



California Native American Heritage Commission Quarterly Commission Meeting Minutes Open Session

Second Quarter

Meeting Date: October 18, 2024

Meeting Time: 9:08am-3:04pm

Meeting Location: California Department of General Services 707 Third Street Auditorium, West Sacramento CA 95605

COMMISSIONERS PRESENT

Reginald Pagaling, *Chairperson*
Buffy McQuillen, *Vice-Chairperson*
Sara Dutschke, *Secretary*
Wayne Nelson, *Parliamentarian*
Isaac Bojorquez
Reid Milanovich
Bennae Calac
Stanley Rodriguez

COMMISSIONERS ABSENT

Laurena Bolden

STAFF PRESENT

Raymond Hitchcock, *Executive Secretary*
Steven Quinn, *Deputy Executive Secretary*
Michelle Carr, *Chief Counsel*
Mario Pallari, *Staff Counsel*
Conner Mulligan, *Staff Services Manager I*
Andrew Green, *Cultural Resources Analyst*
Mathew Lin, *Cultural Resources Analyst*
Mor Saetern, *Staff Services Manager I*
Maria Elena Sepulveda, *Office Assistant*

CALL TO ORDER

1. Chairperson Pagaling called the regular meeting to order at 9:08am.
2. Roll call – a quorum was established.
3. The Native American Heritage Commission (NAHC) Commissioners and Staff were introduced.
4. Andrew Godsey, Shingle Springs Band of Miwok Indians, led the Traditional Opening.

ACTION

Items taken out of order.

1. Approval of minutes
 - A. July 16, 2024 – Open Session

Commission Vote: Approve the July 16, 2024, Open Session minutes.

Motion: Commissioner Bojorquez

Second: Commissioner Calac

Aye: 8; **Nay:** 0; **Abstained:** 0

Motion carried.

B. July 16, 2024 – Closed Session

Commission Vote: Approve the July 16, 2024, Closed Session minutes.

Motion: Commissioner Milanovich

Second: Commissioner Nelson

Aye: 8; Nay: 0; Abstained: 0

Motion carried.

C. September 5, 2024 – Open Session

Commission Vote: Approve the September 5, 2024, Open Session minutes.

Motion: Commissioner Bojorquez

Second: Commissioner Calac

Aye: 7; Nay: 0; Abstained: 1 Commissioner Rodriguez

Motion carried.

D. September 5, 2024 – Closed Session

Commission Vote: Approve the September 5, 2024, Closed Session minutes.

Motion: Commissioner Bojorquez

Second: Commissioner Nelson

Aye: 7; Nay: 0; Abstained: 1 Commissioner Rodriguez

Motion carried.

2. Calendar Dates for FY 2024-25 Public Commission Meetings

A. Commissioners to consider changing the following Commission meeting dates or locations:

i. Friday, January 17, 2025 Santa Ynez, CA

Santa Ynez is not available to host on this date. Commissioner Wayne Nelson confirmed that Pala is available on this date.

Commission Vote: Move January 17, 2025 location to Pala

Motion: Commissioner Milanovich

Second: Commissioner Bojorquez

Aye: 8; Nay: 0; Abstained: 0

Motion carried.

3. Draft CalNAGPRA Mediation and Dispute Resolution Regulations

A. Status of draft CalNAGPRA mediation and dispute resolutions promulgated under Health and Safety Code section 8016

i. Summary of tribal comments and responses

ii. Memorandum - revisions to draft mediation regulations

iii. Revised draft mediation regulations

iv. Red-line comparison of current draft to January 19, 2024, draft

Chief Counsel Carr provided background on the draft regulations that were released on January 19, 2024, for a 60-day comment period. Previously, in August 2021, the Commission conducted listening sessions and solicited written feedback on potential regulations for this topic that resulted in a first draft of these regulations being released in February 2022 with a 45-day tribal consultation period. Based on input received from tribes, the draft was revised.

Several comments were received on the January 2024 draft and additional listening sessions were conducted with nineteen tribes participating either in the listening sessions or by individual consultations. Additionally, the Commission received written comments, which along with changes in Federal Native American Graves Protection and Repatriation Act (NAGPRA) regulations prompted changes to the draft regulations that are before the Commission today.

Chief Counsel Carr requested that the Commission consider adoption of the current draft and to consider an additional tribal comment and consultation period that will be open for either 30, 60, or 90 days. It is anticipated that this would be the last round of consultation and if no revisions were necessary after consultation, then the regulations could begin the formal APA process.

