

LAHONTAN

TRIBAL BENEFICIAL USES

Basin Plans and Tribal Beneficial Uses Information

Summary

On May 2, 2017, the State Water Resources Control Board adopted [Resolution 2017-0027](#), which approved the "Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions". Resolution 2017-0027 established new beneficial use definitions for use by the State and Regional Water Boards that include Tribal Tradition and Culture (CUL) and Tribal Subsistence Fishing (T-SUB) beneficial uses, and Subsistence Fishing (SUB), which may apply to both Tribal and non-Tribal individuals. It also provides a consistent regulatory approach throughout the state by setting mercury limits to protect the beneficial uses associated with the consumption of fish by both people and wildlife. State and federal law requires that beneficial uses and water quality objectives to protect those beneficial uses be established for all surface waters of the State.

The Tribal Tradition and Culture and Tribal Subsistence Fishing beneficial uses are meant to protect water quality in waterbodies where activities specific to Native American culture and Tribal subsistence fishing occur, including practices not covered by existing beneficial uses. The Tribal Beneficial Uses are meant to protect and maintain water quality in designated waterbodies for the protection of human health rather than to protect or enhance fish populations or aquatic habitats. Fish populations and aquatic habitats are protected by other existing beneficial uses.

The Tribal Tradition and Culture and Tribal Subsistence Fishing beneficial uses are defined as follows:

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.

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 needs for sustenance.



Regional Water Quality Control Boards and Basin Plans

The Water Quality Control Plan for the Lahontan Region (Lahontan Basin Plan) is the basis for the Lahontan Water Board's water quality regulatory programs. It contains:

- Designated beneficial uses for both surface and ground waterbodies in the Lahontan Region
- Water quality objectives to protect those beneficial uses
- Implementation plans that describe the actions necessary to achieve water quality objectives
- Descriptions of the surveillance and monitoring activities needed to determine regulatory compliance and assess the health of the Basin(s) water resources

To meet requirements of Section 303(c)(1) of the Federal Clean Water Act and Section 13240 of the Water Code, the Lahontan Water Board must review the Lahontan Basin Plan every three years; a process known as the Triennial Review. After Tribal and public input is received, the Lahontan Water Board develops and adopts by resolution a priority list of potential issues that may result in basin plan amendments. The priority list is used to direct basin planning efforts over the next three years. Implementation of the work plan depends upon the current program priorities, resources, and other mandates or commitments. The 2022 Triennial Review of the Lahontan Basin Plan ranked the Tribal Beneficial Uses designation project as a high priority project.

Lahontan Water Board Actions for Tribal Beneficial Uses

The Lahontan Water Board adopted a Basin Plan Amendment (BPA) on September 16, 2020 that added the definitions of the Tribal Beneficial Uses to the Lahontan Basin Plan ([Resolution No. R6T-2020-0057](#)). The State Water Board and the Office of Administrative Law approved the BPA in 2021. The adopted BPA only added the definitions and did not include the designation of waterbodies with the Tribal Beneficial Uses.

The next step is for the Lahontan Water Board to solicit input from Tribal leaders and Tribal communities to help identify the waterbodies in the Lahontan Region that warrant designation with the Tribal Beneficial Uses. The Lahontan Region extends from the Oregon border in the north and includes the lands east of the Sierra Nevada and Warner mountains to the Nevada border and south to the Cajon Pass, including Antelope Valley and the Mojave River watershed.

The Lahontan Water Board is engaged in outreach to Tribes with current or ancestral ties to the Lahontan Region to obtain the information needed to designate waterbodies. Requests for designations may be brought to the Lahontan Water Board's attention with a letter from a Tribal government that describes the beneficial use(s) to be designated to specific waterbodies. Confirmation by a California Native American Tribe is required before a waterbody can be designated with either the CUL or T-SUB beneficial uses.



If for some reason the Regional Water Board declines to designate a water body, Tribes or others may request the State Water Board to consider the designation. The Regional Water Boards may consider whether the beneficial use is existing or a probable future use to determine whether to designate. Tribal Beneficial Use designations require the completion of a Basin Plan amendment, which is a multi-step public process with multiple opportunities for public comment.

Confidentiality and Tribal Beneficial Uses

Stated as a guiding principles within the California Water Boards' [Tribal Consultation Policy](#), the California Water Boards acknowledge, recognize, and respect the need and importance, and in some circumstances requirement (e.g., AB 52) for confidentiality regarding tribal cultural resources of California Native American Tribes regardless of where they are located.

In general, the Regional Water Boards do not designate specific locations but instead designate stretches of rivers or creeks or whole water bodies. There is no need to specify the exact location of a Tribal cultural practice or activity. For traditional and cultural uses, enough information would need to be provided about the practice to get an understanding of the risk involved and the nexus to water quality so the appropriate water body or water body segment may be designated. Such information would be public information and not confidential.

Tribal Beneficial Uses Working Group

The nine Regional Water Boards in California are in different stages of their basin planning processes. To maintain consistency across the Regional Water Boards, a Tribal Beneficial Uses Working Group has been established. This Working Group aims to provide guidance and/or clarification to questions and/or concerns that may be occurring in multiple regions pertaining to this matter. This working group was established August 2019 and meets regularly.

Information about the status of the Tribal Beneficial Uses basin planning process for each Regional Board can be found at the following web address:

https://www.waterboards.ca.gov/tribal_affairs/regional_tbu_updates.html

To receive email announcements, updates, and other information about the Lahontan Region Tribal Cultural and Subsistence Fishing Beneficial Uses Project, please subscribe to the Basin Planning - Tribal Cultural and Subsistence Fishing Beneficial Uses email list at the following web address:

https://www.waterboards.ca.gov/resources/email_subscriptions/reg6_subscribe.html