

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

**First Quarterly Meeting**  
July 21, 2017  
9:00 AM to 1:00 PM

**Location:** Caltrans District 11 Building, Gallegos Room  
4050 Taylor Street  
San Diego, CA 92110

**Commissioners Present**

James Ramos, Chairman  
Laura Miranda, Vice Chairwoman  
Merri Lopez-Keifer, Secretary  
Reginald Pagaling, Parliamentarian  
Marshall McKay  
Russell Attebery

**Staff Present**

Cynthia Gomez, Executive Secretary  
Terrie L. Robinson, General Counsel  
Katy Sanchez, Associate Environmental Planner  
Gayle Totton, Associate Governmental Program Analyst  
Steven Quinn, Office Assistant

**Commissioners Absent**

William Mungary, Chairperson Emeritus  
Julie Tumamait-Stenslie  
Joseph Myers

**Call to Order: Public Session**

- 1) Chairperson Ramos called the meeting to order at 9:19 AM.
- 2) Roll Call – A quorum was established.
- 3) The Native American Heritage Commissioners and staff were introduced.
- 4) Steve Banegas, Spokesperson of the Kumeyaay Cultural Repatriation Committee, led the traditional opening with a prayer.
- 5) Approval of minutes – James Ramos, *Chairman*, **Action Item**

A motion was made by Parliamentarian Pagaling and seconded by Commissioner McKay to approve the minutes from April 21, 2017.

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

**Old Business:**

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

General Counsel Robinson stated the action that is being requested of the Commission is to select a final license plate design and approve the proposed allocation of funds generated from the license plate. The intention is to begin the license plate subscription period on Native American Day (September 22, 2017). Once the subscription period begins, the Native American Heritage Commission (NAHC) will have one year to get 7,500 subscriptions. If the 7,500 subscription mark is not met, then the Department of Motor Vehicles (DMV) will not issue the license plate.

The submissions for the license plate design and the programs that would be funded from the license plate revenue are based on a survey that was conducted to identify what stakeholders wanted to see on the plate and what programs they would like to see funded.

The Department of Finance allows an agency that is issuing a special interest license plate to allocate 25% of the funds generated to go towards program implementation. The proposed allocation of the funds is as follows:

- 30% - Implementation of CalNAGPRA
- 20% - Legal Clinics and Intern Programs
- 20% - Tribal and Agency Training Programs
- 20% - Maintaining Special Interest License Plate Program
- 10% - Conflict of Interest Legal Fund

General Counsel Robinson stated that the purchase of conservation easements and lands was left off of the proposed fund allocation list because future Commissions and future administrations may have different thoughts on the land that may be acquired. She also stated that the conflict of interest legal fund was included because in the past the Attorney General's office declined to represent our Commission in the event of a conflict of interest. The Commission was able to secure representation based solely off the relationships past Executive Secretaries have had with different attorneys.

Vice-Chairwoman Miranda asked for an explanation of where the 30% of the funds going towards implementing CalNAGPRA would be going.

General Counsel Robinson stated that once CalNAGPRA is up and running it will require a vast amount of resources and time. CalNAGPRA will have to issue decisions, defend those decisions, keep track of inventories, and summarize those inventories. She explained that CalNAGPRA can be seen as its own small entity within the Commission.

Commissioner Attebery inquired if the Commission has reached out to tribes regarding a bear paw being on the license plate design, since some tribes regard the bear as a sacred animal. Chairman Ramos stated that they should vote on the design and if the bear paw is selected the Commission can go forward and consult with tribes regarding the bear paw.

A motion was made by Vice-Chairwoman Miranda and seconded by Secretary Lopez-Keifer to select the basket design license plate and use the red license plate as a backup design.

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

**Public Comment:**

Bear Cuero, Viejas Community

Mr. Cuero asked if any of the license plate designs were able to serve as a veteran's plate as well.

General Counsel Robinson stated that the license plate designs submitted were for the special interest of the Native American Heritage Commission and that she is unsure if you are able to mix special interest license plates. Chairman Ramos commented that if Mr. Cuero provided his information that the Commission would forward him the information for veteran license plates. Chairman Ramos also noted that the license plate project has been going on for two years and that we are in the final stages of selecting the license plate design.

