

Frequently Asked Questions on the Tribal Beneficial Uses Basin Plan Amendment Process and Designations Approach in the Central Valley Region

Updated July 2022

This document will be revised in response to the most frequently asked questions posed to Central Valley Regional Water Quality Control Board (“Regional Water Board”) staff regarding the Tribal Beneficial Uses (TBU) basin plan amendment process and designation approach.

Please review the following online resources before contacting Regional Water Board staff, as they provide background information that may answer your questions.

Online Resources

- [Central Valley Water Board Tribal Beneficial Uses Designations Website](https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/tribal_beneficial_uses/)¹
- [Tribal Beneficial Uses Designations and the Basin Plan Amendment Process Primer](https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/tribal_beneficial_uses/tbu_r5_bpaprimer.pdf)²
- [Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions \(State Board Resolution 2017-0027\)](https://www.waterboards.ca.gov/water_issues/programs/mercury/)³
- [State Water Board Tribal Beneficial Uses Website](https://www.waterboards.ca.gov/tribal_affairs/beneficial_uses.html)⁴

¹https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/tribal_beneficial_uses/

²https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/tribal_beneficial_uses/tbu_r5_bpaprimer.pdf

³https://www.waterboards.ca.gov/water_issues/programs/mercury/

⁴https://www.waterboards.ca.gov/tribal_affairs/beneficial_uses.html

Frequently Asked Questions

Tribal Beneficial Uses Designation Requests

1. Is there a deadline for Regional Water Board staff to receive a Tribal Beneficial Use (TBU) designation request?

No. Regional Water Board staff are receiving TBU designation requests on a rolling basis and will work with tribal members or designated tribal representatives on the TBU designation request submission process.

2. For which TBUs may my tribe submit a designation request at this time?

Regional Water Board staff are presently receiving designation requests for the Tribal Tradition and Culture (CUL) and Tribal Subsistence Fishing (T-SUB) beneficial uses for waterbodies; however, the Regional Water Board is prioritizing designation requests for the CUL beneficial use at this time.

3. Can my tribe submit more than one TBU designation request?

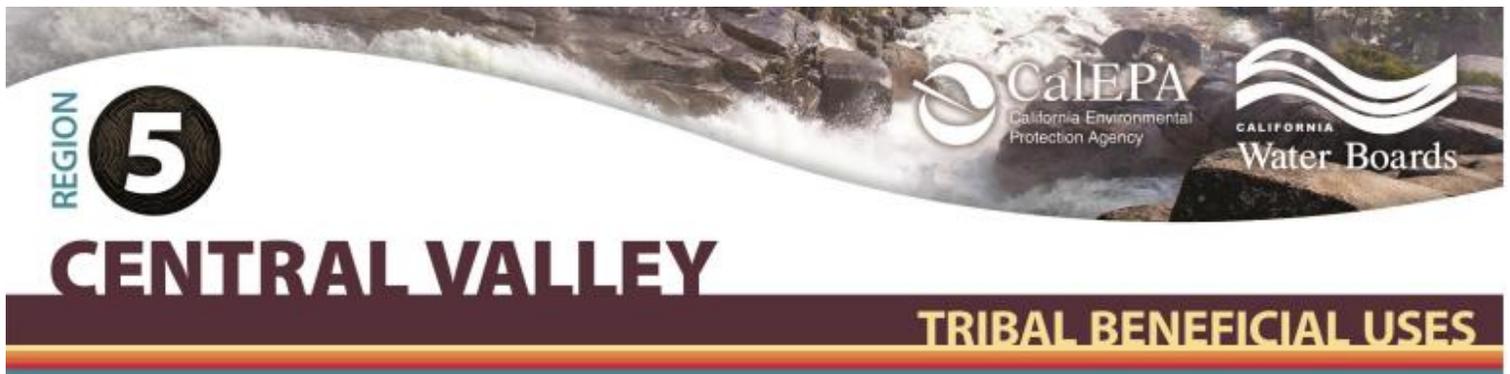
Yes, a tribe may submit more than one TBU designation request.

4. What types of evidence need to be included in a TBU designation request?

Evidentiary materials are not required to accompany the initial designation request; however evidentiary materials that demonstrate use of waterbody segments for activities corresponding with the requested TBU will be required for eventual designation.

While Regional Water Board staff are currently identifying the specific evidence needed for TBU designation requests to meet statewide and federal basin planning requirements, the Central Valley Water Board is committed to accepting a wide range of evidentiary materials that demonstrate use of a waterbody segment for activities corresponding with the requested TBU.

