CALIFORNIA NATIVE AMERICAN HERITAGE COMMISSION
FIVE-YEAR STRATEGIC PLAN
2018 – 2022
JANUARY 19, 2018

I. Executive Summary: The Challenge of Using Our Torch to Light Others

"People are always asking me, 'Who will you pass the torch to?' The question makes me angry. There is no one torch – there are many torches – and I'm using my torch to light other torches."

~ Gloria Steinem

This Five-Year Strategic Plan reflects the Commissioners' decision on the mission, principles, priorities, goals, objectives, and performance measures of the NAHC for the next five years and possibly beyond. It answers the question of how should the NAHC best use its expertise, limited staff, and limited resources – it's "torch," if you will – to light the "torches" of tribes, government agencies, developers, planners, archaeologists, and the public at large to protect cultural resources. The protection of cultural resources is at the core of what the NAHC does. It is important because of all the damage that occurred to cultural resources before the advent of historic preservation and environmental review laws, the limited opportunities to prevent further damage to cultural resources, and, most of all, the fact that cultural resources, once destroyed, cannot be replaced.

The Commission voted at its October 20, 2017 Commission meeting to circulate the first draft of this plan to tribes and stakeholders for comment and tribal consultation. No comments were received, nor were there any requests for tribal consultation.

Part Two of this plan is a discussion of where the NAHC stands today, a summary of previous assessments of the NAHC's strengths and weaknesses, a past mission statement, a past vision statement, and past principles, goals, and objectives. Part Two also discusses the results of a survey to determine what programs stakeholders would want revenue from a proposed special interest license plate to fund and what the Commission voted to use any special interest license plate revenue for. Part Three discusses what the NAHC staff has identified as the agency's current strengths and weaknesses. Part Four discusses the Commission's mission statement and principles. Part Five discusses the Commission's priorities, goals, and objectives. Part Six concludes with a proposed timetable for achieving the objections proposed. Part Seven, Appendix A, is a list of state statutes that incorporate or rely on the NAHC's tribal consultation list. Part Eight, Appendix B, includes the NAHC's current organization chart and an organization chart for a proposed agency reorganization.

Here's to lighting many, many torches.

James Ramos, Chair
Native American Heritage Commission

Debbie Treadway, Acting Executive Secretary
Native American Heritage Commission

II. Summary: Where the NAHC Stands Today; Previous Assessments of Strengths and Weaknesses; Previous Mission Statement, Vision Statement, Principles, and Goals; and Survey of Results of What Stakeholders Would Like an NAHC License Plate to Fund and What the Commission Voted to Use Any NAHC License Plate Revenue For

A. Where the NAHC Stands Today

The NAHC stands at an existential crossroads. The duties of the NAHC have expanded in the last three years to include the enforcement and administration of more statutes than at any time in its forty-one-year history. The passage of the AB 52 amendments to the California Environmental Quality Act (Pub. Resources Code § 21000 et seq.) (Gatto, Chapter 532, Statutes of 2014) and the increased funding for the NAHC that resulted from AB 52 allowed the NAHC to increase its staff and education and outreach efforts to provide sorely needed expertise on AB 52 to tribes, state and local agencies, developers, planners, and attorneys. The NAHC was given the authority to enforce and administer the California Native American Graves Protection and Repatriation Act (CalNAGPRA) (Health and Saf. Code § 8010 et seq.) as a means of consolidating expertise and resources regarding Native American human remains in one agency. As a result of litigation initiated by the NAHC, a state superior court affirmed in an unpublished decision that the NAHC has the authority to file suit under CEQA[1], which is a significant step in maintaining the NAHC's legal options for protecting cultural resources. The NAHC's twelve staff members represent the largest number of staff in the agency's history. For the first time in a very long time, the NAHC has a full complement of Commissioners, reducing the need to cancel public meetings to save money because a quorum was not possible.

Despite these welcome changes, the NAHC is challenged to accomplish its new duties along with its core functions, which include identifying Most Likely Descendants (MLDs) to make recommendations for the treatment and disposition of their ancestors' remains and associated funerary items, conducting searches of its Sacred Lands Inventory and Tribal consultation lists[2], implementing SB 18 and AB 52, and commenting on environmental documents to ensure that cultural resources are identified and protected as

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[1] *Native American Heritage Commission v. Inyo County Planning Department and Inyo County, Superior Court of Inyo County, Case No. SI CVPT 1557557 (2016).*

[2] For a list of state statutes that incorporate or rely on the NAHC's tribal consultation/contact list, please see Appendix A.

much as possible. In addition to its core functions, the NAHC also has among its functions, duties, and powers its investigative and enforcement functions under Public Resources Code sections 5097.94, 5097.97, 5097.993, implementation of the California Native American Graves Protection and Repatriation Act (CalNAGPRA, Health and Saf. Code § 8010 et seq.), the NAHC's own internal administrative, planning, and compliance functions, including the adoption of long overdue regulations for the statutes that it enforces or administers, and outreach and training functions to increase awareness of the laws protecting cultural resources. Added to these challenges is the NAHC's history of waxing and waning general fund budget appropriations, inconsistent political support, past staffing inability due to budget cuts, limited promotional opportunities for staff, and the fact that the NAHC has never been sufficiently staffed to accomplish its statutory duties. [3] Only the efforts of former Executive Secretary Larry Myers, California tribes, and supportive legislators kept the NAHC from being eliminated during past difficult budgetary and political times. Given the cyclical nature of tax revenues and political support, the NAHC can only assume that past fiscal and staffing instability and prior uncertain political support may in fact be prologue at some point in the future. Yet the NAHC's statutory demands and the needs of its stakeholders remain the same.

B. Previous Assessments of Strengths and Weaknesses (NAHC 1997 Strategic Plan)

A search of the NAHC's files revealed a 1997 Strategic Plan as well as goals, objectives, and performance measures expressed in the NAHC newsletters published in fall 1988-89 and fall 1989-90. In the NAHC's 1997 Strategic Plan, the following were identified as the NAHC's strengths and weaknesses:

i. Strengths

a. Established working relationships with coroners, developers, planners, property owners, and archaeologists regarding the discovery of Native American human remains and associated grave goods.
b. Provision of Native American Contact Lists to environmental firms, planners, and developers to enable consultation with Native American individuals, groups, and tribal governments regarding cultural resources in project areas.

[3] Until 2015, the Commission never had more than five staff members at any point in its history despite its broad statewide jurisdiction over Native American cultural resources and Native American access to public lands for religious and ceremonial purposes. *Compare* California Office of Historic Preservation August 2017 Organization Chart, http://ohp.parks.ca.gov/pages/1066/files/OHP_OrgChart_Web.pdf (30 full-time staff).

c. Checking Sacred Lands File at the request of environmental firms, planners, and developers to verify recordation of site information for specific projects.
d. Providing information regarding repatriation.

ii. Weaknesses

a. Lack of funds.
    i. Reduction of staff from five to three.
    ii. Reduced ability to travel to sites to assist in mediations with developers, planning departments, and Native Americans.
    iii. Need for services of an archaeologist to assist in analyzing environmental documents and to conduct site inspections.
    iv. Reduced flexibility to call emergency commission meetings.

b. One office in Sacramento that must serve the entire state.
    i. Inability to disseminate information to Native Americans and hear concerns.
    ii. Not accessible to all Native Americans.
    iii. Not accessible to all developers and lead agencies.

c. Inability to hire outside legal counsel when implementing Public Resources Code section 5097.97.
    i. The Attorney General's staff cannot legally represent the NAHC in cases involving public property and other state agencies.[4]

C. Previous Mission Statement, Vision Statement, Principles, Goals, and Objectives

The following are a mission statement, goals, principles, and objectives from the NAHC's 1997 Strategic Plan and from the NAHC winter newsletters for 1988-89 and 1989-90.

[4] This statement is not completely accurate. The Attorney General's Office may decline to represent the NAHC in matters where it has decided to represent an agency against which the NAHC has directed litigation. *See* Public Resources Code § 5097.94, subd. (g): "The Attorney General shall represent the commission and the state in litigation concerning the affairs of the commission, unless the Attorney General determined to represent the agency against whom the commission's action is directed, in which case the commission shall be authorized to employ other counsel."

i. Previous Mission Statement (1997 Strategic Plan)

The Mission of the Native American Heritage Commission is to provide protection to Native American burials from vandalism and inadvertent destruction, provide a procedure for the notification of Most Likely Descendants regarding the discovery of Native American human remains and associated grave goods, bring legal action to prevent severe and irreparable damage to sacred shrines, ceremonial sites, sanctified cemeteries and places of worship on public property, and maintain an inventory of sacred places.

ii. Previous Vision Statement (1997 Strategic Plan)

California Native American cultural resources, habitation sites, burial sites, sacred sites, ceremonial sites, and places of worship are limited resources for Indian and non-Indian people. They are important to the culture and spiritual beliefs of California Native Americans. Therefore, they must be protected in a sensitive manner that involves local Native American people. An effective protection program will benefit all citizens of California.

