

PUBLIC HEARING FOR FEDERAL CLEAN WATER ACT

OCTOBER 27, 2021

MORONGO BAND OF MISSION INDIANS COMMUNITY CENTER
13000 MALKI ROAD, BANNING, CALIFORNIA; 92220

REPORTED BY:

JEANNE L. CROW

CSR NO. 5096

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DANA MOREY: Thank you for joining us this evening. My name is Dana Morey, and I oversee the Environmental Protection Department for the Morongo Band of Mission Indians.

So in April 2018, the tribe was authorized by the U.S. Environmental Protection Agency to administer water quality standards and certification programs under the federal Clean Water Act for all waters on the Morongo Reservation or otherwise subject to the Tribe's jurisdiction.

As a part of that process, the specialists in my department spent many months developing a set of Water Quality Standards that adhere to the federal guidelines.

Tonight's public hearing is an opportunity for the public and interested parties to offer comment on our proposed Water Quality Standards.

These standards will be adopted by Morongo through incorporation into the Tribe's Ordinance 39, Surface Water Protection Ordinance.

1 This ordinance was adopted by Morongo General
2 Membership and Tribal Council in March of 2018. The
3 purpose was to the protect service water quality on the
4 Reservation and protect the health, safety, and welfare
5 of Tribal members and all persons within the boundaries
6 of the Reservation.

7 These standards will prevent the deterioration
8 of water quality and other natural resources resulting
9 from service water pollution. They will also help
10 protect the cultural, social, and economic stability of
11 the Reservation.

12 Per the federal Clean Water Act Regulations,
13 the tribe is required to hold a public hearing to
14 present the proposed Water Quality Standards and to
15 solicit public input on the Standards prior to
16 submission for U.S. EPA approval.

17 Commenters will be given an opportunity to
18 make oral comments or to summarize previously submitted
19 written materials. We welcome all comments including
20 non-technical information such as uses that may need to
21 be added or change in specific water bodies.

22 If you prefer to send written comments, you
23 may e-mail those comments to twp@morongo-nsn.gov with
24 the subject "WQS Comment Letter."

25 You can also e-mail them to the Morongo Band

1 of Mission Indians Environmental Protection Department,
2 12700 Pumarra Road, Banning, California 92220.

3 We will have this contact information on the
4 slides. There is also information at the table over
5 here. Your comments will be accepted through November
6 26, 2021.

7 After our presentation we will open up the
8 floor for public comment.

9 Please note this meeting will be recorded and
10 transcribed to create the record of public hearing. The
11 hearing transcript and response to all comments received
12 will be available on our website

13 Now I would like to introduce Kimberly Miller.
14 She will be making our presentation tonight.

15 We will be dimming the lights so we could see
16 the presentation better, and we will turn those back up
17 as soon as we are done with the presentation

18 Kimberly.

19 KIMBERLY MILLER: Hello, everyone. As Dana
20 said, I am Kimberly Miller, Environmental Specialist
21 with the Tribal Water Program and Water Quality
22 Standards in Morongo's Environmental Protection
23 Department.

24 I am going to give some background on the
25 Morongo's Tribal Water Program and Water Quality

1 Standards, and I will cover the proposed Water Quality
2 Standards, and after that, we will take public comments,
3 and we will call the meeting to end if you would like to
4 give any of those verbally.

5 Background information. Morongo Tribal Water
6 Program receives funding from U.S. Environmental
7 Protection Agencies and carries out water quality
8 protection activities under Section 106 and 319 of the
9 Clean Water Act.

10 We operate using a Tribal regulatory approach
11 with non-regulatory activities to help protect water
12 qualities on the reservation.

13 As Dana mentioned, we have a Surface Water
14 Quality Protection Ordinance also known as ordinance
15 number 39. We will be updating this to standards.

16 We also carry point source pollution
17 activities we suggest for those new projects such as new
18 construction projects, and we help to ensure that the
19 Tribe is in compliance with the Federal Clean Water Act.

20 We receive Treatment as a State, so that
21 authority to implement EPA water standards was in 2018,
22 and we also received the ability to comment on federal
23 permits with 401 certification.

