

CalEPA Tribal Advisory Committee

January—April 2023: Water Boards Report

Consultations

The Water Boards reaffirm that collaboration and input from California Native American Tribes through consultation on our rules, regulations, policies, and programs, helps us advance decisions and policies that better protect California’s water resources. The Water Boards recognize our parallel relationship to the people we serve, and we value tribes’ traditional ecological knowledge and historic experience with managing California’s water resources since time immemorial.

Consultations initiated during Q1

Consultations initiated during Q1 2023

Consultations Initiated: 8

Consultation Types: B-10-11, AB 52, Section 106/Other

Topics include:

- State-Wide Policy or Plan
- Tribal Beneficial Uses
- Bay Delta Plan
- Site Clean Up
- Other

Topics include:

- State-Wide Policy or Plan
- Tribal Beneficial Uses

Consultations closed during Q1

Consultations closed during Q1- 2023

Consultations Concluded: 2

Consultation Types: AB,52, B-10-11, Section 106/Other

Funding for Tribes

Water Boards’ staff began implementation of Assembly Bill 2877, passed in 2022, which aims to increase and improve coordination between the State Water Board and tribes who are seeking funding for drinking water system solutions. The bill requires that the Water Boards’ Tribal Liaison, or their designee, participate in all funding conversations between the Division of Financial Assistance and tribal leadership. As of April 2023, the State Water Board is providing over \$4million in direct assistance to tribes and over half a million in technical assistance benefiting tribal communities.

Funded project types include:

- Full planning applications
- Water system/asset mapping, GIS training
- Construction applications
- Legal assistance

2023 Overview	
Total Ongoing Consultations	
AB52	15
B10-11 (only)	3
Section 106	34
Total	52

- Planning applications
- Community outreach

Agreement Execution Date	Party	Project Type	Amount
9/2/2014	Yurok Tribe: Bottled Water Program	Bottled Water	\$62,234
9/25/2014	Yurok Tribe: Vending Machine Project	Treatment	\$108,208
8/16/2016	Rural Community Assistance Corporation	Technical Assistance	\$6,186,878
7/5/2018	Tolowa Dee-ni Nation	Planning	\$419,530
8/9/2018	Trinidad Rancheria	Construction	\$1,215,550
8/22/2019	Big Sandy Rancheria of Western Mono Indians of California	Planning	\$416,162
9/13/2019	AB72 Matching funds for 4 (IHS) Projects (Hoopa Valley Tribe, La Posta Band of Mission Indians, Yurok Tribe and Tule River Indian Tribe)	Other	\$289,490
10/1/2019	Hoopa Valley Public Utilities District	Planning	\$386,200
10/22/2020	Rural Community Assistance Corporation	Technical Assistance	\$36,820,721
3/5/2021	Self-Help Enterprises	Technical Assistance	\$23,747,540
4/15/2021	University Enterprises, Inc.	Technical Assistance	\$25,000,000
6/10/2021	Oasis Mobile Home Park	Hauled Water	\$66,279
9/30/2022	Oasis Mobile Home Park	Bottled Water	\$144,276
1/5/2023	Rural Community Assistance Corporation	Technical Assistance	\$4,881,772

Resources and Opportunities

Resources

- [The Water Boards Division of Financial Assistance \(DFA\)](#)
- [Safe and Affordable Fund for Equity and Resilience](#)

Opportunities

Funding Program	What's funded	Link
Clean Water State Revolving Fund (CWSRF)	<ul style="list-style-type: none"> • Provides low-cost financing for a variety of water quality projects. • Capable of financing projects from <\$1 million to >\$100 million. 	Link
Domestic Wells and State Small Water Systems	<ul style="list-style-type: none"> • Support state small water systems, domestic wells, and other self-supplied communities. 	Link
Drinking Water State Revolving Fund (DWSRF)	<ul style="list-style-type: none"> • Finances the cost of drinking water infrastructure projects needed to achieve or maintain compliance with Safe Drinking Water Act (SDWA) requirements for public water systems. 	Link
Drought Response Funding	<ul style="list-style-type: none"> • Drought-related urgent drinking water needs. • Long-term resilience planning and implementation. 	Link
Office of Sustainable Water Solutions Small Community Funding Program	<ul style="list-style-type: none"> • For small, disadvantaged communities and small severely disadvantaged communities. • Provides low-interest loans and other financing mechanisms, such as grants or principal forgiveness for the planning, design and construction of drinking water infrastructure projects, including: treatment systems, distribution systems, interconnections, consolidations, pipeline extensions, water sources, and water meters. 	Link
Per- and Polyfluoroalkyl Substances (PFAS) Funding	<ul style="list-style-type: none"> • Available for technical and financial assistance to drinking water systems to address PFAS in their water drinking water supply 	Link
Stormwater	<ul style="list-style-type: none"> • Stormwater and dry weather runoff projects that best advance the Water Board's policy goals of improving water quality and realizing multiple benefits from the use of storm water and dry weather runoff as a resource. 	Link
Technical Assistance	<ul style="list-style-type: none"> • For small, disadvantaged, communities (DACs) • Develop, fund, and implement eligible drinking water, wastewater, stormwater, or groundwater needs. 	Link

