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10 Attorneys for Defendants

11
12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN JOSE DIVISION**

15 ELIZABETH WEISS,

16 Plaintiff,

17 vs.

18 STEPHEN PEREZ, in his official capacity as
President of San Jose State University; *et al.*,

19 Defendants.
20

Case No. 5:22-cv-00641-BLF

**DECLARATION OF VINCENT J. DEL
CASINO IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
MOTION FOR PRELIMINARY
INJUNCTION**

Judge: Hon. Beth Labson Freeman
Date: June 2, 2022
Time: 9:00 a.m.

21
22 I, Vincent J. Del Casino, Jr., hereby declare:

23 1. I am the Provost and Senior Vice President for Academic Affairs and a Professor of
24 Urban and Regional Planning at San Jose State University ("SJSU"). I have personal knowledge
25 of the facts set forth herein and could testify competently thereto if called as a witness.

26 2. SJSU has worked continuously since the enactment of California Assembly Bill
27 275 ("AB 275"), which amended the California Native American Graves Preservation and
28 Repatriation Act ("CalNAGPRA"), to ensure that we would be able to comply with that law,

1 which became effective January 1, 2021. It is my understanding that AB 275 significantly changed
2 the way in which SJSU must manage its collection of Native American remains and cultural items,
3 which comprises mostly collections that are not culturally affiliated with federally recognized
4 Tribes. The federal Native American Graves Preservation and Repatriation Act (“NAGPRA”)
5 applies only to collections that are culturally affiliated with federally recognized Tribes. Thus,
6 prior to January 1, 2021, when AB 275 became effective, there was no statutory deadline for the
7 commencement or completion of the inventory and repatriation of the Native American remains
8 and cultural items in SJSU’s collections. In addition, AB 275 imposed new requirements that
9 SJSU consult with culturally affiliated Tribes about minimizing the handling of most of its
10 collections and defer to those Tribes concerning the handling and treatment of those collections. I
11 am aware, however, that we have made outreach to these Tribes as early as 2019 in anticipation of
12 changes in California law.

13 3. A letter that SJSU received from the California Native American Heritage
14 Commission, dated December 31, 2020, concerning the new requirements of AB 275 is attached
15 hereto as Exhibit A. It is my understanding that CalNAGPRA, as amended by AB 275, now
16 requires that SJSU consult with Tribes that are culturally affiliated with our collections, with
17 respect to both repatriation of the collections and the handling and treatment of them while they
18 are still in SJSU’s possession. It is further my understanding that, under CalNAGPRA, SJSU is
19 required both to consult with culturally affiliated Tribes about minimizing handling of the
20 collections and, most significantly, defer to the Tribes’ recommendations with regard to the
21 handling and treatment of the collections. I understand that such consultation and deference could
22 lead to requirements that SJSU cease all teaching and research related to the collections.

23 4. Prior to September 18, 2021, I assumed that we were complying with
24 CalNAGPRA, because the individuals responsible for the NAGPRA and CalNAGPRA
25 collections—Department of Anthropology Collections Coordinator Professor Elizabeth Weiss,
26 NAGPRA Coordinator Professor Charlotte Sunseri, and Tribal Liaison Alisha Ragland—were all
27 very familiar with the law’s requirements and because the Department of Anthropology had
28 expressly and unanimously committed to compliance with NAGPRA and CalNAGPRA. I

1 understand, as well, that we had already begun the consultation process with Tribes that had been
2 confirmed by the Native American Heritage Commission to have ancestors in our collections.

3 5. On September 18, 2021, Professor Weiss posted a photograph on Twitter that
4 shows her holding, without gloves, a skull that appears to be, based on the caption and background
5 in the photograph, an ancestor of one of our local Native American Tribes. Professor Weiss
6 appears to be standing in a SJSU curational space, which holds the remains of hundreds of Native
7 American peoples, many of whom are from the Muwekma Ohlone and other local Tribes. The
8 photograph bears the caption, “So happy to be back with some old friends.” Professor Weiss,
9 having served for years as SJSU’s Department of Anthropology Collections Coordinator
10 responsible for curation and management of the university’s collection of all its skeletal remains,
11 would certainly have been fully aware of the requirements of CalNAGPRA at the time she posted
12 this tweet.

13 6. Following September 18, the photograph evoked shock and disgust from our
14 Native American and Indigenous community on campus, from local Tribes, and from many others
15 within and outside of SJSU. I was informed by our NAGPRA Coordinator, Charlotte Sunseri, and
16 our Tribal Liaison, Alisha Ragland, that SJSU received numerous communications from Tribes
17 that are culturally affiliated with our collections recommending and demanding that SJSU restrict
18 access to the collections and not allow further research on, handling of, or photographing of the
19 collections. It was and is my understanding, as noted, that CalNAGPRA requires SJSU to defer to
20 these recommendations by the Tribes. I also understood that several individuals from the
21 California Native American community and Tribes that are culturally affiliated with the SJSU
22 collections had been in communication with the State of California’s Native American Heritage
23 Commission (NAHC) expressing concerns about SJSU’s compliance with CalNAGPRA.

24 7. It was and is apparent to me that Professor Weiss did not consult with, or have
25 consent or approval from, the culturally affiliated Tribes with respect to her handling,
26 photographing, and posting of the skull in this manner, as is required under CalNAGPRA as
27 amended by AB 275. In addition, Professor Weiss’s image of herself holding a skull without
28 gloves and photographing herself for the purpose of posting that photo on Twitter does not

1 constitute “minimizing” the handling of human remains. It was therefore apparent to me that SJSU
2 needed to enact a formal policy governing the handling and treatment of our NAGPRA and
3 CalNAGPRA collections in order to ensure compliance with those laws.

4 8. On September 29, 2021, I posted on SJSU’s website a letter titled, “The
5 Representational Politics of Science,” a copy of which is attached as Exhibit B. In that letter, I
6 *both* stated my opinion about the impropriety, as both a legal and ethical matter, of Professor
7 Weiss’s tweet *and* unequivocally defended her right to “express her views,” “advocate against
8 laws like NAGPRA, CalNAGPRA, and AB 275,” “ present [her] work at academic conferences
9 and post on social media,” and “teach on these topics in [her] classes.” At Professor Weiss’s
10 request, I posted her letter response to me, which I titled, “Response To The Representational
11 Politics of Science,” in the same location on SJSU’s website and to the same exact group of
12 faculty and staff at SJSU to whom my previous post had been sent. A true and correct copy of that
13 post is attached as Exhibit C. In her letter, Professor Weiss states, “I hadn’t been in the curation
14 facility since COVID-19 ended my ability to work with students on the collection” But
15 Professor Weiss was free, notwithstanding COVID-19, to request permission to study the
16 collection herself as per University guidelines beginning in the Academic Year 2020-2021 and
17 through the Summer of 2021. It is my understanding that she did not make any requests to
18 continue her research during this period of time.

19 9. On October 1, 2021, I sent an email to the Commissioners of the NAHC to update
20 them on SJSU’s efforts to comply with CalNAGPRA. A true and correct copy of that letter is
21 attached as Exhibit D. The statements contained in the letter are all true and correct.

22 10. On October 1, 2021, I also sent identical emails to representatives of the various
23 Tribes that have been identified by the NAHC as culturally affiliated with our collections. A true
24 and correct copy of one of those emails, to the Chairperson of the Muwekma Ohlone Tribe, along
25 with a subsequent exchange between us, is attached as Exhibit E.

26 11. On October 6, 2021, SJSU President Dr. Mary A. Papazian, at my
27 recommendation, issued an “Interim Protocol for Curation Spaces in Alignment with NAGPRA,
28 CalNAGPRA, AB 275 (Interim Presidential Directive, PD-2021-03).” A true and correct copy of

1 that Directive is attached as Exhibit F. That same day, I sent an email to Tribal Representatives
2 informing them of the new Directive. A true and correct copy of that letter is attached as Exhibit
3 G.

4 12. The October 6, 2021, Directive was issued for the purpose of ensuring compliance
5 by SJSU with NAGPRA and CalNAGRPA, as amended by AB 275, in deference to the
6 recommendations of the Tribes, and in order to prevent any further disrespectful or otherwise
7 inappropriate handling or treatment of human remains and cultural items. Moreover, the Directive
8 was issued because, through consultation with Tribes, I came to learn that Tribal leaders requested
9 no more research on or teaching with the collection. At that point, the collection moved from the
10 realm of an academic collection to that of an administrative collection for the purpose, consistent
11 with CalNAGPRA, of appropriate consultation with the Tribes and ultimately repatriation of the
12 collections. The Directive was not issued in order to retaliate against or otherwise penalize
13 Professor Weiss for her viewpoints, speech, teaching, or publications concerning NAGPRA,
14 CalNAGPRA, AB 275, repatriation of Native American remains, or any other subject. Neither I
15 nor, to my knowledge, anyone else at SJSU has taken or plans to take any actions to retaliate
16 against or otherwise penalize Professor Weiss for her viewpoints, speech, teaching, or
17 publications. Nor does anyone have any plan to enact any policies that would limit Professor
18 Weiss's freedom in the classroom. To the contrary, it is my understanding that SJSU, including
19 particularly the College of Social Sciences and the Department of Anthropology, has consistently
20 supported Professor Weiss's scholarship and defended her right to express her views, however
21 controversial they might be.

22 13. Despite our efforts to comply with CalNAGPRA, as amended by AB-275, on
23 October 11, 2021, SJSU received a letter from the NAHC concerning "Mishandling of California
24 Indian Human Remains at San Jose State University in Violation of CalNAGPRA." A true and
25 correct copy of that letter is attached as Exhibit H. In the letter, the NAHC requested that SJSU
26 take additional steps, beyond the October 6, 2021 Directive, to ensure compliance with
27 CalNAGRPA. The NAHC also requested that SJSU take further actions concerning Professor
28 Weiss, including disciplinary action. Other than to adopt university-wide protocols that restrict

1 Professor Weiss's (and everyone else's) access to the NAGPRA and CalNAGPRA collections,
2 SJSU has taken none of those actions concerning Professor Weiss.

3 14. On November 15, 2021, President Papazian issued, at my recommendation, a
4 memorandum regarding "NAGPRA/CalNAGPRA/AB-275 Collections Management." A true and
5 correct copy of that memorandum is attached as Exhibit I. The memorandum states that "all
6 NAGPRA and CalNAGPRA-related collections will now be held and curated by the University
7 and will no longer be the responsibility of the Department of Anthropology." The President made
8 this decision because, given the requirements of NAGPRA and CalNAGPRA, these collections
9 are no longer academic collections held by SJSU for the purposes of research and teaching, but
10 collections that are to be expeditiously prepared for repatriation to culturally affiliated Tribes. It is
11 true, however, that, should a culturally affiliated tribe request further research on or teaching with
12 the collection, this may be granted per the Directive and under the purview of the Offices of the
13 President and Provost. No such request has been affirmed by any Tribes to this point.

14 15. On January 18, 2022, SJSU Interim President Dr. Stephen Perez, at my
15 recommendation, issued an amended version of the October 6, 2021, Directive. A true and correct
16 copy of this amended Directive is attached as Exhibit J.

17 16. The January 18, 2022, amended Directive was issued for the purpose of ensuring
18 compliance by SJSU with NAGPRA and CalNAGRPA, as amended by AB 275, and particularly
19 to take account of the recommendations of the culturally affiliated Tribes and the NAHC. The
20 Directive was not issued in order to retaliate against or otherwise penalize Professor Weiss for her
21 views, speech, teaching, or publications concerning NAGPRA, CalNAGPRA, AB 275,
22 repatriation of Native American remains, or any other subject.

23 17. On January 19, 2022, I sent a letter to the members of the NAHC, responding to
24 their letter of October 11, 2021, and updating them on SJSU's work as it relates to full compliance
25 with NAGPRA and CalNAGPRA. A true and correct of that letter, with its attachments, is
26 attached as Exhibit K. The statements in the letter are true and correct. The letter was sent in
27 anticipation of appearance by me, at the request of the NAHC, at a hearing on January 21, 2022. A
28

EXHIBIT A

STATE OF CALIFORNIA

Gavin Newsom, Governor

NATIVE AMERICAN HERITAGE COMMISSION

December 31, 2020

Dear Agencies, Museums, and Tribes:

Sent Via US Mail

Re: Notice to agencies, museums fulfilling its obligation to develop a list of all California Indian tribes and their respective aboriginal territories.

Existing law under the California Native American Graves Protection and Repatriation Act (CalNAGPRA—Health & Saf. Code, § 8011) requires all state agencies (including higher educational institutions) and state-funded museums that have possession or control over California Native American human remains and associated funerary objects to complete an inventory for repatriation to appropriate California Indian tribes.

In conjunction with this requirement, the Legislature recently passed Assembly Bill No. 275 (AB 275) requiring that by January 1, 2021, the Commission provide this notice to applicable agencies and museums that it has now fulfilled its obligation to develop a list of all California Indian tribes and their respective aboriginal territories for use in this process. (Health & Saf. Code, § 8013, subd. (a).) You may now contact the Commission at CalNAGPRA@nahc.ca.gov to obtain information about the specific California Indian tribes whose aboriginal territories are potentially associated with any California Native American human remains and associated funerary objects in your agency's possession or control, including items on loan to other entities. **Even if your agency or museum determines that it has no qualifying remains and associated funerary objects**, the Commission requests that you inform it at of this fact in writing (by U.S. mail or via e-mail CalNAGPRA@nahc.ca.gov) as required by AB 275. (Health & Saf. Code, § 8013, subd. (h).) While a brief summary of your agency's obligations under this new law is provided below, along with an accompanying copy of AB 275, you should consult with your agency's or museum's counsel about compliance with its specific requirements.

Recent Changes in California Law Regarding Native American Remains and Associated Items May Impact Your Agency

Using the tribal list developed by the Commission, by **January 1, 2022**, each state agency or state-funded museum in possession or control of California Native American human remains and associated items (as defined) must complete or update inventories in consultation with state culturally affiliated tribes. (Health & Saf. Code, § 8013, subd. (b).)

After your agency or museum has ascertained the California Indian tribes whose aboriginal territories are potentially associated with any California Native American human remains and associated funerary objects, it must follow applicable procedures to identify and consult with culturally affiliated tribes in creating or updating inventories in accordance with the requirements of AB 275. (Health & Saf. Code, § 8013, subd. (b).) If, after complying with AB 275's procedures for determining cultural affiliation, your agency is still unable to make this determination, you will need to contact the Commission for assistance in consulting with those California Indian tribes whose state aboriginal territory includes the area from which the human remains and associated funerary objects were removed so that an appropriate determination as to cultural affiliation may ultimately be made. (Health & Saf. Code, § 8013, subd. (b)(1)(D).)

Within 90 days of completing the preliminary inventory and summary required under AB 275, your agency or museum must provide a copy to the commission. (Health & Saf. Code, § 8013, subd. (d).) The commission shall, in turn, publish notices of completion of preliminary inventories and summaries on its internet website for 30 days, as well as make the preliminary inventories and summaries available to any requesting



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potentially culturally affiliated California Indian tribe. (Ibid.) After publication, your agency or museum will be required to further consult with any responding California Indian tribes that may be culturally affiliated with the remains and associated items. (Health & Saf. Code § 8013, subd. (j).)

Lineal descendants and culturally affiliated California Indian tribes are entitled to file claims for the repatriation of these remains and associated items. (Health & Saf. Code, § 8014.) Any claims must be published on the Commission's website. (Health & Saf. Code, § 8015, subd. (a).) Where no other requests or objections are made, repatriation to the requesting lineal descendant or tribe must occur within 90-days of Commission posting of the claim on its website. (Health & Saf. Code, § 8016, subd. (b).) AB 275 provides the procedures for objecting to requests and for handling multiple requests for the same remains and associated items, as well as for resolving any disputes. (Health & Saf. Code § 8016, subds. (c), and (d).)

The Commission appreciates your time, attention, and compliance with this important new law and encourages all state agencies and state-funded museums to consult with counsel about the specifics of this law. Additional information regarding CalNAGPRA and AB 275 may be found at <http://nahc.ca.gov/calnagpra/> and <https://tinyurl.com/ydf8xet9>

Sincerely,

Christina Snider
Executive Secretary

EXHIBIT B

Emergency Notification: COVID-19

Visit the [Health Advisories website \(https://www.sjsu.edu/healthadvisories/\)](https://www.sjsu.edu/healthadvisories/) for the latest updates, FAQs, vaccination information, and to Report a Case.

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The Representational Politics of Science

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The Representational Politics of Science

Sent: September 29, 2021

Dear Colleagues,

Recently, a colleague sent me a photo that has been posted on Twitter. In that photo was an image of a smiling SJSU professor holding a skull of what appears likely to be, based on the caption and background in the photo, an ancestor of one of our local Native American tribes. That professor also appears to be standing in a SJSU curational space, which holds the remains of hundreds of Native American peoples, many of whom are from Muwekma Ohlone and other area tribes. This image has evoked shock and disgust from our Native and Indigenous community on campus and from many people within and outside of SJSU.

The image is tied to a larger argument in the same Twitter feed which suggests that landmark human rights laws, such as the Federal Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), the California Native American Graves Protection and Repatriation Act of 2001 (CalNAGPRA), and the California Native American Cultural Preservation bill (AB 275) that went into effect on January 1, 2021, are anti-science, or at least impede scientific pursuits because they favor religious and cultural values over scientific ones. Yet, there are many examples of how we regulate science. For example, academics and governments have developed ethical standards (<https://www.americananthro.org/ethics-and-methods>) for the governance of their fields as well as bureaucratic mechanisms to regulate risks and harm in relation to scientific benefit. We have scientific review panels (<https://www.cancer.gov/publications/dictionaries/cancer-terms/def/scientific-review-panel>) to protect research subjects in experiments, such as the ones that recently yielded COVID-19 vaccines. We have institutional review boards (</research/research-compliance/irb/index.php>) that review the risks – not only physical, but also psychological and emotional as well – and ask if the research findings are of value to society in such a way where the benefits outweigh the risks. The federal government has also had to develop a “Certificate of Confidentiality (<https://grants.nih.gov/policy/humansubjects/coc.htm>)” to “protect the privacy of research subjects by prohibiting disclosure of identifiable, sensitive research information to anyone not connected to the research except when the subject consents or in a few other specific situations.”

These strategies are also imperfect because science, like religion, relies, to a certain degree, on faith – a faith that scientific inquiry is the appropriate way to solve wicked problems and grand challenges. And as is often the case, science can. But the measures identified above also reflect that unfettered science can go horribly wrong, which is why both academic societies and governments have had to step in to regulate scientific research. NAGPRA, CalNAGPRA and AB 275 collectively set forth regulations governing the material and ethical treatment of the remains of Native American and Indigenous peoples who have suffered genocide at the hands of settler colonialism. As binding federal and state law, they govern our institution’s actions when it comes to the handling of those remains, which include the eventual return of the remains if requested by descendants. Some would argue the laws do not go far enough, others may argue they go too far, but in any event, we are not given a choice whether to follow them.

While there are scientific issues at stake, there are also many things in the image itself that do not align with the values of SJSU or of academic inquiry. For example, in what context is it ever ethically appropriate for an academic to handle remains while smiling with ungloved hands while calling these remains “friends”? I doubt many colleagues in the fields of Forensic Science or Physical Anthropology would find this palatable. Moreover, it is very important to ask: Does the research “value” implied in the image really outweigh the risk of harm and trauma to Native American and Indigenous peoples such an image evokes? Based on my reading of the ethical guidelines of the social science disciplines that govern such practices and laws such as AB 275 – which requires SJSU to consult affiliated California Indian tribes on protocols including the need to “minimize handling” of such remains – the answer is no.

At the same time, does a professor have the right to express their views on the matter? Do they have the right to advocate against laws like NAGPRA, CalNAGPRA, and AB 275 and present their work at academic conferences and post on social media? Do they have the right to teach on these topics in their classes? The answer to all these questions is yes ([/provost/communications/provost-updates/academic-affairs-messages/higher-education-and-the-commitment-to-free-and-open-inquiry.php](https://provost.sjsu.edu/communications/provost-updates/academic-affairs-messages/higher-education-and-the-commitment-to-free-and-open-inquiry.php)).

Do other faculty likewise have a right to respond? That answer is also yes. I also have the responsibility as the university’s provost to not only offer my reading of such images as another social scientist but to assess the use of such images in relation to the values of the institution. In that latter role, I can say that SJSU does not condone or endorse the practice of posing with the human remains of others – be that Native American or any other human remains. Moreover, aligned with the words of Dr. Joanne Barker, who is Lenape (a citizen of the Delaware Tribe of Indians) and professor of American Indian Studies at San Francisco State University, I acknowledge in our institutional practices that “[n]ative peoples have been made to navigate around and collaborate with one another because of federal authority and dominant science claims about their histories, cultures, and genealogies. It is not that empirical science is without value. But it should be accorded a similar kind of respect and role in federal policy making—whether about recognition or repatriation—as native forms and practices of knowledge, experts, and expertise” (108-109 (https://www.jstor.org/stable/10.5149/9781469602172_obrien.6?seq=1#metadata_info_tab_contents)). And as required by NAGPRA, CalNAGPRA, and AB 275, SJSU has invested in the people to respect tribal sovereignty by doing the appropriate work to “consult...with affiliated California Indian tribes on any protocols to be used in the inventory process.”

SJSU has already begun dialogue with local Native American and Indigenous community members about the treatment of human remains and artifacts as part of our implementation of AB 275. SJSU’s Department of Anthropology, for example, has committed itself to this dialogue, helping the University fully comply ([/anthropology/news/NAGPRAStatement/index.html](https://anthropology.sjsu.edu/news/NAGPRAStatement/index.html)) with the various laws that have been passed. This is one small step, however. There is much more we need to do to build stronger bridges to area tribes and to our Native American and Indigenous students, staff, and faculty. We can and we will.

Sincerely,
Vin

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[skin=sjsu&account=sjsu&site=www&action=de&path=/provost/communications/provost-updates/academic-affairs-messages/the-representational-politics-of-science.pcf](https://a.cms.omniupdate.com/11/?skin=sjsu&account=sjsu&site=www&action=de&path=/provost/communications/provost-updates/academic-affairs-messages/the-representational-politics-of-science.pcf))

EXHIBIT C

Emergency Notification: COVID-19

Visit the [Health Advisories website \(https://www.sjsu.edu/healthadvisories/\)](https://www.sjsu.edu/healthadvisories/) for the latest updates, FAQs, vaccination information, and to Report a Case.

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Response To The Representational Politics of Science

From: Vincent J. Del Casino, Jr., Provost and Senior Vice President for Academic Affairs

Dear Colleagues,

Yesterday, I sent a message to all faculty and staff in the division regarding a series of tweets. Dr. Elizabeth Weiss from the Department of Anthropology wrote to me and asked that I “either formally withdraw the statement or publish mine, to the same people/list that yours went out to, as a response.” Below is Dr. Weiss’ unedited (but slightly reformatted) response to my message.

Sincerely,

Vin

Dear Vin,

I am disappointed in your lack of reaching out to me and talking to me about this issue before posting your email. There are a few things that I would like to point out before getting to the heart of the issue:

1) Handling remains with gloves is only necessary if these remains have always been treated with gloved hands and other sterile conditions. By the time I arrived at SJSU, in 2004, the collection had already been handled for many years, by many people without gloves. Putting gloves on now would just be theater. When those interested in DNA studies have reached out to me, I made it clear that these remains have been handled for literally decades before my arrival without gloves and, thus, the DNA would need to be gotten through unbroken teeth.

