

Regional Tribal Operations Committee

Water Boards Cannabis Program

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State Water Resources Control Board
April 29, 2020**

Presentation Outline

- **Water Boards Mission & Beneficial Uses**
- **Agencies Roles**
- **Cannabis Policy Overview**
 - **Tribal Requirements**
- **Enforcement**
- **New and Future Efforts**

Water Boards Mission

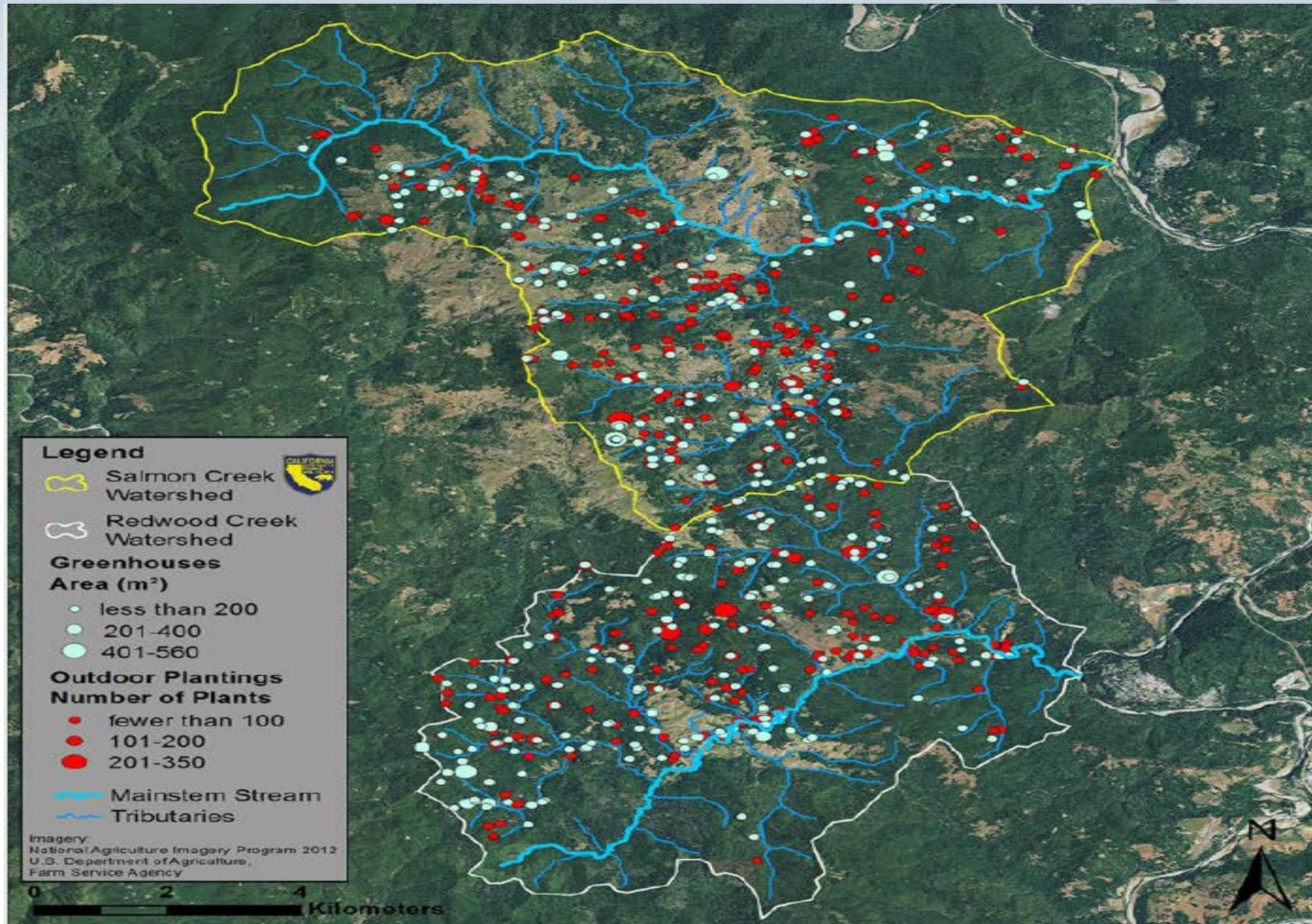
- **To preserve, enhance, and restore quality of California's water resources and drinking water for protection of environment, public health, and all beneficial uses**
- **To ensure proper water resource allocation and efficient use for benefit of present and future generations**

