

JUNE 2019

# TRIBAL CONSULTATION POLICY

STATE WATER RESOURCES CONTROL BOARD | California Environmental Protection Agency



Tubatulabal Tribe's Spring Ceremonial Basket Courtesy of Tubatulabal Tribe



**State of California**

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**California Environmental Protection Agency**

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**Dear Water Boards Staff and California Tribal Leaders and Members:**

Meaningful engagement with California Native American Tribes is absolutely fundamental to the mission of the State Water Resource Control Board and Regional Water Quality Control Boards (the Water Boards). Collaboration and input from all Californians helps the Water Boards craft decisions and policies that better protect California's water quality, resources, and systems. Working with California Native American Tribes holds a special value at the Water Boards because of our parallel relationship to the people we serve and because of tribes' historic knowledge and experience managing California's water resources since time immemorial.

By working together over the past decade, we, the Water Boards and California Native American Tribes, have strengthened our relationships, held meaningful government-to-government consultations, and deepened our discourse to great success. For example, in the policy realm, together we developed and defined statewide Tribal Beneficial Uses for water quality purposes—thus acknowledging the importance of Traditional Ecological Knowledge and the unique concerns and needs of tribes.

The Water Boards are committed to build upon recent successes wrought from our collaborations with California Native American Tribes. This policy is intended to serve as a guide for staff, in furtherance of our commitment to meaningful engagement and consultation. It is a policy designed to foster strong, effective, and respectful government-to-government dialogues between Water Boards staff and tribes. Ultimately, successful collaboration is more than a formal process, policy, or discrete list of tasks, it requires sincerity, trust, and transparency—all values we know to be central to the Water Boards' members, staff, and core mission.

Sincerely,



E. Joaquin Esquivel  
Board Chair  
State Water Resources Control Board



Eileen Sobeck  
Executive Director  
State Water Resources Control Board

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## I. POLICY STATEMENT

The State Water Resources Control Board (“State Water Board” or “SWRCB”) and the nine Regional Water Quality Control Boards (“Regional Water Boards”) (together the “Water Boards”)’ policy is to develop effective communication with all California Native American Tribes that allows for meaningful participation and input while developing or revising the Water Boards’ regulations, rules, policies, programs or plans that may impact Tribes. It is the intent of this policy to establish the guiding principles to consult with California Native American Tribes on a government-to-government basis when requested and deemed to be appropriate through discussion with the requesting tribe(s), or as required by statute (e.g. Assembly Bill 52 and Section 106 National Historic Preservation Act).

The Water Boards will continue our commitment to meaningful involvement and consultation with California Native American Tribes by recognizing each tribe’s unique sovereign status, culture, history, environmental and water concerns. We value integrating tribal input and continuously educating both staff and tribes as outlined in this policy, thus enhancing the Water Boards’ activities, policies, and decision-making process.

## II. PREFACE

In 2011, Governor Edmund G. Brown Jr. signed [Executive Order B-10-11](#) which established, among other things, a policy that encouraged all state agencies, departments, and boards to communicate and consult with California Native American Tribes and provide an opportunity for meaningful input into the development of legislation, regulations, rules, and policies on matters that may impact tribal communities.

This Tribal Consultation Policy (Policy) affirms the Water Boards continued commitment to strengthening and sustaining government-to-government relationships with both federally and non-federally recognized California Native American Tribes. The Water Boards are committed to the foundation and principles outlined in the California Water Boards Tribal Consultation Policy.

The intent of this Policy is to guide our staff to engage aptly with California Native American Tribes through timely and meaningful consultation and collaboration on actions that may have an impact to tribal lands, tribal interest and/or tribal cultural resources consistent with the mission of the Water Boards. This Policy establishes statewide general guidelines for tribal consultations across the Water Boards. Included within this Policy are the foundations and tools necessary for fostering and sustaining meaningful government-to-government relationships between the Water Boards and California Native American Tribes. Specific to the Water Boards’ projects and mission, this Policy is consistent with and builds upon the 2015 CalEPA Policy on Consultation with California Native American Tribes.

