

CALIFORNIA COASTAL COMMISSION

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# W6e

## SECOND DRAFT TRIBAL CONSULTATION POLICY

April 20, 2018

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# Gabrieleno Band of Mission Indians – Kizh Nation

Historically known as The San Gabriel Band of Mission Indians  
recognized by the State of California as the aboriginal tribe of the Los Angeles basin

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March 29, 2018

It is reassuring the California Coastal Commission has taken the initiative to establish a policy regarding the concerns of the Native American Community. Let it be known the Gabrieleno Band of Mission Indians Kizh Nation's priority is the preservation and protection of our cultural resources as well as our traditional sensitive areas and Sacred Sites.

In protecting our cultural resources, we recommend the Coastal Commission shadow the policy of the Native American Heritage Commission's contact list of the represented Tribe to the area in question. On the list should be the lineal descendants of that area. However, we have found on many occasions, there are representatives of Tribal Nations that are not from the area of concern. These outside representatives are called upon for consultation. These individuals have no knowledge of the cultural history or knowledge of the sensitivity of the area in question. They could not possibly give accurate information as to their relevance of the area. Only the lineal ancestral Tribe should be the primary contact for the area in question. Secondly, we have confirmed there are individuals on the NAHC contact list that have no Native American heritage in their bloodline. We have submitted certified genealogy reports to support these facts. However, they remain on the contact list with the NAHC. The NAHC requirements for the contact list are very broad and is susceptible of almost anyone being eligible to be on the list. Unlike the NAHC, it would be incumbent upon the Coastal Commission to mandate potential Native American consultants provide certified verification (genealogy report) of their Indigenous Ancestry to the area in question. We know through experience this will prevent conflict and false representation that occurs daily.

We have received information there are a few individuals who are attempting to use the Coastal Commission to circumvent the NAHC consultation process. There is one group specifically that may be of concern, The Sacred Site Institute. The information we have been able to gather about the Sacred Site Institute indicates the agency is not of any governmental entity nor does it appear the Institute has any 501(c) status. It appears the Institute is an independent organization claiming to protect sacred sites. We know there are individuals on staff who have no Native American ancestry. They have interfered in the Tribal concerns not of their territory. We have a quote from Ms. Mooney there may be an ulterior motive related to the Coastal Commission:

Recently, thanks to the Sacred Places Institute's intervention, the [California Coastal Commission](#) committed to developing a tribal consultation policy that is scheduled to be released for comment in November 2018. This will be the first time in the commission's 40-year history that the need to consult with Native nations on a government-to-government basis will be formally adopted as a statewide commission policy. This resulted from an **effort to build coalitions and advocate** for the full and fair participation of Native nations, communities of color and the economically disadvantaged in the provisions of the [California Coastal Act](#).

Our concern, and I believe all Tribes would be of concern, is creating a coalition. A coalition for what? Our interpretation is a committee of selected individuals that will report to the Coastal Commission as consultants on projects within the Coastal Commission jurisdiction. A coalition of this nature will not necessarily have a Tribal representative to an area in question. By relying on a process solely in the hands of a coalition would circumvent the NAHC consultation process. This would also violate the mandates of AB52. There is no need for an advisory board to the Coastal Commission. The input must come directly from Ancestral Tribe only.

With respect,



Andrew Salas, Chairman

	Title		Date	
Gabrieleno Band of Mission Indians - Kizh Nation website: <a href="http://www.gabrielenoindians.org">www.gabrielenoindians.org</a>	PO Box 393	Covina, CA	91723	(626)5215827 email: <a href="mailto:Admin@gabrielenoindians.org">Admin@gabrielenoindians.org</a>

**CALIFORNIA COASTAL COMMISSION**

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Date: August 18, 2017

To: California Native American Tribes

From: California Coastal Commission Staff

Subject: **DRAFT Tribal Consultation Policy RECOMMENDATIONS**

Anywhere in this policy, if the term “Tribes” is used, it must be changed to read “Tribe.” It would be uncommon that more than one Tribe will be involved to consult for a specific project. Traditional tribal territory is well established and recognized through oral history and written history as well. Thus, for a specific project, it must be straightforward to determine the traditional tribal territory of the associated Tribe. Only if a project is on or near a border with a neighboring tribe, would there possibly be more than one tribe contacted to determine who should be consulting on a project.

Anywhere in this policy when it refers to the “Contact List” provided by the NAHC, it should be corrected to refer to the “Consultation List” provided by the NAHC.

Anytime in this policy when it refers to “Tribe”, it should read “relevant ancestral tribe.” The policy requires that Lead Agency to consult with the Native American Tribe that is ancestrally and geographically affiliated to the project site area in concert with AB52.

## **I. BACKGROUND**

In recent years, the State of California and the Federal government have adopted a number of executive orders, statutes, guidance documents, and other policy directives intended to improve communications between public agencies and federally- and state recognized California Native American Tribes (Tribes) and to protect cultural resources.

California is home to the largest number of Tribes in the contiguous United States, with the federal government (through the Department of the Interior, Bureau of Indian Affairs (BIA)) currently recognizing 109 California tribes, and with the State of California (through the Native American Heritage Commission (NAHC)) currently acknowledging 55 additional California tribes and tribal communities. Efforts to improve communication and coordination with Tribes include federal and state laws and guidance documents promoting or requiring tribal consultation in local government planning processes (e.g., the preparation and adoption of general plans), and environmental review document practices (e.g., environmental impact analysis under the

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California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA)). For example, the state Legislature passed AB 52 in 2014, which sets forth tribal consultation requirements for lead agencies that prepare certain environmental documents pursuant to CEQA.<sup>1</sup>

In addition, on September 19, 2011, Governor Brown issued Executive Order B-10-11, stating “that it is the policy of this Administration that every state agency and department subject to my executive control shall encourage communication and consultation with California Indian Tribes.” Under this order, on November 20, 2012, the California Natural Resources Agency (CNRA) adopted a Tribal Consultation Policy to govern and ensure effective communication and government-to-government consultation between Tribes and CNRA and its constituent departments that are under executive control.

<sup>1</sup> The Commission is rarely a lead agency that prepares environmental documents subject to AB 52’s consultation requirements. However, the law still provides useful background to guide the Commission’s Tribal Consultation Policy.

The Commission recognizes the importance of these state actions and of tribal consultation, and it recognizes that adoption of its own tribal consultation process would be fully consistent with and complementary to the nature of the Commission’s goals, policies, and mission statements. The Commission further believes its mission would be well-served by a more clearly articulated set of procedures to improve such communications. Moreover, the Commission acknowledges Tribal sovereignty and understands that California’s Tribes and their members have long served as stewards of the state’s important coastal resources, and possess unique and valuable knowledge and practices for conserving and managing these resources in a sustainable manner, and in a manner consistent with the spirit and intent of the Coastal Act.

The Commission’s mission is to protect, maintain, and, where feasible, enhance and restore, the resources of California’s coast and ocean for present and future generations, through careful planning and regulation of environmentally-sustainable development, rigorous use of science, strong public participation, education, and effective intergovernmental coordination.

