STATE OF CALIFORNIA – CALIFORNIA NATURAL RESOURCES AGENCY

EDMUND G. BROWN JR., *Governor*

DEPARTMENT OF WATER RESOURCES
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January 24, 2014

Honorable Joel Anderson
Member of the Senate
State Capitol, Room 5052
Sacramento, California 95814-4900

Dear Senator Anderson:

California Native American Tribes[1] and coalitions are currently in the process of developing legislative language pertaining to water and natural resources in California. Please find enclosed a primer to assist you in identifying issues to consider when developing legislation pertaining to water or other natural resources within California.

This primer was developed by the California Water Plan Update 2013 Tribal Advisory Committee[2]. It does not include all issues of concern for California Native American Tribes, nor does the California Water Plan Update 2013 Tribal Advisory Committee claim to represent all California Native American Tribes. This primer pulls directly from the California Water Plan Update 2013, Objective 12.

Please consider these recommendations when legislation concerning water and natural resources comes before you.

Sincerely,

California Water Plan Update 2013 Tribal Advisory Committee

cc: (see the attached list)

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[1] "California Native American Tribe" signifies all Indigenous Communities of California, including those that are federally non-recognized and federally recognized, and those with allotment lands, regardless of whether they own those lands. [Tribal Communication Plan, 2012]

[2] The Tribal Advisory Committee is a forum where California Native American Tribes and organization can help to develop material for the California Water Plan Update. For more information go to: http://www.waterplan.water.ca.gov/tribal2/tac/index.cfm

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Assembly Member and Chair of the Natural Resources Committee
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Excerpt from California Water Plan 2013 Public Review Draft:[1]

Objective 12 — Improve Tribal/State Relations and Natural Resources Management[2]

Develop relationships with California Native American Tribes that acknowledges and respects their inherent rights to exercise sovereign authority and ensure that they are incorporated into planning and water resources decision-making processes in a manner that is consistent with their sovereign status.

Update 2005 recommended that Department of Water Resources and other State agencies invite, encourage, and assist the participation of tribal government representatives in statewide, regional, and local water-planning processes and to access State funding for water projects. As part of Update 2009, the Tribal Communication Committee prepared the comprehensive *Tribal Communication Plan* (Tribal Communication Committee 2008) for the CWP (as presented in Update 2009, Volume 4, *Reference Guide*). The 10 *Tribal Communication Plan* objectives were included in the Update 2009 related actions. (Refer to the *Tribal Communication Plan* for a definition of California Native American Tribes.)

For Update 2013, a Tribal Advisory Committee was convened, and a Tribal Water Summit for the update was held in April 2013. The summit included the development of the *Guiding Principles and Statement of Goals for Implementation*. This objective incorporates the related actions from Update 2009, the 2013 Tribal Water Summit *Guiding Principles and Statement of Goals for Implementation*, and the 2013 Tribal Water Summit implementation objectives.

Related Actions

12.1 The State, in collaboration with California Native American Tribes, should, where it is within the State's authority, address tribal water rights, including tribal water rights dating back to time immemorial; federally reserved water rights; jurisdiction; and trust responsibilities, including individual allotments, by:

- 12.1.1 Convening a task force to articulate a consistent State policy and protocol that recognizes tribal water rights in all aspects of water planning, including supply, timing, flows, quality, and quantity.
- 12.1.2 Bureau of Indian Affairs and State Water Resources Control Board, in collaboration with California Native American Tribes, developing joint training on State, federal, and tribal water rights, including trust responsibilities, the implications for different tribal trust lands (reservations, rancherias, and individual allotments) and jurisdiction.

12.2 State government should write legislation and contracts in a way that enables California Native American Tribes to be a lead agency and directly receive and manage state funding (as fiscal agent or otherwise) for water planning and management.

12.3 Department of Fish and Wildlife and California Native American Tribes will develop and initiate pilot projects to develop resource management plans, characterized by the integration of Traditional/Tribal Ecological Knowledge and western science. This will include identifying existing examples of partnerships and launching pilot projects.

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[1] Volume 1, Chapter 8 Roadmap for Action http://www.waterplan.water.ca.gov/docs/cwpu2013/2013-prd/Vol1_Ch08_Roadmap-For-Action_PubReviewDraft_Final_wo.pdf

[2] Highlighted sections may be of particular relevance to drafting legislation.

12.4 State agencies should use Tribal Ecological Knowledge to inform their work and decisions, including establishing baseline resource conditions and developing options to share information in ways that protect specific details about cultural resources.

12.5 State agencies, in collaboration with California Native American Tribes, should develop and conduct trainings for agencies on tribal sovereignty, trust responsibilities, cultural awareness/sensitivity, and Traditional/Tribal Ecological Knowledge by developing a curriculum with a tribal working group, establishing consistent training protocols for all agencies, and initiating trainings.

12.6 State and federal agencies, in coordination with California Native American Tribes, should identify, coordinate, and provide technical training for California Native American Tribes, to increase technical capacity — including, but not limited to, basic training modules (e.g., Basic Inspector Academy, GIS, small water systems operations, such advanced technologies as LiDAR and satellite imagery) — and establish criteria and protocols for ensuring training vendors preferred by California Native American Tribes are utilized.

12.7 State agencies should engage tribal communities in compiling and developing climate change adaptation and resilience strategies that will mitigate climate impacts to their people, waterways, cultural resources, or lands.

12.8 The State Water Recourses Control Board should, in collaboration with California Native American Tribes, propose a statewide beneficial use definition that respects and acknowledges cultural and subsistence use of water and this definition should be adopted in statewide water quality control plans.

12.9 State agencies and California Native American Tribes should utilize and implement communication strategies, protocols, and procedures that are developed and/or implemented by California Native American Tribes, including but not limited to the Tribal Communication Plan, U.N. Declaration on the Rights of Indigenous Peoples, 2013 Tribal Water Summit Guiding Principles and Goals, and tribal memoranda of understanding.

12.10 State agencies, in collaboration with California Native American Tribes, should enhance tribal outreach, communication, coordination, collaboration, and the work of tribal liaisons by identifying and implementing strategies to strengthen tribal involvement in State outreach and engagement approaches; clarify tribal liaison roles and responsibilities; and identify options for creating a statewide network of tribal liaisons to address multiple aspects of tribal concerns (e.g., legal, policy, and local conditions).

12.11 State agencies should engage in meaningful consultation by encouraging and moving toward earlier involvement by California Native American Tribes (at the design/planning stages); initiating consultation for programmatic decisions as well as project-level decisions; understanding individual California Native American Tribes' protocol for consultation, adjusting timelines to allow adequate time to bring items before tribal councils and leaders; conducting meetings on tribal lands; and documenting tribal comments.

References

- **California Water Plan Update** http://www.waterplan.water.ca.gov/cwpu2013/index.cfm
- **2013 Tribal Water Summit** http://www.waterplan.water.ca.gov/tribal2/tws/2013/index.cfm