



**EPA Region 10 Tribal Operations Committee (RTOC)
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April 2, 2025

The Honorable Lee Zeldin
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

SENT VIA EMAIL

RE: Office of Research and Development

Dear Administrator Zeldin:

This letter is sent on behalf of the Tribal Caucus members of EPA Region 10's Tribal Operations Committee ("RTOC"). This letter is not sent on behalf of EPA Region 10 or any employees of EPA, but solely tribal government representatives of the RTOC. This letter is sent regarding the proposal to eliminate 75 percent of employees within EPA's Office of Research and Development (ORD). ORD is necessary for EPA to fulfill its obligations as established through Congressional statute, Judicial precedent, and trust responsibility. In addition to being legally required, continued support of ORD makes practical sense. ORD's work facilitates informed decision-making, develops streamlined research protocols, and creates more cost-effective pollution control technologies. These things protect the health and environment of Tribes as well as many rural Americans, whose culture is intertwined with hunting, fishing, farming, and ranching. The hobbling of EPA research will provide fodder for legal challenges to subsequent EPA actions, and it will create significant inefficiencies in the execution of EPA's obligations.

1. Federal Government Has a Trust Responsibility to Protect Tribal Health

The Federal Government, expressed through treaty, Supreme Court precedent, Congressional statutes, and EPA regulations, has a trust responsibility to protect Tribal health. The United

States “has charged itself with moral obligations of the highest responsibility and trust” toward Indian tribes.¹

The trust responsibility is particularly relevant in the case of treaty Tribes. Under the Constitution, “all Treaties made” are “the supreme Law of the Land.”² In signing treaties, Tribes were promised the security of a homeland. In addition to the commonsense implied guarantee that such a homeland be healthful, “courts must assume into those treaties a duty of ‘good faith’ on the part of the United States to ‘protec[t]’ the Tribes and their ways of life.”³ The protection of Tribes’ ways of life requires the development of new research in “pollution prevention and control, and waste management and utilization technology, [and] environmental sciences,”⁴ the job of ORD.

In Region 10, many treaty Tribes were promised hunting and fishing rights.⁵ However, 6PPD, a chemical in all tires, and its byproduct 6PPD-Q, are highly toxic to fish. Stormwater runoff is transferring this chemical to waters throughout the region, causing a 90% die-off of juvenile salmon in Puget Sound and over a 40% mortality rate for adult coho salmon. Salmon are vital to tribal diets, culture, and livelihoods. Many tribal and non-tribal families depend on commercial fishing. ORD is currently working on research addressing this crisis. Dismantling ORD in the middle of this project would not only prolong this threat to Tribes and fisheries, but it would compromise the Federal Government’s promise to protect Tribes, their ways of life, and the solemn promises made to them.

Congress avers that “Federal health services to maintain and improve the health of the Indians are consonant with and required by the Federal Government’s historical and unique legal relationship with, and resulting responsibility to, the American Indian people.”⁶ A person’s environment is a significant determinant of health.⁷ Specifically, it is ORD’s duty to research “health and welfare effects” of pollution.⁸ ORD’s work is essential to the furtherance of Congress’s directive.

It remains EPA policy “to give special consideration to Tribal interests in making Agency policy.”⁹ Specifically, “EPA recognizes that a trust responsibility derives from the historical relationship between the Federal Government and Indian Tribes as expressed in certain treaties and Federal Indian Law. In keeping with that trust responsibility, the Agency will endeavor to protect the environmental interests of Indian Tribes when carrying out its responsibilities that

¹ *Seminole Nation v. United States*, 316 U.S. 286, 297 (1942).

² U.S. Const. Art. VI, cl. 2.

³ *Arizona v. Navajo Nation*, 599 U.S. ____ (2023) (Gorsuch, J., dissenting) (quoting *Washington v. Fishing Vessel Assn.*, 443 U.S. 658, 666-67).

⁴ 40 C.F.R. § 1.45.