Statewide Policies, Basin Plans, and Beneficial Uses

Water Quality and Water Rights use the term beneficial uses differently

- **Water quality** control plans (basin plans) designate beneficial uses and establish water quality objectives for waters of the State (e.g., cold/warm freshwater habitat, fish spawning and migration, recreation, irrigation, etc.)
 - In May 2017, State Water Board established three new **tribal beneficial use definitions** for use in Basin Plans
 - **Tribal Tradition and Culture, Tribal Subsistence Fishing, and Subsistence Fishing**
- **Water rights** require taking control of water and putting it to beneficial use (e.g., domestic, irrigation, power, fish and wildlife, etc.)

Cumulative Cannabis Impacts



Credit:
Kason Grady, R1,
Cannabis Update,
ILRP Roundtable,
Sept. 2016.

Who is Involved?



*plus many
other agencies*

Agencies Roles

- **Department of Consumer Affairs, Bureau of Cannabis Control**
 - Responsible for **licensing** and enforcing transporters, distributors, dispensaries, and testing laboratories
- **California Department of Food and Agriculture - CalCannabis**
 - Responsible for **licensing** cultivators and manages a track and trace program; covers indoor and outdoor cultivation
- **California Department of Public Health**
 - Responsible for **licensing** manufacturers of products, such as edibles, and regulating testing laboratories

These agencies to form Department of Cannabis Control
(2020-21 Budget Proposal, February 14, 2020)

Agencies Roles (con't.)

- **California Department of Fish and Wildlife**
 - Consulting agency for protection of fish and wildlife
 - May adopt emergency regulations for interim flows and other conditions
 - Process and issue Lake and Streambed Alteration (1602) Agreements
 - Law enforcement officers
- **Department of Pesticide Regulation**
 - Responsible for regulating pesticide use
 - Pesticides can only be applied to cannabis in compliance with food and agriculture standards
 - Provides guidance to Bureau of Cannabis Control on pesticide testing
 - More information on pesticides that can be applied for cannabis cultivation is available at:
 - https://www.cdpr.ca.gov/docs/cannabis/can_use_pesticide.pdf

State Water Board Responsibilities

Ensure individual and cumulative effects of water diversion and discharge associated with cannabis cultivation do not affect instream flows needed for fish spawning, migration, and rearing, and flows needed to maintain natural flow variability

Business and Professions Code Section 26060.1(b)(1)



State Water Board Responsibilities (con't.)

- Develop policy for water quality control to establish principles and guidelines (requirements) for cannabis cultivation:
 - Shall include measures to protect springs, wetlands, and aquatic habitat from negative impacts of cannabis cultivation
 - May include requirements for groundwater extractions

*Water Code Section
13149(a)(1)(A)*



Primary Roles within Water Boards

- **State Water Resources Control Board:**
 - **Division of Water Rights**
 - Development and updates to Cannabis Policy (interim and long-term requirements)
 - Statewide Cannabis Small Irrigation Use Registration Program
 - Implementation and enforcement of water rights
 - **Division of Water Quality**
 - Development and updates to statewide Cannabis Cultivation General Waste Discharge Requirements (WDRs)
 - **Office of Enforcement**
 - Assist Regional Boards with implementation and enforcement of General WDRS
 - Assist Water Rights with implementation and enforcement of water rights
 - Enforcement of unpermitted cannabis cultivation sites
- **Regional Water Quality Control Boards (9):**
 - Implementation and enforcement of General WDRs
 - Water quality related enforcement on unpermitted cannabis cultivation sites

