



**PALA BAND OF
MISSION INDIANS**

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September 4, 2018

Via U.S. Mail and E-Mail

Ms. Jody Ebsen
Engineering Geologist
Restoration and Protection Planning Unit
San Diego Regional Water Quality Control Board
2375 Northside Drive, Suite 100
San Diego, CA 92108-2700

Re: 2018 Basin Plan Triennial Review - Tribal Tradition and Culture (CUL)

Dear Ms. Ebsen:

The Pala Band of Mission Indians (the “Tribe”) recently became aware of the San Diego Regional Water Quality Board’s (the “Regional Board”) 2018 Triennial Review of the Basin Plan (“2018 Review”). The Tribe understands that the Regional Board has received comments to its draft prioritized list for the 2018 Review. The Tribe respectfully requests that the Regional Board consider with its prioritized list the incorporation of the Tribal Tradition and Culture (“CUL”) as a beneficial use in the Basin Plan in the 2018 Review and the application of this beneficial use to the warm springs at the historic site of the Cupeño village of Kupa, currently known as the Warner Springs Ranch Resort.

Specifically, our request includes (1) amending the Basin Plan to recognize the CUL beneficial use within the San Diego region; (2) developing procedures, in consultation with California Native American Tribes, on how the Regional Board will: (i) consult with the over 20 California Native American Tribes in the San Diego region to determine the appropriateness of the CUL designation within specific waterways, and (ii) protect culturally sensitive and confidential information obtained during the CUL consultation and designation process; and (3) immediately begin the designation of the CUL beneficial use of the Agua Caliente springs (Warner Springs) within the historic Kupa village site.

_____ The CUL designation is one of the three beneficial uses adopted by the State Water Resources Control Board (“State Board”) and approved by the United States Environmental Protection Agency in 2017 by Resolution 2017-0027. Despite the State Board’s creation in 1967 and the Regional Board’s creation in 1970, the inclusion of the CUL beneficial use, along with the recognition of subsistence fishing beneficial uses was the first statewide water board initiative to recognize the unique cultural and ceremonial uses of water bodies by California Native American Tribes and to protect those uses. Recognition and protection of Tribal ceremonial and cultural uses is long overdue and should be a priority for this region. However, despite its adoption at the State level, the CUL beneficial use will only become effective for specific water bodies in this region when the Regional Board confirms with a California Native American Tribe that the designation is appropriate and when the Regional Board adopts its use for a specific waterbody in the Basin Plan. This request is the first step required for this process.

As noted by the State Board when considering the creation of the CUL designation, the appropriate avenue for Regional Boards to consider CUL as a beneficial use in their Basin Plan is through the triennial review process. The inclusion of the CUL as a beneficial use is already underway in Regions 2 and 6 in their Triennial Reviews and is an existing beneficial use in Region 1. The inclusion CUL as a beneficial use was determined by the U.S. EPA to be reasonable and appropriate to protect California Native American Tribal traditions and culture. It is important to note, that the CUL beneficial use is not

restricted to Tribal lands or water. The CUL designation can be designated for a waterbody on Tribal lands, historic Tribal land, or land that is or could be used by Tribes. San Diego County is home to more Native American Tribal governments and reservations than any other county in the country, and this does not account for the additional Riverside County Tribes within the San Diego Board's purview. Designation of appropriate waterways for the CUL designation is warranted immediately. The diversity within the San Diego Region warrants consultation with the various Tribes to determine which waterbodies are currently being used or could be used for Tribal cultural and ceremonial uses and would therefore be appropriate for the CUL designation.

Moreover, there is significant urgency for priority, immediate recognition of this beneficial use. This is the first opportunity for protections of state waters based on CUL beneficial uses within this region and delaying addressing these uses until another basin plan in three or six years places these uses in immediate and extended jeopardy. An excellent example that warrants immediate attention is Agua Caliente springs.

The Agua Caliente springs (now within the Warner Springs Ranch Resort) is a waterway that is appropriate for the immediate CUL designation and it should be provided such designation immediately. Along with the CUL designation of Agua Caliente springs, the Regional Board should evaluate objectives on how to best protect those beneficial uses for which the Agua Caliente springs has been used. Immediate designation of the Agua Caliente springs with the CUL designation is required because the springs are under threat and pressure from increased development, destruction and renovation for commercial purposes, and over use. The historical and cultural uses of the Agua Caliente springs by the Cupeño people and later the Spanish and American settlers is well documented.

The waters of the *pál atíingve* (hot springs) of Kupa have deep ontological, spiritual, and sacred significance to the Cupeño people. The three original Cupeño clans collectively owned the waters, and their use throughout deep time has been documented and preserved in myth, oral tradition, and ethnography, as well as in contemporary use. The Cupeño origin story, tales of the *Mulu'wetam* (First People) and spiritual beings, historical accounts, and modern use all combine to undergird the deep cultural significance of the springs. When our Cupeño ancestors were forcibly removed from the village of Kupa in 1903, it may have removed them physically from the hot springs, but it could never separate them – or their descendants – culturally. After the removal and up to the present day, our people have continued to attempt to visit and benefit from the sacred properties of the spring's waters, even as the land changed hands through different owners. Our access must be restored, and further, the springs must be protected from inappropriate use by non-tribal people. In particular, overuse of the waters may damage the ability to access and utilize the springs for sacred cultural purposes. Protection of the *pál atíingve* through a CUL designation should be the least that is required for protection of this invaluable cultural resource.

Best regards,



Robert H. Smith
Chairman, Executive Committee
Pala Band of Mission Indians

cc: Dr. Shasta Gaughen, Pala THPO
Ted Griswold, Esq., Procopio
Ms. Gita Kapahi, SWRCB Tribal Liaison