

# Tribal Protocols for Outreach & Engagement

*Developed as a resource for the DWR Watershed Resilience Pilot Program*

## Initial Steps for Reaching Local Tribes:

- Define the Watershed Area
  - Delineate the watershed area to include any and all proposed project activities.
  - Create a map of the watershed as it relates to the larger geographical context.

If the area is subject to a political jurisdiction, such as county lines, consider a separate map to include the county or hydrologic region. This would be helpful to identify potentially interested Tribes and communities associated with the geographic region of the watershed.

- Identify California Indian Tribes<sup>1</sup> (Tribes) and develop a contact list of Tribal representatives with traditional and cultural affiliation to the geographic region of the project area. Request a contact list for California Tribes potentially affiliated with the project area from the [California Native American Heritage Commission](#) (NAHC). Including a map of your watershed will aid the NAHC. If there is significant delay in response from the NAHC, follow up with a phone and email reminder.
  - *DWR Resource: DWR Office of Tribal Affairs (OTA) can review the contact list for accuracy including updates to contacts that may not be reflected on the NAHC contact list and information on file. Please request at least 30 days in advance.*
    - If the project is subject to CEQA, the organization should maintain and review the list of Tribes on the Request for Notification list for compliance with Assembly Bill (AB) 52 amended CEQA, Public Resources Code (PRC) §21080.3.1.
- Develop a profile of past and current relationships with the Tribes identified
  - Does the organization have experience or subject matter experts familiar with working with the identified Tribes?

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<sup>1</sup> As defined by California Executive Order B-10-11 and N-15-19: “Tribe,” “California Indian Tribe”, and “tribal” include all Federally Recognized Tribes and other California Native Americans on file with the Native American Heritage Commission. In California, the definition of California Native American Tribe was first adopted in the legislation SB18 in 2004, which means a Native American Tribe that is on the contact list maintained by the Native American Heritage Commission for purposes of SB18 compliance.

- Did these past experiences result in a positive, negative, or neutral relationship with each of these Tribes?
      - Conduct an internal review to determine what worked, what did not work, and any areas of potential improvement.
    - Does the Tribe have water agency status?
- To gain a baseline understanding and background of potentially traditionally and culturally affiliated Tribes within the proposed area:
  - Visit Tribal websites
    - This is a starting point to develop an understanding of Tribal history, current government news, and organizational structure. Many Tribal websites contain great resources on Tribal protocols, practices, and local news. It is also an opportunity to learn more about Tribal neighbors, activities, and current events. Keep in mind research does not replace actual consultation with Tribes.
  - Attend Tribal events open to the public and develop local relationships.
- Learn the basic types of Tribal land (trust allotments, fee land, trust land, etc.)
- Consider how you will incorporate Tribal interests into your project. For example, in planning are you considering impacts to cultural resources such as culturally important plants or historic sites?
- Consider how you will incorporate and support capacity building for Traditional Ecological Knowledge (TEK) into your project and planning. As defined by the Biden-Harris Administration in 2022, Indigenous Knowledge (IK) is knowledge developed through observation, oral and written history, cultural practices, and beliefs accrued over multiple generations through environmental stewardship and relationships with the natural world. IK is inclusive of Traditional Ecological Knowledge (TEK) and Indigenous Science as components of an intricate ecocultural web.
  - This includes consideration of compensation for time and resources a Tribe may spend on document review or other subject matter expertise. Please discuss any potential use of grant funds with DWR beforehand to ensure eligibility.
- Determine if your Regional Water Quality Control Board has adopted Tribal Beneficial Uses (TBUs) and the definitions adopted by the State Water Resources Control Board including Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T-SUB), Subsistence Fishing (SUB), and any others that may be defined in the future. Have you formally incorporated Tribal Beneficial uses into your planning?

