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**SENATE COMMITTEE ON ENVIRONMENTAL QUALITY**

**Senator Blakespear, Chair**

**2025 - 2026 Regular**

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**Bill No:** AB 2218  
**Author:** Kalra  
**Version:** 4/16/2026  
**Urgency:** No  
**Consultant:** Taylor McKie

**Hearing Date:** 7/1/2026  
**Fiscal:** Yes

**SUBJECT:** Water policy: California Native American tribes

**DIGEST:** This bill declares it is the policy of the state to recognize and address inequities regarding access to, and control over, water caused by state-sanctioned acts inflicted upon California Native American tribes and implement the policy within specified state agencies.

**ANALYSIS:**

Existing federal law:

- 1) Establishes the federal Clean Water Act (CWA) to regulate discharges of pollutants into the waters of the United States and regulate quality standards for surface waters. (33 United States Code §§ 1251, et seq.)
- 2) Establishes the federal Safe Drinking Water Act (SDWA) that requires drinking water to meet specified standards for contamination as set by the United States Environmental Protection Agency (U.S. EPA). (42 United States Code (USC) §§ 300(f) et seq.)

Existing state law:

- 3) Establishes as the policy of the state that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes. (Water Code (WC) § 106.3)
- 4) Requires, pursuant to the California Safe Drinking Water Act (SDWA), the State Water Resources Control Board (State Water Board) to regulate drinking water and to enforce the federal SDWA and other regulations. (Health and Safety Code (HSC) § 116275, et seq.)
- 5) Requires all relevant state agencies, including the Department of Water Resources (DWR) and the State Water Board, to consider the above “human right to water” state policy when revising, adopting, or establishing policies,

regulations, and grant criteria when those policies, regulations, and criteria are pertinent to the uses of water, as defined. (WC § 106.3 (b))

- 6) Pursuant to the Porter-Cologne Water Quality Control Act (Porter-Cologne), prohibits the discharge of pollutants to surface waters unless the discharger obtains a permit from the State Water Board. (WC §§ 13000 et seq.)
- 7) Delegates to California's Regional Water Quality Control Boards (Regional Water Boards) the ability to adopt water quality standards within their region of jurisdiction. (WC § 13240)
- 8) Creates the Safe and Affordable Drinking Water Fund in the State Treasury to help water systems provide an adequate and affordable supply of safe drinking water in both the near and long terms. (Health and Safety Code (HSC) § 116766)
- 9) Requires the State Water Board, under the Safe and Affordable Drinking Water Fund, when providing funding to:
  - a) Narrowly craft any waiver of tribal sovereign immunity to serve both the individual needs of the tribe and make the funding agreement enforceable;
  - b) Include the State Water Board's designated tribal liaison or their designee in all discussions with eligible recipients of the Fund;
  - c) Consider, when expending moneys under the Fund, providing assistance to federally recognized California Native American tribes or non-federally recognized Native American tribes on the contact list maintained by the Native American Heritage Commission and to make diligent efforts to ensure the distribution of funds to those tribes; and
  - d) Post on its internet website, and update annually, the number of inquiries for funding received from tribes, the number of applications for funding received from tribes, and the total amount of funding granted to tribes each year. (HSC § 116766)
- 10) Requires the State Water Board and Regional Water Boards, in the planning, policy or permitting process to engage in equitable, culturally relevant community outreach to promote meaningful civil engagement from potentially impacted communities of proposed discharges of waste that may have disproportionate impacts on water quality in disadvantaged communities or tribal communities and ensure that outreach and engagement shall continue throughout the waste discharge planning, policy, and permitting processes. (Water Code (WC) § 189.7)

- 11) Requires the State Water Board and Regional Water Boards to:
- a) When adopting water quality control plans or state policies for water quality control, including amendments to those plans and policies that incorporate an implementation program allowing time to comply with water quality objectives, to make a concise, programmatic finding on potential environmental justice, tribal impact, and racial equity considerations related to the adoption;
  - b) When issuing or reissuing regional or statewide waste discharge requirements or waivers of waste discharge requirements, to make a concise, programmatic finding on potential environmental justice, tribal impact, and racial equity considerations related to the issuance; and,
  - c) When issuing or reissuing individual waste discharge requirements or waivers of waste discharge requirements that regulate activity or a facility that may impact a disadvantaged or tribal community, to make a finding on potential environmental justice, tribal impact, and racial equity considerations. (WC § 13149.2)

