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# HVPUD position paper on Tribal Drinking Water Program Status

**Introduction**

The Hoopa Valley Public Utilities District (HVPUD) is a duly chartered entity of the Hoopa Valley Tribe. HVPUD provides critical health and safety related services to the residents of the Hoopa Valley Indian Reservation, including providing safe drinking water, water for fire protection and IHS-compacted medical services, sanitation facilities (water and septic installation) and solid waste management on behalf of IHS. These activities originated from being one of the fundamental trust obligations of the United States to tribal Indian communities as the Indian reservation system evolved. As such, the IHS (formerly Public Health Service) has been responsible for providing, operating and maintaining water and sanitation systems for tribal communities.

As tribes established their own capabilities and infrastructures, IHS began to wean itself away from its traditional functions and transferring them to tribes. One of these examples is the HVPUD. For almost forty (40) years, HVPUD has provided essential IHS-compacted utility services to the Hoopa tribal community with zero operating funds because, by relieving it from direct water and sanitation management responsibilities, IHS has redesigned its budgets, staffing and functions to eliminate the activities that were taken over by HVPUD and now says that the funding needed for ongoing operational costs should be charged to Native people. However, when IHS carried out the same functions it did so as part of its federal trust obligations and provided funding for its own budgets, staffing and equipment to carry them out.

**Lack of Funding and rising costs**

Today, the monthly water rates on the Reservation are insufficient to cover the increasing overhead costs to run the largest tribal water utility in the State of California. HVPUD operating costs are increasing for the following reasons:

* Increased costs for health-related risks (COVID-19)
* Higher costs to run and maintain the Trojan UV filter system to treat cyanobacteria
* Drought and water quality Impacts
* Electric utility and weather-related events causing outages
* Cost to operate and maintain generators and battery back-ups that require annual maintenance agreements, fuel and parts replacement
* Staffing shortages that require contract employees for specialized positions and higher wages and paying for outside agencies expertise at 3x the normal rate
* Costs to maintain water storage tanks, booster stations, valves, generators, intakes, water treatment plants, miles of water lines, equipment, etc.
* Below market rates due to the high poverty level of our community

The Hoopa Valley wide system (Public Water System #: 0605126) consist of two water treatment facilities, 20 water storage tanks, 14 pumping facilities, 13 distribution systems and several miles of main and distribution waterlines of various age, make and size. HVPUD lacks the means to continue to cover the operations & maintenance of these IHS-Compacted public water and sanitation systems.

The Hoopa Reservation community has a high level of poverty, unemployment, historic trauma, and other statistics and factors that impact the ability to increase costs on our tribal population. The American Community ACS data shows the Median Household Income of the project area is just $36,830, as compared to $70,489 for the rest of California.

**IHS Defined Trust Responsibility**

Besides being part of federal obligations by treaties and agreements between tribes and the United States, the IHS Strategic Plan FY 2019-2023 states:

“In 2018, the Indian health care system had more than 40.494 hospital admissions and almost 13.8 million outpatient medical care visits. The Indian health care system also provides dental services, nutrition services, pharmacy services, community health, **sanitation facilities (water supply and waste disposal)**, injury prevention, and institutional environmental services.” (page 1 - emphasis added)

The Snyder Act of 1921 (25 USC 13) and the permanent reauthorization of the Indian Health Care Improvement Act [enacted in 2010 as part of the Patient Protection and Affordable Care Act (P.L. 111-148)] also provide specific legislative authority for Congress to appropriate funds specifically for the health care of Indian people. Clearly, the purpose and mission of IHS to carry out federal trust obligations to Native people, tribes and tribal communities cannot be accomplished without functioning and sustainable Indian water systems.

**Hoopa Efforts to Fix this Problem**

Since 2013, the Hoopa Valley Tribe has been meeting with IHS representatives to address this problem by providing direct appropriations or as an allowable cost under our Contract Support Cost Agreement. Each time, IHS has claimed that it has no program, function, service or activity or responsibility to assist with funding of the HVPUD operations and maintenance costs. The latest was September 16, 2021, when the Tribe was provided another denial from the California Area and Headquarters Offices stating the following reasoning “*Not an applicable IHS program, service, function, and activity included in the compact and does not have associated Secretarial funding.  This programs is not eligible for indirect contract support costs. See utilities, fire, security, water and etc. covered in the 105(l) lease*”.

**Request for TSGAC Action**

The HVPUD’s operating budget for FY 2020 is attached. The Tribe respectfully requests that the IHS SG Tribal Advisory Committee raise this matter with the IHS and DHHS policy leadership to be included as appropriate and justified tribal costs in the annual IHS budget as part of their trust responsibility to provide basic water and sanitation services obligation to tribal communities.