

CALIFORNIA NATIVE AMERICAN HERITAGE COMMISSION
Open Session Minutes

Third Quarterly Meeting
January 19, 2018
9:00 AM to 3:00 PM

Location: The Ziggurat Building, Auditorium
707 3rd Street
West Sacramento, CA 95605

Commissioners Present

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

Commissioners Absent

William Mungary, Chairman Emeritus
Marshall McKay

Staff Present

Debbie Treadway, Executive Secretary (Acting)
Terrie L. Robinson, General Counsel
Katy Sanchez, Associate Environmental Planner
Rob Wood, Associate Environmental Planner
Frank Lienert, Associate Governmental Program Analyst
Gayle Totton, Associate Governmental Program Analyst
Sharaya Souza, Staff Services Analyst
Steven Quinn, Staff Services Analyst
Nancy Gonzalez-Lopez, Office Assistant

Call to Order – Native American Heritage Commission:

- 1) Chairman Ramos called the meeting to order at 9:07 AM.
- 2) Roll Call – A quorum was established.
- 3) The Native American Heritage Commissioners, staff, and Attorney General's representative were introduced.

Closed Session

Call to Order – Public Session:

- 1) Traditional opening with a prayer.
- 2) Closed Session Report – James Ramos, *Chairman*, **Information Item**

A motion was made by Parliamentarian Pagaling and seconded by Secretary Lopez-Keifer to have the Attorney General write a letter to the Sheriff-Coroner of Los Angeles County to retrieve remains from John Tommy Rosas.

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

A motion was made by Parliamentarian Pagaling and seconded by Commissioner Myers to pursue litigation to resolve the John Tommy Rosas matter if not resolved in a timely matter.

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

3) Approval of Minutes – James Ramos, *Chairman*, **Action Item**

A motion was made by Secretary Lopez-Keifer and seconded by Commissioner Myers to approve the minutes from October 20, 2017 (open and closed sessions).

Ayes: 4; Nays: 0; Abstained: 3
The motion was passed.

Old Business:

1) Special Interest License Plate Project, Terrie L. Robinson, *General Counsel*, **Information Item**

Ms. Robinson informed the Commission that the NAHC acquired the image rights for the NAHC license plate. A website is currently under development and a graphic designer is working on printing materials that will go to the DMV and the CHP for approval. There is a minimum requirement of 7,500 license plate requests needed for the plate to be issued. The NAHC's goal is to launch the license plate subscription campaign by April 2018. Ms. Robinson concluded her report by thanking Samantha Cypret for her hard work on the Special Interest License Plate Project and thanked the Tribal Council of the Yocha Dehe Wintun Nation for agreeing to outfit their entire vehicle fleet with the NAHC license plate.

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

Ms. Robinson announced that the Most Likely Descendant Regulations were to be sent out to the California Natural Resources Agency the following week.

3) UCLA/NAHC Tribal Cultural Resources Project, Terrie L. Robinson, *General Counsel*, **Information Item**

Ms. Robinson reported that UCLA students are working on a project to create AB 52 protocols and templates under the guidance of Professor Bill Wood. Students are currently conducting outreach activities with tribes in the Los Angeles and Owens Valley areas. She concluded that there will be a progress update to report at the next Commission meeting.

4) Annual Report, Debbie Pilas-Treadway, *Executive Secretary (Acting)*, **Information Item**

Vice Chairwoman Miranda announced that the Annual Report would be tabled until the April 6, 2018 Commission Meeting.

5) Strategic Plan, Terrie L. Robinson, *General Counsel*, **Action Item**

Ms. Robinson reported that the Commission voted to circulate the Draft Five-Year Strategic Plan for public comment and tribal consultation at the October 20, 2017 NAHC Meeting. As of December 15, 2017, the end of the tribal consultation period, there were no tribal consultation requests made nor public comments received. Since then, NAHC staff have made revisions to the draft, the most significant being the recommendation of the Commission to be sufficiently staffed to carry out its statutory duties.