Cannabis Policy and Statewide General Waste Discharge Requirements

Originally effective December 18, 2017

First revision effective April 16, 2019

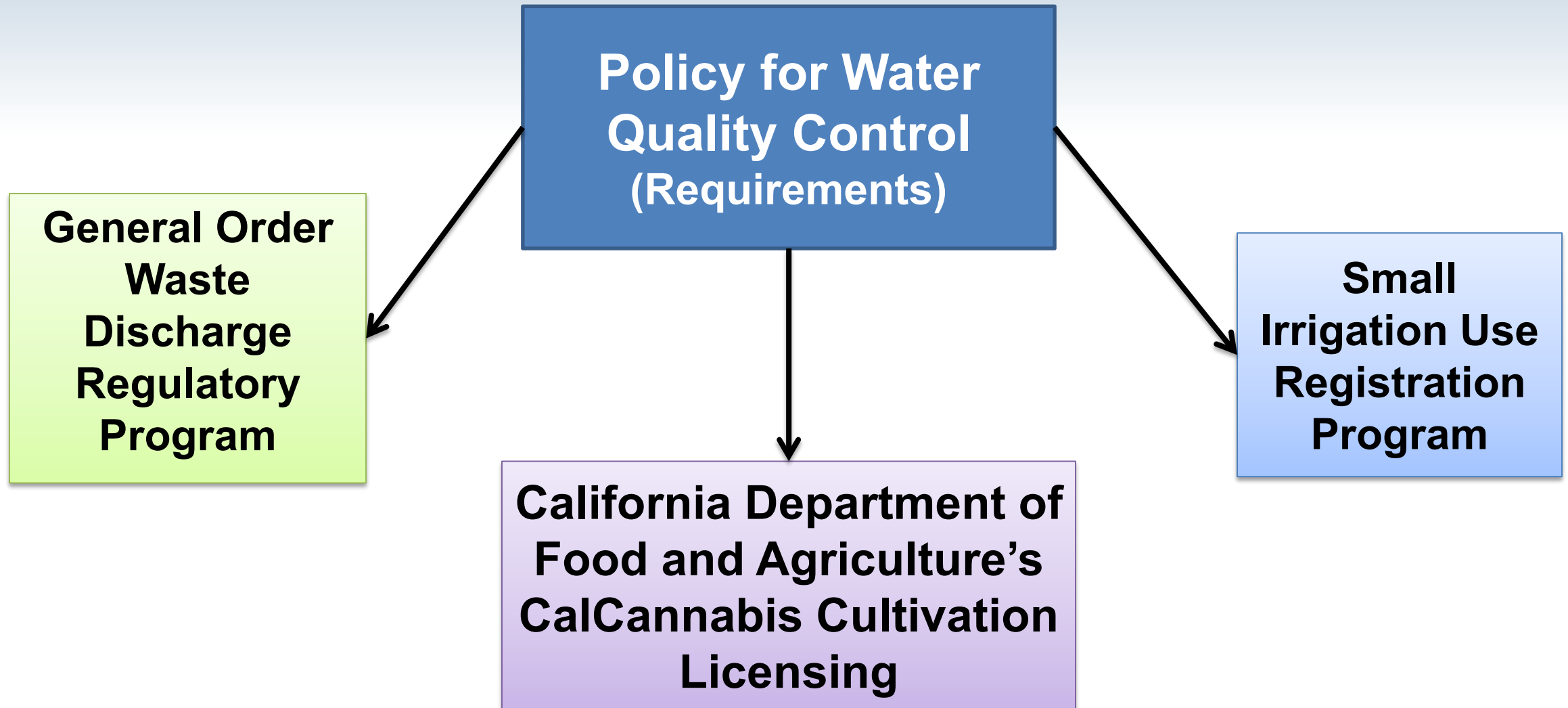
Tribal Engagement and Consultation

Letters sent to all California Native American Tribes (federally and non-federally recognized) soliciting input on proposed policy conditions

