Draft Contact List Regulations – Summary of Comments Received
As of January 15, 2026

General

- The NAHC should slow down to consider more tribal opinions. (two tribes)

- The NAHC should withdraw the current proposed draft regulations and begin the process again. (six tribes)

- Tribes should have been approached proactively during this process. The CNRA tribal consultation policy says we must be approached and told explicitly why the NAHC thinks it needs to draft new regulations.

- We propose that the NAHC return to their proposed criteria entitled "Documentation for Inclusion of Non-Federally Recognized California Native American Tribes on the Native American Heritage Commission Tribal Consultation List" dated January 16, 2018.

- We propose that the NAHC pause for 120 days before moving forward with the final draft regulations.

- This draft is so different from the last that the NAHC should have an entirely new consultation period, not a continuation of the prior timeline. (two tribes)

- There needs to be clarity in the Contact List regulations, but this version is less clear and less fair than the last version of the regulations. (two tribes)

- We acknowledge that updates to the current regulations are necessary.

- The proposed changes to the Contact List Regulations are not a recognition policy. They're a termination policy. The new regulations are flawed, as they only serve to protect the rights of federally recognized tribes. The new regulations will only create more lateral violence and further divide the state and the intertribal community. (seven tribes)

- The removal of government-to-government consultation for non-federally recognized tribes not only disrespects the sovereignty of these California Native American Tribes but also opens the door for state-sanctioned violence against our lands and cultures. (seven tribes)

- The NAHC should create a working group of California tribes, not just federal tribes, to handle the new draft regulations. The working group members should be compensated for their expertise. (two tribes)

- The NAHC should penalize lead agencies and cultural resource monitors who utilize tribal entities that were removed from the Contact List.

- The NAHC's enabling statutes do not include any express power to adopt the Contact List regulations. The statutes requiring the NAHC to "maintain" a Contact List of California Native American tribes do not include a fixed primary standard to guide the NAHC's regulations, and therefore no implied authority to regulate exists. (four tribes)

- The NAHC is not required to have regulations, only guidelines.

- The charge of "maintain a list of tribes" implies maintaining a list of existing tribes, rather than the Legislature delegating some authority for the NAHC to recognize or de-list tribes or determine the extent of their territories.

- The NAHC should add a check-in process. After a few years of implementation, we should re-open this process to see what is working and what isn't. After a few years, folks will have a better idea of what evidence is available to tribes.

- We want the NAHC to play a larger role in helping tribes build capacity to make arrangements for preservation and protection.

- The way the NAHC is trying to operate the Contact List will negatively affect us as non-federal tribes. It will disenfranchise us. (two tribes)

- The NAHC is a state commission with state funding, not an arm of the federal government. (five tribes)

- This process is a form of federalization. The Commission is supposed to uplift and support non-federally recognized tribes, too.

- It is not up to the NAHC to determine whether a group is a tribe, but we should not be relying on the federal government to make this determination, either. (two tribes)

- The NAHC is erasing the work of a lot of individuals by designating one point person. We urge the NAHC to move beyond picking one point person.

- We request that the NAHC conduct hearings in the Central Valley, so that California tribes have access to such hearings. Many non-federally tribes are in the Central Valley and Southern California.

- The current regulations, if enacted into law, will leave huge sections of the state unprotected, especially on the coast. (four tribes)

- The current draft is unlawful on multiple grounds, including ultra vires rulemaking inconsistent with governing statutes. The Commission may adopt regulations only to implement the statutes within the scope delegated by the Legislature. The draft regulations' stated purpose—protecting the political status of federally recognized tribes (14 CCR § 31030(c))—is not an authorized statutory objective for administering a consultation Contact List.

- The current draft is unlawful on multiple grounds, including CEQA noncompliance, because the rulemaking is a "project" capable of causing reasonably foreseeable indirect physical change to the environment, and specifically, to tribal cultural resources. The CEQA review must occur at the rulemaking stage. We believe the NAHC should complete CEQA compliance before taking any action to adopt regulations that restrict, expand, alter, or eliminate consultation pathways for California Native American tribes pursuant to AB 52, SB 18, or any other state, federal or local laws.

- The current draft is unlawful on multiple grounds, including disqualifying conflicts of interest requiring disclosures and recusals. The draft regulations openly advance the political interests of federally recognized tribes, including the federally recognized tribes of which the Commissioners are members. These conflicts have been apparent throughout the development of the draft regulations, and raise serious concerns regarding objectivity, transparency, and procedural integrity. At minimum, to protect the validity of this rulemaking record and avoid post-adoption invalidation, the Commission should: (1) disclose Commissioner economic interests implicated by the Draft Regulations; (2) apply the Act's disqualification rules; and (3) ensure recusals.

- If adopted, the proposed draft regulations would be disastrous for non-federally recognized California Native American Tribes. They would be tantamount to ushering in a new wave of genocide and erasure that would devastate nearly a third of the Native American Tribes in California. (eight tribes)

- Qualifying for the Contact List will be expensive, time-consuming, and burdensome. (two tribes)

- The proposed regulations would give others authority over our ancestral lands while excluding the people who have lived here since time immemorial. (two tribes)

- Notification procedures must reflect the full extent of a Tribe's traditional and cultural affiliation, which may extend across multiple watersheds, ecological zones, or regions. Any administrative notification system must defer to tribally provided areas of cultural responsibility to ensure appropriate and timely consultation.

- The new draft Contact List regulations have created an adversarial situation between non-federally recognized tribes and the NAHC, and possibly with federally recognized tribes. (three tribes)

- We would like the NAHC to be better funded and more empowered to conduct mediation, because we currently lack a mechanism for tribal dispute resolution. (two tribes)

- It seems like the State is worried about its relationship with individual tribes, but not as worried about the relationships between tribes.

- Tribes must retain exclusive discretion to determine when and how cultural information is updated, as cultural landscapes evolve through new discoveries, research, survey, environmental changes, oral history, and ongoing cultural responsibilities.

- These draft regulations threaten to remove non-federally recognized Tribes from the Consultation List. This is not a technical adjustment. It is devastating. It strips us of the right to protect our lands. It removes our ability to speak for our own ancestors. And for many Tribal members, it takes away their only source of income—income earned while performing sacred responsibility and cultural stewardship.

