

Restoring Ancestral Lands



Tribal Food Access Policy Guide

Northern California Tribal Court Coalition is a 501(c)(3) non-profit organization, chartered under the laws of the Hoopa Valley Tribe, and operated by a collation of six Tribes: Bear River Band of the Rohnerville Rancheria, Hoopa Valley Tribe, Karuk Tribe, Tolowa Dee-ni' Nation, Cher-Ae Heights Indian Community of the Trinidad Rancheria, and Yurok Tribe. The Coalition's mission is to promote and strengthen Tribal justice systems to restore balance and order in our communities, while honoring sovereignty and cultural values. You can learn more about our work at www.nctcc.org, and by visiting the website for the Restoring Ancestral Lands project at nctcc.org/land.

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Indigenous Food Sovereignty Access Guide

Forward

The Northern California Tribal Court Coalition (NCTCC) is a nonprofit collaboration of tribal courts whose mission is to promote and strengthen Tribal justice systems to restore balance and order in our communities, while honoring sovereignty and cultural values. As part of its works, the NCTCC has focused on food sovereignty and traditional ecological knowledge as an opportunity to strengthen community wellness and access to justice through the governance of food systems, and the collection and use of traditional foods and medicines.¹ Nationally, there is an increasing awareness of the importance of food sovereignty to the health, wellness, and sustainability of tribal communities and their members.²

NCTCC, with support from the First Nations Development Institute's California Tribal Fund, has developed this Guide to assist tribes and their members in California in their efforts to hunt, gather, and forage on public and private lands and waters. The Guide is not intended to be and is not legal advice. It provides information and resources regarding regulations, procedures, policies, and programs as a starting point to empower Tribal members with knowledge about the ways that their ancestral lands and waters are currently regulated and how to safely access traditional foods and cultural materials within those lands and waters. The Guide is divided into the four

¹ <https://nctcc.org/rights-of-mother-earth/>; <https://nctcc.org/programs/tribal-youth-sovereignty-camps/>

² <https://www.bia.gov/service/indigenous-tourism/why-food-sovereignty-matters>;
<https://www.ncai.org/initiatives/partnerships-initiatives/food-sovereignty>

categories of lands most common within California: federal lands/waters, state lands/waters, private lands/waters, and tribal lands/waters.

Introduction

“When we were strong in our foods on this continent, we were stronger people – we were healthier. And for Indigenous peoples it all starts with the food. When Indian Country lost its ability to feed itself, through whatever means, we lost that part of ourselves that supports our ability to thrive. It is only by regaining our foods will we be able to restore our health, our resilience as peoples and secure the stability and diversification within our own communities and local economies.

- Janie Simms Hipp Director (Chickasaw),
CEO/President Native Agricultural Financial Services

For thousands of years prior to the colonization of what is now the United States, the tribes that long inhabited, managed, and stewarded the lands and waters. Land and water management, cultural practices, and food production were part and parcel of that stewardship, and tribes relied on the bounty of the land and waters for their communities' health, sustainability, and wellness. Post-colonization, the long history of genocidal policies and land theft in California and elsewhere pushed Tribes into small reservations and created great imbalance.³ Ancestral lands were divided into private and public property with various state and federal agencies and departments holding title and managing the lands and waters as well as its resources, flora, and fauna. For the most part, outside of trust land and/or reservation boundaries, tribal members are often required to comply with state and federal regulations and policies. For tribes and

³ Millier, Lauren K., *The Secret Treaties with California's Indians*. <https://www.archives.gov/files/publications/prologue/2013/fall-winter/treaties.pdf>; Norton, Jack. *Genocide in Northwestern California: When our Worlds Cried*. Indian Historian Press (1979).

their members seeking access to lands and waters for traditional, cultural, and other uses, there are online resources and information that can point them in the right direction.

Federal Lands and Waters in California

According to the Congressional Research Service, as of 2020, the federal government owns or administers over 45% of the lands within California.⁴ Responsibility for management of the lands and waters in and around California, which includes the policies, regulations, and programs for access to those lands for food gathering by tribes and their members depends on the different types, designations, and uses designated for those lands (e.g., national parks, monuments, or forests, wildlife preservation areas, dams, or coastal areas). For instance, the Department of the Interior, the Bureau of Land Management manages approximately 15% of the lands within California - about 15 million acres.⁵ Additionally, the Pacific Southwest Region of the U.S. Forest Service manages approximately 20 million acres.⁶ Because these and other agencies collectively hold title to so much ancestral land, learning about their access, hunting, and gathering requirements and procedures is relevant for many tribal members across California.