Regional Water Board staff are available upon request to meet with tribal members and designated tribal representatives interested in submitting a TBU designation request to



discuss submission of evidentiary materials, confidentiality concerns, and any questions. To request a meeting with Regional Water Board staff, please see the “Contact Information” section below for the appropriate Regional Water Board staff contact information.

a. What if my tribe’s evidentiary materials contain confidential information?

The Regional Water Board acknowledges, recognizes, and respects the need for and importance of confidentiality regarding tribal information and commits to working with tribes to safeguard sensitive information. For this reason, Regional Water Board staff encourages tribes to discuss their evidentiary materials and confidentiality concerns with staff before submitting any sensitive information as the Regional Water Board may not be able to maintain confidentiality of materials in all circumstances. Due to the regulatory and public nature of the basin plan amendment process, materials providing necessary evidentiary support for TBU designations will become part of the public record.

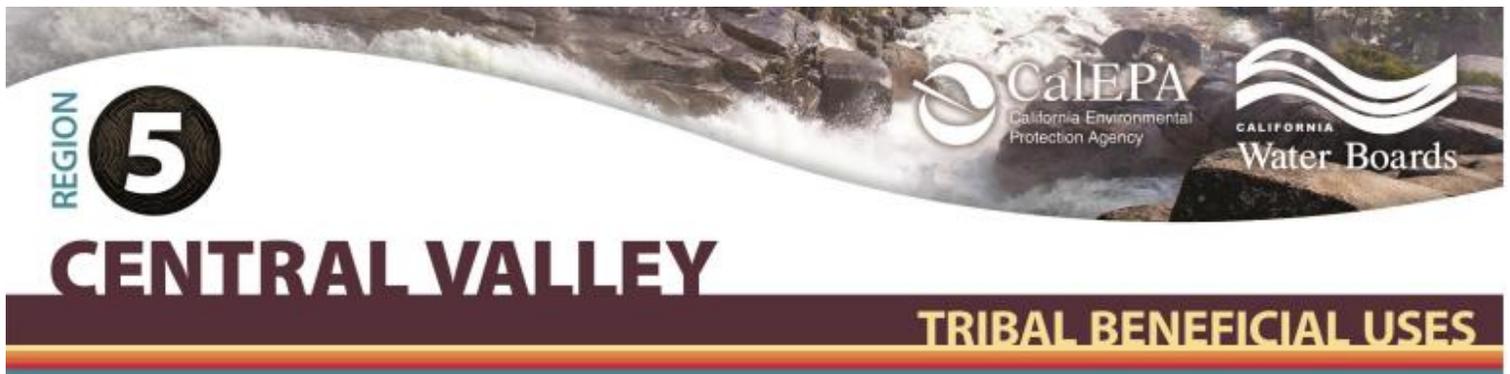
5. Who may submit a TBU designation request?

To designate a waterbody with a TBU, a California Native American Tribe, as that term is used in State Board Resolution 2017-0027 (see online resources above for link), must confirm the designation is appropriate. Based on this requirement, the Regional Water Board is requesting TBU designation requests from members of federally recognized or non-federally recognized California tribal governments. If a tribe prefers a designated representative to lead its TBU designation request submission process, an official from the tribe being represented must contact Regional Water Board staff to confirm.

Tribal Beneficial Uses Definitions

6. What is the difference between adopting the TBU Definitions into the Basin Plans and designating waterbodies for TBU?

The State Water Resources Control Board developed consistent TBU definitions and established these definitions through State Board Resolution 2017-0027 (see online resources above for link). The regional water quality control boards must amend their basin plans in order to incorporate these definitions. Designating specific waterbodies



for TBUs is primarily the responsibility of the regional water quality control boards and occurs through the basin planning amendment process.

The Regional Water Board added the TBU Definitions to its Basin Plans on 18 February 2022 and is currently undergoing the State Water Resources Control Board, California Office of Administrative Law, and United States Environmental Protection Agency approval processes. The Regional Water Board will be separately considering basin plan amendments to designate specific waterbodies for TBUs.

7. What is the difference between the Tribal Subsistence Fishing (T-SUB) and the Subsistence Fishing (SUB) beneficial uses?

The T-SUB beneficial use is defined as the 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 needs for sustenance.