### III. BACKGROUND

#### CALIFORNIA NATIVE AMERICAN TRIBES

According to the 2010 U.S. Census, California has the largest Native American population in the United States. California is the home state to the second largest number of federally recognized tribes in the nation. There are currently 109<sup>1</sup> federally recognized tribes in California as determined by the Bureau of Indian Affairs (BIA). Federally recognized tribes may enact tribal codes that effect natural resources, public health and environmental protection, and may apply for treatment in the same manner as a state under certain federal environmental laws, including but not limited to the Clean Water Act and Safe Drinking Water Act. The Native American Heritage Commission (NAHC) maintains a list for purposes of state law that includes 56<sup>2</sup> non-federally recognized tribes in California<sup>3</sup>.

California Native American Tribes, whether officially recognized by the federal government or not, may have distinct environmental, economic, cultural and public health concerns separate from the concerns of other tribes and the general public. No one individual tribe can speak for another tribe or for California Native American Tribes as a group. Consistent with the Governor's directive, the State Water Board recognizes the importance of and is committed to building government-to-government relationships with all California Native American Tribes.

#### MISSION OF THE CALIFORNIA WATER BOARDS

Since its establishment in modern form in 1967, the State Water Board has had regulatory authority for protecting water quality and allocating surface water rights. In 2014, the Division of Drinking Water was transferred to the State Water Board. The Division of Drinking Water regulates public water systems; oversees water recycling projects; permits water treatment devices; and promotes water system security. The Water Boards have worked to maintain the protection of water quality via an array of programs, such as storm water, wastewater treatment, water quality monitoring, wetlands protection, ocean protection, contaminated site cleanup, low-impact development, and enforcement strategies. The Water Boards act in an enforcement capacity when the laws and regulations protecting California's waterways are violated.

The Governor appoints five full-time Board members to carry out the Board's mission *"to preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and*

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<sup>1</sup> These numbers are subject to change.

<sup>2</sup> IBID

<sup>3</sup> Tribes petitioning for federal recognition can be tracked at <https://www.bia.gov/as-ia/ofa>. Further there are some California Native American Tribes (such as the Fort Mojave, Quechan Tribe of the Fort Yuma Indian Reservation and Colorado River Indian Tribes) that have land in multiple states. There are some tribes that have historic tribal territory once in California but no longer reside here or were removed.

*future generations*”. Additionally, each of the nine semi-autonomous Regional Boards have seven part-time Board members also appointed by the Governor. Each Regional Board makes critical water quality decisions for its region, including setting standards, issuing permits (waste discharge requirements), determining compliance with those requirements, and taking appropriate enforcement actions.

#### IV. DEFINITIONS

For this Policy, the following terms are defined below:

**Agency Designee** is an individual that represents the Water Boards during consultation.

**Assembly Bill 52 (AB 52)** passed in 2014, amended the Public Resource Code (PRC) and requires as of July 1<sup>st</sup> 2015 all California Environmental Quality Act (CEQA) lead agencies within 14 days of undertaking a project to consult a California Native American Tribe, or tribes, that is traditionally and culturally affiliated with the geographic area of the proposed project if: (1) the California Native American Tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe, and (2) the California Native American Tribe responds, in writing, within 30 days of receipt of the formal notification, and requests the consultation.

**Beneficial Use(s)** defined by the Final Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California—Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions include:

**Tribal Tradition and Culture (CUL)** which is a defined beneficial use of water that supports the cultural, spiritual, ceremonial, or traditional rights or lifeways of California Native American Tribes, including, but not limited to: navigation, ceremonies, or fishing, gathering, or consumption of natural aquatic resources, including fish, shellfish, vegetation, and materials.

**Tribal Subsistence Fishing (T-SUB)** which is a defined beneficial use of water involving the non-commercial catching or gathering of natural aquatic resources, including fish and shellfish, for consumption by individuals, households, or communities of California Native American Tribes to meet needs for sustenance.

