



March 2016

Tribal Monitoring Fact Sheet

I. What are the statutory requirements for tribal monitoring?

There are no state or federal regulations requiring the participation of tribal monitors; however, the California High-Speed Rail Authority (Authority) has made provisions to include tribal monitors during various project activities to enable tribes to have firsthand exposure and representation in the field and to provide direct input during activities that may have the potential to identify and/or affect sensitive tribal cultural resources.

II. How will tribal monitors be identified and selected?

The Authority continues to work closely with and relies upon the expertise and recommendations of the California Native American Heritage Commission (NAHC) to identify tribal governments and tribal representatives who are culturally affiliated with the various high-speed rail project sections. Priority for tribal monitoring opportunities is given to those tribes who: (1) are culturally affiliated with the project area, as determined by the NAHC; (2) have a demonstrated interest and have participated in the project's cultural resource investigation process; and (3) have accepted the Authority's invitation to participate as a *Consulting Party* under Section 106 of the National Historic Preservation Act, as defined in the High-Speed Rail Section 106 Programmatic Agreement (PA)¹. The Authority works directly with the tribal leadership/chairperson of each Consulting Party tribe to identify the individuals designated by the tribal leadership to represent the tribe during monitoring efforts on the high-speed rail project. The Authority will request that each Consulting Party tribe complete a *Tribal Monitor Designation Form* to identify the individuals who have been designated to represent the tribe, including their direct contact information, to ensure clear and efficient communication about monitoring opportunities. Forms will be provided to the tribes by the Authority's Tribal Liaison as part of the outreach/consultation effort. The form must be approved/signed by the tribal chairperson.

III. What qualifications will be required of tribal monitors?

While the Authority recommends that tribal monitors possess the desired knowledge, skills, abilities, and experience established by the NAHC's *Guidelines for Native American Monitors*², tribal officials are ultimately responsible for vetting the qualifications of the tribal monitors whom they choose to represent their tribe. Tribal monitors are intended to be trusted tribal representatives who will have firsthand exposure to field activities so that they may make recommendations to the archaeologist onsite, as well as directly report their observations to their tribal leadership and/or community.

¹ Formally titled, *Programmatic Agreement Among the Federal Railroad Administration, the Advisory Council on Historic Preservation, the California State Historic Preservation Officer, and the California High-Speed Rail Authority Regarding Compliance with Section 106 of the National Historic Preservation Act, as it Pertains to the California High-Speed Train Project*: http://hsr.ca.gov/Programs/Tribal_Relations/programmatic_agreement.html

² Native American Heritage Commission Guidelines for Native American Monitors/Consultants (2005): https://scahome.org/about_sca/NAPC_Sourcebook/718_pdfsam_Sourcebook%20SCA%2010.2005%20fifth%20edition.pdf

Tribal monitors will be required to participate in any necessary environmental and/or safety awareness training prior to engaging in any tribal monitoring activities for the project. Tribal monitoring work may involve moderate to heavy physical activity for extended periods of time over potentially rough terrain and/or in challenging field conditions, including wet, rainy, windy, dusty, cold or hot weather.

Designated monitors are responsible for equipping themselves with appropriate field attire and should have the physical mobility and endurance for these common field conditions.

IV. Will tribal monitors be compensated for time and expenses?

Tribal monitors will be compensated for their time. The mechanism for reimbursing tribal monitors will vary among project sections and may include: individual monitors being hired by the Authority's contractor as temporary/on-call workers; tribes serving as sub-contractors under a professional services agreement with the contractor; or monitors being temporarily employed through a staffing agency. Per Diem may be provided if travel to the project site exceeds 90 miles one-way. Mileage to and from the worksite may be reimbursed at the current state rate.

V. How will tribes be notified of monitoring opportunities?

Upon completion and submittal of the *Tribal Monitor Designation Form* and any necessary employment paperwork, the designated tribal monitors will be contacted directly to receive advance notification of the schedule and location of monitoring activities, based on the contractor's work schedule and type of work to be conducted. Notifications of the schedule for monitoring opportunities will typically originate from the contractor conducting work on behalf of the Authority. To ensure proper advance notification, it is important that tribes and/or monitors ensure that their contact information remains up-to-date by notifying the Authority if there are any changes in the designated monitors and/or their contact information. If the approved/designated tribal monitors are unavailable or unresponsive, the contractor may proceed with the activity under the direction and oversight of a professional archaeologist.

VI. How many monitors will be hired from each tribe?

Consulting Party tribes may identify and designate up to 10 individuals to represent their tribe. The frequency of tribal monitoring opportunities will depend on the workload demands of the project and the number of Consulting Party tribes and monitors involved. To ensure that all participating tribes have an equal opportunity for representation, tribal monitors from each participating tribe will be systematically rotated on a schedule established by the Authority and/or its contractor. If approved monitors from a given tribe are unavailable or unresponsive, the contractor will seek the participation of an approved monitor from another Consulting Party tribe.

VII. Under what circumstances will provisions be made for tribal monitoring?

The Authority will ensure that tribal monitoring opportunities are available for the following activities:

1. During pedestrian archaeological field surveys conducted as part of the cultural resources inventory effort for a given project area;
2. During prehistoric archaeological site testing and/or data recovery excavations conducted for the assessment and/or treatment of archaeological resources affected by the project;

3. During any pre-construction project activities involving ground disturbance (such as geotechnical drilling) in areas identified as sensitive for prehistoric cultural resources and for which an archaeological monitor is required;
4. During construction-phase project activities involving ground disturbance in areas identified as sensitive for prehistoric cultural resources and for which an archaeological monitor is required.

VIII. How is prehistoric archaeological sensitivity determined?

Prehistoric archaeological sensitivity within a given project area is determined based on data collected as part of the professional archaeological investigation conducted for the project and may include, but is not necessarily limited to, the following factors: (1) proximity to natural water sources; (2) proximity to known prehistoric archaeological resources; (3) depositional areas with a high potential for containing buried archaeological deposits with no surface manifestations, as determined by professional geoarchaeological analysis; and/or (4) areas identified through consultation with local tribal representatives and/or with the Native American Heritage Commission (NAHC) as having sensitivity for tribal cultural resources.

Data pertaining to cultural resources sensitivity is managed in a geographic information system (GIS) along with project alignment and parcel data, all of which serve as a communication tool for the coordination of archaeological and tribal monitoring during ground-disturbing activities within the project area. Areas of cultural resources sensitivity are always required to have a professional archaeological monitor present during ground disturbing activities. Designated tribal monitors will be provided advance notice of proposed ground-disturbing activities in culturally sensitive areas and afforded an opportunity to participate along with the archaeological monitor.

IX. Who should tribes or their designated tribal monitors contact if they have questions or concerns?

Tribal monitors should convey questions or concerns to the onsite archaeologist in the field during monitoring activities. If questions or concerns are not able to be addressed in the field by the onsite archaeologist or lead archaeologist, or if there are general questions about the Authority's monitoring policy, tribal monitors and/or tribal officials should contact the Authority's Cultural Resources/Environmental Planning personnel immediately:

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