Developers, private property owners, lead agencies, and law enforcement agencies will become aware of the importance of cultural resources to all the citizens of California. Additional State legislation and local ordinances will be enacted to more effectively protect cultural resources.

Tribal governments, Indian organizations, and Most Likely Descendants will become knowledgeable of effective mitigation measures, treatment and disposition of Native American human remains and associated grave goods, protection of sacred places, and state and federal laws. All Native Americans will be permitted access to burials, sacred sites, ceremonial places, and places of worship on public and private property. A cooperative working relationship among California Native Americans, developers, private property owners, and lead agencies will be established. This is a vision that all Californians will come together to protect and preserve this valuable State heritage.

iii. Previous Principles (1997 Strategic Plan)

The Commission will exercise the following principles in an effort to be responsive to its internal and external communities:

a. The Commission must be sensitive to California Native Americans.

b. The Commission will facilitate a cooperative working relationship with developers, private landowners, local agencies, and the California Native American population.
c. The Commission will administer the thorough and complete application of Public Resources Code section 5097.9 et seq. and Health and Safety code section 7050.5.
d. The Commission will not express its opinion regarding recommendations for the treatment and disposition of Native American human remains and associated grave goods.
e. The Commission will not be involved in tribal politics.
f. The Commission will treat all Native American groups, tribes, and individuals with respect and dignity.
g. The Commission will conduct State business in a professional and sensitive manner.

iv. Previous Goals (NAHC Newsletters from Winter 1988-89 and 1989-90, 1997 Strategic Plan)

a. Promote the adoption of protective measures by city/county agencies to protect cultural resources.
b. Training for law enforcement agencies, public agencies, archaeologists, and Native Americans.
c. Training for NAHC staff as it relates to the protection of cultural resources.
d. Determine Most Likely Descendants.
e. Develop a means of disseminating information and provide a forum to address concerns.
f. Preserve and protect burial sites and other sites of cultural or spiritual significance to Native Americans.
g. Work with private landowners and public agencies to ensure that Native Americans have access to sacred sites.
h. Preserve and protect California Native American cultural traditions.
i. Facilitate equitable treatment of Native American skeletal remains and associated grave goods held by museums and public agencies.
j. Work to achieve and maintain full membership on the Commission.
k. Preserve and protect burial sites and other sites of cultural or spiritual significance to Native Americans.

D. Survey Question and Results, Special Interest License Plate Program Survey, and What the Commission Voted to Use License Plate Revenues For

The NAHC conducted an online survey to assess support for a proposed Special Interest License Plate program. The following question asked respondents what NAHC programs they would want funded from an NAHC Special Interest License Plate program, and the responses are listed below.

Question: The California Native American Heritage Commission (NAHC) is considering having a Special Interest License Plate issued by the California Department of Motor Vehicles. What programs would you want created and funded from the proceeds of an NAHC Special Interest License Plate? (Check all that apply).

Answers	# and % of Responses
Tribal cultural resources training for tribes, state agencies, cities, counties, and local governments.	90 (65.22%)
A program for the NAHC to purchase conservation easements to protect tribal cultural resources.	78 (56.52%)
Paid internships for college students to work for the NAHC and learn about tribal cultural resources.	76 (56.52%)
A compliance program to make sure that Native American remains that have been reinterred where they were discovered are being protected.	76 (56.52%)
Modernize and update the Sacred Lands Inventory.	71 (51.45%)
California Environmental Quality Act (CEQA) and AB 52 training for Tribal Historic Preservation Officers and tribal cultural resources staff.	67 (48.55%)
Legal clinics with law schools to provide legal services to tribes to help them protect their cultural resources.	63 (43.65%)
A training program for Most Likely Descendants (MLDs).	54 (39.13%)
An NAHC legal defense fund to pay for attorneys to represent the NAHC when the Attorney General's Office can't due to a conflict of interest.	52 (37.68%)

The Commission voted at its July 21, 2017 Commission meeting to use any License Plate Revenue as follows:

20%	Implementation of CalNAGPRA
20%	Legal Clinics and Intern Programs
20%	Tribal and Agency Training Programs
20%	Maintaining the Special Interest License Plate Program
10%	Conflict of Interest Legal Fund
10%	Land Conservancy

III. Current NAHC Strengths and Weaknesses

A. Strengths

i. Institutional Knowledge

The Commission's senior staff members – Debbie Treadway, Katy Sanchez, and Rob Wood – have decades of experience working with tribes, agencies, developers, planners, and landowners to enforce the laws under the Commission's authority. Their ability to identify Most Likely Descendants promptly and with few, if any, disputes, is due to the depth of their experience and the respect that tribes and stakeholders have for their expertise. Moreover, their tenure with the Commission provides them with a perspective on policies and procedures that have worked or failed that isn't always committed to paper. Their ability to impart this institutional knowledge upon the Commission's newer hires will determine whether the Commission will be able to build on its past or have to rediscover it by trial and error in adopting regulations, policies, procedures, and plans.

ii. Increased Staffing

The increase in staff in 2015 that resulted from a budget change proposal approved to address the increased demands of AB 52 on the Commission has allowed the Commission to provide SB 18 lists and Sacred Lands Inventory searches more expeditiously to lead agencies, consultants, and developers. A second budget change proposal and legislation (SB 92, Chapter 26, Statutes of 2017) will allow the Commission to charge a reasonable fee related to the costs of searching and maintaining the Sacred Lands Inventory and SB 18 lists, including staff time, and will result in the hiring of additional staff. The new staff brought with them expertise in mapping, tribal history, anthropology, environmental review, and law. One new staff member came with

significant prior experience with tribes and AB 52. Another served as a member of her tribe's tribal council.

iii. Highly Educated Staff

Every Commission staff member holds a Bachelor's degree, which is highly unusual for a State agency of the Commission's size. Two staff members hold law degrees, one holds a Master's in Public Affairs, and a third holds both a Master's and a Ph.D. in Environmental Planning and Design – Native American Studies.

iv. Acknowledged Experts on AB 52 Tribal Consultation

Through its countless consultations, trainings, training materials, and template forms, the NAHC has become the acknowledged expert agency on AB 52 tribal consultation. Some of these trainings and presentations that the NAHC has given or participated in include:

"AB 52 Tribal Consultation: Legal Requirements and Best Practices," Western Riverside Council of Governments, August 10, 2017.

"AB 52 Roundtable," NAHC Public Hearing, July 21, 2017.

"AB 52 Tribal Consultation: Legal Requirements and Best Practices," Sacramento County Bar Association, May 2, 2017.

"The Basics of Protecting Tribal Cultural Resources Under AB 52 (The California Environmental Quality Act [CEQA]: A Training for Tribes," NAHC Public Hearing, April 20, 2017.

"AB 52: Best Practices and Legal Requirements," Inyo County Board of Supervisors, March 7, 2017.

"AB 52 Tribal Consultation Revisited: Implementation Update and Best Practices," CLE International, December 13, 2016.

"Tribal Consultation Under AB 52: Requirements and Best Practices," California Preservation Foundation, July 20, 2016.

"Tribal Consultation Under AB 52: Requirements and Best Practices," Bureau of Indian Affairs, July 18, 2016.

"Tribal Consultation Under AB 52: Requirements and Best Practices," California Environmental Protection Agency, October 27, 2015.

"Tribal Consultation 101: Practical Approaches to Successful Tribal Consultation from Local and Tribal Governmental Perspectives," American Planning Association California Conference, October 5, 2015.

"Tribal Cultural Resources and CEQA Roundtable: Time to Get Ready for AB 52," American Planning Association California Conference, October 4, 2015.

"The Native American Heritage Commission and its Role in Implementing AB 52," Los Angeles Department of Water and Power/Great Basin Unified Air Quality District Cultural Resources Task Force, September 23, 2015.

v. Expertise and Experience of Commissioners

The Commissioners themselves bring a breadth and depth of experience and expertise that is different from times past. Four of the nine Commissioners are current or past tribal chairpersons. Three Commissioners are attorneys, two of whom represent their tribes. One of our Commissioners has over thirty years' experience in community development and was the former Director of the Community Development Program for Kern County, while another is a county supervisor. One of our Commissioners leads a non-profit that provides legal education, research, and technical assistance programs for tribes. All of these skills have come to bear in the Commission's decisions to pursue litigation, to conduct investigations, and to set the direction of the Commission to best serve its stakeholders.

vi. Better Tracking and Communication of the Commission's Efforts and Successes

The Environmental and Cultural Department's tracking of the number of Most Likely Descendant identifications made, environmental documents commented upon, and Sacred Lands Inventory searches conducted better positions the Commission to assess tribes' and stakeholders' needs and advocate for resources commensurate with those needs during the budget process. The recent revision and upcoming revision of the Commission's

website and the re-initiation of publishing the Annual Report also better communicate to stakeholders what the Commission accomplishes with the resources it has.

vii. Increased Commission Meetings and Tribal Consultation

The Commission has been able to increase the number and locations of Commission meetings and in-person tribal consultations due to an increased budget and having a full complement of Commissioners. The Commission's 2017-2018 budget, however, has encountered certain one-time demands that will diminish the amount of travel and training available to the Commission. The recent increase in the number and locations of Commission meetings has improved relations between tribes and the Commissions, provided more opportunities in which to hear tribal concerns, and provided more opportunities to provide trainings to tribes, agencies, developers, and other stakeholders on AB 52 tribal consultation and other laws affecting Native American cultural resources.

