

**CALIFORNIA NATIVE AMERICAN HERITAGE COMMISSION**  
**Open Session Minutes**

**Second Quarterly Meeting**

October 21, 2016

9:00 AM to 1:00 PM

**Location:** Holiday Inn Sacramento-Capitol Plaza  
300 J Street  
Sacramento, CA 95814

**Commissioners Present**

James Ramos, Chairperson  
Laura Miranda, Vice Chairperson  
Merri Lopez-Keifer, Secretary  
Reginald Pagaling, Parliamentarian  
William Mungary, Chairperson Emeritus  
Marshall McKay  
Russell A. Attebery  
Joseph Myers

**Staff Present**

Cynthia Gomez, Executive Secretary  
Terrie L. Robinson, General Counsel  
Steven Quinn, Office Assistant  
Joe Kowalski, Legal Extern

**Commissioners Absent**

Julie Tumamait-Stenslie

**Call to Order: Public Session**

- 1) Chairman Ramos called the meeting to order at 9:09 AM. A quorum was established.
- 2) Roll Call - All Commissioners were present, with the exception of Commissioner Tumamait-Stenslie.
- 3) The Native American Heritage Commissioners and staff were introduced.
- 4) Chairman Ramos called for public comment:

**Danny Rey, Secretary, United Auburn Indian Community (UAIC):** Secretary Rey reported that UAIC and the Sutter Butte Flood Control Agency (SBFCA) reached a settlement regarding the Feather West Levee Project. The settlement provides that tribes will be compensated for damages caused by the Feather River West Levee Project. Secretary Rey hopes that the protocol that was developed during negotiations between UAIC and SBFCA will help tribes with levee projects in the future. Secretary Rey requested that the Commission take the lead on drafting a "Best Practices" document for future levee projects. Mr. Rey thanked the Commission for their involvement.

**Alex Watts-Tobin, Tribal Historic Preservation Officer (THPO), Karuk Tribe:** Mr. Watts-Tobin commented on the importance of establishing a strong relationship between tribes and agencies. Mr. Watts-Tobin believes that in order for strong relationships to form, agencies must trust tribes with protecting their own assets. Mr. Watts-Tobin reported that the Karuk Tribe is working with CalTrans to do their own cultural surveys.

- 5) Commissioner Ramos ended the public comment period and convened Closed Session at 9:14 AM.

## Closed Session

### Call to Order – Public Session:

- 1) United Auburn Indian Community Secretary Danny Rey led the opening with a prayer.
- 2) Closed Session Report – Terrie L. Robinson, General Counsel, **Action Item**

The Commission voted to close the Sutter Butte Flood Control Agency matter as to the completed phases of the project.

Ayes: 6; Nays: 0; Abstained: 1  
The motion was carried.

- 3) Approval of minutes – James Ramos, Chairperson, **Action Item**

A motion was made by Commissioner McKay and seconded by Parliamentarian Pagaling to approve the following open and closed session minutes:

July 15, 2016; July 15, 2016 – Closed Session

Ayes: 7; Nays: 0; Abstained: 0  
The motion was carried unanimously.

### Old Business:

- 1) Native American Heritage Commission's 40<sup>th</sup> Anniversary Gala, Cynthia Gomez, Executive Secretary, **Information Item**

Executive Secretary Gomez thanked all the sponsors who provided funding for the 40<sup>th</sup> Anniversary Gala. Executive Secretary Gomez confirmed the keynote speaker to be Professor Benjamin Madley, author of the book *American Genocide*. She announced that the Gala program will feature a timeline of the Native American Heritage Commission's 40-year existence and accomplishments. Doors will open for the 40<sup>th</sup> Anniversary Gala at 5 PM.

- 2) Most Likely Descendant (MLD) Regulations Update, Terrie L. Robinson, General Counsel, **Information Item**

Ms. Robinson stated that the initial draft of the proposed MLD regulations was submitted to the Commission's Rulemaking Subcommittee one month behind schedule. The subcommittee is currently in the process of reviewing the draft proposed regulations.

### New Business:

- 1) Commissioners' Report, James Ramos, Chairperson, **Information Item**

Chairperson Ramos spoke on the importance of the roles of Commissioners, not only to current Native Americans, but to the ancestors as well. Mr. Ramos called for the unity of Native people, not just in California, but also for all Native people in the United States. He believes unity is the key to solving issues that are facing Native people.

