

Best Practices for Preparing For, Initiating, Managing, and Closing AB 52 Consultations

Presenter

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Internal TCR Inventories & AB 52 Recordkeeping

- Maps & Technology: Google Earth
 - Marking Water Resources (tributaries)
 - Marking known TCR sites
 - Marking Burial locations
 - Marking “sensitive locations”
- Use of technology in record keeping: MS Excel or Google Sheets
 - Date notice received, Lead Agency, Contact Person, Name of Project, Type of notice, Deadline for Response, Date Consultation Requested or Declined, Deadline for follow up by Lead Agency, etc.



Using Template Letters



- AB 52 “One time notice” from CNA Tribal Government to Lead Agency – See NAHC website
- AB 52 “Request to Consult” from CNA Tribal Government to Lead Agency – See NAHC website
- AB 52 “Decline to Consult” from CNA Tribal Government to Lead Agency
- AB 52 “Consultation Follow Up Letter” from CNA Tribal Government to Lead Agency
- AB 52 “Concluding Consultation Letter”
- AB 52 “Non-compliance Letter” – See NAHC website



Prioritizing AB 52 Consultations

- Look at the Project Location Description and Map Enclosure
 - Determine if the project being noticed is in an area of your TCA territory that you wish to actively engage within, or would prefer to defer to other CNA tribal governments.
 - Is the proposed project taking place within an undeveloped area, or an area that has been subject to mass grading?
- Look at Project Description
 - What type of action is being proposed?
 - Does the activity proposed include ground disturbing activities, or zoning type changes?
- Establish regular or quarterly meeting times with Lead Agency



Coordinating AB 52 & SB 18 Consultations

- ▶ Know the difference between SB 18 and AB 52
 - ▶ Different notice requirements
 - ▶ Different request/acceptance of consultation timeframes
 - ▶ Different expectations regarding release of public document
 - ▶ Different expectations regarding the Lead Agency's obligation to recommend the agreed upon mitigation measures
 - ▶ Different expectations regarding the inclusion of Applicant involvement
 - ▶ Different expectations of confidentiality
 - ▶ Different documents to review




Preparing for AB 52 Consultations

- ▶ Review all provided requested documentation:
 - ▶ Description of project
 - ▶ Map of project area
 - ▶ Archaeological/TCR Reports
 - ▶ Pedestrian survey results
 - ▶ Off-site improvements proposed
 - ▶ Infrastructure required for project and off-site improvements
 - ▶ Types
 - ▶ Depths
 - ▶ Timing



Preparing for AB 52 Consultations

- ▶ Be prepared to help the Lead Agency understand your concerns through your Tribe's perspective and connection to the land.
 - ▶ Be prepared to help “paint a picture” for the Lead Agency on how they can partner with your Tribe in protecting and preserving what physically remains from your ancestors.
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When the Lead Agency does not comply with AB 52

- ▶ First and foremost, talk to the Lead Agency.
- ▶ Discuss with the Lead Agency next steps to cure the situation.
- ▶ Document with the Lead Agency what has occurred and how the Lead Agency and Tribe have agreed to move forward. (Preserving the record)
- ▶ Discuss with the Lead Agency how you would like it to proceed in the future.
- ▶ AB 52 non-compliance would be considered a CEQA non-compliance issue = You are the CEQA police and the Tribe would need to decide the appropriate level of legal response.



Managing & Closing AB 52 Consultations

- Technology will become your friend.
- Spreadsheets are incredibly helpful in managing consultation information.
- Time Management Software & Phone Apps can help manage your team in being able to keep track of what consultations are active or closed.
- Always keep a paper trail- even if it's an electronic paper trail.
- Once resolution is reached (thinking positively again), be sure to formally conclude consultation through some form of written communication.



Thank You and Parting Thoughts

Always remember,

“We can’t change our past, but we can always change our future.”

May Creator help you make your ancestors proud.

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