B. Weaknesses

i. Fiscal Instability

The Commission's dependence on the General Fund, and the Commission's waxing and waning political popularity, make the Commission vulnerable during times of budget cuts. With the passage of SB 92 and the authority to charge for Sacred Lands Inventory searches and tribal consultation lists, the Commission's fiscal instability may be partially ameliorated. If the NAHC's Special Interest License Plate Program succeeds, this may also partially ameliorate the NAHC's fiscal instability.

ii. Lack of a Succession/Staff Retention Plan

The Commission lacks a succession/staff retention plan. The senior staff members who possess the agency's institutional knowledge are retirement eligible or a retired annuitant. There are few promotional opportunities for newer staff to promote within the agency; yet, the need to retain the staff is great because of the institutional knowledge they have or are gaining and the difficulty of finding candidates with the same kind of knowledge needed to work for the NAHC, i.e., knowledge of cultural resources, inter-tribal and intra-tribal relations, how tribal governments work, and historic preservation, cultural resources, and environmental review laws. The General Counsel position, which is

currently classified as an Attorney III position, could present succession challenges in terms of attracting candidates with the years and type of experience needed to address the Commission's advice and counsel, enforcement, and compliance needs in the event that the General Counsel retires or leaves. The result may be that the Commission may inadvertently train its newer staff for better opportunities with agencies and other employers with greater paths to promotion.

iii. Insufficient Staff to Attend to Dormant Internal Functions and Processes

At its current level of staffing, the Commission lacks sufficient staff hours to attend to dormant internal functions and processes that are not as mission critical as identifying Most Likely Descendants, conducting Sacred Lands Inventory searches, providing tribal consultation lists, and commenting on environmental documents. These internal functions, processes, powers and duties include:

- Notifying private property owners of graves and cemeteries on their property that are on the Sacred Lands Inventory. (Public Resources Code section 5097.94(a)).
- Reporting to the Legislature on the number of sacred places located on public lands and recommending actions to preserve these sacred places and protect free exercise of Native American religions. (Public Resources Code section 5097.96).
- Auditing compliance with the Most Likely Descendants statute when Native American human remains have been reinterred on the property where they were discovered. Public Resources Code section 5097.98 requires that, if Native American human remains are reinterred on the property where they were found the landowner is required to do one or more of the following: 1) Record the site with the Commission or the appropriate Information Center; 2) Utilize an open-space or conservation zoning designation or easement; or 3) Record a document with the county in which the property is located titled, "Notice of Reinternment of Native American Remains." The Commission does not currently verify such compliance.
- Ensuring access by tribes to religious or ceremonial sites on public property. (Public Resources Code section 5097.9).
- Conducting investigations as a prerequisite to bringing an action to prevent severe and irreparable damage to Native American sanctified cemeteries, places of worship, religious or ceremonial sites, or sacred shrines located on public property. (Public Resources Code sections 5097.9, 5097.94(g), and 5097.97).
- Making recommendations for the acquisition by the state of private lands on which Native American sacred places are located that are inaccessible to Native

Americans and have cultural significance to Native Americans. (Public Resources Code section 5097.94 (b)).

- Making recommendations to the Director of Parks and Recreation and the California Arts Council relative to the California State Indian Museum and other Native American matters touched upon by department programs. (Public Resources Code section 5097.94 (f)).
- Assisting Native Americans in obtaining appropriate access to sacred places that are located on public lands for ceremonial or spiritual activities. (Public Resources Code section 5097.94 (j)).
- Assisting interested landowners in developing agreements with appropriate Native American groups for treating or disposing, with appropriate dignity, of the human remains and any items associated with Native American burials. (Public Resources Code section 5097.94 (l)).
- Updating internal policies and procedures.
- Adopting regulations to implement, interpret, and administer statutes under the Commission's authority, including regulations on the following topics:
    - Definitions.
    - The Most Likely Descendants Statute (Public Resources Code section 5097.98).
    - SB 18 List (Government Code section 65040.2).
    - The Commission (Meetings, Reserved Powers and Duties, Ex Parte Communications).
    - Sacred Lands Inventory (Public Resources Code sections 5097.94(a), 5097.96).
    - Mapping of Geographic Areas of Tribal Traditional and Cultural Affiliation for California Native American Tribes (Public Resources Code section 5097.94 (m)).
    - Investigations and Actions to Prevent Damage to, or Provide Access to, Native American Sacred Sites on Public Property (Public Resources Code sections 5097.94 (g), 5097.97).
    - California Native American Graves Protection and Repatriation Act (Health and Safety Code section 8010 et seq.; Public Resources Code section 5097.94 (n)).
    - Interference with Native American Religion or Damage to Cemeteries or Places of Worship (Public Resources Code section 5097.9).
    - Native American Heritage Commission Conflict of Interest Code.
- Overseeing the Commission's internal compliance with statutes, regulations, and policies applicable to State agencies.
- Administering the California Native American Graves Protection and Repatriation Act, Health and Safety Code section 8010 et seq.
- Enforcing Public Resources Code section 5097.993, which prohibits the unlawful and malicious excavation, removal, damage, destruction, injury, or defacement of

a Native American historic, cultural, or sacred site listed on or eligible for listing on the California Register of Historic Resources if the act was committed with the specific intent to vandalize, deface, destroy, steal, or convert a Native American historic, cultural or sacred artifact if the act was committed on public land or on private land by a person other than the landowner.

iv. Lack of Tribal and Stakeholder Knowledge of the Commission's Laws

The Commission has frequently encountered a lack of knowledge on the part of tribes and stakeholders of the Commission's laws, the effect of these laws on tribes' and stakeholders' rights and plans, and the compliance obligation tribes and stakeholders have under those laws. Many landowners do not know of their legal obligations when they reinter on their property Native American human remains discovered on their property. The Commission has spent almost two years educating and training tribes, agencies, and other stakeholders on the legal requirements of AB 52. Despite past efforts at educating coroners of their legal duties when discovered human remains are identified as Native American, many coroners still do not fully understand their obligations.

v. Insufficient Administrative Staffing

All of the Commission's staff members, with the exceptions of the General Counsel, one retired annuitant, and one Associate Governmental Program Analyst, are programmatic staff. Some of the programmatic staff also carry out administrative functions in conjunction with accounting and human resources staff from the State Lands Commission, with which the Commission contracts for human resources and accounting services, and with information technology staff from the Natural Resources Agency and the Office of Technology, with which the Commission contracts for information technology services. The Executive Secretary, who served as the Governor's Tribal Advisor,[5] had no dedicated administrative staff to whom she could delegate day-to-day administrative operations of the Commission.

vi. Less Accessibility to Southern California Tribes and Stakeholders

Of California's 164 tribes, 68, or 41%, are located in or south of Kern County. The Commission holds the majority of its meetings in Sacramento and consults with Southern

[5] The immediate past NAHC Executive Secretary, Cynthia Gomez, retired on October 2, 2017.

California tribes when it can send staff to Southern California to do so. The lack of a Commission presence in Southern California also limits the Commission's ability to meet in person on confidential or sensitive topics with tribes, local lead agencies, and developers. The Commission will be able to better leverage technology to facilitate video conferencing and live streaming of Commission meetings. However, many tribes may be reluctant to hold consultations by telephone or video. Like other resources agencies with jurisdiction over lands throughout the State, the Commission and its stakeholders might be better served by the Commission having a presence in Southern California. The newly established Tribal Cultural Resources Project, a collaboration between the Commission, Professor Carole Goldberg, Professor William Wood, and the U.C.L.A. School of Law, will provide trainings to tribes on protecting their cultural resources during environmental review processes, among other services provided. The project will collect data on the number of tribes served and the types of services provided. These data will provide the basis for a needs assessment for Southern California tribes.

vii. Not Fully Utilizing Technology to Effectively Communicate with Tribes and Stakeholders

The Commission communicates with tribes and stakeholders largely through its public meetings, email blasts, website, Annual Report, and its Twitter feed. The Commission now uses webcasting for public meetings and can now use videoconferencing for meetings, but the funding for webcasting for public meetings exists only for the next three years. The Commission has not fully leveraged social and other forms of electronic media to frequently and consistently communicate its initiatives, upcoming regulatory proceedings, and other matters of concern to tribes and stakeholders. The Commission has not updated its website to include information that should be readily available to the public, such as its meeting minutes, reports, and CalNAGPRA inventories.

viii. Lack of Regular Training for Commission Staff, Tribes, and Other Stakeholders