Vice Chairperson Miranda expressed her excitement for the 40<sup>th</sup> Anniversary Gala. She was amazed at the progression of the legislation regarding protection of cultural resources over the past 40 years. Vice-Chairperson Miranda hopes that over the next decade the Native American Heritage Commission will be able to create a new arm that will help tribes understand the laws and assist with the interaction between state and local agencies.

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

Executive Secretary Gomez started the report by introducing the new NAHC staff members, Steven Quinn (Office Assistant) and Joe Kowalski (Legal Extern, McGeorge School of Law, University of the Pacific). She then thanked everyone who helped the NAHC gain funding to increase staffing from three to ten employees to help implement AB 52 and an increased workload. Executive Secretary Gomez thanked Terrie Robinson, Secretary Merri Lopez-Keifer, and Vice Chairperson Laura Miranda in particular, as well as all of the Commissioners, for their help in educating agencies about AB 52. She also thanked Courtney Coyle for her help with the Governor's Office of Planning and Research to develop the technical advisory.

In regards to AB 52, NAHC staff developed a database to identify geographic areas of jurisdiction for over 2,000 lead agencies. Staff then created territory maps for all 164 tribes using a combination of maps derived from consultation with tribes, ethnographic studies, and the Smithsonian Handbook Volumes 8,9,10, & 11. NAHC staff sent out letters (before the July 1, 2016 deadline) to notify tribes of the lead agencies within their areas of traditional and cultural affiliation. The NAHC staff met the statutory deadline for implementing AB 52.

Executive Secretary Gomez noted that the NAHC website has been updated and the NAHC is open to suggestions on the website. Also, the NAHC is still in the process of upgrading the phone system and adding a video conferencing system. Video conferencing will create greater opportunities for training and consultation and can also be a helpful tool for providing more information once MLD regulations are adopted.

3) Statement on Incompatible Activities, Terrie L. Robinson, General Counsel, **Action Item**

Ms. Robinson stated that Government Code §19990 requires all state agencies to adopt a Statement on Incompatible Activities. This statement applies to NAHC staff only, not Commissioners. The purpose of adopting this proposed statement, in addition to complying with state law, would be to avoid the appearance that the trust that tribes place in the NAHC could be compromised by any outside activities of the staff. The proposed Statement of Incompatible Activities is to be circulated among staff and then posted on the NAHC website for 45-60 days for public input.

Vice Chairperson Miranda asked for an example of an incompatible activity. Executive Secretary Gomez responded by providing two examples: If an employee had a second job and used resources from the NAHC for their second job; also if an NAHC employee used confidential information gained through the NAHC for outside activities, to gain secondary employment or tribal work.

A motion was made by Parliamentarian Pagaling and seconded by Secretary Lopez-Keifer to move forward with the distribution of the Statement of Incompatible Activities and open this item for comment. Chairperson Ramos asked for a minimum 45-day comment period.

Ayes: 6; Nays: 0; Abstained: 1  
The motion was passed.

4) Subcommittee for Regulatory Chapters, Terrie L. Robinson, General Counsel, **Action Item**

Ms. Robinson stated that staff and the MLD Rulemaking Subcommittee are trying to put forward a proposed set of regulations for the Most Likely Descendent statute. Legal staff is also starting to work on proposed regulations for other statutes that the Commission enforces. Ms. Robinson asked for clarification from the Commissioners, if they would like the current sitting MLD subcommittee to be the subcommittee for future proposed regulations or if they would like separate subcommittees for the different sets of regulations that will be proposed. Ms. Robinson stated that the legal staff has started working on the drafts of the other regulations of the separate statutes that the Commission enforces. She also believes it will be most efficient to forward drafts of future regulations directly to the subcommittees (after they have been vetted by staff), so that the subcommittee can make a direct recommendation on the draft regulations at the following commission meeting.

Chairperson Ramos stated that the current MLD committee is Vice Chairperson Miranda and Commissioner Tumamait-Stenslie.

Vice Chairperson Miranda added that she believes it would be best to create separate subcommittees for the different sets of proposed regulations.

Executive Secretary Gomez stated that no more than three Commissioners could sit on a given subcommittee.

Chairperson Ramos asked if there are Commissioners willing to serve on a subcommittee to work on Chapter Two of the proposed regulations, which addresses how the Commission works.

Commissioner Myers and Secretary Lopez-Keifer offered to sit on the subcommittee for Chapter Two.

Parliamentarian Pagaling made a motion and the motion was seconded by Vice Chairperson Miranda to appoint Commissioner Myers and Secretary Lopez-Keifer to a subcommittee on Chapter Two of the proposed regulations.