In partnership with coastal cities and counties, the Commission plans and regulates the use of land and water in the coastal zone, in a manner protecting public access and recreation, lower cost visitor accommodations, archaeological and paleontological resources, terrestrial and marine habitat protection, visual resources, landform alteration, agricultural lands, commercial fisheries, and coastal water quality. Central to the

Commission's mission is the goal of maximizing public participation in the Commission's decision making processes. The Commission believes establishing this Tribal Consultation Policy (Consultation Policy) will improve government-to-government dialogue with the Tribes, improve public participation, and provide a more specific process than currently exists for the Commission to work cooperatively, communicate effectively, and consult with Tribes for the mutual benefit of protecting coastal resources.

## II. DEFINITIONS

For purposes of this policy, the following terms shall mean or be referred to as defined below:

- 1. Action (or "Commission Action"):** Means a discretionary action taken by the Commission that may have a significant impact on Tribal Interests. These actions include, but are not limited to:
- a. Actions on Local Coastal Programs (LCPs) and LCP amendments.
  - b. Actions on Coastal Development Permits, including locally-issued permits that were appealed to the Commission (Note: These actions include determinations (called "substantial issue" determinations) regarding whether to conduct de novo reviews on appeals of local government-issued coastal development permits.<sup>1</sup>)
  - c. Actions on consistency determinations and certifications submitted under the Coastal Zone Management Act.
  - d. Adoption of guidelines on issues of regional or statewide interest.
  - e. Actions on other regulatory and planning documents, including, but not limited to Long Range Development Plans (LRDPs) by colleges and universities, Port Master Plans (PMPs), and Public Works Plans (PWPs).
  - f. Adoption of regulations.

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<sup>1</sup> Note that the Commission is only authorized to consider impacts to Tribal Interests in the "substantial issue" phase of a permit appeal if those issues were raised in the appeal itself.

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**2. California Native American Tribe (or simply “Tribe”):** Means either a federally recognized California Tribal government listed on the most recent notice of the Federal Register or a non-federally recognized California Tribe on the California Tribal

Consultation List maintained by the California Native American Heritage Commission.

**3. Communication:** Refers to the dissemination, exchange or sharing of information between the Commission and its staff and California Native American Tribes.

**4. Consultation:** Means the meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement. Consultation between government agencies and Tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation shall also recognize the Tribes’ potential needs for confidentiality with respect to places that have traditional Tribal cultural significance. (Government Code section 65352.4.)

## **5. Cultural Resources:**

a. “Cultural resources” are either of the following:

(1) Sites, features, places, cultural landscapes, sacred places, and objects (**artifacts and ecofacts**) with cultural value to a California Native American tribe that are **one** ~~either of the~~ following:

(A) Included or determined (**determined by the local Tribe**) to be eligible for inclusion in the California Register of Historical Resources.

(B) Included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k).

(C) **Determined sacred or significant to the local Tribe which may or may not have been acknowledged at the state or federal levels. Oral history is considered of primary importance in determining sacred significance.**

(2) ~~A resource determined by the CEQA lead agency or the Commission, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in Public Resources Code Section 5024.1(e). In applying these criteria, the lead agency shall consider the significance of the resource to a California Native American tribe.~~

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B. A cultural landscape ~~may need to be that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is~~ geographically defined in terms of the size and scope of the landscape ~~for~~ purposes of registration.

~~C. A historical resource described in Public Resources Code Section 21084.1, a unique archaeological resource as defined in Public Resources Code Section 21083.2(c), or a “nonunique archaeological resource” as defined in Public Resources Code Section 21083.2(h) may also be a tribal cultural resource if it conforms to the criteria of subdivision (a).~~

**6. Federal Recognition:** Refers to acknowledgement by the federal government that a Tribal government and Tribal members constitute a Tribe with a government-to-government relationship with the United States, and is eligible for the programs, services, and other relationships established for the United States for Indians, because of their status as Indians. (United States Code of Federal Regulations, Title 25, section 83.2)

**7. Indian Country or Tribal Lands:** ~~Has the same meaning as the term “Indian country” in United States Code of Federal Regulations, title 18, section 1151, which states: (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.~~

Tribal lands are defined by one of the following:

- a. A reservation
- b. Any traditional territory as defined by the Tribe and recognized by the State.. Oral history may be of significant primary importance.
- c. Tribal lands can include water bodies (e.g. lakes, oceanaries, etc) or lake waterways
- d. Tribal lands also include the atmosphere over tribal areas which include the air, air quality and astronomical associations

**8. Tribal Interests:** Include, but are not limited to: (a) Cultural Resources; or (b) ~~fish, wildlife, plant, water, or similar natural resources.~~ Aquatic life, wild life, plant life

and water (e.g. Kizh consider the pine trees of San Gabriel mountains to be their living ancestors).

**9. Tribal Sovereignty:** Refers to the unique political status of federally-recognized Tribes. A federally-recognized Tribe exercises certain jurisdiction and governmental powers over activities and Tribal members within its territory. Some of these powers are inherent, some have been delegated by the United States, and all are subject to limitations by the United States. Existing limitations are defined through acts of Congress, treaties, and federal court decisions.

Non-federally recognized tribes also have sovereignty having the same rights and considerations, some of which have been delegated by the state of California.

### **III. GUIDING PRINCIPLES**

The Commission seeks to establish and maintain a respectful and effective means of communicating and consulting with Tribes and will seek in good faith to:

1. Communicate and consult with Tribes and seek tribal input regarding the identification of potential issues, possible means of addressing those issues, and appropriate actions, ~~if any~~, to be taken by the Commission.
2. Assess the potential impact of proposed Commission Actions on Tribal Interests and ensure, to the maximum extent feasible, that tribal concerns are considered before such Actions are taken, such that impacts are avoided, minimized, or properly mitigated in conformity with Coastal Act and other applicable legal requirements.
3. Provide timely and useful information relating to such proposed Actions that may affect Tribal Interests.

Define “timely”

4. Communicate with and engage with Tribes at the earliest possible stage in the review and decision-making processes prior to any field work or construction.
5. Communicate with Tribes in a manner that is considerate and respectful.
6. Provide Tribes with meaningful opportunities to respond and participate in decision-making processes that affect Tribal Interests.

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7. Acknowledge and respect Cultural Resources regardless of whether those resources are located on or off Tribal Lands. **This also includes resources that have been or happened to be present located at the site or curated.**

8. Acknowledge and respect both the confidential nature of information concerning cultural practices, traditions, beliefs, tribal histories, and Tribal Lands, and legal protections of the confidentiality of certain tribal cultural information (e.g., Gov. Code §§ 6254(r), 6254.10, Pub. Res. Code § 21082.3(c)).<sup>3</sup> The Commission will take all lawful and necessary steps to ensure confidential information provided by a Tribe is **considered confidential** and is not to be disclosed without the prior written permission of the Tribe.

9. Encourage collaborative and cooperative relationships with Tribes in matters affecting coastal resources.

10. Acknowledge and seek ways to accommodate the limited financial and staffing resources of Tribes and the Commission to ensure effective communication and consultation, including taking advantage of any joint consultation opportunities as discussed on page 14 below (Item 7. Joint Consultation).