Courtney Coyle, Attorney

Ms. Coyle asked if the allocations are fixed or if the percentages can be changed at a future date? General Counsel Robinson stated that the allocation percentages are fixed forever, so if there are any issues with the percentages or new ideas entirely that the public should bring forward their concerns now.

Ms. Coyle stated that she believes land conservancy is very important and there is a method to obtain land and entitle the property, in perpetuity, so that it may not be sold off at a later date. General Counsel Robinson stated that when a subscriber purchases a license plate, it is under the impression that they know where that money is going. Even if the property was entitled in perpetuity, future Commissions or administrations could potentially sell off the land at a later date. This may be against the intentions of the initial license plate purchaser. Additionally, General Counsel Robinson believes that tribes are a better owner of conservancies and easements, not the state of California.

Vice-Chairwoman Miranda asked if a discretionary "other" category could be added to the allocations? General Counsel Robinson stated that you could not have a discretionary category for the allocations. Vice-Chairwoman Miranda added that land repatriation is very important and she believes it is a realistic goal to aim towards moving forward in the state of California.

Executive Secretary Gomez added that when the Commission began reviewing revenue sources, one area that was first observed as underfunded was the Commission's Legal Department. She stated that the Legal Department allows the Commission to file litigation when tribes bring issues to our attention. This need for funding in the Legal Department was one of the reasons the allocations were set as they were. Executive Secretary Gomez echoed that land conservancy is very important and the Commission may add this area into the revenue allocations. However, including this area may require litigation which could delay the issuing of the license plate.

General Counsel Robinson stated the findings from the initial license plate allocation survey (1 having the highest interest):

1. Tribal cultural resource training for tribes, state agencies, and local governments.
2. Program to purchase conservation easements for cultural resources.
3. Paid internships for college students to work at the NAHC.
4. Compliance program to make sure Native American remains are reinterred where they were discovered and remain protected.
5. Modernize and update the Sacred Lands Inventory.
6. CEQA and AB52 training for tribal historic preservation staff and tribal cultural resources staff.
7. Legal clinics for law schools to provide legal services to tribes to help them protect their cultural resources.
8. Training program for Most Likely Descendants.
9. Fund to pay the conflict of interest fund.

General Counsel Robinson stated that all the training was grouped together in the presented allocations as training and that an allocation was added to actually run the license plate program. She also commented that CalNAGPRA is listed as the highest allocation because currently the Commission has the authority to enforce CalNAGPRA, however there is no funding for this program. In respect to the legal clinics, the Commission is attempting to leverage its resources so that tribes are able to be their own legal advocates. Ms. Robinson also noted that the purchase of land by the NAHC for tribes as land conservancies may be considered a gift of public funds.

Vice-Chairwoman Miranda commented that the State of California should fund CalNAGPRA and the burden of funding CalNAGPRA should not fall on the NAHC.

#### Bear Cuero, Viejas Community

Mr. Cuero commented that he agrees with Vice-Chairwoman Miranda that the State should fund CalNAGPRA. He also noted the bear is of significant cultural value to many tribes.

#### Steve Banegas, Kumeyaay Cultural Repatriation Committee

Mr. Banegas commented that if land conservancy was funded from the license plate revenue, then more tribes may be interested in purchasing license plates. He believes that if CalNAGPRA is funded instead of land conservancies, then the State of California is essentially let off the hook for not funding CalNAGPRA.

Courtney Coyle, Attorney

Ms. Coyle commented that she doesn't believe allocating the license plate fund revenue towards land conservancies is a gift of public funds. She also commented that if that were a gift of public funds, then giving the revenue to law clinics could also be seen as a gift of public funds. General Counsel Robinson stated that since it would be given to the universities through an interagency agreement, it would be transferred from government to government. Also, the funds would not be a gift because they would be used as a service to teach the students.

Ray Toran, Viejas Tribe

Mr. Toran asked if the Commission has projected a revenue estimate that the license plate would generate. General Counsel Robinson stated that it depends on the amount of license plates sold. Each plate would generate \$50 per plate. The first \$400,000 generated goes to the DMV for issuing the plate and all funds generated after that would go towards the agency issuing the plate. The "whale tail" license plate generates roughly between \$2,000,000 - \$3,000,000 per year. Mr. Toran also suggested that the NAHC seek out the cap and trade fund as a potential source of funding.

