



November 26, 2018



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State Water Resources Control Board  
Attention: Jeanine Townsend  
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Sacramento, CA 95812

**Comment Letter - Updates to Cannabis Cultivation Policy**  
Submitted electronically to [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

The Yocha Dehe Wintun Nation ("Yocha Dehe" or "Tribe"), a federally recognized tribal government, very much appreciates this opportunity to comment on the State Water Resources Control Board's proposed updates to its Cannabis Cultivation Policy.

The stated basis for the proposed updates is to "expand options that California Native American tribes may implement to approve, reject, or not act regarding proposed cannabis cultivation activities that are on or within 600 feet of their tribal lands." As a general matter, Yocha Dehe supports the concepts of (i) requiring tribal consent for cannabis cultivation on and near tribal lands; and (ii) maximizing the options and regulatory flexibility available to tribal governments. However, we have three significant concerns about the specific language of the proposed updates:

1. The proposed updates would establish a 45-day review period during which potentially affected tribes may accept, reject, or take no action on a proposed cannabis cultivation project. If a potentially affected tribe takes no action during the 45-day period, the Water Boards will proceed with a decision on the project as if the tribe has granted its acceptance. The issue is that many tribal governments have limited resources, and 45 days may not always be enough time to allow them to review and consider complex cultivation proposals. We respectfully submit that a 60-day review period would be more appropriate. Alternatively, it may be worth considering an arrangement by which each potentially affected tribe shall be granted a 15-day extension of the 45-day period upon request.

2. Currently, Attachment A, Section 1, Requirement 19 reads as follows:

"The cannabis cultivator shall not cultivate cannabis on tribal lands or within 600 feet of tribal lands without the express written permission of the governing body of the affected tribe or from a person deputized by the governing body of the affected tribe to authorize cannabis cultivation on tribal lands."

Yocha Dehe Wintun Nation

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This straightforward mandate gives tribes broad power to refuse, allow, condition, or withdraw permission for any proposed cannabis cultivation (as, for example, where the impacts of proposed cannabis cultivation ) *as well as* any ongoing cannabis cultivation (as, for example, where the impacts of active operations prove to be far more significant than any of the parties initially anticipate).

The proposed update purports to increase options and flexibility for tribes, but, as a practical matter, it would severely restrict tribal authority over ongoing cannabis cultivation on or within 600 feet of tribal lands. Whereas the existing Cannabis Cultivation Policy (cited above) allows tribes to withdraw their permission if ongoing cannabis cultivation proves to have unanticipated or excessive impacts, the proposed update would only apply such a withdrawal to “any new cannabis cultivation proposals received after” the withdrawal, effectively allowing significant impacts to tribal resources to continue unabated. This element of the proposed update is entirely inappropriate and should be immediately withdrawn.

3. Currently, the second sentence of the second paragraph of Attachment A, Section 1, Requirement 21 requires the cannabis cultivator to consultation with culturally affiliated tribes “prior to any ground disturbing activities” for any new or expanded cannabis cultivation for which a Sacred Lands Inventory search reveals the presence or potential presence of Native American places of special or social significance. The proposed updates would replace “prior to any ground disturbing activities” with “prior to conducting any land disturbance activities.” One of the (perhaps unintentional) consequences of this change would be to restrict the consultation requirement to disturbances created by the cultivator. Such a limitation is neither desirable nor appropriate. Consultation should be required before any ground (or land) disturbance takes place, whether that disturbance is created by the cultivator, the cultivator’s employees, the cultivator’s agents, or some other party or parties participating in or related to the cultivation operation.

4. Both options presented in proposed Attachment A, Section 1, Requirement 38, allow indoor cannabis cultivators to avoid compliance with regulatory requirements. Indoor cannabis cultivation projects can impact tribal cultural resources just as surely as those conducted outdoors. Therefore, a buffer remains appropriate. Again, we request that this element of the proposed update be withdrawn

Thank you for your continued support for the protection of tribal cultural resources from the impacts of cannabis cultivation. Should you have any questions about these comments, please contact Omar Carrillo, Director of Public Affairs, or Marilyn Delgado, Director of Cultural Resources, at 530.796.3400.

Wile bo,



Anthony Roberts  
Tribal Chairman