11. ~~Identify and recommend means to remove procedural impediments to working directly and effectively with Tribes.~~

### IV. TRIBAL LIAISON

1. The Executive Director of the Commission will assign a Tribal Liaison for the Commission. The Tribal Liaison will:

- a. Advise the Executive Director on policy matters relating to tribal affairs.
- b. Coordinate: (i) the training of Commission staff with regard to tribal affairs; (ii) the work of Regional Tribal Liaisons; and (iii) the Commission's tribal communication and consultation efforts.
- c. Maintain the Commission's Tribal Contact List.

<sup>3</sup> Gov. Code § 6254. Except as provided in Sections 6254.7 and 6254.13, this chapter does not require the disclosure of any of the following records: ...

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(r) Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency.

Gov. Code § 6254.10. Nothing in this chapter requires disclosure of records that relate to archaeological site information and reports maintained by, or in the possession of, the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the Native American Heritage Commission, another state agency, or a local agency, including the records that the agency obtains through a consultation process between a California Native American tribe and a state or local agency

Pub. Res. Code § 21082.3(c)(1): Any information, including, but not limited to, the location, description, and use of the tribal cultural resources, that is submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with subdivision (r) of Section 6254 of, and Section 6254.10 of, the Government Code . . . .

d. Respond to inquiries from, and participate in consultations with, Tribes.

2. The Executive Director of the Commission will also assign staff members as Regional Tribal Liaisons. The Commission's goal is for each of the Commission's six district offices to have a Regional Tribal Liaison, who will assist the Commission's Tribal Liaison and serve as the primary point of contact for Tribes in that District.

## V. COMMISSION STAFF TRAINING

The Tribal Liaison shall oversee the training of Commission staff with respect to:

1. Principles of tribal sovereignty, lands, and jurisdiction.
2. Laws and regulations relating to the protection of Cultural Resources, including confidentiality of information regarding Cultural Resources.
3. Implementation of and compliance with this Consultation Policy.

## VI. TRIBAL COMMUNICATION

1. **Purpose.** The Commission seeks to establish effective mechanisms for: (a) providing information to Tribes regarding proposed Commission Actions that may affect Tribal Interests; (b) seeking information and input from Tribes; (c) soliciting the collaboration, cooperation, or participation of Tribes; and (d) offering or seeking consultation with affected Tribes.

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2. **Procedures.** The communication procedures set forth in this section are intended to serve as the Commission's standard method for communicating with Tribes regarding proposed Commission Actions. ~~Any Tribe may submit to the Commission a written request to institute an alternative process, including the designation of either an alternative contact person for the Tribe (i.e., someone other than the contact listed by the NAHC) or additional contact persons. The Commission will make a good faith effort to work with Tribes requesting such alternative processes; provided, however, that Commission staffing resources may make it difficult or impractical to fully implement all such requests.~~ The primary contact for the Tribe must be an active, vetted member (preferred to be the elected Tribal chairman) who has been genealogically certified as having direct lineal descendancy to the traditional tribal territory of that tribe.

3. **Tribal Contact List.** In continuing consultation with the NAHC and the Governor's Office of the Tribal Advisor, the Commission's Tribal Liaison will maintain and update a Tribal Contact List to be comprised of Tribes that appear on the NAHC's California Tribal Consultation List.

4. **Contacting Tribes For Commission Actions.** During its review of plans, development proposals, or other activity to be the subject of a Commission Action,<sup>2</sup> Commission staff in the District office or Commission unit proposing or reviewing the proposed Action will use the procedures below to determine whether and when to contact the Tribes identified on the Tribal Contact List that have expressed written interest, either to the Commission directly or to the NAHC, in being **consulted on Commission Actions on particular matters or in specific geographic areas.** ~~If there is no previous history of historical or cultural resources in a specific project area the NAHC will state that fact. This does not mean cultural resources are at the site. The NAHC considers the "Tribe" as the experts on their own territory. The "Tribe" will contact the commission with the traditional tribal territory as defined through oral history, recorded maps, and notes by professionals such as ethnographers, historians and anthropologists. The commission will contact the "Tribe" for every project within that tribe's traditional tribal territory. The "Tribe" must show lineal descendancy to that area.~~

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<sup>2</sup> Unless consultation is legally required (e.g., in unusual circumstances where AB 52 applies because the Commission is a lead agency preparing an environmental impact report pursuant to CEQA), Actions with no or de minimis potential for cultural resource impacts are exempt from these consultation procedures. Examples of such circumstances could include exemption determinations, de minimis waivers, or CDPs for improvements to or redevelopment of structures within existing developed footprints where little or no grading is involved.

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~~5. Commission staff will also attempt to contact any other Tribes that Commission staff has reason to know may have an interest in the Action.~~ If warranted, Commission staff will notify the NAHC of the Proposed Action and request a list of interested Tribes, and where also warranted, obtain the results of an NAHC Sacred Lands Files check. Notice to the NAHC will include a brief description of the nature and location of the proposed Action and a map or description of the area, if available. The timing and process for consultation concerning the various types of Actions by the Commission shall be as follows:

a. For **planning matters** (Local Coastal Program (LCP), Public Works Plan (PWP), Long Range Development Plan (LRDP), Port Master Plan (PMP), or any amendment to such plan), the following procedures shall be used:

- (1) Upon receipt of such a plan for certification, and prior to determining whether the plan was “properly submitted” (pursuant to, e.g., 14 Cal. Code Regs, §§ 13520, 13553, 13354, 13365, and 13628), review the submittal to determine the degree to which the local government preparing the plan consulted with Tribes regarding Cultural Resource effects pursuant to AB 52 (applicable if local government is lead agency for CEQA review) and/or SB 18 (specifically applicable for general plan, including land use plan, submittals).<sup>3</sup> Request that the local government submit additional information regarding tribal consultation, as appropriate, although failure to do so would not generally be grounds for determining the submittal incomplete. ~~The “Tribe” shall determine if consultation was complete and adequate for each project. Written documentation of consultation will be provided by the Tribe to the commission.~~

Promptly notify affected Tribes in the manner they have requested and initiate consultation if any of the following circumstances apply: ~~a) consultation is appropriate given the nature of the proposed plan and its potential for impacts on Tribal Interests; b) Commission staff has reason to know that particular Tribes may have an interest in the Action (e.g., Commission staff has previously worked with a Tribe on concerns in the geographic area); c) any Tribe(s) expressed significant, unresolved concerns about the Action’s impacts on Tribal Interests during a local review process; or d) a Tribe has specifically requested that the Commission notify it of this type of Action—e.g., all Actions in this location or of this type.~~ For any project (whether

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<sup>3</sup> SB 18 requires local governments adopting and amending general plans to notify, consult with, and consider the comments of Tribes concerning the need to protect traditional tribal cultural places. Also, see the corresponding guidelines adopted by the Governor’s Office of Planning and Research (OPR) November 14, 2005, Tribal Consultation Guidelines.

procedural or physical), the “Tribe” will be contacted and thus have the right to respond. It will be up to the “Tribe” to determine and decide if consultation is warranted.