	<ul style="list-style-type: none"> • Coordination and development of capital improvement projects, facilitation of operation and maintenance, engineering and environmental analysis, legal assistance, leak detection/water audits, compliance audits, financial analysis, technical managerial and financial (TMF) assessments, and board or operator training. 	
<p>Wastewater</p>	<ul style="list-style-type: none"> • Strategies to assist small and/or disadvantaged communities with wastewater needs. 	<p>Link</p>

Engagement & Key Priority Projects

Updating Contact Information for California Tribes

The Native American Heritage Commission (NAHC) is the primary government agency responsible for identifying and cataloging tribal cultural resources, sacred lands, and Native American graves. As such, California agencies, including the Water Boards, are required to coordinate with the Native American Heritage Commission to obtain a list of tribes whose tribal cultural resources or sacred lands are located within proposed project boundaries. The Native American Heritage Commission then conveys the list of tribes and their contact information back to staff who have requested that information. Tribal contact information is outdated and needs to be updated. To support the important work of our partner agency, the Office of Public Participation is partnering with the Native American Heritage Commission to do a coordinated outreach to tribes to update their contact information. Our agencies are beginning outreach to tribes this spring.

Bay Delta Plan

In late 2022, the State Water Board began preparing a Staff Report/Substitute Environmental Document to update the Bay Delta Plan. The Bay-Delta Plan is a plan that identifies beneficial uses of water in the Bay-Delta watershed, water quality objectives for the reasonable protection of those beneficial uses, and a program of implementation to achieve those objectives. The project team sent notification letters to over 100 tribes with the opportunity to consult on the Bay Delta Plan update. Notification letters were sent under either AB 52 or the Native American Heritage Commission list. In March, State Water Board hosted a listening session for California tribes and a separate listening session for environmental justice representatives and members of the public. A second tribal listening session will take place on May 4th and a second environmental justice focused workshop will take place on May 23rd and staff will work to incorporate feedback into the update and implementation of the Bay-Delta Plan.

Sustainable Groundwater Management Act

At the April 4 board meeting, the State Water Board discussed the implementation of the Sustainable Groundwater Management Act (SGMA). Board staff and Department of Water Resources provided presentations, and discussed the six groundwater sustainability plans that were determined to be inadequate, or not sufficient to meet the sustainability objectives outlined in SGMA. These subbasins include:

1. Chowchilla Subbasin in Madera and Merced Counties
2. Delta-Mendota Subbasin in San Joaquin, Stanislaus, Merced, Fresno, Madera, and San Benito Counties
3. Kaweah Subbasin in Tulare and Kings Counties

4. Tule Subbasin in Tulare County
5. Tulare Lake Subbasin in Kings County
6. Kern Subbasin in Kern County

These subbasins did not take sufficient action in their plans to address deficiencies in three key areas: groundwater levels, land subsidence, and water quality.

If deadlines are missed or deficiencies are found, the State Water Board may temporarily step in to manage the groundwater the basin through the process of "state intervention." This process includes examining the plan's deficiencies and holding a probationary hearing to hear public comments for each basin. The Board is considering whether to hold all six hearings in close succession, or more slowly with 1-3 basins at a time. Groundwater extractors in probationary basins will be required to submit annual extraction reports and will be subject to fees, but waivers are available for water systems that serve disadvantaged communities. The fastest timeline for hearings would result in fees being due in April 2025. Tribes that are located within the boundaries of a groundwater basin whose plan has been deemed as inadequate will receive letters from the State Water Board with the opportunity to consult. More information is available on our website: waterboards.ca.gov/sgma