### Guidance for Interacting with Tribal Members:

- Check knowledge of cultural competency

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- Understanding Reciprocity: It is cultural protocol to give something in return for something you ask for
- Honor differences in addressing Tribal government versus Tribal communities
  - Directly acknowledge and defer to Tribal Leadership using proper honorific (Chairperson, Vice Chairperson, or Councilmember) as a sign of respect. Address as you would governmental leaders. After Tribal Leaderships are identified, then move to Tribal representatives with delegated authority to speak for and represent their Tribe.
  - Members of the Tribal community identify as Tribal members but do not speak on behalf of or represent a Tribal nation or government. They are members of the public that identify as Tribal citizens.
- Refer to this [American Indian and Alaska Native Culture Card](#) for more tips
- Be mindful of the language. While often unintentional, some terms can be easily interpreted as exclusionary, offensive, or derogatory due to historical contexts and experiences:
  - Many California Indian Tribes do not consider themselves disadvantaged communities. Replace with Tribe, Tribal government, or Tribal community.
  - Stakeholders: a callback to historical colonization practices of staking claim to Tribal lands not available or open to claim by the U.S. government or settlers. Replace with interested parties or rights holders.
  - Chief: holds special significance as a Tribal leader, but is often used in local, state, and federal government titles. Replace with Executive Leadership, Manager, etc.
  - Pow wow: is a ceremony for Tribes, but often used by non-natives in reference to a side conversation or discussion. Replace with chat, discuss, converse, etc.
  - Sq\*aw: a derogatory term for a Native American woman. DO NOT USE. In 2022, California Governor Gavin Newsom signed AB 2022 into law removing the term from all geographic features and place names in the state.

- Chapter 7 in the California Water Plan has a glossary and definitions written by California Indian Tribes
- Contact California Indian Tribes early and often
  - Tribes have preferred methods and protocols of communication.
    - Try various modes of communication for initial outreach including email, hard copy (certified) letters, and phone calls.
    - When scheduling meetings, ask if Tribes prefer virtual or in-person meetings while considering feasibility.
      - For example, some Tribes may prefer to meet in-person, but due to availability it may be a couple of months to schedule accommodations. It may be more feasible to accommodate virtual meetings until an in-person meeting can be scheduled. In-person meetings are highly recommended to build close-working relationships.
    - For virtual meetings, some platforms work better than others based on bandwidth – consider use of Microsoft Teams, Zoom, WebEx, or another virtual platform to accommodate Tribal preferences.
  - Tribes have their own decision-making process and may not be able to respond or answer specific questions immediately.
  - By contacting Tribes early, Tribes are provided ample time to review information, determine how to respond, and how the Tribe would like to be involved in the future.
  - No response does not mean no interest.
    - Tribes have limited capacity and sometimes must prioritize responses and how they choose to engage.
    - Provide any updates to Tribes that have expressed interest and Tribes that have not provided a response in the event circumstances or priorities change.

## Moving Forward:

- Communication: Develop Tribal-specific Fact Sheets.
- Ask about the Tribe's protocols and decision-making process and factor in this information as it relates to the project timeline for Tribal coordination and review of materials.
  - Who has the delegated authority to represent and speak on behalf of the Tribe?
    - Consider creating a list of Subject Matter Experts (SMEs) or Points of Contact (POCs) for each Tribe, designated in advance to review specific work-products.
      - *[DWR Resource: DWR Office of Tribal Affairs \(OTA\) can assist with identifying SMEs or POCs.](#)*
    - Some Tribes have a Tribal Historic Preservation Officer (THPO) who have delegated authority to represent the Tribe in government-to-government consultation and often confer with Tribal leadership.
- Build a Relationship with local Tribes through transparency, trust, and respect.
- Call for a Tribal partner in an advisory capacity with an invitation to partner.

## Consultation Protocols

Tribal consultation is required under the regulatory framework of the National Environmental Protection Act (NEPA) and California Environmental Quality Act (CEQA), with additional protocols and guidance outlined by Tribal, federal, state, and local policies.

The meaning of consultation, defined in Government Code section 65352.4 is 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 shall be conducted in a way that is mutually respectful of each party's sovereignty and shall recognize the Tribes' potential needs for confidentiality with respect to places that have traditional Tribal cultural significance.

- Formal Consultation Process, SB18
  - Send notification to request a consultation, plan, and conduct the consultation
    - [California Environmental Protection Agency Tribal Consultation Protocol February 2020](#)
  - Develop a communication/engagement plan

- Learn about legal requirements for Tribal consultation that may affect your project such as the California Environmental Quality Act as amended by AB 52 (2014) & SB18.
- Determine whether there are Tribal communication procedures, consultation policies, or agreements in place with local California Indian Tribes that govern any communications or meetings.

### DWR Resources:

[DWR Engagement with Tribal Governments Guidance Document](#)

[DWR Regional Office Tribal Liaisons](#)

[DWR Tribal Policy Page](#)

### Additional Resources:

[AB-52 Technical Advisory](#)

[American Indian and Alaska Native Culture Card](#)

[Ancestral Lands Policy \(2020\)](#)

[California Environmental Protection Agency Tribal Consultation Protocol February 2020](#)

[California Native American Heritage Commission](#)

[Governor's Office of Tribal Affairs Cultural Humility](#)

[State Water Resources Control Board Tribal Beneficial Uses](#)

[Tribal Sovereignty Training PowerPoint](#)