulation at 40 CFR 131.8, which describes the TAS eligibility criteria, application requirements, and EPA procedures for processing TAS applications for the water quality standards and water quality certification programs.

EPA's approval of the TAS application would allow the Citizen Potawatomi Nation to submit water quality standards identical to those of the state of Oklahoma to EPA for review and action under CWA section 303(c) for all surface waters within the lands identified in the Nation's application. These surface waters include portions of the North Canadian River, Squirrel Creek, North Deer Creek, Brier Creek, and several unnamed tributaries. Approval would also provide the Citizen Potawatomi Nation with the authority to issue or deny section 401 certification for federal permits or licenses for activities on these lands that may result in a discharge to surface waters.

The federal regulation at 40 CFR 131.8(c) requires EPA to notify and request comments from “appropriate governmental entities” on the Citizen Potawatomi Nation’s assertion of authority to regulate surface water quality under CWA sections 303(c) and 401 within the lands identified in the Nation’s TAS application. EPA defines the phrase “governmental entities” as “states, tribes, and other federal entities located contiguous to the reservation of the tribe” which is applying for TAS. See 56 Fed. Reg. 64884 (December 12, 1991). Consistent with federal Indian law, EPA treats as reservations trust lands validly set aside for the use of a tribe even if the trust lands have not been formally designated as a reservation.

To EPA’s knowledge, the Chickasaw Nation does not have lands located contiguous to the Citizen Potawatomi Nation’s tribal trust parcels. However, the Oklahoma Tribal Statistical Area (OTSA) boundary identified by the U.S. Census Bureau for the Chickasaw Nation is located contiguous to the Citizen Potawatomi Nation-Absentee Shawnee OTSA boundary. Therefore, EPA is providing this notice as a courtesy should the Chickasaw Nation wish to submit comments or engage in consultation with EPA.

We have enclosed portions of Exhibit 9 of the Citizen Potawatomi Nation’s TAS application which include a table and several maps to assist you in preparing comments. Additional information from the Citizen Potawatomi Nation’s TAS application is available at the following EPA Region 6 website: <https://epa.gov/wqs-tech/water-quality-standards-regulations-citizen-potawatomi-nation>. Other maps in Exhibit 9 identify the floodplain for tribal trust lands. Please note that the Nation’s TAS application only includes lands held in trust by the federal government for the Citizen Potawatomi Nation.

This consultation and coordination process will be conducted in accordance with the *EPA Policy on Consultation and Coordination with Indian Tribes* (<http://www.epa.gov/tribal/epa-policy-consultation-and-coordination-indian-tribes>). EPA invites you and your designated consultation representative(s) to participate in this process. EPA’s anticipated timeline for the consultation and coordination period is expected to extend from the date of receipt of this letter to January 13, 2017. We have enclosed background information and a consultation plan for this action that includes the process EPA intends to follow and a timeline for both the consultation period.

If you wish to engage in government-to-government consultation, please contact Randy Gee, Office of Environmental Justice, Tribal and International Affairs Associate Director at (214) 665-8355. You may also contact Randy Gee for any questions about the consultation and coordination process. For questions about EPA’s review of this TAS application, you or your staff may contact Diane Evans of my staff at (214) 665-6677 (evans.diane@epa.gov).

Comments may be submitted by mail or email (R6TAScomments@epa.gov) to EPA Region 6 no later than the close of business on January 13, 2017. Following EPA’s and the Citizen Potawatomi Nation’s review and consideration of all comments, EPA will make a final determination of the Citizen Potawatomi Nation’s eligibility for TAS for CWA sections 303(c) and 401. We will notify you of EPA’s final determination.

If you have any questions, please contact me at (214) 665-7101. I look forward to hearing from you on this important matter.

Sincerely,



William K. Honker, P.E.
Director
Water Division

Enclosures:

1. Citizen Potawatomi Nation Exhibit 9 (table and maps of tribal trust parcels)
2. Background Information/Tribal Consultation and Coordination Process and Timeline

cc: Linda Robins, Director of Environmental Services
The Chickasaw Nation

John Barrett, Tribal Chairman
Citizen Potawatomi Nation

Arthur Muller, Environmental Director
Citizen Potawatomi Nation

Background information

The Citizen Potawatomi Nation, located in Cleveland and Pottawatomie Counties in the State of Oklahoma, has applied to the U.S. Environmental Protection Agency (EPA) Region 6 for eligibility under section 518(e) of the Clean Water Act (CWA) for treatment in a manner similar to a state (TAS) for the water quality standards and water quality certification regulatory programs (CWA sections 303(c) and 401, respectively).