The Commission needs to provide consistent and comprehensive training for several audiences: Commission staff, tribes, and other stakeholders, including coroners and law enforcement agencies, public agencies, and archaeologists. The lack of training is primarily due to budget cuts and insufficient staff time. The training that should occur for Commission staff, tribes, and other stakeholders is on the following areas: 1) State and federal laws protecting tribal cultural resources and artifacts and how to enforce them; 2) legal requirements of the Most Likely Descendants conferral process with

landowners; 3) tribal consultation under AB 52 (although the Commission has provided a great deal of training on AB 52 in the last two years); 4) State and federal environmental laws (CEQA, NEPA, and the federal Transportation Act) and how tribes can participate in those environmental review processes; and 5) NAGPRA and CalNAGPRA. Twenty percent of the revenues from the proposed NAHC Special Interest License Plate, if issued, would go towards training programs for tribes and agencies.

a. Training for Commission Staff

The Commission does not have a consistent training program for new staff in either the Legal Department of the Environmental and Cultural Department when they are onboarded, nor does it have standards or expectations of what employees should know to do their jobs. Senior staff who have the institutional knowledge are often also working on other administrative duties, and staff time in general is taken up with time critical core functions, requiring new staff to learn from senior staff on a situational basis. Our new staff members have requested that more time be set aside with senior staff to help transfer institutional knowledge, including regional histories of tribes, histories of how specific situations were handled in the past, and a review of background history and staff notes, in order to improve on consistency in answers to the public, particularly in written responses, and to be able to answer basic questions. The "train the trainer" model has been mentioned as a possible solution.

b. Training for Tribes

Many tribes are still not fully informed of the legal requirements for tribal consultation under AB 52 or SB 18 and for Most Likely Descendant conferrals with landowners under the Public Resources Code section 5097.98. Additionally, many tribes are not fully informed of the laws under the Commission's authority and other laws that are not under the Commission's authority that protect cultural resources. Recent trainings provided by the Commission have been lived streamed and video archived, and this approach may be a solution for leveraging the Commission's resources to reach as many people as possible.

c. Training for Coroners, Law Enforcement Agencies, Other Public Agencies, and Other Stakeholders

There remains a great deal of confusion with respect to the protection of Native American human remains and associated funerary artifacts *in situ* pursuant to Health and Safety Code section 7050.5 and Public Resources Code section 5097.98. In particular, staff have noted that county coroners tend to be confused and misinformed on the appropriate process and statutory requirements necessary in case of an inadvertent discovery of Native American human remains, particularly the requirement under Health and Safety Code section 7050.5 to protect the site of such a discovery pending resolution between the Most Likely Descendants and the landowner regarding ~~the~~ treatment and disposition. Law enforcement agencies, public agencies, archaeologists, and other stakeholders are not fully informed of the laws under the Commission's authority prohibiting obtaining or possessing Native American artifacts or human remains taken from a grave or cairn after January 1, 1984 (Public Resources Code section 5097.99), excavating or destroying Native American historic, cultural or sacred sites listed on the California Register of Historic Resources with an intent to vandalize the site or steal Native American artifacts (Public Resources Code sections 5097.993 and 5097.994), or other state laws protecting archaeological sites on public lands (Public Resources Code section 5097.5) or prohibiting the deposit or disposal of human remains outside of a cemetery except as provided under agreements reached between landowners and Most Likely Descendants (Health and Safety Code section 7054).

Increased training on these areas for staff, tribes, and other stakeholders would help increase awareness of these laws and, hopefully, increase compliance with them.

ix. Failure to Utilize and Update Office Technology

With the exception of the Native American Lands Information System (NALIS) necessitated by AB 52, its new phone system, and the switch from Apple Mac personal computers to HP PC computers, the Commission has not fully updated its technology to increase efficiency and work seamless to provide information to stakeholders. The Sacred Lands Inventory, which is currently in the FileMaker program, records sacred sites using township and range coordinates instead of GPS coordinates. With the exception of the Sacred Lands Inventory and NALIS, the Commission's legal and other

files are kept in paper form, which could present a problem in the event of fire or water damage to the office.

x. Small Talent Pool from Which to Recruit Qualified Employees

The work of the Commission is interdisciplinary. The most qualified potential employees are those with education and/or experience in cultural resources law, archaeology, anthropology, California Native American history, environmental planning, and/or working with tribal governments. The talent pool from which to draw such qualified employees in the Sacramento area where the Commission is located is small, which is why it is so important to keep staff who have these qualifications and/or increase the talent pool by opening additional offices.

IV. Mission Statement and Principles, 2018 – 2022

A. Mission Statement

The mission of the Native American Heritage Commission is to protect Native American sanctified cemeteries, places of worship, religious or ceremonial sites, or sacred shrines on public property, and to ensure the respectful treatment and disposition of ancient Native American human remains and associated grave goods, all the fullest extent of the law.

B. Principles

i. The Commission must be culturally sensitive to all California Native Americans.
ii. The Commission will facilitate cooperative working relationships with developers, planners, private land owners, Federal, State, and local agencies, and the California Native American population.
iii. The Commission will not express its own opinion regarding the treatment and disposition of Native American human remains and associated grave goods.
iv. The Commission will not become involved in inter-tribal or intra-tribal politics.
v. The Commission will treat all Native American groups, tribes, and individuals with respect and dignity.

vi. The Commission will conduct State business in a professional and sensitive manner.

vii. The Commission will be fair and impartial in enforcing the laws under its authority.

V. Priorities, Goals, and Objectives, 2018 – 2022

The following are the Commission's priorities, goals, and objectives for 2018 through 2022 in light of the strengths and weaknesses assessment.

A. Priority One: Fiscal Stability (Weakness 1)

The Commission cannot consistently do the work it is statutorily authorized or required to do without greater fiscal stability. The most recent budget change proposal and statutory change that would authorize the Commission to charge for searches of its Sacred Lands Inventory and SB 18 tribal consultation list database could potentially provide for greater fiscal stability, but revenue generated by these changes would have to be appropriated annually to the Commission by the Legislature and restricted to covering the cost of provided the services charged for. A proposed Special Interest License Plate program holds the potential to directly fund specific programs within the Commission.

Goal: To generate enough revenue that, if appropriated to the Commission by the Legislature, would support approximately one-half of the cost of programs and operations of the Commission.

Objectives:

i. Implement legislation authorizing the Commission to charge for Sacred Lands Inventory searches and SB 18 tribal consultation lists to generate approximately $862,000, of which $254,000 for fiscal year 2017-2018 and $485,000 ongoing annually would fund three new positions and address increased work load for Sacred Lands Inventory research and consultation. Revenue generated from the charges will have to be appropriated annually to the Commission.

ii. Begin and complete a Special Interest License Plate campaign to obtain 15,000 annual subscriptions eventually generating $750,000 per year for identified Commission programs, such as tribal and agency training, CalNAGPRA, legal

clinics and intern programs, a conflict of interest legal fund, and land conservancy purchases.

iii. Explore and, if possible, execute additional funding strategies that are not dependent on funding from the General Fund, including:

- Grants
- Charging state and local government agencies for specialized trainings in the same manner as other state agencies such as CalHR and the Office of Administrative Law
- Charging for publications such as the Cultural Resources Handbook

B. Priority Two: Succession/Retention Planning and Recruitment (Weaknesses 2, 3, 5, and 10)

Given the increased duties of the Commission and the number of senior staff who are retirement eligible, a plan for succession, retention, and recruitment of employees is critical to reducing the risk of high employee turnover and loss of institutional knowledge.

Additionally, the Commission needs to be staffed at a level sufficient to carry out all of its statutory duties and powers. Increasing the staff size would also provide promotional opportunities for current staff. The Commission's current organization chart, and a draft organization chart of what a sufficiently staffed Commission are included as Appendix B. As imagined, a reorganized Commission would have the following positions and programs to meet its statutory duties:

- A Deputy Executive Secretary reporting directly to the Executive Secretary to oversee programmatic and administrative staff, including two direct reports – an Environmental and Cultural Department Manager, and an Administrative Department Manager:
    - An Environmental and Cultural Department Manager overseeing:
        - An environmental unit whose functions would include:
            - Commenting on environmental documents to ensure the identification and protection of Native American cultural resources;

- Ensuring that environmental documents contain mitigation measures in compliance with applicable state and federal laws;
- Appearing at public hearings to preserve the Commission's legal options when environmental documents fail to provide sufficient protection for and/or mitigation of effects on Native American cultural resources, and training federal, state, and local agencies on state Native American cultural resources protection laws;[6]
- Providing Sacred Lands Inventory searches and tribal consultation lists in compliance with Government Code section 65040.2 and Public Resources Code sections 5097.94(a) and (m), 5097.96, and 21073;
- Proposing recommendations for the Commission to make relative to Native American sacred places that are located on private lands, are inaccessible to Native Americans, and have cultural significance to Native Americans for acquisition by the state or other public agencies for the purpose of facilitating or assuring access thereto by Native Americans (Public Resources Code section 5097.98 (b));
- Proposing recommendations for the Commission to make to the Legislature relative to procedures that will voluntarily encourage private property owners to preserve and protect sacred places in a natural state and allow appropriate access to Native American religionists for ceremonial or spiritual activities (Public Resources Code section 5097.94 (c));
- Training for tribes, lead agencies, developers, and cultural resources management firms on compliance with AB 52, Section 106, Section 4(f) of the Transportation Act, and other environmental and historic preservation laws affecting California Native American cultural resources; and
- Training for tribes on holding conservation or greenway easements pursuant to Civil Code sections 815.3 and 815.56.

