

CALIFORNIA NATIVE AMERICAN HERITAGE COMMISSION
Open Session Minutes

Second Quarterly Meeting
October 20, 2017
9:00 AM to 12:00 PM

Location: California Gambling Control Commission, Public Hearing Room
2399 Gateway Oaks Dr.
Sacramento, CA 95833-4231

Commissioners Present

James Ramos, Chairman
Merri Lopez-Keifer, Secretary
Marshall McKay
Joseph Myers
Russell Attebery

Commissioners Absent

Laura Miranda, Vice-Chairwoman
Reginald Pagaling, Parliamentarian
William Mungary, Chairman Emeritus
Julie Tumamait-Stenslie

Staff Present

Debbie Treadway, Executive Secretary (Acting)
Terrie L. Robinson, General Counsel
Katy Sanchez, Associate Environmental Planner
Frank Lienert, Associate Governmental Program Analyst
Gayle Totton, Associate Governmental Program Analyst
Samantha Cypret, Associate Governmental Program Analyst
Sharaya Souza, Staff Services Analyst
Steven Quinn, Staff Services Analyst

Call to Order – Native American Heritage Commission:

- 1) Chairman Ramos called the meeting to order at 9:08 AM.
- 2) Roll Call – A quorum was established.
- 3) The Native American Heritage Commissioners and staff were introduced.

Closed Session

Call to Order – Public Session:

- 1) Commissioner Attebery led the traditional opening with a prayer.
- 2) Closed Session Report – James Ramos, *Chairman*, **Information Item**
Chairman Ramos stated there is nothing to report out of closed session.
- 3) Approval of Minutes – James Ramos, *Chairman*, **Action Item**

A motion was made by Commissioner Myers and seconded by Commissioner McKay to approve the minutes from July 21, 2017 and September 8, 2017 (open and closed session).

Ayes: 5; Nays: 0; Abstained: 0
The motion was carried unanimously.

Old Business:

1) License Plate Artwork Project, Samantha Cypret, *Associate Governmental Program Analyst*, **Information Item**

Ms. Cypret stated that the Native American Heritage Commission (NAHC) has entered into an agreement with the Tule River Tribe to use their basket imagery for the special interest license plate. The special interest license plate has also gained a large following with over 1,000 email requests for future information regarding the license plate. Ms. Cypret commented that the NAHC will need 7,500 pre-orders before the plate can officially go into production. Secretary Lopez-Keifer thanked Ms. Cypret for her work to get the license plate project off the ground.

General Counsel Robinson noted that the Tule River Tribe licensed the basket imagery to the NAHC in perpetuity, for free, in honor of the service that Cynthia Gomez provided to the state of California. General Counsel Robinson thanked the Tule River Tribe for licensing the trademark for the basket imagery.

Commissioner Myers asked Ms. Cypret for the current number of license plate subscriptions. Ms. Cypret stated that the Commission cannot accept payment until the California Highway Patrol and the Department of Motor Vehicles approve the license plate design. The current list that the NAHC is gathering is a contact list for information updates regarding the license plate. Commissioner Myers asked if there are any strategies the NAHC can use to improve the marketing for the license plate. Ms. Cypret stated that the official marketing may not begin until the plate officially launches. Ms. Cypret suggested focusing the marketing on big fleets to improve the license plate sales. She also stated that the license plates will be \$50 annually for a standard special interest plate and \$103 annually for a personalized special interest plate. Commissioner Attebery suggested reaching out to the Chairmen's Associations (Northern, Central, and Southern) to seek assistance with marketing.

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

General Counsel Robinson stated that the next step in the Most Likely Descendent (MLD) regulations is to have the MLD regulations sent to the California Natural Resources Agency. The following step will be to have the MLD regulations enter the formal rulemaking process. General Counsel Robinson made clear that the NAHC is still accepting comments and consultation requests for the MLD regulations.

3) Strategic Plan, Debbie Treadway, *Executive Secretary (Acting)*, **Action Item**

Executive Secretary Pilas-Treadway deferred this item to General Counsel Robinson. General Counsel Robinson stated that the NAHC staff has put together a draft Five-Year Strategic Plan in light of the departure of former Executive Secretary Cynthia Gomez. The proposed action is to allow public comment and consultation on the draft Five-Year Strategic Plan. The draft Five-Year Strategic Plan outlines the current strengths and weaknesses of the NAHC, as well as potential priorities to pursue. In response to assessments with staff, the following is a list of suggested priorities for the NAHC:

1. Fiscal Stability
2. Succession/Retention Planning and Recruitment
3. Increased Internal Compliance
4. Increased Training for Staff, Tribes, and Stakeholders on Cultural Resource Laws
5. Leveraging Technology to Increase Efficiency, Accessibility, and Communications
6. A Southern California Office

General Counsel Robinson stated that this draft Five-Year Strategic Plan is a starting point for the Commission to chart the course over the next five years. The recommendation of the staff is that this report be sent out for public comment and for consultation. The document will then be put on the agenda for approval after receiving public comments and comments from consultation. Commissioner Myers asked for a timeline on when the Five-Year Strategic Plan will be revisited. General Counsel Robinson stated that the document will be revisited and voted on at the January Commission meeting. The Five-Year Strategic Plan would be in effect for the years of 2018-2022.

