

Via e-mail to: sgmps@water.ca.gov

Subject: Comments on proposed Basin Boundary Emergency Regulations

DATE BASIN BOUNDARY
REGULATION COMMENT
RECEIVED BY DWR

8/31/2015

Comments of Barona Band of Mission Indians on Draft Basin Boundary Emergency Regulations

Dear friends,

The Barona Band of Mission Indians is a federally-recognized Indian tribe exercising sovereign authority over the lands of the Barona Indian Reservation in rural San Diego County, California.

On behalf of the Barona Band, I wish to present the Tribe's comments on the proposed draft Basin Boundary Emergency Regulations, to be found at Title 23 of the Code of California Regulations, Section 340, et seq.

1. The draft regulations go into great detail concerning "Boundary modification", which is defined at Section 341(h) to include "a change to the boundaries of an existing basin or subbasin or the establishment of a new subbasin." This leaves open the question of whether the regulations can be used to create an entirely new basin, in addition to the 515 currently recognized in Bulletin 118. During one of the meetings that I attended on these proposed regulations, I asked staff whether the regulations could be used to create such a new basin. I was told NO, the regulations can only be used to modify an existing basin from Bulletin 118, or to create new subbasins within those 515 recognized basins. I was also told that, if any entirely new basin was going to be created, it would be created only as part of the updating of Bulletin 118 itself, a process that is on-going and not strictly part of the processes of the Sustainable Groundwater Management Act. To make this distinction clear, the Barona Band requests that clarifying language be added to the current regulations to this effect. A good place to locate such clarifying language would be at the end of proposed Section 342.6. Appropriate clarifying language could read: "However, no boundary modification will create a new basin not already identified in Bulletin 118."

2. Section 343.10(d) requires that notice of proposed boundary modifications be sent to "all interested local agencies and public water systems and any other person or entity who has expressed an interest in receiving notification of the proposed modification". But the regulation does not say how such interest is expressed. The Barona Band suggests that written notice to the Department, or a similar measure that is objective and verifiable, be used and stated in the regulation to eliminate doubt as to what a proper expression of such interest is.

Thank you for considering these comments as you finalize the regulations.

Sincerely,

Art Bunce, Tribal Attorney