

3.4 - Cultural Resources and Tribal Cultural Resources

3.4.1 - Introduction

This section describes the existing cultural and tribal cultural resources setting and potential effects that may result from project implementation on the site and its surrounding area. The descriptions and analysis in this section are based on information provided by the Native American Heritage Commission (NAHC), a records search conducted at the Northwest Information Center (NWIC), archival research, and a pedestrian survey, as presented in the Phase I Cultural Resource Assessment (Phase I CRA) prepared for the proposed project are included in confidential Appendix D. Recommendations provided in the Phase I CRA pertaining to mitigation of potential impacts to cultural resources are also addressed in this section.

3.4.2 - Environmental Setting

Overview

The term “cultural resources” encompasses historic, archaeological, tribal cultural resources, and burial sites containing human remains. Below is a brief summary of each component:

- **Historic Resources:** Historic resources are associated with the recent past. In California, historic resources are typically associated with the Spanish, Mexican, and American periods in the State’s history and are generally less than 200 years old.
- **Archaeological Resources:** Archaeology is the study of artifacts and material culture with the aim of understanding human activities and cultures in the past. Archaeological resources may be associated with prehistoric indigenous cultures as well as historic periods.
- **Tribal Cultural Resources:** Tribal Cultural Resources (TCRs) include sites, features, places, or objects that are of cultural value to one or more California Native American Tribes.
- **Burial Sites and Cemeteries:** Burial sites and cemeteries are formal or informal locations where human remains have been interred. Native American burial sites are also considered TCRs of cultural value to one or more California Native American Tribe.

Cultural Setting

Following is a brief overview of the prehistory, ethnography, and historic background, providing a context in which to understand the background and relevance of sites found in the general project area. This section is not intended to be a comprehensive review of the current resources available; rather, it serves as a general overview. Further details can be found in ethnographic studies, mission records, and major published sources.^{1,2,3,4,5}

¹ Beardsley, R.K. 1948. Cultural Sequences in Central California Archaeology. *American Antiquity* 14:1–28.

² Bennyhoff, J. 1950. Californian Fish Spears and Harpoons. *University of California Anthropological Records* 9(4):295–338.

³ Chartkoff J.L. and K.K. Chartkoff. 1984. *The Archaeology of California*. Menlo Park. Stanford University Press.

⁴ Kroeber, A.L. 1925. *Handbook of the Indians of California*. Bulletin 78. Bureau of American Ethnology. Washington, DC. Smithsonian Institution.

⁵ Moratto, M.J. 1984. *California Archaeology*. San Diego. Academic Press.

Prehistoric Background

In general, archaeological research in the greater San Francisco Bay Area has focused on coastal areas, where large shellmounds were relatively easily identified on the landscape. This research and its chronological framework, however, is relevant to and has a bearing on our understanding of prehistory in areas north of the San Francisco Bay, including modern American Canyon, Napa County.

Like many California cultural chronologies, the greater San Francisco Bay Area has a complex history. As synthesized by Milliken et al., three major chronologic frameworks exist for the Bay Area: an Archaic-Emergent temporal structure; the Central California Taxonomic System (CCTS) and a “hybrid system” that is utilized using the overarching CCTS scheme, while further demarcating time depth/period changes regionally, as used in the Archaic-Emergent temporal structure.⁶ Specifically, regional cultural patterns and phases are further defined within the San Francisco Bay Area by Dating Scheme D, which utilizes dated Olivella shell bead horizons. Milliken et al. used the term “bead horizons” to define the passage of short periods of time by the shifts in the trade of specific bead types throughout the Bay Area. This builds on Fredrickson, who proposed a chronology for the broader San Francisco Bay Area region. Fredrickson’s chronology is based on material patterns and includes the Windmill Pattern (2500 before Common Era [BCE]–1,000 BCE), Berkeley Pattern (2000 BCE–500 Common Era [CE]) and the Augustine Pattern (500 CE–1880 CE).⁷ The Windmill Pattern is typified by a hunter-gatherer subsistence pattern, which included the exploitation of wild plants, game, and fish. Typical artifacts include clay balls, fishing hooks, fishing spears and ground stone tools. Artifacts from the Berkeley Pattern era reflect an increasing reliance on acorns, as mortars and pestles become more prolific. The Augustine Period was a period of increasing social complexity. Acorns continued to be the dominant food source and settlement patterns reflected an increasing sedentary lifestyle.⁸

Following the hybrid system proposed by Milliken et al., The Lower Archaic, 8000–3500 BCE, is typified in the Bay Area by a forager and gatherer lifestyle, as evidenced by the prevalence of milling slabs, hand stones, and large, wide-stemmed and leaf-shaped projectile points. The Middle Archaic, 3500-500 BCE, saw an increase in the presence of ground stone and cut shell beads, indicating that groups in the Bay Area were transitioning to a more sedentary lifestyle; interregional trade was increasing, and as the beads were found in mortuary contexts, that symbolism was becoming a regional identifier. The Early Upper Archaic, 500 BCE to 430 CE, saw a shift away from cut beads to Olivella beads, and along the Bay, a new emphasis on Haliotis ornaments and bone tools, with net sinkers largely disappearing from assemblages. The Late Upper Archaic, 430 to 1050 CE, further defined by the bead phases M1–M4, is another time of transition, as saucer-shaped Olivella beads disappear from the record and Olivella saddle beads became dominant. The appearance of the saddle shaped Olivella beads coincides with the appearance and increase in Meganos complex dorsal extended burials. The Lower Emergent Period, 1050 to 1550 CE, is characterized by increasing complexity as beads were being produced for collectors as opposed to being produced primarily as mortuary items. Sedentism and increasing social stratification is evidenced by settlement patterns

⁶ Milliken, Randall, et.al. 2007. Punctuated Culture Change in the San Francisco Bay Area, In *Prehistoric California: Colonization, Culture, and Complexity*, edited by T.L. Jones and K.A. Klar, 99–124. AltaMira Press.

