
**The Role of the Native American
Heritage Commission
in the
Implementation of
Assembly Bill (AB) 52
(Gatto, 2014)**

October 2015

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What is The Native American
Heritage Commission (NAHC)?

What does the NAHC do?

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- The NAHC was originally created upon the recommendations of the California Indian Commission: Joe Carrillo, Assistant Director and the Senate Committee on Indian Affairs, Chairman Sen. Milton Marks.
- Established by the Legislature in 1976, AB 4239, and became effective 1/1/1977.
- It was created because California Native Americans were demanding protection of their burials from vandalism, development, and scientific research.

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The primary role of the NAHC is to facilitate consultation between Native Americans, government agencies, landowners, developers, and environmental consultants.

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The NAHC has been recognized in case law as the State Agency with *special expertise on the subject of Native American historical sites with jurisdiction to identify sites of special religious and spiritual significance to Native Americans, (Environmental Protection Information Center (EPIC) v. Johnson, 1985).*

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Roles and Responsibilities of the NAHC

- Administers application of Public Resources Code 5097.9 et. Al. and Health and Safety Code 7050.5.
- ✓ Designates “Most Likely Descendants” for the inadvertent discovery of Native American human remains and associated grave items. (Health and Safety Code 7050.5 and Public Resources Code (PRC) 5097.98)
- ✓ Mediates disputes between landowners and Most Likely Descendants regarding the treatment and disposition of Native American human remains and associated grave items. (5097.94(k).

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Roles and Responsibilities of the NAHC

- ✓ Aids landowners in developing agreements with Most Likely Descendants. (PRC 5097.94(1)).
- ✓ Administers the Sacred Lands File program, including consulting with Native Americans regarding adding sites. (PRC 5097.96).
- ✓ Protects and provides access to Native American cultural places on public property. (PRC 5097.9 and 5097.94).

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Roles and Responsibilities of the NAHC

- Reviews California Environmental Quality Act (CEQA) environmental documents: Notices of Preparation, negative declarations, mitigated negative declarations, environmental impact reports, and timber harvest plans for adequacy in protecting tribal cultural resources.
- Helps developers, private property owners, lead agencies, law enforcement, and all California citizens to become more aware of Native American issues.

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Roles and Responsibilities of the NAHC

- Provides training for law enforcement agencies, public agencies, environmental consultants, and Native Americans in California laws protecting tribal cultural resources.
- ✓ Provides “Tribal Consultation Lists” to local governments pursuant to SB 18.
- ✓ The NAHC now has specific statutory requirements under AB 52.

NAHC Statutory Requirements Under AB 52 (Gatto, 2014)

**On or before July 1, 2016,
the Native American
Commission (NAHC) Must
Provide the Following:**

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- ✓ Each California Native American tribe with a list of all public agencies that may be a lead agency under CEQA within a tribe's traditional tribal territory, including the contact information for these agencies;
 - ✓ Information on how the tribe may request the public agency to notify the tribe of projects within the jurisdiction of those public agencies for the purposes of requesting consultation. (PRC Section 5097.94(m)), and
 - ✓ Assist the lead agencies in identifying California Native American tribes that are traditionally and culturally affiliated with their jurisdictions. (PRC 21074(c)).
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➤ Even though the information the NAHC is to provide under the statute is not due until July 1, 2016, the NAHC provided the following by July 1, 2015:

- ✓ A preliminary lead agency database for tribes, which is now on the NAHC website.
- ✓ Template letters for tribes to use in requesting formal notification of CEQA projects and for formally requesting consultation. These letters are also on the NAHC website.

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On the NAHC Website will also be advise for lead agencies regarding “formal notification” and “best practices.”

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➤ By July 1, 2016 the NAHC will have:

- ✓ Completed the confidential Native American Land Information System (NALIS), a database for NAHC use that can be searched by location that includes a map overlay of traditional tribal territories, lead agency jurisdictions.
- ✓ Ultimately, the plan is for it to also contain Sacred Lands File information, as well as records of the NAHC response to inadvertent discoveries of Native American human remains, and associated grave items under California Health and Safety Code and Public Resources Code.

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