EPA’s approval of the TAS application would allow the Citizen Potawatomi Nation to submit water quality standards identical to those of the State of Oklahoma to EPA for review and action under CWA section 303(c) for all surface waters within the lands identified in the Nation’s application. These surface waters include portions of the North Canadian River, Squirrel Creek, North Deer Creek, Brier Creek, and several unnamed tributaries. Approval would also provide the Citizen Potawatomi Nation with the authority to issue or deny section 401 certification for federal permits or licenses for activities on these lands that may result in a discharge to surface waters.

The Citizen Potawatomi Nation’s TAS application is available at the following EPA Region 6 website: <https://epa.gov/wqs-tech/water-quality-standards-regulations-citizen-potawatomi-nation>. Portions of exhibit 9 of Citizen Potawatomi Nation’s TAS application include a table and maps of the lands over which the Nation asserts authority to regulate surface water quality under CWA sections 303(c) and 401. Other maps in Exhibit 9 identify the floodplain for tribal trust lands. The Nation’s TAS application only includes lands held in trust by the federal government for the Citizen Potawatomi Nation.

Tribal Consultation and Coordination Process and Timeline

Date	Event	Contact Information
Receipt of letter dated November 22, 2016	Start of Tribal Consultation period with The Chickasaw Nation	<i>Please submit comments to:</i> Mr. William Honker, P.E. Water Division Director EPA Region 6 (6WQ-EW) 1445 Ross Avenue, Suite 1200 Dallas, TX 75202 <i>For questions about the consultation and coordination process:</i> Mr. Randy Gee, (214) 665-8355 gee.randy@epa.gov <i>For questions about EPA’s review of this TAS application:</i> Ms. Diane Evans, (214) 665-6677 evans.diane@epa.gov
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December 1, 2016	Anticipated publication of public notice in <i>The Shawnee News-Star</i> and <i>The Countywide News</i> (comment period closing on January 13, 2017)	
Anticipated January 13, 2017	Closing date of Tribal Consultation	



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200

DALLAS, TEXAS 75202 – 2733

NOV 22 2016

The Honorable David Pacheco Jr.
Chairman
Kickapoo Tribe of Oklahoma
P.O. Box 70
McLoud, OK 74851

Re: Notification of Citizen Potawatomi Nation's application for eligibility under Clean Water Act section 518(e)

Dear Chairman Pacheco:

The Citizen Potawatomi Nation, located in Cleveland and Pottawatomie counties in the state of Oklahoma, applied to the U.S. Environmental Protection Agency (EPA) for eligibility under section 518(e) of the Clean Water Act (CWA) for treatment in a manner similar to a state (TAS) for the water quality standards and water quality certification regulatory programs (CWA sections 303(c) and 401, respectively), as well as for the nonpoint source grant program (CWA section 319). This letter and notification relates only to the water quality standards and water quality certification programs.

As a preliminary matter and as required by the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (SAFETEA) (Public Law 109-59, 119 Stat. 1144 (August 10, 2005)), on January 13, 2011, EPA approved an environmental Cooperative Agreement between the Citizen Potawatomi Nation (the "Nation") and the state of Oklahoma for the joint administration of water programs within the Nation. Following that approval, the Citizen Potawatomi Nation submitted the above mentioned application for EPA's determination that the tribe is eligible for TAS. At this time, EPA is reviewing the Citizen Potawatomi Nation's TAS application in accordance with the federal water quality standards regulation at 40 CFR 131.8, which describes the TAS eligibility criteria, application requirements, and EPA procedures for processing TAS applications for the water quality standards and water quality certification programs.

EPA's approval of the TAS application would allow the Citizen Potawatomi Nation to submit water quality standards identical to those of the state of Oklahoma to EPA for review and action under CWA section 303(c) for all surface waters within the lands identified in the Nation's application. These surface waters include portions of the North Canadian River, Squirrel Creek, North Deer Creek, Brier Creek, and several unnamed tributaries. Approval would also provide the Citizen Potawatomi Nation with the authority to issue or deny section 401 certification for federal permits or licenses for activities on these lands that may result in a discharge to surface waters.

The federal regulation at 40 CFR 131.8(c) requires EPA to notify and request comments from “appropriate governmental entities” on the Citizen Potawatomi Nation’s assertion of authority to regulate surface water quality under CWA sections 303(c) and 401 within the lands identified in the Nation’s TAS application. EPA defines the phrase “governmental entities” as “states, tribes, and other federal entities located contiguous to the reservation of the tribe” which is applying for TAS. See 56 Fed. Reg. 64884 (December 12, 1991). Consistent with federal Indian law, EPA treats as reservations trust lands validly set aside for the use of a tribe even if the trust lands have not been formally designated as a reservation.