⁷ Frederickson, D.A. 1973. *Early Cultures of the North Coast Ranges, California*. Unpublished Ph.D. dissertation, Department of Anthropology, University of California, Davis.

⁸ Moratto, M.J. 1984. *California Archaeology*. San Diego. Academic Press.

and mortuary practices. The Terminal Late Period saw change in the North Bay, as clamshell disk beads became prevalent, along with the toggle harpoon, hopper mortar, plain corner-notched arrow-sized projectile points, and magnesite tube beads; however, this was not the case in the South Bay. By 1650 CE, only Olivella-lipped and spire-lopped beads were present.⁹

Settlement patterns north of San Francisco Bay have varied over time. The currently accepted understanding of settlement patterns in this area is that a foraging and hunter-gatherer lifestyle centering on lacustrine resources remained dominant in the region until the Lower to Middle Archaic. At this point, there was a shift from foraging lacustrine resources to developing semi-permanent villages near marshes and grasslands, in order to gather those specific resources. This was followed by a shift to foragers residing in residential camps, with more consistent settlement occurring in “collector villages” during the Upper Archaic. By the Emergent Period, collectors were living in semi-permanent villages in oak woodlands, which residential camps were now located along marshes.

Ethnographic Background

The Patwin

At the time of European contact, the project vicinity was primarily occupied by the Patwin Tribe of California Native Americans. The Patwin occupied the southwest Sacramento Valley from the town of Princeton, north of Colusa, south to San Pablo and Suisun bays, and from the lower hills of the eastern North Coast Ranges to the Sacramento River. Patwin territory extended approximately 40 miles east to west and 90 miles north to south. Based primarily on linguistic variation, the Patwin are the most southern division of the Wintuan population, who are members of the Penutian linguistic stock. Distinction is made between the Hill and River Patwin. Hill Patwin had villages located in valleys along the hills of the Vaca Mountains and Coast Ranges with populations concentrated in Indian, Bear, Capay, Cortina, Long, and Napa valleys. In general, the River Patwin occupied the west banks of the lower Sacramento River below the Feather River as well as the lower reaches of Cache and Putah creeks in the Sacramento Valley.¹⁰ The Hill Patwin villages of Napato and Tulukai lie in close proximity to the project area, and their place names remain part of the regional landscape to this day.

Patwin political organization was centered on the tribelet, which consisted of a primary village with smaller satellite villages governed by a head chief. Tribelets were autonomous and differed from each other with minor cultural variations. The economic and ceremonial activities of each village were administered by a chief whose position was typically passed on patrilineally although some chiefs were chosen by village elders. The chief administered subsistence ventures, such as hunting and gathering expeditions, and served as the primary resource distributor.¹¹

The Patwin subsistence base varied with the seasons and included gathering seeds and plant resources on the plains, netting migratory waterfowl in the tule marshes, and netting salmon and other fish in the rivers and streams. Acorns were a staple in the Patwin diet and were obtained from

⁹ Milliken, Randall, et.al. 2007. Punctuated Culture Change in the San Francisco Bay Area, In Prehistoric California: Colonization, Culture, and Complexity, edited by T.L. Jones and K.A. Klar, 99–124. AltaMira Press.

¹⁰ Cook, S.F. 1976. The Population of the California Indians 1769–1970. University of California Press. Berkeley, California.

¹¹ McKern, W.K. 1922. Functional Families of the Patwin. American Archaeology and Ethnology 13(7)235–258. Berkeley, California.

communally owned hill and valley oak groves. The Patwin stored acorns in granaries as insurance against famine in poor harvest years. Ethnographic reports indicate the Patwin obtained large game such as deer, tule elk, and antelope by using nets or shooting with bows and arrows. Fish resources were of particular importance to the River Patwin and included perch, sturgeon, salmon, sucker, trout, pike, and other riverine species such as mussels and turtles, which were caught with bone fishhooks, nets, weirs, and seines.¹²

The Patwin trade system included various resources that were exchanged with the Wappo, Nomlake, Southeastern Pomo, and Hill Patwin. The River Patwin obtained obsidian from sources to the west and east. Initially, finished shell beads were obtained from coastal tribes, but later, the River Patwin traded for whole shells from the Pacific Coast and produced the beads themselves. Relationships with nearby tribes and other Patwin tribelets were not always friendly. Patwin relations with Napa Valley groups were strained by provocations primarily incited by poaching; subsequent retaliations resulted in organized battles between individuals or groups or surprise attacks on villages.¹³

