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July 8, 2019

The Honorable Bill Dodd
California Senate
Senate Committee on Governmental Organization
1020 N Street, Room 584
Sacramento, CA 95814

RE: OPPOSITION TO AB 275 (RAMOS)

Dear Mr. Chairman:

I am an enrolled member of the Coastal Band of the Chumash Nation, a California Native American tribe, and I write to oppose AB 275 (Ramos). As written, AB 275 would change long-standing California law that allows *all* California Native American tribes on a list maintained by the Native American Heritage Commission (NAHC) to make recommendations about the treatment and disposition of their ancestors' remains when those remains are discovered on public or private lands. AB 275 would change the law to allow only some, but not all, of California's non-federally recognized tribes on the NAHC's list to have that right. By denying some California Native American tribes a say in the reburial of their own ancestors, this bill cuts to the heart of California Native American culture. Additionally, AB 275 excludes these same tribes from participating in consultation with the University of California system regarding its new policies on the repatriation of Native American human remains held by UC campuses.

WHAT THE BILL DOES AND TO WHOM:

AB 275 is an act that would add Section 8318 to the Government Code, and amend Sections 8012 and 8013 of the Health and Safety Code and Section 5097.94 of the Public Resources Code. In its most current form, AB 275 would make the following two changes to California law:

- (1) It would require all state agencies, the California State University, the University of California, and the Judicial Council of California to create a position of tribal liaison to engage in consultation with California Native American tribes on the contact list maintained by the NAHC.

While I support mandating that state agencies, universities and the Judicial Council create tribal liaison positions, the changes made by this bill to the definition of "California Indian Tribe" undermine the purposes of the bill. Indeed, the definition is an assault on tribal sovereignty and directly conflicts

with Governor Newsom's recent apology to California Native Americans for the attempted genocide of our peoples,¹ as more fully explained below.

- (2) It would modify California Public Resources Code Section 5097.94 and require that the contact list that the NAHC maintains for Most Likely Descendants (MLDs) be restricted to tribes meeting the definition in the California Native American Graves Protection and Repatriation Act of 2001 (Cal NAGPRA).

*"Since its beginning, the mission of the NAHC has remained the protection of Native American cultural places and providing access to those places on public property for ceremonial purposes. These protections in the NAHC's authorizing statute, Public Resources Code section 5097.94, were fought for and won by California's Native Americans by standing up, not only for themselves and future generations, but also for their ancestors' cultural and spiritual beliefs."*²

The NAHC currently maintains a Most Likely Descendant list comprised of all California Native American tribes that the NAHC has identified. However, AB 275, like Cal NAGPRA, would restrict the list to only those tribes that are federally-recognized or who have applied for federal recognition. Many California Native American tribes currently on the MLD list would not meet that definition because they have chosen not to apply for federal recognition or have been denied such status. Significantly, "there are more unacknowledged Indian tribes in California than any other single state."³

Denying tribes the ability to participate in the repatriation of their ancestors is a denial of the tribes' fundamental sovereignty. Article 12 of the United Nations Declaration of Rights of Indigenous People acknowledges the universally recognized right of indigenous peoples to have their ancestors remains repatriated to their descendants for respectful and dignified burial. Recently our own Legislature also recognized that "the repatriation of human remains and cultural items is a fundamental human right for *all* California Native American tribes." (AB 2836 (Gloria) (emphasis added).)

Rather than helping to redress the lingering effects of past wrongs, the exclusionary new definition of "California Indian Tribe" in this bill is yet another genocidal action. Excluding those Nations that have chosen not to pursue the frequently futile⁴ effort of seeking federal recognition is simply another attempt to erase these tribes' histories and deny their present existence.

What makes the proposed change to the definition of "California Indian Tribe" even more offensive is that it is unnecessary. There is nothing in the bill analyses to suggest that using the existing, more inclusive, MLD list that the NAHC maintains has created any significant problems. Nor does there appear to be anything in the legislative record to support the idea that excluding certain non-federally recognized tribes from participating in the repatriation of their ancestors' remains is the only – or even the best – way to address any existing concerns. In fact, the legislative analyses of the bill do not even acknowledge the proposed change or its significance.

¹ Executive Order N-15-19 (Newsom, 2019).

² California Native American Heritage Commission Tribal Consultation Policy at page 1.

³ Advisory Council on California Indian Policy Final Reports and Recommendations to the Congress of the United States Pursuant to Public Law 102-416 – Executive Summary (September, 1997), page 20.

⁴ *Ibid.*

PROPOSED AMENDMENT

The major problem with this bill could be resolved by changing the word “both” to “either” in the proposed amendment to Health and Safety Code section 8012, subdivision (j)(2). Thus, the language would read:

(j) “California Indian tribe” means any tribe located in California to which any of the following applies:

(1) It meets the definition of Indian tribe under the federal Native American Graves Protection and Repatriation Act (25 U.S.C. Sec. 3001 et seq.).

(2) It is not recognized by the federal government, but is indigenous to the territory that is now known as the State of California, and ~~both~~ either of the following apply:

That change would allow any established tribe to participate in consultation, including federally-recognized tribes, those tribes that have applied for federal recognition *and* those non-federally recognized tribes that the NAHC, in its discretion, determines to be eligible. At a minimum, this change should be made before this bill proceeds any further.

CONCLUSION

For the foregoing reasons, I oppose AB 275 because it would perpetuate the attempted genocide of some California Native American tribes by interfering with their ability to reclaim and protect the remains of their ancestors. I respectfully request that, at a minimum, this body make the amendment suggested above before allowing this bill to advance. Further, I challenge the Legislature to put the Governor’s apology into action and show that it meant what it said, that “the repatriation of human remains and cultural items is a fundamental human right for *all* California Native American tribes.”

Respectfully,

/s/

Antonette B. Cordero
Member, Coastal Band of the Chumash Nation

cc: Hon. James Ramos
Hon. Monique Limon
Hon. Jesse Gabriel
Hon. Henry I. Stern
Hon. Hannah-Beth Jackson