A motion was made by Secretary Lopez-Keifer and seconded by Commissioner Tumamait-Stenslie to approve the second draft of the Five-Year Strategic Plan.

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

Public Comment:

Donna Miranda-Begay, Tubatulabal Tribe Member

Ms. Miranda-Begay stated that the NAHC Five-Year Strategic Plan would require more than 2.1 million dollars to achieve the priorities stated. She urged the NAHC to call on Governor Jerry Brown, the Department of Finance, and individuals at the executive level for more funding. She called for the establishment of a Native American Heritage Foundation that could potentially receive donations and funding, as well as aid in the creation of a California Native American Museum. Ms. Miranda-Begay ended her speech by giving 2017 Native American Day bandanas to the Commissioners.

New Business:

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

Secretary Lopez-Keifer reported that she has been asked to participate in a panel at the Southern California Archaeology Association Conference held in March that deals with creative solutions for mitigation measures. She has also been asked to participate in a panel titled, "The Sovereign Next Door" at the League of California Cities City Attorneys' Spring Conference.

2) Executive Secretary's Report, Debbie Pilas-Treadway, *Executive Secretary (Acting)*, **Information Item**

Acting Executive Secretary Pilas-Treadway reported that during this quarter, staff processed 1,185 CEQA project requests that yielded 4,266 Sacred Lands File searches. There have been 222 timber harvest projects processed that required staff to conduct 369 searches of the Sacred Lands File. There have been 107 AB 52 requests and 74 SB 18 requests. Staff reviewed 647 CEQA environmental documents of which 95 required responses. There have been a total of 10 MLD designations by staff, and staff have consulted with 6 tribal governments regarding either sacred sites or meeting the criteria for inclusion on the Tribal Consultation List and MLD regulations.

Staff completed the initial analysis of the Sacred Lands File and are currently working on the Tribal Directory with the Department of Technology. The Department of Technology has completed the construction of the Tribal Database for the Directory. The Directory will include federally recognized tribes. Staff are currently working on gathering and entering data for non-federally recognized tribes.

The Office Assistant recruitment was concluded and the position was filled by Nancy Gonzalez-Lopez. Ms. Gonzalez-Lopez holds a Bachelor's degree in Anthropology from California State University, Sacramento.

Acting Executive Secretary Pilas-Treadway reported that the Legal Department was notified of a voluntary CalNAGPRA repatriation between Palomar College and San Luis Rey Band of Mission Indians. She stated that the Legal Department was involved in mediating and providing guidance to the United Auburn Indian Community as well as Caltrans with compliance with Public Resources Code Section 5097.98 with respect to the Interstate 80 State Road 65 Expansion Project.

There has been a resolution regarding the Morro Rock cultural affiliation dispute. Dr. Wendy Teeter concluded that both Salinan and Chumash people are culturally affiliated to Morro Rock. Interested tribes were given until March 2018 to challenge Dr. Teeter's findings and seek resolution from the Commission.

Four legislative bills affecting or concerning the Commission were signed into law, including AB 339, AB 738, SB 809, and SB 5 respectively. Ms. Robinson commented that SB 5 might be of interest to tribes, as tribes that are on the Tribal Contact List maintained by the Commission can apply for grants under the California Drought Water Parks Climate Coastal Protection and Outdoor Access for All of 2018 Act. She mentioned that another part of SB 5 that may interest tribes is The State Conservancy Wildlife Conservation Board and Authority Funding. Grants will be available next year.

3) April Commission Meeting Date, Debbie Pilas-Treadway, *Executive Secretary (Acting)*, **Information Item**

Acting Executive Secretary Pilas-Treadway noted that there was a conflict with the original April 20, 2018 Commission Meeting, and the proposed alternate date is now April 6, 2018. The location is to be determined as the meeting may be held in Owens Valley.

