

**CALIFORNIA WATER PLAN UPDATE 2009**  
**REGIONAL TRIBAL WATER PLENARY MEETING #3**  
*Southern California Waters*

*hosted by Pechanga Band of Luiseño Indians, March 24, 2009, Temecula*

**MEETING SUMMARY**

**Table of Contents**

(1) Welcome, Greetings and Agenda.....	1
(2) The California Water Plan Update 2009 and Tribal Engagement .....	1
(3) California Emergency Management Agency .....	2
(4) Tribal Caucus Discussion on Key Summit Issues.....	2
(5) Next Steps .....	7
(6) Attendance.....	7

**(1) Welcome, Greetings and Agenda**

Raymond Basquez, Jr., Pechanga Water Board Member, opened the meeting with a prayer and welcomed guests. Raymond read a letter from 1882 about the historical relations between Tribes and the U.S. government regarding access to resources in the area. Raymond explained that today's meeting was a continuation of this dialogue.

John Mora, Director of Pechanga Water Systems; Nina Hapner, Executive Director of the Native American Environmental Protection Coalition; and Kamyar Guivetchi, Manager for Statewide Integrated Water Management, California Department of Water Resources (DWR), also welcomed guests.

Dorian Fougères, facilitator with the Center for Collaborative Policy, CSUS, then walked participants through the agenda and reviewed the basic ground rules for conversation.

**(2) The California Water Plan Update 2009 and Tribal Engagement**

(including Tribal Communication Committee and Communication Plan, Tribal Water Summit Planning Process, and Tribal Water Stories Project)

Kamyar Guivetchi presented an overview of the California Water Plan, including its history and purpose as a long-term strategic blueprint, and the Update 2009 process. Kamyar noted that Objective 12 of Update 2009 addresses Tribal water and natural resources. The full slides from his presentation can be downloaded here <http://www.waterplan.water.ca.gov/tribal2> (the March 24 materials are part of a standard set of materials used at the Regional Tribal Water Plenary Meetings, hence the same as those provided under the March 4 meeting box).

A participant asked whether this was the end of the process and it was too late for people to shape the Water Plan Update 2009. Kamyar explained that comments were being accepted on the current Public Review Draft until June 5, 2009. Kamyar then described the content of the Public Review Draft of Update 2009, which has been posted to <http://www.waterplan.water.ca.gov> More information on how to submit comments is available on the website.

Kamyar also noted that California Native American Tribes had participated in the Tribal Communication Committee, all 12 of the 2008 round of Regional Workshops, four Resource Management Strategy workshops, and the All Regions Forum in San Jose in 2008.

Barbara Cross, Community and Government Liaison for DWR, completed the powerpoint presentation by reviewing the work of the Tribal Communication Committee, which had been meeting since October 2007 and produced a Tribal Communication Plan in the summer of 2008; the Tribal Water Stories Project; and the Tribal Water Summit planning process. Barbara explained that all people with an interest are encouraged and invited to participate in the monthly planning meetings for the Summit. Barbara indicated that input from each Regional Tribal meeting will be shared with following meetings. A handout with more detailed information on the Summit planning process can be downloaded at <http://www.waterplan.water.ca.gov/tribal2> along with handouts on the Communication Plan and Water Stories Project.

### **(3) California Emergency Management Agency**

Denise Banker, Tribal Advocate, California Emergency Management Agency (CalEMA), briefed participants on the role of this new agency. CalEMA was formed from the Governor's Office of Homeland Security and Governor's Office of Emergency Services at the start of 2009, and now has responsibility for both areas of activity. The agency has clear linkages to water issues because both flooding and drought issues are emergencies. The agency is currently reorganizing its divisions, so the exact location of Tribal programs is not year clear.

CalEMA coordinates grants per strict guidance. Few Tribes meet criteria for direct federal funding, yet HR 1 provides that no state agency can force Tribes to go through states to receive Homeland Security funding. So, there is now a 1% allotment reserved for Tribes, which is \$246,000 for California, but the federal government requires states to work through associations that speak for all Tribes. The agency recently initiated a new grant program designed to build capacity and establish a governance structure for California Native American Tribes to decide how homeland security and emergency management funds are allocated.

