



NATIVE AMERICAN HERITAGE COMMISSION

MOST LIKELY DESCENDANT REGULATIONS UPDATE

July 2020

Native American Heritage Commission (NAHC) Staff released the Draft MLD Regulations to an additional round of tribal consultation with a soft deadline in January 2020. The NAHC received approximately ten (10) tribal comments in response.

Consultation responses included comments concerning the following:

- Appropriate dignity and culturally appropriate treatment
- Inclusion of tribal values, customs or traditions when determining whether an item has been intentionally placed or buried with Native American remains
- Context around the terms "burial" or "burial site"
- Definition of "California Native American tribe"
- Evidence that may be used to substantiate cultural affiliation
- Appropriate distance considerations for buffer zones for reinterred remains when there are future digging activities
- Cultural or archaeological standards or practices
- Practices considered to be destructive to human remains
- Inclusion of burial items and soils in reinterment
- Identification and selection of Most Likely Descendants and joint versus rotating designations
- Timing and appropriateness of consultation
- Repatriation as an alternative to reinterment
- Appropriateness and/or authority of imposing ethical obligations on Most Likely Descendants

NAHC's Attorney General Representative, John Appelbaum, has performed extensive review of consultation responses and has completed legal analysis, responses, recommendations and proposed redlines to the Draft MLD Regulations in collaboration with NAHC Staff. Recommendations and analysis will be presented to the MLD Subcommittee for review and comment before presenting to full Commission in January 2021.