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## NATIVE AMERICAN HERITAGE COMMISSION

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### EXECUTIVE SECRETARY REPORT

*February 2021*

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#### I. COVID-19

##### A. Office Operations

The Native American Heritage Commission (NAHC) office is currently operating in a limited capacity as a precautionary measure in light of COVID-19. While the public desk for the office is currently open, we ask that members of the public limit visitation to protect the safety of NAHC staff.

The NAHC remains open for business and staff are available by email and regular mail. Because our office has transitioned to full telework for the duration of this emergency event, there may be some delay as staff work to respond to all requests in a timely manner.

The NAHC has mission tasked one staff member to the State's COVID-19 contact tracing efforts.

##### B. State Operations

The agency is part of the California Natural Resources Agency COVID-19 taskforce. In this capacity, the agency attends and weighs in on regular meetings on addressing the challenges COVID-19 has placed on staffing and operations.

The California Department of Public Health continues to modify public health guidance regarding COVID-19 in the workplace; as a state agency, the NAHC continues to implement and incorporate this guidance into its practices.

##### C. Tribal COVID-19 Resources

The Office of the Tribal Advisor has compiled tribal COVID-19 resources, including forms for testing needs and guidelines documents, on the Tribal Advisor website at <https://tribalaffairs.ca.gov/covid-19/>.

## II. Budget

The State has implemented 5% across the board cuts to all funds to address the budget impacts related to the COVID-19 pandemic. How these cuts are determined is based on department plans that are submitted to the Department of Finance. In addition, only essential and mission critical travel is permitted at this time. The NAHC has implemented a 5% cut from unspent travel and contracting costs.

As part of the State's costs savings plan, all State employees received a salary reduction, which was reflected in salaries starting August 2020. The terms of salary reduction depend on the bargaining unit for each employee.

## III. Staffing and Recruitment

### A. Reorganization

In 2018, the Department of Finance requested that the NAHC produce a budget change proposal that would achieve capacity for the NAHC to fully staff all statutory functions. In response to this request, the NAHC submitted a budget change proposal to the Department of Finance that reflected the staffing plan included in the NAHC's Strategic Plan document.

As a reminder, until 2015, the NAHC never had more than five staff members at any point in its history despite its broad statewide jurisdiction over Native American cultural resources and Native American access to public lands for religious and ceremonial purposes. And, under Executive Secretary Cynthia Gomez, the NAHC was able to successfully augment staff in 2015 to better meet increased demands on the agency from the passage of AB 52.

Per the Strategic Plan, the NAHC lacked sufficient staff hours to attend to dormant internal functions and processes that are not as mission critical as identifying Most Likely Descendants, conducting Sacred Lands Inventory searches, providing tribal consultation lists, and commenting on environmental documents. And, at the time the Strategic Plan was adopted in January 2018, all of the Commission's staff, with the exceptions of the Chief Counsel, one retired annuitant, and one Associate Governmental Program Analyst, were programmatic staff, dedicated to maintaining the ongoing day-to-day critical functions of the NAHC.

Some of the programmatic staff also carried out administrative functions in conjunction with accounting and human resources staff from the State Lands Commission, with which the Commission contracts for human resources and accounting services, and with information technology staff from the Natural Resources Agency and the Office of Technology, with which the Commission contracts for information technology services. However, tasking programmatic staff with administrative functions has impacted their ability to carry out their day-to-day critical functions.

The staffing plan included in the NAHC's Strategic Plan document intended to address these issues and augment staffing capacity to take on dormant internal functions so that the NAHC could achieve capacity to be more responsive to needs and opportunities beyond day-to-day critical functions. The Strategic Plan includes a proposal that demonstrates what the NAHC would likely need to be staffed at a level sufficient to carry out all of its statutory duties and powers. (See Section V(B) of the 2018 Strategic Plan).

The NAHC submitted this proposal to the Department of Finance at its request and was granted almost all positions and budget requested in FY 2018/19. NAHC Staff has been diligently working to ensure these positions are filled in order to achieve full capacity to be responsive to the NAHC's legal mandates and additional opportunities as they become available.