### **(4) Tribal Caucus Discussion on Key Summit Issues**

Participants spent the rest of the day discussing key regional water issues, as well as strategies and solutions for addressing these issues. Issues included:

## **1. Coordination and Consultation in Water Planning**

Participants noted that water planning efforts at the state, regional and local level must involve Tribes early and effectively. This applies even if Tribes already have adjudicated water rights. Major agencies involved include the California Department of Public Health (which regulates drinking water), the State Water Resources Control Board (which deals with statewide water quality policy and appeals from the Regional Boards, and with water rights for surface diversions), and Regional Water Quality Control Boards (which manage and enforce water quality protections at the regional level, and develop plans for the basins in their regions). It was emphasized that planning should be firmly grounded in local concerns and priorities. It was noted that coordination problems exist not only between and among federal and state agencies, but between district-level agencies as well. Lastly, it was noted that rural water users are often left out of water planning efforts.

Participants suggested several potential solutions:

- Create a dedicated Tribal Advisory Committee for the Water Plan
- Conduct more direct meetings with Tribal governments
- Improve communication between the existing Advisory Committee representatives for Tribal organizations and California Native American Tribes
- Create State Executive and Legislative Offices for Indian Affairs
- Ratify the 18 treaties with California Indians that were never reported to Congress
- Secure Tribal representation on Regional Water Boards and the State Water Resources Control Board
- Partner with organizations that have common interests in a region to better leverage the direction of planning processes
- Establish funding to assist Tribes in representing their interests and perspectives in statewide debates

## **2. Connection between State and Federal Water Planning and Rights**

Participants noted that the connections between state and federal water planning, and state and federal water rights, is unclear. Tribes often face duplicate regulation of their water use.

Participants suggested several potential solutions:

- The California Water Plan should develop a clear approach to linking state and federal water planning
- Federal, Tribal, water, and land agencies should interact more with the Water Plan process
- Establish a clear and specific process for establishing Tribal water rights that does not get lost in the gap between state water rights and federally reserved water rights
  - This should be published as a small stand-alone guidebook
- The “federally reserved rights” section of the Water Plan should be expanded

## **3. The Need to Address Groundwater Management**

DWR produces Bulletin 118 on Groundwater Management, but the California Water Plan has historically focused only on surface waters. It was noted that groundwater use in the surrounding basin is monitored, but this is not done in some upstream well sites. The subsidence of land was noted as a major deleterious effect of groundwater pumping; in some places in the region this had gotten so bad that it cracked the foundations of houses in a new

development, causing the buildings to be condemned. Groundwater recharge has also been reduced due to regional hydrological changes associated with water diversions and projects. Participants suggested several potential solutions:

- Integrate Bulletin 118 with the Water Plan
- Establish long-term plans for quantifying and managing groundwater
- Increase state support for groundwater assessment and planning efforts
- Integrate GIS overlays of groundwater basins with hydrologic regional maps
- Integrate Integrated Regional Water Management Planning areas with hydrologic regional maps

#### **4. The Need for Growth Planning and Management**

It was noted that state law requires that water supplies be guaranteed for new development, but this law is not enforced. Several deleterious effects associated with uncontrolled growth were noted, including farmland conversion, wetland loss, increased impermeable surfaces, increased flooding, and decreased groundwater recharge. Additionally, it was noted that uncontrolled growth created perverse incentives for increasing water use, rather than conserving water. For example, Pechanga has adjudicated groundwater rights, but must demonstrate a high volume of water use in order to maintain these rights. This creates an incentive for water-intensive landscaping around the casino and in the community.

Kamyar noted two Resource Management Strategies included in the Water Plan that partly address these concerns: managing runoff as a source of water supply, and concerted efforts to protect areas of groundwater recharge.

