



MIWOK United Auburn Indian Community
 MAIDU of the Auburn Rancheria

John L. Williams
 Chairman

Gabe Cayton
 Secretary

Jason Camp
 Treasurer

Leonard Osorio
 Council Member

August 15, 2024

Raymond C. Hitchcock
 Executive Secretary
 California Native American Heritage Commission
 1550 Harbor Blvd. Suite 100
 West Sacramento, CA 95691

Re: Notice of Conflicting Most Likely Descendant Designation and Request for Clarification

Dear Executive Secretary Hitchcock,

The United Auburn Indian Community (UAIC) is comprised of Miwok and Southern Maidu (Nisenan) people. The Tribe’s geographic area of traditional and cultural affiliation encompasses all of Amador, El Dorado, Nevada, Placer, Sacramento, Sutter, and Yuba counties, as well as portions of Butte, Plumas, San Joaquin, Sierra, Solano, and Yolo counties. Recently, the Native American Heritage Commission (NAHC) made a Most Likely Descendant (MLD) designation for the Urrutia/Arms component of the American River Common Features Project. That designation contradicted the 2016 designation of UAIC as the MLD for the American River Common Features project. To our knowledge, this is the second time that a conflicting MLD designation has been made for the American River Common Features Project. We are notifying your office of this issue and requesting timely assistance with the resolution of this serious problem.

Historic Discussions Between UAIC and the NAHC Regarding MLD Process

In 2013 and 2014, the NAHC had made MLD designations that the Tribe did not agree with. At that time, we met with NAHC staff to discuss our concerns and to get more information about how the NAHC made MLD designations so that UAIC would be more likely to be designated as MLD for Ancestors from village sites where UAIC has direct lineal descent. NAHC Staff (Debbie Treadway) explained that:

1. MLDs were designated on a project basis, so the MLD designation is valid for the duration and geographic extent of a project.
 - a. This means that if additional Native American human remains are found within a project area, there is not a new MLD designation.
 - b. However, if a project ends and Native American human remains are found at the same site (as part of a new project), then a new MLD designation will be made.
2. NAHC Representative Treadway also explained that if a Tribe sent a letter to the NAHC that identified the Tribe’s ancestral village sites, then the Tribe would receive priority for MLD designation for that site and anything within a 10 mile radius, because village sites typically had a 10 mile radius. The Tribe drafted and submitted a letter to the NAHC

identifying these sites on 5/14/2014 (Attachment 1). While the letter was not an exhaustive list, it included the major village sites for our Tribe.

Since that time, we have also heard NAHC staff assert that there is a rotation process for the designation of MLDs. The public resources code does not clearly outline a process for how the NAHC will identify MLDs, so a conversation with staff and verbal clarification from staff was our only avenue for addressing this issue regarding MLD designation. It was and is an important issue for us because we prioritize the respectful treatment and reburial of our Ancestors.

Designation of UAIC as the MLD for American River Common Features Project

On June 9th, 2016, the NAHC designated UAIC as the MLD for Sacramento River East Levee component of the American River Common Features (Attachment 2). The Sacramento River East Levee work is a component of the American River Common Features Project (see the project website – Attachment 3). Every year since then, the Tribe has worked to protect unmarked cemeteries and graves that are within the American River Common Features Project. For the most part, we have coordinated successful preservation in place. Our Tribal Historic Preservation Officer, Josef Fore, often works 12+ hour days for several months during the summer construction season to ensure this protection.

First Conflicting Designation of Another Tribe as the MLD for a Discovery at the American River Common Features Project

We were not formally notified of the first conflicting decision. We learned of the first conflicting designation of another Tribe through word of mouth in March of 2023. We reached out to Pricilla Torres-Fuente and Executive Secretary Raymond Hitchcock at the NAHC to request clarification and resolve the issue (Attachment 4). During our meeting, those staff confirmed that (1) MLD designation occurred at the project level and that (2) since UAIC was the MLD for the Sacramento River East Levee component of the American River Common Features Project, then UAIC was the MLD for the American River Common Features Project. Staff confirmed that the original designation of UAIC as the MLD should have carried over to the second discovery but did not because of confusion regarding project names. They stated that UAIC was still the MLD, but that now UAIC was a co-MLD with the new Tribe for that specific discovery (but not for the American River Common Features Project as a whole). They encouraged UAIC to work with the new co-MLD, since a second designation had already been made. However, the NAHC never formalized this recommendation in writing.

