

## Native American Heritage Commission

### Fourth Quarterly Meeting April 15, 2016 Minutes

Meeting Location:  
Bishop Paiute Tribal Chambers  
50 Tu Su Lane  
Bishop, CA  
(760) 873-5909

#### Commissioners Present

Laura Miranda, Vice Chairperson  
Marshall McKay  
Russell A. Attebery  
Merri Lopez-Keifer

#### Commissioners Absent

James Ramos, Chairperson  
Julie Tumamait-Stenslie, Secretary  
William Mungary  
Reginald Pagaling  
Joseph Myers

#### Staff Present

Cynthia Gomez, Executive Secretary  
Terrie L. Robinson, General Counsel  
Katy Sanchez, Associate Environmental Planner  
Rob Wood, Associate Environmental Planner  
Samantha Cypret, Staff Services Analyst  
Frank Lienert, Associate Government Program Analyst  
Charmen Taylor, Office Technician  
Lariza Barcena, Office Assistant

#### Attorney General - Absent

Antonette Cordero, Deputy Attorney General IV

#### Call to Order

- 1) Vice Chairperson Miranda called the meeting to order at 08:50 AM. There were only four Commissioners present, therefore, a quorum was not established.
- 2) Vice Chairperson Miranda welcomed the public to the meeting and introduced Chairman Gerald Howard, Bishop Paiute Tribe. Chairman Howard welcomed the Native American Heritage Commission (NAHC) to the Bishop Reservation.
- 3) The traditional opening and blessing was conducted by Mitchell David, Bishop Paiute Tribe.

#### Closed Session

Closed Session – Pending Litigation (Government Code sections 11126(e)(1), (e)(2)(C)(1), (e)(2)(B)(i))

- 1) Sutter Butte Flood Control Agency, Government Code section 11126(e)(2)(C)(1)
- 2) NAHC v. Inyo County, Case No. SI CV PT 1557557, Superior Court of Inyo County (Government Code section 11126(e)(1))
- 3) NAHC v. Foothill/Eastern Transportation Corridor Agency, Case No. GIN051370, Superior Court of San Diego County (Government Code section 11126(e)(1))
- 4) Potential Litigation (Government Code section 111269e)(2)(B)(i))

#### Call to Order

- 1) Closed Session Report:  
Vice Chairperson Miranda reported there was no action taken in closed session.
- 2) Approval of minutes – Laura Miranda, *Vice Chairperson*, **Action Item**
  - Approval of minutes tabled until the July 15, 2016 Commission Meeting.
- 3) The Native American Heritage Commissioners and staff were introduced.

#### Old Business

- 1) NAHC 40<sup>th</sup> Anniversary Planning for 2016 – Cynthia Gomez, *Executive Secretary*, **Information Item**

Ms. Gomez reported that the NAHC is planning its 40<sup>th</sup> Anniversary Gala to be held in Sacramento, in September or October 2016, and a symposium to be held at one of the universities. Current plans are to invite all the tribes in California, previous Commissioners, the Governor, members of the legislature, and other government officials.

2) California Native American Graves Protection and Repatriation Act (Cal NAGPRA) Repatriation Oversight Commission – Cynthia Gomez, *Executive Secretary*, **Information Item**

The duties of Cal NAGPRA were moved to the NAHC because the Repatriation Oversight Commission, which was the Commission for Cal NAGPRA, was never funded and little was being done to implement the statutory provisions.

The NAHC will publish a list of California tribes and compile an inventory of remains, associated funerary objects, unassociated funerary objects, sacred sites, resources, and cultural patrimony. Upon completion of the inventory, notices will be published on the NAHC website and made available for any requesting tribe.

Mediation training will take place for NAHC Commissioners and staff. NAHC staff has begun outreach to inform larger museums and agencies of Cal NAGPRA requirements. NAHC will be adopting regulations to implement procedures for mediating repatriation disputes, cultural affiliations, and penalties.

