

CALIFORNIA NATIVE AMERICAN HERITAGE COMMISSION

Open Session Minutes

Fourth Quarterly Meeting

April 21, 2017

9:00 AM to 1:00 PM

Location: Ziggurat Building Auditorium

707 3rd Street

West Sacramento, CA 95605

Commissioners Present

Merri Lopez-Keifer, Secretary

Reginald Pagaling, Parliamentarian

Marshall McKay

Julie Tumamait-Stenslie

Joseph Myers

Commissioners Absent

James Ramos, Chairperson

Laura Miranda, Vice Chairperson

William Mungary

Russell Attebery

Staff Present

Cynthia Gomez, Executive Secretary

Terrie L. Robinson, General Counsel

Debbie Pilas-Treadway, Environmental Scientist

Katy Sanchez, Associate Environmental Planner

Frank Lienert, Associate Governmental Program Analyst

Gayle Totton, Associate Governmental Program Analyst

Samantha Cypret, Associate Governmental Program

Analyst

Sharaya Souza, Staff Services Analyst

Lariza Barcena, Office Technician

Steven Quinn, Office Assistant

Attorney General Present

John Appelbaum, Deputy Attorney General

Call to Order: Public Session

- 1) Secretary Lopez-Keifer called the meeting to order at 9:05 AM. A quorum was established.
- 2) Roll Call
- 3) Parliamentarian Pagaling led the traditional opening with a prayer.
- 4) The Native American Heritage Commissioners, staff, and Attorney General's representative were introduced.
- 5) Approval of minutes – Merri Lopez-Keifer, Secretary, **Action Item**

A motion was made by Parliamentarian Pagaling and seconded by Commissioner McKay to approve the open session minutes from January 20, 2017.

Ayes: 5; Nays: 0; Abstained: 0

The motion was carried unanimously.

A motion was made by Commissioner McKay and seconded by Parliamentarian Pagaling to approve the closed session minutes from January 20, 2017.

Ayes: 5; Nays: 0; Abstained: 0

The motion was carried unanimously.

Old Business:

1) License Plate Artwork Project, Terrie L. Robinson, General Counsel, **Action Item**

Ms. Robinson stated that the Commission is asking permission to solicit designs for a special interest license plate. The designs that are being solicited would be donated to the Commission in perpetuity. Funds generated from the license plate could fund programs for the Native American Heritage Commission (NAHC).

Samantha Cypret reiterated that staff is asking permission to acquire artist submissions for a potential license plate design. Ms. Cypret stated that she had reached out to Chief Scott Gillingwater of the California Highway Patrol to seek direction in terms of the license plate approval process. She also stated that the goal is to officially launch the license plate program at the 50th Annual Native American Day on September 22, 2017.

Executive Secretary Gomez commented that Native American Day will be hosted by tribes from Southern California. The celebration will take place on the west steps at the Capitol in Sacramento. Historically there have been roughly 3,000 attendees to this event. There will be booths from tribal organizations, federal, state, and local organizations.

A motion was made by Commissioner McKay and seconded by Commissioner Pagaling to accept designs for a license plate.

Ayes: 5; Nays: 0; Abstained: 0
The motion was carried unanimously.

New Business:

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

Executive Secretary Gomez started the report by speaking about the activities that staff has engaged in over the last quarter. Regarding enforcement, Vice Chairwoman Laura Miranda and General Counsel Terrie Robinson conducted Assembly Bill 52 (Gatto) (AB52) training, specifically Inyo County tribal consultation policy and protocol. Executive Secretary Gomez and Ms. Robinson also met with the Foothill Eastern Transportation Corridor Agency to discuss tribal consultation policy relating to the Transportation Corridor Agency settlement. The NAHC also received \$8,250 of an estimated \$16,500 in attorney fees as a result of the settlement and is expected to receive the remaining amount of these fees next year.

Regarding compliance, the NAHC staff attended a Los Angeles Department of Water and Power Great Basin Unified Air Quality District Cultural Resources Taskforce Archaeological District subcommittee meeting on March 2, 2017. This meeting explored the possibility of having Owens Lake declared an archaeological district and having it placed on the National Register of Historic Places. The registration cost will be an estimated \$150,000. If the registration issue is not resolved, the NAHC may be asked to declare Owens Lake a protected site.

The NAHC has also drafted an AB52 non-compliance template letter to be used by tribes and staff to inform lead agencies when they are not in compliance with AB52.

Staff is also updating the Native American Heritage Commission Cultural Resources Handbook. This handbook was originally published in March of 1980. Once the Cultural Resources Handbook is updated it will be an excellent tool to assist in the protection of cultural resources.