- We worry these regulations will lead to federally recognized tribes speaking for us, controlling our sites, and determining what happens to our ancestors. We do not need that.

- These regulations, as written, contravene current laws, including SB-18, Executive Order B-10-11, and Assembly Bill 275. (four tribes)

- The NAHC should seek legislative authority and direction on whether it may regulate the Contact List, to what extent, and in what manner.

- The exclusion of non-federally recognized Tribes contradicts long-established state policy, including SB 18, AB 52, and Executive Orders B-10-11 and N-15-19. (seven tribes)

- The draft Contact List regulations will conflict with the goals of the State and several State agencies including the Office of Land Use and Climate Innovation and the California Natural Resources Agency.

- The NAHC does not have authority to develop regulations that allow it to become the arbiter of California tribal sovereignty. (two tribes)

- We do not believe the NAHC should allow non-profit 501(c)(3)'s on the Contact List.

- The State can have relationships with unrecognized tribes that differ from its relationship with federal tribes. The NAHC should highlight the differences but not erase tribal sovereignty of unrecognized tribes. (two tribes)

- The revised regulations differ significantly from the 2023 draft proposed regulations. (five tribes)

- The current draft is more troubling than the original.

- We are worried about remaining on the Contact List during the draft regulation process. (two tribes)

- We would like the NAHC to help tribes that don't have as many resources or as much knowledge to get on the List.

- We would like State or grant funding to assist with applying to get on the Contact List.

- The NAHC should allow tribes to use its website to create meetings and bring Indigenous folks together to work on the current draft.

- People are tired of dealing with factionalism, and so there is a push towards federalism. (two tribes)

- We are worried that the Commission does not have the time to undertake this work. We worry the Commissioners will not have time to get into the nitty-gritty that is required to assess all these applications.

- We are already on the Most Likely Descendant list. We should not have to qualify to be on this List, too.

- The draft is not clear about the practical impact on unrecognized tribes. The inequality posed by the draft could be resolved by requiring all tribes to go through the same process.

- The NAHC should add a code of conduct into the regulations. If a tribe cannot meet the code of conduct, they should not be allowed to remain on the Contact List.

- There are many places in the regulations where it says "NAHC staff", but we think it should be "the NAHC".

- The NAHC should study, historically, the relationships California tribes had with the federal government and the reasons why those tribes are not currently federally recognized.

- The NAHC needs additional funding for this process to work.

- The NAHC, in the next draft, should use footnotes that reflect which specific comments it implemented and incorporated. That would help tribes feel included in this process.

- These draft regulations would fundamentally reshape the NAHC's policy on tribal recognition and consultation, resulting in the elimination of State recognition and consultation rights for numerous non-federally recognized tribes—particularly those whose ancestry is tied to the California Missions.

- The proposed draft Contact List regulations run counter to international standards set by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). (seven tribes)

- The proposed draft Contact List regulations violate international standards of Free, Prior, Informed Consent (FPIC). (seven tribes)

- The NAHC's potential exclusion of non-federally recognized tribal communities from consultation and decision-making is not only an affront to Indigenous sovereignty but also a violation of California's stated commitments to restorative justice.

- The proposed draft would require the Digital Atlas to be updated. This would render years of work with California Native American Tribes destabilized and jeopardize cultural resource protections statewide. Tribal Nations have invested enormous labor into this tool, and these regulations threaten to invalidate or diminish that work.

- Although described as procedural refinements, the regulations would create an expansive regulatory system that exceeds the limited statutory authority granted to the NAHC,

conflicts with the California Administrative Procedure Act ("APA"), intrudes into areas governed exclusively by federal law, and undermines principles of tribal sovereignty protected by both state and federal law. As drafted, the regulations are unlawful, unenforceable, and vulnerable to both facial and as-applied challenge.

- Nothing in Public Resources Code section 5097.94, whether express or implied, authorizes the NAHC to determine which governments qualify as tribes, regulate tribal lineage, membership, or internal governance, impose eligibility criteria for participation in CEQA, AB 52, SB 18, or CalNAGPRA consultation processes, adjudicate the political or cultural identity of tribal governments, assign or restrict tribal territories, conduct hearings or appeals, or remove tribes from the statutory Contact List.

- Government Code section 11342.2 prohibits any agency from adopting any regulation that conflicts with, exceeds, or enlarges its statutory authority. By creating powers that do not exist in Public Resources Code section 5097.94, the proposed regulations violate Government Code section 11342.2, exceed the NAHC's jurisdiction, and are therefore invalid.

- The NAHC does not possess authority to construct an expansive adjudicatory regime that determines which entities qualify as tribal governments, imposes mandatory procedural obligations on sovereign tribal nations, adjudicates or reallocates territorial interests, or conditions the exercise of statutory consultation rights on the Commission's approval.

- The regulations exceed the limited role assigned to the NAHC under AB 52, SB 18, and CalNAGPRA. AB 52 and SB 18 impose obligations on lead agencies, not the NAHC, and limit the NAHC's role to maintaining contact information and identifying tribes that may be traditionally and culturally affiliated with a project area. The proposed regulations improperly shift these statutory responsibilities to the NAHC by creating binding eligibility requirements, mandatory processes, hearings, appeals, and dispute-resolution procedures that the Legislature never authorized. CalNAGPRA, as amended by AB 275, permits the NAHC to verify non-federally recognized groups solely for CalNAGPRA. The proposed regulations unlawfully extend that authority to all state cultural resource and consultation frameworks.

- Tribes will not participate in this process for fear of being diminished or removed from the List.

- The NAHC must include safeguards to prevent misuse of the Contact List by other agencies.

Section 31030

- The preamble should be filled out with more. It is currently too slim.

- There are three places in AB 52 that mention the Commission and this List. To say that the Contact List is intended for use by the NAHC to facilitate consultation is limiting. It is there for local governments to know which tribes it must consult with.

- The NAHC should cite to the origin the Contact List, and the NAHC's authority, under Government Code 65352.

- The preamble narrows the NAHC's authority too much. The preamble should include the other statutes where the Contact List is mentioned.

- Any description of "scope" must acknowledge that cultural landscapes cannot be administratively circumscribed and must remain informed by tribal knowledge and traditional stewardship responsibilities.

31030(c)

- The preamble is overprotective of federal tribes.

