

Treatment as a State 101 What the Tribes pursued under the TAS application

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Background of Wind River Indian Reservation and Northwestern Band of the Shoshone Nation

- ▶ The Wind River Indian Reservation has two Federally Recognized tribes that share the reservation
 - ▶ Eastern Shoshone Tribe and Northern Arapaho Tribe
- ▶ Reservation size is approximately 2.4 million acres
- ▶ There are approximately 11,000 tribal members that live on the reservation
- ▶ The NWBSN Washakie Reservation is 188 acres and the tribal membership is 554 members.



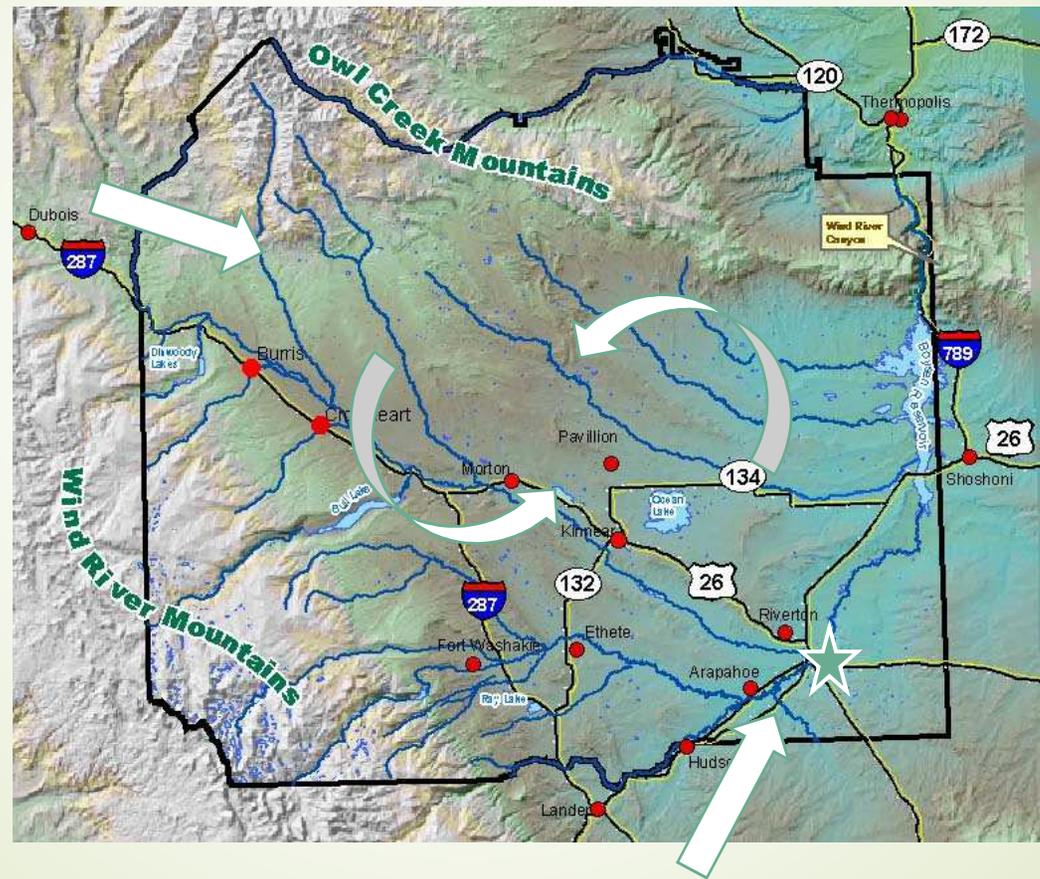


Sources within the reservation

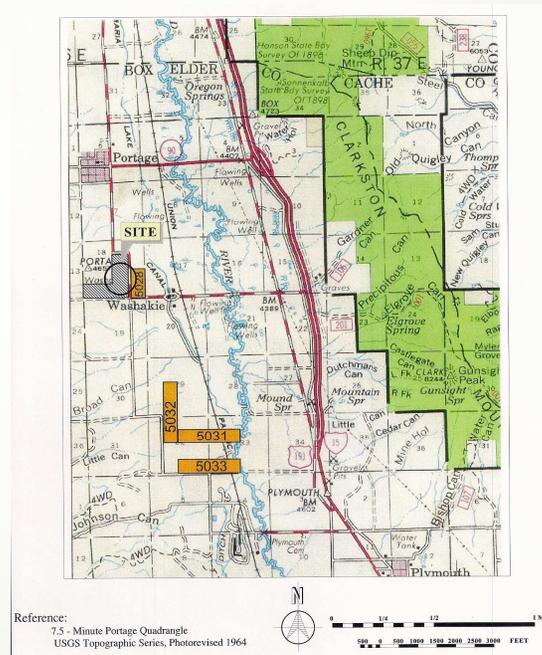
- ▶ The nine (9) stationary sources of air pollution emissions within the borders of the WRIR:
- ▶ West Powerline Compressor Station
- ▶ Wildhorse Energy, Pavillion booster station – Major Source > 100 TPY
- ▶ Hidden Valley Compressor Station
- ▶ Sand Mesa Compressor Station
- ▶ Peak Sulfur, Inc. – Major Source > 100 TPY
- ▶ Wind River Gas Gathering, Inc.
- ▶ Devon SFC Riverton Dome Gas Plant – Major Source > 100 TPY
- ▶ South Pavillion Compressor Station – Major Source > 100 TPY
- ▶ Enervest Riverton Compressor Station
- ▶ NWBSN Washakie Renewable Energy – Biodiesel
- ▶ Nucor Steel – Mini Mill
- ▶ Hess Manufacturing – Pumice Plant



The Wind River Indian Reservation



Washakie Reservation



Why did we pursue Air TAS designation

- Both Tribes felt that pursuing AIR TAS would be easier to acquire than water (CWA), Safe Drinking Water Act (SDWA), Toxic Substance Control Act (TSCA), Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)
 - Jurisdictional issues and complex river and streams
- The tribes began to assemble and determine if we were eligible and which TAS to pursue – Previous presentations
- Will the tribes get in a legal battle over the delegation application





Council buy in

- ▶ The Wind River Environmental Quality Commission (WREQC) met with the Joint Business Councils (JBC) to gain support on pursuing TAS
- ▶ Big question on everyone minds was the jurisdictional boundary (Riverton)
- ▶ 1905 act did not diminish tribal lands on the east side of the reservation
- ▶ Ultimately the JBC decided that we met all the criteria and the air program had the capacity to pursue TAS
- ▶ The NWBSN Tribal Council was supportive of the TAS application because we have a bio diesel facility beginning operations less than a half mile from the reservation.
- ▶ The Malad Valley has stagnant days in the winter time and high ozone days in the summertime.





Pros of having TAS

- ▶ Quality for section 105 air grant funding
- ▶ Quality to administer a CAA program that applies throughout the reservation (checker board)