Chairman Ramos commented that historically the Commission staff has been reduced to only a few members and to keep that in mind when deciding the revenue allocation percentages. The Commission regularly gets tasked with more duties, but often does not receive the funding to carry out those duties. He also reminded the public that the allocation percentages were based on the survey that was carried out, not the decision of the Commission.

Parliamentarian Pagaling commented that the Commission may want to consider adding a social media presence as one of the destinations for the license plate revenue. Executive Secretary Gomez stated that the NAHC currently has Twitter as well as the website, but will keep social media in our minds as we move forward with the license plate project. General Counsel Robinson stated that the DMV controls the marketing for the license plate, however the Commission is working with the DMV to create a marketing page on the NAHC website as well.

Kristie Orosco, Kumeyaay Cultural Repatriation Committee

Ms. Orosco asked if there would be opportunities for tribes to obtain license plate revenue through grant submissions. Chairman Ramos stated that the sole recipient of the license plate revenues would be the NAHC.

Steven Newcomb

Mr. Newcomb noted the importance of keeping the horrific past of Native Americans in your mind when moving forward and making these types of decisions in the State of California.

Secretary Lopez-Keifer asked if land conservancy is added as a license plate revenue item, would the DMV have any influence on where the revenue is spent. General Counsel Robinson stated the DMV's only oversight is in the visual aspect of the license plate and actually receiving the upfront submission funds. The DMV will not have any input on the allocation of funds. However, Department of Finance (DOF) has oversight to make sure that the funds are being allotted for a legal purpose. All of the proposed allotments have been viewed by DOF and they have informally stated they do not have an issue with the proposed allotments.

Vice-Chairwoman Miranda commented that she recommends lowering the percentage of funds allocated towards CalNAGPRA implementation and moving those funds towards land conservancy. Chairman Ramos proposed lowering the CalNAGPRA allocation to 20% and shifting the additional 10% to land conservancy. Commissioner Lopez-Keifer echoed this allotment, however suggested shifting an additional 10% of revenue to land conservancy from legal clinics and intern programs.

A motion was made by Vice-Chairwoman Miranda and seconded by Commissioner Attebery to allocate the license plate revenue as follows:

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

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

2) Most Likely Descendent Regulations, Terrie L. Robinson, *General Counsel*, **Information Item**

General Counsel Robinson stated the Most Likely Descendent (MLD) regulations are still in the review process. We are currently answering many inquiries regarding the MLD regulations before our overseeing agency, the California Natural Resources Agency (CNRA), signs off on the regulations. CNRA signing off on our regulations is required before we submit the regulations to the Office of Administrative Law (OAL). These regulations are still on track to go out in 2017. She also wanted to remind the public that the Commission has approved an extended comment period and there will be a hearing for public input on the MLD regulations. General Counsel Robinson also wanted to remind the public that the Commission will respond to all comments that are not accepted in the regulations and the Commission will explain why these suggestions are not feasible.

**New Business:**

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

Chairman Ramos thanked the Kumeyaay people for hosting this Commission meeting in the Kumeyaay territory. He also encouraged Native people to reach out to their Tribal Councils to push cultural resources as part of their dialogue to help the efforts that are being put forth by the NAHC.

Vice-Chairwoman Miranda stated that an Assembly Bill 52 (AB52) training took place the day before that is an excellent resource for those seeking out information and clarity regarding AB52. This training was in addition to an AB52 training that took place three months prior. If you contact the NAHC they will be able to provide you a link to the webinar. She also encouraged the NAHC and all sister agencies to reach out to Southern California agencies to provide as much training as possible. Commissioner Attebery added that tribal communities should reach out to the Chairmen's Associations (Southern, Central, and Northern) and the tribes themselves to protect and preserve cultural resources.

Secretary Lopez-Keifer stated National Indian Justice Center (NIJC) recently reached out to tribes to provide them training materials for the issues they are in need of most. She encouraged tribes to reach out to the NIJC if they wish to receive this consultation toolkit.

