



Topic: **Authority Board Agenda Item 6-1** **2018 April 23**

Subject: **Participation by the Colusa Indian Community Council on the Sites Authority Board**

Requested Action:

Approve forwarding the Colusa Indian Community Council’s request to become an Authority Member to the member agency boards for membership approval¹ on the condition that the Colusa Indian Community Council executes the prerequisite agreements.

Detailed Description/Background:

The Colusa Indian Community Council (CICC) sent a letter requesting membership to the Sites Project Authority Board of Directors on December 7, 2017 (see Attachment A). Representatives from the Council participated in a presentation at the Sites Project Authority Board meeting on December 18, 2017 and expressed their interest in the project and their desire to participate in the planning, construction and future operation of the project.

The Water Commission’s adopted regulations §6013 requires that a Native American Tribe can receive funding if they agree to a limited waiver of their sovereign immunity. Discussions with Water Commission’s legal counsel confirmed this requirement and indicated that while the regulations were written on the assumption a Native American Tribe would be an applicant, the waiver of sovereign immunity should apply to a Joint Powers Authority that has a Native American Tribe as a participant.

Sites Project Authority’s General Counsel and staff have been working with CICC and their attorneys to address the waiver of sovereign immunity. On March 27, 2018 the CICC adopted a resolution (See Attachment B) addressing the Water Commission’s regulations. Staff subsequently provided the Water Commission’s legal counsel with the resolution to seek confirmation it satisfactorily addressed the regulations. This matter was discussed at an April 6, 2018 meeting with Water Commission’s Executive Officer and Legal Counsel. While they would not provide a written opinion, their consensus was that the resolution appears to address the regulations and the Authority should be ready to provide the Water Commissioners with the resolution should they request confirmation of compliance with the regulations.

Prior Authority Board Action:

At the January 22, 2018 Sites Project Authority Board Meeting, the Authority Board directed General Counsel and staff to continue the legal review of the request and hold

¹ Requires 75% or greater of member agency board’s respective approval before membership is approved.

discussions with the Colusa Indian Council leadership and their attorneys and report back to the Board at the February 2018 meeting.

Fiscal Impact/Funding Source:

None.

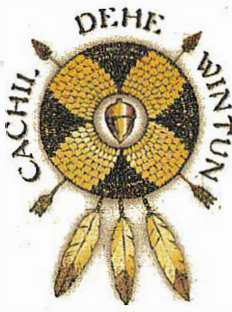
Staff Contact:

Jim Watson

Attachments:

Attachment A: CICC Letter requesting to become an Authority Member

Attachment B: CICC Resolution to Address Water Commission Regulations



**COLUSA INDIAN COMMUNITY COUNCIL
CACHIL DEHE BAND OF WINTUN INDIANS**

December 7, 2017

Kim Dolbow Vann - Chair
Sites Project Authority
PO Box 517
Maxwell, CA 95955

Subject: Colusa Indian Community Council - Sites Project Authority Membership

Dear Chair Dolbow Vann and Authority Board Members:

As a federally recognized Tribe the Cachil Dehe Band of Wintun Indians for which the Colusa Indian Community Council (CICC) is the governing body would like to submit this letter to the Sites Project Authority (SPA) Board to express interest in joining the SPA Board.

As a community farming over 5,000 acres, the CICC acknowledges what valuable resource water is and is interested in moving forward the Sites Reservoir Project which will benefit not only Colusa County and the Sacramento Valley but also the entire state of California.

The Tribe would like to work with the SPA on any potential impacts the Sites Reservoir project might have on the community. The CICC operates two water diversions immediately downstream of the proposed Delevan Pipeline Intake/Discharge Facility. The Tribal Reservation and Rancheria are also located downstream of the proposed Delevan Pipeline Intake/Discharge Facility. Within the proposed reservoir footprint there are also documented Indian burial sites. Due to these and all potential impacts, the CICC would like to work collaboratively with the SPA and have a seat on the SPA Board to facilitate the process.

The CICC would like to thank the SPA for the opportunity to join the SPA Board and looks forward to establishing a working relationship with the SPA moving forward to minimize impacts on the Tribe. The CICC would be happy to attend the next SPA Board meeting on December 18, 2017 or a future SPA Board meeting. If you have any questions or need additional information, please contact Mr. Oscar Serrano, Principal Engineer, at oserrano@colusa-nsn.gov.

Respectfully,

Wayne R. Mitchum
Tribal Chairman

cc: Mr. Oscar Serrano, Principal Engineer, CICC
Mr. Jim Watson, General Manager, Sites Project Authority



**COLUSA INDIAN COMMUNITY COUNCIL
CACHIL DEHE BAND OF WINTUN INDIANS**

RESOLUTION NO. 03-27-2018-02

A RESOLUTION TO PROVIDE THE CALIFORNIA WATER COMMISSION WITH A LIMITED WAIVER OF THE TRIBE'S SOVEREIGN IMMUNITY RELATED TO THE SITES PROJECT AUTHORITY'S RECEIPT OF FUNDING.

WHEREAS, The Cachil Dehe Band of Wintun Indians of the Colusa Rancheria, California ("Tribe"), is recognized by the Secretary of the Interior as maintaining government-to-government relations with the United States, and is listed in the Federal Register, Vol. 82, No. 10, January 17, 2017, at p. 4916, as an Indian Entity Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs;

WHEREAS, The Tribe is organized under a Constitution and Bylaws approved by the Secretary of the Interior, under which the Tribe's governing body is the Colusa Indian Community Council;

WHEREAS, The Tribe exercises jurisdiction and governmental authority over the lands of the Colusa Indian Reservation;

WHEREAS, The Tribe desires admission to membership in the Sites Project Authority ("SPA") in connection with the funding, planning, construction and operation of the Sites Reservoir Project ("Project"); and

WHEREAS, 23 California Code of Regulations Section 6013(f)(8) requires as a condition precedent to the Tribe's acceptance as a member of the Sites Project Authority that the Tribe provide the California Water Commission with a limited waiver of the Tribe's sovereign immunity related to the SPA's receipt of funding, said waiver to be effective for the duration of the Project's planning horizon period,

NOW, THEREFORE, BE IT RESOLVED by the Colusa Indian Community Council, pursuant to Article V of the Tribe's Constitution, that, subject to approval of the Tribe's application for membership in the Sites Project Authority, and irrevocably for the duration of the Sites Reservoir Project's planning horizon, the Tribe consents to suit by State of California, the California Water Commission ("Commission") or the California Department of Water Resources ("Department"), the California Department of Fish and Wildlife ("CDFW"), the California Water Resources Control Board ("State Water Board") or the California Attorney General's Office in the courts of the State of California, with respect to any action in law or equity commenced by the State of California, the Commission or Department, CDFW, State Water Board or the California Attorney General's Office to enforce the restrictions on the use of funds or the operation of the project by the Tribe related to funds received pursuant to this chapter, irrespective of the form of relief sought, whether monetary or otherwise; and

BE IT FURTHER RESOLVED that except for purposes of relief under this limited waiver, the Tribe shall receive the same protections as a California public entity under California Government Code sections 818 and 818.8.

This Resolution has not been rescinded and was passed at a duly noticed Council Meeting held on March 27, 2018 at which a quorum was present and voted:

17 FOR, 0 OPPOSE, 0 ABSTAIN.

ATTEST:



Wayne R. Mitchum, Jr., Chairman

DATE: 03.29.18



Michael Gomez, Secretary/Treasurer

DATE: 3-29-18