- 21 comment letters received from Tribes
- Consultation meetings held with:

Blue Lake Rancheria, Yurok Tribe, Karuk Tribe, Bear River Band of Rohnerville Rancheria, Hoopa Valley Tribe, Wiyot Tribe, Round Valley Tribe

Cannabis Policy Implementation



Cannabis Cultivation Policy - Principles and Guidelines for Cannabis Cultivation

Main Document

- Provides overview of Water Boards' program and context for how it fits with other regulatory programs
- Establishes 14 regions throughout state for instream flow requirements
- Continuing authority to amend Policy
- Describes how Policy is enforced

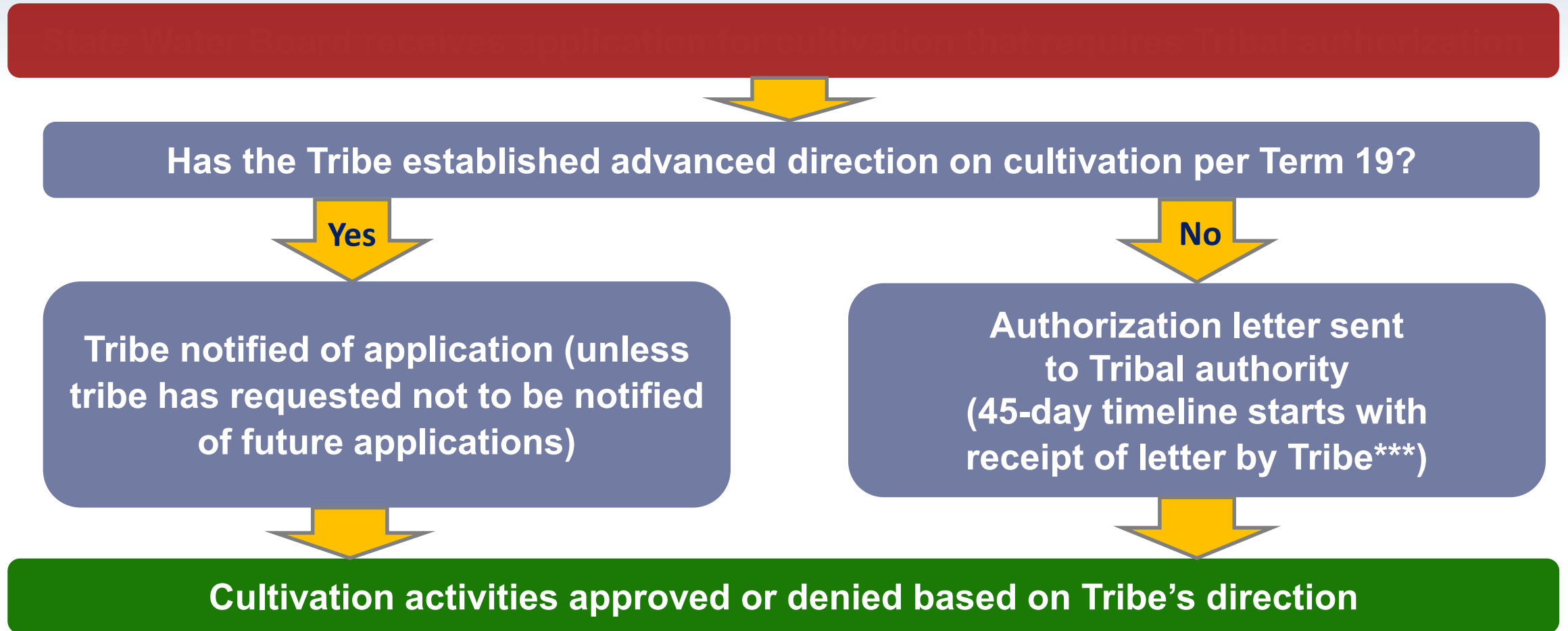
Attachment A: Cannabis Cultivation Requirements