2) The photo was taken during my curatorial duties. Throughout the years, I have boxed, reboxed, and taken care of these remains. In this case, I hadn't been in the curation facility since COVID-19 ended my ability to work with students on the collection, so yes, I was genuinely happy to be back with the collection.

3) SJSU is in compliance with NAGPRA and CalNAGPRA, even though I am against repatriation -- as I have stated in many of my writings, as recently as a month ago in the Mercury News -- I have never not done my job with regard to compliance issues.

4) We have a culture of promoting the anthropology department and the collection; this culture has revolved around interesting images. I have even gotten funding for this and helped promote human diversity by introducing people to the concept of skeletal diversity. There have been promotional posters in which I have a similar pose. This has never been against university, college or departmental protocol. Not long ago, as

recently as 2019, this was celebrated (such as when I won the Warburton Award for excellence in scholarly activities in relation to my work on the collection). It instills a love of evolutionary anatomy, a love of anthropology, and a promotion of university resources.

5) This university curates one of the finest (and last) teaching and research collections of skeletal remains in the US. We should be celebrating and utilizing this resource, before it's gone forever. I use the collection to instill a love of bones in my students, and in - hopefully - the next generation of anthropologists and osteologists. The photo you refer to is entirely consistent with this love of bones, and with the spirit of inquiry I foster (for example, in the 2015 Smithsonian traveling exhibition "What Does it Mean to be Human?", which I helped bring to the Bay Area).

We have no way of telling what the individuals whose remains we curate would think about this issue, but when one looks at the Egyptian mummies, Otzi the iceman, or the bog bodies of northern Europe, public display celebrates these individuals, telling their stories in a respectful way that gives them a voice they never had in life. The same is true of our collection, and we should be celebrating the lives of these first occupants of Silicon Valley - not allowing their voices to be silenced by a vociferous campaign orchestrated by woke activists whose strategy is to try to shut down debate, and promote superstition over science.

Now, to the heart of the issue. I have been the target of a constant cancellation attack for the last 10 months. It started with attacking and trying to get my book banned (an effort that half of my colleagues encouraged), then it moved to deplatforming my Society for American Archaeology talk. Recently, it involved over 1,200 comments on Twitter regarding my op-ed in the Mercury News. I was reported to Twitter and investigated in Germany due to the tweet regarding my op-ed. Finally, it's an attack on a genuine photo that celebrates our collection, my admiration for the collection, and my joy at being able to do my job. After your strong statement regarding academic freedom, I am disappointed that you were not courageous enough -- as those reporting on me -- to talk to me first, to have a rational discussion about these occurrences.

Moving forward I request you either formally withdraw the statement or publish mine, to the same people/list that yours went out to, as a response.

Sincerely,
Elizabeth
Elizabeth Weiss, PhD
Professor of Anthropology

[Back to Academic Affairs Messages \(/provost/communications/provost-updates/academic-affairs-messages/index.php\)](/provost/communications/provost-updates/academic-affairs-messages/index.php)

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[\(un\)Honors Work Continues \(/provost/communications/provost-updates/academic-affairs-messages/un-honors-](/provost/communications/provost-updates/academic-affairs-messages/un-honors-)

Faculty in Residence for Sustainability Appointment (</provost/communications/provost-updates/academic-affairs-messages/faculty-in-residence-for-sustainability-appointment.php>)

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EXHIBIT D



Alisha Marie Ragland <alisha.ragland@sjsu.edu>

SJSU Response to Recent Social Media Incident

2 messages

Vincent Del Casino <vincent.delcasino@sjsu.edu>

Fri, Oct 1, 2021 at 4:00 PM

To: CalNAGPRA@nahc.ca.gov

Cc: gayle.totton@nahc.ca.gov, debbie.treadway@nahc.ca.gov, Roberto Gonzalez <roberto.gonzalez@sjsu.edu>, "Ryan M. Ward - OOTP" <ryan.m.ward@sjsu.edu>, Walt Jacobs <walt.jacobs@sjsu.edu>, Charlotte Sunseri <Charlotte.Sunseri@sjsu.edu>, Alisha Marie Ragland <alisha.ragland@sjsu.edu>

Dear California Native American Heritage Commissioners,

I am writing to update you on San José State University's efforts related to CalNAGPRA, including the requirements in AB 275, in light of recent communications to this Commission by community members. I wrote a [commentary](#) on this issue and shared it with the SJSU faculty and staff in my division in which I strongly align our approach to the management of the ancestral remains and artifacts currently curated on our campus with the values of the institution. The faculty member has also written a [response](#), which has also been shared to the part of our campus community that received my original message. While SJSU leadership does not agree with what was posted in the image nor do we condone such practice, SJSU cannot regulate the free speech rights of any individual employee either. We can, however, maintain a rigorous system aligned with the letter and spirit of the law. That is why SJSU is developing further policies that align with AB 275 through our campus' shared governance protocols.

There are many ways SJSU has shown a commitment to compliance, starting with direct investments in faculty. We have already completed the key first steps in the process which include: an investment in our NAGPRA faculty lead with time allocated toward project administration; the hiring of a full-time faculty member as a Tribal Liaison to guide our process and help manage our responsibilities and relationships; the submission of our letter outlining the locations of the archaeological sites from which the remains and artifacts were taken; a preliminary inventory and summary statement to the NAHC regarding 75% of our collection volume (which we will submit in a few weeks); outreach to the tribes included on the consultation list for our largest collection as well as smaller collections; and several AB 275 consultations with local tribes.

Our university strongly supports efforts to repatriate Native American and Indigenous human remains, artifacts, and other objects of cultural patrimony, and we have already begun the consultation process outlined in AB 275. In fact, faculty from SJSU's Anthropology Department have convened three meetings with tribal leaders already as part of the consultation for the largest curated collection held on our campus, CA-ALA-329. More consultations will be happening soon. Earlier this week, three tribes requested strict limits on access to and handling of human remains and funerary objects, and we are working on meeting these requests—for example, by exploring both how to limit access only to those engaged in work related to AB 275 compliance and eliminate photography in curational spaces.

Please contact me directly if you have concerns. We are more than happy to meet with the Commission to discuss our activities. It is very important to us that we respect the rights of the tribes and to repatriate the remains and artifacts of local tribal communities in direct alignment with NAGPRA, CalNAGRPA, and AB 275 as expeditiously as possible. And, we hope through this process as well as other direct actions, we can build stronger relationships with our Native American and Indigenous community partners.

Sincerely,
Vincent

CC:

Walt Jacob, Dean, College of Social Science

Ryan Ward, Director of Advocacy and Federal Relations, Enrolled Member of the Cowlitz Indian Tribe

Roberto Gonzalez, Chair, Departments of Anthropology and Chicana/Chicano Studies

Charlotte Sunseri, Faculty Member, Department of Anthropology, NAGPRA Coordinator

Alisha Ragland, Faculty Member, Department of Anthropology, Tribal Liaison

--

Provost and Senior Vice President

Professor, Department of Urban and Regional Planning

San José State University



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Phone: 408-924-2400

Office of the Provost Website: <http://www.sjsu.edu/provost/>

Personal Faculty Website: <http://www.sjsu.edu/people/vincent.delcasino/index.html>

Vincent Del Casino <vincent.delcasino@sjsu.edu>

Wed, Oct 6, 2021 at 1:13 PM

To: CalNAGPRA@nahc.ca.gov

Cc: gayle.totton@nahc.ca.gov, debbie.treadway@nahc.ca.gov, Roberto Gonzalez <roberto.gonzalez@sjsu.edu>, "Ryan M. Ward - OOTP" <ryan.m.ward@sjsu.edu>, Walt Jacobs <walt.jacobs@sjsu.edu>, Charlotte Sunseri <Charlotte.Sunseri@sjsu.edu>, Alisha Marie Ragland <alisha.ragland@sjsu.edu>

Dear California Native American Heritage Commissioners,

As follow up to my email from October 1, I am attaching a Presidential Directive, which went into effect today at SJSU.

<https://www.sjsu.edu/president/leadership/directives/PD%202021-03%20Interim%20Protocol%20for%20Curatorial%20Spaces%20in%20Alignment%20with%20NAGPRA%20CalNAGPRA%20AB%20275.pdf>

This new protocol places the oversight of all curation spaces at SJSU under the exclusive authority of our NAGPRA Coordinator and Tribal Liaison.

Please contact me if you have any questions. It is attached as a PDF to this email as well.

Sincerely,
Vincent

[Quoted text hidden]



Presidential Directive 2021-03 Interim Protocol for Curatorial Spaces in Alignment with NAGPRA, CalNAGPRA, AB 275.pdf

135K

EXHIBIT E



Alisha Marie Ragland <alisha.ragland@sjsu.edu>

SJSU-Related Social Media Incident

4 messages

Vincent Del Casino <vincent.delcasino@sjsu.edu>

Fri, Oct 1, 2021 at 4:00 PM

To: cnijmeh@muwekma.org

Cc: "Ryan M. Ward - OOTP" <ryan.m.ward@sjsu.edu>, Roberto Gonzalez <roberto.gonzalez@sjsu.edu>, Charlotte Sunseri <Charlotte.Sunseri@sjsu.edu>, Alisha Marie Ragland <alisha.ragland@sjsu.edu>

Dear Chairperson Nijmeh,

I am writing to you as provost of San José State University to express my disappointment over a recent incident in which a member of the SJSU faculty posted a photo on social media. In the post, the faculty member appears to be posing with the remains of a Native American ancestor. This image does not align with the values of San José State University, as no one should pose with human remains. For many academics, it also does not comport with the ethical standards of their disciplines. I am deeply sorry, as this image was offensive to those in our Native American and Indigenous communities.

As a broader update, we are working on new protocols for accessing SJSU's curation space to ensure human remains and cultural items are handled in a professional and respectful manner and to ensure compliance with NAGPRA, CalNAGPRA, and AB 275 legislation. To that end, I am cc'ing Roberto Gonzalez, Chair of the Departments of Anthropology and Chicana/Chicano Studies along with our CalNAGPRA Coordinator, Charlotte Sunseri and our Tribal Liaison, Alisha Ragland, all of whom are also faculty members in our Department of Anthropology. As you may know, SJSU has already begun consultation and dialogue with local Native American community members about the treatment of human remains and artifacts as part of our implementation of AB 275. There is much more we need to do to build stronger bridges to area tribes and to our Native American and Indigenous students, staff, and faculty. Please know that we remain strongly committed to creating an educational environment that is equitable, inclusive, and respectful.

If you have any questions, you can reach out directly to me as well as Ryan Ward, Director for Advocacy and Federal Relations and an enrolled member in the Cowlitz Indian Tribe of the State of Washington. Ryan is included in this message.

Sincerely,
Vincent

--

Provost and Senior Vice President
Professor, Department of Urban and Regional Planning
San José State University**Mailing Address:**Office of the Provost
Administration 174
One Washington Square
San José, CA 95192-0020**Phone:** 408-924-2400**Office of the Provost Website:** <http://www.sjsu.edu/provost/>**Personal Faculty Website:** <http://www.sjsu.edu/people/vincent.delcasino/index.html>

Charlene Nijmeh <cnijmeh@muwekma.org>

Mon, Oct 4, 2021 at 2:05 PM

To: Vincent Del Casino <vincent.delcasino@sjsu.edu>

Cc: "Ryan M. Ward - OOTP" <ryan.m.ward@sjsu.edu>, Roberto Gonzalez <roberto.gonzalez@sjsu.edu>, Charlotte Sunseri <Charlotte.Sunseri@sjsu.edu>, Alisha Marie Ragland <alisha.ragland@sjsu.edu>, "Monica Arellano (via Google Sheets)" <monicavarellano@gmail.com>, "Monica V. Arellano" <marellano@muwekma.org>

Dear Provost Del Casino

Thank you for writing to me and although I do appreciate your words of assurances that you are working on new protocols to treat our ancestral remains with respect and dignity, I worry that those responsible for our ancestors do not have the same belief system regarding our connection to our ancestors and to our land and will continue their usual ways although they will be more careful to not be photographed doing so.

The most important element of every protocol or assurances is **oversight** and unfortunately I have witnessed the lack of regard to protocols my whole life. This is not new to me as I have experienced the struggles my Tribe has faced to protect the desecration of our sacred sites and ancestral remains throughout my childhood.

And please understand I do not think all anthropologists are insensitive to our beliefs and many do work closely with Tribes and Indigenous groups to respectfully handle our relatives and do research in a respectful manner. And I do believe that there is a place for analysis but it should be done in a dignified and respectful manner and under the authority and approval of the descendants.

Our lack of Federal recognition has always plagued our ability to defend and protect our ancestors since the 1960's when we organized to stop the destruction of our Ohlone cemetery.

Anthropology departments all over the SF Bay Area have benefitted from the lack of federally recognized tribes in their way and that may be one factor as to why we have struggled so long to gain the support of our communities in our efforts. However, I feel the winds of change are upon us and the social and racial justice movements sweeping the world, will also touch the Muwekma people.

I can only pray that your words that you are "committed to creating an educational environment that is equitable, inclusive, and respectful" are sincere and that your University will reach out in consultation with the Muwekma Ohlone Tribe in regards to the handling and eventual repatriation of our ancestors.

Thank you again for your thoughtful letter. I hope I was not overly critical. I wanted to speak to you from my heart.

Sincerely,

Charlene

From: Vincent Del Casino <vincent.delcasino@sjsu.edu>

Sent: Friday, October 1, 2021 4:00 PM

To: Charlene Nijmeh <cnijmeh@muwekma.org>

Cc: Ryan M. Ward - OOTP <ryan.m.ward@sjsu.edu>; Roberto Gonzalez <roberto.gonzalez@sjsu.edu>; Charlotte Sunseri <Charlotte.Sunseri@sjsu.edu>; Alisha Marie Ragland <alisha.ragland@sjsu.edu>

Subject: SJSU-Related Social Media Incident

[Quoted text hidden]

Vincent Del Casino <vincent.delcasino@sjsu.edu>
To: Charlene Nijmeh <cnijmeh@muwekma.org>

Wed, Oct 6, 2021 at 1:00 PM

Cc: "Ryan M. Ward - OOTP" <ryan.m.ward@sjsu.edu>, Roberto Gonzalez <roberto.gonzalez@sjsu.edu>, Charlotte Sunseri <Charlotte.Sunseri@sjsu.edu>, Alisha Marie Ragland <alisha.ragland@sjsu.edu>, "Monica Arellano (via Google Sheets)" <monicavarellano@gmail.com>, "Monica V. Arellano" <marellano@muwekma.org>

Dear Chairperson Nijmeh,

I do not think anything you have said is overly critical. I appreciate very much what you are saying and thank you for saying it. We have to do much better than we have as an institution. To that end, today, President Papazian signed a Presidential Directive creating an Interim Protocol for gaining access to all the curation spaces on our campus, including those that house the remains and artifacts of the Muwekma people. I am attaching that document so you have it. This is a small step but one we hope will give us the appropriate space and time to continue our consultations. I am excited that SJSU has invested in a Tribal Liaison, Alisha Ragland, position as well. She brings much needed expertise to our campus. But, we have much more to do.

I look forward to meeting at some point in the near future. I know that President Papazian is also excited to meet with you and learn from you.

I don't want a crisis to be the reason for connection. We need to have a deeper relationship with the peoples whose lands we occupy as part of the California State University system.

Sincerely,
Vincent

[Quoted text hidden]



Presidential Directive 2021-03 Interim Protocol for Curatorial Spaces in Alignment with NAGPRA, CalNAGPRA, AB 275.pdf
135K

Vincent Del Casino <vincent.delcasino@sjsu.edu>

Wed, Oct 6, 2021 at 1:52 PM

To: Charlene Nijmeh <cnijmeh@muwekma.org>, "Monica Arellano (via Google Sheets)" <monicavarellano@gmail.com>

Cc: "Ryan M. Ward - OOTP" <ryan.m.ward@sjsu.edu>, Roberto Gonzalez <roberto.gonzalez@sjsu.edu>, Charlotte Sunseri <Charlotte.Sunseri@sjsu.edu>, Alisha Marie Ragland <alisha.ragland@sjsu.edu>, "Monica V. Arellano" <marellano@muwekma.org>

[Quoted text hidden]

EXHIBIT F

The California State University:
Chancellor's Office
Bakersfield
Channel Islands
Chico
Dominguez Hills
East Bay
Fresno
Fullerton
Humboldt
Long Beach
Los Angeles
Maritime Academy
Monterey Bay
Northridge
Pomona
Sacramento
San Bernardino
San Diego
San Francisco
San José
San Luis Obispo
San Marcos
Sonoma
Stanislaus

October 6, 2021

To: Campus Community

From: Dr. Mary A. Papazian, President



Re: San José State University's Interim Protocol for Curation
Spaces in Alignment with NAGPRA, CalNAGPRA, AB 275
(Interim Presidential Directive, PD-2021-03)

OVERVIEW

San José State University has curated collections of human remains, artifacts, and funerary objects ("Collections") with technical support from faculty affiliated with the Department of Anthropology and in consultation with Native American tribes and Indigenous peoples for decades. For many years, faculty and supervised students were permitted to access the curated Collections for research and teaching purposes. Between 2008 and 2010, the Department adopted protocols for gaining access to and working with the Collections, which have been stored in a locked, secure location since the early 1990s.

In September 2020, California Governor Gavin Newsom signed into law Assembly Bill 275 ("Native American Cultural Preservation") which amends CalNAGPRA (the California Native American Graves Protection and Repatriation Act of 2001). Effective on January 1, 2021, the stated purpose of AB 275 is to "provide a seamless and consistent state policy to ensure that all California Indian human remains and cultural items be treated with dignity and respect." AB 275 requires agencies and museums that possess collections of Native American human remains and funerary objects, including SJSU, to inventory those collections for repatriation and to engage in consultations with Native American and Indigenous California tribes. As one of the agencies, SJSU must "defer to tribal recommendations for appropriate handling and treatment" of human remains and funerary objects. During initial consultations, several local Native American and Indigenous California tribes have asked SJSU to prescribe a stricter set of protocols to gain access to the remains and artifacts housed on our campus.

INTERIM PROTOCOL

Based on these initial consultations, the following interim protocol is effective immediately:

- The curation spaces at SJSU that house the Collections will be exclusively managed by the SJSU NAGPRA Coordinator and the SJSU Tribal Liaison, supplemented by student assistants who are appropriately trained and supervised to assist with the inventory process.
- The Collections will continue to remain in a locked, secure area on campus, and all access will be overseen by the SJSU NAGPRA Coordinator and the SJSU Tribal Liaison.
- Any physical access to or use of the Collections, including for research or teaching, will require written approval of the NAGPRA Coordinator and Tribal Liaison.
- Audio, video, or photographic devices are prohibited in the curation spaces, as is taking photo images or videos of human remains, funerary objects, or the boxes in which these materials are held.

INTERIM SCOPE

This interim Presidential Directive applies to all SJSU faculty, staff, students, and administrators, as well as visitors to campus. It supersedes all previous protocols including those developed by the SJSU Department of Anthropology. This interim Presidential Directive will remain in place until a non-interim Presidential Directive is established.

EXHIBIT G



Alisha Marie Ragland <alisha.ragland@sjsu.edu>

AB275 PRESIDENTIAL DIRECTIVE: Interim Protocol for Curation Spaces

13 messages

Alisha Marie Ragland <alisha.ragland@sjsu.edu>

Wed, Oct 6, 2021 at 2:20 PM

To: Charlene Nijmeh <cnijmeh@muwekma.org>, Monica Arellano <muwekmaohlonetribe@gmail.com>, Monica Arellano <monicavarellano@gmail.com>, "Monica V. Arellano" <marellano@muwekma.org>, Katherine Perez <canutes@verizon.net>, ams@indiancanyon.org, Kanyon Konsulting <indiancanyon.kanyon@gmail.com>, Kanyon Sayers-Roods <kanyon@kanyonkonsulting.com>, rumsen@aol.com, jtarango@wiltonrancheria-nsn.gov, kwood8934 <kwood8934@aol.com>, cvltribe@gmail.com, Quirina Geary <qgeary@tamien.org>, amahmutsuntribal@gmail.com, Andrew Galvan <chochenyo@aol.com>, vlopez@amahmutsun.org
Cc: Charlotte Sunseri <Charlotte.Sunseri@sjsu.edu>, Roberto Gonzalez <roberto.gonzalez@sjsu.edu>

Dear Tribe Representatives,

I am writing to you this afternoon to share the most recent Presidential Directive from Dr. Mary A. Papazian, President of San Jose State University.

To summarize, your input as consulting Tribes and as descendants of the ancestors currently in our care at SJSU has led to a new set of protocols in which access to the curation facility is restricted until further notice. During the interim period between consultations with all of you and completed repatriation, only Dr. Charlotte Sunseri, the NAGPRA Coordinator, and I, Tribal Liaison, will be allowed access to this space.

Your express input was critical in creating these new protocols as quickly as possible and I thank each and every one of you who has contacted us so far.

For those of you who have not responded to requests for consultation, we urge you to schedule your consultations as soon as possible in order to begin the process of repatriation. Although consultations are being held for site CA-ALA-329 currently, we welcome consultations for other sites on our list as well. Please reach out to me directly for scheduling.

The campus-wide message is included below, and I have attached a copy of the directive in this email as well. You can also access the Presidential Directives website by [clicking this link](#). Please continue to provide your recommendations, feedback, and concerns or questions with me at any time: I am always available by phone (831)392-5325. I hope to hear from you soon.

Respectfully,
Alisha Marie Ragland

----- Forwarded message -----

From: **President Mary A. Papazian** <universitycomm@sjsu.edu>

Date: Wed, Oct 6, 2021 at 12:06 PM

Subject: PRESIDENTIAL DIRECTIVE: Interim Protocol for Curation Spaces

To: <alisha.ragland@sjsu.edu>



Dr. Mary A. Papazian, President

Dear campus community,

For decades, SJSU has curated collections of human remains, artifacts and funerary objects (“Collections”) with technical support from faculty affiliated with the Department of Anthropology and in consultation with Native American tribes and Indigenous peoples.

To further align our campus protocols with California’s Assembly Bill 275 (signed into law in September 2020) and related state and federal legislation, SJSU must “defer to tribal recommendations for appropriate handling and treatment” of human remains and funerary objects. We have been asked, during initial consultations with several local Native American and Indigenous California tribes, to prescribe a stricter set of protocols to gain access to the remains and artifacts housed on our campus.

A [Presidential Directive](#) is now in effect regarding SJSU’s interim protocols for curation spaces. The protocols are in alignment with the federal Native American Graves Protection Act (NAGPRA), California’s NAGPRA, and AB 275.

Sincerely,

A handwritten signature in black ink, appearing to be 'M. Papazian'.

