
Ancestral Land Return of School Lands to Lone Pine Paiute-Shoshone Tribe

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Tribal Stewardship Policy and Toolkit

This white paper was produced to support the implementation of California Natural Resources Agency's Tribal Stewardship Policy and Toolkit. This white paper and associated tools are intended to increase the capacity of tribes, state agencies, and non-tribal entities to advance tribal stewardship, including tribal access, collaboration, and ancestral land return according to the Policy.

For more information: <https://resources.ca.gov/Initiatives/Tribalaffairs/TribalStewardshipPolicy>.

Case Study: Land Return of School Lands to Lone Pine Paiute-Shoshone Tribe

Executive Summary

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This white paper discusses a case study where the California Department of Transportation (Caltrans), State Lands Commission, and the Lone Pine Paiute-Shoshone Tribe developed a mitigation measure to purchase School Lands and return those lands to the Tribe as part the CEQA review process of a highway widening project.

Introduction

Under the California Environmental Quality Act (CEQA), lead agencies evaluate projects and if those projects have a significant impact on the environment, including Tribal Cultural Resources, they are required to identify avoidance or mitigation measures to reduce impacts to those resources. Lead agencies work closely with California Native American tribes, project proponents, and the broader community to develop the terms of avoidance and mitigation measures. This may, when appropriate circumstances are present, allow for the purchase of land to be returned to the ownership and care of California Native American tribes.

The State Lands Commission owns and manages School Lands on behalf of the State of California. In limited situations, the State Lands Commission is able to sell School Lands, including selling lands to California Native American tribes for ancestral land return.

Background

Lone Pine Paiute-Shoshone Tribe and other Paiute and Shoshone tribes have stewarded the lands and resources of what is now known as the Owens Valley since time immemorial. The Tribe is federally recognized and currently cares for

the Lone Pine Paiute-Shoshone Reservation that was established in 1937 through a Land Exchange with the Department of Interior and the City of Los Angeles.

School Lands were granted to the State for the support of the California State Teachers' Retirement System. The State Lands Commission manages roughly 459,000 acres of school lands held in fee ownership as well as the reserved mineral interests of roughly 790,000 acres of school lands. Under California statutes and federal regulations, the State Lands Commission may sell or exchange school lands for fair market value when the Commission finds that it is in the best interest of the state.

Caltrans' authority to widen state highways comes directly from the [California Streets and Highways Code](#), which provides Caltrans "full possession and control of all state highways and all property and rights in property acquired for state highway purposes." Section 90 outlines this general responsibility to construct, improve, and maintain the State Highway System. Sections 100.1 through 100.3 further authorize Caltrans to acquire right of way, carry out construction, and coordinate with local governments when changes affect city streets, county roads, or property access. These provisions establish the legal framework that enables Caltrans to undertake widening projects—whether for safety, operational improvements, or design purposes—within its statutory mandate. In the present case, Caltrans is also authorized by Streets and Highways Code section 101.5 to apply to the State Lands Commission for the use of the lands under the Commission's jurisdiction.

In September 2014, the California Legislature enacted Assembly Bill (AB) 52 (Gatto), which added provisions to the Public Resources Code regarding the evaluation of impacts on tribal cultural resources under CEQA, and consultation requirements with California Native American tribes. In particular, AB 52 requires lead agencies to analyze project impacts on tribal cultural resources separately from impacts on archaeological resources (Public Resources Code §§21074, 21083.09). The law defines tribal cultural resources in Public Resources Code Section 21074. AB 52 also requires lead agencies to engage in additional consultation procedures with respect to California Native American tribes (Public Resources Code §§21080.3.1, 21080.3.2, 21082.3).

Specifically, Public Resources Code Section 21084.3 states:

- a) Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.

- b) If the lead agency determines that a project may cause a substantial adverse change to a tribal cultural resource, and measures are not otherwise identified in the consultation process provided in Section 21080.3.2, the following are examples of mitigation measures that, if feasible, may be considered to avoid or minimize the significant adverse impacts:
- 1) Avoidance and preservation of the resources in place, including, but not limited to, planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - 2) Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - A) Protecting the cultural character and integrity of the resource.
 - B) Protecting the traditional use of the resource.
 - C) Protecting the confidentiality of the resource.
 - 3) Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - 4) Protecting the resource.

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In 2019 the California Department of Transportation (Caltrans), as lead agency under CEQA, was working to improve Highway 395 in Inyo County. Part of the roadway passed through School Lands under the jurisdiction of the California State Lands Commission ("Commission"), necessitating the sale of these lands to Caltrans. As part of the land sale negotiation, as informed by the Commission's internal Environmental Justice (EJ) and Tribal Consultation Policies, Commission staff consulted with five federally recognized tribes, the Lone Pine



Figure 1: Lands returned to the Lone Pine Paiute-Shoshone Reservation. Photo courtesy of Janice Gonzales.

Paiute-Shoshone Reservation (LPPSR), the Bishop Paiute Tribe, the Big Pine Paiute Tribe of the Owens Valley, the Fort Independence Indian Reservation, and the Timbisha Shoshone Tribe. The consultation highlighted significant tribal concerns that Caltrans' project would adversely impact cultural and archaeological interests within the Lone Pine Paiute-Shoshone's Reservation's ancestral territory. Although these lands have significant cultural value, Caltrans could not avoid several areas that were determined to be rich in cultural heritage. Caltrans' Historic Property Treatment Plan (HPTP) and cultural assessment of the project property and those adjacent to the project site indicated significant cultural value of the surrounding property. Confirming these findings, the LPPSR provided a history of their reliance on this site and many others in the Tribe's ancestral territory to remain connected to the Tribe's ancestral and cultural history. In addition to the LPPSR, four other federally recognized tribes are culturally affiliated with this area and would be adversely affected by the project.

As a result of tribal consultation with the LPPSR, an independent analysis of the facts and Caltrans's HPTP Commission staff found that the project would significantly impact a site that is eligible to the National Register of Historic Places and, more importantly, has significant cultural value to the LPPSR. During consultation, the consulting Tribes made two requests to Commission staff: 1) that any artifacts or other tribal material remain in tribal custody and 2) that some form of compensation be provided for impacts to tribal cultural resources.

Commission staff, in collaboration with LPPSR, identified 38.75 acres of undeveloped school land adjacent to the construction area. Commission staff worked cooperatively with Caltrans to structure the sale of School Land from the Commission to Caltrans for the highway widening project to include a deposit to the School Land Bank Fund in an amount sufficient to also cover the purchase price of the 38.75 acres. The deposit was necessary because the sale of school lands requires compensation greater than or equal to fair market value. The amount was based on a per acre value calculated by Caltrans in an appraisal for a nearby school lands parcel conveyed to Caltrans as part of the highway project authorized by the Commission in late 2019.

At its June 2020 Commission meeting, the Commission issued a patent conveying 38.75 acres of State-owned school land to the LPPSR. With this patent, the LPPSR regained ownership and control of the surface estate to preserve the Tribe's connection to the site and allow the Tribe to protect it from potential future harm. It's important to note due to California Public Resources Code § 6402.2, the mineral rights are reserved to the State and a variety of existing easements on the property were maintained. This land return is an exciting example of partnership between LPPSR, Caltrans, and the Commission.

This case study illustrates utilizing collaborative solutions to reduce impacts to Tribal Cultural Resources and supports tribal priorities in returning ancestral lands back to the tribes for tribal stewardship.

Additional resources:

- [CA State Lands Commission](#)
- [California Department of Transportation | Caltrans](#)
- [State Lands Commission Announces Return of Native American Tribal Land in Central California | CA State Lands Commission](#)