Chairperson Pagaling stated that the subcommittee concurs with Chief Counsel Carr to adopt the regulations and choose a date to recirculate the adopted draft to tribes. Chairperson Pagaling stated that it has been years, and he would like to give them one listening session. Commissioner Calac preferred a 60-day timeline for listening sessions to allow for the most opportunity for tribal input. Commissioner Calac asked if the listening sessions would be regional. Chief Counsel Carr responded that the most recent two listening sessions were virtual and recommended doing one or two additional virtual listening sessions. Chairperson Pagaling stated that the regulations are close to moving forward and that the subcommittee was considering a 30-day consultation period. The Chairperson asked if 45 days would be okay. Vice-Chairperson McQuillen asked if a 45-day consultation period would be enough time for legal counsel to produce a draft that would include comments before the January 17, 2025, Commission meeting. Chief Counsel Carr stated that given all the valuable input provided by the tribes from previous listening sessions and consultations it is unlikely that the current draft would require significant revisions. Commissioner Calac asked if it would be possible to have a listening session the day before the January meeting. Chief Counsel Carr stated that this would not be possible as it would not provide enough time for staff to process comments and for legal staff to produce a document for the Commission meeting. Secretary Dutschke is in support of the 45-day period with one listening session given that the Commission has incorporated public input in the current draft. Commissioner Bojorquez stated that he was in favor of the longer time frame for the listening sessions and that he would prefer two listening sessions to provide tribes with the more opportunity to give their input. Vice-Chairperson McQuillen suggested one listening session and a two-week government to government option. Commissioner Calac asked if the listening sessions are recorded as those recordings could be provided to the tribal people who are not present. Chief Counsel Carr stated that the sessions have not been recorded historically for confidentiality purposes.

- B. Commission to consider adopting updated draft CalNAGPRA Mediation and Dispute Resolution Regulations

Commission Vote: Adopt updated draft of CalNAGPRA Mediation and Dispute Resolution Regulations

Motion: Secretary Dutschke

Second: Commissioner Milanovich

Aye: 8; **Nay:** 0; **Abstained:** 0

Motion carried.

- C. Commission to consider recirculating the draft CalNAGPRA Mediation and Dispute Resolution Regulations for a third round of tribal comment and consultation for either 30, 45, or 60 days

Commission Vote: Recirculate the draft CalNAGPRA Mediation and Dispute Resolution Regulations for a third round of tribal comment and consultation for 45 days with an additional 2-week government-to-government consultation period.

Motion: Commissioner Nelson

Second: Commissioner Rodriguez

Aye: 8; **Nay:** 0; **Abstained:** 0

Motion carried.

4. UC Systemwide/Campus Repatriation and Oversight Committee updates and vacancies

Staff Counsel Pallari stated that the current copy of this document does not reflect a recent vacancy that staff received notice of on October 17, 2024, with the resignation of Patrick Naranjo from the UC Systemwide Committee. The website will be updated to reflect this recent vacancy. An outreach letter was distributed to the UC Office of the President on October 8, 2024, to solicit applications, this letter will be updated and sent to all tribes as well as the University Office of the President to secure nominations. Vice-Chairperson McQuillen suggests that when the solicitation is sent out that it be sent beyond the Commission NAGPRA list and to expand out to include other lists including Federally Recognized Tribes, Chairpersons, and THPOs all to be included in the announcement going out.

5. CSU Draft Systemwide Policy/NAHC Comments

Staff Counsel Pallari stated that AB 389 required the California State University (CSU) to develop a systemwide policy providing guidance to its twenty-three campuses to come into compliance with state and federal repatriation law. AB 389 required the systemwide policy to be drafted in consultation with tribes and submitted to the NAHC for review and comment. AB 389 states that the California State University shall make best efforts to adopt the Commission's recommendations. The systemwide policy is currently in a 90-day tribal consultation period until November 30, 2024. Additional policy development steps, including an additional tribal consultation period will occur through July 1, 2025. Staff are currently drafting comments to the policy and requests the Commissioners permission to work with the appropriate Commissioners to review and finalize the comments to the policy.

Chairperson Pagaling asked Staff Counsel Pallari if he had a committee in place that he has been working with on this item. Staff Counsel Pallari replied that he has been working with a subcommittee in addition to a select number of Commissioners under quorum. Vice-Chairperson McQuillen asked how the comments will be provided to Commissioners for review. What is the timeframe for responding back? She expressed concerns in receiving the comments prior to the next Commission meeting given the CSU's current timeline. Vice-Chairperson McQuillen stated that a one-way push could be done and expressed that she thought content is being flagged during comments, but that content is also being flagged for how it effects to the Commission's responsibilities under state and federal law.

6. CSU Chancellor's Office updates regarding AB 389 compliance, including Systemwide Policy Development

Nathan Dietrich, Assistant Vice-Chancellor of Advocacy and State Relations, Office of the Chancellor, California State University, updated the Commission on four key items that the CSU has been working on to come into compliance with NAGPRA and CalNAGPRA. These include

systemwide policy development, the hiring of campus coordinators, budget allocations to the universities, and committee nominations. Assistant Vice-Chancellor Dietrich stated Chancellor Mildred Garcia spoke at California Native American Day where she apologized to tribes and tribal people for the harm done, caused by the CSU's lack of repatriation. She pledged to move forward and repatriate all ancestors and cultural items and build better and sustained tribal partnerships.