- (2) Regardless of whether the Commission engages in consultation as described above, provide written public notice to all **relevant, ancestral tribal of that area. interested Tribes** in accordance with standard Commission notice procedures for upcoming hearings. Where feasible, schedule the item for the hearing in a location convenient to the project site in order to facilitate maximum participation by affected Tribes.
- (3) ~~\*This section needs to be written – difficult to understand  
Include in staff recommendations to the Commission a summary of the results of any local government and/or Commission staff consultations described in this Tribal Consultation Policy, with sensitivity to the Tribal confidentiality needs as described in this Policy, and with publicly available summaries of identified concerns included only if the affected tribes agree to such disclosure in writing.~~

b. For **permitting matters** (i.e., review of Coastal Development Permits (CDPs), appeals of locally-issued Coastal Development Permits, and Notices of Impending Development (NOID)), the following procedures shall be used:

(1) **CDP applications:**

- (A) For **coastal development permit applications** submitted directly to the Commission, prior to deeming the application “filed” (pursuant to 14 Cal. Code Regs, § 13056), review the project’s locally-issued CEQA compliance documents to determine whether they included Tribal Consultation and consideration of Cultural Resource effects.

(2) **Appeals:**

- (A) For **appeals** of locally-issued coastal development permit applications, review the local government file to determine, if possible, whether the local government engaged in Tribal Consultation. Given the short statutory deadlines for Commission review of appeals, any necessary consultation may need to occur more quickly and be less formal than in other instances. In addition, the Commission is only authorized to consider impacts to Tribal Interests in the “substantial issue” phase of a permit appeal if those impacts were raised in the appeal itself.

**(3) For both CDPs and appeals:**

- (A) Promptly notify affected Tribes in the manner they have requested and initiate consultation if any of the following circumstances apply: a) consultation is appropriate given the nature of the proposed development and its potential for impacts on Tribal Interests; b) Commission staff has reason to know that particular Tribes may have an interest in the Action (e.g., Commission staff has previously worked with a Tribe on concerns in the geographic area); c) any Tribe(s) expressed significant, unresolved concerns about the Action's impacts on Tribal Interests during a local review process; or d) a Tribe has specifically requested that the Commission notify it of this type of Action—e.g., all Actions in this location or of this type.
- (B) Provide written Public Notice to all interested Tribes in accordance with standard Commission notice procedures for upcoming hearings. Where possible, schedule the item for the hearing in a location that is closest to the project site, or within the city or county limits of the LCP item, in order to facilitate maximum participation by affected Tribes.
- (C) Include in staff recommendations to the Commission a summary of the results of any local government or Commission staff consultations described in this Tribal Consultation Policy, with sensitivity to the Tribal confidentiality needs as described in this Policy, and with summaries of identified concerns included only if the affected tribes agree to such disclosure in writing.

**(4) For NOIDs**

- (A) For NOIDs received by Commission staff pursuant to PWP or LRDPs, use the same procedures as above; however, given the short statutory deadlines for Commission review of notices of impending development (generally 30 working days total), any necessary consultation may need to occur more quickly and be less formal than in other instances.

For **federal consistency** reviews (under the Coastal Zone Management Act)<sup>4</sup>, the following procedures shall be used:

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<sup>4</sup> 16 U.S.C. Section 1456, with implementing regulations at 15 CFR Part 930.

**(1) Projects and Plans Carried out by Federal Agencies**

- (A) Review consistency determinations submitted by federal agencies to determine the extent of federal agency consultation with both federally and non-federally recognized Tribes. This review should include (but not be limited to) federal agency consultation pursuant to National Environmental Policy Act (NEPA) guidance for Tribal Consultation, National Historic Preservation Act (NHPA) Section 106 (36 CFR Part 800), and Advisory Council for Historic Preservation (ACHP) guidance for Consulting with Indian Tribes in the Section 106 Review process.
- ~~(B) If a federal agency has only consulted with federally recognized Tribes, determine, through coordination with the California Native American Heritage Commission (NAHC), the California State Office of Historic Preservation (OHP), and/or any known Tribal Historic Preservation Officers (THPOs) or representative of potentially affected Tribes, which, if any, non-federally recognized Tribes may attach cultural significance to areas potentially affected by the federal project or plan.~~

The federal government needs to ascertain the “Tribe” whose true ancestral Tribe of the area through consulting with the NAHC, OHP and THPO. It is important to understand that the nearest federally recognized tribe may have traditional tribal territory that is many miles away and thus they would have no expertise on the cultural sensitivity of the project area. It is mandatory that consultation be with the Native American “Tribe” of the project area, regardless of state or federal recognition.
- (C) Notify all interested Tribes as early as possible in the review process and initiate consultation, if requested.
- (D) Provide written Public Notice to all interested Tribes in accordance with standard Commission notice procedures for upcoming hearings.
- (E) Include in staff recommendations to the Commission a summary of the results of any consultations described above.

**(2) Projects Permitted or Funded by Federal Agencies**

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- (A) Review submittals by applicants for federal permits, or applicants by state or local governments for federal funding (i.e., consistency certifications) to determine whether any CEQA documents were prepared, and if so, the extent of Tribal Consultation pursuant to AB 52.
- (B) If no CEQA documents were prepared, but NEPA documents were prepared (or are in the process of being prepared) by the permitting or funding agencies, follow the consultation steps outlined in Section 4.c.(A) above.
- (C) Notify all interested Tribes as early as possible in the review process and initiate consultation, if requested.
- (D) Provide written Public Notice to all interested Tribes in accordance with standard Commission notice procedures for upcoming hearings.
- (E) Include in staff recommendations to the Commission a summary of the results of any such consultation.

c. For **other** actions, if it is unclear which procedure is most appropriate for a different type of Commission Action, or if more than one of the above procedures are combined, contact the Commission's designated Tribal Liaison for further guidance.

5. **Written Notice to Tribes.** Once a list of potentially affected Tribes has been compiled, and when a Tribe has specifically requested written notice, Commission staff in the District or unit reviewing the proposed Action will send written notice to the potentially interested Tribes. The written notice will:

a. Be sent to the Tribal Chairperson or other person listed on the ~~consultation contact~~ list provided by NAHC, the appointed Tribal Historic Preservation Officer, or any other Tribal officials or employees identified by the Tribe as lead contacts pursuant to Section VI(2) of this Policy. ~~If the Tribe does not clearly designate one or more lead contact people, or if it designates too many contact people for the Commission to feasibly communicate with, the Commission may defer to the individual listed on the contact list maintained by the NAHC.~~ The "Tribe" must provide proof of lineal descendency to the project site.

b. Be sent in a timely manner to ensure an opportunity to provide input at the earliest

# August 18, 2017 DRAFT

## Tribal Consultation Policy

Page 15

possible stage in the review and decision-making process. Whenever feasible, the Commission will seek to provide notice within 14 days of determining that an application for a proposed Action is complete or otherwise beginning its formal review process for the Action.

- c. Be drafted and sent separately from any general public notice;
  - d. Include a brief description of the proposed Action; a map or description of the location or region potentially affected by the proposed Action;
  - e. Offer to consult with the Tribe regarding the proposed Action, its anticipated impacts on Tribal Interests, and potential ways to minimize or mitigate these impacts, before the Commission takes an Action; and
  - f. Provide Commission contact information for obtaining further information and for initiating consultation.
  - g. Request that the Tribe respond within 30 days of receiving the Commission's notice, or sooner if feasible or required due to legal deadlines for Commission Action.
6. **Changes to Proposed Activities**. If, after providing notice to Tribes, there are substantially changed circumstances that could affect Tribal Interests in a manner not contemplated when the original notice was sent, Commission staff in the District or program proposing or reviewing the Action should issue a supplemental notice to affected Tribes. If legal deadlines do not permit formal notice, informal notice should be provided to the extent feasible.