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

Executive Secretary Gomez stated the Commission has submitted a Budget Change Proposal (BCP) to add three additional staff positions to the department. This BCP is tied into the authority to charge for Sacred Lands File searches, which will be addressed in New Business, item two. Executive Secretary Gomez stated that the Commission helped the Governor's Office of Planning and Research to facilitate consultations that helped form the technical advisory. The AB52 training that was held on July 20, 2017 will be available on the NAHC website. In the past quarter staff has received and completed 1,591 Sacred Lands File search requests. Staff also completed 196 searches regarding timber harvest projects. Staff has received 619 environmental documents and commented on 140 of those documents. There have been 17 inadvertent discoveries of human remains and Most Likely Descendants have been named for all of the reports. The Sacred Lands File currently contains 1,949 records and staff is currently reviewing all of the records for accuracy. The Commission has attended two meetings regarding the Bureau of Offshore Energy Management. The NAHC has undertaken management of the tribal directory, which was formerly under the Office of the Tribal Advisor. The Commission is also in the process of updating our computer system to PC's which will increase the security of the databases that the Commission maintains.

Parliamentarian Pagaling commented on the increasing number of fires in California. He also asked if the Commission is continuing to protect cultural resources in these hazard areas. Executive Secretary Gomez responded that the Commission has a contract with CalFIRE and is able to protect cultural resources in those hazardous areas.

3) NAHC Meeting Dates for 2017-2018, Cynthia Gomez, *Executive Secretary*, **Action Item**

Secretary Lopez-Keifer stated that the upcoming Commission meeting on October 20, 2017 will conflict with the Environmental Law Conference at Yosemite. Chairman Ramos stated that due to multiple scheduling conflicts it would likely be best to leave the meeting dates as presented and if a quorum is not met, hold the agenda items until January.

A motion was made Parliamentarian Pagaling and seconded by Commissioner McKay to accept the NAHC meeting dates for 2017-2018.

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

4) Resolution – Support for Placing Owens Lake on the National Register of Historic Resources, Terrie L. Robinson, *General Counsel*, **Action Item**

General Counsel Robinson stated the NAHC has been attending cultural resources taskforce meetings of the Los Angeles Department of Water and Power and Great Basin Air Control District. The NAHC has been attending to address the protection of cultural resources as these two parties work out mitigating the dust emissions that have resulted from Owens Lake being drained. The project is phased so that cultural resource evaluation is evaluated phase by phase. This leads to the impacts that may not be significant in one phase, however when viewing the project as a whole, the impacts to cultural resources may be significant. If Owens Lake is placed on the National Register of Historic Places, cultural resources would be more accurately evaluated on the entirety of the lake, as opposed to individual phases.

**Public Comment:**

Ann Piersall, Great Basin Unified Air Pollution Control District

Ms. Piersall stated that she has come to support a resolution to place Owens Lake on the National Register of Historic Places. Owens Lake held significant amounts of water until the Los Angeles Department of Water and Power began diverting water into the Los Angeles aqueduct. As a result of this, Owens Lake became one of the largest sources of uncontrolled particulate matter 10 (PM10) dust emissions in the country. PM10 is one of six criteria pollutants that are regulated under the Clean Air Act that is considered harmful to public health. Dust emissions in the Owens Lake area are no longer uncontrolled. Ms. Piersall stated that this is a big accomplishment for Owens Lake, however if it was placed on the National Register of Historic Places, it would be better positioned to address the impacts to cultural resources and air pollution.

Jennifer Mattox, California State Lands Commission

Ms. Mattox gave a brief background on the mission of the California State Lands Commission (CSLC). She then stated that the CSLC has jurisdiction through the Constitution, legislation, and the Public Trust Doctrine. Prior to drying up, Owens Lake was under CSLC jurisdiction due to the fact that this land used to be a navigable waterway. Ms. Mattox offered her support to nominate Owens Lake to the National Register of Historic Places. She wanted to echo General Counsel Robinson's statement that this would end any debate of whether or not the impacts regarding Owens Lake are significant.

Courtney Coyle, Attorney

Ms. Coyle pointed out the language used in the resolution often cited archaeological resources as opposed to cultural landscapes. She stated that if the language is not clear in the resolution, it could potentially cause issues in the future if these sites are being viewed as archaeological resources instead of cultural resources, as the two have different definitions.

Steve Newcomb

Mr. Newcomb commented that historically the Public Trust Doctrine has not respected the rights of the Native Indian people.