Dr. Mary A. Papazian
President

One Washington Square
San Jose, CA 95192

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--
Alisha Marie Ragland, M.A.
AB275 Tribal Liaison
Lecturer
Department of Anthropology
San Jose State University
One Washington Square
San Jose, CA 95192-0113
Phone 408-924-5073



PD 2021-03 Interim Protocol for Curatorial Spaces in Alignment with NAGPRA CalNAGPRA AB 275.pdf
135K

Roberto Gonzalez <roberto.gonzalez@sjsu.edu>

Wed, Oct 6, 2021 at 2:26 PM

To: Alisha Marie Ragland <alisha.ragland@sjsu.edu>, Charlotte Sunseri <Charlotte.Sunseri@sjsu.edu>

Wonderfully written, Alisha. Thank you!

RG

[Quoted text hidden]

Charlotte Sunseri <Charlotte.Sunseri@sjsu.edu>

Wed, Oct 6, 2021 at 3:40 PM

To: Roberto Gonzalez <roberto.gonzalez@sjsu.edu>

Cc: Alisha Marie Ragland <alisha.ragland@sjsu.edu>

Agreed—great job with this communication and outreach. Besides our AB275 Summary/Inventory, I suspect more documentation will help in creating a final Presidential directive, and this is a good step toward more consultations.

Thank you!

CS

[Quoted text hidden]

--

Charlotte Kay Sunseri, Ph.D., RPA
Department of Anthropology
San José State University
One Washington Square
San José, California, 95192-0113
Office: (408) 924-5713
Cell: (816) 536-0337

Alisha Marie Ragland <alisha.ragland@sjsu.edu>

Wed, Oct 6, 2021 at 3:48 PM

To: Charlotte Sunseri <Charlotte.Sunseri@sjsu.edu>

Cc: Roberto Gonzalez <roberto.gonzalez@sjsu.edu>

Thanks for the compliments, Charlotte and Roberto. We are now one or two steps closer to repatriation!

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

Phone 408-924-5571

Mail Delivery Subsystem <mailer-daemon@googlemail.com>

Thu, Oct 7, 2021 at 4:36 PM

To: alisha.ragland@sjsu.edu



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There was a temporary problem delivering your message to **ams@indiancanyon.org**. Gmail will retry for 45 more hours. You'll be notified if the delivery fails permanently.

[LEARN MORE](#)

The response was:

The recipient server did not accept our requests to connect. Learn more at <https://support.google.com/mail/answer/7720> [[indiancanyon.org](https://support.google.com/mail/answer/7720) 2606:4700:3032::ac43:8c05: timed out] [[indiancanyon.org](https://support.google.com/mail/answer/7720) 2606:4700:3032::6815:3699: timed out] [[indiancanyon.org](https://support.google.com/mail/answer/7720) 104.21.54.153: timed out] [[indiancanyon.org](https://support.google.com/mail/answer/7720) 172.67.140.5: timed out]

Final-Recipient: rfc822; ams@indiancanyon.org

Action: delayed

Status: 4.4.1

Diagnostic-Code: smtp; The recipient server did not accept our requests to connect. Learn more at

<https://support.google.com/mail/answer/7720>

[[indiancanyon.org](https://support.google.com/mail/answer/7720) 2606:4700:3032::ac43:8c05: timed out]

[[indiancanyon.org](https://support.google.com/mail/answer/7720) 2606:4700:3032::6815:3699: timed out]

[[indiancanyon.org](https://support.google.com/mail/answer/7720) 104.21.54.153: timed out]

[[indiancanyon.org](https://support.google.com/mail/answer/7720) 172.67.140.5: timed out]

Last-Attempt-Date: Thu, 07 Oct 2021 16:36:02 -0700 (PDT)

Will-Retry-Until: Sat, 09 Oct 2021 14:20:32 -0700 (PDT)

----- Forwarded message -----

From: Alisha Marie Ragland <alisha.ragland@sjsu.edu>

To: Charlene Nijmeh <cnijmeh@muwekma.org>, Monica Arellano <muwekmaohlonetribegmail.com>, Monica Arellano <monicavarellano@gmail.com>, "Monica V. Arellano" <marellano@muwekma.org>, Katherine Perez <canutes@verizon.net>, ams@indiancanyon.org, Kanyon Konsulting <indiancanyon.kanyon@gmail.com>, Kanyon Sayers-Roods <kanyon@kanyonkonsulting.com>, rumsen@aol.com, jtarango@wiltonrancheria-nsn.gov, kwood8934@kwood8934@aol.com, cvltribe@gmail.com, Quirina Geary <qgeary@tamien.org>, amahmutsuntribalgmail.com, Andrew Galvan <chochenyo@aol.com>, vlopez@amahmutsun.org

Cc: Charlotte Sunseri <Charlotte.Sunseri@sjsu.edu>, Roberto Gonzalez <roberto.gonzalez@sjsu.edu>

Bcc:

Date: Wed, 6 Oct 2021 14:20:21 -0700

Subject: AB275 PRESIDENTIAL DIRECTIVE: Interim Protocol for Curation Spaces

----- Message truncated -----

Mail Delivery Subsystem <mailer-daemon@googlemail.com>

Fri, Oct 8, 2021 at 2:56 PM

To: alisha.ragland@sjsu.edu



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[LEARN MORE](#)

The response was:

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<https://support.google.com/mail/answer/7720> [indiancanyon.org 2606:4700:3032::6815:3699: timed out]
 [indiancanyon.org 2606:4700:3032::ac43:8c05: timed out] [indiancanyon.org 104.21.54.153: timed out]
 [indiancanyon.org 172.67.140.5: timed out]

Final-Recipient: rfc822; ams@indiancanyon.org

Action: delayed

Status: 4.4.1

Diagnostic-Code: smtp; The recipient server did not accept our requests to connect. Learn more at

<https://support.google.com/mail/answer/7720>

[indiancanyon.org 2606:4700:3032::6815:3699: timed out]

[indiancanyon.org 2606:4700:3032::ac43:8c05: timed out]

[indiancanyon.org 104.21.54.153: timed out]

[indiancanyon.org 172.67.140.5: timed out]

Last-Attempt-Date: Fri, 08 Oct 2021 14:56:39 -0700 (PDT)

Will-Retry-Until: Sat, 09 Oct 2021 14:20:32 -0700 (PDT)

----- Forwarded message -----

From: Alisha Marie Ragland <alisha.ragland@sjsu.edu>

To: Charlene Nijmeh <cnijmeh@muwekma.org>, Monica Arellano <muwekmaohlonetribes@gmail.com>, Monica Arellano <monicavarellano@gmail.com>, "Monica V. Arellano" <marellano@muwekma.org>, Katherine Perez <canutes@verizon.net>, ams@indiancanyon.org, Kanyon Konsulting <indiancanyon.kanyon@gmail.com>, Kanyon Sayers-Roods <kanyon@kanyonkonsulting.com>, rumsen@aol.com, jtarango@wiltonrancheria-nsn.gov, kwood8934@kwood8934@aol.com, cvltribe@gmail.com, Quirina Geary <qgeary@tamien.org>, amahmutsuntribal@gmail.com, Andrew Galvan <chochenyo@aol.com>, vlopez@amahmutsun.org

Cc: Charlotte Sunseri <Charlotte.Sunseri@sjsu.edu>, Roberto Gonzalez <roberto.gonzalez@sjsu.edu>

Bcc:

Date: Wed, 6 Oct 2021 14:20:21 -0700

Subject: AB275 PRESIDENTIAL DIRECTIVE: Interim Protocol for Curation Spaces

----- Message truncated -----

Kanyon Konsulting <indiancanyon.kanyon@gmail.com>

Fri, Oct 8, 2021 at 4:19 PM

To: Alisha Marie Ragland <alisha.ragland@sjsu.edu>, KKLLC Admin <admin@kanyonkonsulting.com>

I am interest in consulting, please keep us updated.

Kanyon "Coyote Woman" Sayers-Roods

Co-Founder - CEO | Kanyon Konsulting, LLC

Mobile (831) 207-9331 | kanyon@kanyonkonsulting.com

www.kanyonkonsulting.com

Indian Canyon Mutsun Band of Costanoan Ohlone People

www.indiancanyonlife.org/ksr

<http://about.me/kanyon.coyotewoman>

[Quoted text hidden]

Alisha Marie Ragland <alisha.ragland@sjsu.edu>

Fri, Oct 8, 2021 at 6:28 PM

To: Kanyon Konsulting <indiancanyon.kanyon@gmail.com>

Cc: KKLLC Admin <admin@kanyonkonsulting.com>

Hi Kanyon,

Thanks very much for reaching out! I am eager to consult with you.

Here are the soonest dates and times that we are available to hold a consultation meeting:

Friday, October 15: anytime from 9am to 1pm

9-11am remotely via Zoom or 11am-1pm in person (or Zoom, your choice)

Tuesday, October 19: anytime from 11am to 2pm

(either remotely via Zoom or in person, your choice)

We anticipate about an hour to an hour and a half (or more) depending on your availability.

If these times do not work for you please suggest others and we will get something scheduled ASAP.

Have a great weekend!

Regards,

Alisha

[Quoted text hidden]

Mail Delivery Subsystem <mailer-daemon@googlemail.com>

Sat, Oct 9, 2021 at 7:15 PM

To: alisha.ragland@sjsu.edu



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There was a problem delivering your message to **ams@indiancanyon.org**. See the technical details below.

[LEARN MORE](#)

The response was:

The recipient server did not accept our requests to connect. Learn more at

<https://support.google.com/mail/answer/7720> [indiancanyon.org 2606:4700:3032::6815:3699: timed out]

[indiancanyon.org 2606:4700:3032::ac43:8c05: timed out] [indiancanyon.org 104.21.54.153: timed out]

[indiancanyon.org 172.67.140.5: timed out]

Final-Recipient: rfc822; ams@indiancanyon.org

Action: failed

Status: 4.4.1

Diagnostic-Code: smtp; The recipient server did not accept our requests to connect. Learn more at

<https://support.google.com/mail/answer/7720>

[indiancanyon.org 2606:4700:3032::6815:3699: timed out]

[indiancanyon.org 2606:4700:3032::ac43:8c05: timed out]

[indiancanyon.org 104.21.54.153: timed out]

[indiancanyon.org 172.67.140.5: timed out]

Last-Attempt-Date: Sat, 09 Oct 2021 19:15:11 -0700 (PDT)

----- Forwarded message -----

From: Alisha Marie Ragland <alisha.ragland@sjsu.edu>

To: Charlene Nijmeh <cnijmeh@muwekma.org>, Monica Arellano <muwekmaohlonetribes@gmail.com>, Monica Arellano <monicavarellano@gmail.com>, "Monica V. Arellano" <marellano@muwekma.org>, Katherine Perez <canutes@verizon.net>, ams@indiancanyon.org, Kanyon Konsulting <indiancanyon.kanyon@gmail.com>, Kanyon Sayers-Roods <kanyon@kanyonkonsulting.com>, rumsen@aol.com, jtarango@wiltonrancheria-nsn.gov, kwood8934 <kwood8934@aol.com>, cvltribe@gmail.com, Quirina Geary <qgeary@tamien.org>, amahmutsuntribal@gmail.com, Andrew Galvan <chochenyo@aol.com>, vlopez@amahmutsun.org

Cc: Charlotte Sunseri <Charlotte.Sunseri@sjsu.edu>, Roberto Gonzalez <roberto.gonzalez@sjsu.edu>

Bcc:

Date: Wed, 6 Oct 2021 14:20:21 -0700

Subject: AB275 PRESIDENTIAL DIRECTIVE: Interim Protocol for Curation Spaces

----- Message truncated -----

KKLLC Admin <admin@kanyonkonsulting.com>
To: Alisha Marie Ragland <alisha.ragland@sjsu.edu>

Sun, Oct 10, 2021 at 9:45 AM

Good morning I have time saved for you on Friday the 15th at 10am. Would this work ? Would you please send a zoom link when you can.

Thank you

[Quoted text hidden]

Alisha Marie Ragland <alisha.ragland@sjsu.edu>
To: KKLLC Admin <admin@kanyonkonsulting.com>

Mon, Oct 11, 2021 at 12:00 PM

Hi Kanyon,

Happy Indigenous People's Day!

Here is the Zoom invitation for our consultation meeting regarding CA-ALA-329 this Friday 10/15 at 10am:

Hi there,

Alisha Ragland is inviting you to a scheduled Zoom meeting.

Join from PC, Mac, Linux, iOS or Android: <https://sjsu.zoom.us/j/9963263486>

Or iPhone one-tap :

US: +16699006833,,9963263486# or +12532158782,,9963263486#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 312 626 6799 or +1 646 876 9923 or +1 301 715 8592

Meeting ID: 996 326 3486

International numbers available: <https://sjsu.zoom.us/j/kcQ85Of0Z>

Or an H.323/SIP room system:

H.323:

162.255.37.138

Meeting ID: 996 326 3486

SIP: 9963263486@vip2.zoomcrc.com

[Quoted text hidden]

Alisha Marie Ragland <alisha.ragland@sjsu.edu>
To: KKLLC Admin <admin@kanyonkonsulting.com>

Wed, Oct 13, 2021 at 2:33 PM

Hi Kanyon and Nicole,

Do we have confirmation for our Friday, October 15 10am consultation meeting?

Zoom link: <https://sjsu.zoom.us/j/9963263486>

If this time no longer works, here are a few other options to choose from:

- Mon 10/18 11AM-2PM
- Tue 10/19 10:45AM-12PM
- Wed 10/20 10AM-1PM
- Thur 10/21 9AM-1PM
- Fri 10/22 9AM-1PM

I know first-hand that engagement with Native Americans ramps up this month and next, so if we cannot find a time this month, I am happy to keep you informed via email on the outcomes of all consultation meetings thus far. Alternatively, we can arrange a quick phone call if that is easier.

Alisha Marie Ragland, M.A.
 AB275 Tribal Liaison
 Lecturer
 Department of Anthropology
 San Jose State University
 One Washington Square
 San Jose, CA 95192-0113
 Phone 408-924-5073

[Quoted text hidden]

KKLLC Admin <admin@kanyonconsulting.com>
 To: Alisha Marie Ragland <alisha.ragland@sjsu.edu>

Wed, Oct 13, 2021 at 10:11 PM

Yes Friday 10/15 at 10am is confirmed scheduled

[Quoted text hidden]

EXHIBIT H



STATE OF CALIFORNIA

Gavin Newsom, Governor

NATIVE AMERICAN HERITAGE COMMISSION

October 11, 2021

Dr. Mary A. Papazian, President
San Jose State University
Tower Hall 207
One Washington Square
San Jose, CA 95192-0002
sjsupres@sjsu.edu

CHAIRPERSON
Laura Miranda
Luiseño

VICE CHAIRPERSON
Reginald Pagaling
Chumash

SECRETARY
Merri Lopez-Keifer
Luiseño

PARLIAMENTARIAN
Russell Attebery
Karuk

COMMISSIONER
William Mungary
Paiute/White Mountain
Apache

COMMISSIONER
Julie Tumamait-Stenslie
Chumash

COMMISSIONER
[Vacant]

COMMISSIONER
[Vacant]

COMMISSIONER
[Vacant]

EXECUTIVE SECRETARY
Christina Snider
Pomo

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

Submitted via Electronic and USPS Mail

Re: Mishandling of California Indian Human Remains at San Jose State University in Violation of CalNAGPRA

Dear President Papazian:

On September 29, 2021, the Native American Heritage Commission (Commission) was notified about a photograph posted on Twitter by San Jose State University (SJSU) Professor Elizabeth Weiss. The photograph shows Prof. Weiss posing with a human skull, grinning enthusiastically, while handling the skull without gloves. The post is captioned "So happy to be back with some old friends @SJSU #anthrotwitter #archaeotwitter."¹

The Commission is aware that the skull is reportedly part of the collection of Native American remains affiliated with a California Indian tribe.² Prof. Weiss is also standing in a room full of boxes marked with archaeological site trinomials starting with "CA-ALA," establishing that their contents originate from Alameda County, California. Provost and Senior Vice President for Academic Affairs Vincent J. Del Casino, Jr. noted that Weiss is "standing in a SJSU curational space, which holds the remains of hundreds of Native American peoples, many of whom are from Muwekma Ohlone and other area tribes."³

The Legislature passed the California Native American Graves Protection and Repatriation Act (CalNAGPRA—Health & Saf. Code, § 8010, et seq.) in 2001, to ensure that all California Indian human remains be treated with

¹ See Attachment A.

² See The Mercury News, *San Jose State: Professor smiling with Native American skull ignites fiery debate* (Oct. 4, 2021).

³ Vincent J. Del Casino, Jr., *The Representational Politics of Science* (Sept. 29, 2021), at <https://www.sjsu.edu/provost/communications/provost-updates/academic-affairs-messages/the-representational-politics-of-science.php>.

dignity and respect as part of the repatriation process. CalNAGPRA requires higher educational institutions that receive state funds, including SJSU, to complete an inventory of California Indian human remains and associated funerary objects in its possession or control by January 1, 2022. (Cal. Health & Saf. Code, §§ 8012, subd. (i), 8013, subd. (b).) Prior to any additional inventory work being done on its collections, SJSU is required to consult with affiliated California Indian tribes on protocols to be used during the inventory process for remains and cultural items, including "minimizing handling." (Cal. Health & Saf. Code, §§ 8013, subd. (b)(1)(B)(i).)

To the Commission's knowledge, Prof. Weiss failed to consult with any affiliated California tribes on proper protocols to be used in the handling of the remains, including their handling without gloves, photographing, distribution, and depiction on a social network. This fact is particularly more egregious given that at least one affiliated California Indian tribe made a direct request to SJSU for consultation prior to this incident.⁴

The failure to proactively consult with tribes about the handling of remains and cultural items, coupled with Prof. Weiss's behavior, raises related concerns about SJSU's existing policies and protocols governing its California Indian collections. The Commission appreciates SJSU's October 6, 2021, interim Presidential Directive PD-2021-03, regarding SJSU's Interim protocol for curation spaces. Although the Commission believes this stricter set of protocols is a step in the right direction, SJSU must do more to ensure future compliance with CalNAGPRA.

Accordingly, the Commission requests SJSU take the following actions with regard to its California Indian collections:

- Staff with access to Native American collections receive training on state law requirements for handling California Indian remains and cultural items, treating them with appropriate dignity and respect, and the importance of consulting with descendants and culturally affiliated tribes on any protocols to be used.
- Staff receive training on cultural sensitivity, as well as the history of genocide and exploitation of Native Americans.
- More stringent policies and procedures be permanently implemented governing access to and handling of California Indian remains and cultural items. In particular, SJSU should not be allowing its California Indian collections to be used for further research and teaching unless the affiliated California Indian tribe or lineal descendant gives express written consent for doing so and prescribes the proper protocols to be used for these purposes.
- That access to California Indian remains and cultural items continue to be limited to, and controlled by, those whose work is related to compliance with federal and state repatriation laws.
- That any use of the collections for "teaching" purposes be limited to that necessary to comply with repatriation laws.

⁴ Aug. 25, 2021 Muwekma Ohlone Indian Tribe Letter to SJSU, Attachment B.

As to Prof. Weiss, we have additional concerns about her disregard for state law. In addition to having a history of opposing repatriation,⁵ Prof. Weiss has shown no contrition for the social medial posting, nor any sensitivity or concern over the treatment of California Indian human remains in her care.⁶ Her conduct was no aberration, but the result of an individual oblivious to her legal and moral obligations to California Indian ancestors and their descendants. The Commission requests the following actions be taken concerning Prof. Weiss:

1. Guarantees from SJSU that Prof. Weiss will no longer have access to SJSU's collection of California Indian human remains.
2. Appropriate disciplinary action be taken against Prof. Weiss for her failure to adhere to state law by failing to consult with affiliated tribes concerning the treatment of California Indian remains and cultural items (including failing to minimize handling), and related inappropriate public behavior in photographing herself holding remains without gloves and posting the images on social media coupled with disrespectful remarks, all of which reflected poorly on the University and its treatment of California Indian ancestors.
3. Prof. Weiss receive training in repatriation laws and procedures.
4. Prof. Weiss receive cultural sensitivity training regarding California Indian culture and history.

The Commission also requests that SJSU attend the Commission's public meeting scheduled for November 5, 2021, to provide an update on what steps SJSU is taking to meet these requests and fulfill its obligations under CalNAGPRA. We welcome the opportunity to discuss these requests with you further. If you have any questions, please feel free to contact me.

Sincerely,


Debbie Pilas-Treadway
Chief Deputy Executive Secretary

⁵ Elizabeth Weiss and James W. Springer, *Repatriation and Erasing the Past* (Sept. 1, 2020); Springer and Weiss, *Scholarship Versus Racial Identity in Anthropology* (Jan. 25, 2021) *Minding the Campus*, at <https://www.mindingthecampus.org/2021/01/25/scholarship-versus-racial-identity-in-anthropology/>; Springer and Weiss, *Responding to Claims of Archaeological Racism* (Apr. 28, 2021) *Nat'l Assoc. of Scholars*, at <https://www.nas.org/blogs/article/responding-to-claims-of-archaeological-racism>.

⁶ See Elizabeth Weiss, *Response To The Representational Politics of Science* (Sept. 30, 2021), at <https://www.sjsu.edu/provost/communications/provost-updates/academic-affairs-messages/response-to-the-representational-politics-of-science.php>; Elizabeth Weiss, *Opinion: California law on Native Americans' remains favors religion over science* (Aug. 31, 2021) *San Jose Mercury News*, at <https://www.mercurynews.com/2021/08/31/8314049-native-american-remains-uc-ab275-graves/>; Christian Schneider, *Professor condemned as 'racist' by her department after supporting colorblind research* (Aug. 19, 2021) *The College Fix* at <https://www.thecollegefix.com/professor-condemned-as-racist-by-her-department-after-supporting-colorblind-research/>.

CC: Assemblymember James C. Ramos
Christina Snider, Tribal Advisor to Governor Gavin Newsom
Charlene Nijmeh, Chairwoman, Muwekma Ohlone Tribe
Vincent Del Casino, Provost and Senior Vice President, SJSU
Walt Jacob, Dean, College of Social Science, SJSU
Ryan Ward, Director of Advocacy and Federal Relations, SJSU
Roberto Gonzalez, Chair, Departments of Anthropology and Chicana/Chicano
Studies, SJSU
Charlotte Sunseri, SJSU Faculty Member, Department of Anthropology, NAGPRA
Coordinator
Alisha Ragland, SJSU Faculty Member, Department of Anthropology, Tribal
Liaison



Elizabeth Weiss @eweissunbur... · Sep 18



So happy to be back with some old friends
[@SJSU](#) [#anthrotwitter](#) [#archaeotwitter](#)

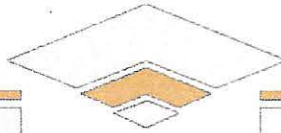


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MUWEKMA OHLONE INDIAN TRIBE

OF THE SAN FRANCISCO BAY AREA REGION

'Innu Huššištak Makiš Mak-Muwekma "The Road To The Future For Our People"

August 25, 2021

TRIBAL CHAIRPERSON
CHARLENE NIJMEH

Dr. Roberto Gonzalez, Chair

TRIBAL VICE CHAIRPERSON
MONICA V. ARELLANO

Department of Anthropology

TRIBAL SECRETARY
GLORIA E. ARELLANO-
GOMEZ

San Jose State University

1 Washington Square

TRIBAL TREASURER
RICHARD MASSIATT

San Jose, Ca, 95112

Email: roberto.gonzalez@sjsu.edu

TRIBAL COUNCIL
JOANN BROSE
FRANK RUANO
SHELLA SCHMIDT
CAROL SULLIVAN

Dear Dr. Gonzalez:

TRIBAL ETHNO-HISTORIAN
ALAN LEVENTHAL

I am writing to you today to formally request initiation of the process of repatriation between the Muwekma Ohlone Tribe of the San Francisco Bay Area (referred to in correspondence with the Federal government as "the Verona Band of Mission San Jose Indians" and the Department of Anthropology, San Jose State University.