**California Native American Tribe** refers to either a federally recognized California tribal government listed on the most recent notice of the Federal Register or a non-federally recognized California tribe listed on the California Tribal Consultation List maintained by the NAHC.

**Collaboration** refers to communicating and working together through mutual respect and cooperation toward a common purpose.

**Communication** refers to the dissemination, exchange or sharing of information between Water Boards' staff and California Native American Tribes.

**Consultation** is a meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties' cultural values and, where feasible, seeking agreement. Consultation between government agencies and California Native American Tribes shall be conducted in a way that is mutually respectful of each party's sovereignty. Consultation shall also recognize a tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural significance

**Federal Recognition** refers to acknowledgement by the federal government that an American Indian group indigenous to the continental United States and members constitute a tribe with a government-to-government relationship with the United States. This recognition clarifies the tribe's eligibility for programs and services established by the United States for Native Americans (25 CFR § 83.1 - 83.46).

**Government-to-Government Relationship** is a relationship that exists between governments. Implicit in the relationship is a mutual recognition of the governmental nature of the respective parties, and the authority with which they represent a people. Tribes are governments, which sets them apart from any other stakeholder.

**Ancestral Tribal Territories** are lands to which a tribe has a historic (pre-colonial) connection via long term occupancy, habitation, ceremonial or subsistence use.

**Indian Country or Tribal Lands** means (a) all land within the limits of any Native American reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; (b) all dependent Native American communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and (c) all Native American allotments, the Native American titles to which have not been extinguished, including rights-of-way running through the same (18 USC. § 1151).

**Regional/Divisional Tribal Coordinator** is an individual at each of the nine Regional Water Quality Control Boards and the four divisions at the State Water Board, the Division of Water Quality (DWQ), Division of Water Rights (DWR), Division of Drinking Water (DDW) and the Division of Financial Assistance (DFA) who, with direction from of the State Board Tribal Liaison and their respective Assistant Executive Officer or Assistant Deputy Director, are responsible for acting as the principle point of contact for staff in their respective offices to provide expertise regarding tribal consultation, , and support their Region's or Division's efforts to build government-to-government relationships with California Native American Tribes.

**Reservations** are individual parcels and interests therein within a boundary that may be held in trust for the tribe or for individual Native Americans by the federal government, or may be held in fee status or restricted status.

**Tribal Cultural Resources** defined in Public Resources Code, section 21074 as: (1) sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American Tribe that are either included or determined to be eligible for inclusion in the California Register of Historical Resources or included in a local register of historical resources; (2) a resource determined by the CEQA lead agency, in their discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of section 5024.1 of the Public Resources Code, taking into account the significance of the resource to the California Native American Tribe (3) a cultural landscape that meets the above is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape; and/or (4) A historical resource described in Public Resources Code section 21084.1, a unique archaeological resource as defined in subdivision (g) of section 21083.2, or a “nonunique archaeological resource” as defined in subdivision (h) of section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

**Tribal Liaison** will be designated by the Executive Director of the State Water Board to act in the capacity for coordinating between the Water Boards and California Native American Tribes. The Water Boards’ Tribal Liaison is responsible for coordinating outreach, communication and consultation efforts with the Water Boards and tribes.

**Tribal Official** an elected or appointed Tribal leader or official designated in writing by a California Native American Tribe to represent the Tribe in government-to-government consultation.

**Tribal Sovereignty** for purposes of this Policy refers to the unique political status of federally recognized tribes. A federally recognized tribe exercises certain jurisdiction and governmental powers over activities and tribal members within its territory. Some of these powers are inherent, some have been delegated by the United States, and all are subject to limitations imposed by the United States. Existing limitations are defined through acts of Congress, treaties and federal court decisions.

## V. CONSULTATION BEST PRACTICES

Consultations with California Native American Tribes may range and vary between subject matter(s) discussed, agency resources, and the tribe(s) involved. The following list is intended to include some of the best practices for Water Board staff to strive toward in consultations with California Native American Tribes.