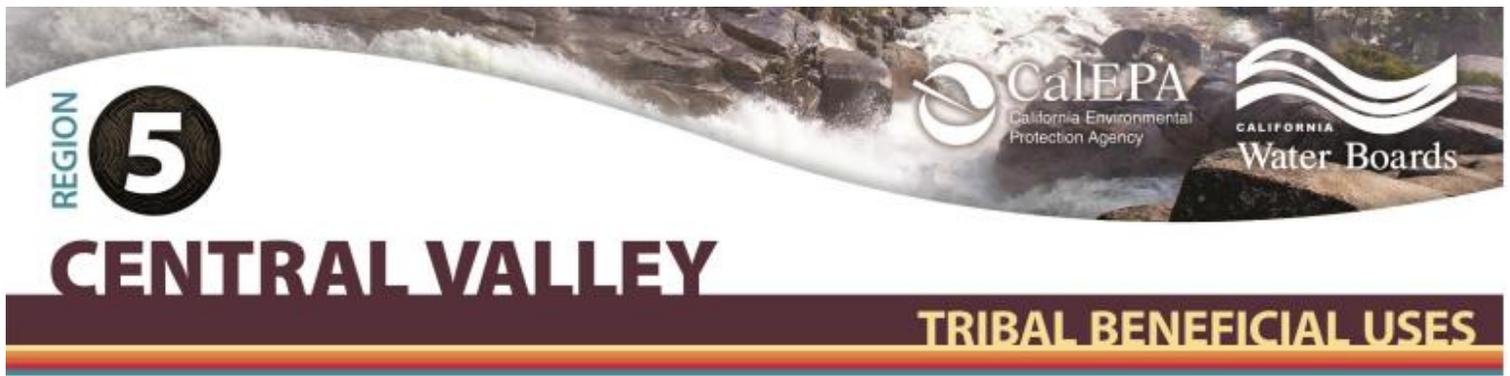
The SUB beneficial use is defined as the uses of water involving the non-commercial catching or gathering of natural aquatic resources, including fish and shellfish, for consumption by individuals, households, or communities, to meet needs for sustenance.

The SUB beneficial use does not mention “California Native American Tribe” in its definition as T-SUB does but may still be of interest to tribes and tribal members, as well as other interested persons, when pursuing designation requests.

Tribal Beneficial Uses Basin Plan Amendment Process and Designations Approach

8. What is the difference between the TBU basin plan amendment process and the TBU designation approach?

The basin plan amendment process is an established, regulatory process utilized by the regional water quality control boards and State Water Resources Control Board to meet the requirements of the state Porter-Cologne Act and federal Clean Water Act. Regional Water Board staff are developing a designation approach in coordination with tribes, tribal representatives, and tribal organizations to ensure effective, meaningful engagement and correspondence with tribes throughout the submission process of their respective TBU designation requests.



Please see Table 1 for a comparison of TBU basin plan amendment and designation approach activities.

Table 1: The Tribal Beneficial Uses basin plan amendment process versus the designation approach.

<i>CHARACTERISTICS</i>	<i>TBU BASIN PLAN AMENDMENT PROCESS</i>	<i>TBU DESIGNATION APPROACH</i>
<i>Category Type</i>	Regulatory requirements, not flexible	Collaborative, flexible
<i>Development Stage</i>	Established by federal and state laws	Developing
<i>Examples of Associated Activities</i>	<ul style="list-style-type: none"> • CEQA Scoping and Consultation • Public meeting 	Hosting tribal update meetings with Regional Water Board staff
	Staff report containing evidence and justification supporting the TBU designation and other CEQA requirements	Discussion with a tribe or tribal representative about evidentiary materials and information supporting a TBU designation request
	Board adoption hearing to consider adoption of the basin plan amendment	Coordinating submission timelines and meetings with tribes interested in submitting a TBU designation request

Tribal Beneficial Uses Project Updates

9. How can my tribe stay informed about TBU project updates?

The Regional Water Board will post any updates to the TBU basin plan amendment process and designation approach to the Central Valley Water Board Tribal Beneficial

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Uses Designations website, located [here](#)⁵. To stay informed about the Regional Water Board's TBU project, please subscribe to the Central Valley Water Board's TBU email list [here](#)⁶ to receive email updates. You may also contact Regional Water Board staff with specific inquiries. Please see the "Contact Information" section below for the appropriate Regional Water Board staff contact information.

Contact Information

For questions regarding this document and/or about the TBU basin plan amendment process and designation approach, please contact RB5S-TBU@waterboards.ca.gov.

⁵https://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/tribal_beneficial_uses/

⁶https://www.waterboards.ca.gov/resources/email_subscriptions/reg5_subscribe.html