EPA has identified the Kickapoo Tribe of Oklahoma (Tribe) as an appropriate governmental entity and is therefore requesting comments from the Tribe on the Citizen Potawatomi Nation’s assertion of authority to regulate surface water quality under CWA sections 303(c) and 401 within the lands identified in the Nation’s TAS application. We have enclosed portions of Exhibit 9 of the Citizen Potawatomi Nation’s TAS application which include a table and several maps to assist you in preparing comments. Additional information from the Citizen Potawatomi Nation’s TAS application is available at the following EPA Region 6 website: <https://epa.gov/wqs-tech/water-quality-standards-regulations-citizen-potawatomi-nation>. Other maps in Exhibit 9 identify the floodplain for tribal trust lands. Please note that the Nation’s TAS application only includes lands held in trust by the federal government for the Citizen Potawatomi Nation.

In addition, EPA is initiating consultation with the Tribe. This consultation process will be conducted in accordance with the *EPA Policy on Consultation and Coordination with Indian Tribes* (<http://www.epa.gov/tribal/epa-policy-consultation-and-coordination-indian-tribes>). EPA invites you and your designated consultation representative(s) to participate in this process. EPA’s anticipated timeline for the consultation and coordination period is expected to extend from the date of receipt of this letter to January 13, 2017. We have enclosed background information and a consultation plan for this action that includes the process EPA intends to follow and a timeline for both the consultation period.

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Comments may be submitted by mail or email (R6TAScomments@epa.gov) to EPA Region 6 no later than the close of business on January 13, 2017. Following EPA's and the Citizen Potawatomi Nation's review and consideration of all comments, EPA will make a final determination of the Citizen Potawatomi Nation’s eligibility for TAS for CWA sections 303(c) and 401. We will notify you of EPA’s final determination.

If you have any questions, please contact me at (214) 665-7101. I look forward to hearing from you on this important matter.

Sincerely,



William K. Honker, P.E.
Director
Water Division

Enclosures:

1. Citizen Potawatomi Nation Exhibit 9 (table and maps of tribal trust parcels)
2. Background Information/Tribal Consultation and Coordination Process and Timeline

cc: Darren Shields, Environmental Director
Kickapoo Tribe of Oklahoma

John Barrett, Tribal Chairman
Citizen Potawatomi Nation

Arthur Muller, Environmental Director
Citizen Potawatomi Nation

Background information

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EPA’s approval of the TAS application would allow the Citizen Potawatomi Nation to submit water quality standards identical to those of the State of Oklahoma to EPA for review and action under CWA section 303(c) for all surface waters within the lands identified in the Nation’s application. These surface waters include portions of the North Canadian River, Squirrel Creek, North Deer Creek, Brier Creek, and several unnamed tributaries. Approval would also provide the Citizen Potawatomi Nation with the authority to issue or deny section 401 certification for federal permits or licenses for activities on these lands that may result in a discharge to surface waters.

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Tribal Consultation and Coordination Process and Timeline

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REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202 – 2733

NOV 22 2016

The Honorable Kay Rhoads
Principal Chief
Sac and Fox Nation
Route 2, Box 246
Stroud, OK 74079

Re: Notification of consultation and coordination on Citizen Potawatomi Nation's application for eligibility under Clean Water Act section 518(e)

Dear Principal Chief Rhoads:

The U.S. Environmental Protection Agency (EPA) is initiating consultation and coordination with the Sac and Fox Nation on EPA's review of an application from the Citizen Potawatomi Nation (the "Nation") for eligibility under §518(e) of the Clean Water Act (CWA) for treatment in a manner similar to a state (TAS) for the water quality standards and water quality certification regulatory programs (CWA sections 303(c) and 401, respectively). While the Nation's application for eligibility also includes the CWA section 319 nonpoint source grant program, this letter and notification relates only to the water quality standards and water quality certification programs.

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To EPA’s knowledge, the Sac and Fox Nation does not have lands located contiguous to the Citizen Potawatomi Nation’s tribal trust parcels. However, the Oklahoma Tribal Statistical Area (OTSA) boundary identified by the U.S. Census Bureau for the Sac and Fox Nation is located contiguous to the Citizen Potawatomi Nation-Absentee Shawnee OTSA boundary. Therefore, EPA is providing this notice as a courtesy should the Sac and Fox Nation wish to submit comments or engage in consultation with EPA.