⁴ <https://sgp.fas.org/crs/misc/R42346.pdf>

⁵ <https://www.blm.gov/about/what-we-manage/california#:~:text=In%20California%2C%20the%20Bureau%20of,surface%20acres%20in%20northwestern%20Nevada>

⁶ <https://www.fs.usda.gov/detail/r5/about-region/?cid=stelprdb5274212#:~:text=More%20about%20the%20Region,managed%20by%20the%20federal%20government>

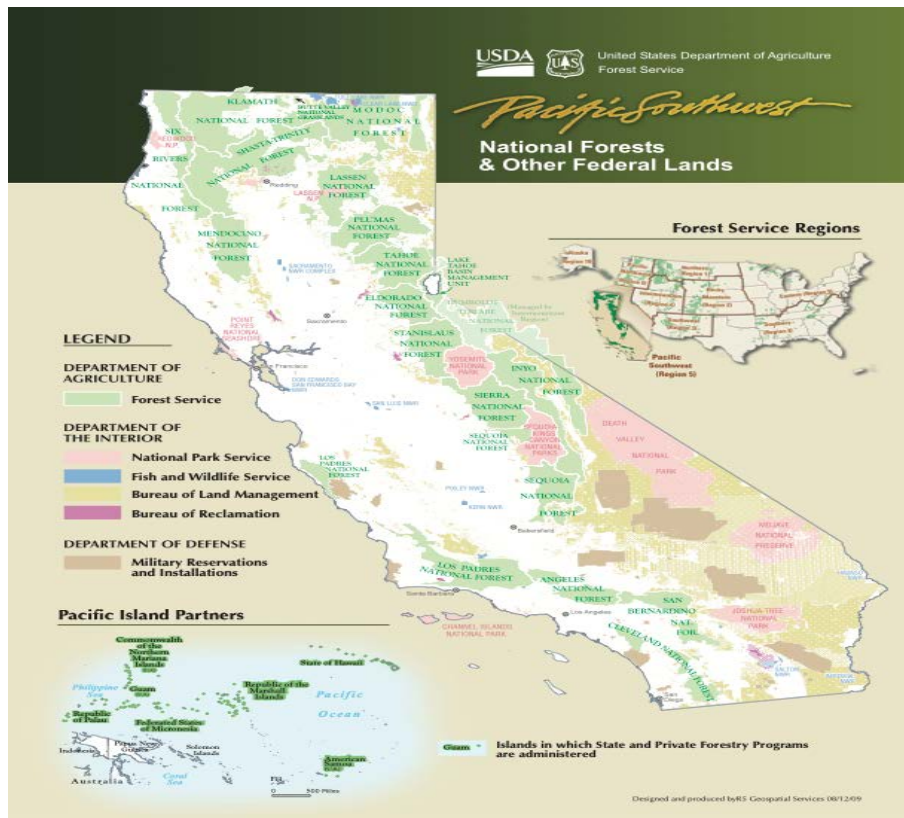


Figure 1. [Pacific Southwest National Forests and Other Federal Lands](#)

Below are links to the federal agencies that have responsibility for land and water management in California:

- [U.S. Department of the Interior](#) (DOI)
 - [Bureau of Land Management](#) (BLM)
 - [National Parks Service](#) (NPS)
 - [US Fish and Wildlife Service](#) (USFWS)
- U.S. Department of Agriculture, [Forest Service](#) (USFS)
- [Department of Defense](#) (DOD)
- [Bureau of Reclamation](#) (BOR)
- [National Oceanic and Atmospheric Administration](#) (NOAA)

In the context of Tribal food sovereignty, there is growing discussion of cultural revitalization, decolonization and environmental justice related to land management, and increasing efforts for agencies to better support Tribal members accessing lands for

traditional foods and other purposes. This can include everything from gathering plants and fungi to fishing and hunting.