This bill:

- 1) States that the Legislature recognizes that the state historically sanctioned over one century of depredations and prejudicial policies against California Native Americans, including removal from ancestral land, and apologizes on behalf of the citizens of the state to all California Native Americans for the violence, mistreatment, and neglect inflicted upon them.
- 2) Declares that the state government shall support California Native Americans to maintain cultural and linguistic traditions, practice ecosystem stewardship, and engage in good faith government-to-government consultations with all California Native American tribes regarding policies that may affect tribal communities.
- 3) Declares that it is the established policy of the state to recognize and address the inequities regarding access to, and control over, water caused by state-sanctioned acts of termination, removal, and assimilation inflicted upon all California Native American tribes through financial assistance, protection of tribal water uses, consultation on water projects, plans, and policies, and incorporation of indigenous knowledge to restore and protect ecosystems.
- 4) Requires the State Water Board, Regional Water Boards, Natural Resources Agency, and Office of Land Use and Climate Innovation to implement the

policy declared in these provisions when revising, adopting, or establishing policies, regulations, permits, or grant criteria to address identified inequities.

- 5) Requires the specified implementing state agencies to identify and offer financial assistance to California Native American tribes consistent with existing legal and policy requirements for financial assistance programs.
- 6) Requires the State Water Board to consult with a California Native American tribe whose ancestral territory includes the water body or water bodies at issue in furtherance of an investigation of a claimed riparian or appropriative right.

## Background

- 1) *Acknowledging the past and its remnants.* As sovereign nations and original stewards of the waters in California, tribes have exceptional expertise and experience in managing the state's environment and natural resources. Over the last two centuries, however, the state has ignored tribal stewardship and perpetuated historical atrocities, including systematic genocide, forced removal of tribal communities from ancestral lands, and criminalization of traditional practices and ceremonies. These state sanctioned actions have greatly harmed the health and wellbeing of tribal communities throughout history and continue to have ramifications to this day. They have also caused the abandonment and criminalization of beneficial practices that maintained the health of California's waters.<sup>1</sup>

In the 19<sup>th</sup> century, the California Legislature opposed the ratification of 18 treaties negotiated between the federal government and over 100 Native tribes throughout California that would have reserved and protected millions of acres of land for the tribes. This led to the rejection of these treaties that left tribes without secure homelands or access to resources, including water resources.<sup>1,2</sup> Native Californians were then displaced from the most valuable lands near navigable waters and wetlands to higher and drier areas inland. Various policies implemented in the following decades, such as the State Water Commission Act, restricted or eliminated water access and rights to Tribal communities. Most Tribal water rights are associated with reservations and federally recognized tribes and are known as federal reserved water rights, but tribes that lack that recognition may not have such water rights.<sup>2</sup>

The early objectives of state funded water projects that prioritized certain needs ignored ecological needs including in-stream flows, life cycles of culturally-

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<sup>1</sup> California Natural Resources Agency. (2024). [Tribal Stewardship Policy](#).

<sup>2</sup> Public Policy Institute of California. (2026). [Tribal Water Rights in California](#).

important fish, and the diverse cultural-ecological systems and stewardship practices of Native tribes.<sup>3</sup> With development, the health of the state's aquatic ecosystems declined as about 90% of wetlands were drained; rivers were leveed, dammed, or diverted; and salmon and wildlife populations declined. The projects statewide ultimately depleted and degraded the quality of Tribal surface and groundwater.<sup>2</sup>

In acknowledging these impacts, state agencies have only recently begun to work with tribes to develop an understanding of Tribal water rights and stewardship, and ensure that Tribal interests are represented in public decision making. Tribal water rights have an increasingly significant role in regional water management and are essential to the well-being of California's Native tribes and the interests of California broadly.<sup>2</sup>