Patwin dwellings, sweathouses and dance houses were all semi-subterranean, earth-covered structures. Mortuary practices included burials in cemeteries located at one end of the village, in which the possessions of the deceased were buried with them; at some locations, property was burned near the grave. Typically, only people who died or were killed away from the village were cremated. According to a Hill Patwin informant, “the River people [Patwin] set a corpse upright, then pushed the head down, broke the back, wrapped the body in a skin, and put it in the grave.” In addition, long burial ropes constructed of hemp were wrapped around the deceased, and the River Patwin utilized temporary containers made of tule reeds.¹⁴

The Southern Wappo

The project site is also in close proximity to the ethnographic territory of the Southern Wappo. The Wappo language belongs to a small family of four languages, including Yuki, Coastal Yuki, and Huchnom. It is divided into five dialects distributed across two major territorial divisions. The smaller area included lands along the southern edge of Clear Lake; the larger ranged from just north of Napa, south to Geyserville and Middletown in the north. The Wappo were known to adopt words from other languages spoken in their vicinity, including Spanish names of objects with which they came into contact as a result of missionization. Of the 100 or known Wappo place names, at least one, cho*nóma, (meaning “abandoned camp”), remains in use as the probable Wappo name for the town of Sonoma.¹⁵ Like their Pomo neighbors, the basic sociopolitical unit was the village, which was usually located on a creek or other water source. Villages included one or two sweathouses as well as houses of varying size. One of the last remaining traditional Wappo villages observed in 1870 consisted of 11 grass houses serving 21 families totaling 92 people. Each house was made of grass thatch over a framework of bent poles and had a separate entrance and smoke-hole for each family inhabiting it.

¹² Johnson, Patti, J., 1978. Handbook of North American Indians, Vol. 8: California. Washington, DC. Smithsonian Institution.

¹³ Leitch, B. A. (1979). A concise dictionary of Indian tribes of North America (First Edition). N. P.: Reference Publications, Inc.

¹⁴ McKern, W.K. 1922. Functional Families of the Patwin. American Archaeology and Ethnology 13(7)235–258. Berkeley, California.

¹⁵ Sawyer, J.O. 1978. Wappo. Handbook of North American Indians California Volume 8. Robert F. Heizer, Editor, pp. 256–264. Washington, D.C.: Smithsonian Institution.

Basic tools consisted of wedges, axes, and fire-drills made from stones, sticks, shells, and plants. Like the Pomo, the Wappo had a tradition of creating intricately woven baskets that were both functional and decorative. This tradition, along with several surviving songs and dances attributed to the Wappo, were primary forms of artistic expression. Imported clamshell beads and magnesite cylinders served as units of exchange and items of personal adornment. Food sources included a variety of plants and creatures, including acorns, buckeye, clover, abalone, clams, turtles, salmon, ducks, rabbits, and deer.¹⁶

The Wappo had at least seven villages in the Geyserville area alone and estimates of their total population range from 5,000 to 8,000. Village chiefs might be elected or appointed, based on the organization of the individual village. Both men and women could occupy the role of chief, and some villages even had multiple chiefs, each with different spheres of influence, including trade, ceremonial roles, and warfare. The Wappo were generally regarded as a peaceful people, except during the Wappo-Pomo War in the early 19th Century. The Wappo apparently attacked and killed members of the Alexander Valley Pomo who had carried away some Wappo supplies of acorns. The Pomo sought peace, which was granted immediately; however, the Pomo never returned to their Alexander Valley villages north of Healdsburg. The Wappo also tried to resist Spanish incursions and colonial expansion into their territories, but like the Pomo, their numbers were decimated by smallpox, hostility from the Mexican Army, and later by Euro-American settlements in the 1850s.

Historic Background

The Spanish Period (1769-1821)

Spanish exploration into Suisun Bay and into the Central Valley dates back to the late 1700s. Spanish mission records indicate that by 1800, Patwin inhabitants at Aguastos, the south-central area, and other villages were being taken to Mission Dolores (San Francisco de Asis), and that Mission Sonoma (San Francisco Solano), built in 1823, was baptizing Patwin tribal members until secularization of the missions in 1832-1836. Many Native Americans were not willing convert. There are numerous accounts of neophytes fleeing the missions, and a series of “Indian Wars” broke out when the Spanish tried to return them to the missions.¹⁷

The Mexican Period (1821-1848)

With the declaration of Mexican independence in 1821, Spanish control of Alta California ended, although little change actually occurred. Political change did not take place until mission secularization in 1834, when Native Americans were released from missionary control and the mission lands were granted to private individuals. Mission secularization removed the social protection and support on which Native Americans had come to rely. It exposed them to further exploitation by outside interests, often forcing them into a marginal existence as laborers for large ranchos. Following mission secularization, the Mexican population grew as the native population continued to decline. Anglo-American settlers began to arrive in Alta California during this period and often married into Mexican families, becoming Mexican citizens, which made them eligible to

¹⁶ Sawyer, J.O. 1978. Wappo. Handbook of North American Indians California Volume 8. Robert F. Heizer, Editor, pp. 256–264. Washington, D.C.: Smithsonian Institution.