### Engagement with tribes:

- Water Board staff will continue to encourage interested individuals who are tribal members, to stay informed about issues pertaining to water quality management, and water rights, as well as other policies and programs related to water resources through the [Water Boards' Tribal Matters email list serve](#);
- To help identify interested tribes and/or potentially impacted tribes, Water Board staff will utilize multiple sources for information, including but not limited to the NAHC contact list, CalEPA tribes by county list, tribes and tribal members themselves and other sources of relevant information;
- Staff should work to identify any and all tribes that have ancestral territory or current land covering multiple Regional Board boundaries; and
- In the absence of legal consultation requirements, a best practice is to consult with tribes out of respect for their status as sovereign governments or based on the unique tribal interests that may be affected by a proposed action, policy, or set of activities. Staff should contact the State Water Boards' Tribal Liaison and/or their Tribal Coordinator to help make this determination.

### Timing:

- Communication and consultation should occur as early in the decision-making process as possible, before any decision is made.

### Consultation:

- Staff should be knowledgeable of the history and pertinent issues being discussed in a consultation;
- Water Board staff will confer with interested tribe(s) and their representative(s) to ensure the communication is between the tribal government or an appropriately designated representative, with written consent to speak on behalf of the tribe, as dictated by the tribe's organic documents or traditional practices;
- Consultation should take place in person and on tribal lands, when feasible;

- Staff will work with the involved tribe(s) to ensure that the appropriate individuals are involved in the consultation process, including, when appropriate, Water Board decision-makers and tribal council members;
- Consultations will occur with one tribe at a time unless otherwise agreed upon; and
- Prior to a consultation, appropriate Tribal Officials and Agency Designees should be provided with sufficient, related information in a timely manner.

## **VI. GUIDING PRINCIPLES**

The Water Boards will be guided by these principles and best practices to improve and maintain effective government-to-government relationships and consultation with California Native American Tribes:

1. Acknowledge, recognize and respect tribal sovereignty;
2. Commit to building, strengthening, and sustaining effective government-to-government relationships between the Water Boards and California Native American Tribes;
3. Recognize that all California Native American Tribes represent distinct and independent governmental entities with specific beliefs, traditions and unique connections to the area(s) of California that are their current and/or ancestral homelands;
4. Understand and recognize that federally recognized tribes have a unique trust relationship with the federal government;
5. Understand and recognize that no one tribe speaks for another;
6. Communicate with tribes in a manner that is considerate and respectful;
7. Communicate, engage, and, if appropriate or when required by law consult with California Native American Tribes at the initial stage in the decision-making process that may affect tribal cultural resources, lands and or people;
8. Consider, review and adhere, when appropriate, to a tribes' own consultation policy if provided, before initiating consultation with that tribe;

9. Consider the potential impact of the Water Boards' activities or programs on tribal lands and tribal cultural resources;
10. Identify appropriate and essential Water Board officials and staff to be present in a consultation. This will generally include individuals who are knowledgeable about the subject at hand, who are authorized to speak for the Board, who have decision making authority, and who have a working relationship with the tribe;
11. Acknowledge, recognize, and respect the need and importance, and in some circumstances requirement (e.g., AB 52) for confidentiality regarding places, land, tribal cultural resources and matters discussed in consultation;
12. Recognize and respect the tribal cultural resources of California Native American Tribes regardless of where they are located;
13. Inquire which method of communication the tribe(s) prefer during the consultation process including, but not limited to phone, e-mail, fax or certified mail; and
14. Take into consideration traveling to tribal lands for consultations when feasible.