- Section 1 – Definitions, General Requirements, and Prohibitions
- Section 2 – Requirements for Water Diversion and Waste Discharge (10 subsections)
- Section 3 – Numeric and Narrative Instream Flow Requirements
- Section 4 - Watershed Compliance Gage Assignments
- Section 5 – Planning and Reporting
- Section 6 – Useful Guidance Documents

Tribal Conditions in Cannabis Policy

- Tribal approval required for applications to cultivate cannabis on or within 600 feet of Tribal lands (*Att. A, Section 1, Term 19*)
- No cultivation activities allowed within 600 feet of identified Tribal cultural resources (*Att. A, Section 1, Term 20*)
- Prior to new or expanded land disturbance, cultivator must conduct or request a record search using California Historical Resources Information System and Sacred Lands Inventory (*Att. A, Section 1, Term 21*)
- Uncovered or discovered archeological materials must be reported to Native American Heritage Commission and potentially affiliated Tribes (*Att. A, Section 1, Term 22*)

Water Boards Process for Tribal Approval for Cultivation



*****Tribe may request additional time to respond to letter.**

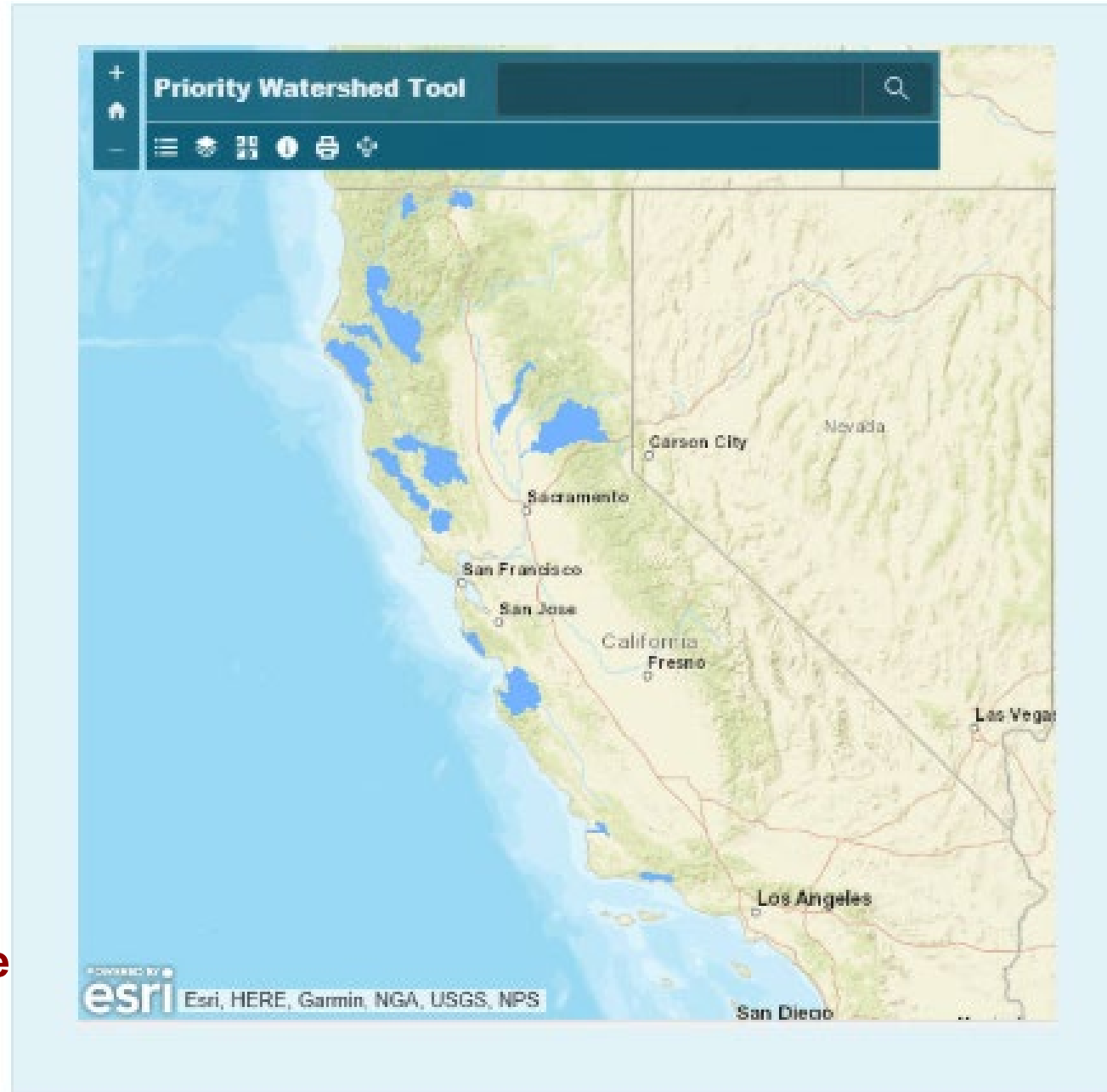
Compliance Assistance and Enrollment Enforcement