## VII. TRIBAL CONSULTATION

**1. Initiation of Consultation**. Consultations may be initiated by either a Tribe or the Commission.

- a. All requests by a Tribe for consultation must be submitted in writing to the Tribal Liaison(s) identified in Attachment 1. The request for consultation should indicate if a one on-one meeting is preferred, or if it is acceptable to schedule a consultation meeting with other affected Tribes present. Upon receipt of a request for consultation, the Commission shall provide the Tribe with a written acknowledgement that it has accepted the request.

b. All requests by the Commission for consultation will be made in writing to the chairperson of the Tribe, or its designated representative.

**2. Preparing for a Consultation.** For a consultation to be effective, prior to holding the consultation Commission staff in the District or unit reviewing the proposed Action should take reasonable steps to work with the Tribe's representatives to:

- a. understand the Tribe's current and historical relationship to the resources that may be affected by the proposed Action;
- b. understand the Tribe's government structure and decision-making process;
- c. identify key issues and concerns;
- d. identify the participants in the consultation;
- e. determine an appropriate location and time for the consultation; and
- f. understand the Tribe's concerns over culturally sensitive information.

**3. Time, Place, and Manner of Consultations.** Whenever feasible and consistent with applicable legal deadlines, the Commission will seek to commence consultations within 30 days after receipt of a written request for consultation from the Tribe. The Commission staff will pursue in-person consultations when feasible given the timing, funding, and travel constraints of the Tribes and the Commission staff. When feasible, the Commission staff will seek to arrange in-person consultations at the Tribe's offices, or Commission District offices. The Commission staff will work with Tribes, on a case-by-case basis, to determine the appropriate form and manner of consultation. Prior to any consultation, the Commission staff shall make a good faith effort to inform the Tribe in writing of the names and positions of those who will represent the Commission staff during the consultation.

**4. Commission Staff Representation at Consultations.** The Commission's consultation process is designed to facilitate direct communication between tribal decision makers and the Commission staff bringing recommendations for Commission consideration. Tribes involved in Consultation shall receive written notice of any subsequent Commission hearings where matters that were the subject of Consultation will be

decided by the Commission. Tribes will be encouraged to attend or submit written comments to the Commission concerning Commission staff recommendations. Tribes will also be encouraged to notify the Tribal Liaison if a Tribe believes a staff recommendation has not fairly characterized the results of the Consultation. While the Commission staff will consider any Tribal comments in making its recommendation, the Commission retains ultimate authority with respect to all Commission Actions.

**5. Substance of Consultations.** As a part of the consultation, the parties may propose mitigation measures capable of avoiding or substantially lessening potential significant impacts to a tribal Cultural Resource or alternatives that would avoid significant impacts to a tribal Cultural Resource. If the Tribe requests consultation regarding alternatives to the project, recommended mitigation measures, or significant effects, the consultation shall include those topics. The consultation may also include discussion of any other topics of interest to Tribes and/or related to Coastal Act consistency. If the parties agree on any mitigation measures through the consultation, the Commission staff will normally include those measures in its staff recommendation to the Commission.

**6. Informal Staff-to-Staff Meetings.** At times, both Tribes and the Commission staff may seek to pursue informal discussions and negotiations concerning a proposed Commission Action. The Commission encourages informal meetings, and nothing in this policy shall be construed to prohibit or otherwise inhibit the Commission staff and a Tribe from pursuing such meetings. In addition, if a Tribe wishes to consult with Commission staff about a potential violation of the Coastal Act of which it has knowledge, it may contact the Tribal Liaison, who will coordinate with Commission enforcement staff to arrange appropriate consultation.

**7. Joint Consultation.** To conserve limited tribal, federal, state, and local government resources, the Commission will participate in joint consultations with: (a) other federal, state, or local government agencies when all parties agree and there are sufficient issues in common to warrant a joint consultation; or (b) more than one Tribe when all parties agree and there are sufficient issues in common to warrant a joint consultation.

**8. Limitations of the Consultation Policy.** The Coastal Act, Permit Streamlining Act, and other state and federal law impose various deadlines on Commission Actions. The Commission will strive to conduct tribal consultation, as outlined in this Consultation Policy, within these statutory deadlines; however, the Commission often does not have the authority to modify statutory deadlines for Commission Actions and may, therefore, need to consult in a different manner or timeframe in cases where the Commission must act quickly pursuant to statutory deadlines. Additionally, to the extent that any state,

# August 18, 2017 DRAFT

Tribal Consultation Policy

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federal, or other applicable law requires the Commission to consult with Tribes in a manner that conflicts with the procedures outlined in this Consultation Policy, the Commission will follow the requirements of that law rather than the procedures in this Policy. This

Consultation Policy is not intended to and does not create, expand, limit, or waive any legal rights or obligations of the Commission, a Tribe, or any other party.

## **9. Reporting and Record-keeping.**

- a. Commission staff shall keep records of all consultations with Tribes.
- b. Commission staff shall not include in any publicly available report prepared pursuant to this Consultation Policy confidential culturally sensitive information received from a Tribe unless the Tribe consents to such disclosure in writing.

## **VIII. DISPUTE RESOLUTION PROCESS**

1. If a Tribe is dissatisfied with how a district or unit of the Commission has conducted the consultation process, it may contact the Tribal Liaison at \_\_\_ or at the following address:
2. The Tribal Liaison shall review any complaints submitted pursuant to this section and work with Commission staff and the Tribe to ensure the issue is resolved to the parties' mutual satisfaction. If the Tribal Liaison is unable to resolve the issue, the Tribal Liaison shall refer the matter to the Executive Director or a designee at an appropriate level of authority.
3. If a Tribe believes the Commission staff has not been responsive to its concerns, the Tribe is encouraged to make its concerns known to the Commission during the public hearing on the matter or during Commission meeting times set aside each day of Commission meetings for public statements about items not on the agenda, or in writing to the Commissioners.

**Attachment – Commission Staff Tribal Liaison List and Contact Information Attachment 1**

### **Commission Staff Tribal Liaison and Contact Information**

**Primary Headquarters Tribal Liaison Contact Information Headquarters**



# August 18, 2017 DRAFT

Tribal Consultation Policy

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California Coastal Commission  
South Coast Area Office  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4302  
Phone: (562) 590-5071  
Fax: (562) 590-5084

Counties: Los Angeles (Pacific Palisades to Orange Co. line)  
Orange

California Coastal Commission  
San Diego, CA 92108-4321  
San Diego Coast District  
7575 Metropolitan Drive, Suite 103

Counties: San Diego

Phone: (619) 767-2370  
Fax: (619) 767-2384

DRAFT



# Northern Chumash Tribal Council

*A Native American Corporation - NorthernChumash.org*  
*P.O Box 6533 Los Osos, CA 93412*  
*805-801-0347*

California Coastal Commission

April 10, 2018, 2018

Commissioners and Staff

Re: Draft Tribal Consultation

The Northern Chumash Tribal Council (NCTC) is commenting on the above referenced Tribal Consultation Policy.