⁵ *See, e.g., United States v. Washington*, 384 F. Supp. 312 (W.D. Wash. Feb. 12, 1974) (Boldt, J.), *aff’d*, 520 F.2d 676 (9th Cir. 1975); Treaty of Point Elliott (Jan. 22, 1855); Treaty of Medicine Creek (Dec. 26, 1854).

⁶ 25 U.S.C. § 1601(1).

⁷ Prüss-Ustün, A., Wolf, J., Corvalán, C., Neville, T., Bos, R., & Neira, M. (2017). Diseases due to unhealthy environments: an updated estimate of the global burden of disease attributable to environmental determinants of health. *Journal of public health*, 39(3), 464-475.

⁸ 40 C.F.R. § 1.45.

⁹ EPA Policy for the Administration of Environmental Programs on Indian Reservations (Nov. 8, 1984).

may affect the reservations.”¹⁰ Here, the environmental interests of Tribes are intertwined with furthering research and development. ORD’s “Tribal Consultation Commitment Product Portfolio” details 65 specific products where ORD research and Tribal interests coincide.¹¹

2. ORD Performs Statutorily Mandated Actions

Congress requires EPA to have a research and development office through direct requirements for studies and through general requirements to use “the best available science.”¹² Explicit requirements for research are found in the Comprehensive Environmental Response, Compensation, and Liability Act, the Solid Waste Disposal Act, the Federal Insecticide, Fungicide, and Rodenticide Act, and the Safe Drinking Water Act. General requirements are found in the Clean Air Act, Endangered Species Act, and the Toxic Substance Control Act. Without a robust ORD, EPA cannot feasibly satisfy these requirements.

Specific Mandates

CERCLA directs the Administrator of EPA “to carry out a program of research, evaluation, testing, development, and demonstration of alternative or innovative treatment technologies.”¹³ This specific requirement has so far been satisfied by the work of ORD.

The Solid Waste Disposal Act commands that the Administrator “shall conduct . . . research, investigations, experiments, training, demonstrations, surveys, public education programs, and studies relating to” a broad array of topics, such as adverse health and welfare effects and resource recovery systems.¹⁴ Further, “the Administrator shall establish a management program or system to insure the coordination of all such activities and to facilitate and accelerate the process of development of sound new technology (or other discoveries) from the research phase, through development, and into the demonstration phase.”¹⁵ EPA cannot effectively facilitate and accelerate the development of new technology without maintaining the office tasked with such development.

The Federal Insecticide, Fungicide, and Rodenticide Act directs that the Administrator “shall undertake research . . . as may be necessary to carry out the purposes” of the Act.¹⁶ Broadly, this requirement for research has been met by ORD.

The Safe Drinking Water Act states that the Administrator “shall conduct a continuing program of studies to identify groups within the general population that may be at greater risk . . . from exposure to contaminants in drinking water.”¹⁷ This continuing study is particularly important to Tribes, who disproportionately rely on relatively small water systems with few resources for treatment and maintenance. The Act also requires that the Administrator conduct various

¹⁰ *Id.*

¹¹ E.P.A., OFFICE OF RESEARCH AND DEVELOPMENT, EPA/600/R-24/253, TRIBAL CONSULTATION COMMITMENT PRODUCT PORTFOLIO, STRATEGIC RESEARCH ACTION PLANS FY 2023-2026 (Aug. 2024).

¹² *See, e.g.*, 15 U.S.C. § 2625(h).

¹³ 42 U.S.C. § 9660(b)(1).

¹⁴ 42 U.S.C. § 6981(a).

¹⁵ 42 U.S.C. § 6981(b)(1)(A) (parenthetical in original).

¹⁶ 7 U.S.C. § 136r.

¹⁷ 42 U.S.C. § 300j-18(a)(1).

ongoing biomedical studies regarding the effects of chemical contaminants and developing new approaches to studying mixtures.¹⁸

Implied Mandates

In addition to the foregoing specific programs of research, Congress also requires that EPA base several decisions on the best available science. Without an effective research arm, EPA will not be kept abreast of the latest science as it pertains to the many specific chemicals, technologies, and research methods that EPA must decide upon. Furthermore, the clear intent of Congress in requiring the best science and simultaneously funding EPA research is that EPA actually develop that science.