In addition, the draft Systemwide Policy is continuing to prioritize tribal input. Ten listening sessions were held in the Spring and the draft Policy is out for tribal consultation and has been emailed and mailed out to tribes on the contact list and the CSU will continue to work with tribes during the 90-day consultation period that ends on November 30, 2024. The CSU is holding consultations at Chico State, San Diego State, and in the Imperial Valley in addition to monthly virtual sessions. Over a dozen one-on-one tribal consultation meetings have been held with more being scheduled. Once the current consultation period is over the policy will be refined and shared with the Native American Heritage Commission. A final 30-day consultation period will take place in May 2025, allowing tribes to provide input for the final document. All CSU campuses have hired a full-time experienced campus coordinator, except for one campus. The CSU 2024-25 budget included allocation of funding to support repatriation of ancestors and cultural items. The funding includes \$4.25 million dollars, with \$3.4 million allocated to the 21 campuses that have collections. Each campus was allocated between \$115,000 and \$200,000 dollars, with the universities with larger collections receiving the larger amounts. Universities were notified that they shall use these funds to pay repatriation costs, that include but are not limited to, the hiring and training of staff, supporting university committees, engaging in tribal consultation, and fulfilling tribal requests. Universities are still expected to allocate their own funding, in addition to the funding allocated to them. \$550,000 dollars were allocated to the Chancellor's office to support the systemwide efforts that the state auditor recommended in their report last year as required by AB 389. The Chancellor's Office funding will support the personnel working on these issues. In September 2024, the Board of Trustees submitted a 2025-26 budget request for an additional \$4.5 million to provide to each university to add to the base of their repatriation funding. After today's Oversight Committee nominations, the CSU's still face at least 100 vacancies and will be addressing how to increase their outreach efforts to bring in more qualified applicants for these committees. With many campuses currently having partial committees in place the CSU would like the Commission's guidance on whether these committees should convene and do their work now or if they should wait until all positions are filled.

Commissioner Calac asked if the work is continuing and what has been done? How much repatriation has taken place? Mr. Dietrich responded that the work is being done and there has been an update every two months with the work that is being done. He stated he will provide a full update on all work that has been done in the past year.

Vice-Chairperson McQuillen asked how much it cost each campus as it is unclear if campuses are adequately funded. She also pointed out that it sounds like there is a pathway being created for tribes to access some funds and asked how that is being implemented.

Mr. Dietrich responded that each campus must provide implementation plans, which the Chancellor's Office uses to develop their future budgets. He also stated that the CSU does need more money for these programs. The CSU is currently compensating tribes based on campus-by-campus practice.

Vice-Chairperson McQuillen asked how campuses make decisions to set the policy in terms of what items get funded? How do tribes become a part of that process? This is really important for tribes to get to weigh-in on and it is important this is a transparent process.

Nathan Dietrich responded that the conversations happen on a campus-by-campus, but they are hoping to use the campuses' work to emulate across the system.

Commissioner Calac asked how does the CSU dispute a denial to a tribe? Where does the CSU take that dispute, given the CSU may not know the inner workings of each tribe.

Mr. Dietrich stated that the listening sessions have echoed that the CSU needs to defer to tribal knowledge. He stated that he looks use the Systemwide Policy as a framework for how to resolve those issues. Mr. Dietrich also mentioned that a clear message from the listening sessions is that the financial burden should not be placed on tribes.

Vice-Chairperson McQuillen stated that it would be helpful for the policy to identify if deviation from the systemwide policy is to occur, what that would look like and that tribes should be able to provide input on those variations. Vice-Chairperson McQuillen also brought attention to the fact that often times educational systems reach out to tribes to collaborate on grants and maybe contracting with tribes for their input on individual campuses may be beneficial and collaborative. This process could parallel the process used by national NAGPRA. Vice-Chairperson McQuillen stated we are at the point of actually committing those dollars and cementing policy and action.

Chairperson Pagaling stated that his own tribe is aware they will be receiving a large collection from a number of different universities, but the next steps and conversations will be what facilities or processes will tribes need upon collections being returned.

Commissioner Bojorquez urged the CSU to consider a mechanism to disburse financing to tribes. Different tribes have different mechanisms which may include direct partnerships, 501 (c)(3)s, or other avenues. Please ensure the CSU considers these different financial mechanisms.

Vice-Chairperson McQuillen asked for clarification on the issues currently facing Repatriation and Oversight Committees.

Nathan Dietrich stated that there are several committees that are partially filled, and the CSU would like guidance on what these partially formed committees should be doing before the full committee is formed.

Commissioner Bojorquez stated that there is more information needed before he feels comfortable in giving advice on partial committees.