Jaime Vanenzuela, Los Angeles Department of Water and Power (LADWP)

Mr. Vanenzuela stated that he is in attendance today to persuade the public from nominating Owens Lake on the National Register of Historic Places. He stated that the Los Angeles Department of Water and Power has supported efforts to preserve archaeological, paleontological, and tribal cultural resources at Owens Lake. LADWP has consulted with multiple stakeholders to ensure all parties interests are considered, including tribes. In 2013, LADWP formed a cultural resource taskforce to ensure protection of areas that contain culturally significant resources. The taskforce contains five tribes from the area (Bishop Paiute Tribe, Big Pine Paiute Tribe of the Owens Valley, Fort Independence, Timba-sha Shoshone, and Lone Pine Paiute-Shoshone) surrounding Owens Lake and other agencies involved in the project. LADWP is legally bound to dust mitigation on Owens Lake and has concerns that this nomination may potentially affect LADWP's ability to operate and maintain regulatory compliance in strict time frames.

General Counsel Robinson stated that although Mr. Vanenzuela stated that the Lone Pine Paiute-Shoshone Tribe sits on the taskforce to protect Owens Lake, Kathy Bancroft, Tribal Historic Preservation Officer of the Lone Pine Paiute-Shoshone Tribe, is one of the leading proponents to nominate Owens Lake on the National Register of Historic Places. Chairman Ramos stated that the Commission has received letters of support to nominate Owens Lake from the local tribes surrounding the lake. Vice-Chairwoman Miranda commented that although LADWP is hiring monitors and having an archaeologist on site, there are many other criteria under CEQA that need to be met to make sure that this project is in compliance. She stated that a huge portion of CEQA compliance is evaluating the cultural resources to determine which categories they fall in under the law. Vice-Chairwoman Miranda also proposed stating that Owens Lake is being nominated because of the past and current tribal cultural values. She also proposed adding, "Whereas tribal cultural resources, cultural landscapes, and traditional cultural properties, such as Owens Lake, are places that are eligible for inclusion..." to the resolution.

A motion was made Parliamentarian Pagaling and seconded by Chairman Ramos to adopt the resolution with the changes and amendments presented by Vice-Chairwoman Miranda.

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

5) NAHC Strategic Plan, Cynthia Gomez, *Executive Secretary*, Terrie L. Robinson *General Counsel*, **Information Item**

Executive Secretary Gomez noted that Senate Bill 18 and Assembly Bill 52 have brought many changes since the last Strategic Plan for the NAHC. The Commission is going to begin drafting a new Strategic Plan and hopes to have a draft available for comments by the next Commission meeting.

6) Governor's Office of Planning and Research: Technical Advisory, Cynthia Gomez, *Executive Secretary*, Terrie L. Robinson, *General Counsel*, **Information Item**

Executive Secretary Gomez stated that the Governor's Office of Planning and Research published a Technical Advisory in June of 2017. This advisory contains guidance for AB52 matters. Ms. Gomez pointed out that on page four of the advisory, "substantial evidence" for tribal cultural resources is defined.

**Public Comment:**

Carmen Lucas

Ms. Lucas commented encouraging monitors to always keep the interest of the ancestors before any monetary gain. She stated that archaeologists do not write history and that attitudes need to be changed when viewing history. She also wanted to offer support for land conservancy.

Courtney Coyle

Ms. Coyle commended the Governor's Office of Planning and Research on publishing the technical advisory, however she encouraged everyone to create additional resources for guidance on AB52. Executive Secretary Gomez stated that additional information is available on the NAHC's website and the Commission is open to add additional information to the website.

- 7) Senate Bill 92 – NAHC Authority to Charge for Sacred Lands File Inventory Searches, Cynthia Gomez, *Executive Secretary*, **Information Item**

Executive Secretary Gomez stated that the Commission will be writing regulations for the authority to charge for Sacred Land File inventory searches. During the regulation process, all parties will have the opportunity to comment. This authority will provide the Commission with an additional revenue source.

**Public Comment:**

Steve Newcomb

Mr. Newcomb asked who would be charged the fee to complete a Sacred Lands File search. Executive Secretary Gomez responded stated that any agency requesting a search of the Sacred Lands File would be subject to the fee. She also stated that information discussed in tribal consultation regarding the Sacred Lands File would not be subject to the fee.