**TRIBAL HISTORIC
PRESERVATION OFFICER**
PROF. MICHAEL WILCOX PhD

The Muwekma Ohlone Tribe of the San Francisco Bay Area asks that work begin as soon as possible to set up a legal process for the repatriation of those items outlined in the United States, Native American Graves Protection and Repatriation Act (Pub.L. 101-601; 25 U.S.C. 3001-3013;104 Stat. 3048-3058); (25 U.S.C. Sec. 3001 et seq.), affirmed in California Assembly Bill 978. These materials are defined in the Federal Legislation as:

“(3) "cultural items" means human remains and—

(A) "associated funerary objects" which shall mean objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, and both the human remains and associated funerary objects are presently in the possession or control of a Federal agency or museum, except that other items exclusively made for burial purposes or to contain human remains shall be considered as associated funerary objects.¹

(B) "unassociated funerary objects" which shall mean objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, where the remains are not in the possession or control of the Federal agency or museum and the objects can be identified by a preponderance of the evidence as related to specific individuals or families or to known human remains or, by a preponderance of the evidence, as having been removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe,

(C) "sacred objects" which shall mean specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents, and

(D) "cultural patrimony" which shall mean an object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian tribe or Native Hawaiian organization and such object shall have been considered inalienable by such Native American group at the time the object was separated from such group.

Further, unlike individuals or other self-identified Indigenous associations, we are identified as a "Tribe" in accordance with the definition outlined in Article 2, section "j" of Assembly Bill 978 State and Cultural Affiliation and Repatriation:

(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 of the following apply:

(A) It is listed in the Bureau of Indian Affairs Branch of Acknowledgement and Research petitioner list pursuant to Section 82.1 of Title 25 of the Federal Code of Regulations.

(B) It is determined by the commission to be a tribe that is eligible to participate in the repatriation process set forth in this chapter. The commission shall publish a document that lists the California tribes meeting these criteria, as well as authorized representatives to act on behalf of the tribe in the consultations required under paragraph (4) of subdivision (a) of Section 8013 and in matters pertaining to repatriation under this chapter. Criteria that shall guide the commission in making the determination of eligibility shall include, but not be limited to, the following:

(i) A continuous identity as an autonomous and separate tribal government.

(ii) Holding itself out as a tribe.

(iii) The tribe as a whole has demonstrated aboriginal ties to the territory now known as the State of California and its members can demonstrate lineal descent from the

identifiable earlier groups that inhabited a particular tribal territory.

(iv) Recognition by the Indian community and non-Indian entities as a tribe.

(v) Demonstrated membership criteria.

As you may already know that our Tribe is the only previously federally recognized tribe in the San Francisco Bay region. We, with our over 600 enrolled tribal members, claim the San Francisco Bay Area region as part of our ancestral and historic homeland, and therefore claim cultural affiliation for ancestral remains from the following counties: Alameda, Contra Costa, Santa Clara, San Mateo, San Francisco, part of Santa Cruz, and San Joaquin counties. Our request includes not only those materials housed at San Jose State University (including those collections whose title and ownership fall under our Tribe), but also those “shared “or on loan to other institutions.

We respectfully make the following requests:

1. Please have the University provide our Tribal Council a report which lists the sites of origin of your collections, the number of burials from each site as well as items that may be covered under the categories “associated funerary objects, sacred objects, and Items of cultural patrimony”.
 - a) Included in this list should be those items identified previously as “culturally unidentifiable” by previous museum administrators as well as any justifications for those determinations.
2. Please provide copies (or a bibliography) of published and unpublished studies, reports, theses, and papers that were conducted or related to our ancestral heritage and human remains.
3. Please provide potential dates when we can meet with you and the appropriate University personnel to discuss repatriation of our ancestral remains and move the process to the next stage.

Sincerely,



Charlene Nijmeh, Chairwoman, Muwekma Ohlone Tribe
cnijmeh@muwekma.org (408-464-2892)

In future correspondence, please CC:

Professor Michael Wilcox
Tribal Historic Preservation Officer (Acting)
mwilcox@stanford.edu

Cc. Muwekma Tribal Council
NAGPRA File San Jose State University
Native American Heritage Commission
Cc: Muwekma Tribal Council
Native American Heritage Commission
Governor Gavin Newsom Office of the Tribal Advisor

Attachments:

EXHIBIT I

The California State University:
Chancellor's Office
Bakersfield
Channel Islands
Chico
Dominguez Hills
East Bay
Fresno
Fullerton
Humboldt
Long Beach
Los Angeles
Maritime Academy
Monterey Bay
Northridge
Pomona
Sacramento
San Bernardino
San Diego
San Francisco
San José
San Luis Obispo
San Marcos
Sonoma
Stanislaus

Date: November 15, 2021

From: Dr. Mary A. Papazian, President



To: Dr. Roberto Gonzalez, Chair, Anthropology
Dr. Charlotte Sunseri, Associate Chair, Anthropology

Cc: Dr. Vincent Del Casino, Provost and Senior Vice President,
Academic Affairs
Dr. Walt Jacobs, Dean, College of Social Sciences
Ryan M. Ward, Director of Advocacy and Federal Relations

Re: NAGPRA/CalNAGPRA/AB-275 Collections Management

I write to inform you that given the changes in California Law and to meet San José State University's goal to repatriate all Native American and Indigenous collections to local Tribes, all NAGPRA and CalNAGPRA-related collections will now be held and curated by the University and will no longer be the responsibility of the Department of Anthropology.

These changes will be effective immediately, and while we will not move the collections physically until repatriation is complete, the spaces that hold the collections (located in WSQ 026) will be under the purview of the Office of the President and will be managed by a President's designee. Once repatriation is complete, we will return these spaces to the oversight of the College of Social Sciences or the appropriate administrative area.

If there are any collections remaining in WSQ 026 that are not related to our campus effort to comply with NAGPRA, CalNAGPRA, and AB-275, please begin to move those to a new, secure location.

I appreciate all your work as Chair of Anthropology and thank you very much for your efforts in helping San José State University comply with all federal and state laws.

EXHIBIT J

The California State University:
Chancellor's Office
Bakersfield
Channel Islands
Chico
Dominguez Hills
East Bay
Fresno
Fullerton
Humboldt
Long Beach
Los Angeles
Maritime Academy
Monterey Bay
Northridge
Pomona
Sacramento
San Bernardino
San Diego
San Francisco
San José
San Luis Obispo
San Marcos
Sonoma
Stanislaus

January 18, 2022

To: Campus Community

From: Dr. Stephen Perez, Interim President



First issued by Dr. Mary A. Papazian, President, on October 6, 2021

Re: San José State University's Interim Protocol for Curation Spaces in
Alignment with NAGPRA, CalNAGPRA, AB 275
Interim Presidential Directive, PD-2021-03 (AMENDED)

OVERVIEW

San José State University has curated collections of human remains, artifacts, and funerary objects ("Collections") with technical support from faculty affiliated with the Department of Anthropology and in consultation with Native American tribes and Indigenous peoples for decades. For many years, faculty and supervised students were permitted to access the curated Collections for research and teaching purposes. Between 2008 and 2010, the Department adopted protocols for gaining access to and working with the Collections, which have been stored in a locked, secure location since the early 1990s.

In September 2020, California Governor Gavin Newsom signed into law Assembly Bill 275 ("Native American Cultural Preservation") which amends CalNAGPRA (the California Native American Graves Protection and Repatriation Act of 2001). Effective on January 1, 2021, the stated purpose of AB 275 is to "provide a seamless and consistent state policy to ensure that all California Indian human remains and cultural items be treated with dignity and respect." AB 275 requires agencies and museums that possess collections of Native American human remains and funerary objects, including SJSU, to inventory those collections for repatriation and to engage in consultations with Native American and Indigenous California tribes. As one of the agencies, SJSU must "defer to tribal recommendations for appropriate handling and treatment" of human remains and funerary objects. During initial consultations, several local Native American and Indigenous California tribes have asked SJSU to prescribe a stricter set of protocols to gain access to the remains and artifacts housed on our campus.

INTERIM PROTOCOL

Based on these initial consultations, the following interim protocol is effective immediately:

- The curation spaces at SJSU that house the Collections will be exclusively managed by the SJSU NAGPRA Coordinator and the SJSU Tribal Liaison, supplemented by student assistants who are appropriately trained and supervised to assist with the inventory process.
- The Collections will continue to remain in a locked, secure area on campus, and all access will be overseen by the SJSU NAGPRA Coordinator and the SJSU Tribal Liaison.
- Any physical access to or use of the Collections will require written approval of the NAGPRA Coordinator and Tribal Liaison after consultation and required affirmation by Tribal leaders.
- Audio, video, or photographic devices are prohibited in the curation spaces, as is taking photo images or videos of human remains, funerary objects, or the boxes in which these materials are held.

INTERIM SCOPE

This interim Presidential Directive applies to all SJSU faculty, staff, students, and administrators, as well as visitors to campus. It supersedes all previous protocols including those developed by the SJSU Department of Anthropology. This interim Presidential Directive will remain in place until a non-interim Presidential Directive is established.

EXHIBIT K



Dr. Vincent J. Del Casino Jr.
Provost and Senior VP for
Academic Affairs

San José State University
One Washington Square
San José, CA 95192-0020

TEL: 408-924-2400
provost@sjsu.edu

19 January 2022

Dear Chairperson Miranda and Members of the California Native American Heritage Commission,

I write to you as the campus Provost and Senior Vice President for Academic Affairs at San José State University ("SJSU" or "University"). As the University's Chief Academic Officer, I want to formally respond to your letter of October 11, 2021 and to update you on our work as it relates to full compliance with the Native American Graves Protection and Repatriation Act ("NAGPRA") and California's NAGPRA law ("CalNAGPRA").

On behalf of SJSU, I have apologized to the California Native American community in specific letters to the Commission and to the ten Tribes whose ancestors are caretaken on our campus for the posting of a photo to a personal twitter account by a SJSU faculty member in September 2021.¹ I again offer my sincere apology to the Commission and the Indigenous community for the harm these actions caused. As stated elsewhere, these actions are not reflective of the respect with which we want to engage our ongoing working relationships with local California Native American tribal governments.

SJSU takes respectful consultation, repatriation, and compliance with NAGPRA and CalNAGPRA seriously. As a campus, we have acted proactively to remain in compliance with and to respond to Tribes' concerns and requests throughout this process. As context, with the passage of AB-275, our work in Fall 2020 and Spring 2021 going into Fall 2021 focused on the development of protocols and timelines as well as preliminary outreach to the Tribes because we were largely a remote campus through August 2021.² The first formal consultations and on-site visits under AB-275 began in early September when we were back on campus and ran through the fall, although some outreach began as early as August 2019.³ Recent consultations led to new protocols that are now fully implemented, as discussed in more detail below.

In the letter to SJSU dated October 11, 2021, the Commission asked the University to take five actions with regard to its California Indian collections and four actions concerning Prof. Weiss. This letter provides an update in consideration of those concrete action requests and background information on SJSU's NAGPRA and CalNAGPRA work. The actions we have taken have resulted from collaboration with consulting California Native American Tribes to ensure that we are treating Native American ancestors and their cultural items with respect. While we have done our utmost to implement the Commission's requested actions, we remain open to the guidance of the Commission and California Native American Tribes as we continue to improve our processes and work toward complete repatriation of Native American human remains and cultural items in compliance with the intent and spirit of the law.

¹ Example of an email correspondence "Email to Tribal Leaders" (see attached).

² "SJSU Timeline on NAGPRA/CalNAGPRA/AB-275 Consultation," August 2019-present (attached)

³ See "Consultation Request from SJSU to Tribes August 2019" (see attached).

The Commission requested that SJSU take the following actions with regard to its California Native American NAGPRA/Cal NAGPRA collections:

(1) Staff with access to Native American collections receive training on state law requirements for handling California Indian remains and cultural items, treating with appropriate dignity and respect, and the importance of consulting with descendants and culturally affiliated tribes on any protocols to be used.

As described in more detail below, on October 6, SJSU limited those who have access to the collections to the SJSU NAGPRA Coordinator, Charlotte Sunseri, Ph.D., and the SJSU Tribal Liaison, Alisha Ragland, M.A., as well as a well-trained graduate student. This policy was amended on January 18, 2022 to strike language related to research and teaching. It also now reads that any access to the facility by anyone not already approved can only happen “after consultation and affirmation by Tribal leaders.” All visits to the collections include a Tribal Monitor as well. This is outlined in more depth below. The SJSU faculty who currently have access to the collections are very familiar with state law requirements for handling California Native American remains and cultural items, treating them with appropriate dignity and respect, and the importance of consulting with descendants and culturally affiliated tribes on any protocols to be used. The University has also engaged outside counsel to develop additional legal training for faculty and staff on CalNAGPRA requirements. This training will be recorded and taking the training will be a requirement for all faculty, staff, and students who request access to the CalNAGPRA collection.

(2) Staff receive training on cultural sensitivity, as well as the history of genocide and exploitation of Native Americans.

The University wants to engage with California Native American Tribes and Indigenous people to create and provide a cultural sensitivity training that includes the topics of the history of genocide and the exploitation of Native Americans. This is supported by the experience Ms. Ragland has in this work, for example, which is outlined below. This training will be a part of the requirements for any future faculty, staff and students who are granted access to the SJSU NAGPRA/CalNAGPRA collection through the Tribal consultation process. This training will also be recorded so that it will be available to future SJSU faculty, staff, and students.⁴ As described in more detail below, the University has consulted with California Native American Tribes and tribal governments on culturally respectful practices for the care and treatment of the ancestors and their cultural items.

(3) More stringent policies and procedures be permanently implemented governing access to and handling of California Indian remains and cultural items. In particular, SJSU should not be allowing its California Indian collections to be used for further research and teaching unless the affiliated California Indian tribe or lineal descendant gives express written consent for doing so and prescribes the proper protocols to be used for these purposes.

⁴ An example of this type of video can be found in the recent presentation by Chairwoman Charlene Nijmeh and Vice Chairwoman Monica V. Arellano of the Muwekma Ohlone, <https://www.sjsu.edu/diversity/land-acknowledgement/>

On October 7th, following the Presidential Directive of October 6th, the facility holding the collection was rekeyed, limiting access to the facility to only key personnel as described in more depth below. All requests to access the SJSU NAGPRA/CalNAGPRA collections must be approved by the consulting Tribe(s). Via the consultation process, multiple Tribal Governments have requested that no further research and teaching be conducted with Native American human remains in the SJSU NAGPRA/CalNAGPRA collection. Therefore, all requests for access to the collections for research and teaching have been denied. More information on access is provided below (also see amended Interim Presidential Directive that further codifies this in policy).

(4) That access to California Indian remains and cultural items continue to be limited to, and controlled by, those whose work is related to compliance with federal and state repatriation laws.

Knowledgeable NAGPRA/CalNAGPRA experts Dr. Charlotte Sunseri, Ph.D and Alisha Ragland, M.A., in collaborating with consulting Tribes, control access to the collection. More information about their expertise and this process is provided below.

(5) That any use of the collections for "teaching" purposes be limited to that necessary to comply with repatriation laws.

As explained above and in more detail below, based on consultation with the Tribes by Dr. Sunseri or Ms. Ragland, the use of the collections for teaching purposes is not permitted.

The Commission also requested that certain actions be taken concerning a SJSU faculty member:

The Commission has expressed concerns about the actions of one of SJSU's tenured faculty members and requested certain actions by the University including disciplinary action and further training. While we acknowledge the Commission's requests in this regard, respectfully, due to confidentiality obligations including under the Collective Bargaining Agreement with our faculty union, we are unable to discuss personnel matters related to an individual faculty member or to make any comment regarding disciplinary action. We will offer additional learning opportunities regarding reparations and cultural sensitivity to members of our campus community, and make such training a prerequisite to anyone authorized to have access to the NAGPRA and CalNAGPRA facility in the future.

Background and History on NAGPRA and CalNAGPRA at SJSU

As background, the California Native American remains referenced in your letter have long been held within a secured facility maintained by the Department of Anthropology, a unit in our College of Social Sciences, which is one of ten colleges that report to me as Provost. That department's faculty includes experts trained in NAGPRA as well as trained graduate students and lecturers with an educational background in CalNAGPRA. In 2019, in advance of the passage of AB 275 (Ramos, 2020), the Department of Anthropology established its NAGPRA transfer and repatriation protocol,⁵ which outlines

⁵ See "SJSU Protocol for Transfer of Collections for Purposes of NAGPRA" (see attached)

the steps for physical transfer of control. As discussed above, SJSU also reached out to Tribes in 2019 prior to AB-275 passage to discuss consultation. In Spring 2020, the Department repatriated three individuals to the Central California Yokuts NAGPRA Coalition. These three individual ancestors comprised SJSU's entire holdings of materials identified as culturally affiliated through the national NAGPRA process. The Department of Anthropology continued to caretake and is in compliance today with AB 275 for SJSU's remaining collections that were culturally affiliated with non-federally recognized Tribes and which are therefore not subject to NAGPRA.

Even before the passage of AB 275 in the Fall of 2020, the Chair of the Department of Anthropology had initiated conversations with the Dean of the College of Social Sciences to increase staffing to support the ongoing work related to CalNAGPRA on the campus. On April 29, 2021, the Department of Anthropology also affirmed its commitment to the tenets of NAGPRA and CalNAPGRA, as well as the new law AB 275, when its faculty standing committee unanimously approved its NAGPRA Statement.⁶ All faculty agreed to adhere to the statement. Indeed, all Department of Anthropology faculty affiliated with the work of CalNAGPRA also directly affirmed in meetings in April and May 2021 their adherence to the law.

To support SJSU's work on CalNAGPRA and in accordance with California law, the SJSU NAGPRA Coordinator, Charlotte Sunseri, Ph.D., contacted the NAHC in May 2021 to obtain a list of appropriate Tribal Governments to contact for consultation based on our collections which contain Native American human remains. At the same time, the SJSU administration met with leadership in the Department of Anthropology and the College of Social Sciences to discuss establishing a new position for a Tribal Liaison, which would be the first such position within the California State University system. The Tribal Liaison position was envisioned to support the work of NAGPRA coordination, and in particular the tribal consultations required for CalNAGPRA compliance and repatriation of ancestral remains. That discussion and the resulting nationally advertised search for an expert in local California Native American archeology led to the hiring of Alisha Ragland, M.A., who began her work on August 9, 2021. She joined our campus NAGPRA Coordinator, Dr. Sunseri, in our efforts to consult with all appropriate Tribes.

The consultation process, which had begun under Dr. Sunseri's leadership, was aided tremendously by the addition of Ms. Ragland to the campus team. Through their work, the NAGPRA Coordinator and Tribal Liaison have consulted with Tribal Governments on all collections containing or thought to contain Native American human remains, and have documented the protocols and handling procedures those Tribes requested, as well as information regarding cultural affiliations with collections and site locales. The SJSU team conducted inventories of funerary collections and human remains while accompanied by a Tribal Monitor, and with the aid of a SJSU graduate student whose curriculum vitae was reviewed and approved by Tribal representatives. The necessity for Tribal Monitors for these activities is both a personal preference of our campus experts as well as a recommendation they received during preliminary Tribal consultations. Those consultations and inventory activities led to the successful submission of our Preliminary Inventories

⁶ SJSU Department of Anthropology "NAGPRA Statement" (see screenshot of website attached)

and Summaries to the NAHC in December 2021, well in advance of the April 1, 2022 submission deadline required by AB 275.

Just as that tribal consultation work was gaining momentum, a faculty member at SJSU posted a photo on her personal Twitter account of herself holding the skull of a California Native American ancestor. I was informed of the tweet on September 27, 2021 and published a statement two days later stating that SJSU did not condone or endorse the practice of posing with human remains.⁷ This was a faculty member who had been engaged in NAGPRA-compliant work with human remains for nearly twenty years, who was part of the faculty standing committee that unanimously voted in April 2021 in support of the Department's NAGPRA statement, and who had directed her students that human remains were to be "handled with care, treated with respect, and not to be photographed."⁸ My September 29th statement reiterated and affirmed the University's commitment to compliance with CalNAGPRA as well as a faculty member's right to free speech on topics related to the law, although I noted that the tweet caused "shock and disgust" across the institution and in our community. Furthermore, on October 1st, in direct response to the tweet, I wrote to each of our Tribal community partners as well as the Native American Heritage Commission to apologize on behalf of SJSU for the harm that individual's post caused. In addition, in dialogue with Tribal leaders, we shared our Interim Presidential Directive and consulted with our Tribal community partners to ensure that the ancestors we caretake on their behalf are managed appropriately per our consultations. Further steps taken to implement this commitment are outlined below.

In October 2021 SJSU took further steps to secure the human remains and artifacts of California Native Americans that reside on our campus. In addition to the attached Interim Presidential Directive issued on October 6, 2021, SJSU further limited access to the facility holding those remains by physically rekeying it on October 7th and assigning keys to our campus NAGPRA Coordinator, Dr. Sunseri, and our Tribal Liaison, Ms. Ragland. No other University official or staff has keys to this space, aside from required safety personnel such as our University Police who would respond if the facility's alarm system was triggered, and University Facilities personnel who respond to alarms in the facility. In addition, any human remains or cultural artifacts not associated with a California Native American Tribe are being removed from this facility and moved to an independent lab.

To further secure the facility, the SJSU administration, by direction of then-President Mary Papazian and is affirmed by Interim President Perez, reassigned the caretaking facility space from the Department of Anthropology in the College of Social Sciences to the Office of the President on November 15, 2021.⁹ The

⁷ Del Casino, V.J., Jr. "The representational politics of science,"

<https://www.sjsu.edu/provost/communications/provost-updates/academic-affairs-messages/the-representational-politics-of-science.php>, Uploaded September 29, 2021; this was followed by a post on September 30, 2021, Weiss, E. "A response to the representational politics of science,"

<https://www.sjsu.edu/provost/communications/provost-updates/academic-affairs-messages/response-to-the-representational-politics-of-science.php>

⁸ See Department protocol adopted in Spring 2017 titled "Protocols_Spring2017(1)" and "ANTH155 Sec. 01 revised" course syllabus for Fall 2019 (attached).

⁹ Memo titled "NAGPRA CalNAGPRA AB 275 Collection Management MAP 11-2021" attached below.

NAGPRA Coordinator and the Tribal Liaison now report directly to me in their roles to ensure that this work remains a University-level priority. The Department of Anthropology and its faculty have no further responsibility, oversight, or direct access to these facilities.

It is important to note that one graduate student, with eight years of experience in Cultural Resource Management, who has been trained by Dr. Sunseri and Ms. Ragland to support the consultation work with the Tribes as well, has accompanied them into the facility for inventory purposes when a Tribal Monitor is present. The only other people who can access the CalNAGPRA-related facilities must have authorization from either Dr. Sunseri and/or Ms. Ragland, and all requests must also be approved by the consulting Tribes. Through the consultation process, multiple Tribes requested that no further teaching or research be conducted with these remains. The University has strictly adhered to the Tribes' requests and requirements, and has denied several requests from SJSU faculty for access to the CalNAGPRA-related human and non-human remains for research purposes.