- We do not oppose the statement regarding federally recognized tribes, but it needs to include state-acknowledged non-federally recognized tribes.

- The NAHC should include a section in the preamble about the unique history of tribal exclusion. It should state the NAHC's intent to include all tribes, including non-federally recognized tribes. (four tribes)

- The NAHC needs to include non-federally recognized tribes as sovereign in the preamble. (eleven tribes)

- This section should be amended to read: "It is the intent of these Regulations to support, protect, and uplift the inherent sovereignty of California Native American Tribes."

- This language elevates federally recognized tribes above non-federally recognized tribes in a context where such elevation is legally and practically unjustified. (two tribes)

- The preamble's singular focus on federally recognized tribes: contradicts the NAHC's stated purpose to serve all California Tribes; signals to reviewing agencies that only federally recognized tribes merit consideration, creates a two-tiered system where non-

federally recognized tribes are treated as second-class, mischaracterizes the NAHC's role as protecting federal political status rather than facilitating consultation. (three tribes)

- The NAHC is erring in distinguishing federal and non-federal tribes. It should not separate them into two categories. This sentence could be changed to reflect understanding of federal status, while also respecting the tribal sovereignty and the human rights of all California Native American tribes.

- The draft Contact List regulations are an attack on tribal sovereignty. (six tribes)

- The way this document is written implies that federally recognized tribes have a special status. (two tribes)

- The preamble reads not as highlighting federal tribes, but rather as excluding non-federally recognized tribes. (eight tribes)

- These regulations place non-federally recognized tribes below federally recognized tribes regarding their experiences and their expertise in consulting about cultural resources. It is a civil rights violation. (three tribes)

- The NAHC is weaponizing the term "federally recognized".

- The NAHC should include historic data to explain what federal recognition is, where it came from, and how it was bestowed on each individual tribe. This should be in the Preamble.

- I would like the NAHC to identify that every tribe within California is important and has the right to government-to-government relationship when they've identified their sacred spaces and lands.

- The statement "uplifting the sovereignty of federally recognized tribes" subjects non-federally recognized tribes to the influence of decisions by federally recognizes tribes, which may be capricious in nature.

- We recommend that the NAHC include the following language in this sub-section: "It is the intent of these regulations to support, protect, and uplift the inherent tribal sovereignty of California Native American tribes while also respecting the political status of federally recognized tribes."

- It is paternalistic of the NAHC to suggest it "protects" the status of federally recognized tribes. That is a federal role, not the NAHC's. (two tribes)

- Our objections to this section include: ultra vires; conflicts with statutory scheme; confirms discriminatory intent.

31030(d)

- Currently, no state agency is tasked with creating a list of California tribes. We think the NAHC should make some decisions, otherwise we are going to be in this loop for a long time. (two tribes)

- The NAHC is creating state tribal recognition by creating this List. The State is eventually going to base its recognition the NAHC's regulations. (two tribes)

- This is a de facto tribal recognition. (six tribes)

- This is a path to de-recognize tribes.

- The NAHC is asking for excessive information if this is not state recognition.

- The Contact List's requirements deny any pathway to state recognition.

- The draft regulations explicitly state that inclusion on the Contact List does not constitute state recognition for non-federally recognized tribes, effectively rescinding decades of prior recognition.

- This section states that it is not intended to create state tribal recognition. This statement directly conflicts with how other statutes use the Contact List. For example, 14 California Code of Regulations Section 4970.01 subsection (P) and (Q)(Q), and Public Resource Code Section 21073 define California tribes as those on the Contact List.

Section 31031

- The terms need to be consistent, and consistently capitalized, throughout this document. The NAHC needs to add more definitions. Some of the language does not seem to match precedent and statutes. For instance, this draft uses the phrase "culturally affiliated" – but AB 52 includes the phrase "traditional and culturally affiliated".

- We appreciate that the NAHC has called them "consultation maps" instead of territorial maps.

- There is no definition for “consultation map”. (two tribes)

- This is not a neutral administrative clarification; it is a status-based policy choice that conflicts with statutory definitions and legislative purpose and invites unlawful exclusion of culturally affiliated California tribes from consultation pathways.

- We recommend replacing the term “Cultural Affiliation” with “Traditional and Cultural Affiliation,” consistent with Public Resources Code section 21080.3.1(c). This terminology more accurately reflects longstanding cultural relationships to place and avoids narrowing tribal cultural affiliations.

- “Requester” is a secondary status. (three tribes)

- The “Requester” category is defined solely by lack of federal recognition (14 CCR § 31031(j)) and then subjected to heightened proof burdens, discretionary review, hearing delays, and long exclusion periods (14 CCR §§ 31033–31037, 31036(d)(3), 31037(h)).

- The draft regulations do not provide for inclusion on the List of both federally recognized tribes and non-federally recognized tribes. The draft regulations eliminate non-federally recognized tribes, change the long-established definition of California Native American Tribe, and reduce non-federally recognized tribes to “culturally affiliated groups." (seven tribes)

- “Requester” is: demeaning to sovereign tribal governments, inconsistent with the terminology used by other government agencies (the federal government uses “Indian entity” even in federal acknowledgement petitions), signals a subordinate status.

- We recommend replacing “requester” with “petitioning tribe” or “tribal applicant” throughout the regulations.

- We object to the term “cultural affiliation” for the following reasons:
    - Too Broad and Vague: “Cultural Affiliation” could describe neighboring Tribes or even non-Native individuals with cultural interests.
    - Imported from Wrong Legal Context: “Cultural Affiliation” is a NAGPRA term designed for repatriation of cultural items, not for establishing Tribal identity or consultation rights.
    - Lacks Precision Required for Regulatory Standard. The term “cultural affiliation” is way too loose.

- Rather than “cultural affiliation,” the appropriate standard is lineal descendancy to specific ancestral territories. This standard is precise and verifiable, prevents encroachment by unconnected tribes, excludes pretendian organizations, aligns with how tribes actually establish membership and territorial connection, is consistent with federal standards.

- We recommend replacing “Cultural Affiliation” throughout the regulations with “Lineal Descendancy,” defined as: “Direct genealogical descent from Native American ancestors documented to have resided in or been indigenous to a specific geographic area, as evidenced by mission records, historical census records, genealogical documentation, oral tradition, and other primary source materials.”

