STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2026-0043

APPROVING AN AMENDMENT TO THE WATER QUALITY CONTROL PLAN FOR THE SAN FRANCISCO BAY BASIN TO ADD TRIBAL TRADITION AND CULTURE (CUL), TRIBAL SUBSISTENCE FISHING (T-SUB), AND SUBSISTENCE FISHING (SUB) BENEFICIAL USE DEFINITIONS

WHEREAS:

1. On April 8, 2026, the Regional Water Quality Control Board, San Francisco Bay Region (San Francisco Bay Water Board) adopted Resolution No. R2-2026-0012 (Attachment A), amending the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan amendment) to add definitions of three beneficial uses: Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T-SUB), and Subsistence Fishing (SUB).

2. These beneficial uses were established in Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclose Bays, and Estuaries of California—Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions (Statewide Mercury Provisions) adopted by the State Water Resources Control Board (State Water Board) on May 2, 2017, for use by the State Water Board and regional water boards in designating these uses to their waterbodies.

3. This amendment is consistent with the San Francisco Bay Water Board Resolution No. R2-2025-0016, "Approving the Triennial Review of the San Francisco Bay Basin Water Quality Control Plan and Adopting a List of Prioritized Basin Planning Projects," which identified designating the CUL, T-SUB, and SUB beneficial uses as the highest priority Basin Plan project. The first component of this priority project is to add CUL, T-SUB, and SUB definitions to the Basin Plan.

4. This amendment is non-regulatory because it incorporates definitions that were adopted by the State Water Board and does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of the Basin Plan.

5. This amendment is not a "project" within the meaning of California Environmental Quality Act (CEQA) because it will neither cause a direct physical change in the environment, or a reasonably foreseeable indirect change. (See Pub. Resources Code, § 21065; Cal. Code Regs., tit. 14, § 15378.) As a result, the amendment is not subject to CEQA and,

therefore, not subject to the Water Boards' certified regulatory program for implementing CEQA. (Cal. Code Regs., tit. 23, § 3720, subds. (b), (c)(2).)

6. Designations of the new beneficial uses to specific waterbodies, where those uses are existing or attainable, will be considered under a separate Basin Plan amendment process in the future. Input from California Native American Tribes and the subsistence fishing communities will be a vital part of the beneficial use designation process, and designations of CUL and T-SUB must be confirmed as appropriate by a California Native American Tribe.

7. The San Francisco Bay Water Board found the Basin Plan amendment is consistent with State Water Board Resolution No. 68-16, the Statement of Policy with Respect to Maintaining High Quality of Waters in California.

8. A Basin Plan amendment does not become effective until approved by the State Water Board and until the regulatory provisions are approved by the Office of Administrative Law (OAL). Changes to water quality standards must also receive approval from the U.S. Environmental Protection Agency (U.S. EPA).

9. As authorized by Resolution No. R2-2026-0012, the San Francisco Bay Water Board Executive Officer made minor, non-substantive changes to the Basin Plan amendment in order to correct a minor clerical error and improve clarity and consistency during the State Water Board's review of the Basin Plan amendment. The corrections are documented in a memorandum from the Executive Officer to the State Water Board dated September 25, 2026 (Attachment B). The changes clarify that the definition of "California Native American Tribe(s)" applies to both CUL and T-SUB consistent with the Statewide Mercury Provisions.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves the Basin Plan amendment adopted under San Francisco Bay Water Board Resolution No. R2-2026-0012, with the minor, non-substantive changes shown in Attachment B.

2. Authorizes and directs the Executive Director or designee to submit the Basin Plan amendment adopted under San Francisco Bay Water Board Resolution No. R2-2026-0012, as approved, and the administrative record for this action to OAL for approval.

3. If, during the approval process, State Water Board staff, the Executive Officer of the San Francisco Bay Water Board, or the Office of Administrative Law determines that minor, non-substantive modifications to the Basin Plan amendment are needed for clarity or consistency, the State Water Board Executive Director or designee may make such changes and shall inform the State Water Board of any such changes.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on November 4, 2026.