A motion was made by Commissioner McKay and seconded by Commissioner Myers to open the Draft Five-Year Strategic Plan to public comment and consultation.

Ayes: 5; Nays: 0; Abstained: 0
The motion was carried unanimously.

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

General Counsel Robinson stated that the purpose of the Tribal Cultural Resources Project is to leverage the resources of the University of California, Los Angeles (UCLA), and the law students, to help train tribes to be stronger advocates for their cultural resources in the environmental review process. The goal is to equip tribes with the knowledge of the environmental review process, even if the tribes do not have cultural resources departments. The program will not formally begin until the Spring semester when the program becomes part of a curriculum. General Counsel Robinson commented that it has been a pleasure to work with Professor Goldberg and Professor Wood.

Commissioner Myers asked where the funding is coming from for the Tribal Cultural Resources Project. General Counsel Robinson responded that the funding is coming from the NAHC. Secretary Lopez-Keifer asked if UCLA would provide copies of the course material to the NAHC. General Counsel Robinson stated that any material used in the course would have to be approved by the NAHC for legal sufficiency.

New Business:

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

Chairman Ramos announced that the flyer for the Executive Secretary position is currently posted and the NAHC is accepting applications. Executive Secretary Pilas-Treadway stated that the incumbent will serve as both the Executive Secretary and Tribal Advisor. Executive Secretary Pilas-Treadway noted that there is a link on the NAHC website that will direct interested applicants to the application package and instructions for applying.

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

Executive Secretary Pilas-Treadway stated that in the last fiscal quarter the NAHC Environmental and Cultural Department has processed 1,759 California Environmental Quality Act (CEQA) project requests. Of those projects, there were 5,717 searches of the Sacred Lands File. There were also 222 Timber Harvest projects. Of those projects, there were 369 searches of the Sacred Lands File. Staff has received and responded to 415 Assembly Bill 52 requests and 108 Senate Bill 18 requests. Staff has received 869 CEQA environmental documents and responded to 222 of those documents. Staff has designated 13 Most Likely Descendants for inadvertent discoveries of Native American human remains. The NAHC has held 13 consultations with various tribal governments. There have been 15 new records added to the Sacred Lands File. Staff has completed reviewing all 1,949 records in the Sacred Lands File to prepare for rules and regulations. The NAHC has continued to work with the High-Speed Rail Authority and the Bureau of Ocean Energy Management. The NAHC is currently working on a new edition of the Tribal Directory.

In terms of administration, the NAHC has converted all the Mac computers over to PC's. The next planned step is to migrate the NAHC emails from Department of Technology software to Microsoft Office 365 software. The NAHC has held multiple meetings with the California State Lands Commission (CSLC) to prepare a budget for the 2017-2018 fiscal-year. The NAHC is also currently recruiting for an Office Assistant.

In the last fiscal quarter, the NAHC Legal Department has been named in two different lawsuits challenging the settlement reached between the NAHC and the Foothill Eastern Transportation Corridor Agency. The NAHC has worked with Table Mountain Rancheria on enforcement matters regarding technical guidance on the disposition of Native American Human Remains. The NAHC is still working with Yuba City and the United Auburn Indian Community of the Auburn Rancheria regarding damages to Native American Human Remains on the Feather River. The NAHC has attended telephonic meetings with the Los Angeles Department of Water and Power (LADWP) and the Great Basin Unified Air Pollution Control District to protect cultural resources affected by dust mitigation at Owens Lake. The NAHC has received a request for assistance from LADWP to help draft a Tribal Consultation Policy. The NAHC Legal Department has also been involved in a California Native American Graves Protection and Repatriation Act (CalNAGPRA) voluntary repatriation. The NAHC Legal Department has also been involved in the State Water Resources Control Board's Cannabis Policy, Governor Brown's fourth Climate Change Report, and the NAHC special interest license plate. The

NAHC also received a letter of gratitude from the Central California Yokuts NAGPRA Coalition for the work the NAHC has done on the Black Mountain Termination Project.