24 As I said, Ordinance 39 is being updated to
25 incorporate all the regulatory requirements for Water

1 Quality Standards.

2 So some background on the Clean Water Act. It
3 is the primary law of regulating water quality.

4 The Clean Water Act establishes the basic structure for
5 regulating discharges of pollutants into the waters of
6 the United States and regulating quality standards for
7 surface waters. The basis of the CWA was enacted in
8 1948 and fully expanded to the law we now have in 1972.

9 The CWA made it unlawful to discharge any
10 pollutant from a point source into navigable waters
11 unless a permit was obtained.

12 The EPA is the federal agency which oversees
13 the implementation of the CWA.

14 Under the Clean Water Act, EPA implements
15 pollution control programs such as setting wastewater
16 standards for industry. EPA has also developed national
17 water quality criteria recommendations for pollutants in
18 surface waters.

19 CWA Section 303 contains the regulations for
20 Water Quality Standards and Implementation.

21 Now, you may be asking yourself, what are
22 Water Quality Standards? Water Quality Standards are a
23 tool for protecting and improving water quality.

24 They define water quality goals through designated uses
25 and criteria to protect these uses.

1 The Clean Water Act itself requires the
2 protection of fish, shellfish, and wildlife as well as
3 water recreation also known as fishable and swimmable
4 uses.

5 Tri bally adopted water quality standards may
6 protect additional uses such as cultural/traditional
7 use.

8 Cri teria may be narrative or numeric.

9 Water quality standards include
10 anti degradation policies for the protection of high
11 quality waters. Water quality standards could provide
12 the basis for permits under the Clean Water Act.

13 This next diagram shows a little bit about how
14 the parts work together.

15 First the use is designated to reflect the
16 goals for the water body. Then criteria is developed to
17 protect the uses designed to the water right.

18 Then finally, anti degradation protects
19 existing uses and high quality waters.

20 These portions are implemented through permits
21 and other federally regulated activities which I will
22 cover a little bit more in the next slide.

23 So some clean water activities are carried out
24 through regulatory acts, and Water Quality Standards are
25 the basis for many of these activities.

1 So permitting is the main way that Water
2 Quality Standards are implemented.

3 This includes developing water quality based
4 effluent limits for the National Pollutant Discharge
5 Elimination System for point sources, also helps with
6 reporting on water quality conditions and impairment
7 status by setting goals and how we are reaching those
8 goals and helps to set targets for total maximum daily
9 loads which are allocations in how much pollutants could
10 be water in each source.

11 Also helps for the justification of
12 certification of federal permits where discharge occurs
13 to water in the United States. This is under Clean
14 Water Act Section 401 certification.

15 Now, Water Quality Standards themselves are
16 not enforceable. This is the law for regulation;
17 however, it is enforceable through permits.

18 So the permits that are under the Clean Water
19 Act are written to protect water quality standards. Any
20 violation is of the applicable permit, not the standards
21 by themselves.

22 For Tribal EPA-approved Water Quality Standard
23 as we are proposing, the Tribe provides their standards
24 to permit writers for regulated projects on the
25 reservation, issues 401 Certifications for federal

1 permits to help protect their water quality requirements
2 and can deny conditions of the Water Quality Standards,
3 and the tribe could also monitor board-inspected
4 projects which they believe are violating a Clean Water
5 Act permit.

6 So EPA works with regulatory partners such as
7 Tribal states to monitor and insure compliance with
8 clean water laws and regulations in order to protect
9 human health and the environment.

10 So now we are going to cover some specific
11 portions of the water quality standards.

12 The first item is the designated use, so how
13 are our water bodies are going to be used on the
14 reservation, and what are the goals for the water
15 bodies.

16 This chart has a lot of information that is
17 very busy also in the water quality standards
18 themselves, but this just lays out what uses are
19 included in our water quality standards.

20 First we have Groundwater Recharge which is
21 using the water to recharge our aquifer through natural
22 or artificial means.

