

Annual Tribal Informational Meeting  
Update on Delta Conveyance Project

# Tribal Engagement

October 27, 2020

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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](#)



# AB 52 – CEQA Amendment

## 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:

- Lone 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




# DCA SEC

## Delta Conveyance Authority – Stakeholder Engagement Committee

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



# DCP Tribal Engagement




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## Tribal Engagement



Aerial photo of the San Joaquin Delta.

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 21080.3.1, 21080.3.2, 21082.3), 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

### Contact Us

For more information on the Delta conveyance or DWR Tribal engagement processes, please contact DWR's Tribal Policy Advisor, Anecita Agustinez, at:

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### Quick Links

- [DWR Tribal Engagement](#)
- [Governor's Office of the Tribal Advisor](#)
- [Natural Resources Agency Tribal Consultation Policy](#)

### Resources

- [AB 52 Tribal Consultation Notification List](#)

### Stay Connected

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# Questions

Thank you

Anecita Agustinez

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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](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](http://www.nahc.ca.gov)
- Protecting Cultural Resources
- <http://nahc.ca.gov/wp-content/uploads/2017/03/Protecting-CA-NA-Sites-During-Drought-Wild-Land-Fire-and-Flood-Emergencies.pdf>





# 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.](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