Participants also suggested that:

- Tribes prepare not just for current but future strains on the regional watersheds, and
- Tribes are encouraged to conduct Tribal water planning

#### **5. Access to Water**

A major problem noted was that Tribes may not have access to water. Partly this was felt to be a physical distribution issue – it was state that Tribes are not connected to the State Water Project. However, this was also noted as a jurisdictional, legal, and political issue. In some cases, Tribes may have water rights, but they still must negotiate intensely with local water agencies to obtain water. This was noted as a major barrier to access. In the worst cases, Tribal water rights are effectively no more than “paper water” – volumes of water noted on paper but not available in the field.

Participants suggested several potential solutions:

- Develop alternatives to litigating water access settlements
- Secure Tribal representation in Integrated Regional Water Management Plans (see next topic)
- Establish direct agreements with investor-owned utilities
- Use the examples of water distribution agreements and guidelines from other states as examples for California

## **6. Access to Native Plants**

Participants noted that changes in regional hydrology affect the distribution of native plant species and eliminate traditional gathering sites. For example, as creeks are diverted and dry up, riparian vegetation is lost.

A potential solution suggested was:

- Restore and manage floodplains to encourage the repopulation of native species

## **7. Tribal Involvement in Integrated Regional Water Management**

### **Planning**

Participants noted that Tribes were regularly not included in Integrated Regional Water Management Plans (IRWMPs).

Participants suggested several potential solutions:

- Amend the IRWMP and/or related state bond guidelines and/or requirements to allow Tribes to propose projects and receive funding directly as part of IRWMPs
- Amend the IRWMP and/or related state bond guidelines and/or requirements to emphasize the importance of partnerships – both with Tribes and among Tribes
- Amend the IRWMP and/or related state bond guidelines and/or requirements to enable Tribes to establish their own IRWMPs
- Establish direct water planning agreements with local agencies on a Government-to-Government basis, for example, as between Plumas County, the US Forest Service, and local Tribes
- Ensure Tribal representation in the creation of regional Basin Plans

## **8. Imposition of Conservation Plans on Tribal Lands**

Participants noted that habitat conservation and species conservation plans often choose Tribal lands as their first choice for mitigation lands, because to outsiders the lands look available and unused. The comment was made that the US Secretary of Agriculture issued an order for the US Forest Service that prevented lands being designated for habitat conservation unless they were “essential.” In practice, however, it was noted that the law lacks enforcement, and local agencies are not accountable for their impacts on Tribal lands.

## **9. Control of Invasive Species that Use Large Volumes of Water**

Participants noted that tamarisk is an invasive plant that uses large volumes of water and can dry up creeks. While removing tamarisk is one option, this becomes impossible when the tree provides habitat for an endangered bird – which has happened locally.

Participants suggested several potential solutions:

- Establish partnerships between Tribes and the local Resource Conservation District to remove invasive plant species, like a local project that involved Tribal people starting the removal process upstream and coordinating with downstream workers
- Establish Tribal Invasive Species Councils, like has been done on the Colorado River with the willow flycatcher
- Support the US Forest Service establishing a policy (which a participant said it is currently considering) to require that endangered species planning include possible effects upon water resources

## **10. Drought Planning**

Participants noted that drought was affecting the region and constraining water supplies. Water rationing was expected to affect San Diego and other areas in the region beginning this summer. It was noted that sometimes Tribes were criticized for their water use, yet part of their need to use immediately available supplies is because reservations have not been linked to local and State water conveyance systems. It was also felt that while supplies for agriculture, industry, and private homes were being rationed, there was a lack of clear regulations and monitoring of water use.

They suggested several potential solutions:

- Seek grants for drought contingency planning, for example, the cooperative agreement established between La Jolla and USBR
  - The plan provided flexible guidelines, beginning with an assessment of needs and existing efforts, then identifying first steps and additional tiered responses
  - The plan also aimed funding at augmenting water supply and infrastructure
  - The plan will go to Congress, after which Tribes can get directly allocated funds for fighting the drought
  - Involvement in this process also puts Tribes in a better negotiating position for future efforts
- Communicate that DWR has a Drought Guidebook
- Establish fair access to local and State water conveyance systems

## **11. Water Conservation**

Participants emphasized the importance of water conservation efforts as one way to combat drought, and deal with limited water supplies more generally.