Vice-Chairperson McQuillen stated she appreciates Commissioner Bojorquez's comments and questions what is driving the concerns of partial committees. If you have tribal positions filled, then you should utilize the experts you have in those positions.

Commissioner Calac commented that if you have one person sitting on the committee then yes utilize them, but recognize it is a lot of burden to put on one person.

7. CSU Campus Repatriation and Oversight Committee updates, vacancies and nominations

Staff Counsel Pallari stated that all candidates on the agenda have been reviewed and recommended by the subcommittee.

Chairperson Pagaling confirmed that as a part of the subcommittee, the proposed nominees on the agenda are supported by the subcommittee.

CSU Chico

- i. Commissioners to consider the nomination of April Kamp-Whittaker, CSU Representative, CSU Chico
Commission Vote: Nominate April Kamp-Whittaker to CSU Chico Repatriation and Oversight Committee
Motion: Commissioner Bojorquez
Second: Vice-Chairperson McQuillen
Aye: 8; Nay: 0; Abstained: 0
Motion carried.
- ii. Commissioners to consider the nomination of Cole Morales, Federally Recognized Tribal Representative, CSU Chico
Commission Vote: Nominate Cole Morales to CSU Chico Repatriation and Oversight Committee
Motion: Vice-Chairperson McQuillen
Second: Commissioner Bojorquez
Aye: 8; Nay: 0; Abstained: 0
Motion carried.
- iii. Commissioners to consider the nomination of Deserea Langley, CSU Native American Studies Representative, CSU Chico
Commission Vote: Nominate Deserea Langley to CSU Chico Repatriation and Oversight Committee
Motion: Vice-Chairperson McQuillen
Second: Commissioner Rodriguez
Aye: 8; Nay: 0; Abstained: 0
Motion carried.
- iv. Commissioners to consider the nomination of Matthew O'Brien, CSU Representative, CSU Chico
Commission Vote: Nominate Matthew O'Brien to CSU Chico Repatriation and Oversight Committee
Motion: Vice-Chairperson McQuillen
Second: Commissioner Bojorquez
Aye: 8; Nay: 0; Abstained: 0
Motion carried.

CSU Dominguez Hills

- v. Commissioners to consider the nomination of Christina Conley, Non-Federally Recognized Tribal Representative, CSU Dominguez Hills
Commission Vote: Nominate Christina Conley to CSU Dominguez Hills Repatriation and Oversight Committee
Motion: Vice-Chairperson McQuillen
Second: Commissioner Nelson
Aye: 8; Nay: 0; Abstained: 0
Motion carried.
- vi. Commissioners to consider the nomination of Lia Morgan Siewert, CSU Representative, CSU Dominguez Hills
Commission Vote: Nominate Lia Morgan Siewert to CSU Dominguez Hills Repatriation and Oversight Committee
Motion: Vice-Chairperson McQuillen
Second: Commissioner Milanovich

Aye: 8; Nay: 0; Abstained: 0
Motion carried.

CSU Fresno

- vii. Commissioners to consider the nomination of Heather Airey, Federally Recognized Tribal Representative, CSU Fresno
Commission Vote: Nominate Heather Airey to CSU Fresno Repatriation and Oversight Committee
Motion: Commissioner Rodriguez
Second: Commissioner Nelson
Aye: 8; Nay: 0; Abstained: 0
Motion carried.

CSU Monterey Bay

- viii. Commissioners to consider the nomination of Tom Little Bear Nason, Non-Federally Recognized Tribal Representative, CSU Monterey Bay
Commission Vote: Nominate Tom Little Bear Nason to CSU Monterey Bay Repatriation and Oversight Committee
Motion: Commissioner Bojorquez
Second: Vice-Chairperson McQuillen
Aye: 8; Nay: 0; Abstained: 0
Motion carried.
- ix. Commissioners to consider the nomination of Nizhoni Chow-Garcia, CSU Representative, CSU Monterey Bay
Commission Vote: Nominate Nizhoni Chow-Garcia to CSU Monterey Bay Repatriation and Oversight Committee
Motion: Vice-Chairperson McQuillen
Second: Commissioner Calac
Aye: 8; Nay: 0; Abstained: 0
Motion carried.

CSU Sacramento

- x. Commissioners to consider the nomination of Yvonne Perkins, Federally Recognized Representative, CSU Sacramento
Commission Vote: Nominate Yvonne Perkins to CSU Sacramento Repatriation and Oversight Committee
Motion: Commissioner Rodriguez
Second: Commissioner Bojorquez
Aye: 8; Nay: 0; Abstained: 0
Motion carried.

CSU San Bernardino

- xi. Commissioners to consider the nomination of Danny Sosa Aguilar, CSU Representative, CSU San Bernardino
Commission Vote: Nominate Danny Sosa Aguilar to CSU San Bernardino Repatriation and Oversight Committee
Motion: Vice-Chairperson McQuillen
Second: Commissioner Milanovich

Aye: 8; Nay: 0; Abstained: 0

Motion carried.