- 2) *Human right to water.* In 2012, California became the first state to enact a Human Right to Water law, AB 685 (Eng, Chapter 524, Statutes of 2012). Public policy continues to focus on the right of every human being to have safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitation. Water supply, contaminants, costs of treatment and distribution systems, the number and nature of small public water systems, especially in disadvantaged communities, and many other factors will continue to challenge progress in addressing the Human Right to Water.
- 3) *Regulating water quality and tribal impacts.* The federal SDWA was enacted in 1974 to protect public health by regulating drinking water. California has enacted its own SDWA to implement the federal law and establish state standards. The United States Environmental Protection Agency (U.S. EPA) enforces the federal SDWA at the national level. However, most states, including California, have been granted "primacy" by the U.S. EPA, giving them authority to implement and enforce the federal SDWA at the state level.

Federally regulated tribal water systems are regulated by the U.S. EPA, and not by the State Water Board, but there are policies and programs, such as Safe and Affordable Funding for Equity and Resilience (SAFER) described below, that aim to support all tribal drinking water needs. Although most of the state's residents receive drinking water that meets federal and state drinking water standards, many drinking water systems in the state consistently fail to provide safe drinking water. The 2023 Drinking Water Needs Assessment indicated that 17 out of 143 tribal community water systems met criteria for a failing

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<sup>3</sup> Middleton-Manning, B. R. (2015). [Holding the Headwaters: Northern California Indian Resistance to State and Corporate Water Development.](#)

water system.<sup>4</sup> In partnership with federal agencies, the State Water Board is working to respond to the needs of these impacted tribal community water systems.<sup>5</sup>

The State Water Board and Regional Water Boards also set water quality objectives to protect beneficial uses of waters in the state. These water quality objectives protect Tribal and non-Tribal uses of state waters. In 2016, the State Water Board established three new beneficial use definitions that recognize Tribal practices and water quality interests that were previously neglected in regulatory activities.<sup>2</sup>

The State and Regional Water Boards also seek collaboration and input from tribes through consultation on rules, regulations, policies, and programs that helps advance decisions and policies that better protect water resources in the state.<sup>5</sup> It is a policy of the State Water Board and Regional Water Boards to “develop effective communication with all California Native American Tribes that allows for meaningful participation and input while developing or revising the Water Boards’ regulations, rules, policies, programs or plans that may impact Tribes.” While consultation improves engagement, the author and sponsors note that consultation may not result in beneficial outcomes for the tribes.

- 4) *The Safe and Affordable Funding for Equity and Resilience (SAFER) program.* SB 200 (Monning, Chapter 120, Statutes of 2019) created SAFER and the Safe and Affordable Drinking Water Fund (Fund). The SAFER program supports permanent and sustainable drinking water solutions that ensure all Californians have access to safe, affordable, and reliable drinking water. The Fund was established to address funding gaps and provide solutions to water systems, especially those serving disadvantaged communities, to address both their short- and long-term drinking water needs. The State Water Board has worked with federal and state agencies to advance comprehensive tribal drinking water solutions through the SAFER Program and works to fund emergency services, planning, construction, and treatment of both drinking and wastewater.<sup>4</sup>

The Safe and Affordable Drinking Water Fund Expenditure Plan is adopted annually by the State Water Board and directs how money from the Fund can be spent. The Plan is based on a drinking water needs assessment, including past and planned expenditures, and prioritizes projects for funding. The Plan has indicated that engagement with tribes would be prioritized with outreach,

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<sup>4</sup> State Water Board. (2023). [2023 Needs Assessment](#).

<sup>5</sup> State Water Board. (2023). [Tribal Affairs 2023 Annual Report](#).

program design and funding elements of the SAFER Program. Both California Native and federally recognized tribes are eligible to receive SAFER funding.<sup>6</sup>

Even though the State Water Board adopted a policy emphasizing engagement with Native American tribes, issues with the Native American tribes receiving these funds continued. The Native American tribes, as a sovereign nation, were not positioned or inclined to give up their sovereignty in order to receive funds under SAFER. As a result, Assemblymember Eduardo Garica introduced AB 2877 (Chapter, 481, Statutes of 2022), which requires the State Water Board, when providing funding under SAFER, to narrowly craft any waiver of tribal sovereign immunity to serve both the individual needs of the tribe and make the funding agreement enforceable and provide assistance to federally recognized and non-federally recognized tribes.

