

February 14, 2025

Lee Zeldin
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20004
via email: zeldin.lee@epa.gov

RE: EPA Treatment of Tribal Nations in Implementation of Administration Priorities

Dear Administrator Zeldin:

On behalf of the undersigned organizations that collectively serve the majority of sovereign Tribal Nations and their citizens and communities, we write to congratulate you on being confirmed to lead the U.S. Environmental Protection Agency (EPA). We request a meeting with you as soon as possible to discuss implementing President Trump's priorities in a manner that recognizes the sovereign governmental status of Tribal Nations and the United States' longstanding trust and treaty obligations.

We appreciate your experience working with and building relationships with the Tribal Nations in New York and are grateful to have someone with your knowledge at the helm of the EPA. Too often, Indian Country is ignored by federal agencies, and there is a lack of understanding about how Tribal Nations benefit Tribal and surrounding communities and the regions in which we are located.

Tribal Nations are and always have been inherently sovereign governments that have strong political relationships with our Tribal citizens and community members. We govern and police our lands, and we provide services aimed at keeping our communities safe. Tribal Nations also have political, government-to-government relationships with the United States, and we prepaid with our lands and resources for trust and treaty obligations that the United States owes us. The U.S. Constitution singles out Tribal Nations and Native people as unique, and the U.S. Supreme Court has time and again affirmed the principle that United States actions that deliver on trust and treaty obligations to Tribal Nations, Tribal citizens, and Tribal communities do not run afoul of the U.S. Constitution's equal protection requirements.

The United States fulfills its trust and treaty obligations through both the direct delivery of Tribal programs and services and provision of federal funding to Tribal Nations and Tribal organizations serving Tribal Nations. Over time, the United States has created a web of different mechanisms it uses to deploy federal funding to serve Tribal Nations and Tribal communities. Essential services provided by Federal employees include healthcare services through the Indian Health Service, law enforcement and public safety through the Bureau of Indian Affairs, and educational services through the Bureau of Indian Education—not to mention countless other essential and legally mandated services. Any Tribal program or funding delivered to Tribal Nations—including through Urban Indian Organizations and Tribal organizations serving Tribal Nations—is provided in furtherance of the United States' trust and treaty obligations. The federal employees necessary for the functioning of those Tribal programs and the disbursement of those Tribal funds are also part of the trust and treaty obligations. The United States further has a duty to consult government-to-government with Tribal Nations on federal actions that may have Tribal implications, including implications on delivery of trust and treaty obligations. These actions are not discretionary; they

are legal obligations rooted in treaties, trust obligations, the U.S. Constitution, and long-standing federal statutes.

Coming from New York, you understand the important role Tribal Nations play in the local and regional economies and conservation efforts. Indian Country has long supported a smaller bureaucracy and the lessening of red tape within the federal government. We believe in reducing unnecessary federal regulations, streamlining federal funding mechanisms, growing economic development, and strengthening Tribal Nations' rights of self-determination. Tribal Nations know best how to steward Tribal lands, and we would prefer the federal government respect local control and the exercise of our sovereignty. That being said, federal funding is an important part of the United States' delivery on its trust and treaty obligations to Tribal Nations and Tribal citizens and communities, and the funding Tribal Nations rely on must not become collateral damage in the larger revamping of federal agencies and programs.

President Trump has issued a series of Executive Orders that we believe unintentionally impacted Tribal Nations and Native people. For example, when President Trump issued his Executive Orders limiting diversity, equity, inclusion, and accessibility (DEIA) as well as environmental justice initiatives within federal programming, the EPA froze most of its funding to Tribal Nations. Given our inherent sovereignty and unique political relationships with the United States—a relationship that President Trump has repeatedly recognized within Executive Orders of his own—we are confident that President Trump never intended Tribal Nations to be covered by these Executive Orders. We can only assume that the impacts to Tribal funding after President Trump issued his Executive Orders are a result of agency staff not understanding how to distinguish Tribal Nations from other entities that receive funding from the EPA.

