



COACHELLA VALLEY WATER DISTRICT

Established in 1918 as a public agency

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Jim Barrett

ASSISTANT GENERAL MANAGER
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CLERK OF THE BOARD
Sylvia Bermudez

ASSISTANT GENERAL MANAGER
Dan Charlton

April 21, 2025

The Honorable Damon Connolly
Chair, Assembly Committee on Environmental Safety & Toxic Materials
Capitol Office, 1021 O Street, Suite 5240
Sacramento, CA 95814

Re: AB 362 (Ramos) – Water policy: California tribal communities

Position: OPPOSE

Dear Chair Connolly:

The Coachella Valley Water District (CVWD) writes to respectfully express its position of “Oppose” on AB 362. This bill proposes several amendments relating to tribal water uses under the Porter-Cologne Water Quality Control Act, which establishes a policy for state and regional water quality control plans.

AB 362 would define and include the term “tribal water uses” within the term “beneficial uses” of the waters of the state that may be protected against quality degradation. This bill would require any project or regulatory program subject to approval by the State Water Resources Control Board (State Water Board) or a regional water quality control board (regional board), within the California Environmental Quality Act (CEQA), and in any findings and declarations presented for State Water Board or regional board approval, to describe, with both quantitative and qualitative information, how the project or regulatory program would impact tribal water uses.

This bill would exempt adoption of tribal water uses within water quality control plans from CEQA, and would require, on or before January 1, 2029, each regional board to adopt water quality standards to achieve reasonable protection of tribal water uses into water quality control plans. This bill would also require, on or before January 1, 2027, the State Water Board to incorporate water quality standards to achieve reasonable protection of tribal water uses into the water quality control plan for the San Francisco Bay and Sacramento-San Joaquin Delta watershed.

AB 362 is a reintroduction of AB 2614 from 2024, which many of the signatories’ expressed concerns with. We appreciate the author’s stated intent of this bill to ensure that tribal beneficial uses and the voices of California tribal communities are considered in the development of water quality objectives, policies, and standards. However, while some parts of this bill would help advance involvement of tribal communities in the development of water quality control plans, several aspects go far beyond the stated intent and could be used to compel a substantial redistribution of water in a manner that could have serious statewide consequences.

1. The bill would exempt adoption of tribal water uses within water quality control plans from CEQA.

Currently, regional boards are in the process of implementing the three tribal beneficial uses established by the State Water Board in 2017 into their regional water quality control plans. Designating new beneficial uses to specific waterbodies and then adopting water quality objectives to reasonably protect beneficial uses, is subject to CEQA. The CEQA process allows interested parties, including water agencies, to engage in the implementation of beneficial uses into the regional water quality control plans and evaluate potential impacts. AB 362 would bypass this process and allow for the adoption of the tribal beneficial uses without any assessment of the potential impacts. This lack of a public process is highly problematic.

2. Adopting water quality standards to achieve reasonable protection of tribal water uses into all water quality control plans by 2029 is infeasible.

The reasonable protection of beneficial uses is already provided under existing law, therefore the inclusion of the protection of tribal water uses in this section would be duplicative and unnecessary. In addition, the compliance date of January 1, 2029, and the proposed exemption from the CEQA process, would prevent adequate input from interested parties, including water agencies, and the reasonable analysis of the effects of tribal water uses on other water uses. This bill's general definition of tribal "beneficial uses" makes it impossible to understand what all these uses would be, and incorporating these uses into all water quality control plans could significantly impact water supplies throughout the state. The timing of this process, the exemption from CEQA, and the overly broad definition of "tribal water uses" present significant concerns.

3. Requiring the State Water Board to incorporate water quality standards to achieve reasonable protection of tribal water uses into the water quality control plan for the San Francisco Bay and Sacramento-San Joaquin Delta watershed on or before January 1, 2027 is infeasible and would significantly delay a regulatory process that has been underway for more than a decade.

The proposed requirement for the State Water Board to incorporate water quality standards for tribal water uses into the Bay-Delta Water Quality Control Plan (Bay-Delta Plan) update, which is a regulatory process that has been underway for many years, would disrupt the current regulatory process and create many uncertainties that this bill fails to address. Given how communities throughout California rely on water from the Bay-Delta watershed, the State Water Board's update to the Bay-Delta Plan may affect water supplies for tens of millions of Californians. The short compliance date of January 1, 2027 and the proposed exemption from CEQA would effectively prevent the reasonable analysis of the different beneficial uses. Under AB 362, there are potentially many different tribal uses that would need to be included in the Bay-Delta Plan almost immediately and they could conflict with not only water supplies and fisheries in the Bay-Delta watershed but even one another.