Secretary Lopez-Keifer asked if there was a time frame for when this fee would start being charged. Executive Secretary Gomez responded that there are currently 11 sets of regulations scheduled to be written. Currently the MLD regulations are being processed, however once they are complete, the next set of regulations will begin being written. Since authority to charge a fee will generate revenue, this will likely take priority over other regulations. Chairman Ramos asked if there is a particular destination for where the revenue will go. Executive Secretary Gomez commented that the Commission will have to go through the state process of requesting the revenue be spent for the purpose of the Commission, however there will be a special fund for the revenue generated by the fee.

- 8) UCLA/NAHC Tribal Cultural Resources Project, Cynthia Gomez, *Executive Secretary*, **Information Item**

Executive Secretary Gomez noted that many tribes reach out to the Commission for assistance in legal matters that does not fall under the authority of the Commission. This led to the Commission forming an agreement with the University of California, Los Angeles, to provide training materials for the laws that cover protecting cultural resources. This will add another resource for tribes that don't have an abundance of resources to protect their cultural resources. Vice-Chairwoman Miranda commented that although cultural resources must be seen through a legal perspective, the relationship aspect of the work is very important as well. General Counsel Robinson stated that the clinic will provide training for AB52, CEQA, Section 106, as well as other matters. The clinic will not oversee litigation.

**Public Comment:**

Brandon Linton, Kumeyaay Heritage Preservation Committee

Mr. Linton encouraged the Commission to not only view the positive impacts of AB52, but also to pay attention to the negative impacts of the Bill. The negative impacts it causes are nation to nation, specifically encroachment on tribal territory. He believes these issues should be discussed and would appreciate the Commission traveling to Kumeyaay territory to discuss these concerns. Mr. Linton also wanted to publicly state the issue of paleontology sites being reopened. He believes this is an issue that Native communities throughout the State should keep their eye on.

Courtney Coyle, Attorney



Ms. Coyle stated that she would like to see a Native American get a designated position on the State Historic Resources Commission. She believes that with the current Governor, now is the best opportunity to add a Native American to this position.

Steve Newcomb

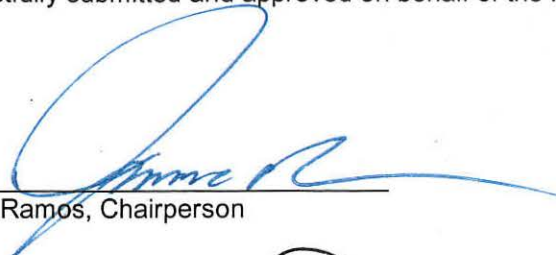
Mr. Newcomb commented that the terms "tribe" and "tribal" subconsciously place the original nations on a lower level than the current government. He stated that he was involved in documentary that was just released called The Doctrine of Discovery, which addresses this issue.

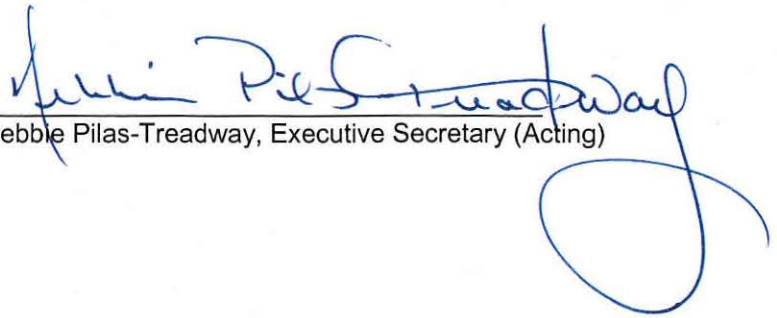
**Traditional Closing** - Steve Banegas, Spokesperson of the Kumeyaay Cultural Repatriation Committee, led the traditional closing with a prayer.

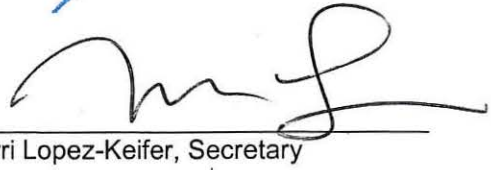
**Adjournment:**

The meeting was adjourned at 12:44 PM.

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

  
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James Ramos, Chairperson

  
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Debbie Pilas-Treadway, Executive Secretary (Acting)

  
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Merri Lopez-Keifer, Secretary