



Draft California Native American Tribal Leadership Comment Policy

Background

The mission of the California Water Commission (CWC) is to use its public forum to explore water management issues from multiple perspectives and to formulate recommendations to advise the Department of Water Resources, and as appropriate, the California Natural Resources Agency, the Governor and Legislature on ways to improve water planning and management in response to California's changing hydrology. In service of its mission, CWC hosts public meetings that are compliant with the Bagley-Keene Open Meeting Act (Gov. Code §§ 11120 – 11133) (Bagley-Keene). At its meetings, CWC accepts public comment on meeting items that appear on the agenda. While CWC does not have a formal policy on public comment, allowing for public comment is required under Bagley-Keene, and CWC's standard practice has been to treat all commenters the same to maintain neutrality and fairness. The CWC Chairperson moderating the meeting may exercise some discretion related to the order and duration of individual public comments to best manage the meeting.

CWC's standard public comment practice does not currently recognize California Native American Tribes (Tribes) as sovereign entities outside of the public comment process mandated by Bagley-Keene. In California, Governor Brown's Executive Order B-10-11 (2011) presented State recognition of California Native American Tribes as sovereign nations that have "authority over their members and territory" where Tribal members are "both citizens of California and their respective sovereign nations" with "shared interest in creating increased opportunities for all California citizens." Since time immemorial, Tribes have possessed the inherent right and authority over their people and territory. This sovereign right predates the establishment of the U.S. federal government and the U.S. Constitution. Executive Orders B-10-11 and N-15-19, the California Natural Resources Agency's and Department of Water Resources' Tribal Consultation Policies have affirmed California's Native American Tribes' unique political status, which is different from any other group. Tribes are sovereign governments which require State agencies to engage in government-to-government consultation. Tribes are not interested parties, members of the public, or an ethnic group.

CWC values the full participation of interested parties in its meetings. Considering the executive orders and policies referenced above and understanding that the CWC's standard public comment practice undermines Tribal sovereignty, the CWC seeks to institute a policy to amend how it receives comments from Tribal leaders. Tribal engagement is an on-going process, and the input and feedback that the Commission receives from Tribes may necessitate that it revises this policy at some future time.

Procedure

Identifying Commenters

The CWC agenda will add a standing agenda item near the beginning of the meeting ("Acknowledgement of California Native American Tribal Governments") to give Tribal leadership the opportunity to self-identify and to specify the agenda item(s) on which they will comment. Tribal

leadership refers to person(s) specifically authorized by a California Native American Tribe to formally speak on behalf of the Tribe.

Agenda Item Comment Process

When the CWC Chairperson calls for comment on an agenda item, any Tribal leader identified during the Acknowledgement of California Native American Tribal Governments agenda item will be invited to comment before the public. Elected Tribal leaders will be invited to speak first, then invitation will be extended to formally designated Tribal representatives. Unless otherwise requested, Tribal comment time limits will default to the standard three minutes. Once Tribal comment is complete, the CWC Chairperson will call for public comment. Tribal citizens may join the public comment queue.

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