

Submitted via [IRASTakeholders@epa.gov](mailto:IRASTakeholders@epa.gov)

To: U.S. Environmental Protection Agency

From: Diné C.A.R.E., Environmental Defense Fund, Grand Canyon Trust, Naeva, Western Environmental Law Center, Western Leaders Network

Re: Funding Opportunities for Tribes under the Methane Emissions Reduction Program

Date: June 2, 2023

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The Environmental Protection Agency (EPA) is soliciting feedback on providing financial and technical assistance authorized under the Methane Emissions Reduction Program (MERP). These comments are submitted on behalf of the undersigned organizations.

Tribal communities are disproportionately impacted by harmful pollution from the oil and gas sector. As EPA noted in its recent proposal to regulate emissions from this sector, Native American populations on average may be exposed to a higher concentration of ozone from oil and natural gas VOC emissions than white populations.<sup>1</sup> A recent study by Clean Air Task Force demonstrates that Native Americans who are part of the Navajo Nation in Utah and New Mexico and the Fort Berthold Indian Reservation are two times more likely to live within a half mile of an oil and gas facility compared to individuals in encompassing states, and that those in Uintah-Ouray (Northern Ute) are forty-two times more likely to be within a half mile than individuals in encompassing states.<sup>2</sup> The importance of prioritizing pollution mitigation from the oil and gas sector in tribal lands thus cannot be overstated.

With the passage of MERP and its \$1.55 billion appropriation from Congress, EPA has an important opportunity to fund programs that will significantly reduce emissions while protecting communities and a responsibility to ensure that Tribal communities and governments share in the benefits of this program. Under the Clean Air Act, Tribes have authority to implement and enforce EPA standards within their territories. However, Tribes may not have the financial means to utilize that authority. Financial and technical assistance should thus be prioritized under MERP to help support tribal implementation, monitoring, and enforcement of methane standards.

Clean Air Act section 111 allows EPA to delegate primary implementation and enforcement authority for both new source standards and emission guidelines (once there is an approved state or tribal plan or a federal plan in place) to state, local, or tribal regulatory agencies. Upon delegation of a standard, sources must send any required notifications or reports directly to the delegated agency. The delegated agency may also receive authority to make certain source-specific decisions that reflect flexibility allowed by the standard. Further, the delegated authority

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<sup>1</sup> EPA, Regulatory Impact Analysis of the Final Emission Standards for New and Modified Sources in the Oil and Natural Gas Sector Sources “EPA RIA), 4-18 (October 2021).

<sup>2</sup> Clean Air Task Force, Tribal Communities at Risk: The Disproportionate Impacts of Oil and Gas Air Pollution on Tribal Air Quality (2018) 3, available at [https://cdn.catf.us/wp-content/uploads/2018/05/21094517/Tribal\\_Communities\\_At\\_Risk.pdf](https://cdn.catf.us/wp-content/uploads/2018/05/21094517/Tribal_Communities_At_Risk.pdf).

has authority to implement the standards, monitor for compliance, and pursue enforcement actions.

EPA should prioritize providing MERP funding for Tribes that apply for and receive Clean Air Act section 111 delegated authority to support implementation and enforcement of the 111 standards. Specifically, funding support should be directed to:

*1. Monitoring and Enforcement*

Many tribal agencies are understaffed and under-resourced, limiting their ability to pursue enforcement actions when they receive information about emission violations. MERP funding can be used to help Tribes develop implementation plans and hire additional inspectors and other enforcement staff to conduct monitoring and identify potential regulatory violations, thereby ensuring that emission reductions are actually achieved while empowering Tribes.

In addition to providing funding for Tribal government monitoring and enforcement, EPA should likewise provide funding for monitoring to local Tribal stakeholders like grassroots groups and local tribal entities like Navajo Chapters, as well as partnerships between tribal governments and these groups.

*2. Administrative Costs*

MERP funding can also help Tribes address administrative costs associated with section 111 monitoring and enforcement and delegation.

Finally, we urge EPA to engage in direct outreach with Tribal groups in designing MERP funding programs and to provide clear guidance on how funding can benefit Tribal governments and local stakeholders once funding is available.

Thank you for the opportunity to comment on implementation of this important legislation.

Sincerely,

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