¹⁷ Johnson, J.J. 1976. Archaeological Investigations at the Blodgett Site (CA-SAC-267), Sloughhouse Locality, California. Report to the U.S. National Parks Service, Western Regional Office, Tucson, Arizona.

receive land grants. In 1846, on the eve of the U.S.-Mexican War (1846 to 1848), the estimated population of Alta California was 8,000 non-natives and 10,000 natives. However, these estimates have been debated. Cook suggests the Native American population was 100,000 in 1850; the U.S. Census of 1880 reports the Native American population as 20,385.¹⁸

During this period, General Mariano Guadalupe Vallejo assumed authority of Sonoma Mission and established a friendly relationship with the Native Americans who were living there. In particular, Vallejo worked closely with Chief Solano, a Patwin who served as Vallejo's spokesperson when problems with Native American tribes arose. In 1843, Governor Manuel Micheltoarena gave General Vallejo the 84,000-acre Soscoe land grant of Rancho Suscolto, which included the present-day Vallejo.

The American Period (1848–Contemporary)

During this period, and prior, Native American populations were declining rapidly because of an influx of Euro-American diseases. In 1832, a party of trappers from the Hudson's Bay Company, led by John Work, traveled down the Sacramento River, unintentionally spreading a malaria epidemic to Native Californians. Four years later, a smallpox epidemic decimated local populations, and it is estimated that up to 75 percent of the native population died.¹⁹

After the upheaval of the Bear Flag Revolt in 1846, and the result of the Treaty of Guadalupe Hidalgo in 1848, California became a United States territory. In 1848, James W. Marshall discovered gold at Coloma in modern-day El Dorado County, which started the California Gold Rush into the region that forever altered the course of California's history. The arrival of thousands of gold seekers in the territory contributed to the exploration and settlement of the entire State. By late 1848, approximately 4 out of 5 men in California were gold miners.

By 1864, California's Gold Rush had essentially ended. The rich surface and river placers were largely exhausted and the miners either returned to their homelands or stayed to start new lives in California. After the gold rush, people in towns such as Jackson, Placerville, and Sonora turned to other means of commerce, such as ranching, agriculture, and timber production. With the decline of gold mining, agriculture and ranching came to the forefront in the State's economy. California's natural resources and moderate climate proved well suited for cultivation of a variety of fruits, nuts, vegetables, and grains.

Local History Napa County

European settlement in the Napa area began with the 1820 establishment of the Sonoma Mission and General Mariano Vallejo's 1838 reception of a land grant that included the Napa and Sonoma valleys. By 1848, the American population in the area had grown, and farmer Nathan Coombs laid out a town plat for Nappa City (the spelling changed to Napa by the 1870s), which served as the County seat when Napa became one of the original 27 counties of California in 1850.²⁰

¹⁸ Cook, S.F. 1976. *The Population of the California Indians 1769–1970*. University of California Press. Berkeley, California.

¹⁹ Cook, S.F. 1955. *The Epidemic of 1830–1833 in California and Oregon*. *American Archaeology and Ethnology*, 43(3): 303–326.

²⁰ Menefee, C.A. 1873. *Historical and Descriptive Sketchbook of Napa, Sonoma, Lake, and Mendocino: Comprising Sketches of their Topography, Productions, History, Scenery, and Peculiar Attractions*. Napa: Reporter Publishing House.

During the mid-1850s, Napa County began to grow. While gold was being prospected in other areas of the State, Napa County became a center for silver and quicksilver mining. The County's population began to swell as pioneers, prospectors, and entrepreneurs moved in and set up residence. Two of those entrepreneurs were Edward Turner Bale and Samuel Brannan. Bale completed building the Bale Grist Mill a few miles north of Saint Helena in 1846. Brannan purchased land in the northern end of the valley at the foot of Mount Saint Helena and founded Calistoga. He began developing it as a resort town, taking advantage of the area's numerous mineral hot springs. He also founded the Napa Valley Railroad Company in 1864 to bring tourists to Calistoga from the San Francisco ferryboats that docked in Vallejo. Other settlers turned to agriculture for their livelihood, primarily raising cattle, grain, and fruit crops.²¹

Orchards and wheat gradually displaced cattle ranching as settlers' primary source of income, and the first Downtown Napa winery opened in the 1870s. While settlers initially relied on Native labor, Chinese immigrants became a more important source of labor as the Native populations declined in the later decades of the nineteenth century. Napa had a substantial Chinatown by 1886. In 1875, the State of California built the Napa State Hospital for the Insane at the southern edge of town; the City had completed with others around the State for the privilege of hosting the asylum, which brought considerable economic benefit with it in terms of public funding.

The Phylloxera louse infested Napa Valley and killed thousands of grapevines, seriously threatening the local wine industry. Many farmers replaced their grapevines with fruit trees. As discrimination against Chinese immigration climbed throughout the country in the late nineteenth century, Napa's Chinese population shrank, and farmers began to turn to Italian immigrants as a labor source.²²

The pattern of economic and population growth established during the war continued through the end of the 1950s. Blue-collar union jobs supported the local economy; by 1960, nearly 2,600 people were employed at Basalt Rock/Kaiser Steel and Napa's smaller manufacturing plants. Residential construction remained strong; between 1950 and 1957, nearly 5,000 dwelling units were constructed in Napa County, most of which were single-family houses in or near the Napa city limits. The downtown area remained the seat of County/City government and the commercial center of Napa during the postwar period through the mid-1960s.

