

**CALIFORNIA NATIVE AMERICAN HERITAGE COMMISSION**

**Open Session Minutes**

**Third Quarterly Meeting**

January 20, 2017

9:00 AM to 1:00 PM

**Location:** Ziggurat Building Auditorium

707 3rd Street

West Sacramento, CA 95605

**Commissioners Present**

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

**Staff Present**

Cynthia Gomez, Executive Secretary  
Terrie L. Robinson, General Counsel  
Debbie Pilas-Treadway, Environmental Scientist  
Frank Lienert, Associate Governmental Program Analyst  
Gayle Totton, Associate Governmental Program Analyst  
Samantha Cypret, Staff Services Analyst  
Sharaya Souza, Staff Services Analyst  
Lariza Barcena, Office Technician  
Steven Quinn, Office Assistant

**Commissioners Absent**

William Mungary, Chairperson Emeritus

**Call to Order: Public Session**

- 1) Chairperson Ramos called the meeting to order at 9:21 AM. A quorum was established.
- 2) Roll Call - All Commissioners were present, with the exception of Commissioner Mungary.
- 3) The Native American Heritage Commissioners and staff were introduced.
- 4) Commissioner Ramos convened Closed Session at 9:27 AM.

**Closed Session**

**Call to Order – Public Session:**

- 1) Closed Session Report – James Ramos, Chairperson, **Information Item**

Item 1: On October 21, 2016, the Commission voted to authorize Deputy Attorney General John Appelbaum to propose settlement terms to this matter, that if accepted, would constitute a settlement on behalf of the Commission. Those terms were accepted by Inyo County and the parties reached a settlement and stipulated to a dismissal of the litigation.

Item 2: On October 21, 2016 the Commission voted to authorize Deputy Attorney General John Appelbaum to propose settlement terms to this matter, that if accepted, would constitute a settlement on behalf of the

Commission. Those terms were accepted by the Foothill Eastern Transportation Corridor Agency. The Parties reached a settlement and stipulated to a dismissal of the litigation.

2) Approval of minutes – James Ramos, Chairperson, **Action Item**

A motion was made by Commissioner McKay and seconded by Vice-Chairperson Miranda to approve the following open and closed session minutes:

October 21, 2016; October 21, 2016 – Closed Session

Ayes: 7; Nays: 0; Abstained: 0

The motion was carried unanimously.

\*Commissioner Pagaling was absent for this vote.

**Old Business:**

1) Statement of Incompatible Activities, Terrie L. Robinson, General Counsel, **Action Item**

On October 21<sup>st</sup>, 2016 the Commission approved for distribution comments and tribal consultation of the proposed Statement of Incompatible Activities and a supporting statement of rationale. The proposed Statement of Incompatible Activities was distributed on November 10, 2016 and the comment period ended on December 30, 2016. One comment was received, which was from Ms. Robinson. Ms. Robinson's comment proposed an amendment that would allow legal department staff, as well as law student interns, to be able to use the resources of the agency to draft law review articles that are in the best interest of the agency. Ms. Robinson added this comment to the Statement of Incompatible Activities. In the distribution of this comment there was inadvertent communication between the Commissioners prior to this public meeting. In order to cure this discussion, all emails that were sent before the Commissioners were included in the proposed Statement of Incompatibilities to allow for the public to comment.

A motion was made by Commissioner McKay and seconded by Commissioner Attebery to accept the Statement of Incompatible Activities.

Ayes: 7; Nays: 0; Abstained; 0

The motion was carried unanimously.

\*Commissioner Pagaling was absent for this vote.

**New Business:**

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

Chairperson Ramos stated that with the settlements going on it shows the workability of the Commission to move forward and bring resolve to what we've been entrusted to oversee, which is protecting the cultural resources of the Californian Indian people.

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 been engaged in over the last quarter. Ms. Gomez also spoke on the legal matters that have been settled in favor of the NAHC. These legal matters included: the Inyo County Case, the Foothill Eastern Transportation Corridor Agency Case, and the Sutter Butte Flood Control Agency matter.

Ms. Gomez also spoke on the Sacramento Flood Control Agency engaging in consultation with United Auburn Indian Community as a result of staff being able to comment on a draft environmental impact report from July 2015. These comments were in regards to the Sacramento River East Levee and the Lower American River and Related Flood Improvement Project. The NAHC was listed as a mediator to any future disputes between the United Auburn Indian Community and the Sacramento Flood Control Agency regarding associated grave goods as a result of these comments.