In further response to the concerns identified in your October 11, 2021 letter, I want to assure you that NAGPRA Coordinator, Dr. Sunseri, has eleven years of experience in that role in addition to six years of doctoral education in Anthropological Archeology from the University of California Santa Cruz. Ms. Ragland has extensive training and experience in this work, having received her Master of Arts degree in Applied Anthropology in 2018. Ms. Ragland has also worked in Tribal relations for six years, while also leading numerous cultural sensitivity training sessions in Cultural Resource Management in California. Additionally, both Dr. Sunseri and Ms. Ragland have taught courses from an Indigenous Archeological perspective which involves more than consultation, it requires that academics and applied anthropologists collaborate with Tribal partners at every level of the research process. The NAGPRA Coordinator and Tribal Liaison both have extensive experience in cultural sensitivity and the history of genocide and exploitation of Native American people, and have even taught courses about such histories. The concerns expressed in your letter for developing cultural sensitivity trainings are most relevant to any future employees who might support our repatriation work related to the archeological, non-human collections for which we reported preliminarily summaries under the AB 275 process. We have begun discussions about developing a campus-wide training program that will fulfill that need. We will engage consulting Tribes in the development of content for this training as well.

More generally, I want to note that San José State University is working hard to repair the harm that has come from decades, and centuries, of neglect and/or outright violence, both physical and cultural, toward Native people. To that end, we recently submitted a letter in support of the Muwekma Ohlone's claim for federal recognition.¹⁰ We have also committed to the development of a Native American and Indigenous Student Success Center ("Center").¹¹ The Center provides a space for our Native American and Indigenous students to collaborate with faculty and staff as well as our California Native American Tribal partners.

¹⁰ See "SJSU Support Letter - Muwekma Ohlone Federal Recognition" (see attached).

¹¹ See story on the Center here "SJSU to Open New Resource Center for Native American and Indigenous Communities" <https://blogs.sjsu.edu/newsroom/2021/sjsu-to-open-new-resource-center-for-native-american-and-indigenous-communities/> (see attached).

These efforts complement the launch of GAIN, Gathering of Academic Indigenous and Native Americans, a campus affinity group that provides a space for faculty and staff to meet and advocate for direct change at SJSU. GAIN seeks to build community, visibility, and provide support for SJSU's Indigenous and Native American Faculty and Staff through campus activities and initiatives.

SJSU continues to meet the demands of this very important law. We have made investments and developed new policies and practices to protect California Native American human remains and cultural items with the respectful practices conveyed to us by California Native American Tribal Governments through the consultation process. We can assure the Commission that we will continue to maintain strict and consistently applied limitations, as outlined above, to our CalNAGPRA-related facility. Moreover, we are working directly with our Tribal partners to create new support and infrastructure for our Native American and Indigenous communities. We recognize that SJSU has a long way to go to restore your trust in our NAGPRA/CalNAGPRA practices. With the leadership of faculty such as Dr. Sunseri and Ms. Ragland, along with our policy changes that are consistent with tribal consultations, we believe we are on a good path. I look forward to participating in the Commission hearing on Friday, January 21, 2022 and continuing this learning process.

Respectfully,

A handwritten signature in blue ink, appearing to read 'V. Del Casino Jr.', is written over a light blue horizontal line.

Vincent J. Del Casino Jr., Ph.D.

Dear [Name],

I am writing to you as provost of San José State University to express my disappointment over a recent incident in which a member of the SJSU faculty posted a photo on social media. In the post, the faculty member appears to be posing with the remains of a Native American ancestor. This image does not align with the values of San José State University, as no one should pose with human remains. For many academics, it also does not comport with the ethical standards of their disciplines. I am deeply sorry, as this image was offensive to those in our Native American and Indigenous communities.

As a broader update, we are working on new protocols for accessing SJSU's curation space to ensure human remains and cultural items are handled in a professional and respectful manner and to ensure compliance with NAGPRA, CalNAGPRA, and AB 275 legislation. To that end, I am cc'ing Roberto Gonzalez, Chair of the Departments of Anthropology and Chicana/Chicano Studies along with our CalNAGPRA Coordinator, Charlotte Sunseri and our Tribal Liaison, Alisha Raglad, all of whom are also faculty members in our Department of Anthropology. As you may know, SJSU has already begun consultation and dialogue with local Native American community members about the treatment of human remains and artifacts as part of our implementation of AB 275. There is much more we need to do to build stronger bridges to area tribes and to our Native American and Indigenous students, staff, and faculty. Please know that we remain strongly committed to creating an educational environment that is equitable, inclusive, and respectful.

If you have any questions, you can reach out directly to me as well as Ryan Ward, Director for Advocacy and Federal Relations and an enrolled member in the Cowlitz Indian Tribe of the State of Washington. Ryan is included in this message.

Sincerely,

Vincent J. Del Casino Jr., Ph.D.

Provost and Senior Vice President for Academic Affairs

Email Sent to:

Muwekma Ohlone Tribe of the San Francisco Bay Area (Charlene Nijmeh, Chairperson)

cnijmeh@muwekma.org

Amah Mutsun Tribal Band of Mission San Juan Bautista (Irene Zwierlein, Chairperson)

amahmutsuntribal@gmail.com

Costanoan Rumsen Carmel Tribe (Tony Cerda, Chairperson)

rumsen@aol.com

Indian Canyon Mutsun Band of Costanoan (Ann Marie Sayers, Chairperson)

ams@indiancanyon.org

North Valley Yokuts Tribe (Katherine Perez, Chairperson)

canutes@verizon.net

The Ohlone Indian Tribe (Andrew Galvan, Mr.)

chochenyo@aol.com

Wilton Rancheria (Jesus Tarango, Chairperson)

jtarango@wiltonrancheria-nsn.gov

Wuksache Indian Tribe/Eshom Valley Band (Kenneth Woodrow, Chairperson)

kwood8934@aol.com

The Confederated Villages of Lisjan (Corrina Gould, Chairperson)

cvltribe@gmail.com

Tamien Nation (Quirina Luna Geary, Chairperson)

qgeary@tamien.org

SJSU Timeline on NAGPRA/CalNAGPRA/AB-275 Consultations and Outreach

August 20, 2019: Sunseri initiated consultations with Tribes regarding CA-ALA-329 repatriation, in communication with the national NAGPRA office.

October 2019: SJSU protocols approved for campus to repatriate human remains to tribes.

March 9, 2020: SJSU repatriates three ancestors to Central California Yokuts NAGPRA Coalition.

November 2020: NAGPRA staff attend a CSU conference on AB-275 compliance

December 30, 2020: NAHC notified institutions of AB-275 process, delayed arrival due to covid

April 15, 2021: COSS requests legal counsel to move forward with the first AB-275 steps

May 19, 2021: Request sent to NAHC for a list of consulting tribes associated with collections

June 22, 2021: Received NAHC lists of consulting tribes

July 28, 2021: Email consultation invitations sent to Tribes re: main sites in collection

August 9, 2021: Tribal Liaison position begins; Alisha's first duty day.

August 16, 2021: Addendum request for tribe lists of additional sites (isolates, WVC) sent to NAHC

August 25, 2021: Mailed consultation invitations to Tribes (duplicate of July 28 contents)

August 30, 2021: NAGPRA staff attend CSU conference on AB-275 compliance

September 14, 2021: The Ohlone Indian Tribe (Andrew Galvan) preliminary phone consultation

September 15, 2021: Muwekma Ohlone Tribe (Charlene Nijmeh) preliminary phone consultation

September 17, 2021: Group Consultation for CA-ALA-329; attended by The Amah Mutsun Tribal Band of Mission San Juan Bautista (Irene Zwierlein)

September 29, 2021: Wuksache Indian Tribe/Eshom Valley Band (Kenneth Woodrow) phone consultation and followed in writing re: no more studying/photos of human remains

September 29, 2021: The Ohlone Indian Tribe (Andrew Galvan) email

September 29, 2021: Email to all Tribes about changes to protocols based on their requests

September 30, 2021: Muwekma Ohlone Tribe (Charlene Nijmeh) email

September 30, 2021: NAHC response on Addendum request for list of consulting tribes

September 30, 2021: New sign in protocols for the Curational Facility

October 1, 2021: Tamien Nation (Quirina Luna Geary) phone consultation re: stricter limitations on access to curational spaces.

October 4, 2021: Muwekma Ohlone Tribe (Charlene Nijmeh) email

October 4, 2021: NAGPRA coordinator memo to SJSU President listing the tribes' requests regarding no handling or photography of human remains, halting research and teaching

October 6, 2021: Presidential Directive changes Curational Facility access; lock changed next day; Alisha sent directive to Tribes to show how this aligns with their requests

October 6, 2021: North Valley Yokuts Tribe (Katherine Perez) phone consultation (CA-ALA-329)

October 9, 2021: Muwekma Ohlone Tribe (Charlene Nijmeh) op-ed in the Mercury News; Roberto reached out with a response directly to her.

October 11, 2021: NAHC letter to SJSU President regarding mishandling of human remains

October 12, 2021: North Valley Yokuts (Katherine Perez) in person consultation (CA-ALA-329)

October 12, 2021: Muwekma Ohlone Tribe (Nijmeh; Arellano) zoom consultation (CA-ALA-329)

October 15, 2021: Indian Canyon Mutsun Band (Kanyon Sayers) zoom consultation

October 15, 2021: Confederated Villages of Lisjan Tribe (Corrina Gould; Deja Gould) zoom consultation (CA-ALA-329)

October 18, 2021: North Valley Yokuts (Katherine Perez) email

October 21-27, 2021: Emailed invitation for group consultation for sites CA-SCL-2A, -7A, -68, and -125 to all consulting Tribes.

October 27, 2021: The Ohlone Indian Tribe (Andrew Galvan) zoom consultation (CA-ALA-329)

October 29, 2021: North Valley Yokut (Katherine Perez) zoom consultation (SCL Group 1 sites)

November 1, 2021: Amah Mutsun Tribal Band (Val Lopez) zoom consultation (SCL Group 1 sites)

November 11, 2021: Tamien Nation (Quirina Luna Geary) zoom consultation (SCL Group 1 sites)

November 11, 2021: Confederated Villages of Lisjan (Corrina Gould) zoom consultation (SCL Group 1-3 sites)

November 12, 2021: Muwekma Ohlone Tribe (Charlene Nijmeh) zoom consultation (SCL Group 1-3 sites)

November 16, 2021: North Valley Yokut (Katherine Perez) and Ohlone Tribe (Andrew Galvan) zoom consultation (SCL Group 1-2 sites. ALA-342)

November 17, 2021: Request to consulting Tribes for a name/contact of a Tribal Monitor who can be present while we complete the preliminary Inventory and handling

November 17, 2021: Indian Canyon Mutsun Band (Kanyon Sayers) zoom consultation (SCL Group 1-3 sites)

November 17, 2021: Group zoom consultation for SCL Group 1-3 sites with North Valley Yokut (Katherine Perez), Ohlone Tribe (Andrew Galvan), Tamien Nation (Quirina Luna Geary)

November 18, 2021: United Auburn Indian Community zoom consultation (George Herbert collection)

November 23, 2021: Him-ren (Ruth Orta) in-person consultation (All ALA and SCL sites)

November 24, 2021: Confederated Villages of Lisjan (Corrina Gould) zoom consultation (ALA-342 and George Herbert collection)

November 29-December 3, 2021: Inventory work for CA-ALA-329 with Tribal Monitor

December 3, 2021: Inventory update for CA-ALA-329 sent to Tribes (who requested this) by email

December 6-10, 2021: Inventory work for CA-ALA-329, CA-SCL-125, CA-ALA-342, George Herbert collection, WVC and other smaller SCL sites with Tribal Monitor

December 10, 2021: Inventory update sent to Tribes (those who requested this) by email

December 13, 2021: Amah Mutsun Tribal Band (Val Lopez) email consultation (CA-SCR-12)

December 13-17, 2021: Inventory work for various SCL sites with Tribal Monitor

December 16, 2021: Buena Vista Rancheria of Me-Wuk Indians zoom consultation (George Herbert collection)

December 16, 2021: Muwekma Ohlone Tribe (Charlene Nijmeh, Monica Arellano) email consultation (Milpitas collection)

December 20, 2021: Inventory work for CA-SCR-12, Milpitas collection with Tribal Monitor

December 22, 2021: Preliminary Inventories and Summaries submitted by email to NAHC

January 18, 2022: Zoom meeting with NAHC to respond to October 11 letter

January 19, 2022: Preliminary Inventories and Summaries sent to Tribes with invitation for consultations as we finalize the database

----- Forwarded message -----

From: **Anthropology Department Mailbox** <anthropology@sjsu.edu>

Date: Tue, Aug 27, 2019 at 4:21 PM

Subject: SJSU Consultation Invitation, CA-ALA-329

To: Silvia Burley <office@cvmf.net>, Sabrina Garibay <sabre_na@yahoo.com>, Sara Dutschke Setshwaelo <Sara@ionemiwok.net>, Randy Yonemura <randy_yonemura@yahoo.com>, Jose Simon III <jsimon@middletownrancheria.com>, Charlene Nijmeh <Muwekma@muwekma.org>, Monica V. Arellano <Marellano@muwekma.org>, <muwekma@aol.com>, Andrew Galvan <chochenyo@aol.com>

Cc: David Tarler <david_tarler@nps.gov>, Mariah Soriano <mariah_soriano@nps.gov>, Roberto Gonzalez <roberto.gonzalez@sjsu.edu>, Charlotte Sunseri <Charlotte.Sunseri@sjsu.edu>

To Whom it May Concern,

We wish to initiate consultation that may lead to repatriation and respectful reburial of approximately 343 Native American individuals and cultural material removed from the CA-ALA-329 site near Newark/Fremont, Alameda County, California. Enclosed you will find a Draft Native American Graves Protection and Repatriation Act (NAGPRA) Culturally Unidentifiable Human Inventory.

San Jose State University (SJSU) continues to address our responsibilities and obligations under NAGPRA (25 USC 3002 Section 5) and enabling regulations (43 CFR Part 10.9(b)(2)(B)). The Anthropology Curatorial Facility at SJSU is responsible for compliance with NAGPRA and is working to update our records with the National NAGPRA office. The site was excavated by a SJSU team from 1962-1968 and SJSU is in physical possession of the human remains recovered, associated funerary objects, and other cultural items from this site.

In compliance with the Act and Regulation, we would like to initiate consultation and open conversation with you and invite you to be involved in phases of the NAGPRA process, including the inventory process. This invitation to consult has been extended to Indian tribes whose aboriginal territory includes Alameda County, California. Aboriginal territory determinations are based on Native American Heritage Commission MLD lists by county, National NAGPRA Documents and Publications resource pages and maps, and lists of tribal groups or federally-recognized tribes who were consulting parties in other institutions' NAGPRA Notices of Inventory Completion. Enclosed is a comprehensive list of those to whom this invitation was sent. If you know of any other Indian tribes, non-recognized groups, or individuals that may also have an interest, we would appreciate that information.

SJSU welcomes input from you on how the final inventory of the CA-ALA-329 site is conducted, particularly regarding its current status as culturally unaffiliated. We believe that the NAGPRA Section 5 (human remains and associated funerary objects) process would be expedited if we were to invite everyone to participate in an inter-tribal consultation. This would of course not

preclude anyone from also engaging in individual consultations. After establishing a list of parties interested in consultation, we will propose potential opportunities for inter-tribal consultation meetings. We welcome you to share input during a visit to our curational facility or phone and email conversations. It is our hope that the attached Consultation Request Form will aid in an efficient and productive consultation process.

This effort is being coordinated by Charlotte Sunseri (NAGPRA Coordinator) and Shannon Gallagher (NAGPRA Administrative Assistant), and we welcome you to contact us through email with any questions or concerns directed to: anthropology@sjsu.edu. We welcome your input on how you would prefer to proceed with consultation. Thank you very much for your time and thoughtful consideration. We hope to hear back from you soon.

Sincerely yours,
Dr. Charlotte Sunseri
NAGPRA Coordinator
Department of Anthropology
San José State University

SJSU Protocol for the Transfer of Collections for Purposes of NAGPRA:

In accordance with federal policy of the Native American Graves Protection and Repatriation Act of 1990 (NAGPRA), institutions must consult with Native American Tribes regarding the handling and possible return of human remains and cultural items. Following publication of a Notice of Inventory Completion (NIC) for culturally affiliated collections in the Federal Register, if no other requests for the collection are made in a subsequent 30-day period for public comment, the University can go forward with transferring collection materials to affiliated Tribes. The following protocol establishes procedures for the transfer of human remains and cultural items from San Jose State University to Tribes in the 90 days following the period of public comment on the NIC. No federal standards or requirements exist to oversee this process, so this procedure will be in place until University officials amend or change it.

I. Repatriation and Disposition Transfer Process

The following sequence of activities will be used to facilitate and complete transfers of control and possession.

1. Transfer of Control

If the University has a claim and/or a request in hand at the time of the Notice publication and no additional claims are submitted during the 30 day holding period the University will transfer control of the published collection on the 31st day to the claimant or requestor.

To finalize the Transfer of Control, the University NAGPRA Coordinator will send an "Acknowledgement of Transfer of Control" (Appendix A) to the claimant(s) and/or requestor(s) who have successfully gone through the review process. This document acknowledges those Native American lineal descendant(s), Indian tribe(s)/group(s) or Native Hawaiian organization(s) as being the legal controller ("Tribal Controller") of the published collection(s). A copy of the Acknowledgement document needs to be signed by both the SJSU Provost (or designee) and by the Native American lineal descendant(s) or Tribal Leader(s) and returned to the University for the Transfer of Control to be finalized. The final signed document will be retained in the Department of Anthropology files and a copy will be provided to the Dean and Provost.

SJSU will notify the national NAGPRA office of this Transfer of Control by a letter (Appendix A2) sent by the NAGPRA Coordinator and a copy of the signed Acknowledgement of Transfer of Control.

2. Preparing for the Transfer of Physical Custody

Following the transfer of control, the University's NAGPRA Coordinator will initiate and coordinate the transfer of custody between the University and the Tribal Controller(s).

- a. For transfers involving an individual Native American lineal descendant/family, Indian tribe/group or Native Hawaiian organization, the NAGPRA Coordinator will coordinate the date, place, and manner of the transfer pursuant to 43 C.F.R. § 10.10(d).
- b. For transfers involving multiple Native American lineal descendants, Indian tribes/groups, or Native Hawaiian organizations, the NAGPRA Coordinator will send each Tribal Controller a letter confirming the particular objects(s) or collection(s) to be transferred and request that the Tribal Controllers identify and mutually agree to an individual or individuals who will accept the transfer of custody of particular objects or collections on their

behalf (hereafter referred to as the “Transfer Recipient(s)”). See Appendix B for the Transfer Recipient Authorization Form which may be used to authorize Tribal Recipients. As a means of recording and verifying official decisions, and pursuant to 43 C.F.R. § 10.10(f), the University requires that each Tribe communicate to the NAGPRA Coordinator, in writing, the name(s) and contact information for the Transfer Recipient(s) that have been approved; written approval by letter or email can stand in place of individual signatures to the Transfer Recipient form. Tribal controllers are required to notify the University, in writing, if they are deferring on the selection of Transfer Recipient(s); if the University does not hear from a Tribal Controller within 30 days of the initial letter asking them to name a Transfer Recipient or to defer, the University will assume the Tribal Controller is deferring and will proceed with the transfer accordingly. There must be at least one party named as Transfer Recipient before the University can move forward with the transfer of custody.

3. All objects and collections awaiting transfer will remain in the University’s care and custody until the University has written verification from each of the Tribal Controllers that they have identified and come to a mutual agreement on at least one Transfer Recipient. Tribal Controllers may request access to objects or collections that are awaiting transfer and will be arranged on a case-by-case basis. All objects and collections awaiting transfer will not be made available to anyone for research, teaching, or exhibition purposes without the written consent of all Tribal Controllers.
4. Once the Transfer Recipient(s) is identified the transfer of possession must occur within 90 days of the transfer of control. If the University continues to hold the collection for longer than 90 days, a “Held-in-Trust Curation Agreement” must be agreed upon by the parties involved.
5. Physical Transfer of Object(s) or Collection(s)
 - a. Prior to the transfer of custody, an inventory check will be done between the physical object(s) and the finalized inventory as reported to National NAGPRA Office. This ensures that the process is transparent and that all reported cultural objects and human remains are accounted for prior to the transfer. The inventory cross-check must be completed by Transfer Recipient(s) at a mutually agreed time and location. The University’s NAGPRA Staff must be present during this process and may help in the cross-check if invited to participate by the Tribal Recipients. Photocopies of all signed inventory cross-check sheets will be made available to the Tribal Controllers by the University.
 - b. At the completion of the inventory cross-check by the Transfer Recipients, if the objects or collections are not leaving University property the same day, all boxes will be sealed with tape to indicate that the box has been inventoried and completed.
 - c. The Transfer Recipient(s) will be required to sign a Receipt of Physical Delivery (Appendix C) upon physical transfer of the collection. The document will specify the contents of the transfer and the names of the Tribal Recipient(s). The SJSU Provost (or designee) will sign on behalf of the University. For transfers involving multiple Tribal Controllers, a photocopy of the signed Transfer of Custody will be sent to each of them for their records.
 - d. Pursuant to 43 C.F.R § 10.10(f)(1), the University will generate a record of every repatriation and disposition it effectuates. These files will permanently document the contents, recipients, and processes observed for all repatriations and dispositions.



SAN JOSÉ STATE
UNIVERSITY

College of Social Sciences
Department of Anthropology
One Washington Square
San Jose, CA 95192-0113

ACKNOWLEDGEMENT OF TRANSFER OF CONTROL¹

¹This is the First of three forms to be completed in the repatriation/disposition process by Tribe Representatives and SJSU NAGPRA Staff. The Second is the Tribal Physical Recipient Authorization and the third is the Receipt for the Physical Delivery of Collections for Purposes of NAGPRA.

Collection name/number: _____

The Board of Trustees of California State University, and in particular its San Jose campus (collectively referred to as “CSU”) pursuant to and in conformance with the Native American Graves Protection and Repatriation Act of 1990 (“NAGPRA”) and its implementing regulations hereby acknowledges that the **{human remains/items/human remains and items}** described in the Federal Register Notice (**see {insert Citation, Date}**) and summarized in Section 1, below, are rightfully controlled by the Indian Tribe(s) listed in Section 2, below (hereinafter “Tribes”).

Section 1: Description of Objects (include accession number, brief description, quantity) (hereinafter “Collection(s)”). Attach full inventory for large collections.

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Pursuant to 43 C.F.R. § 10.10(e), the CSU informs the Tribe(s) that, to the best of its knowledge, it has no record or knowledge of any treatments of the Collection(s), with pesticides, preservatives or other substances that represent a potential hazard to the Collection(s) or to persons handling the Collection(s).

