

AB52 notes

Alex Watts-Tobin

We would urge the Office of Administrative Law not to wait until July 2016 to produce guidelines for the implementation of law AB 52. The law comes into effect in July 2015, and the guidelines need to be established as the law comes into effect or as soon as possible thereafter. The reason for the Karuk Tribe's position on this is experience. In the absence of guidance, agencies will develop their own guidelines, which may or may not be consistent with the later guidance. This situation risks litigation, which could have been avoided with proper implementation guidance to agencies about consulting with Tribes. We know from our own dealings with outside agencies that they will have their own interpretations of these laws that will likely not be compatible with our own. For example, we have observed the Forest Service agencies' tendency to attach cultural significance only to identified villages or scattered artifacts, while the Karuk have dedicated their existence and scientific efforts, over thousands of years, to managing whole landscapes.

There is a significant risk that with agency-generated guidelines, the true power and effectiveness of this law will be lost. Cultural Resources do not just mean artifacts and sites. The Karuk have been in the forefront of the movement to disseminate a more proper view of evidence of human occupation within a whole landscape. The Karuk are in a somewhat special position because we were not substantially removed from our territory but have gone on managing it continuously. Tribal Cultural Resources is a part of the law that we know from experience is open to misinterpretation. We are engaged in a project to protect our cultural resources, as we have done in this place for thousands of years. Other agencies who claim ownership of the land tend to consider that they are respecting our wishes if they hem us into a small location that has a village site or a scatter of flakes, and consider the rest their own. Cultural Resources do not work like that. They operate within the whole landscape, and can only be interpreted in the context of the landscape. If this is not emphasized in the guidelines, the power of this law will be lost.

Another important component of this law is notification and consultation. We will be providing maps: a map of our 1.2 million acres of Ancestral Territory, and another map for AB 52 purposes delineating a Karuk area of influence. We will also be providing our recently adopted consultation policy. In recent years, we have found that the way that we have effected positive change is through notification, collaboration, and consultation on projects as they develop. AB 52 goes a long way towards plugging holes in the existing body of law, by requiring notification of projects, and by requiring proper consultation if we request it within the 30 days. It is well known that the northwest coast tribes participated in the trade of shells for obsidian, and contributed to the first pathways across northern California to Medicine Lake and beyond. As a result, Karuk people utilized specific locations well outside

of Aboriginal Territory. This would be an example of why our AB52 map delineates a larger area than our Ancestral Territory. AB 52 requires notification and gives us the opportunity to determine if consultation is required. We are not there to stand in the way of development and use of the land, as we have shown with Caltrans, the Forest Service, and many other agencies. We can come together with them as partners and work out development and project plans. The proper guidelines for AB 52 will give us continued power to protect our landscape, and to fix the world, which we have done since the beginning of time.

Sincerely,

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