Second Conflicting Designation of Another Tribe as the MLD for American River Common Features Project

On 7/19/2024, UAIC notified the NAHC of a discovery at the Urrutia/Arms component of the American River Common Features Project and let the NAHC know that the Urrutia/Arms work was a component of the American River Common Features Project (Attachment 5). We recalled the confusion regarding the prior conflicting MLD designation and wanted to ensure that there was not a second conflicting MLD designation. However, despite our early and clear communication, the second conflicting designation of an MLD by the NAHC occurred on 7/30/2024. The NAHC Representative informed UAIC that UAIC was the MLD for Sacramento River East Levee Project, but that another Tribe was the MLD for the American River Common Features Project (Attachment 6). We were confused and concerned to find out that the NAHC no longer recognized UAIC as the MLD for American River Common Features, since it contradicted our prior communications with the NAHC and was clearly factually inaccurate. We have clear documentation that Sacramento River East Levee is a part of the American River

Common Features Project (Attachment 3). We have a letter from the NAHC designating UAIC as the MLD for Sacramento River East Levee and by extension American River Common Features.

We reached out to NAHC leadership and chief legal counsel to request an in-person meeting to resolve the issue. An NAHC representative called one of our staff to explain that NAHC staff were busy and couldn't meet with us in person. They suggested that the problem was that UAIC had not submitted that village site as an Ancestral Village site. However, that village is listed in UAIC's 2014 submission of ancestral village sites (See *Pusune* in Table 1 of Attachment 1). **To date, the NAHC has not met with us or proposed a time when they could meet with us.**

Request for Clarification and Relief

The Tribe has dedicated substantial resources to protecting our ancestral village sites on the Sacramento, American, Bear, Yuba, Feather and Cosumnes Rivers. We have been consulting on the American River Common Features Project for almost 10 years and have coordinated the protection of several village and unmarked cemetery sites, as well as respectful recovery and reburial for unmarked cemeteries that were damaged by levee work. The conflicting designation of a different Tribe as the MLD makes it unclear how we can continue to do the work of protecting our Ancestors. The NAHC has also offered no options for resolution regarding this issue. As a result, we no longer have any legal ability to protect our Ancestors from disinterment, damage and destruction because we seem to have been arbitrarily removed from a project that we have been working on for 10 years and for which we had the original MLD designation.

We urgently request resolution of this issue and written confirmation of UAIC as the MLD for American River Common Features Project. Please reach out to Melodi McAdams Tribal Heritage Manager, should you have any questions. This request is time sensitive, and we respectfully request a response within 30 days.

Sincerely,



John L. Williams
Chairman

cc: Christina Snider, Tribal Affairs Secretary, Office of the Governor
Michelle Carr, NAHC Chief Counsel
Reginald Pagaling, NAHC Chairperson
Buffy McQuillen, NAHC Vice Chairperson
Sara Dutschke, NAHC Secretary
Wayne Nelson, NAHC Parliamentarian
Issac Bojorquez, NAHC Commissioner
Stanley Rodriguez, NAHC Commissioner
Lauren Bolden, NAHC Commissioner
Reid Milanovich, NAHC Commissioner
Bennae Calac, NAHC Commissioner

Attachments:

1) May 14th, 2014 UAIC Letter Identifying MLD Village Sites

Tribal Office 10720 Indian Hill Road Auburn, CA 95603 (530) 883-2390 FAX (530) 883-2380

- 2) Letter Designating UAIC as the MLD for the Sacramento River East Levee
- 3) Project Website: American River Common Features
- 4) UAIC to NAHC E-mail Requesting Clarification Regarding MLD Designation for American River Common Features (March 2023)
- 5) UAIC E-mail to the NAHC Regarding the discovery at the Urrutia/Arms location of the American River Common Features Project
- 6) NAHC E-mail notifying UAIC that the MLD designation had been assigned to a different Tribe