23 Municipal and Domestic Supply helps to feed
24 our community water system.

25 Agricultural Supply could be uses of water

1 include pasture and crop irrigation, stock watering,
2 horticulture, and support of vegetation for range
3 grazing and also other aspects.

4 There are two types of recreational criteria:

5 Primary contact of recreation includes actual
6 body contact activities with the water where there is a
7 possibility of ingesting. These are things like
8 swimming.

9 Secondary contact recreation includes
10 activities where there might not be full body contact
11 and a likelihood of ingesting water. These are
12 activities such as fishing or hiking along waters.

13 We also have culturally significant use. So
14 this depends on the water and depends on the activity.
15 It could be full contact with water, or it could be
16 gathering plants for activities such as around water
17 bodies with limited or no direct contact with water.

18 Then we have water life and livestock habitat.
19 So this is to protect the land, animals, and plants that
20 depends on the water and also provide habitat,
21 vegetation, and resources.

22 Finally we have two fresh water designations
23 in order to protect aquatic life.

24 So the first is warm fresh water habitat which
25 protects those ecosystems redacted to warm water, and we

1 have cold fresh water habitat which substances are
2 colder water.

3 Next we have a map of water bodies included in
4 the water quality standards. I will point them out,
5 because I know they are hard to see.

6 We have Wood Canyon right here. We have The
7 Bog, Lake Morongo, Percolation Ponds, Potero Creek,
8 Hathaway Creek, the San Geronimo River. We have Millard
9 Canyon Creek, One Horse Spring, Deep Canyon Creek.
10 Stubbe Canyon Creek is over here. This is Lion Canyon
11 Creek, and One Horse Creek and One Horse Spring are down
12 here.

13 We also have a map over near the table if you
14 want to see a larger version of this map, and it is also
15 included in the Power Point available on the website.

16 These are the designations for each of those
17 water pods I just pointed out.

18 All waters have ground water recharge,
19 agricultural use, and bio life use designated for them.

20 You could see that all of the water bodies
21 have either primary contact recreation or secondary
22 contact recreation. This is to protect the swimmable
23 use. That's required for the water act.

24 Also, all of the water bodies have either warm
25 fresh water habitat or cold fresh water habitat to

1 protect the water. Millard Canyon Creek and Wood Canyon
2 Creek have levels of the cold fresh water habitat, and
3 also all of the water bodies except for the Percolation
4 Ponds are designated as cultural use.

5 Up next we are going to talk about criteria
6 included in the Water Quality Standards, and these are
7 the requirements and ranges included in the standards.
8 This will be a very brief overview, but I encourage you
9 to review the standards if you would like more
10 information.

11 So the first category of criteria are
12 Narrative Criteria. These indicate water shall be free
13 from pollutants in amounts that will affect designated
14 use. These are things like aesthetic Qualities which
15 might be color or odor.

16 Also, they include path rafters that may vary
17 between streams. So some streams may have entire
18 (inaudible) which could make no sediment. So these are
19 toxicity or turbidity. So these are narrow.

20 Up next we are talking about some of the
21 numeric criteria.

22 So bacteria is one of the main parameters for
23 primary contact recreation and secondary contact
24 recreation. E-coli is the bacteria that we measure. So
25 for primary contact in recreation the geometric mean

1 should not exceed 126 Most Probable Number per 100
2 milliliters nor shall the statistical threshold value
3 exceed 410 Most Probable number for 100 milliliter
4 For secondary contact recreation because there is less
5 body contact, so the geometric mean should not exceed
6 630 Most Probable Number per 100 milliliter nor shall
7 any sample exceed 2000 Most Probable Numbers.

8 We also like the dissolved oxygen to be below
9 5.0 milligrams per liter, pH should range between 6.5
10 and 9.0.

11 For radioactivity, aquatic life criteria, and
12 human health criteria, these are specific numbers for a
13 large fleet of parameters that are included in the water
14 quality standards and also several Tables 1, 2, 3, 4 and
15 5.

16 Now we are going to talk about a few other
17 Water Quality Standards that are required by regulation.

18 So the first portion is anti degradation.
19 This provides a framework for protecting and
20 maintaining water quality that has already been
21 achieved.