When contacting a Tribal Government for any issues concerning lands along the California coast, within the Coastal Commission jurisdiction, great care should be given to the efforts made to contact the organization and individuals listed with the Native American Heritage Commission. It is vital that the contact efforts go beyond the normal standards applied, because most of these Indigenous organizations are volunteer, have multiple jobs, have families, are elders, are not tech savvy, have unbelievable challenges before them in so many ways, that an extra effort that takes into consideration these challenges facing the Indigenous Community be a part of this Tribal Consultation Policy, care must be given to the contact, so, the voices of the First People are heard. 10 attempts to contact the Indigenous Community is not enough, but a good starting point, Ninth District Court of Appeals, recently stated that 30 contacts were not enough.

There should be a Tribal Liaison within the Coastal Commission that can listen to Tribal concerns about a particular proposed project even before the Coastal Commission is contacted with the normal paperwork which triggers the review process. Many proposed project that are in the works can be guided or stopped prior to developers and applicants spend a tremendous amount of money getting to the trigger point in the Coastal Commission process, the more money spent by the applicant the tougher it is to make adjustment to the project. Most proposed projects have a multiyear life way before they get to the Coast Commission, and in many cases the Coastal Commission is involved early on, but, there are those cases where a Tribal Liaison within the Coastal Commission can gather information and submit to the proper individuals at the Coastal Commission to make an informed recommendation for all parties to follow with the hopes of working through the challenges, that face all parties.

No coalition of Indigenous Peoples should make recommendation to the Coastal Commission without the local Tribal Government or organizations voicing there concerns first and foremost, and any Indigenous coalition should **only** support the local Tribal Voice.

Thank you,

Fred Collins  
Chair, Northern Chumash Tribal Council, Inc.

**ENVIRONMENTAL & LAND-USE CONSULTING**  
**EDUCATIONAL SERVICES TEACHING NATURE, NATIVE CULTURES &**  
**FARMING**

Elk Valley  
Rancheria,  
California



2332 Howland Hill Road  
Crescent City, CA 95531

Phone 707.464.4680  
Fax: 707.465.2638  
[www.elk-valley.com](http://www.elk-valley.com)

April 9, 2018

**VIA E-MAIL AND POSTAL SERVICE**

Mark Delaplaine  
Manager, Energy, Ocean Resources, and  
Federal Consistency Division  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, California 94106-2219

Re: California Coastal Commission Tribal Consultation Policy &  
Staff Comments

Mr. Delaplaine:

The Elk Valley Rancheria, California, a federally recognized Indian tribe (the "Tribe"), reviewed the California Coastal Commission's August 18, 2017 Draft Tribal Consultation Policy as well as the Coastal Commission Staff's Initial Response to Comments dated March 29, 2018.

As the California Coastal Commission is aware, the Tribe is in Del Norte County near the coast. The Tribe's Martin Ranch trust property was formerly bisected by the Coastal Zone Boundary. The Tribe has over the last approximately fifteen (15) years had numerous interactions with the Coastal Commission and staff. We have generally enjoyed a productive working relationship that the Tribe believes will be enhanced by the proposed Tribal consultation policy.





Mark Delaplaine  
Re: Comments on Tribal Consultation Policy  
April 9, 2018  
Page 2

The Tribe has a few comments for the Coastal Commission's consideration. Specifically, the Tribe supports the Coastal Commission Staff's initial responses to and proposed edits because of the comments submitted by the Cher-Ae Heights Indian Community of the Trinidad Rancheria, including the modifications noted in Response 2 to Comment 2 and Response 3 to Comment 3. We appreciate the response to the Jamul Indian Village's Comments 1; 4; and 6 and proposed modifications to the policy therefrom. Likewise, we support the proposed modification proposed in response to the Lytton Rancheria of California's Comments 1 - 5.

The Tribe further suggests the following for the Coastal Commission's consideration:

- Definition of "consultation" should include a "good faith" component and not simply feasibility.
  - Definition of "federal recognition" should probably refer to the Federally Recognized Indian Tribe List Act of 1994 ("List Act"), Section 104 of the Act of November 2, 1994 (Pub. L. 103-454; 108 Stat. 4791, 4792), rather than the federal regulations regarding recognition. Many tribes were not recognized through the Part 83 process but are instead listed as federally recognized Indian tribes pursuant to the List Act.
  - Definition of "Tribal Interests" should be expanded to include governmental and jurisdictional interests. The Tribe acknowledges that this comment is like that of the Lytton Rancheria's comment.
  - Definition of "Tribal Sovereignty" should also recognize that the State of California recognizes tribal sovereignty and the exercise of Tribal jurisdiction and authority, e.g., environmental review for gaming projects pursuant to Tribal law.
  - Section III, Guiding Principles, numbers 9 and 11 should be harmonized to promote efficiency and effectiveness.
- 

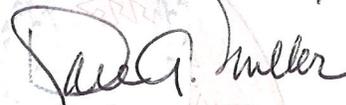


Mark Delaplaine  
Re: Comments on Tribal Consultation Policy  
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Page 3

- Section VI, Tribal Communication, Federal Consistency Review, § 1(B). The Tribe appreciates the Coastal Commission's thorough approach but is concerned that this section could cause unnecessary delay if there is "second-guessing" of a federal agency's tribal consultation. This provision should be utilized to require a Tribal proponent of a project, e.g., a fee to trust acquisition, and the federal agency, to be forced to take unnecessary action or otherwise repeat previous action.

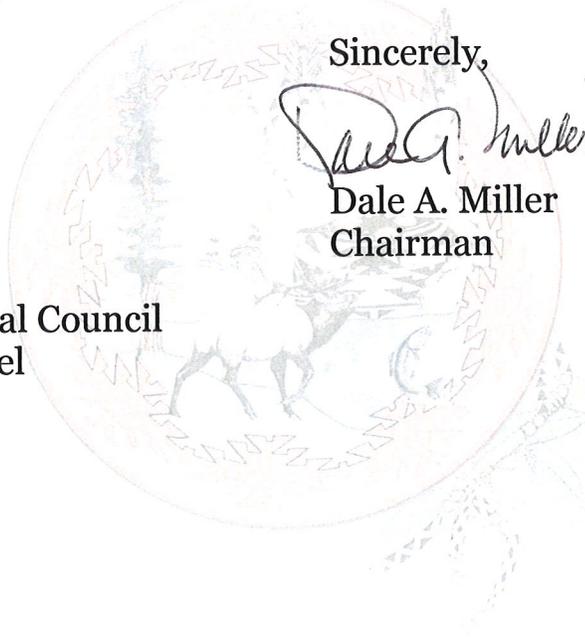
Thank you for your consideration of the Tribe's brief comments.