3) Most Likely Descendants (MLD) Regulations Update - Terrie L. Robinson, *General Counsel*, **Action Item**

Ms. Robinson is conducting additional research on the MLD legislative history. She believes the MLD draft regulations will be completed by the July 2016 NAHC meeting. Staff is reviewing the audio recordings from public hearings and Commission meetings to provide the NAHC MLD subcommittee with a full, categorized compilation of public comments.

**New Business**

1) Commissioners' Report – Laura Miranda, *Vice Chairperson*, **Information Item**

The Commissioners had nothing to report.

2) Executive Secretary Report - Cynthia Gomez, *Executive Secretary*, **Information Item**

Ms. Gomez gave an informational update on Assembly Bill 52 (AB 52) (Gatto, 2014). The NAHC is currently compiling a list of all lead agencies under a California Environmental Quality Act (CEQA), so that tribes can contact lead agencies to request consultation. The lead agency list posted on the Governor's Office of Planning and Research (OPR) website had information that was out of date and should be updated within a month.

Currently over 80 of the 164 California tribes have submitted maps of their culturally affiliated area. The NAHC needs as much accurate information as possible, and all information provided will be kept confidential. A default map will be used for a tribe if a map is not submitted by that tribe to the NAHC. Default maps will be taken from the Handbook of North American Indians, Volume 8, or other information available to the staff. July 1, 2016 is the deadline for the NAHC to send a list of public agencies to the tribes.

The Native American Land Information System (NALIS) is being developed to document cultural and traditional territories with overlays of lead agencies. Staff reviewed other systems prior to developing the NALIS database. All collected information will be sent to the tribes for verification, kept confidential, and placed into the new system.

There are sample letters on the NAHC website for tribes to send to agencies to request consultation per AB 52 (Gatto, 2014). The NAHC will continue working with lead agencies encouraging early consultation with tribes. OPR also has compliance provisions within AB 52 (Gatto, 2014) to amend Appendix G of the California Environmental Quality Act (CEQA) guidelines. OPR is creating a technical advisory document on the provisions of AB 52 (Gatto, 2014).

Vice Chairperson Miranda added that the Natural Resources Agency is undergoing the rule making process for the CEQA regulations and taking requests for consultation meetings, focusing on the CEQA check list (Appendix G) to determine if cultural resources should have their own check box or still be considered a subcategory.

3) Bureau of Land Management (BLM) Land Use Plan Amendment (LUPA) - Cynthia Gomez, *Executive Secretary*, **Information and Action Item**

The NAHC received a letter from the BLM asking if the Commission would like to be a signatory to LUPA for Section 106 National Historic Preservation projects, based upon their Desert Renewable Conservation Energy Plan.

Action was tabled until July 15, 2016.

4) **Inyo County Draft Policy and Protocol for Tribal Consultation – Laura Miranda, *Vice Chairperson*, Public Comment and Action Item**

Vice Chairperson Miranda stated NAHC's concerns with the Inyo County Draft Policy and Protocol for Tribal Consultation, before opening the floor for public comment.

Vice Chairperson Miranda addressed the duration of consultation, when and how an agreement is reached, confidentiality rights, and the need for documentation of consultation, reports and surveys. The role of the consultation committee should be defined and each tribe should be consulted individually. Some of the language used in the policy does not reflect the law and there is a lack of clear time frames for when consultation should occur and when it should be concluded. The County and tribes do not seem to be on the same page for individual agreement processes. The existing laws need to be protected and care should be taken not to lose rights provided under law. The Commission wants plenty of time for information to be freely exchanged between parties. The tone of the document should be that of a joint process and respect for both governments' protocols. Every consultation is an individual occurrence with each individual tribe. Consultation should take place early and not at the backend of a project.

General Counsel Terrie Robinson added that there is a legal definition for when consultation ends and it needs to be documented when and why consultation has ended.

Action was tabled until July 15, 2016.