The City's gradual development of a new City Hall, Police Station, and Fire Station at the Downtown Civic Center represented the most significant change to Downtown Napa's built environment during this era. By 1946, the City was discussing creation of a civic center, initially identifying the former Chinatown at First Street and the Napa River as a potential site. In 1948, the City Council began planning the new City Hall and selected the location along School Street between First Street and Second Street. Between 1951 and 1962, City Hall, the Police Station, and Fire Station No. 1 were constructed at their current locations.

²¹ Menefee, C.A. 1873. *Historical and Descriptive Sketchbook of Napa, Sonoma, Lake, and Mendocino: Comprising Sketches of their Topography, Productions, History, Scenery, and Peculiar Attractions*. Napa: Reporter Publishing House.

²² King, N.L. 1967. *Napa County, A historical Overview*. Napa: Office of Napa County Superintendent of Schools.

The City of American Canyon

Located in southern Napa County, the City of American Canyon was incorporated as a city in 1992. The history of the City of American Canyon and its economy, growth, and development has been tied to the larger Napa region as a whole. The California Gold Rush brought many settlers to the region but American Canyon itself was largely devoid of gold deposits. Instead, the area was both rich in limestone and ideally suited for farming. In 1852, Simpson Thompson and his two sons established a large farm consisting of 475 acres of orchards and farmland as well as 300 acres of meadowlands for cattle grazing. In the early 1900s, the discovery of rich deposits of limestone led to the development of quarries that could produce over 2000 barrels of cement per day. However, the exploitation of usable limestone and clay meant that by 1930s, mining became economically untenable in the region. The economy of the region pivoted toward agriculture, particularly fruit orchards and the farming of wheat.²³

However, the City's economy would shift following the Paris Wine Tasting of 1976, better known as the Judgement of Paris. In a blind tasting, a panel of expert sommeliers scored wines from Napa estates such as Heitz Cellars or Stag's Leap higher than estates that produced First Growth Bordeaux wines. Their judgement sent shockwaves around the wine industry and established Napa as a world-class wine-growing region.²⁴ While the region of Calistoga and St. Helena in Napa has been focused on producing top-tier wines and attracting high-end clientele, their success could not exist without the logistic support of the warehouses and distribution centers that grew up in American Canyon. These centers developed in subsequent years following the 1976 Judgement of Paris and provide the backbone for the distribution of domestic and imported wines both in the Bay Area and overseas today.²⁵

3.4.3 - Regulatory Framework

Federal

National Historic Preservation Act

The National Historic Preservation Act of 1966 (NHPA), as amended, established the National Register of Historic Places (NRHP), which contains an inventory of the nation's significant prehistoric and historic properties. Under 36 Code of Federal Regulations 60, a property is recommended for possible inclusion on the NRHP if it is at least 50 years old, has integrity, and meets one of the following criteria:

- It is associated with significant events in history, or broad patterns of events.
- It is associated with significant people in the past.
- It embodies the distinctive characteristics of an architectural type, period, or method of construction; or it is the work of a master or possesses high artistic value; or it represents a significant and distinguishable entity whose components may lack individual distinction.
- It has yielded, or may yield, information important in history or prehistory.

²³ American Canyon Historical Society Volume 1 and 2. 2010. Napa County Historical Society.

²⁴ Taber, George. 2006. Judgement of Paris. Scribner Press.

²⁵ Ibid.

Certain types of properties are usually excluded from consideration for listing in the NRHP, but they can be considered if they meet special requirements in addition to meeting the criteria listed above. Such properties include religious sites, relocated properties, graves and cemeteries, reconstructed properties, commemorative properties, and properties that have achieved significance within the past 50 years.

Archaeological Resources Protection Act

The Archaeological Resources Protection Act (ARPA) amended the Antiquities Act of 1906 (16 United States Code [USC] 431–433) and set a broad policy that archaeological resources are important to the nation and should be protected, and required special permits before the excavation or removal of archaeological resources from public or Indian lands. The purpose of the ARPA was to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites that are on public lands and Indian lands, and to foster increased cooperation and exchange of information between governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data that were obtained before October 31, 1979.

American Indian Religious Freedom Act

The American Indian Religious Freedom Act (AIRFA) established federal policy to protect and preserve the inherent rights of freedom for Native groups to believe, express, and exercise their traditional religions. These rights include but are not limited to access to sites, use and possession of sacred objects, and freedom to worship through ceremonials and traditional rites.

Native American Graves Protection and Repatriation Act

The Native American Graves Protection and Repatriation Act of 1990 sets provisions for the intentional removal and inadvertent discovery of human remains and other cultural items from federal and tribal lands. It clarifies the ownership of human remains and sets forth a process for repatriation of human remains and associated funerary objects and sacred religious objects to the Native American groups claiming to be lineal descendants or culturally affiliated with the remains or objects. It requires any federally-funded institution housing Native American remains or artifacts to compile an inventory of all cultural items within the museum or with its agency and to provide a summary to any Native American tribe claiming affiliation.

State

CEQA Guidelines Section 15064.5(a)—CEQA Definition of Historical Resources

California Environmental Quality Act (CEQA) Guidelines Section 15064.5(a), in Title 14 of the California Code of Regulations, defines a “historical resource” as:

- (1) A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources.
- (2) A resource included in a local register of historical resources, as defined in Section 5020.1(k) of the Public Resources Code or identified as significant in a historical resource survey meeting the requirements of Section 5024.1(g) of the Public Resources Code, shall be

presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

- (3) Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered a historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources.
- (4) The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to Section 5020.1(k) of the Public Resources Code), or identified in a historical resources survey (meeting the criteria in Section 5024.1(g) of the Public Resources Code) does not preclude a lead agency from determining that the resource may be a historical resource as defined in Public Resources Code Sections 5020.1(j) or 5024.1.

