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## NATIVE AMERICAN HERITAGE COMMISSION

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### EXECUTIVE SECRETARY REPORT

*April 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. At this time, the NAHC does not foresee major cuts to its current operating budget.

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.

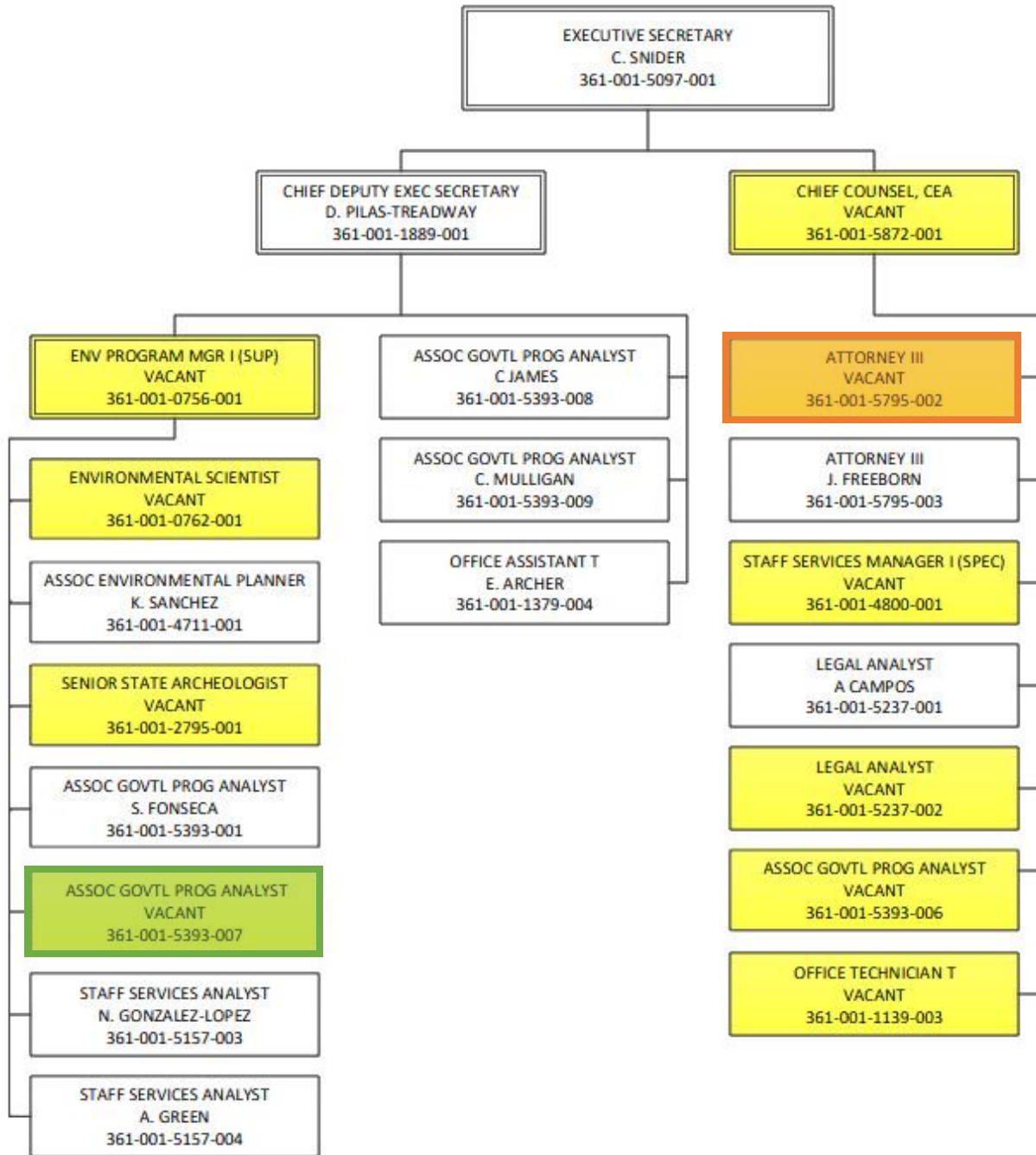
Some of the programmatic staff also carried out administrative functions in conjunction with accounting and human resources staff from the State Lands Commission, with which the Commission contracts for human resources and accounting services, and with information technology staff from the Natural Resources 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 is provided on the next page.



B. New Hires

Vanessa Racehorse, Attorney – CalNAGPRA, has accepted the NAHC's offer of employment and will start on April 21, 2021.

Armando Campos, Legal Analyst – Enforcement, started March 2, 2021.

Christian James, Associate Governmental Analyst - HR Liaison, started March 8, 2021.

### C. Current Job Openings

The NAHC is recruiting for the position of Associate Governmental Program Analyst – Cultural Resource Analyst. The final filing date is April 16, 2021 or until filled.

### D. 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.

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. **Critical Functions**

### A. Sacred Lands File Requests

- Staff has processed 1398 CEQA project requests. Those project requests required staff to conduct 1292 searches of the Sacred Lands file.
- Staff has processed 264 Timber Harvest project requests. Those project requests required staff to conduct 886 searches of the Sacred Lands file.