- xii. Commissioners to consider the nomination of Kimberly Johnson, Non-Federally Recognized Representative, CSU San Bernardino

Commissioner Bojorquez requested clarification regarding candidates who are listed with campuses that are not selected on their application.

Staff Counsel Pallari stated that because positions had filled during their application process, he followed up with those candidates for a list of alternate campuses they would be interested in serving on.

Commission Vote: Nominate Kimberly Johnson to CSU San Bernardino Repatriation and Oversight Committee

Motion: Commissioner Rodriguez

Second: Vice-Chairperson McQuillen

Aye: 8; Nay: 0; Abstained: 0

Motion carried.

CSU San Diego

- xiii. Commissioners to consider the nomination Jacob Alvarado Waipuk, CSU Representative, CSU San Diego

Commission Vote: Nominate Jacob Alvarado Waipuk to CSU San Diego Repatriation and Oversight Committee

Motion: Commissioner Rodriguez

Second: Commissioner Milanovich

Aye: 8; Nay: 0; Abstained: 0

Motion carried.

Executive Secretary Hitchcock noticed that the nominee qualified to be a Native American Studies nominee, but was nominated as a CSU Representative position. Executive Secretary Hitchcock asked if he would have qualified for the Native American Studies position if it were to become available.

Staff Counsel Pallari stated that the position is currently filled, so he did not do the necessary analysis to answer this question. However, if the opportunity presented itself, then he doesn't believe there is anything in the statute to preventing a candidate from applying from the Native American Studies position if they were qualified.

CSU San Marcos

- xiv. Commissioners to consider the nomination of H. Paul Cuero Jr., Federally Recognized Representative, San Marcos

Commissioner Calac asked if all committees are the same size. Staff Counsel Pallari confirmed that all committees are the same size across the CSU system.

Commission Vote: Nominate H. Paul Cuero Jr. to CSU San Marcos Repatriation and Oversight Committee

Motion: Commissioner Rodriguez

Second: Commissioner Nelson

Aye: 8; Nay: 0; Abstained: 0

Motion carried.

CSU San Francisco

- xv. Commissioners to consider the nomination of Sean Scruggs, Federally Recognized Tribal Representative, CSU San Francisco

Commission Vote: Nominate Sean Scruggs to CSU San Francisco Repatriation and Oversight Committee

Motion: Commissioner Milanovich

Second: Commissioner Rodriguez

Aye: 8; Nay: 0; Abstained: 0

Motion carried.

- xvi. Commissioners to consider the nomination of Gregg Castro, Non-Federally Recognized Tribal Representative, CSU San Francisco

Commissioner Calac noticed there was a missing tribal letter in the candidate's packet. Staff Counsel Pallari confirmed that he was able to retrieve the tribal letter.

Commission Vote: Nominate Gregg Castro to CSU San Francisco Repatriation and Oversight Committee

Motion: Commissioner Bojorquez

Second: Vice-Chairperson McQuillen

Aye: 8; Nay: 0; Abstained: 0

Motion carried.

- xvii. Commissioners to consider the nomination of Robert Collins, CSU Native American Studies Representative, CSU San Francisco

Commission Vote: Nominate Robert Collins to CSU San Francisco Repatriation and Oversight Committee

Motion: Commissioner Bojorquez

Second: Vice-Chairperson McQuillen

Aye: 8; Nay: 0; Abstained: 0

Motion carried.

CSU San Luis Obispo

- xviii. Commissioners to consider the nomination of Eleanor Fishburn, Non-Federally Recognized Representative, CSU San Luis Obispo

Commission Vote: Nominate Eleanor Fishburn to CSU San Luis Obispo Repatriation and Oversight Committee

Motion: Commissioner Bojorquez

Second: Commissioner Calac

Aye: 8; Nay: 0; Abstained: 0

Motion carried.

- xix. Commissioners to consider the nomination of Terry Jones, CSU Representative, CSU San Luis Obispo
- Commission Vote:** Nominate Terry Jones to CSU San Luis Obispo Repatriation and Oversight Committee
Motion: Commissioner Milanovich
Second: Commissioner Calac
Aye: 8; Nay: 0; Abstained: 0
Motion carried.

CSU Sonoma

- xx. Commissioners to consider the nomination of Silvia Soto, CSU Native American Studies Representative, CSU Sonoma
- Commission Vote:** Nominate Silvia Soto to CSU Sonoma Repatriation and Oversight Committee
Motion: Vice-Chairperson McQuillen
Second: Commissioner Nelson
Aye: 8; Nay: 0; Abstained: 0
Motion carried.

