Annual Tribal Informational Meeting
Update on Delta Conveyance Project

Tribal Engagement

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Overview

1. Tribal Consultation Policies
2. AB52 – CEQA Amendment
3. Federal and State Agency Roles and Responsibilities
4. Tribal Engagement Through Various Committees
5. Resources
Tribal Consultation Policies

• E.O. B-10-11 (Brown)
• CNRA Tribal Consultation Policy (2012)
• DWR’s Tribal Engagement Policy (2016)
• Assembly Bill 52 (2014) effective July 1, 2015
• E.O. N-10-19
• E.O. N-15-19 (apology)
• E.O. N-54-20 (COVID-19 extension did not apply to DCP)
AB 52 update

Please see handout entitled:

Delta Conveyance – CEQA and AB52 Consultation Milestones

Link here
Prerequisites for AB 52 Tribal Consultation

Applies to any project for which a Notice of Preparation, Notice of Mitigated Negative Declaration or Notice of Negative Declaration is filed on or after July 1, 2015.

A Tribe that is traditionally and culturally affiliated to the geographic area where a project is located must have requested that the lead agency in question provide notification to the Tribe of projects in the Tribe’s area of traditional and cultural affiliation.
Tribal Cultural Resources Under AB52

Tribal Cultural Resources (TCRs):

- A site, feature, place, cultural landscape, sacred place or object with cultural value to a "California Native American tribe", that is either on, or eligible for inclusion, in the California Historic Register or a local historic register that the lead agency, at its discretion and supported by substantial evidence, determines should be treated as a Tribal Cultural Resource.

Public Resources Code section 21074(a) (1-2)
Consultation with Tribes for Identification of TCRs

DWR conducting ethnographic research to identify locations with potential significance

Consultation with Tribes to identify places with cultural significance to a California Native American Tribe

Tribal Cultural Resources Evaluation Report
**Tribes Who Have Requested Consultation**

*COVID-19 has affected pace of consultation*

**AB 52:**
- Ione Band of Miwok Indians
- North Valley Yokuts
- Shingle Springs Band of Miwok Indians
- United Auburn Indian Community
- Wilton Rancheria
- Winnemem Wintu
- Wintu Tribe of Northern California
- Yocha Dehe Wintun Nation

**DWR’s Tribal Engagement Policy:**
- Buena Vista Rancheria of Me-Wuk Indians
- Rincon Band of Luiseño Indians
- Viejas Band of Kumeyaay Indians
- Yurok Tribe
Federal and State Agency Roles and Actions

Please see handout entitled:

Federal and State Lead Agency Roles and Actions in the Environmental Planning and Permitting Process

Agencies:
DWR, USACE, SWRCB, EPA, CVFPB, CDFW, USFWS, NMFS, SHPO and Delta Stewardship Council

Actions:
CEQA/NEPA, ESA/CESA, NHPA (106) and various other permitting actions

Link here
Tribal Engagement Committee (TEC)

TEC composed of Tribes historically affiliated with the Delta
Monthly meetings hosted and coordinated by Shingle Springs Rancheria
Purpose is to provide updates from the Delta Conveyance Authority (DCA) Stakeholder Engagement Committee (SEC) Tribal Representatives to the Tribal communities
DWR and DCA representatives have been invited to monthly meetings to provide technical updates and clarification on topics of interest as requested by the Tribes
Delta Conveyance Authority – Stakeholder Engagement Committee

- Tribal Representatives:
  - Malissa Tayaba, Shingles Springs Rancheria
  - Hon. Jesus Tarango, Jr., Wilton Rancheria
Tribal Engagement

Tribal engagement is an important component of every major project led by the State of California, providing an opportunity for government-to-government consultation and collaboration and coordination between Tribal leaders and project proponents. Guided by the Governor’s Executive Order B-10-11, the Department of Water Resources’ (DWR) Tribal Engagement Policy, the California Environmental Quality Act (CEQA) and state policies regarding consultation with California Native American Tribes, the Delta conveyance planning process will include significant Tribal engagement. This includes engagement with California Native American Tribes on Tribal Cultural Resources (TCRs) in accordance with the requirements of CEQA (Sections 21061.3, 21060.3.2, 21062.3), commonly referred to as AB 52 requirements (added to CEQA through Assembly Bill 52 of 2014).