- We are offended by the phrase “requester.” We are a non-federally recognized tribe and would like to be referred to as such.

- “Requestor” needs to be eliminated or reworded. This currently reads as biased towards federal tribes. We think it should be changed to “petitioning party.”

- This new classification process is deeply disheartening and disrespectful.

- We are not a “group”. We are a Tribe. We operate as Tribes.

- The word “group” could refer to a nonprofit or tribe. This is problematic.

- Rather than “group”, the NAHC should use “group of people” or “a self-identified tribe with evidence showing their cultural affiliation and genealogical connections to the aboriginal territories in which they are claiming”.

- The revised draft inappropriately uses the preponderance standard. That is the lowest civil evidentiary bar. It's wholly inadequate for a gatekeeping decision. We think the NAHC should replace it with the clear and convincing evidence standard.

- The preponderance of evidence standard is insufficient. The NAHC should use the substantial evidence standard.

- The language of the proposed regulations under section 31031 ‘Definitions’ (g) and (j) strips the title of “Tribe” from any tribal nation that is not currently or previously federally recognized, replacing it with the titles of “Requester” and “Culturally Affiliated group.” This change fundamentally undermines the sovereignty and self-identification of California Tribal people.

Section 31032

31032(a)

- A Sovereign Nation's territory cannot be defined by a Commission of an agency of a third-party State.

- Federal tribes do have special status, no argument there, but they should not have special status in the context of the Contact List.

- We support Federally recognized tribes being defaulted onto the List.

- We do not support federally recognized tribes being defaulted onto the List. (three tribes)

- Non-federally recognized tribes would be forced to undergo a narrow and onerous application process, while federally recognized tribes are automatically included. This distinction is unjust, as the federal recognition is a flawed process and the divide between recognized and unrecognized tribes in California stems from historical injustices.

31032(d)

- "The Commission shall provide a copy of the Contact List to any listed entity" should be changed to ". . .to any California Native American tribe".

- There is no need to provide the Contact List in its entirety to any of the parties listed in this section. The NAHC should only put it on the website and a public place. The NAHC is currently safeguarding the list and determining who gets a copy. We think that it's outside the scope of this regulation and it's outside of the authority given by statute for the NAHC to do so.

- The NAHC should post the Contact List on its website.

- We would like the NAHC to send an updated Contact List to agencies within a certain territory when tribes ask.

- We would like the NAHC to require agencies to request an updated version of the Contact List any time they are required to consult.

31032(e)

- We think that the appropriate place for the NAHC to send notifications is to the tribal chair and the THPO through the tribal post office box.

- There needs to be a simpler way to communicate with the NAHC and have the Contact List updated in a timely way.

31032(f)

- The NAHC cannot void the Contact List prior to the new list being created.

- This section inappropriately uses “best efforts.” Instead, the NAHC should say: “we will use genealogical data which identifies the modern descendants of aboriginal sites.”

- The phrase, ". . . However, the first edition shall not be created until the Commission has completed reviewing all requests submitted pursuant to these regulations," is confusing. Does this mean that the NAHC has reviewed them for completeness only, or it has reviewed applications and accepted or rejected tribes? This needs to be clarified in the draft.

- If there is a gap between when NAHC resets the Contact List and when the tribes must reapply, our tribal cultural resources will be at risk of development without our participation. (two tribes)

- Our objections to this section include: unlawful suspension of consultation gateway; triggers CEQA. We believe the NAHC should refrain from voiding or resetting the existing Contact List.

Section 31033

- The criteria to add tribes to the Contact List are unprecedented, and the experts we’ve talked to suggest it would be almost impossible to meet them.

- We recommend that the NAHC add a grandfather clause. The new regulations should only apply to new applicants on the list. (three tribes)

- The language around including non-federally recognized tribes is confusing. It reads as though only federal tribes are on the List. We recommend changing that wording.

- This draft reads as though the consultation requirements are different for the federally recognized and non-federally recognized tribes.

- Any submission of cultural information must remain entirely at the discretion of the Tribe. Cultural knowledge, oral histories, and sensitive materials cannot be made mandatory components of an administrative process and must remain tribally controlled. Mandating the submission of such materials constitutes an unlawful encroachment on tribal sovereignty.

- Our objections to this section include: unauthorized two-tiered system; due process/equal protection issues; predictable loss of consultation.

Section 31034

31034(a)

- The definition of "cultural affiliation" reads very differently than the first sentence of this sub-section. The NAHC either needs to revise the definition or provide clarification on what evidentiary pieces will be weighed.

- In addition to the listed criteria, the NAHC should consider acknowledgement of a tribe by local jurisdictions or government agencies.

- Consideration should be given to tribes who interacted with the NAHC and/or their local jurisdictions within the first five years of implementation of SB 18.

- We shouldn't have to prove that we have historically engaged in consultation to be a part of the Contact List.

- We object to the idea of being culturally affiliated. (four tribes)

- "Cultural affiliation" is legally problematic. The NAHC should use the precise standard of lineal descendancy instead. (two tribes)

- The language of "cultural affiliation" is problematic because it is borrowed from NAGPRA. In AB 52 in particular, cultural affiliation can't be determined the way it is in CALNAGPRA or NAGPRA. (two tribes)

- Cultural affiliation is not the proper way of looking at this. Current tribes are not culturally affiliated with a prior group; they *are* the prior group.

- The NAHC should accept broad displays of cultural affiliation, with the focus on tribal connection to the land.

- The term “cultural affiliation” creates a grey area. It is too vague. (six tribes)

- We fear that in the future we won’t be seen as our tribe, because we were stricken down to a “culturally affiliated party” instead of a tribe.

- Instead of “cultural affiliation,” the NAHC should use: “ancestral territory”; “aboriginal territory,” “aboriginal landscape,” or “tribal landscape”; “ancestral affiliation”; “California state-recognized non-federal tribe”.

- “Cultural sovereignty” is a better way of looking at what the NAHC is currently referring to as “cultural affiliation.”

- The regulations are directly in conflict with current law because they refer to us a “culturally affiliated group,” and because they would not recognize us as a sovereign entity.

- True cultural affiliation must be rooted in prehistoric connection to the land supported by archaeological, ethnographic, and oral documentation that align with pre-contact territories. The NAHC can honor the original intent of the Contact List by requiring a demonstrated prehistoric connection supported by documented evidence and traditional occupancy and continuity. This ensures that Cultural Authority rests with those whose ancestors have always been here.

