

Date of Hearing: April 14, 2026

ASSEMBLY COMMITTEE ON ENVIRONMENTAL SAFETY AND TOXIC MATERIALS

Damon Connolly, Chair

AB 2218 (Kalra) – As Introduced February 19, 2026

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

**SUMMARY:** Declares the established policy of the state to acknowledge and correct the inequities caused by state-sanctioned acts of termination, removal, and assimilation inflicted upon all California Native American tribes through compensation, legal recognition of rights, or replacement of benefits lost. Requires, all relevant state agencies, including the Department of Water Resources (DWR) and the State Water Resources Control Board (State Water Board), to consider and incorporate this policy when revising, adopting, or establishing rights, policies, regulations, permits, or grant criteria to address identified inequities.

**EXISTING 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 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)
- 3) Requires all relevant state agencies, including 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))
- 4) 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.)
- 5) 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)
- 6) 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)
- 7) 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, to provide assistance to federally recognized California Native American tribes or nonfederally 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)
- 8) Requires the State Water Board and Regional Water Quality Control 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)
- 9) 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)

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

*Need for the 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 correcting 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."

*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.

*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."

*This bill:* AB 2218 is consistent with the State Water Board's adopted Racial Equity Resolution and Racial Equity Action plan.

*Federal Clean Water Act (CWA):* The Federal Water Pollution Control Act of 1948 was the first major U.S. law to address water pollution. The law was amended in 1972 and became commonly known as the Clean Water Act (CWA). The federal CWA establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. Under the CWA, the United States Environmental Protection Agency (US EPA) has implemented pollution control programs, including setting wastewater standards for industrial facilities, as well as setting water quality standards for all contaminants in surface waters. The CWA made it unlawful to discharge any pollutant from a point source into navigable waters without a permit.

*Regulation of drinking water:* 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.

*Lack of clean safe drinking water:* 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 to their customers. Lack of safe drinking water is a problem that disproportionately affects residents of California's disadvantaged communities.

Disadvantaged communities often lack the rate base, as well as the technical, managerial, and financial capacity, to show they can afford and effectively manage operations and maintenance costs related to water treatment. Being unable to pay for maintenance, these communities are effectively barred from accessing capital improvement funding. In contrast, larger water systems have the financial capacity both to pay treatment costs and to provide for a well-trained and technically competent workforce of water system operators.

*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.

*Expenditure Plan:* The Safe and Affordable Drinking Water Fund Expenditure Plan (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.

*Tribal considerations within the Plan:* According to the "Policy for Developing the Fund Expenditure Plan for the Safe and Affordable Drinking Water Fund, October 19, 2021", the State Water Board included the following tribal considerations, "Engagement with California Native American Tribes will be prioritized in outreach, program design and funding elements of the SAFER Program. California Native American Tribes are eligible recipients of monies from the Fund. The water system needs of California Native American Tribes will be evaluated for funding based on the same criteria as other eligible recipients. All State Water Board funding agreements contain compliance obligations, such as monitoring, reporting, inspection, and accounting. These compliance obligations ensure that the State Water Board complies with statutory requirements and responsibly administers state funds. Federally recognized Native American Tribes are also eligible to receive SAFER funding and staff will work with them to try to ensure that they can also benefit from the SAFER Program. In order to fund a project with a federally recognized Native American Tribe, the State Water Board may require a limited waiver of sovereign immunity strictly to ensure compliance with the terms of the financial assistance agreement. In addition, the State Water Board will work cooperatively with California Native American Tribes to access water quality data and water system operational information, if available."

*Challenges with Native American Tribes accessing funds under the SAFER program:* Even though the State Water Board adopted the above policy on October 19, 2021, providing emphasis with engaging with Native American Tribes, issues with the Native American Tribes actually 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:

- 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) To consider, when expending monies under the Fund, to provide assistance to federally recognized California Native American tribes or nonfederally 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) To 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.

*Additional legislation dealing with California Native American Tribes and the State Water Board:* Also, in 2022, Assemblymember Robert Rivas introduced AB 2108 (Chapter, 347, Statutes of 2022), to improve the State Water Board's and Regional Water Boards' engagement with disadvantaged communities and Native American Tribes. AB 2018 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 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. Additionally the bill requires the State Water Board and Regional Water Boards:

- 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.

*This bill:* AB 2218 is consistent with the Human Right to Water, AB 2877, and AB 2108. AB 2218 seeks statutory recognition of the past treatment of California Native American Tribes, and

building off of recently enacted laws, requires the state's water agencies (DWR and the State Water Board and Regional Water Boards) to consider what the California Native Americans have lost and adopt our water programs (including grant programs, public engagement, and technical assistance) in order to improve the quality of and access to water for our Native American Tribes.

*Potential amendments:* The author is in the process of negotiating further amendments to this bill. Given that this bill will be heard on the morning of April 14<sup>th</sup> in the Assembly Water Parks and Wildlife Committee and then in the afternoon of April 14<sup>th</sup> in the Assembly Environmental Safety and Toxic Materials Committee, the amendments would be adopted in the Assembly Environmental Safety and Toxic Materials Committee.