Salton Sea Public Workshop

The State Water Board will host a public workshop on the Salton Sea Management Program on May 16 –17, 2023. The State Water Board is responsible for monitoring the California Natural Resources Agency's (CNRA) progress on the Salton Sea Management Program, which seeks to improve environmental conditions at the Salton Sea. The annual workshop is an opportunity for CNRA to provide an update on their progress on habitat and dust suppression projects, and for interested parties to provide public comment. This year's workshop is being held later in the spring than in previous years to allow more time to translate all relevant materials into Spanish and to conduct more extensive outreach. We are also revising the format to include panel-style presentations that are more inclusive of community members and community-based organizations conducting air quality, water quality, and habitat projects in the Salton Sea. The workshop is being held in three locations to allow for improved engagement: in-person with Board and panel members, in-person remote at a nearby location, and remotely via Zoom and CalEPA webcast. All participation options will offer live Spanish interpretation and translated materials.

Clear Lake Hitch

In late 2022, the State Water Board began actively working with the Pomo tribes of the Clear Lake area and other state and federal agencies to respond quickly to protect the Clear Lake hitch from extinction. The hitch is a California threatened species and this spring spawning period between February and May 2023 will be critical to its survival. The State Water Board is looking for ways to protect the Clear Lake hitch now and in the long term, and are taking the following actions: 1) encouraging local voluntary

actions to keep water in the creeks this year, 2) obtaining data to better understand the problem and potential solutions, 3) supporting collaboration to fund effective solutions and spread important messages, 4) taking enforcement actions to ensure all diversions in the area are legal, and 5) developing regulations if voluntary actions aren't successful. On March 7, the State Water Board held a board item on the Hitch which included panel speakers from the Big Valley Band of Pomo Indians, Robinson Rancheria, as well as other state and local agency representatives.

Advancing Racial Equity

In 2021, the State Water Board adopted a Racial Equity Resolution which reaffirmed racial equity as a core priority for the Water Boards and directed staff to develop a plan of action to advance racial equity within the Water Boards. In January 2023, after significant rounds of public engagement and tribal consultation, staff presented the 2023 Racial Equity Action Plan to the Board. The State Water Board Racial Equity Action Plan is a compilation of goals, actions, and metrics intended to advance efforts to create a future where we equitably preserve, enhance, and restore California's water resources and drinking water for all Californians, regardless of race, and where Water Board employees reflect the racial and ethnic diversity of California. The Central Coast Regional Water Board and the North Coast Regional Water Board have adopted their own Racial Equity Resolutions and several other Regional Boards are in the process of developing their own as well.

Equity in Water Quality Decision Making

In 2022, Assembly Bill 2108 added section 189.7 and 13149.2 to the Water Code. Water Code section 189.7 requires that the Water Boards undertake meaningful outreach when considering proposed discharges of waste that may have a disproportionate impact on water quality in disadvantaged communities or tribal communities. Water Code section 13149.2 requires the Water Boards develop concise summary of anticipated water quality impact(s) in disadvantaged or tribal communities as a result of the permitted activity/facility, and any environmental justice concerns within the Boards' authority that are raised by interested persons with regard to those water quality impacts; and to identify measures available and within the Boards' authority to address those water quality impacts. Letters notifying tribes of the opportunity to consult have been sent for the following projects:

- Proposed Amendment for the Once-Through Cooling Policy
- Bay Delta Plan Update
- Pacific Gas and Electric's Bay Area Operations and Maintenance Waste Discharge Requirements

Tribal Water Summit

The Tribal Water Summit is a conference that takes place every five years and is coordinated by the Department of Water Resources and the Tribal Water Summit Planning Committee. The purpose of the event is to create a roadmap with strategies for preserving Native water rights and providing for the sustainable management of California's sacred waters. The Tribal Water Summit provides a platform for tribal leaders, water managers and agency leadership for discussion, knowledge-sharing, problem solving, and to discuss how tribal recommendations can align with current state policies. The discussions that are generated at the event are captured and incorporated into the 2023 California Water Plan update. The State Water Boards' involvement in this year's Summit included: Erik Ekdahl, Division of Water Rights who spoke on the opening plenary discussion on water rights; Parker Thaler, Division of Water Rights, spoke on FERC utility licensing and permitting; Marianna Aue, Office of Chief Counsel, spoke about tribal water rights; Board member Firestone opened up day 3 with opening remarks on potential opportunities to continue expanding tribal-state partnerships. Elizabeth Herrera, Office of Public Participation, and Matt Pavelchik, Division of Financial Assistance, participated in a funding workshop to meet with tribal representatives to discuss funding opportunities for water solutions.

