

July 21, 2020

Delta Conveyance Project: Tribal Consultation Update

Northern California Tribal Chairperson's Association
(NCTCA Meeting)

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Tribal Policy Advisor

Overview

1. Tribal Engagement in the Stakeholder Engagement Process
2. Tribal Consultation Policies
3. Assembly Bill 52 (2014) effective July 1, 2015 CEQA Amendment
4. COVID-19 Effects on Consultation Process
5. Resources



Tribal Engagement in Stakeholder Process

- Tribal Sovereignty
- Ancestral Land
- Public Scoping Comments
- Government to Government communication
 - Lead agencies have responsibility of maintaining confidentiality



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
- E.O. N-54-20



Tribal Engagement in Delta Conveyance

DWR is lead agency under CEQA for the Delta Conveyance Project

DWR initiated broad pre-AB 52 Tribal outreach and providing technical support to Tribal Engagement Committee for Delta Tribes

DWR held eight public scoping meetings beginning on February 3, 2020 and ending on March 2, 2020. These meeting had significant Tribal public participation.

DWR issued a CEQA Notice of Preparation for Delta Conveyance Project on January 15, 2020, formally beginning AB 52 Tribal engagement.



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 AB 52

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, or is a resource that the lead agency, at its discretion and supported by substantial evidence, determines should be treated as a Tribal Cultural Resource. PRC § 21074(a)(1-2)

Tribes:

- In the Native American Heritage Commission (NAHC) “contact list.”
PRC § 21073



Tribal Consultation

Pursuant to AB52 and State consultation policies, DWR mailed a formal **AB52 Notification for the Delta Conveyance Project** on January 15, 2020.

Tribes who were not on the DWR AB 52 consultation list at the time of the release of the NOP were also mailed a Notification of the Delta Conveyance Project on the same date, and consistent with CNRA policy and DWR policy, informing them they are able to submit information regarding significance of any Tribal Cultural Resources, or any appropriate mitigation measures through the general CEQA process



Tribes Currently in 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



Tribal Informational Meetings

Pre-AB52 Meetings

- September 11, 2019
- November 12, 2019

Tribal Engagement Committee Meetings

- Monthly meetings continuing amongst Tribes organized by Shingle Springs Rancheria


DWR will schedule

quarterly Informational Update Meetings for Tribes

- Anticipate regional meetings throughout CA



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:

Email:
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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

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COVID-19

Formal requests for pauses in consultation due to COVID-19:

- Lone Band of Miwok Indians
- Rincon Band of Luiseño Indians
- Shingle Springs Band of Miwok Indians
- United Auburn Indian Community
- Yocha Dehe Wintun Nation

Other Tribes who notified DWR of temporary closures due to COVID-19:

- Hoopa Valley Tribe
- Karuk Tribe
- Wilton Rancheria



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



Questions

Thank you

Anecita Agustinez

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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)



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
- 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>