- Tribes should be able to establish cultural affiliation and capacity through submitting tribal meeting minutes.

- The NAHC is changing the definition of “tribe” in these regulations. Governor Newsom acknowledges that we are a tribe, and the NAHC represents the State of California. We don't know why the NAHC would consider us just “culturally affiliated”.

- AB 52 says that those who consult on specific areas *must* be traditionally and culturally affiliated.

- Cultural, educational, and preservation work, especially done with the NAHC, should be considered an eligibility category for the Contact List. This is a way we can prove our tribal membership without mission rolls. (four tribes)

- The NAHC should consider Woodrow Wilson’s 1924 federal land petition and allotment program as proof of continued cultural affiliation.

- The NAHC should consider the ethnographic works conducted in the early 1820's by the Catholic Church. In Southern California, one father recorded our languages, customs, calendar, and more. He listed multiple village sites in what is now Orange County, Los Angeles, Riverside, and San Diego counties.

- The NAHC needs to fact check documents submitted under this section for accuracy.

- We want the documents we submit under this subsection, particularly spiritual and ceremonial places, to be kept confidential from the public. This subsection needs to explicitly say they will be kept confidential. (two tribes)

- The regulations violate confidentiality of tribal cultural information. For the NAHC to establish regulations that expose that same information to disclosure directly conflicts with AB 52, and other state and federal laws. The map may, and the narrative presumably does, contain confidential information about tribal history and culture, tribal cultural resources, and the locations of our Ancestors. This is protected by state and federal law.

- In response to a California Public Records Act request, the NAHC should prevent the disclosure of certain confidential information.

- We should not have to submit confidential information about our spiritual and ceremonial sites to qualify for the Contact List.

- Nothing in California law authorizes the NAHC to evaluate whether a tribal government's lineage, membership rules, or governance satisfy any state-imposed criteria, nor to use such criteria to determine which tribal governments may participate in statutory consultation processes.

- We support setting a reasonable and equitable date in which an Indian group must show prior existence. The proposed regulations under 31034(a)(2) would allow for groups that were subject to termination in the 20th century to meet standards for Cultural Affiliation. We think the NAHC should pick the date for identifying a "… connect(ion) to an earlier group…" as before August 24, 1978, which represents the beginning of the present-day federal acknowledgement process.

- We agree that "capacity" should be a requirement. We would like to see an online training certification process put into place as well, much like many of the online training certifications that must be renewed every year. In time, we'd like a process for licensing as well.

- Under 31034(a)(3), "Evidence that the present-day group was at one time recognized as a tribe by the federal government." It is limiting for the NAHC to consider only evidence of groups recognized by the federal government. This does not consider the history of California, its dealings with California Indians, and the tremendous volume of research that is readily used by the Office of Federal Acknowledgment. Simply put, we are concerned that the Commission will only identify tribal groups if they are on a federal document. (two tribes.)

31034(b)

- We strongly object to 31034(b), as it eliminates all possibility of non-federally recognized tribes to protect our sacred places and culturally significant sites.

- "Linguistic group" needs to be defined. Particularly, the NAHC should distinguish between language versus linguistics.

- There is a risk of tribes going outside the scope of their ancestral lands by using linguistics. (two tribes)

- We need more examples of what "demonstrating capacity" means. The NAHC should define what "capacity" and "connection" mean.

- The fundamental legal issue with the proposed guidelines is their apparent reliance on federal recognition as the primary—or exclusive—criterion for Contact List inclusion. This approach is legally problematic because it ignores the NAHC's status as a state-created agency deriving its authority entirely from the California Legislature.

- The Commission cannot substitute federal recognition standards—designed for different purposes under federal law—for the criteria contemplated by the California Legislature when it created the Commission and charged it with protecting Native American cultural resources.

- Historically, our tribe's name came with the Spanish colonizers. We might struggle if we need to go back and prove our group existed before the colonizers.

- Mission rolls and genealogy are some of our strongest evidence. They are one of our best primary sources. (sixteen tribes)

- The proposed regulations, if adopted without modification, will create a framework that:
    - Excludes aboriginal tribes from protecting their own ancestral lands and ancestors' remains;
    - Privileges federal determinations over California legislative intent;
    - Embraces federal recognition standards while rejecting the genealogical evidence those standards require;
    - Dismisses the primary documentary evidence of California Mission Indian genealogy based on historically ignorant arguments about spelling variations;
    - Creates an impossible Catch-22 that effectively excludes all non-federally recognized California Mission Indian tribes regardless of the strength of their evidence.

- The concern that mission rolls create race-based classifications is based on confusion between “mission rolls” (simple lists of baptisms) and “mission records” (which include information such as pre-contact indigenous populations, genealogical relationships across multiple generations, baptismal, marriage, and death records that document familial relationships, village origins, cultural and tribal affiliations, and territorial connections that spanned from pre-contact times through the mission period). (seven tribes)

- Removing the mission rolls as evidence particularly punishes the mission tribes. (five tribes)

- Prioritizing the treaties over the mission records is problematic.

- To throw out the entirety of mission records just because of some potentially faulty records or one-off name misspellings is improper. (four tribes)

- The 1928 Census should be considered by the NAHC, but it interlocks with mission rolls. (two tribes)

- Our inability to show presence in the community was a reality of colonization. It feels like we’re being punished because we cannot show our presence separate from colonization documents, such as mission rolls.

- It is arbitrary and indefensible to remove the mission records from criteria for inclusion on the Contact List. Administrative difficulty is not a legal basis to discard foundational primary sources. The proper fix would be methodology and authentication standards, not erasure. (five tribes)

- The NAHC cannot embrace federal standards while rejecting their core requirement: genealogy.

- We were offended that the NAHC believes there are “no legitimate genealogists” in all of California. (three tribes)

- Professional genealogical standards are well-established and rigorous. The Board of Certification of Genealogists, the Genealogical Proof Standard, and peer-reviewed genealogical journals all provide clear frameworks for legitimate genealogical work.

- The organizations that certify genealogists include the Board for Certification of Genealogists and the International Commission for the Accreditation of Professional Genealogists. There are professional associations such as the National Genealogical Society, Association of Professional Genealogists, and International Commission for the Accreditation of Professional Genealogists. The NAHC should also consider academic programs for genealogy as valid training. Many universities offer graduate programs in genealogy, archival studies, and historical research methods.