AYE:	Chair E. Joaquin Esquivel Vice Chair Dorene D'Adamo Board Member Sean Maguire Board Member Nichole Morgan Board Member Jared Blumenfeld
NAY:	None
ABSENT:	None
ABSTAIN:	None



Courtney Tyler
Clerk to the Board

Attachment A

Resolution R2-2026-0012, including
Basin Plan Amendment

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

RESOLUTION NO. R2-2026-0012

Amending the Water Quality Control Plan for the San Francisco Bay Basin to Add Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T- SUB), and Subsistence Fishing (SUB) Beneficial Use Definitions

WHEREAS the California Regional Water Quality Control Board, San Francisco Bay Region (San Francisco Bay Water Board) finds that:

1. The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the San Francisco Bay Water Board's master water quality control planning document. The Basin Plan contains the region's water quality standards, which consist of beneficial uses, water quality objectives to protect those uses, and an anti-degradation policy along with a program of implementation, and non-regulatory descriptions of regional and state-wide policies. The Basin Plan was duly adopted by the San Francisco Bay Water Board and approved by the State Water Resources Control Board (State Water Board), the Office of Administrative Law (OAL), and the United States Environmental Protection Agency (U.S. EPA), where required.

2. The Basin Plan may be amended in accordance with Water Code section 13240 *et seq*. This Basin Plan amendment complies with the Water Code requirements.

3. Water Code section 13000 declares, "the quality of all the waters of the state shall be protected for the use and enjoyment by the people of the state."

4. On May 2, 2017, the State Water Board adopted Resolution No. 2017-0027, which approved "Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California—Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions" (Statewide Mercury Provisions). The OAL and the U.S. EPA approved the Statewide Mercury Provisions on June 28, 2017, and on July 14, 2017, respectively. This Plan established three new beneficial uses—Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T-SUB), and Subsistence Fishing (SUB), for use by the State Water Board and Regional Water Boards in designating these uses to their waterbodies, to recognize water uses by California Native American Tribes and communities who may consume fish at rates above recreational averages. and the mercury objectives to protect these beneficial uses and a few other uses.

5. Chapter 2 of the Basin Plan defines and designates the beneficial uses for all surface and ground waters in the San Francisco Bay Region. This amendment modifies the Basin Plan to add to Chapter 2 these three beneficial use definitions, which are established in the Statewide Mercury Provisions.

6. This amendment is consistent with the San Francisco Bay Water Board Resolution No. R2-2025-0016, “Approving the Triennial Review of the San Francisco Bay Basin Water Quality Control Plan and Adopting a List of Prioritized Basin Planning Projects,” which identified designating the CUL, T-SUB, and SUB beneficial uses as the highest priority Basin Plan project. This priority project includes three components, one of which is adding CUL, T-SUB, and SUB definitions to the Basin Plan.

7. This amendment is non-regulatory because it incorporates definitions that were adopted by the State Water Board and does not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of the Basin Plan.

8. Designations of the new beneficial uses to specific waterbodies, where those uses are existing or attainable, will be considered under a separate Basin Plan amendment process in the future. Input from California Native American Tribes and the subsistence fishing communities will be a vital part of the beneficial use designation process, and designations of CUL and T-SUB must be confirmed as appropriate by a California Native American Tribe.

9. A staff report was prepared for this amendment that describes the proposed amendment as well as the specific purpose for this update. The staff report, titled “Basin Plan Amendment to Add Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T-SUB) and Subsistence Fishing (SUB) Beneficial Use Definitions” is an integral part of this Board action and was reviewed, considered, and accepted by the San Francisco Bay Water Board before acting at the hearing.

10. Pursuant to Public Resources Code section 21080.5, the Resources Agency has approved the Regional Water Quality Control Boards’ basin planning process as a “certified regulatory program” that adequately satisfies the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) requirements for preparing environmental documents (California Code of Regulations title 14, §15251, subdivision (g); California Code of Regulations, title 23, §3777).