[6] See generally *Environmental Protection Information Center, Inc. v. Johnson* (1985) 170 Cal.App.3d 604, 625-626 ("The commission has jurisdiction to identify sites of special religious and spiritual significance to Native Americans and their heritage, to make recommendations regarding sacred places located on private lands, and to consider the environmental impact on property identified or reasonably identified as a place of special religious significance to Native Americans.")

- A Cultural Unit whose functions would include:

    - Identifying Most Likely Descendants and maintaining the Most Likely Descendants (Public Resources Code section 5097.98);
    - Identifying sacred lands and maintaining the Sacred Lands Inventory (Public Resources Code section 5097.94(a) and 5097.96);
    - Proposing recommendations for the Commission to make to the Director of State Parks and Recreation and the California Arts Council relative to the California State Indian Museum and other Indian matters touched upon by department programs (Public Resources Code section 5097.98(f));
    - Notifying landowners on whose property graves and cemeteries are determined to exist (Public Resources Code section 5097.94 (a));
    - Auditing compliance with the Public Resources Code section 5097.98 (e) when Native American remains are reinterred on landowners' property;
    - Mapping territories for compliance with AB 52 and for identifying Most Likely Descendants (Public Resources Code sections 5097.94 (m), 5097.98, and 21080.3.1(c));
    - Maintaining tribal consultation and tribal contact lists pursuant to SB 18 and AB 52 (Government Code section 65040.2, Public Resources Code section 21074)
    - Assisting Native Americans in obtaining appropriate access to sacred places that are located on public lands for ceremonial or spiritual activities (Public Resources Code section 5097.94 (i));
    - Assisting state agencies in any negotiations with agencies of the federal government for the protection of Native American sacred places that are located on federal lands (Public Resources Code section 5097.94 (j));
    - Mediating disputes arising between landowners and known descendants relating to the treatment and disposition of native American human burials, skeletal remains, and items associated with Native American burials (Public Resources Code section 5097.94(k)(1));
    - Training for tribes, coroners, developers, and agencies on compliance with the Most Likely Descendants statute (Public Resources Code section 5097.98);

- Assisting landowners in developing agreements with appropriate Native American groups for treating or disposing, with appropriate dignity, of the human remains and any items associated with Native American burials. (Public Resources Code section 5097.98 (l)); and
- Conducting tribal consultations on Native American cultural resources issue.

- An Administration Department whose functions would include:

  - Serving as a liaison with State agencies (State Lands Commission, Natural Resources Agency, Office of Information Technology) that provide administrative services to the Commission including human resources compliance, budgeting, information technology maintenance, procurement, and revenue oversight for fee-based programs (Sacred Lands File/Tribal Consultation List fees, Special Interest License Plate fees);
  - Internal compliance with state laws and regulations and internal policies and procedures, including but not limited to:
    - Statutory reporting
    - Public Records Act requests
    - Statements of Economic Interests (Form 700)
    - Statement of Incompatible Activities
    - Conflict of Interest Code
  - Administrative Planning (Executing and revising strategic plans, succession plans, and workforce plans);
  - Updating policies and procedures
  - Onboarding new employees and training all employees
  - Scheduling and managing Commission meetings and hearings
  - Implementing the Sacred Lands File search and tribal consultation list fees and the Special Interest License Plate program
  - Managing communications, including the website, newsletters, social media, reports, and press releases

- A General Counsel reporting directly to the Executive Secretary and overseeing a Legal Department with two units:
    - An Enforcement Unit whose functions would include:
        - Preparing CEQA matters affecting Native American cultural resources for consideration of litigation by the Commission;
        - Investigations, public hearings, and enforcement actions to prevent severe and irreparable damage to Native American sacred sites on public lands pursuant to Public Resources Code section 5097.9, 5097.94(g) and 5097.97;
        - Enforcement of Public Resources Code section 5097.99 prohibiting the possession of Native American artifacts or human remains taken from a Native American grave or cairn on or after January 1, 1984 except as provided by law;
        - Enforcement of Public Resources Code section 5097.993 and 5097.994 prohibiting damage to Native American historic, cultural or sacred sites listed or eligible for listing in the California Register of Historic Resources;
        - Assisting the Attorney General's Office in enforcement litigation matters and in responding to litigation against the Commission
        - Preparing Most Likely Descendant matters for consideration of litigation by the Commission
    - A Compliance Unit whose functions would include:
        - Compliance:
            - Drafting regulations
            - Reviewing internal policies and procedures for legal sufficiency
            - Providing advice and counsel to the Commission
        - CalNAGPRA and NAGPRA
            - Implementing and overseeing compliance with CalNAGPRA (Public Resources Code section 5097.94 (n), Health and Safety Code section 8010 et seq.)
            - Preparing CalNAGPRA for legal enforcement actions for consideration by the Commission
- An Office Technician whose duties for the Executive Secretary would include:
    - Scheduling
    - Answering phones

- Filing
- Expense reports
- Travel arrangements
- Correspondence

Goals: To impart the institutional knowledge of senior staff upon newer hires, increase opportunities for employee advancement, create opportunities for those who are interested in the work of the Commission to learn from and work with Commission staff, and to staff the Commission at a level sufficient to carry out all of its statutory duties and powers.

CalHR requires state agencies to develop a Workforce Plan that addresses succession and retention issues.

Objectives:

i. Draft a succession and retention plan as part of a larger, CalHR-required Workforce Plan.
ii. Expedite training of and imparting institutional knowledge of tribes and Commission processes to newer staff by senior staff through a formalized training program.
iii. Update internal policies and procedures.
iv. Provide promotional opportunities for current staff within the agency by increasing staff size to sufficiently carry out the Commission's statutory powers and duties via a reorganization and secure funding to support the reorganization.
v. Provide internship and externship programs for college, law, and other students to work with the Commission and learn about tribal cultural resources law.

C. Priority Three: Increased Internal Compliance (Weaknesses 3 and 5)

Goals: The Commission needs to develop a plan for achieving and maintaining internal compliance by the Commission with applicable laws, regulations, and policies, implementing laws under the Commission's authority, and increasing staff, administrative and otherwise, to do so.

Objectives:

i. Create an internal compliance calendar and checklist and a process to oversee internal compliance. (Note: The Commission created an internal compliance calendar in August).
ii. Adopt regulations to implement and interpret statutes under the Commission's authority.
iii. Update the Commission's internal policies and procedures.
iv. Audit and enforce landowners' compliance with the Most Likely Descendants statute when inadvertently discovered Native American human remains are reinterred on their property.
v. Increase staffing to achieve and maintain internal compliance.
vi. Update the contents of and technology for the Sacred Lands Inventory.
vii. Implement CalNAGPRA.

D. Priority Four: Increased Training for Staff, Tribes, and Stakeholders on Cultural Resources Laws, Particularly Those Laws Enforced by the Commission (Weaknesses 4 and 8)

Goals: Staff, tribes, and stakeholders should be trained on the following laws: 1) CEQA and the AB 52 amendments; 2) Chapters 1.75 and 1.76 of Division 5 of the Public Resources Code (sections 5097.9 – 5097.994), specifically the Most Likely Descendants statute, Public Resources Code section 5097.98 and Health and Safety Code sections 7050.5 and 7054; 3) SB 18; 4) the National Environmental Policy Act (NEPA) Section 106 of the National Historic Preservation Act, and Section 4(f) of the Transportation Act; 5) The Native American Graves Protection and Repatriation Act (NAGPRA) and the California Native American Graves Protection and Repatriation Act (CalNAGPRA); 6) Public Resources Code section 5042.1, the California Register of Historic Resources; and 7) Public Records Act exemptions for cultural resources, Government Code sections 6254(r) and 6254.10 and Evidence Code 1040. Additionally, Commission staff should be trained on policies and procedures, regional tribal histories, and how senior staff have handled specific types of situations. The Commission also needs to update its Cultural Resources Handbook as a resource for current and future staff, tribes, agencies, and other stakeholders.

Objectives:

i. Annual training session, in person or via webinars and live streaming, for staff, tribes, and stakeholders on:
   - CEQA and the AB 52 amendments.

- Chapters 1.75 and 1.76 of Division 5 of the Public Resources Code and Health and Safety Code sections 7050.5 and 7054.
- The National Environmental Policy Act, Section 106 of the National Historic Preservation Act., and Section 4(f) of the Transportation Act.
- The Native American Graves Protection and Repatriation Act (NAGPRA) and the California Native American Graves Protection and Repatriation Act (CalNAGPRA).
- Public Resources Code section 5024.1, the California Register of Historic Resources.
- Public Records Act exemptions for cultural resources, Government Code sections 6254 (r), 6254.10, and Evidence Code section 1040.

ii. Internal staff training on Commission policies and procedures, regional tribal histories, and past situation-specific solutions.

iii. Updating the Cultural Resources Handbook as a resource for current and future staff, tribes, agencies, and stakeholders.