Additionally, in October 2024, the State Water Board released the draft Bay-Delta Plan, which proposed the incorporation of tribal beneficial uses into the plan consistent with Resolution 2017-0027. In addition to the incorporation of CUL, T-SUB, and SUB beneficial uses in the Bay-Delta Plan, the State Water Board is considering formal designation of CUL in the Bay-Delta watershed as part of the current update. Individual stream segments could also be designated for T-SUB and SUB beneficial uses as appropriate by the regional boards. AB 362 would propose a new definition for tribal beneficial uses that would replace the approach in the Bay-Delta Plan, which has received significant public input.

4. This bill would require any project or regulatory program subject to approval by the State Water Board or a regional board, within CEQA, and in any findings and declarations presented for State Water Board or regional board approval, to describe, with both quantitative and qualitative information, how the project or regulatory program would impact tribal water uses.

This provision is duplicative of existing law, and other sections of this bill would make compliance with this provision infeasible. CEQA already allows for the consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of the proposed project, as specified. In addition, this bill would also authorize a California tribal community to elect not to publicly disclose its tribal water uses and confidentially disclose them to the State Water Board or regional boards. If a California tribal community elects to confidentially disclose its tribal water uses, a project proponent would not have access to the information necessary to describe how its project would impact tribal water uses. This problem would be compounded in the event of multiple tribes with multiple, and potentially competing, water uses. The definition of “tribal water uses” is also overly broad, which would create challenges for projects to determine potential impacts for compliance.

Additionally, this bill would require a CEQA analysis of yet-to-be-defined tribal water uses for projects and activities that are otherwise exempt from CEQA (e.g., categorically or statutorily exempt actions like a one-year water transfer) and projects that have already completed CEQA review but which do not yet have a state or regional board permit. This section is problematic for the reasons stated herein.

5. Requiring policies of the state with respect to water quality to consist of (1) tribal ecological knowledge, and (2) tribal co-management of aquatic resources is unclear and may have significant consequences for water users throughout the state.

The proposed requirement for state agencies to make resources available for tribal co-management of aquatic resources within traditional and current tribal lands is problematic because it is unclear what “co-management” would consist of and how it would be achieved, particularly when tribes confidentially disclose their water uses. This would be particularly complicated in areas with multiple tribal interests in resources. This also could permit the State Water Board to make changes to water rights permits and licenses to allow for “co-management” of water on tribal lands.

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In addition, the term "tribal ecological knowledge" lacks a definition for policies of the state to properly incorporate it as a consideration in regulatory and management programs relating to water quality.

6. This bill would require the MOU to include recommendations on how to achieve and maintain tribal water uses through the State Water Board and regional board regulatory action and other programs, including but not limited to, co-management of habitat restoration and management programs and consultations with California tribal communities.

Existing law requires the Monitoring Council to review existing water quality monitoring, assessment, and reporting efforts, and shall recommend specific actions and funding needs necessary to coordinate and enhance those efforts. Existing law requires the MOU to describe the means by which the Monitoring Council is required to formulate recommendations to (1) reduce redundancies, inefficiencies, and inadequacies in existing water quality monitoring and data management programs in order to improve the effective delivery of sound, comprehensive water quality information to the public and decisionmakers; and (2) ensure that water quality improvement projects financed by the state provide specific information necessary to track project effectiveness with regard to achieving clean water and healthy ecosystems.

The proposed provision would expand the scope of the Monitoring Council beyond its stated purpose. The inclusion within the MOU recommendations on achieving and maintaining tribal water uses through the State Water Board and regional board regulatory action and other programs, including the co-management of habitat restoration and management programs, would be problematic for the reasons stated above.

For these reasons, CVWD opposes AB 362 and respectfully request your "NO" vote when it is heard in the Assembly Committee on Environmental Safety & Toxic Materials.

Sincerely,

A handwritten signature in black ink, appearing to read "J. M. Barrett", written over a light blue wavy line that spans the width of the page.

J. M. Barrett
General Manager