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If you have any questions, please contact me at (214) 665-7101. I look forward to hearing from you on this important matter.

Sincerely,



William K. Honker, P.E.
Director
Water Division (6WQ)

Enclosures:

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cc: Jeremy Fincher, Environmental Director
Sac and Fox Nation

John Barrett, Tribal Chairman
Citizen Potawatomi Nation

Arthur Muller, Environmental Director
Citizen Potawatomi Nation

Background information

The Citizen Potawatomi Nation, located in Cleveland and Pottawatomie Counties in the State of Oklahoma, has applied to the U.S. Environmental Protection Agency (EPA) Region 6 for eligibility under section 518(e) of the Clean Water Act (CWA) for treatment in a manner similar to a state (TAS) for the water quality standards and water quality certification regulatory programs (CWA sections 303(c) and 401, respectively).

EPA’s approval of the TAS application would allow the Citizen Potawatomi Nation to submit water quality standards identical to those of the State of Oklahoma to EPA for review and action under CWA section 303(c) for all surface waters within the lands identified in the Nation’s application. These surface waters include portions of the North Canadian River, Squirrel Creek, North Deer Creek, Brier Creek, and several unnamed tributaries. Approval would also provide the Citizen Potawatomi Nation with the authority to issue or deny section 401 certification for federal permits or licenses for activities on these lands that may result in a discharge to surface waters.

The Citizen Potawatomi Nation’s TAS application is available at the following EPA Region 6 website: <https://epa.gov/wqs-tech/water-quality-standards-regulations-citizen-potawatomi-nation>. Portions of exhibit 9 of Citizen Potawatomi Nation’s TAS application include a table and maps of the lands over which the Nation asserts authority to regulate surface water quality under CWA sections 303(c) and 401. Other maps in Exhibit 9 identify the floodplain for tribal trust lands. The Nation’s TAS application only includes lands held in trust by the federal government for the Citizen Potawatomi Nation.

Tribal Consultation and Coordination Process and Timeline

Date	Event	Contact Information
Receipt of letter dated November 22, 2016	Start of Tribal Consultation period with Sac and Fox Nation	<i>Please submit comments to:</i> Mr. William Honker, P.E. Water Division Director EPA Region 6 (6WQ-EW) 1445 Ross Avenue, Suite 1200 Dallas, TX 75202 <i>For questions about the consultation and coordination process:</i> Mr. Randy Gee, (214) 665-8355 gee.randy@epa.gov <i>For questions about EPA’s review of this TAS application:</i> Ms. Diane Evans, (214) 665-6677 evans.diane@epa.gov
November 22, 2016	Notification to state, federal, and other entities (comments due January 13, 2017)	
December 1, 2016	Anticipated publication of public notice in <i>The Shawnee News-Star</i> and <i>The Countywide News</i> (comment period closing on January 13, 2017)	
Anticipated January 13, 2017	Closing date of Tribal Consultation	



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TEXAS 75202 – 2733

NOV 22 2016

The Honorable Leonard Harjo
Principal Chief
The Seminole Nation of Oklahoma
P.O. Box 1498
Wewoka, OK 74884

Re: Notification of consultation and coordination on Citizen Potawatomi Nation's application for eligibility under Clean Water Act section 518(e)

Dear Principal Chief Harjo:

The U.S. Environmental Protection Agency (EPA) is initiating consultation and coordination with the Seminole Nation of Oklahoma on EPA's review of an application from the Citizen Potawatomi Nation (the "Nation") for eligibility under §518(e) of the Clean Water Act (CWA) for treatment in a manner similar to a state (TAS) for the water quality standards and water quality certification regulatory programs (CWA sections 303(c) and 401, respectively). While the Nation's application for eligibility also includes the CWA section 319 nonpoint source grant program, this letter and notification relates only to the water quality standards and water quality certification programs.

As a preliminary matter and as required by the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (SAFETEA) (Public Law 109-59, 119 Stat. 1144 (August 10, 2005)), on January 13, 2011, EPA approved an environmental Cooperative Agreement between the Citizen Potawatomi Nation (the "Nation") and the state of Oklahoma for the joint administration of water programs within the Nation. Following that approval, the Citizen Potawatomi Nation submitted the above mentioned application for EPA's determination that the tribe is eligible for TAS. At this time, EPA is reviewing the Citizen Potawatomi Nation's TAS application in accordance with the federal water quality standards regulation at 40 CFR 131.8, which describes the TAS eligibility criteria, application requirements, and EPA procedures for processing TAS applications for the water quality standards and water quality certification programs.