4) CalNAGPRA Request (United Auburn Indian Community and University of California, Davis), Terrie L. Robinson, *General Counsel*, **Action Item**

At the October 2017 NAHC Meeting, the Commission received a request from the United Auburn Indian Community (UAIC) regarding an ongoing NAGPRA repatriation process with UC Davis pertaining to materials acquired during the construction of Auburn Dam. Originally listed as an Informational Item, a memo was released to the public and interested parties announcing the change from Informational Item to Action Item at the request of UAIC. Chairman Whitehouse of UAIC sent a letter requesting that the Commission invoke section 8016 of the Health and Safety Code to initiate CalNAGPRA mediation. Chairman Whitehouse listed three main concerns that he would like for the Commission to intervene in regarding the NAGPRA inventory process: 1.) The authority to identify cultural items; 2.) The excessive handling of ancestors and cultural items; and 3.) The preparation of a NAGPRA summary for sacred objects and unassociated funerary objects to be repatriated. General Counsel Robinson concluded that in her research she did not find any statutory or regulatory prescription on the kinds of examinations that can be done with an inventory.

A motion was made by Vice Chairwoman Miranda and seconded by Commissioner Attebery for the Commission to correspond with UC Davis and ask that they acknowledge and comply with CalNAGPRA.

Ayes: 7; Nays: 0; Abstained: 0

The motion was carried unanimously.

Public Comment:

Gabe Cayton, Tribal Council Member, United Auburn Indian Community

Mr. Cayton stated that he spoke to the Commission last October asking for repatriation assistance. The United Auburn Indian Community filed two claims, one under NAGPRA and another under CalNAGPRA respectively. UC Davis has started an inventory under the NAGPRA claim. The UAIC believes that there is a dispute under CalNAGPRA Section 8016 of the Health and Safety Code and is requesting that the Commission notify the affected parties that a dispute has arisen in relation to the repatriation process.

Matthew Moore, Tribal Historic Preservation Officer, United Auburn Indian Community

Mr. Moore stated that in December of 2017, UC Davis determined the ancestors and cultural items in the Auburn Dam to be culturally affiliated with the Buena Vista Rancheria of Miwok Indians, Lone Band of Miwok Indians, Jackson Rancheria, Shingles Springs Band of Miwok Indians, United Auburn Indian Community, and Wilton Rancheria. UC Davis committed to the submission of an inventory in April 2018 and notified UAIC that they had until the end of January 2018 to review draft inventories before they were submitted to the National NAGPRA. Mr. Moore stated that this inventory failed to identify all funerary objects and therefore those objects would not be repatriated. UAIC sent a letter that requested mediation and urged the Commission to act before the inventory was submitted and published.

Melodi McAdams, Cultural Resources Supervisor, United Auburn Indian Community

Ms. McAdams referred to the UAIC's July 17, 2018 letter to the Commission in which the UAIC sought to use multiple categories to identify funerary and sacred objects. UC Davis rejected these categories as inadequate and provided no further explanation as to why those categories were rejected. This issue has not been taken up with the National NAGPRA Review Committee and UC Davis has yet to resolve the issue of ownership because many objects were taken from private property. Ms. Robinson stated that it would be unlikely for the Commission to have jurisdiction over the Bureau of Reclamation even if the Commission were to proceed under CalNAGPRA.

Brian Guth, Tribal Attorney, United Auburn Indian Community

Mr. Guth stated that the Commission's involvement with invoking the CalNAGPRA process was essential to prevent further delays in repatriation by UC Davis.

Donna Miranda-Begay, Tubatulabal Tribe

Ms. Miranda-Begay commented about her personal involvement in the establishment of the NAGPRA program at California State University, Sacramento. She urged the establishment of such programs at universities throughout California in order to hold universities accountable in complying with NAGPRA. Her tribe has had five successful repatriations and two are pending with the Smithsonian.

- 5) Owens Lake – Request for Investigation and Public Hearing Under Public Resources Code 5097.9, 5097.94(g), and 5097.97, Terrie L. Robinson, *General Counsel*, **Action Item**

Ms. Robinson stated that to meet emission standards for dust on Owens Lake, the Los Angeles Department of Water and Power (LADWP) took dust mitigation measures that damaged 30 cairns in the area. LADWP had implied that those cairns would not be damaged during the dust mitigation measures and the tribes were told there would be a buffer around them. The Big Pine and Lone Pine Tribes have asked the Commission to initiate an investigation under Public Resources Code 5097.9, 5097.94(g), and 5097.97.

