Red Lake Band of Chippewa Indians
Hazardous Substances Control Act (HSCA)

Tribal Lands Forum
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Red Lake Reservation-
What Did We Want to Protect?

- One of two closed reservations in the United States
- Largest land base (nearly 55%) of all Indian land in US EPA Region 5 that is entirely owned by Tribe
- Total land holdings in excess of 846,000 acres
- 429,000 acres of it are forested
- 242,000 acres of it is lakes
- 466,000 acres are wetlands
- 371 miles of rivers and streams
- 6th largest freshwater lake in the U.S.
- 11,100 enrolled members with 6,300 residing on the reservation.
- 10,800 total service population for the reservation
Getting Started: What Were Our Major Causes For Concern?

• Open Dumping of Garbage and Hazardous Substances
• Open Burning of Garbage and Hazardous Substances
• Non-Reporting of Hazardous Substance Spills
• No Clean Up Action Requirements
Who Could Help?

- Work with Section 128(a) Tribal Response Program Project Officer or equivalent US EPA Program Contact
- Include Legislation Development in Work Plan and Budget
- Must keep Directors or Managers “In the Loop”
- Utilize Tribal Attorney to Advise Tribal Council
- Get Conservation and Police Officers on Your Side

- Develop a Request for Proposals for Qualified Law Firms to Assist in Developing the Legislation
- Carefully Review Proposals – Cheaper Doesn’t Always Meet Your Tribe’s Needs.
- Select the Law Firm that Will Work to Meet Your Tribe’s Needs
- Speak with the Attorney, (Not an Assistant or Para-Legal) who Will Work with You to explain your needs and Expectations for the Project
The Law Firm & Attorney We Chose Developed The HSCA to Meet the Needs of the Red Lake Reservation

1. **It Creates a Voluntary Response Program to Clean Up Existing Contaminated Sites**

2. **It Promotes the Proper Disposal of Waste to Prevent Future Contamination**

3. **It Encourages Recycling, Reuse and Sustainable Living**
Main Substantive Provisions of Our HSCA
The Voluntary Response Program

- VRP is required by Brownfields 128(a) grant
- We added mandatory cleanup too, so that all sites will be addressed
Requires Proper Disposal of Waste

- Open dumping and burning of trash and/or Hazardous Substances are a major cause of contamination for the Red Lake Reservation.
Encourages Recycling and Reuse

- To minimize amount of waste passing through the waste stream
- To save money for the Tribe by reducing transportation costs and tipping fees
Ban Against Open Dumping

When Hazardous Materials are dumped, they could threaten soil, groundwater, and wildlife.
Ban Against Open Burning of Hazardous Substances and Burning at Transfer Stations

Burning permit required in all other situations (except for cultural burning)
Requirement to Report Releases of Hazardous Substances
Response Actions to Clean Up Releases

• By responsible party, under order
• By RLED (with recovery of response costs)
• Voluntary Response
Red Lake Environmental Department (RLED) is Responsible for Implementing the HSCA

- Site inventory
- Rulemaking authority
  - Notice and comment process
  - Examples: cleanup standards, site prioritization
- Judicial review
- Enforcement authority
Enforcement

- Access to information/site/site assessment
- Administrative Orders
  - Review by Environmental Hearing Board
- Judicial Enforcement
- Citizen suits
- Assistance from Fire Prevention, Police and Conservation Officers
Environmental Hearing Board

- Hears appeals from orders issued by RLED
- Consists of 3 program directors:
  - 2 from DNR (other than RLED)
  - 1 from a different environmental- or health-related program
  - At least 1 must be a Red Lake Enrolled Member
- RLED Provides body with expertise in environmental matters
- Relieves burden on courts
Penalties and Fees

- For deterrence and to pay program costs
- Examples:
  - Fees for assistance with voluntary response –
  - Fees for oversight of voluntary response –
  - Penalties for violations of statute, regulations, or orders
Public Education and Outreach

• Be sure sufficient public outreach is completed prior to imposition of penalties
• While providing outreach, issuance of notices of violation and assistance with compliance is recommended
• Potential Outreach Activities:
  ▫ Mail HSCA summary/fact sheet to all box holders
  ▫ Include HSCA on DNR and Tribal websites
  ▫ Include articles in Tribal paper and DNR newsletter
Once the HSCA was completed, we submitted to the Red Lake Code Committee.
Upon Approval of Code Committee, we presented the HSCA and Resolution to the Tribal Council for adoption into Tribal Law.
Our Attorney presented and was able to answer legal questions while RLED Staff answered Environmental Concerns.
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Questions?