- 5) *State Water Board's Racial Equity Resolution and Racial Equity Action plan.* On November 16, 2021, the State Water Board adopted resolution number 2021-0050: Condemning Racism, Xenophobia, Bigotry, and Racial Injustice and Strengthening Commitment to Racial Equity, Diversity, Inclusion, Access, and Anti-Racism. The resolution stated, "... California Native American Tribes continue to face barriers to defining, quantifying, accessing, protecting, and controlling their ancestral lands, water rights, instream flows, cultural resources, and beneficial uses. Redistribution of water has reduced or eliminated access to healthy traditional food sources such as smelt, salmon, freshwater mussels, and freshwater plants. Disconnection from traditional ancestral land and water and the unavailability of traditional foods have been linked to serious and pervasive health issues. In addition, low or non-existent instream flows, and associated water quality problems, impair or prevent water-related cultural, spiritual, and subsistence practices. These injustices are exacerbated by climate change and complex water resource and watershed management processes."

Additionally, the State Water Board resolved to accomplish several things, among them, the State Water Board, "Reaffirms our commitment to improving communication, working relationships, and co-management practices with all California Native American Tribes, including seeking input and consultation on the Water Boards' rules, regulations, policies, and programs to advance decisions and policies that better protect California's water resources. The State Water Board recognizes our parallel relationship to the people we serve and values tribes' traditional ecological knowledge and historic experience with managing California's water resources since time immemorial."

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<sup>6</sup> State Water Board. (2021). [Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund.](#)

This bill is consistent with the State Water Board's adopted Racial Equity Resolution and Racial Equity Action plan.

- 6) *Legislation to enhance tribal engagement.* The California Legislature has passed significant legislation to promote tribal-state partnerships throughout the relevant agencies. AB 923 (Ramos, Chapter 475, Statutes of 2022) encouraged the consultation of the State and its agencies with tribes on a government-to-government basis and allowed opportunities to provide meaningful and timely input on the development of policies that have tribal implications. AB 1284 (Ramos, Chapter 657, Statutes of 2024) encouraged the departments under the California Natural Resource Agency to enter into meaningful co-management and co-governance agreements.

AB 2108 (Rivas, Chapter, 347, Statutes of 2022) was enacted to improve the State Water Board's and Regional Water Boards' engagement with disadvantaged communities and Native American Tribes. AB 2108 required the State Water Board and Regional Water Boards, in the planning, policy, or permitting process, to engage in equitable, culturally relevant community outreach to promote meaningful civil engagement with potentially impacted communities of proposed discharges of waste that may have disproportionate impacts on water quality in disadvantaged communities or tribal communities and ensure that outreach and engagement shall continue throughout the waste discharge planning, policy, and permitting processes. The bill also required for any plan, policy, or waste discharge requirement to include a finding on tribal impact considerations related to their adoption.

In furtherance of such policies, this bill seeks statutory recognition of the past treatment of California Native American Tribes, and requires the state's water agencies, including DWR and the State Water Board and Regional Water Boards, to recognize and address inequities resulting from previous state sanctioned actions through programs and policies (including grant programs, public engagement, and technical assistance) in order to improve the quality of and access to water for our Native American Tribes.

## Comments

- 1) *Purpose of Bill.* According to the author, "California Native American Tribes have lived on this land since time immemorial, developing a deep and comprehensive understanding of its ecological systems. This includes its watersheds, around which indigenous communities have cultivated highly diverse cultural and culinary practices. Unfortunately, colonization, historic

land seizures, and other state-sanctioned actions have deprived Tribes of the water resources and management practices that support their communities. While many state agencies, including the Department of Water Resources, have made efforts to rectify these inequities, their work remains vulnerable to legal challenges. AB 2218 addresses this issue by establishing a state policy of recognizing and addressing water-related inequities perpetrated against the Indigenous People of California, giving the state the statutory backing it needs to respectfully and effectively address generations of injustice.”