- The NAHC should familiarize itself with the Genealogical Proof Standard. The field has established the "Genealogical Proof Standard" requiring: (1) reasonably exhaustive research, (2) complete and accurate source citations, (3) thorough analysis and correlation, (4) resolution of conflicting evidence, and (5) soundly written conclusion.

- Genealogy serves as a critical tool for tribes to protect repatriation rights, support federal recognition efforts, inform membership decisions, and defend against fraudulent claims.

- Choosing to remove genealogical records from the regulations is not a methodological decision. This is a policy decision to exclude California Mission Indian tribes from consultation processes unless they have achieved federal recognition—which itself requires the very genealogical evidence the Commission now rejects.

- The Federal Government’s Office of Federal Acknowledgement and State of California’s departments involved in reparations research already rely on genealogy. It is ridiculous for a state agency to say they cannot use genealogy. (five tribes)

- The NAHC does not have enough knowledge to review mission records without hiring an expert. (seven tribes)

- We encourage the Commission to familiarize itself with modern genealogical advances.

- The NAHC is already going to have to use genealogy to review signatories to the 18 unratified treaties. How is use of genealogy anywhere else less legitimate? (two tribes)

- We hear that the NAHC does not want to review genealogy, but in order to protect our resources under statute, it is going to have to.

- Tribes should have to submit affidavits about which of their members are lineal descendants of California Indian tribes and which are not.

- Our Tribe does not think that the mission records alone should qualify tribes. While the records can show ancestors, this does not mean any living descendants are tribal affiliated or knowledgeable enough to provide meaningful insight.

- We recommend that the NAHC add a new section to require it to contract with appropriate genealogists and historians to evaluate mission records and genealogical submissions.

- The section on required capacity sets a standard of risks. Capacity, as a metric, is troublesome.

- This section, in particular, confounds and confuses the current law set in place for California Indigenous advocacy and protections of sacred sites.

- The current proposed regulations appear to prioritize federal recognition status over probable family ties. It potentially allows federally recognized tribes with no ancestral connection to specific burial sites to claim authority over remains which they have no genealogical tie.

- The Commission should adopt requirements similar to those used by the Office of Federal Acknowledgment:
    - Require documented genealogical evidence connecting the MLD claimant to the geographic area and tribal community associated with the burial site.
    - Establish clear standards for acceptable documentation, such as: mission records (baptismal, marriage, burial registers), federal census records identifying tribal affiliation and location, historical records documenting presence in the specific geographic area, contemporary records establishing continuity of descent.
    - Apply the legal principle of proximity of kinship: when multiple claimants exist, preference should be given to those who can demonstrate the closest genealogical connection to the deceased and the strongest ties to the specific geographic location.
    - Recognize that federal recognition status alone should not supersede demonstrated genealogical descent from ancestors buried in specific locations.

- This section should be changed to read: "(b) In order to demonstrate its Lineal Descendancy, a Petitioning Tribe shall submit information that may include, but is not limited to: (1) Mission records, including baptismal, marriage, and death records documenting ancestral connection to specific villages and territories; (2) Genealogical documentation prepared by appropriate genealogists demonstrating direct descent from Native American ancestors indigenous to the claimed territory; (3) Oral tradition evidence; (4) Documentation of tribal traditional knowledge; (5) Connection to a California Native American linguistic group that shares its cultural identity; (6) Historical federal documentation of past recognition; (7) Evidence that the group was a signatory to one of the eighteen unratified treaties; (8) Evidence that the present-day group was at one time recognized as a tribe by the federal government."

- This section excludes tribes that were never contacted by the federal government, rewards historical injustices, defers entirely to federal determinations, and ignores California's unique history.

- We think the NAHC should expand Section 31034(b) to include mission records and genealogical evidence as standalone criteria, not merely supplemental to federal recognition.

31034(b)(1)

- I think it will be difficult for groups to establish validity via (b)(1).

- The treaty documents are not accurate and are historically problematic. For instance, many of the tribes in the center of California inappropriately claimed coastal territories.

- We believe the NAHC knows that asking us to prove that we are connected to the 18 unratified treaties is out of the reach of many communities.

- Multiple different bands, or tribes, will be able to claim the same signatory to a treaty, and thus ties to the same area. (two tribes)

- Sometimes, multiple tribes were on the same treaty. Sometimes the chiefs only put the mission they lived at. It is more complex than just singing the treaty.

- This section seems too cut and dry. It fails to acknowledge how tribes splinter and form in real time. Tribal politics is an active thing.

- There was no detail on a treaty about where someone came from. Sometimes it was just a person's name, their village, and signed with an "X". During the mission period, we were moved throughout the system to different locations. So it is inaccurate to say that a place where someone signed is where they were from.

- This section risks excluding missionized tribes.

31034(b)(2)

- We recommend that the NAHC keep with federal pre-1900 requirement, or at least, before the Indian Reorganization Act of 1934. We recommend some time requirement, even if it is more expansive than the federal requirements.

31034(b)(3)

- The NAHC's reliance on prior federal recognition makes us feel uneasy and scared.

- "Recognize" is a term of art, such as "Federal Office of Recognition". It is used incorrectly here. A better word is "acknowledged" or "identified."

- This section is too vague. (three tribes)

- The NAHC might get into a loophole re: standard (b)(3). Specifically, the 1972 BIA paperwork listed tribes that were noted by the federal government in 1970s. This might create a loophole if people can point to these papers as proof of former federal recognition.

- It appears the NAHC is using language similar to the federal acknowledgement statutes. This is inappropriate. (three tribes)

- The NAHC should not defer to federal recognition as criteria, as it is a state agency.

- The NAHC should consult with the OFA's Federal Precedent guide.

- The NAHC should consider using the Darrington Report.

- Evidence that the NAHC should consider include: BIA cards, mission rolls, maps by the U.S. Department of Interior, historical societies, state and federally funded projects, California Indian judgment rolls, the 1871 census, the Census of Non-Reservation California Indians: 1905-1906, Theodore Haas' records regarding the Indian Reorganization Act, joint resolutions passed by the California State Legislature, any state or federal document that shows our territories of language and tribal land, national and

state park literature and signage acknowledging the traditional homelands of indigenous people.