## **VII. ACTION PLAN**

1. Continue to solicit input from the CalEPA Tribal Advisory Committee (TAC) regarding environmental issues and projects pertaining to California Native American Tribes. The Tribal Advisory Committee will meet with the Secretary of CalEPA and the heads of each department, or their designees, at least once each calendar year.
2. Maintain the position of Tribal Liaison within the Water Boards as a central point of contact for all California Native American Tribes;
3. Promote efforts of California Native American Tribes to develop and expand environmental programs through training, outreach, funding, and technical assistance;
4. Provide training to executive staff, managers, supervisors and employees to improve the Water Boards' ability to carry out meaningful consultation and communication efforts with tribes;
5. In coordination with and input from California Native American Tribes, develop and provide tribal cultural competency training for Water Boards' executive, managers, supervisors, and staff on tribal interactions and consultation practices;

6. In coordination with and input from California Native American Tribes, develop a supplemental guide, with tools and guidance that will be Water Board program specific, for Water Board staff to assist in carrying out consultation with California Native American Tribes;
7. Provide training to California Native American Tribes on Water Boards' programs, permits and policies on Tribal lands, where feasible;
8. Request relevant available information, studies and data from California Native American Tribes when conducting research or environmental studies that relate to, or could impact tribal lands or tribal cultural resources;
9. Assess eligibility of California Native American Tribes for the Water Boards' financial assistance programs, including but not limited to grants, and loans;
10. Develop Memoranda of Understanding (MOU), Memoranda of Agreement (MOA), or other cooperative agreements with California Native American Tribes on specific projects or subject matters, when appropriate;
11. Designate staff within each Regional Water Quality Control Board to serve as a Regional/Divisional Tribal Coordinator;
12. Ensure that each regional board is engaged in consistent and effective coordination within each Regional Board, Division and Office of the State Water Board will provide the Tribal Liaison an update once completed on all tribal consultations; and
13. The State Boards' Tribal Liaison will continuously evaluate the effectiveness of this Policy and the Water Boards' consultations with California Native American Tribes.

## **VIII. CONSULTATION DISPUTE RESOLUTION**

A tribal official may address concerns regarding Water Boards' consultation in writing to the Tribal Liaison at [Tribal-Liaison@waterboards.ca.gov](mailto:Tribal-Liaison@waterboards.ca.gov) or at the following address: Tribal Liaison, State Water Resources Control Board, 1001 I Street, Sacramento, P.O. Box 100, CA 95814.

The Tribal Liaison will work with Water Board staff and the tribe to resolve the issue to the parties' mutual satisfaction. If the Tribal Liaison is unable to resolve the issue, they may refer the matter to the Executive Director, Region Executive Officer or another appropriate level of authority.

## **IX. DISCLAIMER**

The State Water Boards' Tribal Consultation Policy describes broad principles for the consultation process between the Water Boards and Tribes. This Policy is intended solely for the guidance of the employees of the Water Boards regarding tribal consultation and does not extend to other governmental agencies or entities. This Policy shall complement, not supersede, any preceding laws, rules, statutes or regulations that guide consultation processes with tribes. This Tribal Consultation Policy shall not be interpreted to replace existing policies of the Water Boards or CalEPA. Nothing in this Policy shall be interpreted to prevent the Water Boards or CalEPA from taking timely action to fulfill legal obligations to protect public health and the environment.

## STATUTORY REFERENCES

### ***Federal***

Title 18 United States Code section 1151: The United States Code defines “Indian Country” as “(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.”

Title 25 United States Code section 3001, et seq.: The Native American Graves Protection and Repatriation Act (NAGPRA) requires consultation, for federally land - owning agencies, regarding the treatment and disposition of specific cultural items (human remains, funerary objects, sacred objects, and cultural patrimony) prior to intentional excavation or removal of Native American human remains, during the inventory of human remains, and to determine place and manner of delivery.

Title 54 USC Section 306108.: (Commonly known as Section 106) of the National Historical Preservation Act requires “the head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, shall take into account the effect of the undertaking on any historic property. The head of the Federal agency shall afford the Council a reasonable opportunity to comment with regard to the undertaking.”

Title 36 CFR Part 800.: The implementing regulations for Section 106 of the National Historic Preservation Act details procedures on how Federal agencies shall meet these statutory responsibilities. The Section 106 process seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation among the agency official and other parties with an interest in the effects of the undertaking on historic properties, commencing at the early stages of project planning. The goal of consultation is to identify historic properties potentially affected by the undertaking, assess its effects and seek ways to avoid, minimize or mitigate any adverse effects on historic properties.