As of April 13, 2017, all necessary staff and every Commissioner (with the exception of one Commissioner) have completed the Statement of Economic Interest Form 700. Commissioners are also still in the process of completing online ethics training. All Commissioners (with the exception of one Commissioner) have completed mediation training, which is required under the California Native American Graves Protection and Repatriation Act. The NAHC General Counsel has also been invited by California's Department of Human

Resources to participate in the Respondents' Roundtable. This is important for the NAHC in terms of future recruiting efforts.

The Most Likely Descendent (MLD) Rulemaking package is in the process of being submitted to the Secretary of the Natural Resources Agency for approval before being submitted to the Office of Administrative Law.

All staff attended the "California Environmental Quality Act (CEQA): Compliance Training" hosted by the UC Davis Extension Center on March 15-16, 2017. Staff has also attended the Bureau of Offshore Energy Management (BOEM) meetings, which have been taking place throughout the state. The NAHC Legal Department will provide training on AB52 for the Sacramento County Bar Association on May 2, 2017. General Counsel Robinson and Secretary Lopez-Keifer led a training on April 20, 2017 for tribes on cultural resource protection. This training was streamed online and will be archived online for later viewing. During streaming there were 104 viewers. NAHC staff also engaged in a number of consultations with various tribes over the last quarter. The NAHC consultations covered AB52 compliance, Senate Bill 18 (Burton) (SB18) inclusion criteria, assisting access to tribal cemeteries, and reviewing Sacred Lands File records.

NAHC staff is currently reviewing all of the Sacred Lands File records for accuracy. In the last quarter, 319 records have been reviewed of the 1946 records in the Sacred Lands File, and 15 new records were added.

The Environmental and Cultural Department of the NAHC processed 1,176 project requests, which included 4,245 searches of the Sacred Lands File. Of the 1,176 projects, 245 of these were AB52 projects and 101 were SB18 projects. Staff also processed 218 timber harvest project requests. Staff received 618 CEQA environmental documents from the State Clearinghouse. Of those 618 CEQA documents, staff commented on 208 of the documents. There were 23 reports of inadvertent remains that were reported to the NAHC from various county coroner offices. The MLD designations that were made for these finds utilized information from the MLD database, information submitted by tribal governments, and various scholar references.

Commissioner Pagaling commented on the Department of Fish and Wildlife's (DF&W) lack of consultation for the DF&W Marine Recovery Report.

Secretary Lopez-Keifer stated how impressed she is with the ability of the NAHC staff to handle the sheer number of environmental documents that they review. She also wanted to thank staff for the work that they do.

3) July NAHC Meeting Location, Cynthia Gomez, Executive Secretary, **Action Item**

Executive Secretary Gomez opened by mentioning the NAHC bylaws state that there must be three public hearings throughout the state of California each year, however the Commission meetings for the NAHC will be held in Sacramento, California. She stated that a request has been made to hold the July 2017 Commission meeting in southern California. Ms. Gomez noted that the specific location of the Commission meeting would not be determined until a later date.

A motion was made by Parliamentarian Pagaling and seconded by Commissioner McKay to grant permission to hold the July Commission meeting in southern California.

Ayes: 5; Nays: 0; Abstained: 0
The motion was carried unanimously.

4) Cultural Resource Considerations for Suction Dredge Mining Legislation, Alex Watts-Tobin, Karuk Tribal Historic Preservation Officer (THPO), Lynne Saxton, Attorney Representing Karuk Tribe, **Action Item**

Mr. Watts-Tobin opened by stating Craig Tucker, who was originally on the agenda, was unable to attend the Commission meeting. Mr. Watts-Tobin gave a brief description of Karuk history and the landscape surrounding the Karuk tribal territory. He stated that dip net fishing is an important tradition throughout Karuk history and the Klamath River is the lifeblood of the Karuk culture. Suction dredge mining causes irreparable harm to the river channels, sacred sites, Karuk culture along the rivers, and suction dredge mining also limits access to the rivers.

Mr. Watts-Tobin noted that Senate Bill 637 (Allen) was recently passed, which requires prior issuance of clean water permits from the State Water Resources Control Board (SWRCB) before permitting mechanized mining. It is Karuk's view that it would be best if there were no clean water permits issued within the state. He has been in contact with the NAHC's legal staff to draft a sample letter to the SWRCB.

Ms. Saxton opened by stating the three main points of her presentation; the NAHC's authority and how it pertains to drafting a letter to the SWRCB, the importance this letter would have, and how this letter would be relied upon moving forward.

