



CALIFORNIA INDIAN LEGAL SERVICES

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September 22, 2021

SENT VIA ELECTRONIC MAIL

Re: Mono Lake and Tributaries Designation for Tribal Beneficial Uses – 2021 Triennial
Review Comments

Daniel Sussman
Lahontan Regional Water Quality Control Board
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150
Email: Lahontan@waterboards.ca.gov

Dear Mr. Sussman,

I am writing on behalf of the Mono Lake Kutzadika'a (also spelled Kootzaduka'a or Kutzaduka'a) Tribe to request that the Lahontan Regional Water Board designate tribal beneficial uses for Mono Lake and the five (5) tributaries / creeks that feed it (Lee Vining Creek, Rush Creek, Mill Creek, Wilson Creek, and DeChambeau Creek). Specifically, the Tribe requests that both the tributaries / creeks and Mono Lake receive designations for both Tribal Tradition and Culture (CUL) and Tribal Subsistence Fishing (T-SUB). The Tribe requests that the Water Board amend its Basin Plan to make these designations as part of its upcoming triennial review.

As part of the last triennial review in 2018, the Tribe notified the Lahontan Regional Water Board of its interest in a tribal beneficial use designation for Mono Lake. In September of 2020 the Lahontan Regional Water Board became the first Regional Water Board in California to add the three tribal beneficial uses and related language to its Basin Plan. This was a great, welcome, and needed first step, and now the Regional Water Board is poised to amend its Basin Plan to designate specific water bodies for tribal beneficial uses.

Mono Lake and the five (5) creeks that feed it have indisputable cultural significance for the Mono Lake Kutzadika'a people. Sent along with this letter is a separate letter directly from the Tribe, so that they may speak to the importance of these water bodies in their own words. In the words of the Tribe, "Kootzabaa'a (Mono Lake) is the physical, cultural and spiritual center of the Kootzaduka'a people." What follows is a sampling of some of the historical and scientific evidentiary support for the Tribe's request for the CUL and T-SUB designations for Mono Lake and its tributaries.



The Tribe's relationship with and use of Mono Lake for both cultural practices and subsistence is not only documented through oral history and elders but also by renowned anthropologists, historians, naturalists, and ethnologists. As early as 1901, C. Hart Merriam, a naturalist, linguist, and, late in life an anthropologist, recorded encounters with the Tribe and writes of the Kutzadika'a people brine fly harvesting process and provides a description of the tribal members' collection and preparation of the fly pupae on the shores of Mono Lake which they "take their name from." Pioneer historian Ella Cain, born in 1872, was a school teacher in Bodie and wrote of in "The Story of Early Mono County" a detailed description of the collection and preparation of "ko-cha-bee," writing that the fly pupae "were considered to be the greatest delicacy of the Piute world. The real test of an Indian's friendship for you was for him or her to offer you a piece of pine nut or acorn bread sprinkled with ko-cha-bee." She also recounts and describes that "Gambling games (played with sticks for counters), singing and dancing were in progress during the nights of each harvesting ... Each festival or pow-wow of course was held at the scene of the harvesting; the ko-cha-bee festival at Mono Lake being the biggest." Mono Lake's abundance of "ko-cha-bee" was life sustaining to tribal members, who relied on the processed fly pupae as a source of protein to get them through the long cold winters.

Mono Lake was not only a central source of food, but also provided a place for tribal celebrations and social gatherings. The Lake provided water for washing, bathing and ceremonies, and such uses are well documented through interviews with tribal elders conducted by several historians and anthropologists such as Nancy Peterson Walter, a local anthropologist who wrote extensively about the Paiute at Mono Lake.

The life sustaining Mono Lake is not the only water relied upon by the Tribe; members also relied on the many creeks (tributaries) that feed the Lake for fishing and, later, for irrigation. The importance of these creeks to members is shown by the location of lands that were allotted to early tribal members. Each of the allotments were located near a creek, which was consistent with tribal members' historical and seasonal "camps." The creeks were the locations of the Tribe's seasonal homes. Allotments were issued and clustered along Rush Creek, Lee Vining Creek, Parker Creek and one was along Mono Lake itself. Rand Herbert's 1991 "Historic Inventory and Evaluation Report Indian Ditch Irrigation System" provides a history of the tribal members' reliance on the creeks for fishing and for "grazing and agricultural." The importance and use of these creeks is also documented by ethno-historian Helen McCarthy in her 1994-95 "Cultural Resource Inventory of the Four Tributaries to Mono Lake, and an Evaluation Plan for the Mono Streams Restoration Project."

The above is but a snap shot of some of the writings documenting the Tribe's use of Mono Lake and the creeks that feed the Lake. If the Board desires, the Tribe would be happy to provide additional information. One such source is the work of ethnographer Emma Lou Davis, who published information about the Tribe and its connection to the Lake in 1960.

Additionally, there is no question that water quality (salinity) affect these cultural resources. Numerous scientific studies have found that the productivity of alkali flies at Mono Lake, and thus the abundance of alkali fly pupae available for gathering, is correlated to the salinity of Mono Lake. While the saline water conditions natural to Mono Lake are favored by alkali flies, the high salinities that exist due to the artificial lowering of the lake cause reduction of body size and overall population productivity in the alkali flies. Excessively high salinities would create conditions at which the lake's alkali fly population could not survive. Similar trends are seen with the lake's brine shrimp population.

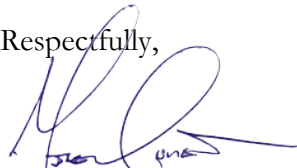
Salinity is a water quality consideration directly correlated with the surface elevation of the lake and the lake's resulting volume. The State Water Resources Control Board considered these studies in 1994 as part of the Board's evaluation of water license conditions necessary to protect Mono Lake public trust values and found that "Based on the evidence presented, the SWRCB concludes that a water level in Mono Lake at or near 6,390 feet will maintain the aquatic productivity of the lake in good condition" (Mono Lake Basin Water Right Decision 1631, page 82¹). Ultimately, the SWRCB chose 6,392 feet as the sustainable management level. Mono Lake is currently at 6,380 feet, or twelve (12) feet below the management level mandated by the SWRCB.

In conclusion, the Tribe has a well-documented cultural and subsistence use of Mono Lake and its tributaries, and water level and quality directly impacts these tribal beneficial uses. We urge you and the Board make the requested designations.

Lastly, we request more information regarding the "workshop" that we understand will be taking place on October 6th and 7th of this year. The following are some of our questions: Are these dates firm? What time will the event begin? How long will it run? Will there be an agenda / schedule distributed? If a representative of the Tribe desires to speak on these TBU designations, how/when will that happen, and will they need to be present for the entire two-days?

Thank you for reviewing the Tribe's enclosed letter and for your consideration of this request. Please do not hesitate to reach out to my office with any questions or concerns.

Respectfully,



Michael Godbe

Staff Attorney

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Enclosure: *Kootzabaa'a* (Mono Lake) & Tributaries – Tribal Beneficial Uses – letter from Tribal Chairwoman Charlotte Lange

Cc: Adriana Renteria, State Water Resources Tribal Liaison (Tribal-Liaison@waterboards.ca.gov)

¹ http://www.waterboards.ca.gov/waterrights/board_decisions/adopted_orders/decisions/d1600_d1649/wrd1631.pdf