### ***State***

Executive Order B-10-11: Recognizes and reaffirms the inherent right of Native American Tribes to exercise sovereign authority over their members and territories, establishes the Governor’s Tribal Advisor position within the Governor’s Office, reaffirms the state’s commitment to working with Tribes, and encourages communication and consultation with Tribes.

Government Code section 11019.8: “All state agencies, as defined in [Government Code] section 11000, are encouraged and authorized to cooperate with federally recognized California Indian tribes on matters of economic development and improvement for the tribes.” This may include, but is not limited to, providing information on programs available to assist Indian tribes, providing technical assistance on preparation of grants and applications for public or private funds, conducting meetings and workshops, or any other reasonable steps that could assist tribes in becoming economically self-sufficient.

Government Code section 65352.4: “‘Consultation’ means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation shall also recognize the tribes’ potential needs for confidentiality with respect to places that have traditional tribal cultural significance.”

Health & Safety Code section 8012, et seq.: The California Native American Graves Protection and Repatriation Act requires any agency or museum that has possession or control over California Native American human remains and associated funerary objects to inventory, attempt to identify the geographic location, and consult with the tribe believed to be affiliated with the items.

Health & Safety Code section 7050.5: “In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined. If the coroner recognizes the human remains to be those of a Native American or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.”

Public Resources Code section 5024.1: Establishes a California Register of Historical Resources, “as an authoritative guide in California to be used by state and local agencies, private groups, and citizens to identify the state’s historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change”.

Public Resources Code section 5097.9, et seq.: Prohibits a public agency, or private party using or occupying public property, or operating on public property, under a public license, permit, grant, lease, or contract made on or after July 1, 1977, from interfering with the free expression or exercise of Native American religion as provided in the United States Constitution and the California Constitution; or cause severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, except on a clear and convincing showing that the public interest and necessity so require. This

chapter establishes the Native American Heritage Commission, and specifies its powers and duties. And, Section 5097.98:

“(a) Whenever the commission receives notification of a discovery of Native American human remains from a county coroner pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, it shall immediately notify those persons it believes to be most likely descended from the deceased Native American. The descendants may, with the permission of the owner of the land, or his or her authorized representative, inspect the site of the discovery of the Native American human remains and may recommend to the owner or the person responsible for the excavation work means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The descendants shall complete their inspection and make recommendations or preferences for treatment within 48 hours of being granted access to the site.

(b) Upon the discovery of Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in this section, with the most likely descendants regarding their recommendations, if applicable, taking into account the possibility of multiple human remains. The landowner shall discuss and confer with the descendants all reasonable options regarding the descendants’ preferences for treatment.”

Public Resources Code section 21073-74, 21080.31 et seq.: (Also referred to as Assembly Bill/ AB 52) Prior to the release of a negative declaration, a mitigated negative declaration, or an environmental impact report for a project, the CEQA lead agency is required to consult with California Native American Tribes that are traditionally and culturally affiliated with the geographic area of the proposed project if the tribe requested notification and requested consultation for the project. The California Environmental Quality Act (CEQA) evaluates effects of the project on tribal cultural resources, historic resources, and unique archaeological resources as environmental impacts.

Public Resources Code section 71110: “The California Environmental Protection Agency, in designing its mission for programs, policies, and standards, shall do all of the following: (a) Conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations of the state. (b) Promote enforcement of all health and environmental statutes within its jurisdiction in a manner that ensures the fair treatment of people of all races, cultures, and income levels, including minority populations and low-income populations in the state. (c) Ensure greater public participation in the agency's development, adoption, and implementation of environmental regulations and policies. (d) Improve research and data collection for programs within the agency relating to the health of, and environment of, people of all races, cultures, and income levels, including minority populations and low-income populations of the state. (e) Coordinate its efforts and share information with the United States Environmental Protection Agency. (f) Identify differential patterns of consumption of natural resources among people of different socioeconomic classifications for programs within the agency.”