**Inyo County Draft Policy Public Comment**

Sally Manning, Big Pine Paiute Tribe of the Owens Valley Environmental Director, voiced Big Pine Tribe's concerns regarding the Inyo County Draft Policy. Ms. Manning stated there is a need for flexibility on who the Tribe may send to represent them for consultation, depending on the type of project. Also, the County doesn't consult with tribes for projects such as the Sustainable Groundwater Water Act. The Tribes want and should be included in the discussion. At present time all consultation has been public, although private consultation has been requested. The Tribe has not submitted written comments, but will submit comments after their Tribal Council meeting in May 2016, and the preference would be to offer a different plan than what has been proposed by the County. The Big Pine Tribe does want to continue working with the County on the policy.

Jeff Griffiths, Inyo County 2<sup>nd</sup> District Supervisor, Board Chair, gave thanks and appreciation to the Tribes and the NAHC. He said it is important to the County to comply with AB 52 (Gatto, 2014). There is confusion of when and how consultation should begin and when and how it ends. The County hopes to go beyond AB 52 (Gatto, 2014), and Senate Bill (SB 18) (Burton, 2004), and wants to have other discussions with the Tribes for greater collaboration. The policy was drafted to start discussion. The Memorandum of Understanding (MOU) for each individual tribe was proposed to capture each tribes' unique views, processes, and protocols. It is the County's desire to go above and beyond the law to open communication and develop trust with tribes.

Raymond Andrews, Bishop Paiute Tribe Tribal Historic Preservation Officer (THPO), expressed his appreciation for NAHC's comments on the Inyo County Draft Policy. The Tribe feels that the policy has been forced upon them. The tone of the policy fails to recognize tribes' individuality and they have tried to express that concern to the County. The County doesn't understand how tribes work. Tribes have asked the County for a tribal liaison, and were told a liaison is not financially viable for the County, but duties of that nature have been assigned to existing staff. The policy lacks government-to-government consultation and two people does not constitute consultation. It is also necessary for the County to understand that some things cannot be disclosed because of tradition.

**Public Comment**

Robert Levi, Liaison of California Teachers Association (CTA), reported that the CTA went to Washington, D.C. to lobby for more representation for Indian children in California and nationwide. There has been an increase in bilingual education on reservations. Recently, the Bureau of Indian Affairs released the Bureau of Indian Education under its own jurisdiction. Currently there are two high schools that have not replaced their Indian mascots. A student from Milton Rancheria won the American Disabilities Act (ADA) Human Rights Award. Martinez Reservation will be submitting their map for AB 52 (Gatto, 2014). CTA has been bringing awareness of institutional racism in public schools. The school districts are starting to use local Indians from the reservations to come to talk about Native American history. The CTA is backing Senate Bill 911 (SB 911) (Hertzberg, 2016) to help keep Indian Centers open in urban areas.

Marty Meeden, CTA Associate Board Member, is collecting signatures to place Proposition 30 (Cal. Const., art XIII, §36) on the November 16<sup>th</sup> ballot to extend the Proposition that expires in 2017. Proposition 30 (Cal. Const., art XIII, §36) is a short term tax increase to help fund public schools.

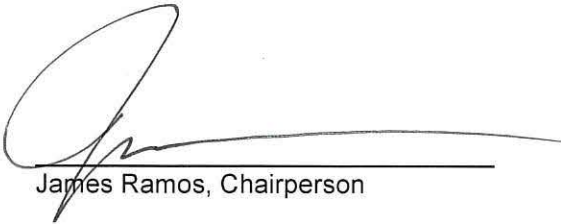
Charlotte Lang, Kutzadika Tribe Chairperson, thanked the Commission for their time and expressed her appreciation for holding the meeting at Bishop.

Cynthia Gomez, Executive Secretary, announced Rob Wood's upcoming retirement and thanked him for his service to the Native American Heritage Commission and the State of California.

**Adjournment**

The meeting was adjourned at 12:41 PM.

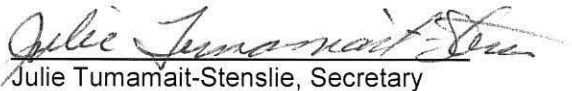
Respectfully submitted and approved on behalf of the Native American Heritage Commission.



James Ramos, Chairperson



Cynthia Gomez, Executive Secretary



Julie Tumamait-Stenslie, Secretary