Ayes: 7; Nays: 0; Abstained: 0  
The motion was carried unanimously.

Chairperson Ramos asked if there are any Commissioners willing to serve on a subcommittee to work on SB 18, Chapter 5 of the proposed regulations.

Secretary Lopez-Keifer and Commissioner Attebery offered to sit on the subcommittee for Chapter Five.

Commissioner McKay made a motion and the motion was seconded by Parliamentarian Pagaling to appoint Secretary Lopez-Keifer and Commissioner Attebery to a subcommittee on Chapter Five.

Ayes: 7; Nays: 0; Abstained: 0  
The motion was carried unanimously.

Chairperson Ramos asked if there are any commissioners willing to serve on a subcommittee to work on CalNAGPRA, Chapter Eight of the proposed regulations.

Commissioner McKay and Parliamentarian Pagaling offered to sit on the subcommittee for CalNAGPRA, Chapter Eight.

Commissioner Attebery made a motion and the motion was seconded by Vice Chairperson Miranda to appoint Commissioner McKay and Parliamentarian Pagaling to a subcommittee on Chapter Eight.

Ayes: 7; Nays: 0; Abstained: 0  
The motion was carried unanimously.

Chairperson Ramos concluded discussion on the subcommittee regulatory chapters by stating that there are now three subcommittees for the upcoming three regulatory chapters.

Ms. Robinson thanked everyone for their participation.

**Public Comment:**

- 1) Chairman Ramos called for public comments and introduced the first speaker:

**Alex Watts-Tobin, Tribal Historic Preservation Officer (THPO), Karuk Tribe:** Mr. Watts-Tobin opened with a tribute to the Native American Heritage Commission and Governor Jerry Brown on their accomplishments. There is property called "Katamiin" that is U.S. Forest Service property that the Karuk Tribe is looking to transfer into trust land. Mr. Watts-Tobin invited comments from the Native American Heritage Commissioners about how they could potentially help this process.

Mr. Ramos thanked Mr. Watts-Tobin for his comments, but informed him that topics must be on the agenda in order for Commissioners to comment on them.

**Louise Miranda-Ramirez, Chairwoman, Ohlone/Coastanoan-Esselen Nation:** Chairwoman Miranda-Ramirez stated that the County of Monterey has presented the Ohlone/Coastanoan-Esselen Nation with a legal document. Chairwoman Miranda-Ramirez stated that her tribe does not have a lawyer and she does not feel comfortable signing this document without the assistance of a lawyer. Chairwoman Miranda-Ramirez then asked the Native American Heritage Commission if they could be this assistance.

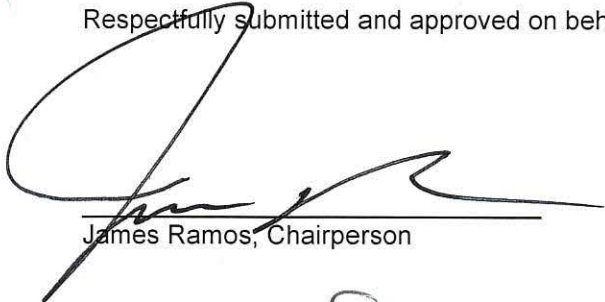
Executive Secretary Gomez stated that Ms. Terrie L. Robinson is the legal representative solely for the Native American Heritage Commission. However, Ms. Gomez informed Chairwoman Ramirez of an external resource, the UC Irvine School of Law. Ms. Gomez stated we are currently in the process of working with the UC Irvine School of Law to create a program whereby the Native American Heritage Commission would train law students, so that they would be prepared to represent individual tribes.

Ms. Robinson stated that her reluctance was not that she does not want to help; but that she is captive to her one client, the Native American Heritage Commission. Ms. Robinson seconded the idea that the UC Irvine School of Law would be a good option, as they already have an environmental law clinic. Ms. Robinson stated that she may not be able to personally provide the legal assistance that Chairwoman Miranda-Ramirez needs. However, she will help Chairwoman Miranda-Ramirez find the legal assistance that she needs.

**Adjournment:**

- The meeting was adjourned at 11:54 AM.

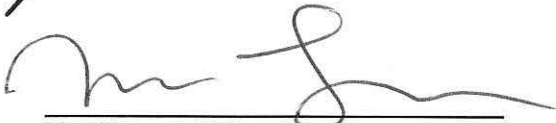
Respectfully submitted and approved on behalf of the Native American Heritage Commission.



James Ramos, Chairperson



Cynthia Gomez, Executive Secretary



Merri Lopez-Keifer, Secretary