A copy of the current NAHC organization chart, with positions in process of being established will be provided in the April 2021 Executive Secretary Report.

B. New Hires

Conner Mulligan, Associate Governmental Program Analyst, Business Services Liaison, started working with the NAHC on December 14, 2020. Conner's portfolio includes office management, procurement, contract management and overseeing business services for the agency.

C. Current Job Openings

The NAHC has no open recruitments at this time, but currently in the process of working with human resources to establish and recruit for remaining openings.

D. Staff Departures

Steven Quinn, Cultural Resource Analyst, left the agency December 1, 2021 for a promotion at a sister agency.

Samantha Cypret, Investigations Manager and Special Assistant to the General Counsel, left the agency February 28, 2021 for a position with Wilton Rancheria.

E. Human Resources Matters in Process

NAHC Staff is in ongoing meetings with the State Lands Commission Human Resources Department regarding establishment and recruitment of additional positions and various personnel action requests. The following positions are in process with human resources now.

Associate Governmental Program Analyst - Human Resources Liaison Analyst.

Interviews for this position were held in December. The NAHC extended an offer and the candidate accepted with a start date of March 8, 2021.

Attorney - CalNAGPRA. The recruitment for this position was posted on September 23, 2020. Interviews were conducted January 2021. Hiring discussions are currently in process.

Legal Analyst – Enforcement. The materials to establish this position are currently under human resources review. Interviews were conducted in January 2021. Hiring discussions are currently in process.

Legal Analyst – CalNAGPRA. The materials to establish this position are currently under human resources review.

Chief Counsel. The NAHC is currently in the process of establishing this position with CalHR.

#### **IV. Internal Processes & Procedures**

Pursuant to the NAHC's Strategic Plan, the NAHC continues to develop internal processes and procedures to ensure long-term capacity without disruption of services.

The NAHC's senior staff members—Debbie Treadway, Katy Sanchez, and Rob Wood—have decades of experience working with tribes, agencies, developers, planners, and landowners to enforce the laws under the Commission's authority. Their ability to identify Most Likely Descendants promptly and with few, if any, disputes, is due to the depth of their experience and the respect that tribes and stakeholders have for their expertise.

To memorialize the working knowledge of long-term staff members and commissioners, the NAHC has been actively drafting detailed internal policies, procedures and documents detailing the historical context and current practices performed by staff to maintain critical functions.

#### **V. Critical Functions**

##### **A. Sacred Lands File Requests**

- Staff has processed 1281 CEQA project requests. Those project requests required staff to conduct 50,042 searches of the Sacred Lands file.
- Staff has processed 226 Timber Harvest project requests. Those project requests required staff to conduct 804 searches of the Sacred Lands file.

##### **B. AB 52 Requests**

- Staff has processed and responded to 172 AB 52 requests.

##### **C. SB 18 Requests**

- Staff has processed and responded to 73 SB 18 requests.

#### D. CEQA Environmental Documents

- NAHC received 454 CEQA environmental documents from the California State Clearinghouse to review, analyze, and file comment when needed. These documents include Negative Declarations, Mitigated Negative Declarations, Draft Environmental Impact Reports, and Notice of Preparations.
- Staff filed comments of concern to 92 of those CEQA projects.

#### E. Most Likely Descendant Designations

- In accordance with California State law, the County Coroner's office reported 14 inadvertent discoveries of Native American human remains to the NAHC.
- 14 MLD designations were made utilizing various resources such as: MLD database register, information submitted by tribal governments and various scholar references.

#### F. Tribal Consultation

- Staff has conducted 19 tribal consultations.

#### G. Sacred Lands File

- 0 new records were added to the Sacred Lands File.
- The Sacred Lands File contains a total of 2020 records.