CSU Stanislaus

- xxi. Commissioners to consider the nomination of Ted Atkins, Federally Recognized Representative, CSU Stanislaus
- Commission Vote:** Nominate Ted Atkins to CSU Stanislaus Repatriation and Oversight Committee
Motion: Commissioner Milanovich
Second: Commissioner Bojorquez
Aye: 8; Nay: 0; Abstained: 0
Motion carried.
- xxii. Commissioners to consider the nomination of Jennifer Ringberg, CSU Representative, CSU Stanislaus
- Commission Vote:** Nominate Jennifer Ringberg to CSU Stanislaus Repatriation and Oversight Committee
Motion: Vice-Chairperson McQuillen
Second: Commissioner Bojorquez
Aye: 8; Nay: 0; Abstained: 0
Motion carried.

Commissioner Calac requested that the Commission receive an updated list of vacancies so they may share the vacancies within the tribal community.

Break called 11:19 AM
Return from break 11:41 AM

8. Review Most Like Descendant Determination- American River Common Features Project
(Item taken at 9:20am)

Chairman John Williams, United Auburn Indian Community of the Auburn Rancheria (UAIC), thanked the Commission and provided a brief summary of the American River Common Feature Project, which is

a large levee project that includes the Sacramento and American Rivers in the greater Sacramento area. Chairman Williams stated he has spoken with Shingle Springs Band of Miwok Indians and that the tribes are present today to request that the Commission update the designation to a co-MLD designation of both United Auburn and Shingle Springs for the entire American River Common Features project. The tribes have a long history of working well together on this project. Updating the MLD designation will allow both tribes to continue working together to protect the unmarked cemeteries being disturbed by the ongoing levee work. Chairman Williams stated that the Commission has made conflicting MLD designations and that these designations lacked adequate fact finding and communication with the tribes working on the levee project. The United Auburn Indian Community sent a letter to the Commission on August 23rd, 2024, requesting this issue be placed on the agenda and that the Commission make a recommendation or take action to resolve the issue. On September 20, 2024, Executive Secretary Hitchcock sent an MLD designation letter designating UAIC as the MLD for the Sacramento River East Levee portion of the project and Shingle Springs as the MLD for the Lower American River portions of the project. The Executive Secretary acknowledged his ties to the region as a member of a federally recognized local tribe. Chairman Williams stated that they have a strong concern about potential conflicts within the Executive Secretary's decision making for MLDs in the region where he has cultural ties. Chairman Williams respectfully repeats the request to designate both UAIC and Shingle Springs as co-MLDs. This solution would respect the sovereignty of both tribes with respect to protecting our ancestors. Chairman Williams respectfully requests a recommendation from the Commission within the next thirty days.

Chairperson Pagaling stated that the project has been ongoing for some time and recalled that the Commission was involved in the lawsuit against the Army Corps of Engineers almost nine years ago and acknowledged the tribes showing up to support the Commission at that time. Chairperson Pagaling also expressed appreciation for the work the tribes have done to care for the ancestors in the levee project area.

Commissioner Calac requested copies of the submitted letters from UAIC.

UAIC Senior Manager Melodi McAdams, UAIC, provided physical copies of the letter to the Commissioners.

Vice-Chairperson McQuillen requested to also see copies of the response letter sent by the Executive Secretary and MLD procedures. She also asked Melodi McAdams to explain the differences between the rivers and the designations.

Executive Secretary Hitchcock responded to the Vice-Chairperson's comment on the response letter stating that NAHC staff had sent letters and maps to Commissioners, but those documents may need to be redacted and this is why the documents were not included as public documents. All documents being shared by UAIC are being shared as public documents at this time. Executive Secretary Hitchcock thanked Chairman Williams for his testimony and acknowledged that the Chairman provided a helpful statement when he requested the co-MLD designation for this ongoing project that has been around since 2016. He acknowledged the complexity of the project and how it falls within the Commission's process of MLD designations per project designation.

The Vice-Chairperson called for a point of order and states that she had the floor, and she has asked Melodi to discuss the issues and complexities of this project in addition to a discussion about process.

Melodi McAdams, UAIC, stated that in 2016 UAIC had been designated as the MLD for a segment of the American River Common Features Project, the Sacramento River East Levee segment. UAIC's understanding from conversations with NAHC staff was that designations are made on a project level so that the designation was made for the project as a whole, so when there were subsequent discoveries on Native American human remains on other segments of the American River Common Features

Project UAIC learned that Shingle Springs had been made MLD. This created uncertainty for UAIC regarding their MLD designation and they spoke with NAHC staff for clarification. After UAIC met with NAHC staff it was suggested that UAIC work with Shingle Springs, and they were happy to do so. However, this second designation raised concerns about the legal status of the tribe as MLD because the Army Corps of Engineers stated that the tribe was no longer the MLD and no longer had the ability to make recommendations which created a lot of confusion in the regulatory process. This confusion on MLD designation has hindered the reburial process when ancestors are discovered, which is why clarification on processes is being requested today.