E. Priority Five: Leveraging Technology to Increase Efficiency, Accessibility, and Communications (Weaknesses 7,8, and 9)

Goals: To use technology to increase accessibility, efficiency, and communications with the public.

Objectives:

i. Update the technology for the Sacred Lands Inventory using GPS and other technologies for greater accuracy and efficiency.

ii. Utilize the most up-to-date technology for videoconferencing, webinars, and live streaming to reduce travel costs for consultations and training and increase accessibility.

iii. Utilize all forms of social media to communicate with the public.

iv. Digitize the Commission's files.

v. Draft and circulate digital versions of a quarterly newsletter, annual report, Commission meeting minutes, SLAA reports, and strategic plans.

vi. Update the Commission's website to include reports, plans, meeting minutes, and information on cultural resources laws.

F. Priority Six: A Southern California Office (Weakness 6)

Goal: To have a Southern California office to better serve Southern California tribes if there is sufficient need.

Objective:

i. To establish the U.C.L.A. Law School Tribal Cultural Resources Project to provide training and representation to tribes and gather data for a needs assessment to determine whether there is a need and support for a Southern California office.

VI. Conclusion: Objectives and Timetables

A. Objectives

There are twenty-three objectives, some of which appear under multiple priorities. They are, in order of priority:

1. Sacred Lands/Tribal Consultation list fee regulations (Priority One).
2. Special Interest License Plate Subscription Campaign and Programs Priority One).
3. Exploring additional sources of funding (Priority One).
4. A succession/retention plan as part of a larger Workforce Plan (Priority Two).
5. Training modules for staff on institutional knowledge of tribes and Commission processes (Priority Two).
6. Update internal policies and procedures (Priorities Two and Three).
7. Increase promotional opportunities for current staff by increasing staff size to sufficiently carry out the Commission's statutory duties (Priorities Two and Three).
8. Provide internship and externship opportunities for college and law students (Priority Two).
9. Create an internal compliance calendar and process to oversee internal compliance (Priority Three).
10. Adopt regulations to implement and interpret statutes under the Commission's authority (Priority Three).
    - Most Likely Descendant and Definitions
    - Sacred Lands Inventory List (Criteria for inclusion of sites on the Sacred Lands Inventory)
    - SB 18 List
    - CalNAGPRA

- Investigations and public hearings, Public Resources Code sections 5097.9, 5097.94(g), and 5097.97
- Mapping of geographic area of tribal traditional and cultural affiliation for California Native American Tribes (Public Resources Code section 5097.94 (m))
- Interference with Native American Religion or Damage to Cemeteries or Places of Worship (Public Resources Code section 5097.9).
- Native American Heritage Commission Conflict of Interest Code

11. Audit and enforce landowners' compliance with reinternment provisions of the Most Likely Descendants' statute, Public Resources Code section 5097.98 (Priority Three).
12. Update contents and technology of the Sacred Lands Inventory (Priorities Three and Five).
13. Implement CalNAGPRA (Priority Three).
14. Training for staff, tribes, and stakeholders on cultural resources laws (Priority Four).
15. Internal staff training on Commission policies and procedures. (Priority Four).
16. Update technology for videoconferencing, webinars, and live streaming for consultations and training (Priority Four).
17. Update the Cultural Resources Handbook (Priority Four).
18. Utilize the most up-to-date technology for video conferencing, webinars, and live streaming to reduce travel costs for consultations and training and to increase accessibility (Priority Five).
19. Utilize all forms of social media to communicate with the public (Priority Five).
20. Digitize the Commission's files (Priority Five).
21. Draft and circulate digital versions of a quarterly newsletter, annual report, SLAA reports, strategic plans, and Commission meeting minutes (Priority Five).
22. Update the Commission's website to include reports, plans, meeting minutes, newsletters, and information on cultural resources laws. (Priority Five).
23. Conduct needs assessment for Southern California Office via the (Priority Six).

B. <u>Timetables</u>

Some of the proposed objectives are in the process of being achieved. A proposed quarterly timetable for implementation for the Strategic Plan is as follows, subject to change as needed:

April 2018

Objectives in Progress

- U.C.L.A. Tribal Cultural Resources Project (Begun in July of 2017) (Priorities Two and Six)
- Rulemaking, Most Likely Descendants and Definitions Regulations (Priority Three)

Quarterly Objectives to be Completed

- Launch of Special Interest License Plate Subscription Campaign (Priority One)
- Initiation of rulemaking for Sacred Lands File/Tribal Consultation Lists Fees regulations (Priority One)
- Preparation of Budget Change Proposal concept paper to increase staff (Priorities Two and Three) (BCP concept papers are due in June)

July 2018

Objectives in Progress

- U.C.L.A. Tribal Cultural Resources Project (Begun in July of 2017) (Priorities Two and Six)
- Rulemaking, Sacred Lands Inventory/Tribal Consultation List fees regulations (Priority One) (To begin April of 2018)
- Special Interest License Plate Subscription Campaign (Priority One)

Quarterly Objectives to be Completed

- Adoption of Most Likely Descendants/Definitions regulations (Priority Three)
- Report on possible additional sources of funding (Priority One)
- Workforce Plan, including a succession and retention plan (Priority Two)
- Completion of Budget Change Proposal to increase staff (Priorities Two and Three – Final BCPs due to Department of Finance by September).

October 2018

Objectives in Progress

- U.C.L.A. Tribal Cultural Resources Project (Begun in July of 2017) (Priorities Two and Six)
- Special Interest License Plate Subscription Campaign (Priority One)

- Implement Workforce Plan, including succession and retention plan (Priority One)
- Implement additional funding strategies, if any (Priority One)

Quarterly Objectives to be Achieved

- Adoption of Sacred Land File/Tribal Consultation Lists Fees regulations (Priority One)
- Creation of training modules for staff on institutional knowledge of tribes and Commission processes (Priority Two)

January 2019

Objectives in Progress

- U.C.L.A. Tribal Cultural Resources Project (Begun in July of 2017) (Priorities Two and Six)
- Special Interest License Plate Subscription Campaign (Priority One)
- Staff training on institutional knowledge of tribes and Commission processes (Priority Two)

Quarterly Objectives to be Achieved

- Initiate rulemaking, SB 18 List regulations

April 2019

Objectives in Progress

- U.C.L.A. Tribal Cultural Resources Project (Begun in July of 2017) (Priorities Two and Six)
- Staff training on institutional knowledge of tribes and Commission processes (Priority Two)
- Rulemaking, SB 18 List regulations (Priority Three)

April 2019 Quarterly Objectives to be Achieved

- Completion of Special Interest License Plate Subscription Campaign Priority One) (Funds cannot be disbursed to Commission until DMV receives first $400,000 of revenue. Assuming there are 8,000 subscriptions, revenue will not be available until April of 2020)

- Update internal Commission policies and procedures (Priorities Two and Three)

July 2019

Objectives in Progress

- U.C.L.A. Tribal Cultural Resources Project (Begun in July of 2017) (Priorities Two and Six)

Quarterly Objectives to be Achieved

- Initiate rulemaking for CalNAGPRA regulations (Priority Three)
- Adopt SB 18 List regulations (Priority Three)
- If BCP is approved, implement reorganization (Priorities Two and Three)

October 2019

Objectives in Progress

- U.C.L.A. Tribal Cultural Resources Project (Begun in July of 2017) (Priorities Two and Six)
- Rulemaking, CalNAGPRA regulations (Priority Three)

Quarterly Objectives to be Achieved

- Complete implementation of reorganization (Priorities Two and Three)
- Update internal compliance calendar and implement process to oversee internal compliance (Priority Three)

January 2020

Objectives in Progress

- U.C.L.A. Tribal Cultural Resources Project (Begun in July of 2017) (Priorities Two and Six)

Quarterly Objectives to be Achieved

- Adopt CalNAGPRA Regulations (Priority Three)
- Initiate rulemaking, Sacred Lands Inventory Criteria (Priority Three)

April 2020

Objectives in Progress

- U.C.L.A. Tribal Cultural Resources Project (Begun in July of 2017) (Priorities Two and Six)
- Rulemaking, Sacred Lands Inventory Criteria

Quarterly Objectives to be Achieved

- Assuming DMV has received initial $400,000 of plate revenues, begin implementation of Special Interest License Plate program and programs to be funded by plate revenues:
    - Implementation of CalNAGPRA
    - Legal Clinics and Intern Programs
    - Tribal and Agency Training Programs
    - Maintaining the Special Interest License Plate Program
    - Conflict of Interest Legal Fund
    - Land Conservancy
- Implement audit and enforcement of landowners' compliance with reinterment provisions of Public Resources Code section 5097.98 (Priority Three)
- Secure approval for hiring of student assistants for June of 2020 (Priority Two)
- Update of Cultural Resources Handbook (Priority Four)

July 2020

Objectives in Progress

- Implementation of programs funded by Special Interest License Plate (Priority One)

Quarterly Objectives to be Achieved

- Completion of U.C.L.A. Tribal Cultural Resources Project (Priorities Two and Six)
- Complete implementation of CalNAGPRA (Priority Three)
- Adoption of Sacred Lands Inventory Criteria regulations
- Initiate rulemaking for Investigations and Public Hearings under Public Resources Code sections 5097.9, 5097.94(g), and 5097.97.