#### H. NALIS

- Staff updated 4 tribal records on the NALIS database system.
- Update on Tribal maps of geographic area of tribal traditional and cultural territory maps as determined and submitted by tribes. Edits and approvals have been somewhat delayed from tribes due to COVID-19.
  - Staff has generated 49 maps and sent to Tribes for edits and/or approval.
  - Staff received 6 edits to revise.
  - Staff received 6 approved maps to upload into the database.
  - A cumulative total of 55 maps have been approved by tribes.
- Staff attends ongoing meetings with Resources Agency: 1) to update searchable features to provide more in-depth reports; 2) various database problems.

## I. Regulations

Staff were assigned to assist with the development of regulations in May 2019.

- *Most Likely Descendant (MLD)*- Regulation Development – Preliminary Activities
  - Staff submitted a report to the NAHC's MLD subcommittee.
- *Sacred Lands File* - Regulation Development – Preliminary Activities
  - Draft completed by staff.
  - Internal review in process – Delayed due to COVID-19.
- *SB 18 List* - Regulation Development – Preliminary Activities
  - Staff are currently evaluating if this should be included with the MLD regs since tribes are required to meet the SB 18 criteria to be included as an MLD.
- *Sacred Lands File Fees* - Regulation Development – Preliminary Activities
  - Draft completed by staff.
  - Internal review in process – Delayed due to COVID-19.
  - Follow up with Accounting to incorporate proper accounting procedures and equipment for NAHC to receive fees – Delayed due to COVID-19.

## J. Administrative

- Various meeting with State Lands Commission Accounting and Budgets regarding 2019 – 2020 FY expenditures, contracts, and budget projections.
- Meetings with the Department of General Services, Real Estate Division, the current Property Manager, and State Lands Commission regarding increasing current office space to accommodate additional positions.
  - Evaluated and assigned one staff member to the *California Connected COVID-19 Contact Tracing Program* for a six-month deployment per directive. This deployment has been extended through June 2021.
- Attended California Natural Resources Agency COVID-19 taskforce meetings.

- Implemented California Department of Public Health Guidance regarding COVID-19 in the workplace.
- Participated in various required budget drills to California Natural Resources Agency to be submitted to the Department of Finance.

## **VI. UC Native American Cultural Affiliation and Repatriation Interim Policy**

On July 27, 2020, the University of California Office of the President issued the UC Native American Cultural Affiliation and Repatriation Interim Policy. Former President Napolitano issued this policy as interim in order to allow tribes that have not been able to review due to the COVID-19 pandemic additional time to comment, while at the same time, going forward with a significantly improved process of repatriation. The University had previously expressed that it would issue a final updated policy on or about December 31, 2020, the University has extended the timeline for additional public comment to allow additional time to incorporate the AB 275 amendments to the California Native American Graves and Repatriation Act (CalNAGPRA).

Further written comments or requests for consultation on the policy can be submitted to [RPAC@ucop.edu](mailto:RPAC@ucop.edu). More information is available [here](#).

The UC has requested that the NAHC provide nominations for AB 2836 committees. Staff has discussed next steps with the Subcommittee and has received nominations from several candidates. The nominations process and further details are available [here](#).

## **VII. Statue Removals and Name Changes**

The State is currently in the process of inventorying and addressing problematic figures and names within State-owned spaces. These changes are also taking place across several sectors and jurisdictions outside of the Administration's authority, including in privately-owned properties and in areas under the purview of the Legislature. On February 12, 2021, NAHC Staff submitted a letter to the Legislature at the Commission's direction requesting that the Commission (i) be noticed and/or consulted regarding removals or impacts to statues or monuments that could be of tribal interest and (ii) be consulted regarding the commissioning and installation of any new art or statutes for the Capitol and its grounds.

## **VIII. Commissioner Emails**

As a reminder, NAHC Staff will no longer be using personal emails to distribute NAHC communications to commissioners. Please check your NAHC email periodically or set up email forwarding to ensure that you are receiving the most up to date information.

**IX. Tribal Opportunities**

Tribal-State Meetings, Consultations and Events. The Office of the Tribal Advisor now publishes information on tribal-state meetings, consultations and events. More information is available [here](#).

California State Grants Portal. The [California Grants Portal](#) has launched. All new state-administered grant and loan opportunities offered on a competitive or first-come basis will be posted at the portal.