The NAHC General Counsel as well as the United Auburn Indian Community was able to attend a public meeting regard the Yuba Goldfields 200-year Flood Protection Project. Together they objected the certification of the environmental impact report on the grounds that the tribal consultation and the cultural resources assessment were insufficient. This objection led to an agreement between the United Auburn Indian Community and the Three Rivers Levee Improvement Authority, so that mitigation measures would take place regarding tribal cultural resources.

The Commission, at the request of the San Luis Rey Band of Mission Indians, was able to comment on a draft environmental impact report in the city of Carlsbad. These comments were made because this project would disinter known Native American remains. These comments led to the project being redesigned to avoid disinterment of remains.

The NAHC has given multiple presentations over the last quarter, including: a joint presentation with the Governor's Office of Planning and Research to the High Speed Rail Authority on AB52, a presentation to the Los Angeles Department of Water and Power Great Basin Air Quality District Cultural Resources Task Force titled "The Native American Heritage Commission and it's Role in Implementing AB52", multiple presentations at the American Planning Association's California Conference titled "Tribal Cultural Resources and CEQA Roundtable: Time to Get Ready for AB52" and "Tribal Consultation 101: Practical Approaches to Successful Tribal Consultation from Local and Tribal Governmental Perspectives", a public hearing titled "AB52 Basics and Best Practices", and a presentation at the Continuing Legal Education Conference in San Francisco, which was titled "AB52 Tribal Consultation Revisited: Implementation Update and Best Practices".

The NAHC is also working on a proposed tribal cultural resoures law clinic. The NAHC has submitted the proposals to the Law Schools of UC Irvine, UCLA, and Hastings. These law clinics would train law students in CEQA, SB18, and the environmental review process. The programs would also teach tribes how to negotiate conditions of approval in the environmental review process and advocate on behalf of the tribes in this review process. The clinics would also train tribal members on the required processes of seeking repatriation of their ancestors remains under NAGRPA and CalNAGPRA.

The NAHC staff has also continued to update NALIS (Native American Lands Information System), which is our database that tracks the territory of tribes. Staff uses NALIS to complete Sacred Lands File searches to conform with AB52 and SB18. In the last quarter our staff received and completed 1,332 requests for Sacred Lands File Searches. Staff also processed 104 requests for tribal consultation lists. Staff received 3,331 environmental documents to be reviewed, however staff did not have the capacity to review all environmental documents. Staff prioritized these documents by location to cultural resources then reviewed and responded to 1,331 of the environmental documents. Staff sent out a total of 1,652 letters over the last quarter, some of these letters contained multiple responses for varying requests.

Ms. Gomez closed the Executive Secretary's report by welcoming former staff member Rob Wood back to the NAHC as a volunteer.

- 3) Statewide Historic Preservation Plan, Julianne Polanco, State Historic Preservation Officer, Jenan Saunders, Deputy State Historic Preservation Office, **Information Item**
- 4) Initiation of Rulemaking, Most Likely Descendant Regulations and Definitions Regulations, Terrie L. Robinson, General Counsel, **Action Item**

Ms. Robinson opened by clarifying that this action item is for the Commission to consider authorizing the general counsel to propose draft regulations for the Most Likely Descendent identification process and also for general provisions that would include definitions necessary for the interpretation, implementation or specification of statutes that are currently enforced by the Commission.

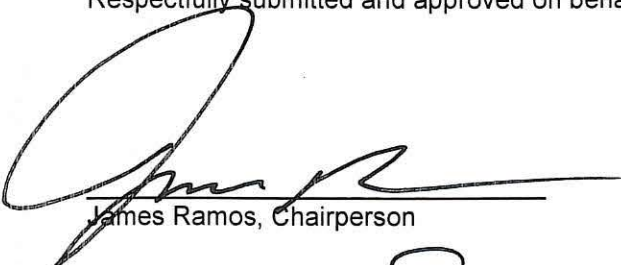
Shortly after October, 2014 staff was directed to take pre-notice public hearings in which the public was able to comment on what should be in the draft proposed regulations. The Commission held ten of theser public hearings . The comments gathered from these meetings were then sent to the MLD subcommittee.

**Public Comment:**

**Adjournment:**

- The meeting was adjourned at 11:47 AM.

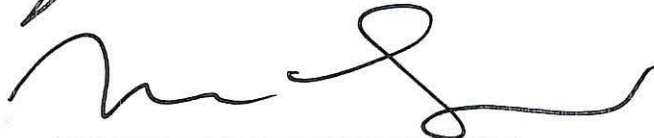
Respectfully submitted and approved on behalf of the Native American Heritage Commission.



James Ramos, Chairperson



Cynthia Gomez, Executive Secretary



Merri Lopez-Keifer, Secretary

SQ: NAHC MINUTES January 2017