### B. AB 52 Requests

- Staff has processed and responded to 239 AB 52 requests.

### C. SB 18 Requests

- Staff has processed and responded to 79 SB 18 requests.

### D. CEQA Environmental Documents

- NAHC received 493 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 85 of those CEQA projects.

#### E. Most Likely Descendant Designations

- In accordance with California State law, the County Coroner's office reported 15 inadvertent discoveries of Native American human remains to the NAHC.
- 15 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 1 tribal consultation.

#### G. Sacred Lands File

- 4 new records were added to the Sacred Lands File.
- The Sacred Lands File contains a total of 2024 records.

#### H. NALIS

- Staff updated 12 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 24 maps and sent to Tribes for edits and/or approval.
  - Staff received 13 edits to revise.
  - Staff received 13 approved maps to upload into the database.
  - A cumulative total of 61 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.

## V. 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.

## VI. Impacts to the NAHC's Cultural and Environmental Department with the Passage of AB 275

The Legislature passed Assembly Bill No. 275 (AB 275) requiring that by January 1, 2021, the NAHC provide notice to applicable agencies and museums that it maintains a list of all California Indian tribes and their respective aboriginal territories for the purpose of the repatriation of Native American tribal human remains and cultural items.

### A. Tasks to Implement

- 1) Provide notice to applicable agencies and museums that the NAHC maintains a list of all California Indian tribes and their respective aboriginal territories.
  - On December 31, the NAHC sent out over 5,000 letters to agencies and museums as mandated under State law.
    - The NAHC's letter outlined the changes in the law regarding Native American human remains and associated grave goods and responsibilities under AB 275.
- 2) Develop a process to create an AB 275 list in NALIS using the GIS component based on maps submitted and approved by tribes.
  - Determine the name of the list and what to be used for.
    - Review tribal record contacts in NALIS for appropriate contact.
  - Report sections:



- Determine what to include in the header.
      - Name of the list.
    - Determine language for the footer.
      - Approval by legal and Executive Secretary is required.
  - Develop a template letter to send with list.
    - Approval by legal and Executive Secretary required.
  - California Natural Resources Agency (CNRA) will create a report template.
    - CNRA will send copy of a test report.
    - Review test report to ensure language, format, etc. is correct.
  - CNRA will create list toggle (yes/no) that will be in each contact in Tribal Records.
    - CRNA will send a screen shot.
    - Review location and verbiage for new list toggle (yes/no) is correct.
    - NAHC staff to go to each contact in all the NALIS tribes to change new list toggle to either yes or no.
  - CNRA will link the report template with the new list toggle once both have been approved in the "testing field."
  - CNRA will have NAHC staff create test projects in "testing field" to see if report can be run and is correct.
  - CNRA will upload new report to system.
  - CNRA will upload new list toggle into system.
  - NAHC staff to test running a report in system with various scenarios of yes/no with contacts to ensure everything is still correct.
  - If correct, new list is complete. If not correct, continue working with CNRA to address the issues.
- 3) Develop a statewide list in excel that includes tribal contact information, tribal counties, and tribal affiliation.
- Export tribal contacts from existing database.
  - Manually input tribal counties and tribal affiliation.
  - Review information to ensure it is correct.

4) Track requests and responses.

- Each CalNAGPRA request will be NALIS project the “[Institution name] – CalNAGPRA.”
- Letters will be named “[Institution name] – CalNAGPRA Request dated [date of request].”
- Responses, and lists will be uploaded into the NALIS database.
- Requests will be input into Chron file under AB 275.
- Requests will be input into stats report.

**VII. Research Plan to Develop a Searchable Database**

Museums and agencies are required under AB 275 to submit inventories and summaries to be posted on the NAHC website. The development of a searchable database hosted on the NAHC website would be extremely valuable to tribes to provide one location rather than review/search multiple inventories and summaries for repatriation.

A. Issues to be Addressed

1) Understand the magnitude of the information.

- Staff met with Mr. Tim McKeown based on his knowledge with the National Parks Service to assist with some prospective of the amount of data.
- Staff will meet with Parks to understand the magnitude of their collections.
- Staff will meet with some of the larger universities to understand the magnitude of their collections.

2) Understand the needs of the tribes.

- Staff will need to conduct a needs evaluation with tribes to understand if a database would be helpful and what information would assist them best.

3) Consult with IT department to discuss project management software to best meet the needs of the tribes and data.

- Discuss with IT the development of a searchable database.
  - Determine if the agency needs to contract out to a private vendor for all or part.