In terms of the NAHC's authority, Ms. Saxton stated that under California Public Resource Code 5097.97, the NAHC should investigate the effects of a proposed action by a public agency. She believes that even though offering those permits is not exactly a proposed action, it is still prudent for the Commission to draft a letter to prevent the negative effects of suction dredge mining. Ms. Saxton touched on her second point by stating that if the SWRCB did not offer clean water permits, suction dredge mining would not be able to take place. The third point, was the weight that such a letter would hold. She believes that this type of letter would be taken very seriously due to the fact that the NAHC is looked upon as the expert in terms of cultural resources.

Executive Secretary Gomez commented that requests for these types of letters are typically handled internally at the Commission; however since the Karuk Tribe requested to present this letter to the Commission, she wanted to honor that request.

Secretary Lopez-Keifer asked SWRCB if there is a time frame for the Commission to draft this letter? Secretary Lopez-Keifer also asked if satisfactory mitigation would be at all possible, or if the Karuk's position is just to completely oppose issuing permits? Ms. Saxton stated that there is no specific open or closed comment period and that the SWRCB is in an information gathering phase. She said in terms of protecting cultural resources there are no satisfactory mitigation measures.

General Counsel Robinson asked Ms. Saxton if there has been any consultation under the Governor's Executive Order B-10-11 between the Karuk Tribe, the SWRCB, or the DF&W. Ms. Saxton stated there hasn't been any consultation between any of the previously mentioned parties.

Commissioner Myers asked if the damage that is being caused by suction dredge mining is reversible, specifically damage from mercury? Mr. Watts-Tobin replied, based on a recent press release one of the commercial fisheries was closed during the salmon period for the first time. However, Mr. Watts-Tobin believes the rivers can be set on the path of regeneration if suction dredge mining stops.

Commissioner Tumamait-Stenslie inquired about the specific methods that miners use when performing suction dredge mining. Ms. Saxton stated that individual miners are seeking these permits and they use a floating pontoon with scuba gear while suction dredge mining. Commissioner McKay commented that it would be useful to obtain data on the number of suction dredge miners, specifically in the Karuk area.

General Counsel Robinson suggested that if a letter goes out it should directly tie into the Commission's authorities and duties and should relate to the type of resources under the Commission's authorizing statute.

A motion was made by Parliamentarian Pagaling and seconded by Commissioner Tumamait-Stenslie to direct staff to work with the Karuk Tribe to develop a position on how this procedure may be detrimental to tribal cultural resources.

Ayes: 5; Nays: 0; Abstained; 0
The motion was carried unanimously.

Public Comment:

Robert Levy, California Teachers Association

Mr. Levy asked for a letter of support for students in San Diego to wear eagle feathers to their high school graduation, as proposed by Assembly Bill 233 (Gloria). Mr. Levy asked for support for Assembly Bill 738 (Limón), which would require the Instructional Quality Commission to develop, and the state board to adopt, modify, or revise, a model curriculum in Native American studies, and would encourage each school district

And charter school from grades 9 to 12, that does not otherwise offer a standards-based Native American studies curriculum to offer a course of study in Native American studies based on the model curriculum. He also wanted to bring to light that the American Indian Alaska Native Caucus is opposed to the San Diego State University mascot. Before closing Mr. Levy commended General Counsel Robinson, Secretary Lopez-Keifer, and Ms. Coyle on their AB52 training.

Executive Secretary Gomez thanked Mr. Levy not only for his continued support to the Commission, but also for the contributions the California Teacher's Association gave for the Native American Heritage Commission's 40th Anniversary Gala. Ms. Gomez responded to the request for letters of support by stating that the Commission does not take a stance of proposed legislation.

Adjournment:

A motion was made by Commissioner Tumamait-Stenslie and seconded by Parliamentarian Pagaling to adjourn the meeting.

Ayes: 5; Nays: 0; Abstained; 0
The motion was carried unanimously.

The meeting was adjourned at 11:10 AM.

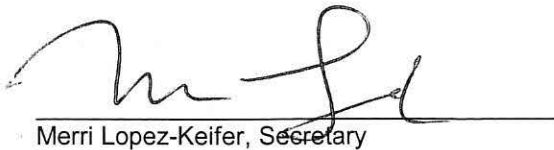
Respectfully submitted and approved on behalf of the Native American Heritage Commission.



James Ramos, Chairperson



Cynthia Gomez, Executive Secretary



Merri Lopez-Keifer, Secretary