Therefore, under the CEQA Guidelines, even if a resource is not included on any local, State, or federal register, or identified in a qualifying historical resources survey, a lead agency may still determine that any resource is a historical resource for the purposes of CEQA if there is substantial evidence supporting such a determination. A lead agency must consider a resource to be historically significant if it finds that the resource meets the criteria for listing in the California Register of Historical Resources (CRHR).

Archaeological and historical sites are protected pursuant to a wide variety of State policies and regulations, as enumerated in the Public Resources Code Section 5024.1. Cultural resources are recognized as nonrenewable resources and receive additional protection under the Public Resources Code and CEQA.

Public Resources Code 5024.1(c)—Definition of a Historic Resource

CEQA Guidelines Section 15064.5(a), in Title 14 of the California Code of Regulations, defines a "historical resource" as a resource that:

1. Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.
2. Is associated with the lives of persons important in our past.
3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
4. Has yielded, or may be likely to yield, information important in prehistory or history.

CEQA Guidelines Section 15064.5(a)(3)—California Register of Historical Resources Criteria

As defined by CEQA Guidelines, Section 15064.5(a)(3)(A-D), a resource shall be considered historically significant if the resource meets the criteria for listing on the CRHR. The CRHR and many local preservation ordinances have employed the criteria for eligibility to the NRHP as a model (see criteria described above under the description of the NHPA), since the NHPA provides the highest standard for evaluating the significance of historic resources. A resource that meets NRHP criteria is clearly significant. In addition, a resource that does not meet NRHP standards may still be considered historically significant at a local or State level.

CEQA Guidelines 15064.5(c)—Effects on Archaeological Resources

CEQA Guidelines state that a resource need not be listed on any register to be found historically significant. CEQA Guidelines direct lead agencies to evaluate archaeological sites to determine whether they meet the criteria for listing in the CRHR. If an archaeological site is a historical resource, in that it is listed or eligible for listing in the CRHR, potential adverse impacts to it must be considered. If an archaeological site is considered not to be a historical resource but meets the definition of a “unique archaeological resource” as defined in Public Resources Code Section 21083.2, then it would be treated in accordance with the provisions of that section.

CEQA Guidelines Section 15064.5(d)—Effects on Human Remains

Native American human remains and associated burial items may be significant to descendant communities and/or may be scientifically important for their informational value. They may be significant to descendant communities for patrimonial, cultural, lineage, and religious reasons. Human remains may also be important to the scientific community, such as prehistorians, epidemiologists, and physical anthropologists. The specific stake of some descendant groups in ancestral burials is a matter of law for some groups, such as Native Americans (CEQA Guidelines § 15064.5(d); PRC § 5097.98). CEQA and other State regulations regarding Native American human remains provide the following procedural requirements to assist in avoiding potential adverse effects on human remains within the contexts of their value to both descendant communities and the scientific community:

- When an initial study identifies the existence or probable likelihood that a project would affect Native American human remains, the lead agency is to contact and work with the appropriate Native American representatives identified through the NAHC to develop an agreement for the treatment and disposal of the human remains and any associated burial items (CEQA Guidelines § 15064.5(d); PRC § 5097.98).
- If human remains are accidentally discovered, the County Coroner must be contacted. If the County Coroner determines that the human remains are Native American, the Coroner must contact the NAHC within 24 hours. The NAHC must identify the Most Likely Descendant (MLD) to provide for the opportunity to make recommendations for the treatment and disposal of the human remains and associated burial items.
- If the MLD fails to make recommendations within 24 hours of notification or the project applicant rejects the recommendations of the MLD, the Native American human remains and associated burial items must be reburied in a location not subject to future disturbance within the project site (PRC § 5097.98).

- If potentially affected human remains or a burial site may have scientific significance, whether or not it has significance to Native Americans or other descendant communities, then under CEQA, the appropriate mitigation of effect may require the recovery of the scientific information of the remains/burial through identification, evaluation, data recovery, analysis, and interpretation (CEQA Guidelines § 15064.5(c)(2)).

Health and Safety Code Section 7050.5

Section 7050.5 of the Health and Safety code sets forth provisions related to the treatment of human remains. As the code states, “every person who knowingly mutilates or disinters, wantonly disturbs, or willfully removes any human remains in or from any location other than a dedicated cemetery without authority of law is guilty of a misdemeanor” except under circumstances as provided in Section 5097.99 of the Public Resource Code. The regulations also provide guidelines for the treatment of human remains found in locations other than a dedicated cemetery including responsibilities of the Coroner.

Public Resources Code Section 5097.98

Section 5097.98 provides protocol for the discovery of human remains. It states that “when the commission receives notification of a discovery of Native American human remains from a County Coroner pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, it shall immediately notify persons believed to be most likely descended from the deceased Native American.” It also sets forth provisions for descendants’ preferences for treatment of the human remains and what should be done if the commission is unable to identify a descendant.

