



**DRY CREEK RANCHERIA
BAND OF POMO INDIANS**



February 17, 2017

VIA electronic submission: commentletters@waterboards.ca.gov

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Clerk to the Board State Water Resources Control Board
P.O. Box 100,
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Re: Beneficial Uses Development- Tribal Traditional and Cultural, Tribal Subsistence Fishing and Subsistence Fishing Beneficial Uses

Honorable Water Resources Control Board:

The Dry Creek Rancheria, Band of Pomo Indians respectfully submits this letter in support of the proposed beneficial use categories pertaining to tribal traditional and cultural use, tribal subsistence fishing, and subsistence fishing by other cultures or individuals. We applaud the effort by the State Water Resources Control Board (“Water Board”) and its staff in developing the proposed definitions. We believe that it is never too late, or too soon, to acknowledge tribal traditional cultural use and traditional subsistence fishing through the adoption of the new beneficial use definitions.

We further applaud and support the Board staff in its effort to explain to opposing groups that adoption of the definition does not, in and of itself, change anything substantively. The Regional Water Boards (hereinafter “Boards”) carry out their water quality protection authority through, among other actions, the adoption of water quality control plans. Through these plans, the Boards establish water quality standards, which identify beneficial uses, designate specific waters with beneficial uses, establish water quality objectives to protect those uses, and set antidegradation policies for those waters. A water quality standard will be inadequate if all beneficial uses are not properly identified and included in the development of the standard. That is why some water quality control plans already identify traditional tribal cultural use, however there is no statewide definition for what that means.

It seems common sense that if people are using water in a specific way, that the Boards would consider those uses when approving water quality standards for a specific water body. Beneficial uses are the baseline of water quality protection. The Porter-Cologne Act provides that the beneficial uses of the state’s waters are protected against degradation. However, the current list of beneficial uses still does not include traditional tribal cultural uses or traditional tribal subsistence fishing, two important beneficial uses that continue today, despite the significant amount of historic watershed disruption and degradation.

It is our understanding that by adopting definitions for the new beneficial use categories, the Water Board is not extending any specific rights to our Tribe, particularly that we are not being guaranteed any quantified water rights, removal of any diversions, or an allocation of a certain number of fish or other species. We understand that these rights would flow from other laws and other legal procedures.

We agree that any future designation of the tribal traditional cultural use for a specific water body would take place in the context of a water quality control planning process, with associated supporting information and public participation. This process would include the opportunity to examine whether the designation may subsequently result in instream flow requirements, and the implications of any such flow requirements. We believe that the current procedures for balancing these needs is a public process that is well established.

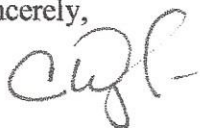
The Dry Creek Rancheria is one of many governmental and regulatory authorities that has authority to regulate waters within its jurisdiction. We take this role very seriously, and we are conscious of the careful balancing that is required to both allow for economic development, but also protect our limited natural resources. We are committed to ensuring that water quality standards are met or exceeded for all tribal projects and under all applicable permits.

After years of discussion, we were pleased to see that on February 16, 2016, the Water Board adopted Resolution No. 2016-0011. In accordance with the resolution, Board staff developed the beneficial use categories, and there has been an extensive public process where input could be given. We participated in this process and we believe that the proposal is sound and should be adopted without further delay.

In closing, we support the current proposal to include new beneficial use definitions for tribal traditional and cultural use, tribal subsistence fishing, and subsistence fishing by other cultures or individuals. We urge the Board to adopt the recommendations from staff and approve the following beneficial use definitions:

- 1) Tribal Tradition and Culture (CUL): Uses of water that support 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.
- 2) Tribal Subsistence Fishing (T-SUB): Uses 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 minimal needs for sustenance.
- 3) Subsistence Fishing (SUB): Uses of water involving the non-commercial catching or gathering of natural aquatic resources, including fish and shellfish, for consumption by individuals, households, or communities, to meet minimal needs for sustenance.

Sincerely,



Chris Wright
Tribal Chairman