

ensure the provisions of the plan can be implemented by EPA through the labeling and Bulletin approach discussed in this Notice. EPA will also determine whether the Services need to be consulted on the contents of the plan before EPA adopts the plan. After the necessary reviews EPA will approve or disapprove the plan. If approved, EPA would then adopt it and could require, through Bulletins, that users comply with the requirements of the plan, as appropriate.

An alternative plan may be submitted to EPA at any time. However, once the federally initiated actions are implemented within an area, those requirements will be effective in that area until the alternative plan is approved for implementation and EPA implements the plan through changes to the appropriate Bulletins. Section 24(a) of FIFRA reserves to States the authority to impose different requirements on registered pesticides provided they do not permit any sale or use prohibited by FIFRA. Accordingly, this Notice is not intended to modify any State authority to impose additional State requirements regarding listed species.

I. Monitoring

EPA is committed to improved use of existing monitoring data in our risk assessments. Federal and State budget outlooks make it important that data being collected through appropriate sources be used to the fullest extent possible to maximize efficiencies and minimize costs. EPA will continue to use, in the most effective manner possible, the information being obtained by the U.S. Geological Survey to detect pesticides in surface water and ground water, information provided to EPA's Office of Water under the Clean Water and Safe Drinking Water Acts, and State- or Tribal-level ground water or surface water monitoring resulting from State or Tribal pesticide program efforts where those results are known to OPP. EPA will also use the technical data identified during ESA section 7 consultations with the Services to assist in determining if pesticide residues are occurring at levels of concern in the environment. Where appropriate terrestrial monitoring is known to EPA, that too will be used in the most effective manner possible, to inform EPA's assessments.

EPA will continue and improve upon its cooperation with the Services, States, Tribes, and others to use reported incidents in which pesticides may have had an impact on listed species and critical habitat. EPA has been working with FWS field offices throughout the country, as well as other federal and

State agencies, to ensure that EPA has the best possible information on incidents. EPA's Environmental Fate and Effects Division maintains an Ecological Incidents Information System to house and retrieve this information. EPA also gathers incident information from registrant reports that are required to be submitted under FIFRA section 6(a)(2).

EPA also intends to develop a process for monitoring the effectiveness of Bulletins after the Program has been in effect for some time. At that time, the Agency will solicit public comment on ways to determine whether Bulletins are effective at protecting listed species and critical habitat.

J. Implementation Timing

Endangered Species Protection Bulletins will be effective and enforceable upon reference to them on a product label. EPA will be establishing a web site prior to enforceable label references appearing on products in the market place, that will allow pesticide users to determine the appropriate Bulletin to follow, if any, as described in Unit III.D.

IV. References

All references are available for public review in the public docket as described in Unit I.B. The references used in this document are:

1. U.S. Environmental Protection Agency. January 23, 2004. Overview of the Ecological Risk Assessment Process in the Office of Pesticide Programs, U.S. Environmental Protection Agency-Endangered and Threatened Species Effects Determinations (<http://epa.gov/espp/consultation/ecorisk-overview.pdf>).

2. U.S. Environmental Protection Agency. 2002. Process for Assessing Potential Risks to Endangered and Threatened Species and Consultation with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service.

3. U.S. Department of the Interior, Fish and Wildlife Service; and U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service. August 5, 2004. Joint Counterpart Endangered Species Act Section 7 Consultation Regulations; Final Rule. 69 FR 47732, codified at 45 CFR part 402.

4. U.S. Environmental Protection Agency; U.S. Department of the Interior, Fish and Wildlife Service; and U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service. August 2004.

Alternative Consultation Agreement for Implementation of Optional Alternative Consultation Procedures (ACA) (<http://www.epa.gov/espp/consultation/final-aca.pdf>).

5. U.S. Fish and Wildlife Service and National Marine Fisheries Service. March 1998. Endangered Species Consultation Handbook, Procedures for Conducting Consultation and Conference Activities Under Section 7 of the Endangered Species Act (<http://www.fws.gov/endangered/consultations/s7hndbk/s7hndbk.htm>).

6. Letter of January 26, 2004 from Steve Williams, U.S. Fish and Wildlife Service and William Hogarth, National Marine Fisheries Service to Susan B. Hazen, U.S. Environmental Protection Agency (<http://www.fws.gov/endangered/consultations/pesticides/evaluation/pdf>).

List of Subjects

Environmental protection, Pesticides, Endangered species.

Dated: October 25, 2005.

Susan B. Hazen,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-7992-9]

Safe Drinking Water Act Determination; Underground Injection Control Program, Determination of Indian Country Status for Purposes of Underground Injection Control Program Permitting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of prospective determination.

SUMMARY: EPA must determine whether any of the approximately 160 acres of land located in the southeast portion of Section 8, Township 16N, Range 16W, in the State of New Mexico, is part of a dependent Indian community under 18 U.S.C. 1151(b) and, thus, considered to be "Indian country." This determination is necessary in order to establish whether EPA or the New Mexico Environment Department is the appropriate agency to issue a particular underground injection control permit under the Safe Drinking Water Act. EPA is seeking comments and information from the public and all interested parties regarding the possible Indian country status of this land and is

considering whether to hold a public hearing on the matter.