Vice-Chairperson McQuillen wishes to confirm that there the cultural affiliation between UAIC and Shingle Springs is the same on this particular project. Melodi McAdams stated that to her knowledge yes, but that she would not speak for Shingle Springs. James Sarmiento, Shingle Springs Band of Miwok Indians Executive Director of Cultural Resources, confirmed that there is a cultural affiliation between UAIC and Shingle Springs. Vice-Chairperson McQuillen stated that the internal procedure document has been shared and there are complexities to the MLD process. Vice-Chairperson McQuillen stated that the document may need updates, due to the many nuances that come with the MLD process. Vice-Chairperson expressed her appreciation for the tribes ability to work together and come to the Commission not in conflict.

Commissioner Calac stated that she has been on the Commission for one year, but has been doing this work for thirty-five years. The Commission is unique, and it is quite difficult to compare regulatory process and traditional process. Commissioner Calac thanked the two tribes for coming forward. She reiterated the importance of consultation with tribes because California tribes are diverse. Each tribe knows their customs and practices best.

Melodi McAdams repeated Chairman Williams request for a recommendation within thirty days as there are burials awaiting reinterment.

Chairman Williams thanked the Commissioners for their work and acknowledged the difficulties that come with regulation.

Chairperson Pagaling thanked the Chairman and both tribes for their presence and requested their assistance and expertise in regulation development.

Executive Secretary Hitchcock thanked Chairman Williams and Chairwoman Cuellar for the work that they do to protect ancestors along the river. He explained that he was trying his best to follow the current procedures in place until formal regulations are established. He acknowledged the great work both tribes are doing and is happy to hear that both tribes would like to be co-MLDs on the entire project moving forward.

Commission Vote: Establish UAIC and Shingle Springs Band of Miwok Indians as Co-MLDs for the entire American River Common Features Project

Motion: Commissioner Dutschke

Second: Commissioner Nelson

Aye: 8; **Nay:** 0; **Abstained:** 0

Motion carried.

9. NAHC Subcommittees

Executive Secretary Hitchcock provided a brief summary of the current subcommittees and their roles. Chairperson Pagaling asked if there are any subcommittees that need assistance. Chief Counsel Carr stated that substitutions are okay on the subcommittees. If there are more than two Commissioners present for a subcommittee meeting, then it is a Bagley Keene issue, and you would need to have a public meeting. Chairperson Pagaling stated that Vice-Chairperson McQuillen will serve as a substitute for the MLD subcommittee and he volunteers to serve as a substitute for any subcommittees that need it.

A. Commissioners to consider Subcommittee reassignments

i. Most Likely Descendant (MLD) Subcommittee

B. Commissioners to consider additional Subcommittee assignments

i. Sacred Lands Inventory and Fee

Executive Secretary Hitchcock would like the Commission to consider a subcommittee for the Sacred Lands Inventory and Fee, due to regulations being necessary to charge a fee. This would also clarify how the NAHC uses the Sacred Lands Inventory.

Commissioner Calac wishes to serve on the subcommittee. She feels that this will be very helpful for the MLD process for staff.

Commissioner Bojorquez also wishes to serve on the subcommittee.

Commission Vote: To create the Sacred Lands Inventory and Fee Subcommittee and staff it with Commissioner Calac and Commissioner Bojorquez

Motion: Commissioner Rodriguez

Second: Vice-Chairperson McQuillen

Aye: 8; **Nay:** 0; **Abstained:** 0

Motion carried.

ii. CalNAGPRA Enforcement

Executive Secretary Hitchcock stated that the NAHC currently has a CalNAGPRA Process subcommittee, but Chief Counsel Carr has advised that only enforcement regulations are necessary, not process. Executive Secretary Hitchcock is asking the Commission to consider changing the CalNAGPRA Process subcommittee to CalNAGPRA Enforcement subcommittee.

Commission Vote: Change CalNAGPRA Process subcommittee to CalNAGPRA Enforcement subcommittee and staffing it with those members of the CalNAGPRA Mediation and Dispute Resolution subcommittee – Pagaling and Dutschke

Motion: Commissioner Bojorquez

Second: Commissioner Calac

Aye: 8; **Nay:** 0; **Abstained:** 0

Motion carried.

iii. NAHC 2024 Draft Strategic Plan

Executive Secretary Hitchcock stated that the strategic plan was discussed in 2022 and 2023 to draft a 2024 Strategic Plan, however the plan has been stagnant. Executive Secretary Hitchcock recommends a subcommittee to be established to review the strategic plan.

Commission Vote: Create a NAHC 2024 Draft Strategic Plan Subcommittee and staff it with Chairperson Pagaling and Commissioner Calac

Motion: Commissioner Milanovich

Second: Commissioner Bojorquez

Aye: 8; **Nay:** 0; **Abstained:** 0

Motion carried.