California Public Resources Code Section 5097.91—Native American Heritage Commission

Section 5097.91 of the Public Resources Code established the NAHC, whose duties include the inventory of places of religious or social significance to Native Americans and the identification of known graves and cemeteries of Native Americans on private lands. Under Section 5097.91 of the Public Resources Code, a State policy of noninterference with the free expression or exercise of Native American religion was articulated along with a prohibition of severe or irreparable damage to Native American sanctified cemeteries, places of worship, religious or ceremonial sites or sacred shrines located on public property. Section 5097.98 of the Public Resources Code specifies a protocol to be followed when the NAHC receives notification of a discovery of Native American human remains from a County Coroner. Section 5097.5 defines the unauthorized disturbance or removal of archaeological, historic, or paleontological resources located on public lands as a misdemeanor.

California Senate Bill 18—Protection of Tribal Cultural Places

California Senate Bill (SB) 18 (California Government Code § 65352.3) incorporates the protection of California traditional tribal cultural places into land use planning for cities, counties, and agencies by establishing responsibilities for local governments to contact, refer plans to, and consult with California Native American tribes as part of the adoption or amendment of any general or specific plan proposed on or after March 1, 2005. SB 18 requires public notice to be sent to tribes listed on the NAHC SB 18 Tribal Consultation list within the geographical areas affected by the proposed changes. Tribes must respond to a local government notice within 90 days (unless a shorter time frame has been agreed upon by the tribe), indicating whether or not they want to consult with the

local government. Consultations are for the purpose of preserving or mitigating impacts to places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code that may be affected by the proposed adoption or amendment to a general or specific plan.

California Assembly Bill 52—Effects on Tribal Cultural Resources

California Assembly Bill (AB) 52 was signed into law on September 25, 2014, and provides that any public or private “project with an effect that may cause a substantial adverse change in the significance of a Tribal Cultural Resource (TCR) is a project that may have a significant effect on the environment.” TCRs include “[s]ites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are eligible for inclusion in the CRHR or included in a local register of historical resources.” Under prior law, TCRs were typically addressed under the umbrella of “cultural resources,” as discussed above. AB 52 formally added the category of “tribal cultural resources” to CEQA and extends the consultation and confidentiality requirements to all projects, rather than just projects subject to SB 18 as previously discussed.

The parties must consult in good faith, and consultation is deemed concluded when either: (1) the parties agree to measures to mitigate or avoid a significant effect on a TCR (if such a significant effect exists); or (2) when a party concludes that mutual agreement cannot be reached. Mitigation measures agreed upon during consultation must be recommended for inclusion in the environmental document. AB 52 also identifies mitigation measures that may be considered to avoid significant impacts if there is no agreement on appropriate mitigation. Recommended measures include:

- Preservation in place.
- Protecting the cultural character and integrity of the resource.
- Protecting the traditional use of the resource.
- Protecting the confidentiality of the resource.
- Permanent conservation easements with culturally appropriate management criteria.

California Public Resources Code Section 21074—Effects on Tribal Cultural Resources

AB 52 amended the CEQA statute to identify an additional category of resource to be considered under CEQA, called “tribal cultural resources.” It added Public Resources Code Section 21074, which defines “tribal cultural resources” as follows:

- (a) “Tribal cultural resources” are either of the following:
- (1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:
 - A) Included or determined to be eligible for inclusion in the CRHR.
 - B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.
 - (2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

Local

City of American Canyon

General Plan

To promote the preservation and restoration of the sites, structures and districts that have architectural, historical, archaeological and/or cultural significance to the City of American Canyon.

Objective 8.19 Ensure that the City's historically and archaeologically significant resources are protected in a manner that preserves and/or enhances the resources' inherent historic value.

Policies

- 8.19.1** Conduct a comprehensive survey of archaeological and cultural resources and historic vegetation that is based on established criteria and encompasses the entire City and its Sphere of Influence.
- 8.19.2** Adopt a Preservation Ordinance that will authorize the City to designate appropriate vegetation or archaeological sites deemed to be of historic, archaeological, or cultural significance an American Canyon City Historic Point, Site or District. Such an ordinance shall conform to State and federal criteria for establishing a preservation ordinance.
- 8.19.3** Explore various methods for the future preservation of historic vegetation and archaeological and cultural resources. For example, consider establishing "receiver site" and "adopt a building" programs to preserve historic structures that must be removed from their sites. Additionally, consider utilizing the Secretary of the Interior Standards for Historic Rehabilitation and standards and guidelines prescribed by the State Office of Historic Preservation as the architectural and landscape design standards for rehabilitation, alteration, or additions to sites containing historic resources in order to preserve these structures in a manner consistent with the sites' architectural and historic integrity.

3.4.4 - Methodology

Records Searches and Pedestrian Survey to Identify Existing Cultural Resources

The information in this section is based on the Phase I CRA prepared for this project by FirstCarbon Solutions (FCS) in February 2021. The Phase I CRA used the following methods to analyze the potential impacts of project implementation:

Northwest Information Center

On February 10, 2021, a records search for the project site and a 0.50-mile radius beyond the project boundaries was conducted at the NWIC located at Sonoma State University in Rohnert Park, California. To identify any historic properties or resources, the current inventories of the NRHP, the CRHR, the California Historic Landmarks list, the California Points of Historical Interest list, and the

California Built Environment Resource Directory (BERD) for Napa County were reviewed to determine the existence of previously documented local historical resources.

