

Comment Summary and Responses

Comment Deadline: August 23, 2022 by 12:00 noon

PROPOSED AMENDMENTS TO THE WATER QUALITY CONTROL PLANS FOR THE SACRAMENTO RIVER AND SAN JOAQUIN RIVER BASINS AND THE TULARE LAKE BASIN TO ADD THE TRIBAL TRADITION AND CULTURE, TRIBAL SUBSISTENCE FISHING, AND SUBSISTENCE FISHING BENEFICIAL USE DEFINITIONS

List of Commenters:

Comment Reference	Organization	Representative
1	Buena Vista Rancheria of Me-Wuk Indians	Emily Moloney
2	California Indian Environmental Alliance	Sherri Norris
3	Save California Salmon	Regina Chichizola
4	Southern Sierra Miwuk Nation	Tara Fouch-Moore

Response to Comments:

No.	Author	Comment	Response
0.1	Multiple	Four commenters (Buena Vista Rancheria of Me-Wuk Indians, California Indian Environmental Alliance, Save California Salmon, and Southern Sierra Miwuk Nation) expressed support for the proposed amendments to the Water Quality Control Plans for the Sacramento River and San Joaquin River Basins and Tulare Lake Basin, which would help protect activities specific to Native American Culture and Tribes' historic uses of California waters.	Thank you for your letter of support for the Central Valley Regional Water Quality Control Board's proposed amendment to add the Tribal Tradition and Culture, Tribal Subsistence Fishing, and Subsistence Fishing beneficial uses (Tribal Beneficial Uses or TBUs) definitions to the Water Quality Control Plans for the Sacramento River and San Joaquin River Basin and Tulare Lake Basin (Basin Plans). Comments will be included in the Administrative Record for this project.
0.2	Multiple	Two commenters (Buena Vista Rancheria of Me-Wuk Indians and California Indian Environmental Alliance) encouraged the Central Valley Water Board to seek direct input and engagement from Tribes throughout the Tribal Beneficial Uses basin plan amendment process for definitions and	The Central Valley Regional Water Quality Control Board recognizes the essential role of California Native American Tribes in ensuring the Tribal Beneficial Use designation process is reflective of the needs and direction we receive from tribes through direct input and engagement efforts.

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		<p>subsequent designation of water bodies with these Tribal Beneficial Uses.</p>	<p>To exemplify our dedication to tribal engagement, Central Valley Regional Water Quality Control Board staff organized the following project meetings and provided opportunities for direct input from tribes:</p> <ul style="list-style-type: none"> • Two tribal summits in March 2021 • Public TBU Update meeting 18 April 2021 • Informational item at the 17 June 2021 Central Valley Water Board Meeting • TBU Definition Regional Board Public Comment Period in December 2021 • TBU Definitions Regional Board Public Hearing 18 February 2022 • Tribal update meeting on 5 April 2022 <p>The Central Valley Regional Water Quality Control Board has also met with individual tribes and tribal organizations as requested. We will continue to work with and identify additional opportunities to engage with California Native American Tribes regarding the Tribal Beneficial Uses project.</p>
0.3	Multiple	<p>Two organizations (Buena Vista Rancheria of Me-Wuk Indians and Save California Salmon) commented that the Central Valley Region has incorrectly determined their amendment to the Basin Plans to include Tribal TBU definitions as a CEQA exempt project.</p>	<p>The proposed amendments do not constitute an activity which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. (Pub. Res. Code, § 21065.) The proposed amendment is not a “project” for purposes of CEQA, and therefore, is not subject to the Water Board’s certified regulatory programs regulations implementing CEQA. (Cal. Code Regs., tit. 23, 3720 (b), (c)(2).)3720 (b).) However, designation of a Tribal Beneficial Use, which is beyond</p>

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			the scope of this basin plan amendment, will be subject to CEQA implementation regulations. Ongoing consultation that includes communication and coordination with Tribal governments, Tribal organizations, and Tribal community members has occurred and will continue throughout the beneficial use designation process.
2	Sherrri Norris	State and regional boards should identify and apply actions that will reduce toxins and support existing methodology, emerging technologies and new science that may reduce runoff of sources and will reduce toxins in regional waters.	This comment is beyond the scope of this basin plan amendment. This proposed amendment only pertains to adding the definitions for Tribal Beneficial Uses to the Central Valley Regional Water Quality Control Board’s Basin Plans. The comment will be considered in future Basin Plan amendments pertaining to implementation plans to achieve beneficial uses.
3	Regina Chichizola	There may be tribes upstream, downstream, or in the watershed that will be affected by any change in one section of a waterway or body of water. As such, consultation should be with the “appropriate” tribes and from all tribes whose water will be affected by the designation of the new beneficial use definitions for any body of water.	The designation of a Tribal Beneficial Use is beyond the scope of this basin plan amendment. For a Regional Water Quality Control Board to designate a Tribal Beneficial Use in a water quality control plan for a particular waterbody segment, a California Native American Tribe must confirm the designation is appropriate, regardless of geographic location. A California Native American Tribe is a federally-recognized California tribal government listed on the most recent notice of the Federal Register or a non-federally recognized California tribal government on the California Tribal Consultation List maintained by the California Native American Heritage Commission.

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			Future basin plan amendments for Tribal Beneficial Use waterbody designations will be subject to a public review process where any tribe, regardless of geographic affiliation, may submit comments during specified periods that shall be taken into consideration.
3	Regina Chichizola	Once these definitions have been adopted the Regional Board should enforce the use of these definitions in the Bay Delta Plan.	The proposed Basin Plan Amendments do not amend the Bay Delta Plan. These amendments only amend the Central Valley Regional Water Quality Control Board's Basin Plans. Your comment has been provided to the State Water Resources Control Board's Division of Water Rights because they oversee the Bay Delta Plan.