Each federal agency responsible for land management has a tribal consultation policy that provides general guidance on how the agency will interact with and involve tribal governments in decision-making. In addition, most agencies have developed additional policies, procedures, and guidance specifically for and regarding tribes and/or their members. The DOI, for instance, has issued guidance for agencies such as BLM, NPS, and USFWS for co-stewardship of public lands and waters.⁷ As part of this co-stewardship process, tribes, can and have entered into agreements with the agencies on practices such as co-management and access for its members for hunting, gathering, and other purposes.⁸ BLM has developed a policy as well as a manual and handbook to guide their practices regarding tribal access to BLM-managed lands.⁹ The USFS has developed specific resources, strategic plans, and partnership policies for working with tribes and tribal members to provide for access to USFS managed lands and resources.¹⁰ In 2007, USFS, in collaboration with the Bureau of Land Management and the California Indian Basket Weavers Association produced a *Policy on Traditional Gathering* which encourages local agreements to support traditional cultural gathering free of cost and without permits¹¹ The USFWS has created partnership programs that

⁷ <https://www.doi.gov/pressreleases/interior-department-issues-guidance-strengthen-tribal-co-stewardship-public-lands-and>

⁸ <https://www.fs.usda.gov/news/releases/new-agreements-advance-tribal-co-stewardship>

⁹ <https://www.blm.gov/programs/cultural-resources>; <https://www.blm.gov/press-release/blm-publishes-tribal-co-stewardship-policy-reaffirms-commitment-work-tribes-manage>

¹⁰ <https://www.fs.usda.gov/main/r5/workingtogether/tribalrelations>

¹¹ https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd901235.pdf;
<https://www.fs.usda.gov/detailfull/r5/workingtogether/tribalrelations/?cid=FSEPRD683463&width=full>

include entering into agreements with partner tribes for various types of management and access, including tribes in California such as the Karuk and Wiyot.¹² In addition, they manage a National Eagle Repository where Tribal members can apply for eagle feathers and remains.¹³ The form to access these feathers is available [here](#). Multiple agencies, including BOR, have entered into agreements for the removal of dams in Northern California to improve and restore traditional fisheries as well as flora and fauna traditionally gathered and used by tribes, their members, and communities.¹⁴

The different rules, regulations, programs, and agreements that relate to the different types of federal lands and waters impacts the process for gaining access for traditional tribal hunting and gathering. Such processes may include requirements for permits, the payment of fees, limits on takes, etc. They may also include exceptions to any permitting requirements for tribes and their members for certain types of access such as the exercising of federally reserved hunting and fishing rights in particular lands and waters. With so many different management agencies, requirements, as well as different reasons for tribal members to seek access to federal lands for food sovereignty and other purposes, it is recommended that tribal members in California call their tribal offices to see if there is any tribal program to help assist members and/or provide information regarding any relevant rights or agreement in place for the area(s) they wish to access. In addition, calling the local federal agency management office where you intend to gather and asking questions regarding their individual tribal policies and

¹² <https://www.fws.gov/partner/category/tribal-organizations>

¹³ https://www.nativeamericanhumane.org/uploads/6/4/2/5/64257269/feather_repository_handout_for_website_5-2-19.pdf

¹⁴ <https://www.kgw.com/article/tech/science/environment/largest-us-dam-removal-project-tribes-future-growth/283-a8c394d0-afb3-4344-bc8f-f1aa525ad81a>

In addition, the California Department of Fish and Wildlife (CDFW) is responsible for the regulating of fishing and hunting within the state, which includes gathering and other activity within State waters and marine protected areas. The California Department of Water Resources is responsible for managing areas such as dams as well as for habitat restoration, recreation access, and management. Other agencies with public lands responsibilities that may impact tribal food sovereignty and access to lands and waters for hunting, gathering, and fishing include the California State Lands Commission and the California Native American Heritage Commission. Each of these agencies have tribal consultation policies and programs related to their interactions with tribal governments. Depending on the agency, this can include requirements for consultation regarding access to the areas they manage for tribes and their members for gathering and other traditional cultural practices.