Several potential solutions were suggested:

- Establish leak detection programs and water system analyses (though it was noted that the reduction of leaks upstream reduces water supply downstream)
- Educate children about water conservation to influence their parents' practices
- Develop real-time methods to show people how much water they're using and how much this costs, like is done in the heating sector
- Monitor the level and quality of groundwater on a monthly basis, rather than over longer periods, to improve accountability for activities
- Support the regional Water Boards' conservation guidelines and regulations and their tiered approach
- Use reclaimed water on golf courses
- Change landscaping practices to use less water-intensive plants, more efficient sprinkler systems, etc.
  - It was noted that DWR is updating its model landscape ordinance, which provides examples for such practices

## **12. Fire Management**

Participants noted that drought raises fire hazards. One connection is the fallowing of agricultural trees, which then create fuel for brush fires. Another is through landscaping. The placement, type, and maintenance of plant can reduce water needs, but some plants – like grasses – may require a lot of water but serve as a buffer to reduce fire risk.

One potential strategy for improving fire management was:

- Communicate and establish agreements with local fire fighting agencies about the use of local reservoirs during emergencies, for example, Pechanga has two artificial lakes that are helicopters can use to “dip” and fill their buckets

### **13. Water Issues along the Border with Mexico**

Participants noted there are several water issues that extend across the international border with Mexico. These include shared aquifers and the contamination of ground and surface waters. Some international agreements and bodies do exist for managing these resources, like the La Paz California-Mexico agreement for the Tijuana Watershed, but they lack Tribal representation.

Several potential solutions were suggested:

- Secure Tribal representation in the La Paz agreement
- Secure Tribal representation on the International Boundary and Water Commission
- Secure Tribal representation on the US Environmental Protection Agency’s Good Neighbor Board

## **(5) Next Steps**

It was announced that a Kumeyaay Water Summit would be held in May to prepare for the statewide Summit in August. The planning group for that event is finishing its agenda.

Kamyar reiterated that comments and suggestions for the Water Plan Public Review Draft would be accepted through June 5, 2009.

Dorian explained that the Center for Collaborative Policy, along with DWR, would produce a meeting summary and circulate this to participants. This information would also be shared with the Tribal Water Summit Planning Team, and at subsequent Regional Tribal Water Plenaries. The discussions from the day would be used to frame the issues that should be discussed at the Summit in August.

Nina Hapner, John Mora, and Raymond Basquez thanked people for attending and closed the meeting.

## **(6) Attendance**

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|--|--|
| 1. Brian Baharie, Cahuilla                         | 9. Steven Estrada, Soboba  |
| 2. Denise Banker, CalEMA                           | 10. James Fletcher, BIA  |
| 3. Ruben J. Bentancourt, Pauma                     | 11. Dorian Fougères, CCP   |
| 4. Raymond Basquez, Jr., Pechanga<br>Water Systems | 12. Adam Geisler, La Jolla   |
| 5. Heidi Brow, Pala                                | 13. Nina Hapner, Native American<br>Environmental Protection Coalition |
| 6. Richard Campbell, Coyote Valley                 | 14. Lisa Haws, Viejas  |
| 7. Michael Connolly, Campo<br>Kumeyaay             | 15. Miguel Hernandez, Pauma  |
| 8. Barbara Cross, DWR                              | 16. Helen Herrera, NAEPC   |
|  | 17. Kamyar Guivetchi, DWR  |

18. Larry Kinley, Sycuan
19. Christina Mokhtarzadeh, BIA
20. Robert Munoa, Pechanga Water Systems
21. John Mora, Pechanga Water Systems
22. Joseph Moreno, Sr., Pechanga Water Systems
23. Mark Ross, Pauma
24. Rob Roy, La Jolla
25. David Saldivar, Augustine Band of Cahuilla Indians
26. Luther Salgado, Jr., Cahuilla
27. Eric Stolla, Pechanga
28. Sandra Stoneburner, Los Coyotes
29. Benjamin Vasquez, Pechanga Water Systems