EPA's approval of the TAS application would allow the Citizen Potawatomi Nation to submit water quality standards identical to those of the state of Oklahoma to EPA for review and action under CWA section 303(c) for all surface waters within the lands identified in the Nation's application. These surface waters include portions of the North Canadian River, Squirrel Creek, North Deer Creek, Brier Creek, and several unnamed tributaries. Approval would also provide the Citizen Potawatomi Nation with the authority to issue or deny section 401 certification for federal permits or licenses for activities on these lands that may result in a discharge to surface waters.

The federal regulation at 40 CFR 131.8(c) requires EPA to notify and request comments from “appropriate governmental entities” on the Citizen Potawatomi Nation’s assertion of authority to regulate surface water quality under CWA sections 303(c) and 401 within the lands identified in the Nation’s TAS application. EPA defines the phrase “governmental entities” as “states, tribes, and other federal entities located contiguous to the reservation of the tribe” which is applying for TAS. See 56 Fed. Reg. 64884 (December 12, 1991). Consistent with federal Indian law, EPA treats as reservations trust lands validly set aside for the use of a tribe even if the trust lands have not been formally designated as a reservation.

To EPA’s knowledge, the Seminole Nation of Oklahoma does not have lands located contiguous to the Citizen Potawatomi Nation’s tribal trust parcels. However, the Oklahoma Tribal Statistical Area (OTSA) boundary identified by the U.S. Census Bureau for the Seminole Nation of Oklahoma is located contiguous to the Citizen Potawatomi Nation-Absentee Shawnee OTSA boundary. Therefore, EPA is providing this notice as a courtesy should the Seminole Nation of Oklahoma wish to submit comments or engage in consultation with EPA.

We have enclosed portions of Exhibit 9 of the Citizen Potawatomi Nation’s TAS application which include a table and several maps to assist you in preparing comments. Additional information from the Citizen Potawatomi Nation’s TAS application is available at the following EPA Region 6 website: <https://epa.gov/wqs-tech/water-quality-standards-regulations-citizen-potawatomi-nation>. Other maps in Exhibit 9 identify the floodplain for tribal trust lands. Please note that the Nation’s TAS application only includes lands held in trust by the federal government for the Citizen Potawatomi Nation.

This consultation and coordination process will be conducted in accordance with the *EPA Policy on Consultation and Coordination with Indian Tribes* (<http://www.epa.gov/tribal/epa-policy-consultation-and-coordination-indian-tribes>). EPA invites you and your designated consultation representative(s) to participate in this process. EPA’s anticipated timeline for the consultation and coordination period is expected to extend from the date of receipt of this letter to January 13, 2017. We have enclosed background information and a consultation plan for this action that includes the process EPA intends to follow and a timeline for both the consultation period.

If you wish to engage in government-to-government consultation, please contact Randy Gee, Office of Environmental Justice, Tribal and International Affairs Associate Director at (214) 665-8355. You may also contact Randy Gee for any questions about the consultation and coordination process. For questions about EPA’s review of this TAS application, you or your staff may contact Diane Evans of my staff at (214) 665-6677 (evans.diane@epa.gov).

Comments may be submitted by mail or email to EPA Region 6 no later than the close of business on January 13, 2017. Following EPA's and the Citizen Potawatomi Nation's review and consideration of all comments, EPA will make a final determination of the Citizen Potawatomi Nation’s eligibility for TAS for CWA sections 303(c) and 401. We will notify you of EPA’s final determination.

If you have any questions, please contact me at (214) 665-7101. I look forward to hearing from you on this important matter.

Sincerely,



William K. Honker, P.E.

Director

Water Division

Enclosures:

1. Citizen Potawatomi Nation Exhibit 9 (table and maps of tribal trust parcels)
2. Background Information/Tribal Consultation and Coordination Process and Timeline

cc: Mickey Douglas, Environmental Director
The Seminole Nation of Oklahoma

John Barrett, Tribal Chairman
Citizen Potawatomi Nation

Arthur Muller, Environmental Director
Citizen Potawatomi Nation

Background information

The Citizen Potawatomi Nation, located in Cleveland and Pottawatomie Counties in the State of Oklahoma, has applied to the U.S. Environmental Protection Agency (EPA) Region 6 for eligibility under section 518(e) of the Clean Water Act (CWA) for treatment in a manner similar to a state (TAS) for the water quality standards and water quality certification regulatory programs (CWA sections 303(c) and 401, respectively).

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Tribal Consultation and Coordination Process and Timeline

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