DATES: Comments and information on this matter, and any request that a public hearing be held, must be received by January 3, 2006. EPA will consider all timely comments and information that pertain to the Indian country status of the land in question.

ADDRESSES: Written comments should be submitted to David Albright, Ground Water Office Manager, at U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, Mail Code: WTR-9, San Francisco, CA 94105. You may also submit comments by fax at 415.947.3549 or by e-mail at albright.david@epa.gov.

FOR FURTHER INFORMATION CONTACT: David Albright, at albright.david@epa.gov, or 415.972.3971.

SUPPLEMENTARY INFORMATION: Hydro Resources, Inc. (HRI) proposes to operate a uranium in-situ leach mine on an approximately 160-acre parcel of land located in the southeast portion of Section 8, Township 16N, Range 16W in the State of New Mexico ("Section 8 land"). HRI must apply for and receive an underground injection control (UIC) permit under the Safe Drinking Water Act (SDWA) to conduct its mining activities. The State of New Mexico has been authorized by EPA to administer the SDWA UIC program in the State, but that authorization does not extend to Indian country. Due to the State's lack of authorization in Indian country and as a result of a court decision discussed below, EPA must determine whether or not the Section 8 land is Indian country as defined by 18 U.S.C. 1151. EPA is seeking comments and information from the public and all interested parties regarding the Indian country status of the land HRI intends to use for its mining activities. Additionally, recognizing the U.S. Department of the Interior's expertise in these matters, EPA is soliciting the views of and working with the Department.

In the late 1980s, HRI sought an UIC permit for its property located within Section 8. The land is located in an area commonly referred to as the "Eastern Agency of the Navajo Nation" and the Navajo Nation has historically asserted that the land in question is a dependent Indian community. After considering materials submitted by the Navajo Nation and the New Mexico Environment Department (NMED), EPA determined that the Indian country status of the Section 8 land was in dispute and, thus, that EPA would be the appropriate agency to issue the

SDWA UIC permit. The State of New Mexico and HRI challenged EPA's determination with respect to the Indian country status of the land in question. In 2000, in *HRI v. EPA*, 198 F.3d 1224 (10th Cir. 2000), the United States Court of Appeals for the Tenth Circuit upheld EPA's decision to implement the UIC program throughout HRI's Section 8 land because the Indian country status of that land was in dispute. The Court remanded the matter to EPA to make a final administrative decision on the Indian country status of the disputed land.

Recently NMED received a request from HRI for an UIC permit to operate a uranium in-situ leach mine in Section 8. As a result, NMED has formally requested that EPA make a decision on the Indian country status of the Section 8 land. EPA's decision whether the land at issue is Indian country will determine whether EPA or NMED is the appropriate agency to consider the permit request from HRI.

The United States Supreme Court in *Alaska v. Native Village of Venetie Tribal Government*, 522 U.S. 520 (1998), identified two requirements for determining whether land constitutes a dependent Indian community under 18 U.S.C. 1151(b): (1) Whether land has been validly set aside by the Federal government for the use of Indians and (2) whether that land is subject to federal supervision. Additionally, the court in *HRI v. EPA* noted that, prior to *Venetie*, the Tenth Circuit Court of Appeals required a community of reference determination as the first step in determining a dependent Indian community. It also concluded that, because the Supreme Court in *Venetie* was not presented with the question of the proper community of reference and did not speak directly to the propriety of a community of reference analysis, Tenth Circuit precedent continues to require a community of reference analysis.

To ensure EPA has all possible relevant information for making its determination on the Section 8 land status, EPA requests that the public submit information on the following items: the nature of the area in question; Indian and non-Indian land uses; relevant aquifer uses; land ownership patterns; use of area infrastructure and services by Indians and non-Indians; the relationship of inhabitants in the area to Indian tribes and to the Federal government; activities of government agencies toward the area; elements of cohesiveness manifested either by economic pursuits in the area, common interests, or needs of inhabitants supplied by the locality; whether any

lands have been set apart for the use, occupancy, and protection of dependent Indian peoples; whether that land is subject to Federal supervision; and any other relevant information that might assist EPA in making its determination.

EPA welcomes written comments and information from the public and interested parties on whether the Section 8 land constitutes a dependent Indian community in whole or in part. At this time, EPA is limiting its analysis to the question of whether the Section 8 land is a dependent Indian community and, thus, Indian country and will not consider any issues, information, or comments regarding the permitting of mine operations on the Section 8 land. As part of the determination process, EPA is also consulting with the Navajo Nation.

If there is sufficient public interest and a request is made, EPA may consider holding a public hearing to elicit further input from the public on this matter. Such a hearing would not constitute a formal adjudication, but rather would provide an informal opportunity for the public and interested parties to provide additional comments and information.

Dated: October 24, 2005.

Wayne Nastri,

Regional Administrator, Region IX.

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FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

October 19, 2005.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the