In establishing National Ambient Air Quality Standards, “[a]ir quality criteria for an air pollutant shall accurately reflect *the latest scientific knowledge* useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of such pollutant in the ambient air, in varying quantities.”¹⁹ In determining endangered species, the Secretary of the Interior’s decision must be based “solely on the basis of *the best scientific and commercial data available* to him.”²⁰ In testing, evaluating, and designating toxic chemicals under the Toxic Substance Control Act, “to the extent that the Administrator makes a decision based on science, the Administrator shall use scientific information, technical procedures, measures, methods, protocols, methodologies, or models, employed in a manner consistent with *the best available science*.”²¹ Further, EPA must conduct risk evaluations for chemicals,²² but those evaluations are based on tools and data generated by ORD. Therefore, EPA could not effectively evaluate risk without continued ORD engagement.

Across these regulatory schemes, Congress clearly requires rigorous science. Implicitly, Congress intends for that research to be internal. Given the existing facilities, institutional knowledge, and appreciation for specific statutory requirements, the most efficient developer of the required research is ORD. The most efficient repository and disseminator of the research will remain ORD.

3. ORD Funding Must Be Spent According to Statute

EPA has a duty to expend funds appropriated by Congress for the purpose of science and technology. The executive branch cannot unilaterally impound funds appropriated by Congress.²³ This year, Congress has appropriated \$756,073,000 for EPA’s science and technology fund.²⁴ While EPA has some discretion in how to use these funds, there is little choice in *whether* to use the funds for research and development. Congressional intent is clear.

¹⁸ 42 U.S.C. § 300j-18(b).

¹⁹ 42 U.S.C. § 7408 (emphasis added).

²⁰ 16 U.S.C. § 1533(b)(1)(A) (emphasis added).

²¹ 15 U.S.C. § 2625(h) (emphasis added).

²² 15 U.S.C. § 2605(b).

²³ 31 U.S.C. § 1512(c).

²⁴ Full-Year Continuing Appropriations and Extensions Act, 2025, Pub. L. No. 119-4, § 1101(7), 1801(7).

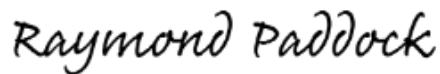
Further, Congress has required that “at least 15 per centum of funds appropriated to the Administrator for environmental research and development . . . shall be obligated and expended for such long-term environmental research and development.”²⁵ This required long-term research is currently being pursued by ORD. Moving these projects outside of ORD would not only result in needless cost duplications, but would compromise the research already in progress.

4. Conclusion

In conclusion, ORD cannot be downsized as proposed without substantially compromising obligations within the Federal Government’s trust responsibility to Tribes, as articulated by all three branches of government and manifested in treaties. Further, ORD is essential to the execution of both express and implied Congressional mandates; attempting compliance with these laws after dismantling ORD will require significant duplications of costs. Lastly, Congress has already appropriated funds to research and development, and these funds must be spent as Congress dictates. The RTOC urges EPA to reconsider this proposal and maintain ORD in its current capacity and funding.

The RTOC appreciates your consideration of these comments.

Sincerely,

A handwritten signature in black ink that reads "Raymond Paddock". The signature is written in a cursive, slightly slanted style.

Raymond E. Paddock III
Central Council of the Tlingit and Haida Indian Tribes of Alaska
Region 10 Tribal RTOC Chair

²⁵ 42 U.S.C. § 4363. The act specifically refers to programs under the Clean Air Act, Clean Water Act, Safe Drinking Water Act, Solid Waste Disposal Act, Federal Insecticide, Fungicide, and Rodenticide Act, Public Health Service Act, Toxic Substance Control Act, and interdisciplinary activities, effectively covering all of EPA’s and ORD’s mandate.