Section 2. Cultural Affiliation

Pursuant to 43 C.F.R. § 10.5(b), of NAGPRA, the following Tribe(s) have established by a preponderance of evidence the requisite cultural affiliation with the Collection(s). Therefore, in conformance with NAGPRA, the Tribe(s) are acknowledged to have the right to control of the Collection(s):

--

Pursuant to 43 C.F.R. § 10.10(d), in order to complete the repatriation/disposition of these Collection(s), the Collection(s) will be physically returned to the Tribe(s), on a date, at a place, and in a manner agreeable to CSU and the individual(s) identified and agreed to by the receiving Tribe(s) to accept the collection. When a repatriation/disposition involves multiple Tribes, CSU must receive written confirmation from all the Tribes regarding their mutual identification of, and agreement to, the identity of the individual(s) to whom physical delivery of the Collection(s) will be made prior to any such delivery.

Section 3. Location of Collections Pending Physical Delivery, Acknowledgement of Sufficiency of Process and Indemnification

The Tribe(s) hereby agree that until such time as physical possession by can be accomplished, the Collection(s) will be physically located at San Jose State University in the Anthropology Curational Facility. During this time period, CSU will store the Collection(s) as a gratuitous bailment and will continue to store and care for the materials with ordinary care for up to 90 days after the Notice Publication waiting period is over. If physical transfer of the collections will take place after this 90 day period, CSU will require a Held-in-Trust Curation Agreement to be signed between the Tribal Controllers and CSU. CSU, its officers, agents, employees, and/or volunteers will not be held liable for any damages or loss to the Collection(s) as of the date this acknowledgement is executed, unless any damage or loss results from the gross negligence of CSU.

Section 4. Agreement of Tribes re Repatriation/Disposition

The individuals signing on this Acknowledgement on behalf of the Tribe(s) represent and warrant that they have full authority to act on behalf of the Tribe(s) in this matter. By signing this Acknowledgement the Tribe(s) hereby agree: (1) the consultations in connection with this repatriation/disposition were sufficient and in compliance with NAGPRA; (2) they have been notified of any presently known treatment of the Collection(s) with pesticides, preservatives, or other substances that represent a potential hazard to the Collection(s) or to persons handling the Collection(s); and (3) they will accept control of these Collection(s). In consideration for the administrative actions taken by CSU in connection with this repatriation/disposition, the Tribe(s) (1) hereby release CSU and the State of California and their employees, agents, officers, volunteers of any liability and responsibility, both with respect to the repatriation/disposition and handling of these Collection(s).

_____ Date: _____
 Dr. Vincent J. Del Casino Jr.
 Provost and Senior Vice President for Academic Affairs, San Jose State University

_____ Date: _____
 Signature of Tribal Representative, Printed Name
 Tribe affiliation: _____

_____ Date: _____
 Signature of Tribal Representative, Printed Name
 Tribe affiliation: _____

Signature of Tribal Representative, Printed Name
Tribe affiliation: _____ Date: _____

Signature of Tribal Representative, Printed Name
Tribe affiliation: _____ Date: _____

Signature of Tribal Representative, Printed Name
Tribe affiliation: _____ Date: _____

Signature of Tribal Representative, Printed Name
Tribe affiliation: _____ Date: _____

Charlotte Sunseri, NAGPRA Coordinator
Department of Anthropology
One Washington Square
San Jose, CA 95192-0113
charlotte.sunseri@sjsu.edu
(408) 924-5710

Program Manager, National NAGPRA Program
1201 Eye St. N.W.
8th Floor
Washington, DC 20005

[Date]

Dear Program Manager:

I write to inform you that the Department of Anthropology at San Jose State University has transferred control of *[number and type of NAGPRA items]* to *[name of tribe]* by a separate document *[agreement/board action]*.

These items are described in a *[Notice of Inventory Completion or Notice of Intent to Repatriate, insert one]* that was published in the *Federal Register* on *[date and page number]*. As NAGPRA Coordinator, I determined that the items are culturally affiliated to the *[name of tribe]*. No other claimants have come forward. The claimant tribe was notified of the decision to repatriate these items in acknowledgement of the claim on *[date]*.

The tribe and Department of Anthropology at San Jose State University have arranged for the repatriation to occur on *[estimated date]*. We are ready to proceed with the transfer of possession.

Please do not hesitate to contact me by phone at (408) 924-5710, or by email (charlotte.sunseri@sjsu.edu).

Sincerely,

Charlotte Sunseri, NAGPRA Coordinator
Department of Anthropology



SAN JOSÉ STATE
UNIVERSITY

College of Social Sciences
Department of Anthropology
One Washington Square
San Jose, CA 95192-0113

TRANSFER RECIPIENT AUTHORIZATION¹

¹ This is the second of three forms to be completed in the repatriation/disposition process. The final one will be the Receipt for the Physical Delivery of Collections for Purposes of NAGPRA.

The Tribal Controllers for the below named NAGPRA Collection(s) have designated the following Tribal Recipient(s) to act on our behalf for the physical transfer of the collection(s) at a specified time and date to be determined between the Tribal Recipient(s) and the SJSU NAGPRA Staff.

Collection Number/Name: _____

Tribal Recipient(s) Name	Tribal Affiliation

We, the undersigned, are appointed NAGPRA Designees for the Tribes affiliated with the Collection(s). As Designees, the governing authorities of these tribes have authorized us to administer NAGPRA-related affairs on behalf of the Tribe. Our signatures indicate our agreement with contents of this document and support for the actions contained therein.

Signature of NAGPRA Designee	Printed Name	Tribe	Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____



SAN JOSÉ STATE
UNIVERSITY

College of Social Sciences
Department of Anthropology
One Washington Square
San Jose, CA 95192-0113

**RECEIPT FOR THE PHYSICAL DELIVERY OF COLLECTION(S) FOR THE PURPOSES
OF NAGPRA¹**

²This is the third and final form to be completed in the repatriation/disposition process.

The Tribal Controllers for the below named NAGPRA Collection(s) have designated the following Tribal Recipient(s) to act on the Tribe's behalf for the physical transfer of the collection(s). This document confirms that the Tribal Recipient(s) administered NAGPRA-related affairs regarding taking physical possession of the collections for purposes of NAGPRA. Signatures below indicate that San Jose State is no longer the curator, or in physical possession, of the collection described.

Collection Number/Name: _____

General collection description (of items transferred)

Signature of Tribal Recipient	Printed Name	Tribe	Date
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Signature of SJSU NAGPRA Staff

_____ Date: _____

Dr. Vincent J. Del Casino Jr.
Provost and Senior Vice President for Academic Affairs, San Jose State University

San Jose State University

Emergency Notification

COVID-19: Visit the [Health Advisories website](#) for the latest updates, FAQs, vaccination information, and to Report a Case.

Department of Anthropology

[SJSU Home](#)>[Department of Anthropology](#)>[News](#)>[NAGPRA Statement](#)

NAGPRA Statement

Statement on NAGPRA and Repatriation

The SJSU Anthropology Department is committed to helping the University fully comply with state and federal laws collectively known as NAGPRA (Native American Graves Protection and Repatriation Act), including California Assembly Bill 275. Our department supports efforts to repatriate Native American human remains, artifacts, and other objects of cultural patrimony.

Our department also reaffirms its commitment to serving as a liaison between the University, the United States NAGPRA Office, and the California Native American Heritage Commission; to participating in CSU's systemwide repatriation efforts; and to consultation-driven curation and cooperation with the Muwekma Ohlone and other Native American descendant communities on the timely repatriation of the University's collections. Since NAGPRA was first implemented in 1990, SJSU Anthropology Department faculty, staff, and student researchers have carefully complied with state and federal legislation, and we will continue to do so in the future.

For more information, please contact the Anthropology Department chair, [Roberto González](#).

Approved by a majority vote of the Department Standing Committee.

Protocols:

Dr. Weiss will let the volunteers into the curation and lab facilities and let them out of the facilities. At no time should the curation room or lab be left accessible or open, and unattended.

- a. Rooms are alarmed (with a security code) and key-locked; thus, the curator is required for access in and out of the facilities.
- b. Only the curator will have security codes to the curation room; security codes will not be granted to researchers.

Protocol for handling remains:

During Data Collection:

- c. All human remains will be handled with care.
- d. All human remains will be treated with respect; no tossing around bones, no using bones in jokes, etc.
- e. Bones should not be marked; do not use a pencil or pen to point out something on a bone; pointing sticks will be provided.
- f. Carry all skulls correctly; no fingers through the eyes or nose and use both hands.
- g. When examining skulls, the skulls should be placed on bean bags.
- h. Any bags containing remains that are opened should be re-stapled as the remains are returned into their boxes.
- i. All bones should be placed back in the correct location in the boxes (e.g., arm bones with other arm bones).
- j. As you finish each box, return all remains into the respective box. This ensures remains are not misplaced.
- k. No photography is allowed of the skeletal remains at all.

After Data Collection:

- l. You must return the remains to their appropriate location in the curation facility each time you finish the data collection for that day.
- m. You cannot leave remains in boxes outside the curation room or in boxes commingled with other individuals.

Additional restrictions:

- n. There is no eating, or drinking allowed in either the curation room or lab area. When working with remains do not eat or drink.
- o. There is no audible entertainment (e.g., radio) allowed in either the curation room or lab.
- p. You must have your cellphone put away for the entirety of the data collection session.
- q. You must clean up after working on the remains. Broom if necessary, wipe down tables, etc.
- r. You must put back any materials/tools used to collect data in their appropriate places.

These protocols are intended to preserve the quality of the collection and to ensure that other individuals can work on these remains the following day if they have permission to do so. If you are observed disregarding any of the regulations, you will not be allowed to continue in the volunteer position.

San José State University
School/Department
ANTH155, Human Osteology, Section 1, Fall 2019

Course and Contact Information

Instructor: Professor Elizabeth Weiss
Office Location: CL404R
Telephone: 408-924-5546
Email: Elizabeth.Weiss@sjsu.edu
Office Hours: TR 1200 - 1300; W (in WSQ002) 1200 - 1330
Class Days/Time: TR 1330 - 1445
Classroom: WSQ004

Course Description

The human skeletal system as an anatomical structure and biomechanical system. Lab experience in identification of osteological material and recognition of diseases associated with bone.

Course Learning Outcomes (CLO)

Upon completion of the course the students will be able to identify all 206 bones in the human body.

Required Texts/Readings

Textbook

White TD. 2005. The Human Bone Manual. Elsevier. ISBN: 9780120884674

Book is available at the University bookstore.

Course Requirements, Assignments, and Grades

COURSE REQUIREMENTS

Since this is a hands-on course, grades are based on quizzes (involving identification of skeletal material) and the final exam. There will be seven quizzes, which is about one every other week; each quiz is cumulative. Each quiz is worth 10% of your final grade. There will be a comprehensive final quiz, which is worth 30% of your final grade and will be held during final's week and cannot be taken earlier.

Procedures for taking the quizzes: students will have a set amount of time at each bone station, they will not compare stations by going back and forth to stations or moving bones. Students may visit each station

only once. Spelling counts. After all students have completed the quiz, lecture will resume. More information regarding quiz procedures will be provided on the quiz or exam days.

GRADING POLICY AND PROCEDURES

The final semester grade will be based on the following:

Quizzes:	7 X 10%	70%
Final Exam	1 X 30%	30%
Course Grade:		100%

There may be opportunities for extra credit on the quizzes in which an extra question is asked and must be answered correctly.

Grading is as followed:

A	B	C	D	F
97-100% = A plus 91-96% = A 90% = A minus	87-89% = B plus 81-86% = B 80% = B minus	77-79% = C plus 71-76% = C 70% = C minus	67-69% = D plus 61-66% = D 60% = D minus	Below 60% = F

Grades will be posted on turnitin.com. The information that you need to log in, add the class, and view your grades is:

Class ID: 21549173

Class Name: ANTH155_Fall2019

Password: bones

Attendance and Participation

Since this is a hands-on course with emphasis on identification skeletal materials, attendance and participation are essential. I highly recommend students attend class as often as possible; and, it is important to arrive on time and attend the entire class period. **I will not hold extra hours for those who missed class.**

Make-up Work

If you know in advance that you should be unable to attend a quiz, it is your responsibility to contact me immediately by either e-mailing, telephoning, leaving a message for me at the main department office, or coming by during my office hours. Only students with a valid documented excuse will be able to take make-up quizzes or the final exam. **Please note that it is not possible to make up class time.**

Classroom Protocol

I consider my students adults. Attendance is optional, but in class attendance is essential to preparation for quizzes and the final. When one attends lecture, one should arrive on time, behave appropriately, stay until the end of class, and pay attention. If one feels that they conduct themselves in this manner (for whatever reason), then one should not attend class. Any behavior deemed disruptive to the instructor or other students may result in being asked to leave the classroom or being referred to the Judicial Affairs Officer of the University.

No electronics (which includes cell phones and laptops) will be allowed out in class. Before class begins, you must turn off all electronics and put them out of sight. Rare exceptions may be made if the student has signed up with the Accessible Education Center (EAC), comes to see me regarding the issue, and has specific recommendation from the EAC for laptop use rather than a note-taker or other accommodation.

Discussions regarding student accommodations must be done in my office during office hours or at a scheduled appointment time.

All human remains will be handled with care, treated with respect, and not photographed. No photography is allowed in class or lab at all.

University Policies (Required)

Per University Policy S16-9 (<http://www.sjsu.edu/senate/docs/S16-9.pdf>), relevant information to all courses, such as academic integrity, accommodations, dropping and adding, consent for recording of class, etc. is available on Office of Graduate and Undergraduate Programs' [Syllabus Information web page](http://www.sjsu.edu/gup/syllabusinfo/) at <http://www.sjsu.edu/gup/syllabusinfo/>” Make sure to review these university policies and resources with students.

ANTH155/ Human Osteology, Fall 2019, Course Schedule

This schedule is subject to change with fair notice; any changes will be announced in class.

Course Schedule

Date	Topics, Readings, Assignments, Deadlines
8/22, R	Introduction to Course; Terminology. Chpts. 4 and 6
8/27, T	Hyoid and Vertebrae. Chpts. 4, 6, and 9
8/29, R	Vertebrae. Chpt. 9
9/3, T	Sternum and Ribs. Chpt. 10
9/5, R	Ribs. Chpt. 10
9/10, T	Quiz 1 (Hyoid, Vertebrae, and Thorax); Shoulder. Chpt. 11
9/12, R	Shoulder. Chpt. 11
9/17, T	Shoulder and Arm. Chpts. 11 and 12
9/19, R	Arm. Chpt. 12
9/24, T	Arm. Chpt. 12
9/26, R	Quiz 2 (Shoulder and Arm); Hand. Chpt. 13
10/1, T	Hand. Chpt. 13
10/3, R	Hand. Chpt. 13
10/8, T	Quiz 3 (Hand); Pelvis. Chpt. 14
10/10, R	Pelvis. Chpt. 14
10/15, T	Leg. Chpt. 15
10/17, R	Leg. Chpt. 15

Date	Topics, Readings, Assignments, Deadlines
10/22, T	Leg. Chpt. 15
10/24, R	Quiz 4 (Pelvis and Leg); Foot. Chpt. 16
10/29, T	Foot. Chpt. 16
10/31, R	Foot. Chpt. 16
11/5, T	Quiz 5 (Foot); Skull. Chpt. 7
11/7, R	Skull. Chpt. 7
11/12, T	Skull. Chpt. 7
11/14, R	Quiz 6 (Skull); Teeth. Chpt. 8
11/19, T	Teeth. Chpt. 8
11/21, R	Teeth. Chpt. 8
11/26, T	Quiz 7 (Teeth); Final Review
11/28, R	THANKSGIVING - NO CLASS
12/3, T	Final Review
12/5, R	Final Review

FINAL EXAM in WSQ004; Monday, December 16, 1215-1430

The California State University:
Chancellor's Office
Bakersfield
Channel Islands
Chico
Dominguez Hills
East Bay
Fresno
Fullerton
Humboldt
Long Beach
Los Angeles
Maritime Academy
Monterey Bay
Northridge
Pomona
Sacramento
San Bernardino
San Diego
San Francisco
San José
San Luis Obispo
San Marcos
Sonoma
Stanislaus

Date: November 15, 2021

From: Dr. Mary A. Papazian, President



To: Dr. Roberto Gonzalez, Chair, Anthropology
Dr. Charlotte Sunseri, Associate Chair, Anthropology

Cc: Dr. Vincent Del Casino, Provost and Senior Vice President,
Academic Affairs
Dr. Walt Jacobs, Dean, College of Social Sciences
Ryan M. Ward, Director of Advocacy and Federal Relations

Re: NAGPRA/CalNAGPRA (AB-275) Collections Management

I write to inform you that given the new legal compliance requirements resulting from changes to CalNAGPRA (AB 275) all NAGPRA and CalNAGPRA-related collections will now be held and curated by the University and will no longer be the responsibility of the Department of Anthropology.

These changes will be effective immediately. While we will not move the collections, physically, until repatriation is complete, the spaces that hold the collections (located in WSQ 026) will be under the purview of the Office of the President and will be managed by a President's designee. Once repatriation is complete, we will return these spaces to the oversight of the College of Social Sciences or the appropriate administrative area.

If there are any collections remaining in WSQ 026 that are not related to our campus effort to comply with NAGPRA, CalNAGPRA, and AB-275, please promptly move those to a new, secure location.

I appreciate all your work and thank you very much for your efforts in helping San José State University comply with all federal and state laws.



Office of the Provost
Academic Affairs Division

San José State University
One Washington Square
San José, CA 95192-0020

TEL: 408-924-2400
provost@sjsu.edu

The Honorable Deb Haaland
Secretary of the Interior
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Haaland:

I write in support of the Muwekma Ohlone Indian Tribe's efforts seeking federal recognition. Such recognition will bring an important measure of long-overdue justice to the Muwekma Ohlone people.

San José State University has had the honor of working with representatives of the Muwekma Ohlone Tribe, including Chairwoman Charlene Nijmeh and Vice-Chairwoman Monica Arrellano, and we acknowledge that our campus is located on the ancestral lands of the Muwekma Ohlone people. We also house some of their ancestral remains within our campus and value their partnership as we engage in the repatriation of those remains under California state law.

The Muwekma Ohlone people lived in the San Francisco Bay Area prior to the arrival of the Spanish, and the present-day Muwekma Ohlone Indian Tribe comprises all of the known surviving American Indian lineages aboriginal to the San Francisco Bay region. Substantial and compelling historical, ethnographic, and archeological evidence demonstrates their connection to the area and their continuity as a tribal government over such time.

Many federal government services and protections available to Native American tribal governments and individual members are contingent upon a tribe's ability to secure federal recognition. The direct ancestors of the present-day Muwekma Tribe were federally acknowledged by the U.S. Government through the Appropriation Acts of Congress of 1906 and later years. Today, all of Muwekma's tribal members are directly descended from that previously federally recognized tribe.

Because the Muwekma Ohlone Tribal government survives and thrives today, that leadership plays a pivotal role in the San Francisco Bay Area through its engagement with local governments, community groups, and universities like SJSU. Federal recognition status will affirm the tribe's inalienable sovereignty, while also ensuring that its citizens will benefit from the services, grant funding, and protections that flow from the trust relationship with the U.S. Government.

Other California Tribes in similar situations as the Muwekma Ohlone have had their status positively clarified by administrative actions of previous Assistant Secretaries of Indian Affairs. After decades of struggling to gain recognition for their sovereign status, it is time to give the Muwekma Ohlone people the justice they deserve.

Sincerely,

A handwritten signature in black ink, appearing to read "Vincent J. Del Casino, Jr.", written over a horizontal line.

Vincent J. Del Casino, Jr.
Provost and Senior Vice President for Academic Affairs
Professor of Urban and Regional Planning

Cc: Bryan Newland, Assistant Secretary-Indian Affairs, U.S. Department of the Interior
Daryl LaCounte, Director, Bureau of Indian Affairs

SJSU to Open New Resource Center for Native American and Indigenous Communities

by Robin McElhatton | Dec 16, 2021 | Diversity, Equity and Inclusion, Featured

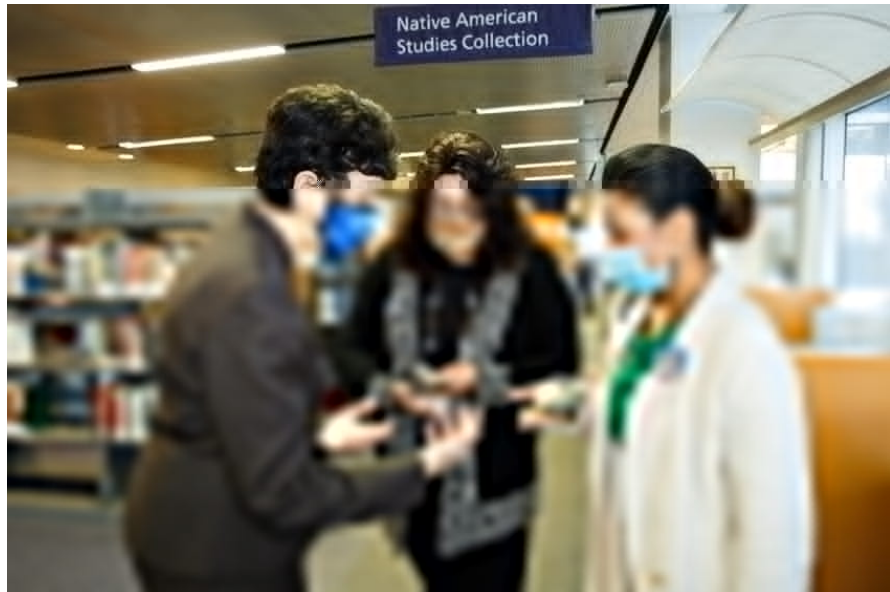


(L-R) Tuan Nguyen, Field Representative, Office of Assembly Member Ash Kalra, 27th Assembly District, Monica Arellano, Vice-Chairwoman, Muwekma Ohlone Tribe, Charlene Nijmeh, Chairwoman, Muwekma Ohlone Tribe, Benjamin Anderson, Assistant Professor, Department of Accounting and Finance, Lucas College and Graduate School of Business & President, Gathering of Academic Indigenous and Native Americans and SJSU President Mary A. Papazian. Photo: David Schmitz

Today, San José State University (SJSU) announced the establishment of a new resource center to support students, faculty, and staff from, or whose ancestors are from, Native American and Indigenous communities. The center will also be accessible to South Bay Area tribes and community members, including the Muwekma Ohlone Tribe.

“Inherent in SJSU’s ongoing diversity and inclusion work is the need to acknowledge and speak to the inequities that have historically been part of the fabric of our society and, yes, our own university,” said President Mary A. Papazian. “This new resource center for our Native American and Indigenous communities aligns with those goals and will be a critical component of our increased efforts to build stronger, supportive relationships with those communities.”

Representatives from the Muwekma Ohlone Tribe, including Chairwoman Charlene Nijmeh and Vice-Chairwoman Monica Arellano, attended the event and spoke about the Muwekma Ohlone’s connection to SJSU and the importance of providing resources to Native American and Indigenous students.