We ask that you and your staff work with us to ensure that the programs and funding the EPA provides to Indian Country are protected from any reorganization and reprioritization and look for ways in which to better identify and separate out funding for Indian Country. We would like to work with you to identify and separate out all programs for which Tribal applicants are eligible, and to revamp some of the non-Tribal specific programs to create Tribal set-asides or at least ensure that Tribal Nations continue to receive funding. We outline below several, but not all, of the various EPA programs that benefit Indian Country, and we hope that we can begin a dialogue with you on ways to ensure that the EPA maintains its trust and treaty obligations to Indian Country:

- Office of Tribal Affairs, with a return back to an office that just focuses on Tribal Nations after a recent change that expanded the office to also include international affairs;
- Clean Air Act Section 103 Grants for Tribes;
- Clean Air Act Section 105 Grants for Tribes;
- Clean Water Indian Set-Aside Grant Program;
- Tribal Clean Water Act Section 106 Grants;
- Tribal Clean Water Act Section 319 Grants;
- Indian Environmental General Assistance;
- Tribal Public Water System Supervision;
- Assistance to Improve Water Quality and Enable Small Public Water Systems;
- Building Blocks for Sustainable Communities; and
- Water Technical Assistance Programs.

Tribal Nations use EPA funds to mitigate past harms caused by federal actions or inactions relating to Tribal lands, waters, and natural resources. Tribal Nations use EPA funds to revitalize Tribal

lands so that Tribal people can use them to live, hunt, fish, and gather cultural resources. Tribal Nations also use Tribal revitalized lands for economic development and tourism, which benefit Tribal communities and also generate revenues and resources for the regions in which Tribal Nations are located. EPA funds are delivered to Tribal Nations in furtherance of the United States' trust and treaty obligations.

Other federal agencies have taken steps to clarify that implementation of the Administration's Executive Orders and priorities should not impact the United States' delivery on trust and treaty obligations to Tribal Nations and our people. On January 30th, the U.S. Department of the Interior, in Secretarial Order 3416, recognized that trust and treaty obligations to Tribal Nations and associated statutory authorities are legal requirements that must not be impaired while implementing President Trump's Executive Orders. On February 6th, the U.S. Department of Health and Human Services (HHS) issued a notice stating that the Executive Order affecting diversity, equity, and inclusion programs does not apply to programs or activities that affect or serve American Indians and Alaska Natives, in part because Tribal Nations are separate sovereigns. Furthermore, on February 4th, HHS announced that the Office of Personnel Management had granted the Indian Health Service a partial exclusion from the deferred resignation program. We request that you take a similar affirmative stance, and that you ensure EPA practice aligns with that stance.

President Trump's first Administration recognized the important status of Tribal Nations and saw Indian Country as a strong partner, particularly during the COVID-19 pandemic when the Administration supported local government control and access for Tribal Nations to set-asides of federal funds that directly addressed Tribal needs. With this in mind, we ask that you and your staff work with us to ensure that EPA's implementation of the Administration's priorities does not harm Tribal Nations or Tribal Nation citizens. Each of the mandates issued by the Administration has acknowledged that it does not affect ongoing legal requirements, and Indian Country programs are legally required by trust and treaty obligations and associated implementing statutes. ***Tribal Nations' exercise of our sovereignty and the United States' delivery on its trust and treaty obligations must not become collateral damage in the Administration's implementation of its priorities.***

We appreciate your timely consideration of these issues and look forward to meeting with you and your staff.

Sincerely,

Affiliated Tribes of Northwest Indians
American Indian Higher Education Consortium
Great Lakes Inter-Tribal Council
Great Plains Tribal Chairman's Association
Midwest Alliance of Sovereign Tribes
National Association of Tribal Historic Preservation Officers
National Congress of American Indians
National Indian Child Welfare Association
National Indian Education Association
National Indian Health Board
Self-Governance Communication & Education Tribal Consortium
United South and Eastern Tribes Sovereignty Protection Fund