- Due to the large collection, Staff has meet with UC Berkeley to review their database/software.
  - Staff will meet UC Office of the President.
  - Staff will meet with Parks to review their database.
- Who should have access to the database?
  - Passwords?
- Identify fields that agencies and museums are mandated to be included in submitting the preliminary inventories and summaries and those needed to best meet the needs of the tribes.
  - Create uniformity.
  - Notify agencies in advance that NAHC is working on a format to be submitted.
  - Notify agencies and museums of format to be used.
- Identify format information should be submitted to the NAHC.
  - Develop a format, possible excel spreadsheet, where info is submitted to the NAHC and uploaded to the database.
  - Format must include the mandated fields and tribal request fields.
    - NAHC does not have staff to input data.
  - A review process by NAHC staff before public access.

#### 4) Cost

- Determine how much this is going to cost the agency.
- Determine how much staff time will be required.
- How will the project be funded?
  - Review current budget.
  - Determine if a Budget Change Proposal is required.

### **VIII. 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).

On March 2, 2021, University of California announced that it has extended the comment period on [proposed revisions](#) to UC's Native American Cultural Affiliation and Repatriation Policy through May 31, 2021.

Further written comments or requests for consultation on the policy can be submitted to 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](#).

## **IX. California Native American Legislative Caucus**

On March 30, 2021, California Assembly Speaker Anthony Rendon (D-Lakewood) and Assemblymember James C. Ramos (D-Highland) announced formation of the California Native American Legislative Caucus, which will be led by Assemblymember Ramos.

The Caucus will focus on educating the Legislature and Californians about Native American culture, history and work toward inclusion of Native Americans in shaping policy issues faced by the State and greater elected California Native American representation.

## **X. 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.

The NAHC has been added to the California Advisory Committee on Geographic Names, which held a kickoff meeting on March 17, 2021. More information on the Committee is available [here](#).

## XI. Legislation

NAHC Staff are currently tracking the following bills that have the potential to affect the work of the Commission and/or include the tribes on the NAHC contact list. The summaries included below are current as of the date of the drafting of this quarterly report. Note: It is early in the legislative process, so the bills included below are subject to change, die or carry over to next year.

**[AB-34: Broadband for All Act of 2022 \(Muratsuchi, Garcia and Santiago\)](#)**. A bond measure subject to voter approval to fund increased access to broadband services in rural, urban, suburban and tribal underserved communities, which aims to provide broadband access to no less than 98% of California households. Includes as eligible California Native American tribes on the list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004.

**[AB-559: San Joaquin River Conservancy: governing board \(Arambula\)](#)**. Amends the process by which the governing board of the San Joaquin River Conservancy will be chosen from a list of candidates submitted by nonprofit organizations, including one new member of a tribal organization.

"Tribal organization" is currently defined as an Indian tribe, band, nation, or other organized group or community, or a tribal agency authorized by a tribe, which is one or both of the following:

- (1) Recognized by the United States Secretary of the Interior and identified within the most current Federal Register.
- (2) Listed on the contact list maintained by the Native American Heritage Commission as a California Native American tribe.

**[AB-855: Judicial Holidays \(Ramos\)](#)**. The fourth Friday in September is known as "Native American Day," but is not currently a judicial holiday. The bill would exclude Columbus Day from the list of judicial holidays, while removing Native American Day from the list of holidays that are excluded from designation as a judicial holiday.

**[AB-860: Native American Tribes: ethnohistory: report \(Cooley\)](#)**. Requires the NAHC to prepare, or cause to be prepared, a report on the ethnohistory of Native American tribes in the Sacramento region covering the period from January 1, 1950, through the present, and requires that report include recommendations for how to expand the ethnography and ethnohistory to include other Native American tribes in California; also requires NAHC to submit copies of the report to specified entities and to maintain a copy in its records. The bill would appropriate the sum of \$135,000 from the General Fund for this purpose.

**[SB-712: Local government duties relative to California tribes \(Hueso\)](#)**. Encourages local governments, as defined, to (1) seek opportunities to support California

federally recognized tribes' co-management of, and access to, lands that are within the tribe's ancestral land and under the ownership or control of the local government; (2) work cooperatively with tribes in their efforts to acquire lands in excess of the local government's needs, by prioritizing tribal purchase or transfer; (3) work cooperatively with tribes in their nongaming fee-to-trust applications; (4) adopt preferential policies and practices conducive to a tribe's efforts to access land, as provided, and acquire land in trust.

[AB-338 State Capitol grounds \(Ramos\)](#). Existing law requires the Department of Finance to maintain a monument to Father Junípero Serra on the grounds of the State Capitol. This bill would remove this requirement and require the Legislature to consult with tribal nations in the Sacramento, California, region to plan a monument to the California Native people of the Sacramento, California, region on the grounds of the State Capitol to be erected by July 1, 2022.

## **XII. Commissioner Emails**

As a reminder, NAHC Staff will no longer use 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.

## **XIII. Tribal Opportunities**

California Truth & Healing Council. In an effort to increase opportunities for community input, the California Truth & Healing Council will be hosting virtual regional listening sessions on a monthly basis. Listening sessions will all take place from 1-2:30pm, with more details available at the Council's newly-established [community updates page](#). More details on the Council are available [here](#).

Tribal-State Meetings, Consultations and Events. The Office of the Tribal Advisor now publishes information on tribal-state meetings, consultations and event. 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.