SJSU President Mary A. Papazian with Monica Arellano, Vice-Chairwoman, Muwekma Ohlone Tribe and Charlene Nijmeh, Chairwoman, Muwekma Ohlone Tribe. Photo: David Schmitz

“The Muwekma Ohlone Tribe has more than a 40-year history working with SJSU on many issues that affect our Indigenous communities, and we look forward to the opening of a Native American and Indigenous Resource Center at SJSU, which we hope will strengthen and enhance the partnership between the tribe and the university,” said Muwekma Ohlone Tribe Chairwoman Charlene Nijmeh. “The Tribe is also excited to collaborate with SJSU on potentially naming the facility in our Chochenyo language and establishing a presence on campus to interact and share our story with SJSU staff and students.”

Chairwoman Nijmeh added, “We also hope this Native American center on campus not only honors today’s Native communities but also creates a safe space to explore the relationships between our shared communities both in the past and today. We must all look to each other to help foster a better understanding of the historical trauma Indigenous communities faced in order to help the healing we need to move past our painful history and forge a more inclusive and positive relationship with each other.”

The San José State campus sits on the ancestral lands of the Muwekma Ohlone people. The university also houses some of its ancestral remains and is currently engaging in the repatriation of those remains under California state law.

In December 2021, SJSU sent a letter urging U.S. Secretary of the Interior Deb Haaland to clarify the Muwekma Ohlone Tribe’s federal status.

“The Muwekma Ohlone Tribal government survives and thrives today,” said Vincent J. Del Casino, Jr., provost and senior vice president for Academic Affairs. “After decades of struggling to gain recognition for their sovereign status, it is time to give the Muwekma Ohlone people the justice they deserve.”

The center will receive seed funding from the Adobe Anchor Institution gift, which will allow the center to provide digital literacy resources and

tools for Native American faculty and students.

The Native American and Indigenous Resource Center is expected to open in 2022.

Related Stories



Adobe Gift to Fund Hispanic-Serving Institute at San José State

Honoring Native American and Indigenous Heritage, Sovereignty and Future: A Q&A with SJSU Tribal Liaison Alisha Marie Ragland

SJSU Launches Inaugural Racial Justice Event

Looking Back on the Foundation of SJSU's PRIDE Center



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EXHIBIT L

Hello. Thank you so much for inviting me here today. It is an honor to speak with the Commission. I am Vincent Del Casino, the Provost and Senior Vice President of Academic Affairs here. I am joined by my colleague Dr. Charlotte Sunseri, our campus NAGPRA Coordinator for the last eleven years. She can answer specific questions about our work to implement our NAGPRA and CalNAGPRA processes. I would like to outline San José State University's commitment to and progress on our goal of repatriation in compliance with the Native American Protection and Repatriation Act and CalNAGPRA, including AB-275. My comments are further outlined in the written response I provided. Thank you for entering that letter into the record. SJSU has some additional supporting documentation that we hope to submit with appropriate redactions so that they can also be included in the record.

Before I go into those details, though, it is very important to recognize that today I speak from the ancestral lands of the present-day Muwekma Ohlone Tribe. The Tribe is comprised of all known surviving American Indian lineages aboriginal to the San Francisco Bay region who trace their ancestry through the Missions Santa Clara, San José, and Dolores, and who are the successors and living members of the sovereign, historic, previously federally-recognized Verona Band of Alameda County. We recognize the importance of this land to the Indigenous peoples of this region, and consistent with our principles strive to be good stewards on behalf of the Muwekma Ohlone Tribe whose land we occupy. I also want to acknowledge that SJSU strongly

supports the Muwekma Ohlone Tribe's effort to reclaim their federal recognition, including advocating for that recognition in a letter to the US Secretary of the Interior in December of 2021.

I want to say that I am personally and deeply sorry for the harm and pain that has been caused by the treatment of an Indigenous ancestor. I reached out directly to the ten Tribes whose ancestors we caretake at SJSU to offer my apology in early October 2021. I am here to assure you that SJSU is fully committed to the repatriation of all the ancestors we caretake as we fully comply with the law. In my remaining time, then, I want to cover three topics: the Consultation Processes, Access to the Ancestors and Facilities Management, and Training and Education.

Consultation with Indigenous peoples is a cornerstone of our CalNAGPRA work. SJSU's NAGPRA Coordinator made initial outreach to Tribal Leaders as early as August 2019, before AB-275 was passed, to begin informal conversations about repatriation. Once the law went into effect, SJSU submitted materials to the NAHC in May 2021 and began contacting Tribal leaders in July of 2021 after we received the NAHC response in June. In August of 2021, we hired Ms. Alisha Marie Ragland as our campus Tribal Liaison. She immediately initiated formal written requests to the Tribes. Consultations began in early September. Preliminary inventories,

developed in collaboration with a Tribal Monitor, were completed and submitted in December 2021.

Those consultations have led to new protocols and practices at SJSU that have impacted our facilities management and access to the collection. For example, in late September 2021 the Tribes requested no further teaching, research or photography happen on the collection. By October 6th, these consultations led to the first draft of an Interim Presidential Directive and subsequent steps to manage access to the collections. We updated that Interim Presidential Directive on January 18th, 2022 to affirm that no further teaching or research will be conducted on the collection and that, to quote that policy, “Any physical access to or use of the Collections will require written approval of the NAGPRA Coordinator and Tribal Liaison after consultation and required affirmation by Tribal leaders.”

While our collections have always been in a locked, secured facility, following the Presidential Directive we immediately rekeyed the facility so that only the NAGPRA Coordinator and the Tribal Liaison had keys and security codes. We also began to remove all non-CalNAGPRA materials from the facility. These are now being placed in a separate secured lab. Furthermore, and based on consultations, any visit to the collection requires a Tribal Monitor. We also moved the authority of the facility to the Office of the President in November 2021, while in January

2022 both the NAGPRA Coordinator and Tribal Liaison began reporting to me as Provost. These are not symbolic moves. This collection is no longer the responsibility of an academic area; it is not subject to any further research or teaching, and the facility is used only for AB-275 compliance and repatriation efforts. The University's singular goal is repatriation.

What does this mean in practice? As I mentioned, I am the Provost and Chief Academic Officer of the institution. As Provost, I am not allowed to access this facility. If I wanted access, I would have to request it. It would only be granted after the NAGPRA Coordinator and Tribal Liaison consulted with the Tribes. And, then, if I were granted access, it would be with a Tribal Monitor as well as the Coordinator and Liaison.

I want to also provide assurance about the expertise of our NAGPRA Coordinator and Tribal Liaison, both of whom continue to have access to the facility. Both Dr. Sunseri and Ms. Ragland have extensive experience in cultural sensitivity including the history of genocide, structural violence, and exploitation of Native American peoples. They have taught courses about these important histories. Dr. Sunseri has also worked alongside Paiute communities near Mono Lake to gather documentation and oral histories needed to petition the government for federal recognition, and is contributing to similar efforts in collaboration with the Dunlap Band of Mono Indians. Ms. Ragland, whose ancestry includes Chumash and Italian heritage, has worked

in Tribal Relations for over six years, while also leading numerous trainings on cultural sensitivity. Her Master's thesis, titled "Resisting Erasure: The History, Heritage, and Legacy of the Muwekma Ohlone," was a collaborative project that aligned closely with the Tribe's goals of reclamation and cultural persistence. We have also initiated conversations with our Native American community partners to discuss how and in what ways we can better integrate both their voices and expertise into the broader onboarding and education of faculty, staff, and students here at SJSU, including any faculty or staff who might work directly with the collection in the future.

To conclude, I want to strongly reiterate that SJSU is fully committed to repatriation and the importance of consultation and the management of the facility that is involved in AB-275. Each step of the way, we have adjusted policies and protocols based on Tribal consultations; in some cases, such as shifting the oversight of the facility to the Office of the President, we have augmented what was required via consultation. The Native California ancestors' remains in our care will be treated respectfully as we work toward repatriation as our ultimate goal. The facility housing them will be treated as an administrative space not be accessed for photography, research, or teaching. SJSU is honored to have the responsibility to be the temporary home to these ancestors. We look forward to responding to any questions you may have.

Thank Commissioner McQuillen for her great questions. You're happy to answer them.

RE: moratorium. Updated Presidential directive, right?

EXHIBIT M



**NATIVE AMERICAN HERITAGE COMMISSION
OPEN SESSION M E M O R A N D U M**

January 20, 2022

To: Native American Heritage Commission
From: Vanessa Racehorse, CalNAGPRA Attorney
Re: Action Item: Mishandling of California Indian Human Remains at San
Jose State University

OVERVIEW

This memorandum serves to update the Commissioners on actions taken to address the mishandling of California Indian human remains that occurred on September 29, 2021, at San Jose State University (SJSU). This incident, the initial actions taken by Commission staff, and updates are detailed below.

BACKGROUND

On September 29, 2021, Native American Heritage Commission (Commission) staff was notified about a photograph posted on Twitter by SJSU Professor Elizabeth Weiss. The photograph shows Professor Weiss posing with a human skull, grinning enthusiastically, while handling the skull without gloves. The post is captioned "So happy to be back with some old friends @SJSU #anthrotwitter #archaeotwitter."¹

On September 30, 2021, Chairwoman Charlene Nijmeh from the Muwekma Ohlone Tribe sent a response letter, copying the Commission. Prior to this incident, on August 25, 2021, the Muwekma Ohlone Tribe had also submitted a direct request to SJSU for consultation purposes.

On October 1, 2021, SJSU Provost and Senior Vice President for Academic Affairs Vincent J. Del Casino, Jr., sent an email to the Commission regarding SJSU's response to this incident and updating the Commission on SJSU's efforts related to CalNAGPRA. On October 6, 2021, Provost Del Casino also sent SJSU's Interim Protocol for Curation Spaces,²

¹ See Attachment 1.

² See Attachment 2.

which, at the request of several California Indian tribes, set stricter protocols to gain access to the human remains and artifacts housed on SJSU's campus.

CALNAGPRA APPLICABILITY

This issue is within the Commission's purview, as the skull is almost certainly part of SJSU's Native American collection that is subject to the California Native American Graves Protection and Repatriation Act (CalNAGPRA). Prof. Weiss is standing in a room full of boxes marked with archaeological site trinomials starting with "CA-ALA," establishing that their contents originate from Alameda County, California. A news article was released shortly thereafter, which reported that the skull is part of the collection of Native American remains affiliated with the Muwekma Ohlone Tribe.³ Additionally, SJSU Provost and Senior Vice President for Academic Affairs Vincent J. Del Casino, Jr. noted that Weiss is "standing in a SJSU curational space, which holds the remains of hundreds of Native American peoples, many of whom are from Muwekma Ohlone and other area tribes."⁴

CalNAGPRA requires higher educational institutions that receive state funds, including SJSU, to complete an inventory of California Indian human remains and associated funerary objects in its possession or control by January 1, 2022. (Cal. Health & Saf. Code, §§ 8012, subd. (i), 8013, subd. (b).) Prior to any additional inventory work being done on its collections, SJSU is required to consult with affiliated California Indian tribes on protocols to be used during the inventory process for remains and cultural items, including "minimizing handling." (Cal. Health & Saf. Code, § 8013, subd. (b)(1)(B)(1).)

There is no evidence that Prof. Weiss consulted with any affiliated California tribes on proper protocols to be used in the handling of the remains, including their handling without gloves, photographing, distribution, and depiction on a social network.

COMMISSION RESPONSE

On October 11, 2021, Commission staff sent an initial response letter to SJSU President, Dr. Mary A. Papazian.⁵ The letter requested that SJSU take the following immediate actions with regard to its California Indian collections:

- Staff with access to Native American collections receive training on state law requirements for handling California Indian remains and cultural items, treating them with appropriate dignity and respect, and the importance of consulting with descendants and culturally affiliated tribes on any protocols to be used.
- Staff receive training on cultural sensitivity, as well as the history of genocide and exploitation of Native Americans.

³ See The Mercury News, *San Jose State: Professor smiling with Native American skull ignites fiery debate* (Oct. 4, 2021), <https://www.mercurynews.com/2021/10/04/san-jose-state-professor-smiling-with-native-american-skull-ignites-fiery-debate/>.

⁴ Vincent J. Del Casino, Jr., *The Representational Politics of Science* (Sept. 29, 2021), at <https://www.sjsu.edu/provost/communications/provost-updates/academic-affairs-messages/the-representational-politics-of-science.php>.

⁵ See Attachment 3.

- More stringent policies and procedures be permanently implemented governing access to and handling of California Indian remains and cultural items. In particular, SJSU should not be allowing its California Indian collections to be used for further research and teaching unless the affiliated California Indian tribe or lineal descendant gives express written consent for doing so and prescribes the proper protocols to be used for these purposes.
- That access to California Indian remains and cultural items continue to be limited to, and controlled by, those whose work is related to compliance with federal and state repatriation laws.
- That any use of the collections for “teaching” purposes be limited to that necessary to comply with repatriation laws.

With regards to Prof. Weiss, the letter also requested the following:

1. Guarantees from SJSU that Prof. Weiss will no longer have access to SJSU's collection of California Indian human remains.
2. Appropriate disciplinary action be taken against Prof. Weiss for her failure to adhere to state law by failing to consult with affiliated tribes concerning the treatment of California Indian remains and cultural items, including failing to minimize handling.

The letter requested that SJSU attend the Commission's public meeting then-scheduled for November 5, 2021, to provide an update on what steps SJSU is taking to meet these requests and to fulfill its obligations under CalNAGPRA. Because of the November 5th Commission meeting's cancellation, Commission staff requested that SJSU attend the Commission's public meeting scheduled for January 21, 2022.

Since October, SJSU has updated Commission staff on certain steps SJSU has taken, such as stricter protocols to gain access to the human remains and artifacts currently housed on SJSU's campus. Commission staff met with representatives from SJSU on January 18, 2022, and was informed that SJSU intends to develop and require a cultural sensitivity training for any faculty, staff and students granted access to the SJSU NAGPRA/CalNAGPRA collection. Additionally, SJSU has consulted with multiple tribal governments and revised their policy so that no further research and teaching will be conducted with Native American human remains in the SJSU NAGPRA/CalNAGPRA collection. On January 19, 2022, SJSU Provost and Senior Vice President for Academic Affairs Vincent Del Casino, Jr., provided a formal written response and update to the Commission.⁶

⁶ See Attachment 4.



Elizabeth Weiss @eweissunbur... · Sep 18



So happy to be back with some old friends
@SJSU #anthrotwitter #archaeotwitter



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The California State University:
Chancellor's Office
Bakersfield
Channel Islands
Chico
Dominguez Hills
East Bay
Fresno
Fullerton
Humboldt
Long Beach
Los Angeles
Maritime Academy
Monterey Bay
Northridge
Pomona
Sacramento
San Bernardino
San Diego
San Francisco
San José
San Luis Obispo
San Marcos
Sonoma
Stanislaus

October 6, 2021

To: Campus Community

From: Dr. Mary A. Papazian, President



Re: San José State University's Interim Protocol for Curation
Spaces in Alignment with NAGPRA, CalNAGPRA, AB 275
(Interim Presidential Directive, PD-2021-03)

OVERVIEW

San José State University has curated collections of human remains, artifacts, and funerary objects ("Collections") with technical support from faculty affiliated with the Department of Anthropology and in consultation with Native American tribes and Indigenous peoples for decades. For many years, faculty and supervised students were permitted to access the curated Collections for research and teaching purposes. Between 2008 and 2010, the Department adopted protocols for gaining access to and working with the Collections, which have been stored in a locked, secure location since the early 1990s.

In September 2020, California Governor Gavin Newsom signed into law Assembly Bill 275 ("Native American Cultural Preservation") which amends CalNAGPRA (the California Native American Graves Protection and Repatriation Act of 2001). Effective on January 1, 2021, the stated purpose of AB 275 is to "provide a seamless and consistent state policy to ensure that all California Indian human remains and cultural items be treated with dignity and respect." AB 275 requires agencies and museums that possess collections of Native American human remains and funerary objects, including SJSU, to inventory those collections for repatriation and to engage in consultations with Native American and Indigenous California tribes. As one of the agencies, SJSU must "defer to tribal recommendations for appropriate handling and treatment" of human remains and funerary objects. During initial consultations with several local Native American and Indigenous California tribes have asked SJSU to prescribe a stricter set of protocols to gain access to the remains and artifacts housed on our campus.

INTERIM PROTOCOL

Based on these initial consultations, the following interim protocol is effective immediately:

- The curation spaces at SJSU that house the Collections will be exclusively managed by the SJSU NAGPRA Coordinator and the SJSU Tribal Liaison, supplemented by student assistants who are appropriately trained and supervised to assist with the inventory process.
- The Collections will continue to remain in a locked, secure area on campus, and all access will be overseen by the SJSU NAGPRA Coordinator and the SJSU Tribal Liaison.
- Any physical access to or use of the Collections, including for research or teaching, will require written approval of the NAGPRA Coordinator and Tribal Liaison.
- Audio, video, or photographic devices are prohibited in the curation spaces, as is taking photo images or videos of human remains, funerary objects, or the boxes in which these materials are held.

INTERIM SCOPE

This interim Presidential Directive applies to all SJSU faculty, staff, students, and administrators, as well as visitors to campus. It supersedes all previous protocols including those developed by the SJSU Department of Anthropology. This interim Presidential Directive will remain in place until a non-interim Presidential Directive is established.



STATE OF CALIFORNIA

Gavin Newsom, Governor

NATIVE AMERICAN HERITAGE COMMISSION

October 11, 2021

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Submitted via Electronic and USPS Mail

Re: Mishandling of California Indian Human Remains at San Jose State University in Violation of CalNAGPRA

Dear President Papazian:

On September 29, 2021, the Native American Heritage Commission (Commission) was notified about a photograph posted on Twitter by San Jose State University (SJSU) Professor Elizabeth Weiss. The photograph shows Prof. Weiss posing with a human skull, grinning enthusiastically, while handling the skull without gloves. The post is captioned "So happy to be back with some old friends @SJSU #anthrotwitter #archaeotwitter."¹

The Commission is aware that the skull is reportedly part of the collection of Native American remains affiliated with a California Indian tribe.² Prof. Weiss is also standing in a room full of boxes marked with archaeological site trinomials starting with "CA-ALA," establishing that their contents originate from Alameda County, California. Provost and Senior Vice President for Academic Affairs Vincent J. Del Casino, Jr. noted that Weiss is "standing in a SJSU curational space, which holds the remains of hundreds of Native American peoples, many of whom are from Muwekma Ohlone and other area tribes."³

The Legislature passed the California Native American Graves Protection and Repatriation Act (CalNAGPRA—Health & Saf. Code, § 8010, et seq.) in 2001, to ensure that all California Indian human remains be treated with

¹ See Attachment A.

² See The Mercury News, *San Jose State: Professor smiling with Native American skull ignites fiery debate* (Oct. 4, 2021).

³ Vincent J. Del Casino, Jr., *The Representational Politics of Science* (Sept. 29, 2021), at <https://www.sjsu.edu/provost/communications/provost-updates/academic-affairs-messages/the-representational-politics-of-science.php>.

dignity and respect as part of the repatriation process. CalNAGPRA requires higher educational institutions that receive state funds, including SJSU, to complete an inventory of California Indian human remains and associated funerary objects in its possession or control by January 1, 2022. (Cal. Health & Saf. Code, §§ 8012, subd. (i), 8013, subd. (b).) Prior to any additional inventory work being done on its collections, SJSU is required to consult with affiliated California Indian tribes on protocols to be used during the inventory process for remains and cultural items, including "minimizing handling." (Cal. Health & Saf. Code, §§ 8013, subd. (b)(1)(B)(i).)

To the Commission's knowledge, Prof. Weiss failed to consult with any affiliated California tribes on proper protocols to be used in the handling of the remains, including their handling without gloves, photographing, distribution, and depiction on a social network. This fact is particularly more egregious given that at least one affiliated California Indian tribe made a direct request to SJSU for consultation prior to this incident.⁴

The failure to proactively consult with tribes about the handling of remains and cultural items, coupled with Prof. Weiss's behavior, raises related concerns about SJSU's existing policies and protocols governing its California Indian collections. The Commission appreciates SJSU's October 6, 2021, interim Presidential Directive PD-2021-03, regarding SJSU's Interim protocol for curation spaces. Although the Commission believes this stricter set of protocols is a step in the right direction, SJSU must do more to ensure future compliance with CalNAGPRA.

Accordingly, the Commission requests SJSU take the following actions with regard to its California Indian collections:

- Staff with access to Native American collections receive training on state law requirements for handling California Indian remains and cultural items, treating them with appropriate dignity and respect, and the importance of consulting with descendants and culturally affiliated tribes on any protocols to be used.
- Staff receive training on cultural sensitivity, as well as the history of genocide and exploitation of Native Americans.
- More stringent policies and procedures be permanently implemented governing access to and handling of California Indian remains and cultural items. In particular, SJSU should not be allowing its California Indian collections to be used for further research and teaching unless the affiliated California Indian tribe or lineal descendant gives express written consent for doing so and prescribes the proper protocols to be used for these purposes.
- That access to California Indian remains and cultural items continue to be limited to, and controlled by, those whose work is related to compliance with federal and state repatriation laws.
- That any use of the collections for "teaching" purposes be limited to that necessary to comply with repatriation laws.

⁴ Aug. 25, 2021 Muwekma Ohlone Indian Tribe Letter to SJSU, Attachment B.

As to Prof. Weiss, we have additional concerns about her disregard for state law. In addition to having a history of opposing repatriation,⁵ Prof. Weiss has shown no contrition for the social medial posting, nor any sensitivity or concern over the treatment of California Indian human remains in her care.⁶ Her conduct was no aberration, but the result of an individual oblivious to her legal and moral obligations to California Indian ancestors and their descendants. The Commission requests the following actions be taken concerning Prof. Weiss:

1. Guarantees from SJSU that Prof. Weiss will no longer have access to SJSU's collection of California Indian human remains.
2. Appropriate disciplinary action be taken against Prof. Weiss for her failure to adhere to state law by failing to consult with affiliated tribes concerning the treatment of California Indian remains and cultural items (including failing to minimize handling), and related inappropriate public behavior in photographing herself holding remains without gloves and posting the images on social media coupled with disrespectful remarks, all of which reflected poorly on the University and its treatment of California Indian ancestors.
3. Prof. Weiss receive training in repatriation laws and procedures.
4. Prof. Weiss receive cultural sensitivity training regarding California Indian culture and history.

The Commission also requests that SJSU attend the Commission's public meeting scheduled for November 5, 2021, to provide an update on what steps SJSU is taking to meet these requests and fulfill its obligations under CalNAGPRA. We welcome the opportunity to discuss these requests with you further. If you have any questions, please feel free to contact me.

Sincerely,


Debbie Pilas-Treadway
Chief Deputy Executive Secretary

⁵ Elizabeth Weiss and James W. Springer, *Repatriation and Erasing the Past* (Sept. 1, 2020); Springer and Weiss, *Scholarship Versus Racial Identity in Anthropology* (Jan. 25, 2021) *Minding the Campus*, at <https://www.mindingthecampus.org/2021/01/25/scholarship-versus-racial-identity-in-anthropology/>; Springer and Weiss, *Responding to Claims of Archaeological Racism* (Apr. 28, 2021) *Nat'l Assoc. of Scholars*, at <https://www.nas.org/blogs/article/responding-to-claims-of-archaeological-racism>.