October 2020

Objectives in Progress

- Implementation of programs funded by the Special Interest License Plate
- Rulemaking, Investigations and Public Hearings under Public Resources Code sections 5097.9. 5097.97(g) and 5097.97

Quarterly Objectives to be Achieved

- Update contents of and technology for Sacred Lands Inventory (Priority Three)
- Completion of needs assessment of Southern California tribes based on data from the U.C.L.A. Tribal Cultural Resources Project (Priorities Two and Six)
- Completion of training modules for staff, tribes, and stakeholders on cultural resources laws (Priority Four)
- Completion of training modules for staff on Commission policies and procedures (Priority Four)

January 2021

Objectives in Progress

- Implementation of the programs funded by the Special Interest License Plate
- Training for staff, tribes, and stakeholders on cultural resources law (Priority Four)
- Training for staff on Commission policies and procedures (Priority Four)

Quarterly Objectives to be Achieved

- Adopt social media strategy for communicating with public (Priority Five)
- Adopt regulations for Investigations and Public Hearings under Public Resources Code section 5097.9, 5097.94(g) and 5097.97.
- Initiate rulemaking for mapping of geographic areas of tribal traditional and cultural affiliation for California Native American tribes, Public Resources Code section 5097.94(m)

April 2021

Objectives in Progress

- Training for staff, tribes, and stakeholders on cultural resources law (Priority Four)

- Rulemaking, mapping of geographic areas of tribal traditional and cultural affiliation for California Native American tribes, Public Resources Code section 5097.94(m).
- Implementation of programs funded by the Special Interest License Plate (Priority One)

Quarterly Objectives to be Achieved

- Draft and circulate digital versions of a quarterly newsletter, annual report, SLAA reports, strategic plans, and Commission meeting minutes (Priority Five)
- Based on needs assessment for Southern California tribes, decide whether a Southern California office is necessary and, if so, how it will be funded.

July 2021

Objectives in Progress

- Training for staff, tribes, and stakeholders on cultural resources law (Priority Four)
- Implementation of programs funded by the Special Interest License Plate (Priority One)

Quarterly Objectives to be Achieved

- Update the Commission website (Priority Five)
- Adopt regulations on mapping of geographic areas of tribal traditional and cultural affiliation for California Native American tribes, Public Resources Code section 5097.94(m) (Priority Three)
- Initiate rulemaking, interference with Native American religion or damage to cemeteries or places of worship on public lands, Public Resources Code section 5097.9 (Priority Three)

October 2021

Objectives in Progress

- Implementation of programs funded by the Special Interest License Plate (Priority One)
- Training for staff, tribes, and stakeholders on cultural resources law (Priority Four)

- Rulemaking, interference with Native American religion or damage to cemeteries or places of worship on public lands, Public Resource Code section 5097.9 (Priority Three)

Quarterly Objectives to be Achieved

- Update technology for videoconferencing, webinars, and live streaming (Priority Five).

January 2022

Objectives in Progress

- Implementation of programs funded by the Special Interest License Plate (Priority One)
- Training for staff, tribes, and stakeholders on cultural resources law (Priority Four)

Quarterly Objectives to be Achieved

- Adoption of regulations, interference with Native American religion or damage to cemeteries or places of worship on public lands, Public Resources Code section 5097.9 (Priority Three)
- Initiate rulemaking, Native American Heritage Commission Conflict of Interest Code (Priority Three)

April 2022

Objectives in Progress

- Implementation of programs funded by the Special Interest License Plate (Priority One)
- Training for staff, tribes, and stakeholders on cultural resources law (Priority Four)
- Rulemaking, Native American Heritage Commission Conflict of Interest Code (Priority Three)

Quarterly Objectives to be Achieved

- Update the website (Priority Five)

July 2022

Objectives in Progress

- Implementation of programs funded by the Special Interest License Plate (Priority One)
- Training for staff, tribes, and stakeholders on cultural resources law (Priority Four)

Quarterly Objectives to be Achieved

- Adoption of regulations, Native American Heritage Commission Conflict of Interest Code (Priority Three)
- Digitize the Commission's Files (Priority Five)

The goals and objectives of this Five-Year Strategic Plan are ambitious. They represent the highest aspirations for the Commission to enable it to achieve sustainability of resources and purpose in the years to come.

Appendix A

State Statues That Incorporate or Rely on the NAHC's Tribal Consultation/Contact List

Civil Code Section 815.3 lists which entities or organizations may acquire and hold conservation easements. Subdivision (c) of Section 815.3 lists: "A federally recognized California Native American tribe or non-federally recognized California Native American tribe that is on the contact list maintained by the Native American Heritage Commission. . . ." In other words, before a conservation easement is granted to a tribe, the entity granting it must check the NAHC's tribal contact list.

Civil Code Section 816.56 states which entities or organizations may hold greenway easements. Subdivision (c) of Section 816.56 lists: "A federally recognized California Native American tribe or non-federally recognized California Native American tribe that is on the contact list maintained by the Native American Heritage Commission. . . ." In other words, before a greenway easement may be granted to a tribe, the entity granting the easement must check the NAHC's tribal contact list.

Code of Civil Procedure Section 835 states who should receive notice from a plaintiff of a comprehensive adjudication in actions relating to. Subdivision (a)(5) lists, "A California Native American tribe that is on the contact list maintained by the Native American Heritage Commission." A plaintiff in an action relating to groundwater would have to check the NAHC's tribal contact list to satisfy the requirements of Code of Civil Procedure Section 835.

Fish and Game Code Section 3801.6 prohibits the possession of the carcass, skin or any part of any nongame bird except for subdivision (b)(1)(A), which allows an enrolled member of a federally recognized Native American tribe or non-federally recognized California Native American tribe on the tribal consultation list maintained by the NAHC to possess them. Membership in a tribe on the NAHC's tribal consultation list would be a defense to a prosecution under this statute.

Government Code Section 65040.2 requires the Governor's Office of Planning and Research to develop guidelines, in consultation with the NAHC, for consulting with California Native American tribes on identifying California Native American tribes through the NAHC.

Government Code Section 65092 requires notice of public hearings on the adoption or amendment of general plans be provided to any person who has requested notification. Subdivision (b) defines "person" to include "a California Native American tribe that is on the contact list maintained by the Native American Heritage Commission."

Government Code Section 65352(a) (11) requires that an action to adopt or amend a general plan shall be referred to "A California Native American tribe that is on the contact list maintained by the Native American Heritage Commission and that has traditional lands located within the city's or county's jurisdiction." Therefore, cities and counties must contact the NAHC for its list before they can adopt or amend general plans.

Government Code Section 65453 provides that a specific plan shall be prepared, adopted, and amended in the same manner as a general plan, meaning that California Native American tribes on the contact list maintained by the Native American Heritage Commission must be given note and consulted with for the adoption or amendment of specific plans by cities and counties.

Government Code Section 65562.5 requires consultation with California Native American tribes that have requested notice pursuant to Government Code section 65092 prior to designating open space, under certain conditions. Government Code section 65092 requires a California Native American tribe to be on the contact list maintained by the Native American Heritage Commission.

Public Resources Code Section 4629.3 establishes the Timber Regulation and Forest Restoration Fund. It defines a "recognized tribe" as, among other things, "tribes designated in the list of non-recognized tribes for California by the Native American Heritage Commission." The Department of Forestry and Fire Protection would look to the NAHC's list to determine if a non-federally recognized tribe met this statutory definition of a "recognized tribe."

Public Resources Code Section 21073, an amendment to CEQA, defines "California Native American tribe" as "a Native American tribe located in California that is on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of Statutes of 2004." (SB 18). CEQA lead agencies look to the NAHC's

contact list to determine whether they have to consult with a tribe under the AB 52 amendments to CEQA.

Public Resources Code Section 21080.3.1, an amendment to CEQA, requires lead agencies to consult with California Native American tribes if the tribes have met certain conditions and requires lead agencies to contact the person designated as the tribal contact on the NAHC's SB 18 list if no tribal contact information is proved to the lead agency by the tribe.

Public Resources Code Section 75102 provides that, before a lead agency adopts a negative declaration or environmental impact report under Section 75070, it shall provide notification of this proposed action to a California Native American tribe on the contact list maintained by the NAHC, if that tribe has traditional lands located within the area of the proposed project.