Sincerely,



Dale A. Miller  
Chairman

cc: Elk Valley Tribal Council  
General Counsel



Elk Valley  
Rancheria,  
California



2332 Howland Hill Road  
Crescent City, CA 95531

Phone 707.464.4680  
Fax: 707.465.2638  
[www.elk-valley.com](http://www.elk-valley.com)

April 11, 2018

**VIA E-MAIL AND POSTAL SERVICE**

Mark Delaplaine  
Manager, Energy, Ocean Resources, and  
Federal Consistency Division  
California Coastal Commission  
45 Fremont Street, Suite 2000  
San Francisco, California 94106-2219

Re: California Coastal Commission Tribal Consultation Policy &  
Staff Comments

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Mark Delaplaine  
Re: Comments on Tribal Consultation Policy  
April 9, 2018  
Page 2

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Mark Delaplaine  
Re: Comments on Tribal Consultation Policy  
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Page 3

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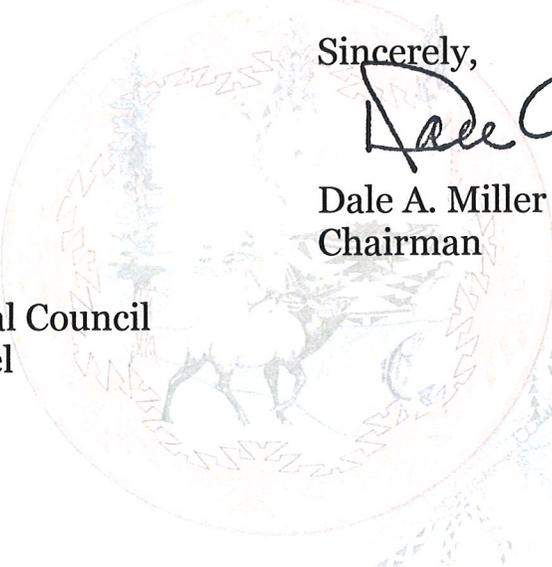
Thank you for your consideration of the Tribe's brief comments.

Sincerely,



Dale A. Miller  
Chairman

cc: Elk Valley Tribal Council  
General Counsel



**April 10, 2018**

**TO: California Coastal Commission**

**FROM: Gabrieleno Band of Mission Indians Kizh Nation**

**RE: DRAFT Tribal Consultation Policy (8/18/17 Draft)**

**Honorable Coastal Commission Board Members**

**With all due respect, we are approaching the Draft in the terms of Tribal Rights and Sovereign independence. Let it be understood from the Indigenous perspective, our primary concern is RESPECT of our Tribal territory. Universal to the concept of inter-Tribal respect, only the Tribe of the area in question shall have input of what concerns that occur within our boundaries. With that said, NO tribe outside of the territory of the Kizh Nation should have influence to any entity (such as lead agencies, Coastal Commission, developers) when a consultation or disposition is being considered or in progress.**

**We have gone through the language of the Draft. We feel there are some ambiguities, need for definitions, and unanswered questions about the process. The following is of concern:**

**Page 2/3<sup>rd</sup> paragraph: "government-to-government dialogue with the Tribes." Please define "Tribes" in the context of consultation in 'protecting cultural resources.' Does this imply you will be contacting several 'Tribes' for input in a project area? Our concern is how can a 'tribe' from an area outside of our Tribal Territory give accurate information/data about the area of concern. This should only come from the Ancestral Tribe of the area of concern.**

**Page 3/#4: Consultation. Is the draft implying singular as to the Ancestral Tribe of the area, not inclusive of other Tribes outside of the territory of concern? If this is to be inclusive of numerous Tribes in consultation, this would contradict the sovereignty of the Ancestral Tribe of the area of concern.**

**Page 3/#5: Cultural Resources. This section should include the expertise of the Oral History of the Ancestral Tribe of the area in question. This is the primary component of AB 52.**

**Page 4/#8: Tribal Interest. Should also include the historical relevance and Oral history of the Ancestral Tribe of the area in question.**

**Page 5/#9: Tribal Sovereignty. Refers to Federally Recognized Tribes. What status or priority would non-Federally Recognized Tribes be given?**

**Page 5/Section III: "Tribes" is referenced numerous times throughout this section. Again, is the implication in the singular or plural definition. It remains our concern no 'Tribe' outside of our Ancestral Territory is of any relevance to the concerns within our Ancestral territory.**

**Page 5/#7: "On or off" Tribal Lands. From our perspective, this would be non-existent. If a resource is off 'Tribal' territory, it would more-than-likely belong to the Tribe where it was found. Does "Tribal Lands" refer to both Federally recognized and non-Federally recognized?**

**Page 5/#8: Should also include 'Oral History' as required by AB 52.**

**Page 6/#10: Again, "Tribes" in reference to numerous tribes in a "joint" consultation or the Ancestral Tribe of the area of concern. You cannot have government to government ("joint") consultation with Tribes from different areas; only with the Ancestral Tribe of the area.**

**Page 6/IV: Who determines the Tribal Liaison? What qualifies one to become eligible to be a Tribal Liaison? Is the Liaison from the Coastal Commission staff? Are there guarantees of neutrality?**

**Page 6/IV c, and Page 7/VI #3: Is the Commission's Tribal Contact List the same as the list of the Native American Heritage Commission? The contact list cannot be considered the 'consultation' list. What safeguards will the Commission insure against individuals fraudulently representing themselves as 'Native Americans' as they already exist on the NAHC contact list?**

**Page 8/#4: Contacting Tribes for Commission Actions should only include the Ancestral Tribe of the area in question. 'Specific geographical areas' would be any area of concern within the Ancestral Tribal area, not a concern of Tribes of Tribal territory outside of the territory of concern.**

**Page 8/#4a (1) 2<sup>nd</sup> paragraph: "Promptly notify affected Tribes" Only the Ancestral Tribe of the area of concern would be affected; hence they would be the only Tribe to be contacted.**

**Page 8-9/#4a (1) 2<sup>nd</sup> paragraph: "Tribes may have an interest in the Action" Only the Ancestral Tribe would have an interest of 'action.' Inter-Tribal respect supersedes whatever concern an outside Tribal member has about issues in another Tribal territory. Those concerns of a Tribe outside of their Tribal territory is irrelevant.**

**Page 9/ #4a (2): "affected Tribes" should read 'affected Tribe.' The ancestral Tribe representing the area of concern.**

**Page 11/(1)(A): Historically, federal agencies do not engage with non-federally recognized Tribes. This may be an issue the CCC needs to intervene.**

**Page 11/(1)(B): Will the Federal representatives take into account the concerns of a non-Federally Recognized Tribe while in consultation. Traditionally they do not engage with non-federally recognized Tribes.**

**Page 12/#5a: There may be more than 3-6 contacts for one Tribe. Need to work with NAHC to modify the contacts. Secondly, need to verify whether contacts on the list are legitimate Native representatives.**

**Page 12/5e: Consult with Tribe, should specify the Ancestral Tribe. By experience, by including Tribal members outside of the area in question, causes confusion and animosity.**

**Page 13-14/#3: Can the Tribe contest or reject the CCC candidate?**

**Page 14/#7: Joint Consultation. The Ancestral Tribe will be the 'priority.'**

**Page 15/#9: Will the Tribe(s) in consultation have access to these records?**

**These are points of concern. The primary focus is the Ancestral Tribe would be the priority. Like the NAHC process, the contact members are primarily the Tribe of the affected area. However, the wording in AB 52, 'culturally affiliated' has caused confusion and dissention with neighboring Tribes. Some of these representatives have dismissed traditional Tribal respect of another Tribes territory by interfering with Tribal affairs in another Tribal Territory. By specifying 'Ancestral' affiliation will eliminate all confusion and intrusion.**

**There is also a concern that an independent entity is working towards developing a coalition of 'advisors' to assist the CCC in the consultation process. This consultation process would circumvent the AB 52 requirement of government-to-government dialogue. In essence, this 'advisory' group would speak on behalf of the Tribe(s) affected in a project area. No outside entity can speak on behalf of another Tribes cultural resources, sensitive/sacred areas, or oral history. Should this suggestion be presented to the CCC, the CCC must dismiss this proposal in respect to Tribal traditions and out of respect to the special interest of the Tribe of the affected area.**

**Respectfully,**



**Henry Pedregon-Representative  
Gabrieleno Band of Mission Indians Kizh Nation  
910 N. Citrus Av.  
Covina, CA 91723**

Good afternoon Mark . . .