⁶ See Elizabeth Weiss, *Response To The Representational Politics of Science* (Sept. 30, 2021), at <https://www.sjsu.edu/provost/communications/provost-updates/academic-affairs-messages/response-to-the-representational-politics-of-science.php>; Elizabeth Weiss, *Opinion: California law on Native Americans' remains favors religion over science* (Aug. 31, 2021) *San Jose Mercury News*, at <https://www.mercurynews.com/2021/08/31/8314049-native-american-remains-uc-ab275-graves/>; Christian Schneider, *Professor condemned as 'racist' by her department after supporting colorblind research* (Aug. 19, 2021) *The College Fix* at <https://www.thecollegefix.com/professor-condemned-as-racist-by-her-department-after-supporting-colorblind-research/>.

CC: Assemblymember James C. Ramos
Christina Snider, Tribal Advisor to Governor Gavin Newsom
Charlene Nijmeh, Chairwoman, Muwekma Ohlone Tribe
Vincent Del Casino, Provost and Senior Vice President, SJSU
Walt Jacob, Dean, College of Social Science, SJSU
Ryan Ward, Director of Advocacy and Federal Relations, SJSU
Roberto Gonzalez, Chair, Departments of Anthropology and Chicana/Chicano
Studies, SJSU
Charlotte Sunseri, SJSU Faculty Member, Department of Anthropology, NAGPRA
Coordinator
Alisha Ragland, SJSU Faculty Member, Department of Anthropology, Tribal
Liaison



Elizabeth Weiss @eweissunbur... · Sep 18



So happy to be back with some old friends
[@SJSU](#) [#anthrotwitter](#) [#archaeotwitter](#)



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Dr. Vincent J. Del Casino Jr.
Provost and Senior VP for
Academic Affairs

San José State University
One Washington Square
San José, CA 95192-0020

TEL: 408-924-2400
provost@sjsu.edu

19 January 2022

Dear Chairperson Miranda and Members of the California Native American Heritage Commission,

I write to you as the campus Provost and Senior Vice President for Academic Affairs at San José State University ("SJSU" or "University"). As the University's Chief Academic Officer, I want to formally respond to your letter of October 11, 2021 and to update you on our work as it relates to full compliance with the Native American Graves Protection and Repatriation Act ("NAGPRA") and California's NAGPRA law ("CalNAGPRA").

On behalf of SJSU, I have apologized to the California Native American community in specific letters to the Commission and to the ten Tribes whose ancestors are caretaken on our campus for the posting of a photo to a personal twitter account by a SJSU faculty member in September 2021.¹ I again offer my sincere apology to the Commission and the Indigenous community for the harm these actions caused. As stated elsewhere, these actions are not reflective of the respect with which we want to engage our ongoing working relationships with local California Native American tribal governments.

SJSU takes respectful consultation, repatriation, and compliance with NAGPRA and CalNAGPRA seriously. As a campus, we have acted proactively to remain in compliance with and to respond to Tribes' concerns and requests throughout this process. As context, with the passage of AB-275, our work in Fall 2020 and Spring 2021 going into Fall 2021 focused on the development of protocols and timelines as well as preliminary outreach to the Tribes because we were largely a remote campus through August 2021.² The first formal consultations and on-site visits under AB-275 began in early September when we were back on campus and ran through the fall, although some outreach began as early as August 2019.³ Recent consultations led to new protocols that are now fully implemented, as discussed in more detail below.

In the letter to SJSU dated October 11, 2021, the Commission asked the University to take five actions with regard to its California Indian collections and four actions concerning Prof. Weiss. This letter provides an update in consideration of those concrete action requests and background information on SJSU's NAGPRA and CalNAGPRA work. The actions we have taken have resulted from collaboration with consulting California Native American Tribes to ensure that we are treating Native American ancestors and their cultural items with respect. While we have done our utmost to implement the Commission's requested actions, we remain open to the guidance of the Commission and California Native American Tribes as we continue to improve our processes and work toward complete repatriation of Native American human remains and cultural items in compliance with the intent and spirit of the law.

¹ Example of an email correspondence "Email to Tribal Leaders" (see attached).

² "SJSU Timeline on NAGPRA/CalNAGPRA/AB-275 Consultation," August 2019-present (attached)

³ See "Consultation Request from SJSU to Tribes August 2019" (see attached).

The Commission requested that SJSU take the following actions with regard to its California Native American NAGPRA/Cal NAGPRA collections:

(1) Staff with access to Native American collections receive training on state law requirements for handling California Indian remains and cultural items, treating with appropriate dignity and respect, and the importance of consulting with descendants and culturally affiliated tribes on any protocols to be used.

As described in more detail below, on October 6, SJSU limited those who have access to the collections to the SJSU NAGPRA Coordinator, Charlotte Sunseri, Ph.D., and the SJSU Tribal Liaison, Alisha Ragland, M.A., as well as a well-trained graduate student. This policy was amended on January 18, 2022 to strike language related to research and teaching. It also now reads that any access to the facility by anyone not already approved can only happen “after consultation and affirmation by Tribal leaders.” All visits to the collections include a Tribal Monitor as well. This is outlined in more depth below. The SJSU faculty who currently have access to the collections are very familiar with state law requirements for handling California Native American remains and cultural items, treating them with appropriate dignity and respect, and the importance of consulting with descendants and culturally affiliated tribes on any protocols to be used. The University has also engaged outside counsel to develop additional legal training for faculty and staff on CalNAGPRA requirements. This training will be recorded and taking the training will be a requirement for all faculty, staff, and students who request access to the CalNAGPRA collection.

(2) Staff receive training on cultural sensitivity, as well as the history of genocide and exploitation of Native Americans.

The University wants to engage with California Native American Tribes and Indigenous people to create and provide a cultural sensitivity training that includes the topics of the history of genocide and the exploitation of Native Americans. This is supported by the experience Ms. Ragland has in this work, for example, which is outlined below. This training will be a part of the requirements for any future faculty, staff and students who are granted access to the SJSU NAGPRA/CalNAGPRA collection through the Tribal consultation process. This training will also be recorded so that it will be available to future SJSU faculty, staff, and students.⁴ As described in more detail below, the University has consulted with California Native American Tribes and tribal governments on culturally respectful practices for the care and treatment of the ancestors and their cultural items.

(3) More stringent policies and procedures be permanently implemented governing access to and handling of California Indian remains and cultural items. In particular, SJSU should not be allowing its California Indian collections to be used for further research and teaching unless the affiliated California Indian tribe or lineal descendant gives express written consent for doing so and prescribes the proper protocols to be used for these purposes.

⁴ An example of this type of video can be found in the recent presentation by Chairwoman Charlene Nijmeh and Vice Chairwoman Monica V. Arellano of the Muwekma Ohlone, <https://www.sjsu.edu/diversity/land-acknowledgement/>

On October 7th, following the Presidential Directive of October 6th, the facility holding the collection was rekeyed, limiting access to the facility to only key personnel as described in more depth below. All requests to access the SJSU NAGPRA/CalNAGPRA collections must be approved by the consulting Tribe(s). Via the consultation process, multiple Tribal Governments have requested that no further research and teaching be conducted with Native American human remains in the SJSU NAGPRA/CalNAGPRA collection. Therefore, all requests for access to the collections for research and teaching have been denied. More information on access is provided below (also see amended Interim Presidential Directive that further codifies this in policy).

(4) That access to California Indian remains and cultural items continue to be limited to, and controlled by, those whose work is related to compliance with federal and state repatriation laws.

Knowledgeable NAGPRA/CalNAGPRA experts Dr. Charlotte Sunseri, Ph.D and Alisha Ragland, M.A., in collaborating with consulting Tribes, control access to the collection. More information about their expertise and this process is provided below.

(5) That any use of the collections for "teaching" purposes be limited to that necessary to comply with repatriation laws.

As explained above and in more detail below, based on consultation with the Tribes by Dr. Sunseri or Ms. Ragland, the use of the collections for teaching purposes is not permitted.

The Commission also requested that certain actions be taken concerning a SJSU faculty member:

The Commission has expressed concerns about the actions of one of SJSU's tenured faculty members and requested certain actions by the University including disciplinary action and further training. While we acknowledge the Commission's requests in this regard, respectfully, due to confidentiality obligations including under the Collective Bargaining Agreement with our faculty union, we are unable to discuss personnel matters related to an individual faculty member or to make any comment regarding disciplinary action. We will offer additional learning opportunities regarding reparations and cultural sensitivity to members of our campus community, and make such training a prerequisite to anyone authorized to have access to the NAGPRA and CalNAGPRA facility in the future.

Background and History on NAGPRA and CalNAGPRA at SJSU

As background, the California Native American remains referenced in your letter have long been held within a secured facility maintained by the Department of Anthropology, a unit in our College of Social Sciences, which is one of ten colleges that report to me as Provost. That department's faculty includes experts trained in NAGPRA as well as trained graduate students and lecturers with an educational background in CalNAGPRA. In 2019, in advance of the passage of AB 275 (Ramos, 2020), the Department of Anthropology established its NAGPRA transfer and repatriation protocol,⁵ which outlines

⁵ See "SJSU Protocol for Transfer of Collections for Purposes of NAGPRA" (see attached)

the steps for physical transfer of control. As discussed above, SJSU also reached out to Tribes in 2019 prior to AB-275 passage to discuss consultation. In Spring 2020, the Department repatriated three individuals to the Central California Yokuts NAGPRA Coalition. These three individual ancestors comprised SJSU's entire holdings of materials identified as culturally affiliated through the national NAGPRA process. The Department of Anthropology continued to caretake and is in compliance today with AB 275 for SJSU's remaining collections that were culturally affiliated with non-federally recognized Tribes and which are therefore not subject to NAGPRA.

Even before the passage of AB 275 in the Fall of 2020, the Chair of the Department of Anthropology had initiated conversations with the Dean of the College of Social Sciences to increase staffing to support the ongoing work related to CalNAGPRA on the campus. On April 29, 2021, the Department of Anthropology also affirmed its commitment to the tenets of NAGPRA and CalNAPGRA, as well as the new law AB 275, when its faculty standing committee unanimously approved its NAGPRA Statement.⁶ All faculty agreed to adhere to the statement. Indeed, all Department of Anthropology faculty affiliated with the work of CalNAGPRA also directly affirmed in meetings in April and May 2021 their adherence to the law.

To support SJSU's work on CalNAGPRA and in accordance with California law, the SJSU NAGPRA Coordinator, Charlotte Sunseri, Ph.D., contacted the NAHC in May 2021 to obtain a list of appropriate Tribal Governments to contact for consultation based on our collections which contain Native American human remains. At the same time, the SJSU administration met with leadership in the Department of Anthropology and the College of Social Sciences to discuss establishing a new position for a Tribal Liaison, which would be the first such position within the California State University system. The Tribal Liaison position was envisioned to support the work of NAGPRA coordination, and in particular the tribal consultations required for CalNAGPRA compliance and repatriation of ancestral remains. That discussion and the resulting nationally advertised search for an expert in local California Native American archeology led to the hiring of Alisha Ragland, M.A., who began her work on August 9, 2021. She joined our campus NAGPRA Coordinator, Dr. Sunseri, in our efforts to consult with all appropriate Tribes.

The consultation process, which had begun under Dr. Sunseri's leadership, was aided tremendously by the addition of Ms. Ragland to the campus team. Through their work, the NAGPRA Coordinator and Tribal Liaison have consulted with Tribal Governments on all collections containing or thought to contain Native American human remains, and have documented the protocols and handling procedures those Tribes requested, as well as information regarding cultural affiliations with collections and site locales. The SJSU team conducted inventories of funerary collections and human remains while accompanied by a Tribal Monitor, and with the aid of a SJSU graduate student whose curriculum vitae was reviewed and approved by Tribal representatives. The necessity for Tribal Monitors for these activities is both a personal preference of our campus experts as well as a recommendation they received during preliminary Tribal consultations. Those consultations and inventory activities led to the successful submission of our Preliminary Inventories

⁶ SJSU Department of Anthropology "NAGPRA Statement" (see screenshot of website attached)

and Summaries to the NAHC in December 2021, well in advance of the April 1, 2022 submission deadline required by AB 275.

Just as that tribal consultation work was gaining momentum, a faculty member at SJSU posted a photo on her personal Twitter account of herself holding the skull of a California Native American ancestor. I was informed of the tweet on September 27, 2021 and published a statement two days later stating that SJSU did not condone or endorse the practice of posing with human remains.⁷ This was a faculty member who had been engaged in NAGPRA-compliant work with human remains for nearly twenty years, who was part of the faculty standing committee that unanimously voted in April 2021 in support of the Department's NAGPRA statement, and who had directed her students that human remains were to be "handled with care, treated with respect, and not to be photographed."⁸ My September 29th statement reiterated and affirmed the University's commitment to compliance with CalNAGPRA as well as a faculty member's right to free speech on topics related to the law, although I noted that the tweet caused "shock and disgust" across the institution and in our community. Furthermore, on October 1st, in direct response to the tweet, I wrote to each of our Tribal community partners as well as the Native American Heritage Commission to apologize on behalf of SJSU for the harm that individual's post caused. In addition, in dialogue with Tribal leaders, we shared our Interim Presidential Directive and consulted with our Tribal community partners to ensure that the ancestors we caretake on their behalf are managed appropriately per our consultations. Further steps taken to implement this commitment are outlined below.

In October 2021 SJSU took further steps to secure the human remains and artifacts of California Native Americans that reside on our campus. In addition to the attached Interim Presidential Directive issued on October 6, 2021, SJSU further limited access to the facility holding those remains by physically rekeying it on October 7th and assigning keys to our campus NAGPRA Coordinator, Dr. Sunseri, and our Tribal Liaison, Ms. Ragland. No other University official or staff has keys to this space, aside from required safety personnel such as our University Police who would respond if the facility's alarm system was triggered, and University Facilities personnel who respond to alarms in the facility. In addition, any human remains or cultural artifacts not associated with a California Native American Tribe are being removed from this facility and moved to an independent lab.

To further secure the facility, the SJSU administration, by direction of then-President Mary Papazian and is affirmed by Interim President Perez, reassigned the caretaking facility space from the Department of Anthropology in the College of Social Sciences to the Office of the President on November 15, 2021.⁹ The

⁷ Del Casino, V.J., Jr. "The representational politics of science,"

<https://www.sjsu.edu/provost/communications/provost-updates/academic-affairs-messages/the-representational-politics-of-science.php>, Uploaded September 29, 2021; this was followed by a post on September 30, 2021, Weiss, E. "A response to the representational politics of science,"

<https://www.sjsu.edu/provost/communications/provost-updates/academic-affairs-messages/response-to-the-representational-politics-of-science.php>

⁸ See Department protocol adopted in Spring 2017 titled "Protocols_Spring2017(1)" and "ANTH155 Sec. 01 revised" course syllabus for Fall 2019 (attached).

⁹ Memo titled "NAGPRA CalNAGPRA AB 275 Collection Management MAP 11-2021" attached below.

NAGPRA Coordinator and the Tribal Liaison now report directly to me in their roles to ensure that this work remains a University-level priority. The Department of Anthropology and its faculty have no further responsibility, oversight, or direct access to these facilities.

It is important to note that one graduate student, with eight years of experience in Cultural Resource Management, who has been trained by Dr. Sunseri and Ms. Ragland to support the consultation work with the Tribes as well, has accompanied them into the facility for inventory purposes when a Tribal Monitor is present. The only other people who can access the CalNAGPRA-related facilities must have authorization from either Dr. Sunseri and/or Ms. Ragland, and all requests must also be approved by the consulting Tribes. Through the consultation process, multiple Tribes requested that no further teaching or research be conducted with these remains. The University has strictly adhered to the Tribes' requests and requirements, and has denied several requests from SJSU faculty for access to the CalNAGPRA-related human and non-human remains for research purposes.

In further response to the concerns identified in your October 11, 2021 letter, I want to assure you that NAGPRA Coordinator, Dr. Sunseri, has eleven years of experience in that role in addition to six years of doctoral education in Anthropological Archeology from the University of California Santa Cruz. Ms. Ragland has extensive training and experience in this work, having received her Master of Arts degree in Applied Anthropology in 2018. Ms. Ragland has also worked in Tribal relations for six years, while also leading numerous cultural sensitivity training sessions in Cultural Resource Management in California. Additionally, both Dr. Sunseri and Ms. Ragland have taught courses from an Indigenous Archeological perspective which involves more than consultation, it requires that academics and applied anthropologists collaborate with Tribal partners at every level of the research process. The NAGPRA Coordinator and Tribal Liaison both have extensive experience in cultural sensitivity and the history of genocide and exploitation of Native American people, and have even taught courses about such histories. The concerns expressed in your letter for developing cultural sensitivity trainings are most relevant to any future employees who might support our repatriation work related to the archeological, non-human collections for which we reported preliminarily summaries under the AB 275 process. We have begun discussions about developing a campus-wide training program that will fulfill that need. We will engage consulting Tribes in the development of content for this training as well.

More generally, I want to note that San José State University is working hard to repair the harm that has come from decades, and centuries, of neglect and/or outright violence, both physical and cultural, toward Native people. To that end, we recently submitted a letter in support of the Muwekma Ohlone's claim for federal recognition.¹⁰ We have also committed to the development of a Native American and Indigenous Student Success Center ("Center").¹¹ The Center provides a space for our Native American and Indigenous students to collaborate with faculty and staff as well as our California Native American Tribal partners.

¹⁰ See "SJSU Support Letter - Muwekma Ohlone Federal Recognition" (see attached).

¹¹ See story on the Center here "SJSU to Open New Resource Center for Native American and Indigenous Communities" <https://blogs.sjsu.edu/newsroom/2021/sjsu-to-open-new-resource-center-for-native-american-and-indigenous-communities/> (see attached).

These efforts complement the launch of GAIN, Gathering of Academic Indigenous and Native Americans, a campus affinity group that provides a space for faculty and staff to meet and advocate for direct change at SJSU. GAIN seeks to build community, visibility, and provide support for SJSU's Indigenous and Native American Faculty and Staff through campus activities and initiatives.

SJSU continues to meet the demands of this very important law. We have made investments and developed new policies and practices to protect California Native American human remains and cultural items with the respectful practices conveyed to us by California Native American Tribal Governments through the consultation process. We can assure the Commission that we will continue to maintain strict and consistently applied limitations, as outlined above, to our CalNAGPRA-related facility. Moreover, we are working directly with our Tribal partners to create new support and infrastructure for our Native American and Indigenous communities. We recognize that SJSU has a long way to go to restore your trust in our NAGPRA/CalNAGPRA practices. With the leadership of faculty such as Dr. Sunseri and Ms. Ragland, along with our policy changes that are consistent with tribal consultations, we believe we are on a good path. I look forward to participating in the Commission hearing on Friday, January 21, 2022 and continuing this learning process.

Respectfully,

A handwritten signature in blue ink, appearing to read 'V. Del Casino Jr.', is written over a horizontal line.

Vincent J. Del Casino Jr., Ph.D.

Other Supporting Documents

[5:22-cv-00641-BLF Weiss v. Perez et al](#)

ADRMOP

U.S. District Court

California Northern District

Notice of Electronic Filing

The following transaction was entered by Phillips, Bradley on 2/24/2022 at 3:38 PM PST and filed on 2/24/2022

Case Name: Weiss v. Perez et al

Case Number: [5:22-cv-00641-BLF](#)

Filer: Vincent J Del Casino
Roberto Gonzales
Walt Jacobs
Stephen Perez
Alisha Marie Ragland
Charlotte Sunseri

Document Number: [33](#)

Docket Text:

DECLARATION of Vincent J. Del Casino in Opposition to [32] Opposition/Response to Motion For Preliminary Injunction filed by Vincent J Del Casino, Roberto Gonzales, Walt Jacobs, Stephen Perez, Alisha Marie Ragland, Charlotte Sunseri. (Attachments: # (1) Exhibit A to Del Casino Decl, # (2) Exhibit B to Del Casino Decl, # (3) Exhibit C to Del Casino Decl, # (4) Exhibit D to Del Casino Decl, # (5) Exhibit E to Del Casino Decl, # (6) Exhibit F to Del Casino Decl, # (7) Exhibit G to Del Casino Decl, # (8) Exhibit H to Del Casino Decl, # (9) Exhibit I to Del Casino Decl, # (10) Exhibit J to Del Casino Decl, # (11) Exhibit K to Del Casino Decl, # (12) Exhibit L to Del Casino Decl, # (13) Exhibit M to Del Casino Decl)(Related document(s)[32]) (Phillips, Bradley) (Filed on 2/24/2022)

5:22-cv-00641-BLF Notice has been electronically mailed to:

Bradley S. Phillips brad.phillips@mto.com, DKT-Filings@mto.com, mary.pantoja@mto.com, Melissa.Lee-Segovia@mto.com

Daniel Moshe Ortner DOrtner@pacificlegal.org, bsiebert@pacificlegal.org, IncomingLit@pacificlegal.org

Ethan Blevins ewb@pacificlegal.org

5:22-cv-00641-BLF Please see [Local Rule 5-5](#); Notice has NOT been electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:C:\fakepath\1-Final Del Casino Declaration ISO Opp to PI Motion.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=2/24/2022] [FileNumber=18972065-0]

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Document description:Exhibit A to Del Casino Decl

Original filename:C:\fakepath\Exhibit A - Dec 30_NAHC letter.pdf

Electronic document Stamp:

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Document description:Exhibit B to Del Casino Decl

Original filename:C:\fakepath\Exhibit B - Del Casino The Representational Politics of Science _ Office of the Provost.pdf

Electronic document Stamp:

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Document description:Exhibit C to Del Casino Decl

Original filename:C:\fakepath\Exhibit C - Weiss (Posted on Provost Website - Sent to Same List as Provost Message from Previous Day) Response To The Representatio.pdf

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Original filename:C:\fakepath\Exhibit D - Oct 1 - Vin to NAHC regarding SJSU Response to Recent Social Media Incident.pdf

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Original filename:C:\fakepath\Exhibit E - Oct 1_Vin to Charlene Nijmeh.pdf

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Document description:Exhibit F to Del Casino Decl

Original filename:C:\fakepath\Exhibit F - Presidential Directive 2021-03 Interim Protocol for Curatorial Spaces in Alignment with NAGPRA_CalNAGPRA_AB 275 (1).pdf

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Original filename:C:\fakepath\Exhibit G - Oct 6_AMR to all Tribes re Pres directive.pdf

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Original filename:C:\fakepath\Exhibit H - SJSU Papazian 10.11.2021 (4).pdf

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Document description:Exhibit I to Del Casino Decl

Original filename:C:\fakepath\Exhibit I - Memo Outlining Oversight Change for NAGPRA CalNAGPRA AB-

275 Collections From Anthro to President MAP 11-20.pdf

Electronic document Stamp:

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Original filename:C:\fakepath\Exhibit J - Presidential Directive 2021-03 Interim Protocol for Curatorial Spaces in Alignment with NAGPRA_ CalNAGPRA_.pdf

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Original filename:C:\fakepath\Exhibit K - SJSU Response to NAHC 1_19_22 Complete File (1).pdf

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Document description:Exhibit L to Del Casino Decl

Original filename:C:\fakepath\Exhibit L- SJSU Spoken NAHC Comments 1_21_22.pdf

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Document description:Exhibit M to Del Casino Decl

Original filename:C:\fakepath\Exhibit M - NAHC Action Item 3 - Mishandling of CA Indian Human Remains at SJSU.pdf

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