- ▶ Quality to be treated as an “affected state”
 - ▶ Receive notice and opportunity to comment of facilities that may impact tribal lands
- ▶ WRIR has a lot of off reservation oil and gas exploration and having TAS would give the tribes the ability to comment on permits
- ▶ NWBSN would be able to comment on Title V sources applications that update their permits with the state and the tribes would be at the table.



Cons of having TAS

- Tribal Councils revolve and new councils may not be on board with the TAS if it prolongs
- Staff turnover that affect the capacity of the air program
- If we lose this case have we lost almost half the reservation?
- The NWBSN TAS is be advertised this week or next to get industries comments on NWBSN TAS
- Current administration makes our application unsure of the outcome and will funding be available.



Air Work after designation

- ▶ The air department and consultant put together a paper and sent to each tribal council member that explains what the designation means
 - ▶ We have the authority to pursue a CAA Section 105 grant
 - ▶ THAT'S ALL!!
 - ▶ We were instructed by JBC to not conduct interviews
 - ▶ Personally I think we would've answered a lot of questions before people assumed the worst
 - ▶ EPA was thrown in the fire for granting TAS by the city, county and state because they assumed the tribes used EPA to gain reservation land





Problems with the capacity that you may face

- ▶ The two tribes on the WRIR split and JBC is no longer
- ▶ This put all departments and services in jeopardy
- ▶ EPA does not know who to award grants to
- ▶ NWBSN Tribal Council is still on board with the TAS application but does not want to fight with the state or industry.





What this means for TAS

- ▶ Having a governing body that makes the decisions for the reservation
- ▶ Major part of the TAS eligibility is program capacity
- ▶ Each tribes is trying to pursue their own environmental programs without EPA funding
- ▶ Air consultant has been pro bono trying to keep air program functioning
- ▶ Future of the air program and TAS are close to being done



Lessons learned

- Make sure that the tribal council is on board for the duration
 - The two original chairman who sign the application are no longer on council
- Education TC and tribal members of what designation you are pursuing
- Use knowledge to assist other tribes
- Educating the public and council so they understand
- If the WRIR TAS keeps being pursued this case could go to the Supreme Court



The Latest news May 2018:

WRIR Tribes are taking their case to the Supreme Court

NWBSN this week is putting public notice in local papers.
State of Utah had until last week to comment on TAS..

Questions

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