- 2) *Addressing inequities.* This bill requires specified state agencies to recognize and address *identified inequities* regarding access to, and control over, water caused by state-sanctioned acts inflicted on California Native American Tribes. Further, the bill calls for these inequities to be addressed through financial assistance, protection of tribal water uses, consultation, and incorporation of indigenous knowledge.

This bill also issues an apology to all California Native Americans for the violence, mistreatment, and neglect inflicted upon them. Social scientists argue that an apology may be considered successful if it catalyzes a series of measures that together work to dismantle the legacy of historical injustice. With repair, governments can demonstrate that their remorse for past harms is sincere.<sup>7</sup>

Following apologies, the aim must be the restoration and rebuilding of relationships in novel and context-sensitive ways that promote the needs of *all* groups. This can be accomplished by reshaping policies, practices, and institutions such that the harm inflicted is acknowledged and effort is placed in a way that that harm is not repeated.<sup>7,8</sup>

This bill demonstrates this apologetic repair through the specific lens of addressing inequities that have been identified by the state agencies regarding access and control of water. Inequity can refer to the unfair or unjust circumstances that prevent certain individuals or groups from accessing resources, opportunities, or achieving positive outcomes. Inequities that have been identified would imply the perpetuation of a particular harm and its current existence and impact on tribal communities. Addressing the identified inequities would involve a movement towards fairness and repair. The means of repair is specifically defined through financial assistance, protection of tribal water uses, consultation, and incorporation of indigenous knowledge. It should

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<sup>7</sup> Wohl, M. (2011). [A Critical Review of Official Public Apologies: Aims, Pitfalls, and a Staircase Model of Effectiveness.](#)

<sup>8</sup> Howard-Hassmann, R. (2012). [Official Apologies.](#)

be noted that the affected state agencies would maintain discretion in identifying such inequities, selecting the means to address that inequity, and determining how a movement towards equity should be made.

The language of this policy must be carefully crafted to reflect the nature and sincerity of the stated apology. The implementation of this policy ensures that a movement towards equity occurs, whereas the consideration of this policy allows state agencies to decide whether a movement towards equity ought to occur, after an inequity has been identified. The more the language promotes a desired change and outcome towards equity, the more sincere and effective the apology would become. The language must also acknowledge the current processes and frameworks under which this policy would be integrated and consider the resource constraints of the affected agencies. However, it could be argued that the additional resources yielded to effectuate this policy is indeed part of the apology.

- 3) *Senate Committee on Natural Resources and Water Amendments*. Due to timing constraints, committee amendments accepted in the Senate Committee on Natural Resources and Water on June 23, 2026, will be amended into the bill as part of actions taken in this committee. Committee amendments create administrative remedies to potential disputes between the listed state agencies and a California Native American Tribe over the implementation of the proposed policy by requiring mediation with the Governor's Office of Tribal Affairs before an action is challenged in court.

#### **DOUBLE REFERRAL:**

This measure was heard in Senate Committee on Natural Resources and Water on June 23, 2026, and passed out of committee with a vote of 5-0.

#### **Related/Prior Legislation**

AB 362 (Ramos, 2025) would have required the State Water Board and the Regional Water Boards, after January 1, 2026, to define tribal beneficial uses in their water quality control plans and, where applicable, adopt water quality standards to achieve reasonable protection of tribal water uses into water quality control plans; and would have exempted the adoption of tribal water uses within a water quality control plan from the requirements of the California Environmental Quality Act. This bill did not meet the house of origin deadline and was returned to the Assembly Desk.

AB 2614 (Ramos, 2024) would have defined tribal water uses and required this definition to be used by state agencies in place of previously used definitions for

tribal traditional cultural uses and tribal subsistence uses; and would have required the State Water Board and the Regional Water Boards, when approving a project or regulatory program, to describe how that project or regulatory program would impact tribal water uses.