11. This Basin Plan amendment is not a “project” within the meaning of CEQA because it will neither cause a direct physical change in the environment, or a reasonably foreseeable indirect change. (See Pub. Resources Code, § 21065; Cal. Code Regs., tit. 14, § 15378.) As a result, the amendment is not subject to CEQA and, therefore, not subject to the Water Boards’ certified regulatory program for implementing CEQA. (Cal. Code Regs., tit. 23, § 3720, subds. (b), (c)(2).)

12. Water Code section 13149.2 does not apply because the Basin Plan amendment is non-regulatory and will not have adverse impacts to water quality in disadvantaged communities or tribal communities or raise other environmental justice concerns.

13. On January 20, 2026, Water Board staff publicly noticed and distributed for public review and comment the proposed Basin Plan amendment, in accordance with applicable State and federal laws and regulations. Water Board staff also conducted

outreach to tribal communities and potentially affected disadvantaged communities, although not required to do so under Water Code section 189.7.

14. On April 8, 2026, the Water Board held a public hearing to consider the amendment, including response to public comments on the amendment.

15. The Water Board has carefully considered all comments and testimony received, including responses thereto, on the Basin Plan amendment, as well as all the evidence in the administrative record.

16. Adoption of the Basin Plan amendment is consistent with the state and federal antidegradation policies (State Water Board Resolution No. 68-18 and 40 C.F.R. § 131.12).

17. The Basin Plan amendment must be submitted for review and approval by the State Water Board. Once approved by the State Water Board, the amendment will be submitted to OAL for concurrence that it is non-regulatory.

NOW, THEREFORE BE IT RESOLVED THAT:

1. The Water Board adopts the Basin Plan amendment as set forth in Exhibit A hereto.

2. The Executive Officer is directed to forward copies of the Basin Plan amendment to the State Water Board in accordance with the requirements of Water Code section 13245.

3. The San Francisco Bay Water Board requests that the State Water Board approve the Basin Plan amendment in accordance with the requirements of Water Code sections 13245 and 13246 and forward it to OAL for concurrence that it is non-regulatory.

4. If, during the approval process, Water Board staff, the State Water Board, or OAL determines that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes and shall inform the Water Board of any such changes.

I, Eileen White, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on April 8, 2026.

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Eileen White
Executive Officer

Attachment:

Exhibit A – Basin Plan Amendment

Exhibit A

BASIN PLAN AMENDMENT

Basin Plan Amendment

Revisions indicated in single underline represent new language, and revisions indicated in ~~strikeout~~ represent deleted language.

Add to the end of Chapter 2, Beneficial Uses, Section 2.1

2.1.21 Tribal Tradition and Culture (CUL)[1]

Uses of water that support the cultural, spiritual, ceremonial, or traditional rights or lifeways of California native American Tribes, including, but not limited to: navigation, ceremonies, or fishing, gathering, or consumption of natural aquatic resources, including fish, shellfish, vegetation, and materials.

Here, lifeways is defined as any customs, practices, or art of a California Native American Tribe.

Here, California Native American Tribe(s) is defined as a federally-recognized California tribal government listed on the most recent notice of the Federal Register or a nonfederally recognized California tribal government on the California Tribal Consultation List maintained by the California Native American Heritage Commission.

2.1.22 Tribal Subsistence Fishing (T-SUB)

Uses of water involving the non-commercial catching or gathering of natural aquatic resources, including fish and shellfish, for consumption by individuals, households, or communities of California Native American Tribes to meet needs for sustenance.

2.1.23 Subsistence Fishing (SUB)

Uses of water involving the non-commercial catching or gathering of natural aquatic resources, including fish and shellfish, for consumption by individuals, households, or communities, to meet needs for sustenance.

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[1] The CUL, T-SUB, and SUB beneficial uses are defined by "Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California—Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions."