Executive Secretary Pilas-Treadway concluded her report by honoring the Commissioners that have reached term milestones. Chairman Emeritus Mungary was awarded a plaque for serving as a Commissioner for 30 years. Chairman Ramos, Vice-Chairwoman Miranda, Commissioner McKay, and Commissioner Tumamait-Stenslie were honored for serving as Commissioners for 10 years.

3) Annual Report, Debbie Treadway, *Executive Secretary (Acting)*, **Informational Item**

Chairman Ramos noted that this item, the Annual Report, will be delayed until the Commission meeting on January 19, 2018.

4) Sacred Lands File Fees, Terrie L. Robinson, *General Counsel*, **Informational Item**

General Counsel Robinson stated that Senate Bill 92 gives the NAHC the authority to charge entities, private or public, for searches of the Sacred Lands File and Tribal Consultation Lists under Assembly Bill 52 or Senate Bill 18. A Budget Change Proposal (BCP) was also passed which will provide the NAHC with additional positions in January 2018. The formal rulemaking process must move forward so that the NAHC can begin to collect revenue to support the new staff positions. General Counsel Robinson stated that the fee is solely for the purpose of maintaining and updating the Sacred Lands File. Internally, the NAHC will have to evaluate the cost of conducting a Sacred Lands File Search and producing a Tribal Consultation List. A public hearing will take place later this afternoon to receive public and tribal input regarding the fee.

Public Comment:

Gabe Cayton, United Auburn Indian Community of the Auburn Rancheria (UAIC)

Mr. Cayton requested the help of the NAHC in repatriating a collection of burials and grave goods that have been held by the University of California, Davis (UCD) for over 50 years. The collections were retrieved by UCD in the 1960's and 1970's in anticipation of construction for the Auburn Dam. Mr. Cayton stated that when the NAGPRA inventory was completed in 1995, these items were listed as culturally unidentifiable. The reason these items were listed as unidentifiable was because no Federally Recognized Nisenan Tribes existed in that local area. However, the UAIC's Federal Recognition was restored in 1994. UAIC has requested repatriation since 2011 and formally submitted a claim on the collection in 2016. To UAIC's knowledge, no competing claims have been filed. UAIC believes UCD and the Bureau of Reclamation are in violation of NAGPRA and CalNAGPRA. Mr. Cayton noted that UCD has rejected all evidence that UAIC has provided to prove cultural affiliation to the collection items. Mr. Cayton also noted that despite all the evidence submitted, UCD has not even provided an example of what proves as sufficient cultural affiliation evidence. UCD has since began the process of "Catalog Reverification", which involves offensive and unnecessary handling of human remains and funerary objects. Mr. Cayton stated that CalNAGPRA gives the NAHC the authority to help resolve disputes similar to the dispute that UAIC is currently encountering.

Chairman Ramos directed the NAHC Counsel to meet with the UAIC Tribal Council to gather all information regarding this matter and to bring this matter back as an agenda item for the January Commission meeting. Secretary Lopez-Keifer asked Mr. Cayton if UAIC had made requests to UCD under CalNAGPRA and NAGPRA. Mr. Cayton responded that he believes they have made requests under both NAGPRA and CalNAGPRA.

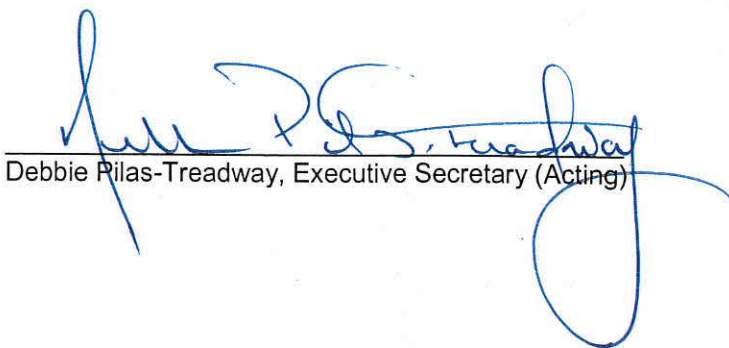
Adjournment:

Chairman Ramos adjourned the meeting at 11:09 PM.

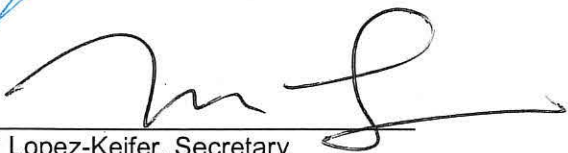
Respectfully submitted and approved on behalf of the Native American Heritage Commission



James Ramos, Chairman



Debbie Pilas-Treadway, Executive Secretary (Acting)



Merri Lopez-Keifer, Secretary