- **Compliance Assistance**
 - Enrollment workshops
 - Policy educational tools (under development)
- **Enrollment Enforcement**
 - Cannabis priority watersheds effort
 - Limited enforcement resources
 - Focus in areas with high resource value and high density of unpermitted cannabis cultivation

California Priority Watersheds Website

- Improve voluntary regulatory compliance
- Increase permitting enrollment in Water Boards cannabis permits
- Identify target watersheds for increased public outreach and education
- Protect public trust resources and habitat, as well as senior water rights

https://www.waterboards.ca.gov/water_issues/programs/cannabis/california_priority_watersheds.html



Water Boards Cannabis Enforcement

- **Enforcement Activities (2018)**
 - 303 Warrant Inspections
 - 214 Consent Inspections
 - 212 Inspection Reports
 - 962 Notices of Violation
 - 8 Water Code 13267 Information Orders
 - 1 Cleanup and Abatement Orders
 - 2 Administrative Civil Liability Complaints

Water Boards Cannabis Enforcement

Public vs Private Lands

- **Public Lands, Tribal Lands:** Water Boards play a support role only – expertise on impacts to water quality, water supply, and remediation; Water Boards have no independent criminal enforcement authority
 - Grows on Tribal lands would be considered trespass grows, so we aren't likely to look to landowners as responsible parties except where impacts are from lands adjacent to or upstream from Tribal lands
- **Private Lands:** Administrative civil liability, cleanup and abatement orders, etc.

Water Boards Cannabis Enforcement

- **Enforcement on Tribal Lands**

- No enforcement activity on Tribal lands unless invited
- No criminal enforcement authority to address trespass grows on Tribal lands, but play an important support role
- Water Boards can alleviate impacts to Tribal lands from upstream landowners with civil enforcement authority over water quality and water rights