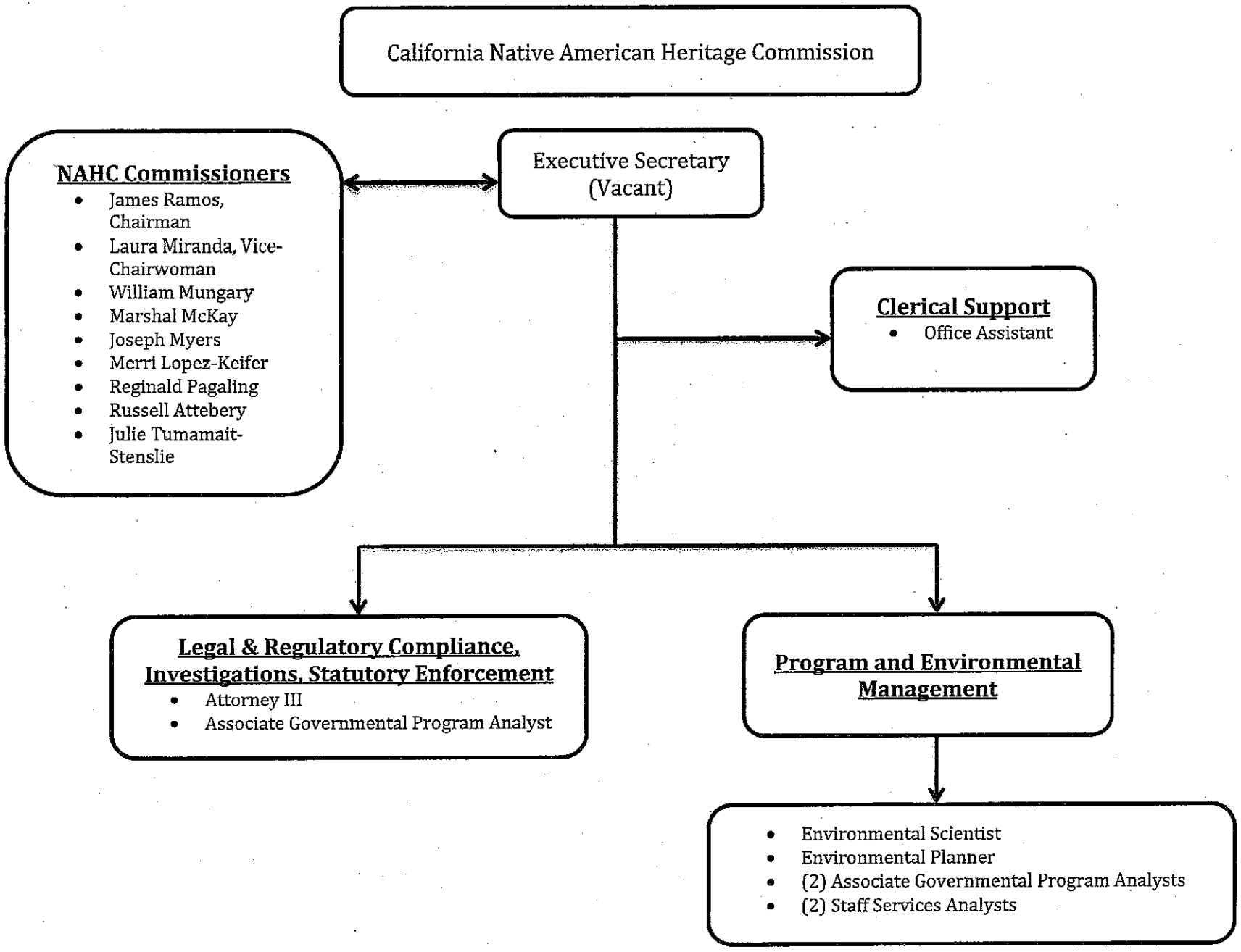
Water Code Section 13442 provides for the payment of moneys to an entity to assist in cleaning up a waste, abating the effects of a waste on waters of the state, or addressing an urgent drinking water need without regard to whether the need for drinking water is a result of the discharge of waste. Entities entitled to apply for funding include "a tribal government that is on the California Tribal Consultation List maintained by the Native American Heritage Commission and is a disadvantaged community, as defined in Section 79505.5, that agrees to waive tribal sovereignty for the explicit purpose of regulation by the state board pursuant to this division." In other words, only tribes on the NAHC's tribal consultation list may be eligible for disbursement under this statute.

Water Code Section 79712 states as eligible applicants under the Water Quality, Supply, and Infrastructure Improvement Act of 2014 to include "state Indian tribes listed on the Native American Heritage Commission's California Tribal Consultation List."

Appendix B

Current NAHC Organization Chart

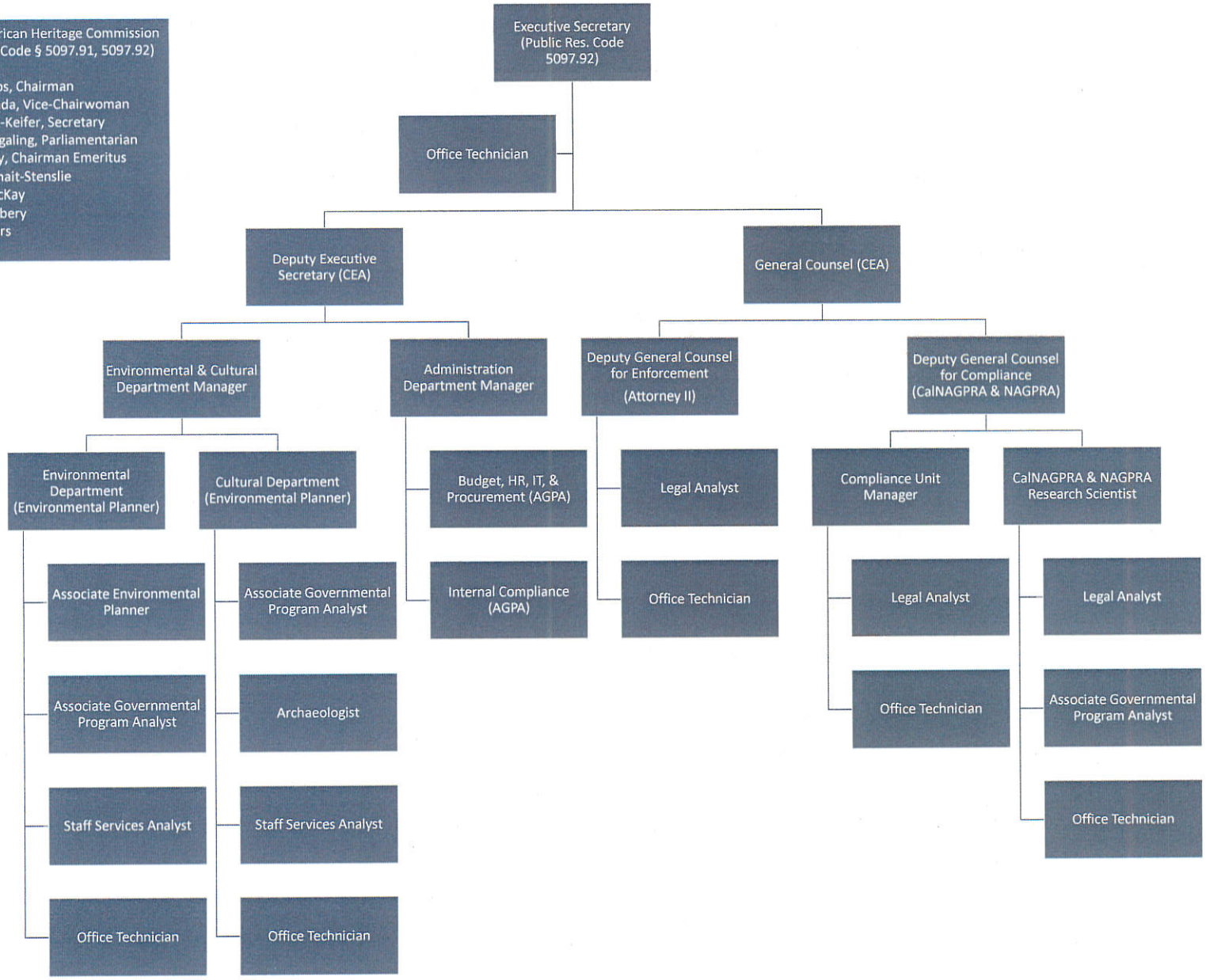
Proposed NAHC Organization Chart After Reorganization


California Native American Heritage Commission
NAHC Commissioners
James Ramos, Chairman
Laura Miranda, Vice-Chairwoman
William Mungary
Marshal McKay
Joseph Myers
Merri Lopez-Keifer
Reginald Pagaling
Russell Attebery
Julie Tumamait-Stenslie
Executive Secretary (Vacant)
Clerical Support
Office Assistant
Legal & Regulatory Compliance, Investigations, Statutory Enforcement
Attorney III
Associate Governmental Program Analyst
Program and Environmental Management
Environmental Scientist
Environmental Planner
(2) Associate Governmental Program Analysts
(2) Staff Services Analysts

NAHC Reorganization Plan

Native American Heritage Commission
(Public Res. Code § 5097.91, 5097.92)

James Ramos, Chairman
Laura Miranda, Vice-Chairwoman
Merri Lopez-Keifer, Secretary
Reginald Pagaling, Parliamentarian
Bill Mungary, Chairman Emeritus
Julie Tumamait-Stenslie
Marshall McKay
Russell Attebery
Joseph Myers



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