



# Draft Tribal Consultation Policy

October 25, 2018

# Overview

- CARB's outreach process
- Purpose of CARB's Draft Tribal Consultation Policy
- Basic tribal concepts
- State-tribal relations
- CARB's Draft Tribal Consultation Policy
- Next steps

# Process to Ensure Tribal Input

- Released draft policy in January 2018
- Posted to CalEPA tribal listserv and CARB website
- Mass mailing to all California Native American Tribes
- Reviewed by CalEPA, Governor's Office, and NTAA
- Presented at three workshops throughout the State
- Presented at the RTOC meeting
- Received tribal comments and met to discuss changes in language

# Purpose of CARB's Draft Tribal Consultation Policy



- Commitment to engage in government-to-government consultation with California Native American Tribes
- Guide for CARB staff
- Fulfill intent of Executive Order B-10-11 and AB 52

# California Native American Tribes

- California has one of the largest tribal populations in the US
- 109 federally recognized tribes and 57 non-federally recognized tribes in California
- Each is different in geography, land, governing body, culture, language, history, environmental issues, and interests



# Tribal History

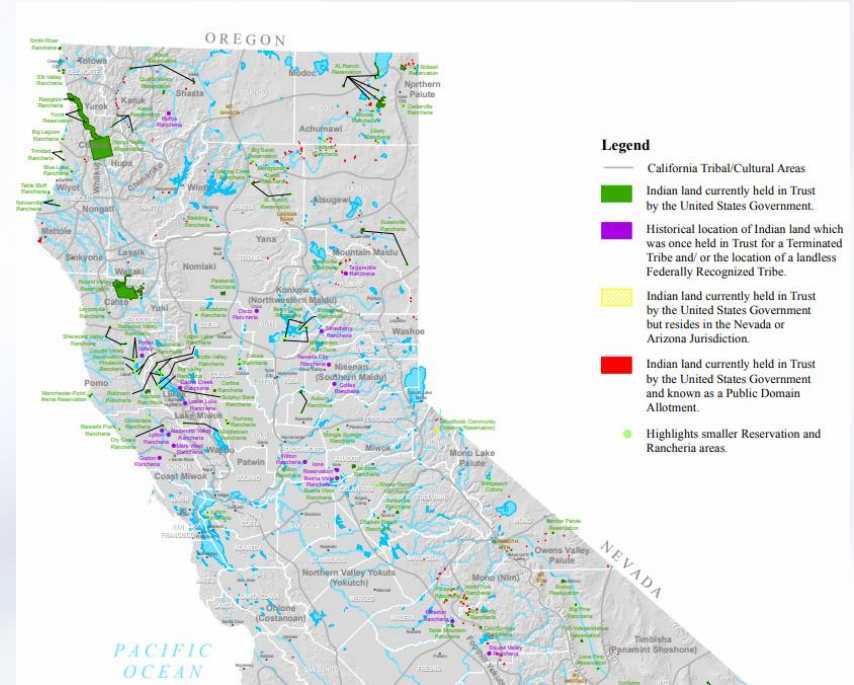


Federal policy towards tribes has moved in different directions during various periods:

- Founding of US – 1871: Treaty Era
- 1820 – 1850: Removal Era
- 1880 – 1930: Allotment/Assimilation Era
- 1934 – 1940: Indian Reorganization Era
- 1950 – 1960: Termination/Relocation Era
- 1960 – Present: Self-Determination Era

# Tribal Sovereignty

- Inherent tribal authority
- Tribes are governments predating the United States
- Power to exclude, punish, regulate, and tax
- Sovereignty can only be waived by the tribe or United States either through contract, agreement, or legislation



# A New Era in State-Tribal Relations

- Government-to-government relationships have taken on increasing importance
  - Under Governor Brown's leadership
  - In light of environmental challenges - climate change
  - During the current federal Administration
- California recognizes the importance of this relationship through legislation, executive orders, and state policies

# California Executive Order and Legislation

- Governor Brown signed **Executive Order B-10-11** in 2011
  - Directs all state agencies to consult with California Native American Tribes
- Legislature signed **Assembly Bill 52** in 2014
  - Amended CEQA to include consultation requirements
  - Added cultural resources to the list of potential significant effect on the environment
  - Created statutory requirements for notifying and consulting with tribes when a lead agency is engaging in an environmental analysis

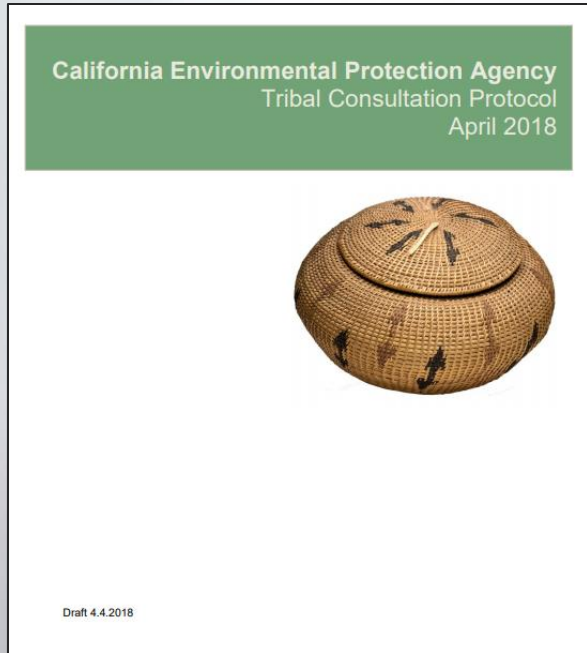


Office of the  
**Tribal Advisor**



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# Role of the California Environmental Protection Agency



- Adopted Tribal Consultation Policy in 2009 committing to consultation with California Native American Tribes
- Updated in 2015
- Instructed each Board, Department, and Office to implement a Tribal Consultation Policy unique to the work of that agency
- Is adopting a Tribal Consultation Protocol to formalize a step-by-step process

# CARB's Draft Tribal Consultation Policy

- Basic policy framework committing CARB to engage in government-to-government consultations
- Educates CARB staff on basic tribal concepts
- Directs CARB staff on what to do if staff receives a tribal consultation request
- Identifies guiding principles
- Provides a list of action items



# Next Steps

- Incorporate any comments received today
- Executive Officer signature
- Post final policy to CARB Tribal Relations website
- Send to all CARB staff
- Continue work with tribes