Closed Session

10. Pending litigation: City of Corona v. Native American Heritage Commission, Superior Court of Riverside County, Case No. CV-RI-24-00445 (Government Code, §11126(e)(1),(2)(A))

Closed Session Announced 11:55AM

Return from Closed Session 12:42PM

Nothing to report from Closed Session.

Break for lunch 12:43PM

Return from lunch 2:28PM

Milanovich absent

INFORMATIONAL

11. Update on Draft Regulations

A. Contact List

Chief Counsel Carr stated the draft Contact List Regulations were released October 23, 2023, with a 120-day tribal comment and consultation period, which included nine listening sessions comprised of 58 tribes, 23 consultations, and 35 written comments received. Tribal comments were compiled and reviewed. Revisions have been made after extensive research and Chief Counsel Carr hopes to have an update for the Commission by early 2025.

B. Most Likely Descendant(s)

Chief Counsel Carr stated that MLD regulations had been circulated a few years back. These draft regulations have been revised to a shorter version to allow the Commissioners an opportunity to provide input. Chief Counsel Carr is hopeful to have a draft ready by 2025.

C. CalNAGPRA Enforcement

DOJ has worked Commission staff on various CalNAGPRA regulations, however this has now been split apart into separate regulations, such as mediation and enforcement. The CalNAGPRA Enforcement regulations should be ready in 2025.

D. Sacred Lands Inventory & Fee

Chief Counsel Carr stated these regulations would be the most challenging from a legal perspective. She stated that she will need to meet with to gain a knowledge base of our current process, then bring in subcommittee members to begin building regulations. She hopes to regulations by the end of 2025, but reiterated the complexity involved with these regulations.

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Vice-Chairperson McQuillen asked if the previous staff provided a historical background section.

Chief Counsel Carr stated that there is no historical background and that are incorrect statute citations.

Vice-Chairperson McQuillen suggests speaking with tribes and archaeologist to understand their perspective.

Commissioner Calac stated that tribes have different perspectives and we, as Commission staff, need to pay respect to tribes and understand their perspective.

12. Commissioner Reports

13. Executive Secretary's Report

From July to September 2024, Environmental and Cultural Division staff made 13 MLD determinations, processed 1,625 contact information requests, and 6,469 Sacred Land Files searches.

Commissioner Calac stated that as California starts to see an increase in conservation lands and co-management of lands, the NAHC needs to talk to tribes about co-management of lands.

Executive Secretary Hitchcock stated in 2022 Commission staff were asked to create a mediation training program, due to Assembly Bill 275 putting the NAHC at the forefront of CalNAGPRA. Although the recent federal NAGPRA changes have limited the NAHC's power in CalNAGPRA, a mediation need may still exist. The NAHC has partnered with Restorative Justice Center on developing a mediation training. There is also an existing smaller contract with Sacramento State for mediation services. The NAHC has requested funding for this purpose, but has not received any to date. There will be updates given at future Commission meetings.

Vice-Chairperson McQuillen stated that federal law has modified regulations and asked what Chief Counsel's perspective is on the urgency of this program.

Chief Counsel Carr stated that given the federal regulations this will be a possibility under CalNAGPRA only.

Vice-Chairperson McQuillen asked what the outreach to tribes has been to develop this program.

Executive Secretary Hitchcock stated that the individuals involved with this potential program have experience building mediation programs, but the nuance will be involving tribes and their cultural perspective. There is funding set aside to create this program and that tribal input will be an important piece when we get to that point.

Vice-Chairperson McQuillen requested a staff presentation on the scope of the work and cost of the Restorative Justice Center program at the next Commission meeting.

Executive Secretary Hitchcock stated that Native American Day and Tribal Leaders Forum were both successful with over 8,000 participants and 100 exhibitors at Native American Day. Executive Secretary thanked the staff and state agencies for their help and the tribes for their sponsorships. Native American Heritage Month is in November. The first Native American Heritage Month Parade will take place in Sacramento on November 9, 2024, and October 18, 2024, is the last day to register to participate. Vice-Chairperson McQuillen is agreeable to have a presence at the parade and Commissioner Bojorquez

agrees to having a presence at the event. Chairperson Pagaling agrees the Commission should have a presence at the event and Commissioner Dutschke invites staff to participate in the event with the Commission.

Executive Secretary Hitchcock stated this is his final report as he is leaving the Commission. He echoed the honor it has been for him to serve the last 30 months and an honor to work with staff and Commissioners. He stated this is a tough role for Commissioners, especially given they are not compensated for their commitment to the work of the Commission. Chairperson Pagaling thanked the Executive Secretary for his service and his time.

PUBLIC COMMENT

ADJOURNMENT

Commission Vote: Adjourn the October 18, 2024, Commission Meeting

Motion: Commissioner Rodriguez

Second: Commissioner Calac

Aye: 7; **Nay:** 0; **Abstained:** 0

Motion carried.

Meeting adjourned at 3:04 PM

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

Reginald Pagaling, *Chairperson*

Sara Dutschke, *Secretary*