The CDPR has a MOU program, through which individual parks units are encouraged to create MOUs with interested Tribes.¹⁶ Tribes in California have successfully created MOUs to help enable access to cultural foods and materials for tribal members. As an example, the Yurok Tribe has a MOU providing that Yurok Tribal members with a valid Tribal ID can now gather plant materials and minerals for traditional purposes within specific state parks that fall within Yurok ancestral lands with no permit required.¹⁷ In June of 2023, Trinidad State Beach entered into an MOU with Cher-Ae Heights Indian Community of the Trinidad Reservation to observe the sovereignty of tribal members to gather in their ancestral waters. Also in 2023, CDPR

¹⁶ https://www.parks.ca.gov/?page_id=30608

¹⁷ <https://www.parks.ca.gov/NewsRelease/1117>

entered into an agreement with the Washoe Tribe for co-management and access for tribal members to the Tribe's traditional and cultural areas in and around the Lake Tahoe Basin.¹⁸

Outside of its MOU Program, CDPR has policies and procedures for individual tribal members to access lands and waters in the State Park systems for gathering and other cultural purposes. For example, you can find [here](#) a reference sheet providing information on the gathering permit process for CDPR's North Coast Redwood Unit. As a member of a federally-recognized tribe, you can complete a [California Native American Gathering Permit](#) (DPR 864) to gather vegetation at any of California's State Parks. Applicants should return their completed permit to the appropriate District Tribal Liaison, which can be found on this [list](#).

CDFW also has permitting applications and processes for hunting, fishing, and gathering, including the [recreational gathering](#) of seaweed, kelp, and other marine algae.¹⁹ If you are a Tribal citizen of a federally-recognized Tribe and cannot pay for a fishing permit, [this](#) is an application for a free permit.

Like when seeking access to federal lands, it is recommended that tribal members in California call their tribal offices to see if there is any tribal program to help assist members with access to state lands and waters, including any relevant agreement in place for the area(s) they wish to access. In addition, CDFW has an [Office of Tribal Affairs](#) that can provide information and assistance with questions regarding

¹⁸ <https://www.tahoedailytribune.com/news/washoe-tribe-signs-historic-agreement-to-co-manage-lands-with-california-state-parks/>

access, permitting, and other questions. Contacting the local office of the State Park where you intend to gather and asking questions regarding their individual tribal policies and requirements can assist tribes and their community members' ability to exercise their rights to access. In addition, whenever visiting California State lands for traditional and cultural practices, bring a tribal ID if possible.²⁰

Private Lands and Waters

For hunting, gathering, and other access to ancestral lands that are now privately owned, generally permission from the current property owner is a required. Private property can be held by individuals or businesses, including non-profits. Often it is common practice for informal relationships and agreements between individuals that secures access to private property, however, it is also possible to create an MOU or other more formal agreement between individuals and/or with tribes and property owners to create legally binding access for access, hunting, and gathering rights to a specific property.²¹

Tribal Lands and Waters

Tribes in California can and do regulate the lands and waters within their jurisdictions, including for the purposes of access for traditional, cultural, and other hunting, fishing, and gathering practices. These laws can regulate access and activities both of tribal members and non-tribal members as well as any federally reserved rights. For instance, the Hoopa Valley Tribe has enacted codes that govern hunting and fishing

²⁰ <https://www.parks.ca.gov/NewsRelease/1168>

²¹ https://manteca-ca.granicus.com/MetaViewer.php?clip_id=30&meta_id=2729

within its lands and waters.²² The Yurok Tribe has both a fishing rights and a wildlife ordinance.²³ In addition to their ordinances, the Yurok and Hoopa Valley Tribes (as well as the Karuk Tribe) all operate fisheries departments within their governments that regulate, manage, and conserve tribal fisheries and their resources.²⁴

Each tribe within California may have their own codes, ordinances, policies, and programs governing access to their lands and resources. The rules and requirements for permitting and access may change depending on the time of year and/or the conditions. It is recommended that tribal members seeking access to tribal lands and waters for traditional, cultural, and other hunting and gathering purposes consult the relevant tribe's website and/or call their offices to connect with the relevant programs and officials that manage the tribe's resources and access to their lands and waters.

²² <https://www.hoopa-nsn.gov/wp-content/uploads/2023/03/title-16-amended-12-15-2022.pdf>; <https://www.hoopa-nsn.gov/wp-content/uploads/2015/06/Title15-Conservation110399.pdf>

²³ <https://yurok.tribal.codes/YTC/17.05>; <https://yurok.tribal.codes/YTC/18.10>

²⁴ <https://www.yuroktribe.org/fisheries>; <https://www.hoopa-nsn.gov/departments/natural-resource-departments/fisheries/>; <https://www.karuk.us/index.php/departments/natural-resources/watersheds/fisheries>