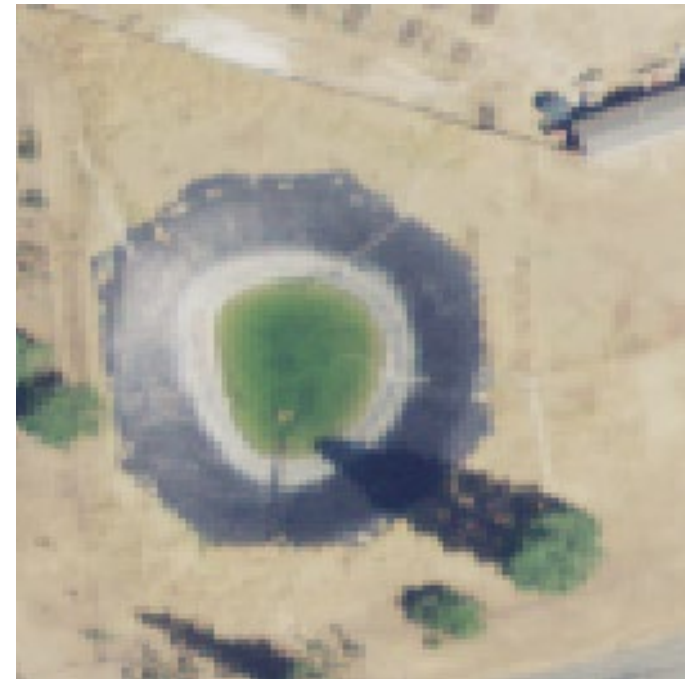
CannaVision

Machine learning using open source Computer Vision software

- Uses examples of visual features on satellite images to highlight where similar features are found



**Outdoor
Cannabis**



Ponds

CannaVision Example Output



Water Boards Resources and Contact Information

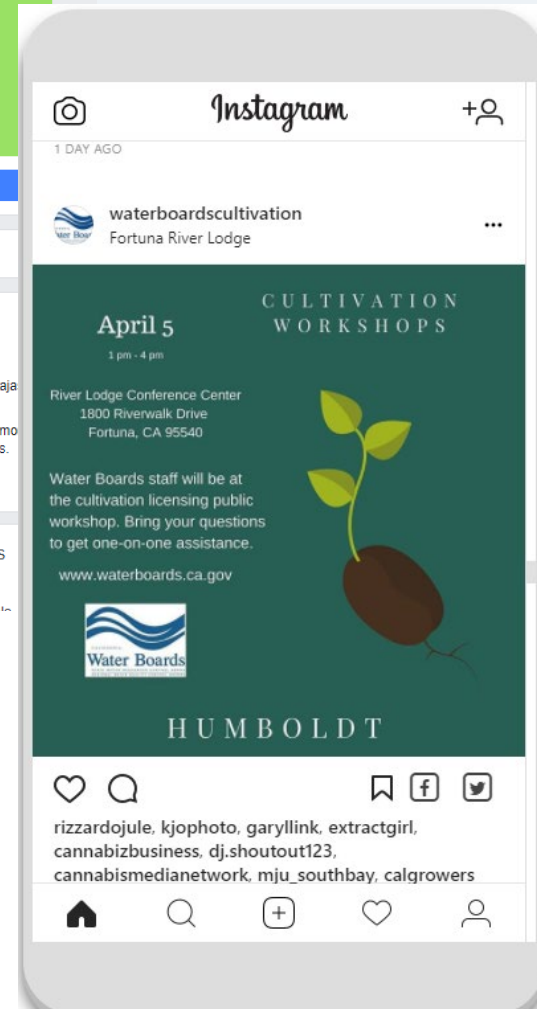
- **Cannabis Website**
 - **www.waterboards.ca.gov/cannabis**
- **Cannabis Policy**
 - **CannabisWR@waterboards.ca.gov**
 - **Phone: 916.341.5363**
- **File a Complaint**
 - **<https://calepa.ca.gov/enforcement/complaints/>**
 - **Complaint Questions: complaints@calepa.ca.gov**

Water Boards Tribal Affairs Program

- California Water Boards are committed to improving our communications and working relationships with California Native American Tribes
 - Please contact Water Boards Tribal Liaison with inquiries regarding Water Boards Tribal Affairs Program and for assistance in requests made to the Cannabis Program
- Adriana Renteria, Tribal Liaison
 - Tribal-Liaison@waterboards.ca.gov
 - https://www.waterboards.ca.gov/about_us/public_participation/tribal_affairs/



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@CAWaterBoardsCultivation



Questions?