*Arguments in support:* According to the Karuk Tribe, the sponsor of the bill:

"AB 2218 would establish a clear statewide policy directive acknowledging and seeking to remedy the inequities inflicted upon Tribes in California through historical state-sanctioned acts of termination, removal, and forced assimilation. The Karuk Tribe is a federal-recognized Native American Tribe with over 1.04 million acres of aboriginal territory in the middle Klamath Basin, which spans large portions of Humboldt and Siskiyou Counties, and extends into Joesphine County, Oregon. The colonization, displacement, and genocide of our people in California contributed to the loss of water resources and watershed management practices that support our traditional food sources and ways of life. California's water rights system, based on the "first in time, first in right" principle, has historically overlooked the true first inhabitants of this land and original water users, California Native Americans. This complete oversight, couple with the state-sponsored actions that removed Native American from their lands and their waters has systemically excluded Tribal Nations from crucial decision-making processes concerning our state's waterways.

By requiring state agencies to consider the racial inequities caused by state-sanctioned harm, and to correct those inequities through compensation, legal recognition of rights, or replacement of benefits lost when revising, adopting, or establishing rights, policies, permits, or grant criteria, the bill provides a legal basis and framework for identifying inequities and taking corrective action within existing authorities. This framework equips advocates and decision-makers with a legitimate statutory basis to advance policies that respond to historical harm. As such, the bill represents a foundational step toward addressing and rectifying generations of state-sanctioned injustice, functioning both as a values-based acknowledgment of past harms and as a practical tool to shape more equitable policy outcomes."

*Arguments in opposition:* According to a coalition of organizations including local governments, agricultural interests, and building associations,

"The policy requires the State Water Resources Control Board (State Water Board) and the Department of Water Resources (DWR) and "relevant agencies" to "consider and incorporate this policy when revising, adopting, or establishing rights, policies, regulations, permits, or grant criteria to address identified inequities."

We are concerned with the bill's vague language, how it will be implemented, whether the language aligns with the author's intent, and its expansive scope, which will lead to unintended consequences.

The vague language is especially concerning in considering how this bill will be implemented. As representatives of water users, water rights holders, and water systems in California, we are concerned about how the State Water Board and DWR decisions will consider and incorporate this vague policy.

This bill could affect every permit, policy, regulation, etc. Given that broad application, it is crucial to understand how incorporating the policy will affect those agency decisions. How will incorporating the policy affect a water-right diversion application? How could incorporating the policy impact the adoption of the Bay-Delta plan? How would the State Water Board address the inequities when adopting a PFAS regulation? Specifically, how would the State Water Board or DWR compensate for inequities? Or how would these agencies replace a benefit lost? These are a few questions we've asked the author's office to help us better understand the expected implementation. These questions remain unanswered. The Legislature should not pass a state policy that is not clearly implementable."

*Double-referral:* Should this bill pass the Assembly Water Parks and Wildlife Committee on April 14<sup>th</sup>, it will be re-referred to the Assembly Environmental Safety and Toxic Materials Committee.

*Related legislation:*

- 1) 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. 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.
- 2) 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. 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. Status???
- 3) AB 2108 (Robert Rivas, Chapter 347, Statutes of 2022). Requires 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. Requires 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.
- 4) AB 2877 (Garcia, Chapter 481, Statutes of 2022). Requires 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. Provides that a limited waiver of tribal sovereignty is not required for a tribe that is an eligible recipient to access funding under the Fund.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Shingle Springs Band of Miwok Indians (sponsor)  
Alta Peak Chapter, California Native Plant Society  
American River Conservancy  
American Whitewater  
Audobon California  
Azul  
Cactustocloud Institute  
California Coastkeeper Alliance  
California Environmental Voters  
California Institute for Biodiversity  
California Native Plant Society, Alta Peak Chapter  
California Rural Indian Health Board, INC.  
California Sportfishing Protection Alliance  
California Tribal Business Alliance  
California Trout  
Center for Environmental Health  
Center on Race, Poverty & the Environment  
Clean Water Action  
Cleaneearth4kids.org  
Coalition of California State Tribes  
Community Alliance With Family Farmers  
Consejo De Federaciones Mexicanas  
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  
Klamath Indigenous Land Trust

Latino Outdoors  
Los Angeles Neighborhood Land Trust  
Los Angeles Waterkeeper  
Mid Klamath Watershed Council  
Mono Lake Committee  
Monterey Waterkeeper  
Mount Shasta Bioregional Ecology Center  
Mountain Area Preservation  
National Audubon Society  
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  
Salmon River Restoration Council  
San Diego Coastkeeper  
San Francisco Baykeeper  
Santa Barbara Channelkeeper  
Save California Salmon  
Save the Bay  
Sequoia Riverlands Trust  
Shasta Waterkeeper  
Sierra Club California  
Sierra Nevada Alliance  
South Yuba River Citizens League  
Sustainable Tahoe  
The Otter Project  
Trust for Public Land  
Union of Concerned Scientists  
Water Climate Trust  
Watershed Research & Training Center  
Wholly H2O  
Wildlands Network  
Winnemem Wintu Tribe  
Yuba River Waterkeeper

### **Opposition**

Association of California Water Agencies  
Boma California  
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  
El Dorado Irrigation District  
League of California Cities  
NAIOP California  
Rural County Representatives of California  
Valley AG Water Coalition  
Water Blueprint for the San Joaquin Valley Advocacy Fund

**Analysis Prepared by:** Josh Tooker / E.S. & T.M. / (916) 319-3965