

To the Members of the California State Senate:

I am returning Senate Bill 1828 without my signature.

I fully support the goals of this legislation. Native Americans and their sacred sites deserve the greatest respect, honor and protection. On rare occasions, I have been privileged to view a sacred site. It has left me with a deep sense of reverence.

There is no doubt more must be done to protect sacred sites. Unfortunately, this bill is a flawed attempt to do that. I deeply regret that this bill is in a form that I am unable to sign. I am fully committed to working with all interested parties to craft a measure that adequately addresses the problem.

This bill was designed to protect Native American sacred sites by giving tribes a significant voice in the environmental review process for projects that might impact them. At the heart of the bill is the list of sites maintained by the Native American Heritage Commission. But that list can be both under-inclusive and over-inclusive. It is under-inclusive because some tribes, understandably fearing destruction of sites, have not disclosed their identity to the Commission. It can be over-inclusive because, under this bill, any site may be placed on the list by anyone, no matter the level of evidence that the site is sacred. Nonetheless, simply placing a site on the list gives it all the protections afforded by the bill.

There is another problem that must be addressed. This bill does not find the right balance between the need for confidentiality to protect sites, and the need for disclosure and notification to allow those planning projects to know to avoid areas containing sacred sites. As this bill is written, someone might invest large sums of money in a project before learning the development implicates a sacred site.

In addition, while this bill draws on the CEQA process, it makes some key changes that are highly controversial. It gives Native Americans influence over the CEQA process that no other party, agency or governmental body now has. If we are to develop a process beyond the standard CEQA procedures, there should be a greater effort at collaborative discussions that seek a strong consensus.

But it is not clear that we need to enlist CEQA to protect sacred sites. Existing law relating to the protection of sacred sites on public lands might serve as a framework for protecting sacred sites on private lands. We should consider expanding the duties and authority of the Native American Heritage Commission so it can use existing and expanded law to protect sacred public and sacred private lands.

The protection of sacred sites is a matter that must be addressed. Accordingly, I am directing my Secretary of Resources and my Director of the Governor's Office of Planning and Research to work with the proponents of this measure and others to introduce a bill next year that meets these concerns.

I would also note that I have signed Senate Bill 483, which protects Native American sacred sites from the adverse environmental effects of proposed mining operations. I am particularly concerned about the proposed Glamis gold mine in Imperial County, and I have directed my Secretary for Resources to pursue all possible legal and administrative remedies that will assist in stopping the development of that mine.

Sincerely,

GRAY DAVIS