Attachment B

Executive Officer Correction Memo

San Francisco Bay Regional Water Quality Control Board

TO: Phillip Crader, Deputy Director
Division of Water Quality
STATE WATER RESOURCES CONTROL BOARD

FROM: Eileen White
Executive Officer
SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD

DATE: September 25, 2026

SUBJECT: NON-SUBSTANTIVE CORRECTIONS TO THE SAN FRANCISCO BAY REGION BASIN PLAN AMENDMENT TO ADD TRIBAL TRADITION AND CULTURE, TRIBAL SUBSISTENCE FISHING, AND SUBSISTENCE FISHING BENEIFICAL USE DEFINTIONS

This memo transmits the proposed Basin Plan Amendment to Add Tribal Tradition and Culture, Tribal Subsistence Fishing, and Subsistence Fishing Beneficial Use Definitions, with non-substantive corrections to improve clarity. The amendment was adopted by the San Francisco Bay Regional Water Quality Control Board (Regional Water Board) on April 8, 2026, via Resolution R2-2026-0012. The Basin Plan amendment would add definitions of three beneficial uses: Tribal Tradition and Culture (CUL), Tribal Subsistence Fishing (T-SUB), and Subsistence Fishing (SUB) to the Basin Plan.

San Francisco Bay Regional Water Board Resolution No. R2-2026-0012 grants the Executive Officer the authority to make minor, non-substantive changes to the language of the adopted Basin Plan amendment during the State Water Resources Control Board approval process. Accordingly, the Executive Officer is making two corrections to the amendment language that are made solely for clarification and do not substantively change its content. The clarifications are shown in underline~~/strikeout~~ text and described below.

The Regional Water Board has revised the Basin Plan Amendment language in Sections 2.1.21 and 2.1.22 as follows:

2.1.21 Tribal Tradition and Culture (CUL)[1]

Uses of water that support the cultural, spiritual, ceremonial, or traditional rights or lifeways of California N~~n~~ative American Tribes,[2] including, but not limited to: navigation, ceremonies, or fishing, gathering, or consumption of natural aquatic resources, including fish, shellfish, vegetation, and materials.

Here, lifeways is defined as any customs, practices, or art of a California Native American Tribe.

~~Here, California Native American Tribe(s) is defined as a federally-recognized California tribal government listed on the most recent notice of the Federal Register or a nonfederally recognized California tribal government on the California Tribal Consultation List maintained by the California Native American Heritage Commission.~~

2.1.22 Tribal Subsistence Fishing (T-SUB)

Uses of water involving the non-commercial catching or gathering of natural aquatic resources, including fish and shellfish, for consumption by individuals, households, or communities of California Native American Tribes[2] to meet needs for sustenance.

2.1.23 Subsistence Fishing (SUB)

Uses of water involving the non-commercial catching or gathering of natural aquatic resources, including fish and shellfish, for consumption by individuals, households, or communities, to meet needs for sustenance.

The first change corrects a typographic error by changing the lower case “n” to upper case “N” in “native” within the term “California native American Tribe(s)” under Section 2.1.21.

The second change is to move the definition of “California Native American Tribe(s)” previously included under Section 2.1.21 to a footnote and to add a superscripted number “2” to the same term under both Sections 2.1.21, and 2.1.2. We made this

[1] The CUL, T-SUB, and SUB beneficial uses are defined by “Part 2 of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California—Tribal and Subsistence Fishing Beneficial Uses and Mercury Provisions.”

[2] California Native American Tribe(s) is defined as a federally-recognized California tribal government listed on the most recent notice of the Federal Register or a non-federally recognized California tribal government on the California Tribal Consultation List maintained by the California Native American Heritage Commission.

change to clarify that this definition applies to “California Native American Tribe(s)” under both the CUL and T-SUB beneficial use definitions. This change was made in response to comments received during the State Water Board approval public review period that ended on July 24, 2026.