22 So waters may fall into one of three
23 categories under anti degradation.

24 Tier 1 waters protect existing uses by
25 currently reaching the level of water quality needed.

1 Tier 2 waters have water quality that exceed
2 the level necessary to support the existing uses;
3 however, water quality may be lower if it is necessary
4 to accommodate important development in the area.

5 So this is a way to make sure that we are also
6 meeting the highest requirements, but finding cost
7 effective and reasonable best management practices to
8 protect the water quality.

9 Finally Tier 3 waters are the highest quality
10 of waters. They could also be designated as outstanding
11 Tribal Resource Waters. These waters have either
12 extremely high water quality or unique ecology that
13 should be protected to the highest degree, and very
14 little activities could occur to lower the water
15 quality.

16 Another component of Water Quality Standards
17 are variances. So these are time-limited designated use
18 and criteria. They are used to make progress on a water
19 body to meet the goal that we would like to have there,
20 or to make it compliant.

21 So this gives time to achieve a goal that is a
22 little bit less than what we would ideally like;
23 however, it is limited to a specific amount of time, and
24 the goal is to reach that ultimate highest use when
25 possible.

1 Finally I want to discuss Triennial Review.
2 It is in the water quality standards regulation that
3 they must be reviewed every three years to comply with
4 applicable Federal and Tribal regulations.

5 This is where we would determine if new uses
6 needed to be added or uses should be changed and to make
7 sure the criteria are up to date with the latest
8 scientific information.

9 So proposed revisions to the Tribe's water
10 quality standards will be made available to the public,
11 and we will have another public hearing such as this
12 meeting in order to go through the public process
13 required and the Code of Federal Regulations 40 CFR
14 25.5.

15 So in conclusion, water quality standards
16 provide the goals for water quality through designated
17 use, water quality criteria, and anti degradation
18 policies.

19 The tribe can set its own standards through
20 tribally created EPA-approved standards, and this
21 asserts Tribal self-governance and can be customized to
22 be more protective in federal standard and may protect
23 unique uses.

24 Compliance with regulation of the Clean Water
25 Act is required regardless of what type water quality

1 standards are in place. With EPA-approved water quality
2 standards, this could ensure that the goals and
3 standards are included into those federal regulations.

4 So for the next steps, we will take comments
5 at this hearing, but you could submit comments for the
6 next 30 days to November 26th. Comments will be
7 reviewed, and we will make any edits if needed to the
8 Water Quality Standards and provide a response to
9 comments.

10 We expect the final approval and submission of
11 standards of EPA to be in March of next year, and
12 documents and related material may be found on our
13 website, morongonation.org/environmental/tribal-water,
14 and this contact information can be found on the bottom
15 of the fact sheet located on the table.

16 So now we have time for public comments.

17 If you don't mind turning on the lights.

18 And then if you would like to have a verbal
19 comment here, we will be happy to take those. You will
20 have an opportunity to step up to the microphone. If
21 you care to give comments, please provide your name and
22 affiliation. We will also accept written comments.
23 They could be e-mailed to twp@morongo.nsn.government
24 with the subject line "WQS Comment Letter" or mailed to
25 the Morongo Band of Mission Indians at Environmental

1 Protection Department, 12700 Pumarra Road, Banning,
2 California, 92220.

3 At this point, any comment?

4 All right. Well, thank you all for coming. I
5 appreciate you listening. Please feel free to take a
6 fact sheet, and I look forward to hearing any further
7 input through November 26th.

8 Thank you.

9 (Proceedings were concluded at 7:15 p.m.)

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REPORTER'S CERTIFICATE

I, JEANNE L. CROW, CSR No. 5096, Certified Shorthand, certify:

That the foregoing proceedings were taken before me at the time and place therein set forth.

That the hearing, questions propounded, and all objections and statements made at the time were recorded stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes so taken.

I further certify that I am not a relative or employee of any attorney of the parties, nor financially interested in the action.

I declare under penalty of perjury under the law of California that the foregoing is true and correct.

Dated this 10th day of November, 2021



Jeanne L. Crow, CSR No. 5096