- We believe the Census of Non-Reservation California Indians: 1905-1906, which is the direct result of the 18 Unratified California Indian Treaties, should be allowed with the same level of credibility as given to those who meet the NAHC's criteria under 31034(a)(1) and 31034(a)(2) with its own subsection.

- The NAHC should consider joint resolutions passed by the California State Legislature as state acknowledgement. These documents are formal expressions of legislative opinion requiring majority votes in both houses. They constitute official acts of the Legislature that reflect considered judgment after legislative investigation. To exclude evidence of California legislative acknowledgment—or to treat federal recognition as the sole criterion—would be inconsistent with: (1) the Legislature's demonstrated intent to include non-federally recognized tribes in state processes; (2) the NAHC's duty to faithfully implement legislative mandates; and (3) California's policy of protecting Native American cultural resources through inclusive consultation.

- When a state agency is charged with making factual determinations within its area of expertise, such as identifying tribes for consultation purposes, California law requires the agency to consider all relevant and probative evidence. For the NAHC, relevant evidence must include: historical evidence of tribal continuity and cultural affiliation with the geographic area; genealogical evidence connecting living persons to historical tribal communities; documentary evidence of tribal organization and governance; and recognition by other governmental entities, including the California Legislature.

- California administrative law is governed by a foundational principle: state agencies must faithfully implement the intent and requirements established by the Legislature. The NAHC must consider legislative intent and legislative records in drafting these regulations. (two tribes)

- We respectfully recommend that the NAHC adopt a multi-factor framework for Contact List determinations that considers:
    - Federal recognition status (when applicable);
    - California legislative acknowledgments through resolutions or other official acts;
    - Professional genealogical evidence from mission records or other historical documents;
    - Historical documentation of tribal continuity and cultural affiliation;
    - Recognition by other tribes and tribal organizations;
    - Archaeological and anthropological evidence of aboriginal occupation;
    - Current tribal governance and organizational structure; and
    - Geographic and cultural affiliation with consultation areas.

- The NAHC should review the Treaty of Guadalupe-Hidalgo, which provided human rights to Indigenous tribes. (two tribes)

- The Treaty of Guadalupe-Hidalgo itself should be considered a broken treaty and/or federal acknowledgement. (two tribes)

- The NAHC should consider Smithsonian records from 19th and 20th century ethnographers as federal acknowledgement documents, as the Smithsonian is a federal entity.

- We would like for Office of Federal Acknowledgement notation of a tribe as historic, regardless of its current status, to count as federal acknowledgement.

- The NAHC should include language that says it is not going to exclude tribal groups based on lapsed federal recognition status.

31034(c)

- We are worried that outside tribes will fail to preserve our sacred sites, our villages, and our areas appropriately.

31034(d)

- The position of our Tribe is that people should be knowledgeable of historical context if they are on the Contact List. There should be qualifications to engage in consultation.

- "Backgrounds and persons who will be consulting," as written in this section, will someday include our children who have not been born yet. There needs to be a discussion about how future generations will be considered for this purpose.

- Asking about our educational background makes this look like a job application.

- We think there should be an established standard in 31034(d)(1). We agree that a tribe must establish continuity and long-term involvement in protection.

- The NAHC should make capacity requirements optional supplemental information, not mandatory criteria.

- We believe that section 31034(d) is unduly burdensome, especially on those California Native American Tribes with already limited resources. Additionally, as the state agency charged with supporting the protection of these cultural resources, the NAHC should have sufficient record-keeping to establish a Tribe's record of sites included on the Sacred Lands File. (eight tribes)

31034(e)

- The reliance on approval/support from federal tribes is inappropriate. (four tribes)

- This type of letter will be difficult for us to get from federally recognized tribes.

- Even if labeled "may," this provision pressures non-federally recognized tribes to obtain approvals from entities with competing political and territorial interests. It is inconsistent with neutral administration, invites arbitrary outcomes, and is incompatible with the Commission's statutory role as a facilitator rather than an adjudicator of political status.

- Our objections to this section include: gatekeeping; bias; conflict of interest risk.

- This subsection imposes impossibly narrow and discriminatory standards, and creates an adversarial process where federally recognized tribes are given power over non-federally recognized tribes to decide who has capacity to protect ancestral sites.

- Although not required, granting federally recognized tribe's power over inclusion through a "resolution of support" can be problematic by creating a structure that undermines non-federally recognized tribes' inherent sovereignty.

Section 31035

- "Consultation map" needs to be defined. But generally, we like that the NAHC is not making a determination on a tribe's traditional territory, nor making a broad, sweeping determination could cut into tribal sovereignty.

- It is unclear whether this is an exclusive list, or a recommended list of places to include in the map and narrative.

- We would like the NAHC to coordinate regional GIS-based training to help tribes with their maps.

- This section implies that two tribes cannot be listed for consultation in the same area. This is inaccurate. A tribe's cultural resources can be found outside the area where the tribe had influence at the time of European contact, or California's admission as a state, or any other temporal limitation. (six tribes)

- The NAHC needs to include more information about what type of evidence will be considered if a map dispute arises.

- This draft is not meant for deciding territory, it is meant for creating a Contact List.

- The NAHC needs to flesh out what it is requiring tribes to include in the narrative.

- The NAHC should look to the Native American Graves Protection and Repatriation Act for the map section. It should include items such as ethnographic studies, elder testimony, and linguistic data.

- We think that it would be very helpful to see how the maps were created by those applying to be on the Contact List.

- It might be useful for tribes to utilize maps that have already been created. This might prevent people who are rewriting maps with what they wish the record showed.

- Language such as "areas the tribes *wish* to consult on" is inaccurate. The NAHC should not allow folks to consult on areas if they are not traditionally affiliated with those areas.

- We are open to federal tribes consulting on areas around missions. But, they should be federal tribes with ancestors who were brought to that particular mission, and consultation should be limited to the original mission lands where their ancestors could have been buried. Anything else would be an inappropriate territorial overreach.

- The NAHC must allow tribes to describe traditional and cultural territories according to their own histories, oral traditions, and cultural responsibilities.

- The NAHC lacks statutory authority to adjudicate, assign, or restrict the territories of sovereign tribal nations.