DWR is committed to a robust, collaborative and transparent Tribal engagement process that provides for meaningful information sharing and opportunities for input. Below is a record of all DWR Delta conveyance planning process Tribal engagement activities by year.

DWR Tribal Engagement - Delta Conveyance: 2019 to Present

DWR is conducting Government-to-Government consultation with all of the Tribal governments that requested consultation with DWR pursuant to the California Public Resources Code or DWR’s Tribal Engagement Policy. For confidentiality reasons, DWR is not disclosing any sensitive information shared during consultation. However, an overview of various informational committee and stakeholder meetings with Tribal representatives are listed below with links to presentations and other resources.
Questions

Thank you

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Resources

• Executive Order B-10-11 (2011)
• http://gov.ca.gov/news.php?id=17223
• CNRA Tribal Consultation Policy (2012)
  • http://resources.ca.gov/docs/Final_Tribal_Policy.pdf
• DWR Tribal Policy (2016)
  • https://water.ca.gov/About/Tribal-Policy
• Native American Heritage Commission
  • www.nahc.ca.gov
• Protecting Cultural Resources
Resources

• Local Government and Tribal Intergovernmental Consultation SB 18 (2005)
• SB 18 (Chapter 905, Statutes of 2004)
• Delta Conveyance Tribal Engagement Website
• https://water.ca.gov/Programs/State-Water-Project/Delta-Conveyance/Tribal-Engagement
• AB 52 CEQA Amendment
• https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201320140AB52#:~:text=AB%2052%2C%20Gatto.,Americans%3A%20California%20Environmental%20Quality%20Act.&text=CEQA%20requires%20the%20lead%20agency,comment%20on%20a%20proposed%20project.
Executive Order B-10-11

- California recognizes Tribal sovereignty

- Every state agency under Executive Branch control shall encourage communication and consultation with California Tribes

- Respective of Federally AND non-federally recognized Tribes

- The Executive will engage with Tribes on a “Government-to-Government” basis
Executive Order N-10-19

Orders the California Natural Resources Agency, the California Environmental Protection Agency, and the California Department of Food and Agriculture

• Prepare a water resilience portfolio and reassess priorities
• Shall list inventory and assess (2.f) current planning to modernize conveyance through the Bay Delta with a single tunnel project

The Water Resilience Portfolio shall embody the following principles:

• (3.g) Strengthen partnerships with local, federal and tribal governments, water agencies and irrigation districts and other stakeholders
• (4.) These agencies shall conduct extensive outreach to inform this process, including to other state agencies, sovereign tribes, federal and local government, local water agencies, agricultural groups, environmental justice and environmental conservation organizations, local and statewide business leaders, academic experts and other stakeholders
Executive Order N-15-19

The State of California

- Recognizes and acknowledges the century of prejudicial policies against California Native Americans
- Commends and honors California Native Americans... for stewarding and protecting this land we now share
- Apologizes on behalf of the citizens of the State of California to all California Native Americans for the many instances of violence, maltreatment and neglect inflicted on Tribes
- Reaffirms and incorporates by reference and principles outlined in E.O. B-10-11, which requires the Administration to engage in government-to-government consultation with California Native American Tribes regarding policies that may affect Tribal communities.
- Establish the Truth and Healing Council.
Executive Order N-54-20

- Effective April 22, 2020

- This Executive Order suspended the time requirements for Tribes to request AB 52 consultation and for agencies to respond to Tribes that have requested consultation for 60 days from the date of the Executive Order.

- The Executive Order does not require a pause if consultation has already begun.

- Notifications for the Delta Conveyance Project proceeded the effective date.