

**NATIVE AMERICAN HERITAGE COMMISSION**

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June 4, 2018

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The Honorable Michael Ranalli, Chair  
El Dorado County Board of Supervisors  
330 Fair Lane  
Placerville, CA 95677

Re: California Native American Heritage Commission Public Comment, June 5, 2018  
El Dorado County Board of Supervisors Meeting, Agenda Item 23, Proposed  
Policy A-8, Payment or Reimbursement to Consulting Parties on County Projects

Dear Chairman Ranalli and El Dorado County Supervisors,

I have reviewed the proposed El Dorado County Policy A-8, Payment or Reimbursement to Consulting Parties on County Projects. El Dorado County is to be commended for its forward thinking. That said, the California Native American Heritage Commission (NAHC) has concerns about the degree of tribal consultation that occurred prior to proposing the policy for approval at your June 5, 2018 Board of Supervisors meeting as well as some additional policy concerns for your consideration. I would ask that these comments be included in the public record for this agenda item.

If there has been no consultation with affected tribes on this proposed policy, I would strongly recommend that such consultation occur before any final action is taken to adopt this policy. Strong relationships and clear channels of communications between California tribes and California local governments inure to the benefit of all California in making better laws, policies, and regulations affecting California tribes.

Second, I would like to raise an additional potential consequence of a blanket policy prohibiting payment for tribal consultation participation expenses or tribal consultation services. It is clear that neither AB 52 nor SB 18 requires local governments and/or lead agencies to pay tribes to fulfill their consultation roles under those statutes. An additional consideration is that, unlike cultural resources management firms, archaeologists, developers, and other important participants in project planning, not all tribes have the resources to participate fully in tribal

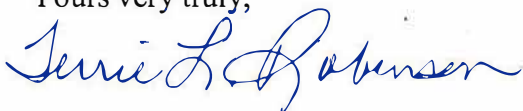
consultation with lead agencies to discuss their cultural resources that may be affected by a project. Their information, however, may be crucial in avoiding damage to Native American cultural resources such as Native American burials, the treatment of which is governed by procedures outside of CEQA and administered by the NAHC. These procedures include insuring no further damage or development occurs near inadvertently Native American burials pending consultation with the tribe identified as the Most Likely Descendants for the human remains discovered in such burials. As a result, projects where Native American burials are inadvertently discovered are temporarily halted near such discoveries pending conferral between the Most Likely Descendants and the landowner of the project.

The NAHC strongly advocates designing projects to avoid completely impacts to Native American cultural resources such as Native American burial sites, if possible. To do so, a lead agency needs the best information available about the cultural resources within a project site from all project participants, including Native American tribes. The cost of ensuring an under-resourced tribe's ability to participate in AB 52 and/or SB 18 consultation at the early planning stages of a project can not only help to avoid impacting Native American cultural resources, but can also avoid additional costs for the treatment and disposition of inadvertently discovered Native American human remains that might possibly have been avoided with sufficient advance knowledge during the early planning stages of a project.

Simply put, it would not be prudent to adopt a policy affecting tribes, the gathering of tribal knowledge, and Native American cultural resources without tribal consultation. I respectfully recommend that, if tribal consultation on this proposed policy has not occurred, your county government engage in tribal consultation with the seven affected area tribes and consider all the potential consequences of any proposed policy affecting the protection of Native American cultural resources. We also recommend that local governments adopt tribal consultation policies and designate a tribal liaison.

Thank you in advance for considering our concerns. We stand at the ready to be of any assistance to the El Dorado County Board of Supervisors may need.

Yours very truly,



Terrie L. Robinson, General Counsel  
NAHC

cc: Christina Snider, Executive Secretary, NAHC