

Development of Beneficial Uses: Tribal Traditional and Cultural, Tribal Subsistence Fishing, and Subsistence Fishing

Table 1: Matrix of Input from Stakeholders

Stakeholder	General Feedback	Comments on language		
		“Tribal Traditional and Cultural Use”	“Tribal Subsistence Fishing”	“Subsistence Fishing”
Water Agencies	<p>Wanted to participate in definition development process earlier</p> <p>No information from staff demonstrating need for these uses</p> <p>Definitions should include language that makes clear their intended scope</p> <p>Develop a “guidance document” to help with implementation of these beneficial uses.</p> <p>Why is fishing in both tribal definitions?</p>	<p>Language is ambiguous</p> <p>“lifeways” is undefined, unfamiliar, and incomprehensible</p> <p>Staff provided little information on the type of evidence required to establish traditional and cultural use</p> <p>Need to further explain “navigational activities”</p>	<p>Fails to make clear that intended protection is consumption levels not abundance of aquatic species or habitat</p> <p>Identify consumption rates in the definition</p>	<p>No indication that use is needed</p> <p>Wording is unclear if one individual practicing subsistence fishing is enough to trigger use.</p> <p>Wording should be revised to clarify “cultural use” and “lack of personal economic resources”</p>
Stormwater/POTWs	<p>These uses are covered by MUN, REC-1, REC-2, AQUA, COLD, WARM, COMM, SHELL, NAV, and others.</p> <p>Unclear if the uses protect one or more individuals or communities/tribes</p> <p>The proposed uses could be subcategories of existing uses as described in 40CFR 131.10C.</p> <p>Proposed terms like, “gathering and catching,” “natural aquatic resources” are either directly overlapping or synonymous with existing uses</p> <p>Implementation procedures and/or</p>	<p>Add in “traditional species” after “consumption of natural aquatic resources including...”</p>	<p>Restrict these uses to “traditional species.” This beneficial use should not be extended to other species that have not been traditionally utilized.</p> <p>It is unreasonable and infeasible to provide protection of unique uses of water by one individual. The word “individual” should be removed from both definitions</p> <p>The wording needs to be changed to reflect the fact that we are protecting from contaminants in the fish and not guaranteeing a certain number of fish in the waters.</p>	<p>Remove the phrase, “by individuals for consumption by individuals, their households, or communities.”</p> <p>Remove the word “personal” before “economic resources”</p> <p>The wording needs to be changed to reflect the fact that we are protecting from contaminants in the fish and not guaranteeing a certain number of fish in the waters.</p> <p>The language should reflect that these uses do not protect 100 % of people eating fish at high levels.</p>

	<p>guidance should be developed for:</p> <ul style="list-style-type: none"> -determining geographic boundaries of historic uses -what constitutes subsistence fishing -effects on subsistence fishing in urban areas <p>It is unclear how these uses will overlap or affect existing health advisories</p>			
Tribes	<p>Tolowa Dee-ni' Nation supports the "Tribal Traditional and Cultural" and "Tribal Subsistence Fishing." However the Nation does not support the "Subsistence Fishing" as "it creates a right that does not currently exist under California State Law."</p> <p>Input of sediments and nutrients and algae growth can affect "navigational activities"</p> <p>Timing of many ceremonies and events is unalterable. BU may be used to protect water quality at specific times of the year.</p>	<p>Change definition from: "consumption of natural aquatic resources, including fish, shellfish, vegetation . . .," to "consumption of natural aquatic resources, including fish and <u>not limited to</u>, shellfish, vegetation"</p> <p>Change the term "as <u>supported</u> by..." to, "as <u>affirmed</u> by..."</p> <p>One example is filtering river water through ground acorns. The paste is the only sustenance for some tribal members during fasting</p> <p>Add "ceremonies" to the definition "...limited to: <u>ceremonies</u>, navigational ..."</p>	<p>There is a need to protect tribal fishing areas from pesticides that can build up in the fish. On the Smith River a lot of pesticides are used in lily bulb farming just upstream of tribes.</p> <p>Consider changing wording from "as supported by..." to as "identified by..."</p>	
NGOs, Enviro	<p>Develop a fish tissue target that protects all subsistence fishers. Anything less is environmental injustice.</p> <p>Agree with the basic language and recommend adoption</p>			
Industry	<p>These definitions are too broad. They should be written in a different way to be more specific.</p> <p>Both subsistence fishing beneficial uses should specify that they only</p>	<p>Definition does not make clear it is for water quality, not water quantity.</p> <p>A consistent and standard definition of the term "lifeways"</p>	<p>Definition does not sufficiently indicate that it protects people, not the fish</p> <p>Should say that definition is specific to the consumption of</p>	<p>Definition does not sufficiently indicate that it protects people, not the fish, or the quantity of fish.</p> <p>Should say that definition is specific to</p>

	apply where subsistence fishing is currently occurring that they only relate to the consumption of fish.	needs to be available.	fish, not water or fish quantity.	the consumption of fish, not water or fish quantity.
Ag/Dairies/ Grazers	<p>Concerned about the “seemingly unbounded beneficial use” and how it will affect water rights, other beneficial uses, and water quality considerations.</p> <p>It may be interpreted that tribal subsistence fishing and subsistence fishing are similar considerations.</p> <p>These uses may also impact: ILRP procedures, other beneficial uses, and water rights</p> <p>Change the wording of all three definitions to make it clear they are not protecting “water rights.”</p>	<p>The Tribal Traditional and Cultural Use should be clarified such that, “this beneficial use cannot be considered in situations where it may impact the right to diver or use water.”</p> <p>“traditional rights” should be eliminated from the definition”</p> <p>“Lifeways” should also be eliminated as it is not listed in the dictionary. It cannot be used in a regulatory program.</p>	It is not clear that this definition protects consumption of fish, instead of quantity of fish.	<p>This use is significantly different than the tribal or tribal subsistence fishing designations which are “well-defined and discreet.”</p> <p>It is not clear that this definition protects consumption of fish, instead of quantity of fish.</p> <p>The word <u>individual</u> in the phrase, “including fish and shellfish, by <u>individuals</u> for consumption” is a concern.</p> <p>Unclear where this uses does or does not apply</p>