- The first draft of the NAHC Contact List regulations required tribes to provide documentation of "California Aboriginal Territory." If the NAHC will resolve disputes about the geographic area for consultation based on a determination of the tribe's territory or connection to the land, the distinction has no meaningful difference.

31035 (a)(1)

- It is inappropriate for the Commission to determine a federally recognized tribe's area of consultation. Instead, if there is a dispute between tribes that cannot be resolved amongst themselves, the Commission may be asked to weigh in, but that process should be voluntary and agreed upon by all involved tribes.

31035(b)(1)

- This subsection about non-federally recognized tribes refers back to 31038, which only discusses federally recognized tribes. This is confusing.

- This structure seems to inadvertently reduce the geographical ancestral lands of requestors, totally disregarding the proved authenticity of shared ancestral lands.

Section 31036

- Any review of tribal cultural information must recognize that tribal knowledge systems are not subject to external validation or evaluation. We do not support any process that suggests the Commission may determine the adequacy, completeness, or sufficiency of a Tribe's cultural information. Such a process exceeds the informational and cataloging authority granted to the NAHC under Public Resources Code section 5097.94.

Section 31037

- We object to the use of a public hearing to determine whether or not a Tribe will be allowed to engage in efforts to protect sacred places and culturally significant areas. (seven tribes)

- We recognize that the Commission must make decisions publicly, but we worry it will become a spectacle. Is there a way to make the determination privately, and have any potential appeals go public?

Section 31038

- It is unclear how potential consultation map disputes between federally recognized and non-federally recognized tribes will be resolved. (eleven tribes)

- Any participation by federally recognized tribes must be entirely voluntary and requires express, written consent. No hearing concerning cultural landscapes or ancestral territories may occur without the express consent of the tribal governments involved. This ensures consistency with the principles of tribal sovereignty. If a tribe elects to participate voluntarily, any expert testimony must come from cultural experts identified or agreed upon by the participating tribes, including Tribal Historic Preservation Officers, elders, or qualified historians.

- This process exposes non-federally recognized tribes to displacement. Even with mediation provisions, non-federally recognized tribes enter this process with a structural disadvantage – economic and otherwise.

- The NAHC must insert a section regarding disputes between non-federally recognized tribal splinter groups originating from the same tribe.

- Last time, the NAHC got lots of feedback for separating out public hearing language between the sections. We read this as duplicative. We think it should be aggregated at the end again.

- The NAHC should elicit tribal input and consultation when geographic areas overlap.

- The NAHC's dispute resolution process could expose for public review the very confidential information that AB 52 intends to protect. The NAHC should establish a presumption that the records are exempt from disclosure, and work with California Native American tribes to seek protective orders—not presume that the records must be disclosed and place the burden on tribes to litigate for their protection. In addition, the NAHC's dispute resolution process occurs during a public hearing. This puts California Native American tribes in an untenable position—either they choose to reveal confidential information about tribal culture, tribal cultural resources, and Ancestors in a public forum, or their ability to advocate for their consultation rights is severely impaired. Even if all of the confidential information a California Native American tribe submits can be protected from public disclosure, the public dispute resolution process remains non-functional. The Commissioners and California Native American tribes cannot have candid and complete discussions that lead to an informed decision in a public meeting while maintaining confidentiality.

- The Regulations will create or exacerbate unnecessary inter-tribal conflicts over consultation areas. It is not appropriate or respectful for the NAHC to create conflict by sharing confidential tribal maps. Pitting California Native American tribes against each other, and against third parties, in a contest for consultation areas is not a respectful approach to State-tribal relations.

- We submit that the NAHC should consider approaching the problem of encroachment on tribal sovereignty through traditional means.

31038(a)

- A state agency should absolutely not have the authority to demand that a federally recognized tribe submit justification or proof regarding its ancestral boundaries. A state agency cannot determine the boundaries of a federally recognized tribe. (six tribes)

- It is a tribe's sovereign right to establish their own boundaries for the purpose of consultation. . . however, if the NAHC is empowered to decide boundary conflicts and to draw permanent boundaries for the purpose of SB 18 and CEQA consultation, then tribes may be legally prevented from protecting their own ancestors and cultural sites based on the decisions of the NAHC.

- It scares us that the NAHC will be the final decision-maker regarding territory.

- The NAHC does not have express or implied statutory authority to resolve a dispute between a federally recognized Indian tribe and any other tribe over the area(s) in which a federally- recognized Indian tribe may request consultation for the purposes of SB 18 or AB 52.

- Any NAHC claim of implied regulatory authority to include or exclude federally recognized Indian tribes for any purpose, arising from its duty to maintain the list of tribes, is an unconstitutional assumption of legislative power.

- The NAHC's purported authority to resolve disputes over the area in which tribes may request consultation for SB 18 and AB 52 purposes is exclusive—it could exclude tribes from providing a Lead Agency with relevant information about tribal cultural resources, including their identification, protection, and culturally appropriate treatment. Such authority directly conflicts with the legislative intent and language of SB 18 and AB 52. Without express authority to exclude tribes from consulting based on mediated or determined tribal territories (or any other criteria), such authority cannot be implied from the statutes that require the NAHC to maintain the Contact List. Excluding tribes from consulting with Lead Agencies is contrary to SB 18 and AB 52.

Section 31039

- Participation by federally recognized tribes must be entirely voluntary. Mediation must respect the unique historical, cultural, and kinship relationships that shape overlapping territories.

- There should be language that allows the requesters to mediate between themselves if there is a dispute about their traditional areas. It would make this draft less heavy-handed.

- "Participation" is not defined and should be.

Section 31040

- When legitimate Tribes are removed from the Contact List, their ancestral sites will be destroyed by development with no Tribal input. This directly contradicts the NAHC's mission.

- Entities might try to fight to remove each other from the List using the involuntary removal section, with neighboring tribes competing for monitoring rights.

- There will be infighting between the tribes about getting on the Contact List. There might need to be more clarity about what the Commission is going to consider when looking at these disputes and how they're going to weigh that evidence.

- The issue of splinter groups will come up because of these regulations. There will need to be someone "neutral", but who has knowledge and understanding of California history and tribal communities, to make the determinations listed in this section.

- Our objections to this section include: chilling effect; weaponization risk; immediate loss of consultation causes foreseeable environmental harm.