A motion was made by Secretary Lopez-Keifer and seconded by Parliamentarian Pagaling to direct the NAHC staff to commence in the investigation and hearing under California Public Resources Code Section 5097.94(g) and 5097.97 in relation to the Los Angeles Department of Water and Power's lease in Owens Lake.

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

Public Comment:

Julie Riley, Deputy City Attorney, City of Los Angeles

Ms. Riley stated that for the last 20 years her client, the City of Los Angeles, has been conducting dust mitigation measures at Owens Lake under the direction of the Great Basin Unified Air Pollution Control District (GBUAPCD). The LADWP has three options to control the dust: plant and manage vegetation, create shallow flooding ponds, or put gravel down. The California State Lands Commission has been an important agency in this process as it has the ability to grant or deny leases to the City of Los Angeles to conduct their dust mitigation measures. Presently it has granted leases for about 48 square miles of the land on Owens Lake and there are an additional 4.8 square miles that may be mitigated in the future. Ms. Riley stated that another agency to consult with regarding this investigation would be The Great Basin Unified Air Pollution Control District, as they impose which mitigation measures must be taken and where they are needed. Commissioner Attebery asked Ms. Riley about LADWP's role in taking responsibility for the air pollution in that area. Ms. Riley responded that Health and Safety Code 42316 requires the City of Los Angeles to pay for the mitigation and air regulator costs at Owens Lake.

Jennifer Mattox, Tribal Liaison, California State Lands Commission

Ms. Mattox stated that the State Lands Commission issued its first 20-year lease to the Los Angeles Department of Water and Power (LADWP) in 1999 for their dust mitigation activities ordered by the Great Basin Unified Air Pollution Control District (GBUAPCD). She informed the Commission that this lease will expire in April 2019. She stated that although the mitigation efforts are being conducted on land owned by the States Land Commission in the project proponent is under US EPA air quality orders and their 3-member Commission is limited in what it can do in denying a lease request under those orders. She stated that she came before the Commission last summer with her support for an archaeological district nomination for Owens Lake. Ms. Mattox expressed support from staff at the State Lands Commission for its recognition as a cultural resource and sacred site.

Donna Miranda-Begay, Tubatulabal Tribe Member

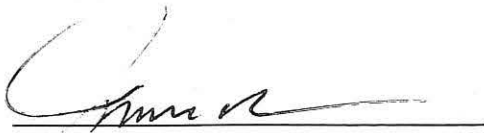
Ms. Miranda-Begay stated that under the permission of the Tubatulabal Tribe Chairman Robert Gomez, she would be speaking on behalf of her tribe. The Tubatulabal Tribe supports the efforts from other tribes regarding the protection of Owens Lake, especially the east side, which holds cultural value. Ms. Miranda-Begay stated that the

Water Board issued a resolution that states tribes have a right to cultural access to bodies of water. She expressed the importance of this resolution being recognized by the LADWP, as it is part of regional water planning in California.

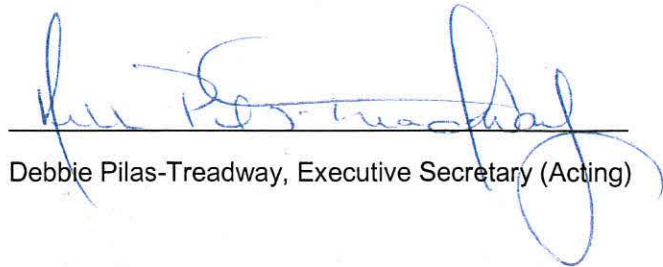
Adjournment:

Vice-Chairwoman Miranda adjourned the meeting at 3:04 PM.

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



James Ramos, Chairman



Debbie Pilas-Treadway, Executive Secretary (Acting)



Merri Lopez-Keifer, Secretary