Department of Natural Resources
39051 Highway 96
Post Office Box 282
Orleans, CA 95556
Phone: (530) 627-3446
Fax: (530) 627-3448

Karuk Tribe

Administrative Office
Phone: (530) 493-1600 • Fax: (530) 493-5322
64236 Second Avenue • Post Office Box 1016 • Happy Camp, CA 96039

Orleans Medical Clinic
325 Asip Road
Post Office Box 249
Orleans, CA 95556
Phone: (530) 627-3452
Fax: (530) 627-3445

May 31, 2015

Holly Roberson
Office of Planning and Research
1400 10th Street
P.O. Box 3044
Sacramento, CA 95812-3044

Dear Holly Roberson,

I have attended two of the public meetings surrounding AB52, at Rohnert Park on March 21st, and at Sacramento on April 16th. I was delighted to meet you at the second of these meetings. At the first meeting I made some comments addressing the need to develop guidelines for AB52. At the meeting in Sacramento, I asked some questions about determination of eligibility and about cultural landscapes. I was pleased to receive a copy of the Discussion Draft Technical Advisory. This second set of written comments addresses this discussion draft.

First, I would like to write in support of a statement made by you in Sacramento: that CEQA is a natural home for the amendment and state recognition of "Tribal Cultural Resources" [as defined, see below]. If I recall, you commented that the CEQA process has teeth. The Karuk would concur with that, and comment further that Tribal Cultural Resources should have been part of the CEQA process from the beginning.

On the Federal level, there are two parallel tracks: NEPA and Section 106 are environmental and historical processes that are often done concurrently but are distinct. AB52 attempts to incorporate some key principles from that historical process, and apply it to things of importance to Tribes single environmental process. From the perspective of this Tribe, the principle is very sound. The THPO should not be the only guardian of places that are of value to a Tribe. A cultural resource is an environmental issue. This is the purport of Section 1 #9: "Establish that a substantial adverse change to a tribal cultural resource has a significant effect on the environment."

The recognition of Tribal Cultural Resources as a category of resource that affects environmental quality does however introduce some wrinkles, and they are significant. Here is where we believe a possible amendment or clear implementation guidelines would be very important.

First, the Karuk are dissatisfied with the definition of Tribal Cultural Resources (Pub. Resources Code §21074: "Sites, features, places cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe ..."). The Karuk comment would be that this list, while intended to be inclusive, does not go far enough. Put more bluntly, and with apologies, it would be: Put your money where your mouth is. This is an environmental process, so we need recognition of Environmental issues as Tribal issues. My comments from March

21st set out the aboriginal nature of our Tribe, and spelled out how we are the guardians of the land, and sometimes the only guardians and conscience of that land. Clean water is a tribal resource; healthy trees, animals, and plants are tribal resources. They have been managed for countless generations with a view to making the ecosystem productive and balanced. The Tribe considers cultural resources always in the context of the management of the landscape.

Second, this is where the CEQA language and approach is found wanting. The summary of §21074 under the heading "Definition of Tribal Cultural Resources" states that tribal cultural resources should be either determined eligible for a historical register or a resource that the lead agency chooses, in its discretion, to treat as a tribal cultural resource. The Karuk Tribe does not just believe that it should have the right to determine eligibility; it does determine significance of resources. The federal language, using "eligible" not "determined eligible" does open the door more for Tribal input. In the first option, we suspect that the language "determined eligible for a local historical register" may be not strong enough: we would prefer to see: "eligible for a tribal register of cultural resources". Otherwise, agencies may presume that eligibility is determined by local historical clubs who study 1920s stores or Victorian houses. Nothing wrong with those, but they do not help Tribes.

In the second category referenced above, this is where CEQA language and concepts have limitations. The lead agency should not have sole discretion to determine eligibility. Fitting a Tribal resource in an environmental process that privileges lead agencies is like fitting a square peg in a round hole. The addition of Tribal Cultural Resources within CEQA would naturally lend itself to a relaxation of the language about actions by lead agencies. Potentially they do not need to guide every part of the process - especially in a case where their lead is not appropriate. A determination made by a lead agency, as stated, is not appropriate. An agency, when planning a project in an area that has been occupied by a certain people for generations, should ask the people who know. The preamble, under intended accomplishments (8), reads "Enable California Native American tribes to manage and accept conveyances of, and act as caretakers of, tribal cultural resources." The Karuk would like to see co-management introduced as an option within the general framework of CEQA.

For the Tribe these are crucial issues. It is good to see a legislative home for them within an environmental law, because that is where they naturally belong. We do not think that the power of the law should be compromised by legal considerations which are subject to amendment. Everything proposed above is, in our view, consistent with preservation law, realistic from a legal standpoint, and most importantly aligned with Tribal values

Sincerely,

Alex R. Watts-Tobin, Ph.D.
THPO / Archaeologist
Karuk Tribe