AB 2108 (Robert Rivas, Chapter 347, Statutes of 2022) required the State Water Board and the Regional Water Boards to make programmatic findings on potential environmental justice, tribal impact, and racial equity considerations when issuing regional or reissuing statewide waste discharge requirements or waivers of waste discharge requirements; and required the State Water Board and Regional Water Boards to engage communities impacted by proposed discharges of waste throughout the waste discharge planning, policy, and permitting process.

AB 2877 (Garcia, Chapter 481, Statutes of 2022) required the State Water Board when administering funds under the Safe and Affordable Drinking Water Fund (Fund) to work with tribes to remove barriers for those tribes to accessing funding under the Fund; and provided that a limited waiver of tribal sovereignty is not required for a tribe that is an eligible recipient to access funding under the Fund.

**SOURCE:** Karuk Tribe  
Shingle Springs Band of Miwok Indians

**SUPPORT:**

Alta Peak Chapter, California Native Plant Society  
American River Conservancy  
American Whitewater  
Association of Ramaytush Ohlone  
Azul  
Bayquest  
Cactustocloud Institute  
California Coastkeeper Alliance  
California Environmental Voters  
California Institute for Biodiversity  
California Rural Indian Health Board, INC.  
California Sportfishing Protection Alliance  
Center for Environmental Health  
Center on Race, Poverty & the Environment  
Clean Water Action  
Cleaneearth4kids.org  
Cofem

Community Alliance With Family Farmers  
Defenders of Wildlife  
Endangered Habitats League  
Environmental Defense Fund  
Environmental Law Foundation  
Environmental Protection Information Center  
Fix the World Consulting, LLC  
Friends Committee on Legislation of California  
Friends of Harbors, Beaches and Parks  
Friends of Plumas Wilderness  
Friends of the Eel River  
Friends of the Inyo  
Friends of the River  
Golden State Salmon Association  
Greenlatinos  
Humboldt Progressive Democrats  
Humboldt Waterkeeper  
Inland Empire Waterkeeper  
Karuk Tribe  
Latino Outdoors  
Los Angeles Neighborhood Land Trust  
Los Angeles Waterkeeper  
Mak-warép Ohlone Land Conservancy  
Mid Klamath Watershed Council  
Mono Lake Committee  
Monterey Waterkeeper  
Mount Shasta Bioregional Ecology Center  
Mountain Area Preservation  
Northern California Tribal Chairperson's Association  
Nrdc  
Nurture Nature  
Orange County Coastkeeper  
Outward Bound Adventures  
Pesticide Action and Agroecology Network  
Planning and Conservation League  
Resource Renewal Institute  
Restore the Delta  
Ridges to Riffles Indigenous Conservation Group  
Rkndl Forestry Consultation  
Russian Riverkeeper  
Sacred Places Institute for Indigenous Peoples  
Salmon River Restoration Council

San Diego Coastkeeper  
San Francisco Baykeeper  
Santa Barbara Channelkeeper  
Santa Ynez Band of Chumash Indians  
Save the Bay  
Sequoia Riverlands Trust  
Shasta Waterkeeper  
Sierra Club California  
Sierra Nevada Alliance  
South Yuba River Citizens League  
Sustainable Conservation  
Sustainable Tahoe  
Sycuan Band of the Kumeyaay Nation  
The Otter Project  
Tribal Workforce Trade Association  
Trust for Public Land; the  
Union of Concerned Scientists  
Water Climate Trust  
Watershed Research & Training Center  
Wholly H2o  
Wildlands Network  
Winnemem Wintu Tribe  
Yuba River Waterkeeper  
Yurok Tribe

**OPPOSITION:**

Building Owners and Managers Association  
California Building Industry Association  
California Business Properties Association  
California Chamber of Commerce  
California Farm Bureau  
California Municipal Utilities Association  
California Special Districts Association  
California State Association of Counties (CSAC)  
City of Corona  
El Dorado Irrigation District  
Naiop California  
Rural County Representatives of California (RCRC)  
Solano County Water Agency  
Valley Ag Water Coalition  
Water Blueprint for the San Joaquin Valley Advocacy Fund

Association of California Water Agencies (ACWA)  
Calforests  
League of California Cities  
Northern California Water Association  
Regional Water Authority

**-- END --**