My name is Victoria Jones and I am 9th generation Native American from the Juaneno Tribe in San Juan Capistrano and I am writing to you today to share my input on tomorrows CCC Consultation Policy hearing in Manhattan Beach. Unfortunately I am not available to attend but I did want to reach out to you to please include my comments at tomorrows meeting for the record.

Our ancestors are from the state recognized Tribe in San Juan Capistrano which is just south of Aliso Creek in Orange County. We have peacefully inhabited this territory next door to the Kizh Nation in Greater Los Angeles County. It is Native American custom to honor and respect the ancestral territory of our neighboring Tribes not to intrude into their Tribal Territory on matters that don't involve us. For that matter it is a nationally acknowledged custom to respect and honor sister Tribes and never speak on their behalf.

We can speak with authority about our **OWN** territory and can **NOT** rely on outsiders to speak on our behalf. It is imperative that any Tribe that may be contacted in this new revised policy "**MUST**" provide proof that they are Native American from the ancestral territory related to said projects.

I support the revisions that I have included in the attached DRAFT Policy. Thank you for reading my email at tomorrows CCC Policy hearing tomorrow in Redondo Beach.

Thank you in advance for your assistance and please feel free to call me with additional questions at (909) 921.1059.

Peace,

**Victoria Jones**

***Rancho Cucamonga, CA***

***(909) 921.1059***

**[vickygoodwin1@hotmail.com](mailto:vickygoodwin1@hotmail.com)**

Commissioners;

I have attached a document that scientifically proves the genetic association the Salas family has with the original people of Los Angeles. I am a registered member of the Tewa Nation (Ysleta Sur Pueblo) with roots outside of El Paso, Texas. For many centuries our elders have spoken of our Western relatives, The Kizh. In our Shoshoneh idiom, which we share, Keech as a word means Spirit. We share many of their customs, we are very similar. When I was 5 years young, I am 70 now, my Nana (grandmother) told me that a people existed where the sun and the oceans came together (the West coast) and I would recognize them when the sea animals would sing (dolphin & whale) to me. This happened many years ago when I visited the Channel Islands (Catalina).

Since then I've come to learn that they have been victims of "identity theft" by a vicious and unethical (criminal in my book) group that call themselves "tongva". The perpetrators of these actions are not Indians and should be behind bars for their impersonation of a Native nation. I know many of those that claim membership in this non existing California tribe.

I also hear of a representative of the Acjachemem (San Juan Capistrano Indian) tribe. A Ms. D'Arcy is also claiming before your commission to be true & genuine but I know she is a "fake" and has association with the "tongva" group of fakes. I lived with Ms. D'Arcy's claimed tribe for more than 30 years and found that many of her own tribal members would not accept her as one of their own. This problem of stolen identity is common in the state of California and I am sure your commission will find it when you deal with our state's northern tribes. They are more organized but carry the same issues.

In my section of the country and with tribes in New Mexico, where The Tewa originate from, we demand "paper proof" of lineage with family, clan or village citizenship before we declare them as legitimate or real members of our numerous tribes and or clans. The Catholic church is one other good source in identifying them if they happen to be Catholic or their family members we baptized in the early history of the tribe. I recommend that you use this same process to determine the authenticity of those that claim to have an interest and a cultural right to the past, present and future of Native peoples. I thank you.

Pete Conejo-Tochtli (Melendez)

14671 Farmington Street Hesperia, CA 92345 | (760)403-1756 | rumsenama@gmail.com

**April 10, 2018**

Recipient  
Mark Delaplaine  
California Coastal Commission

**Dear Recipient:**

On behalf of the Rumšen Am:a Tur:ataj Ohlone a tribe of descendants from the Rumšen Ohlone people of the Central California Coast we have read and fully support the draft proposal that was sent by Chairman Andy Salas and the Gabrieleño Kizh Nation. We firmly believe that each specific tribe should be contacted and involved with any and all projects upon their ancestral lands. No one person or entity can or should be allowed to speak on anyone's behalf, especially if they are not one of the original people of the land. We are working closely with Mr. Salas and will continue to do so because we truly believe and understand his position on the matter of the policy the California Coastal Commission is planning on adopting.

Thank you for your time and feel free to contact me with any questions regarding my position on this matter.

Šu:ruru in: Ul:apišta



**Subject:** email from Anna Christensen

Received April 10, 2018

Dear Mr. Delaplaine,

Thanks for the info on a former Los Cerritos Wetlands restoration proposal, although I have yet to fully digest it. I am sending you an interesting legal opinion (attached) regarding tribal consultation vs. consent. Although it refers primarily to Federal Indian Law, by both acknowledging the inherent flaws in the status quo and suggesting alternatives, it may offer a way forward towards a meaningful and environmentally just decision-making process between tribal peoples and state actors, possibly including the California Coastal Commission.

Additionally, I want to share the perspective of my friend and fellow activist, Michelle Learner, Cree/Irish, on the Coastal Commission proposed tribal consultation policy. She states that the traditional teachings and ways of California Indian tribal peoples must form the basis of any and all discussions and negotiations impacting tribal culture, including the responsibility and right of Coastal California Indians to protect and preserve the lands and waters of their original territories. Should all parties acknowledge and follow this prescription, there may hope for future generations (not just the two-legged ones but all life as we know it).

We can all agree that the California Coastal Act was born of the realization that unrestrained "business as usual" would doom residents (animal, mineral, and vegetable) to a coast that would be inaccessible, unlivable or both. Today's status quo includes sea rise and severe weather events, new and dangerous methods of fossil fuel extraction, massive amounts of toxic pollutants (including plastic) released onto lands and into waterways and the ocean, and the increasing power of a few humans over the many (animal, mineral, and vegetable). Where some view laws mandating tribal consultation as furthering environmental justice, others see just them as just another way to mask continued dispossession, while a third rail of consultants looking to stay in the game offer to guide public and private actors through a new maze of regulations.

To make any real difference, your Tribal Consultation Policy, like the original Coastal Act, must be visionary. Only a great leap forward that defers to tribal traditional values and somehow includes tribal organizations and individuals most willing and able to protect the California Coast will do. The truth is that the Coastal Commission stands to benefit from traditional tribal knowledge and methods of engagement and sustainability far more than tribal peoples will gain from another government agency's invitation to play footsie with developers. The understanding gained from tens of thousands of years living on these shores, paired with 400+ years of surviving "coastal development" should command your attention, respect, and deference.

Hope to see you Wednesday, Anna Christensen, Protect the Long Beach/Los Cerritos Wetlands