Tribal Beneficial Uses

The Water Boards recognize our parallel relationship to the people we serve, and we value tribes' traditional ecological knowledge and historic experience with managing California's water resources since time immemorial. To recognize the unique ways that tribes and tribal communities utilize water, the State Water Board adopted definitions for Tribal Beneficial Uses of water in 2017. Tribal Beneficial Uses provide a water quality safety measure that considers the specific uses of water by individuals, households, or communities of California tribes. The nine Regional Water Boards are all at different stages of working with tribes to protect water quality for tribal tradition, culture, and subsistence fishing. Four Regional Water Boards have adopted Tribal Beneficial Use definitions into their basin plans and the Lahontan Regional Water Board has begun the process of a developing a basin plan amendment to designate Mono Lake and its tributaries with Tribal Beneficial Uses. We hope to learn from this effort in partnership with the local tribes and apply those lessons learned to subsequent Tribal Beneficial Use designation projects. In 2022, an educational overview document was developed to explain the beneficial use designation process and encourage engagement from tribes on this effort.

Region / Division	Update
R1—North Coast	Region 1 has previous beneficial uses that protect Native American Culture and Subsistence Fishing. Currently working to engage with tribes and adopt tribal beneficial use definitions into the basin plan.
R2—San Francisco Bay	The 2021 Triennial Review identified tribal and subsistence beneficial uses designations as a priority

	<p>project for the next three years. Five tribes submitted letters of support and three tribes have consulted with the Board. Currently working to engage with tribes and adopt tribal beneficial use definitions into the basin plan. A tribal workshop will be held in May 2023.</p>
R3—Central Coast	<p>Central Coast Water Board adopted Racial Equity Resolution No. R3-2023-0002 which directs staff to prioritize the process to adopt Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T-SUB), and Subsistence Fishing (SUB) Beneficial Uses into the Water Quality Control Plan for the Central Coast Basin. Basin Planning staff are developing the project plan to initiate this work in 2023.</p>
R4—Los Angeles	<p>State Water Board approved R4's adoption of TBU definitions into the Region's Basin Plan on October 18, 2022. Working on securing funds for tribal surveys – to be conducted by tribes – for proposing waters for TBUs designation.</p>
R5—Central Valley	<p>State Water Board approved R5's adoption of TBU definitions into the Region's Basin Plan on September 7, 2022. Will be hosting a semi-annual tribal update meeting on April 20, 2023.</p>
R6--Lahontan	<p>Designating tribal beneficial uses in the Region's Basin Plan is listed as a high priority project. Currently working to designate the Mono Basin with TBUs. Held CEQA Scoping meeting on February 9, 2023 to receive public comment on the scope of the environmental analysis for the Mono Basin TBU designation project. Target for adoption of Mono Basin TBU Basin Plan Amendment is December 2023.</p>
R7—Colorado River	<p>Currently working to engage with tribes and adopt tribal beneficial uses definitions into the Region's Basin Plan.</p>
R8—Santa Ana	<p>Region 8 plans to adopt tribal beneficial uses definitions into the Region's Basin Plan and engage with tribes as part of the BPA process.</p>
R9—San Diego	<p>Tribal beneficial uses designation project is a priority project for the 2021 Triennial Review. A tribal workgroup will be meeting on March 17, 2023 to begin planning for developing the CUL tribal beneficial use.</p>
Division of Water Quality—Ocean Plan	<p>Currently working to engage with tribes and adopt Tribal Beneficial Uses definition(s) into the Ocean Plan and the Inland Surface Waters, Enclosed Bays, and Estuaries Plan (ISWEBE).</p>

Tribal Beneficial Uses resources:

- [Regional Water Board progress updates](#)
- [Regional tribal coordinator contact information](#)
- [Tribal Beneficial Uses webpage](#)

Priorities for Next Quarter

- Hire Tribal Affairs Specialist to focus on advancing tribal drinking water solutions
- Reach out to tribes whose drinking water is not regulated by U.S. EPA
- Create a webpage for tribal drinking water to provide information about available funding opportunities and about tribal projects that have been awarded funding
- Work with the Native American Heritage Commission to update contact information for tribes
- Continue work supporting the Clear Lake Hitch efforts
- Consult with tribes in the SGMA state intervention process
- Continue supporting Regional Water Boards in the Tribal Beneficial Uses designation process

For more information:

- Email: Tribal-Liaison@waterboards.ca.gov
- Tribal affairs website: bit.ly/TribalAffairs