Results from the NWIC indicate that six known cultural resources have been recorded within a 0.5-mile radius of the project site, and two cultural resources have been recorded within the project site (Table 3.4-1). In addition, 30 area-specific survey reports are on file with the NWIC for the project site and its 0.50-mile search radius (Table 3.4-2.). Of the 30 reports, 10 address sections of the project site itself, indicating that the site has been previously surveyed for cultural resources.

Table 3.4-1: Cultural Resources within 0.5-mile of the Project Site

Resource No.	Resource Description	Date Recorded
P-28-001439	Corral Complex; HP33 Farm/Ranch	2007
483A-001	Informal Archaeological Resource	1980
P-28-000384	CA-NAP-000498H: Historic Era Building Foundations	1977
P-28-000643	CA-NAP-000770: Prehistoric Archaeological site	1991
P-28-001156	ARS 99-17-01: Prehistoric Archaeological Site	2001
P-28-002458	AP16: Prehistoric Archaeological Isolate	2016
P-28-002466	876 Green Island Road, American Canyon; HP02 Single-family property	2015
NAP-HRI-001	Goncalves Ranch; HP33. Farm/Ranch	1993

Source: NWIC Records Search. February 10, 2021. Resources listed in **Bold** are located within project boundaries.

Table 3.4-2: Previous Investigations within 0.5-mile of the Project Site

Report No.	Report Title/Project Focus	Author	Date
S-000153	Archaeological Impact Evaluation: Proposed Sewage Pipeline, Napa to American Canyon, Napa County, California	Thomas F. King	1975
S-001200	Cultural Resource Assessment of the Napa American Canyon Wastewater Reuse Program	Robert A. Gerry	1978
S-014137	An Archaeological Survey of Two Sites for a Proposed Solid Waste Transfer Station, Napa County, California	Janine M. Loyd	1992
S-022036	A Cultural Resources Evaluation of the "Napa 218" Parcel, APN 057-090-59, in the Napa County Airport Industrial Area, Napa, Napa County	Eric Strother and Katherine Flynn	1999
S-022041	A Cultural Resource Inventory of the Napa Airport Master Environmental Assessment Area, Napa County, California	Katherine Flynn, William Roop, and Ronald Melander	1983
S-024768	Archaeological evaluation of the proposed Devlin Road Extension Project, Napa, Napa County	Katherine Flynn	1999

Report No.	Report Title/Project Focus	Author	Date
S-033061	Cultural Resources Final Report of Monitoring and Findings for the Qwest Network Construction Project, State of California	Nancy Sikes, Cindy Arrington, Bryon Bass, Chris Corey, Kevin Hunt, Steve O'Neil, Catherine Pruett, Tony Sawyer, Michael Tuma, Leslie Wagner, and Alex Wesson	2006
S-034422	Archaeological Assessment Report, Biagi Brothers Wine Distribution Facility, City of American Canyon, Napa County, California	James M. Allan and Leigh Martin	2007
S-048153	Archaeological Resources Study of Devlin Road (Segment H) and Vine Trail Extension Project, American Canyon, Napa County	Samantha Dollinger	2016
S-049803	Cultural Resources Assessment, Green Island Industrial District Roads Project, City of American Canyon, Napa County, California	Kara Brunzell and David Brunzell	2016
S-000589	An Archaeological Survey of a Proposed Borrow Site in American Canyon near Napa, California	Richard A. Stradford and David A. Fredrickson	1977
S-000647	Lombard Street Overcrossing, Archaeological Historical Field Survey	Richard B. Hastings	1975
S-002372	Green Island Industrial Park, Napa County	David Chavez	1980
S-009908	Archaeological evaluation of an 8-acre parcel at 1300 Green Island Rd., APN 58-070-24, Napa County, California	Katherine Flynn	1987
S-009912	Archaeological survey of a parcel located at 650 Green Island Road, American Canyon, Napa County	Katherine Flynn	1988
S-010780	Negative Archaeological Survey Report, proposed sale of an excess parcel west of Highway	Mick Hayes	1989
S-011526	Archaeological reconnaissance of the Lands of Struble, Green Island Road, Napa County	Katherine Flynn	1989
S-012429	Archaeological Survey and Evaluation for the Napa Sanitation District Master Plan Update, Napa County, California	Pat Mikkelsen, John Berg, and Paul Bouey	1991
S-012439	Cultural Resources Investigations for the Port of Oakland Phase I Dredging, Cultural Resources Evaluation	David Chavez	1990
S-014281	An Archaeological Survey of a Site for a Proposed Solid Waste Transfer Station, South of Tower Road, Napa County, California	Janine M. Loyd	1992
S-016739	Negative Archaeological Survey Report, proposed Caltrans maintenance station on excess land parcels 27902-1, 2-7878-4, and 2783-1	Katherine M. Dowdall	1994
S-019171	A Cultural Resources Study of the Hess Collection Winery-American Canyon Property, Napa County, California	Vicki R. Beard	1997

Report No.	Report Title/Project Focus	Author	Date
S-021260	Rock Fences of Napa County: A Pilot Study	Kim J. Tremaine and John A. Lopez	1998
S-024769	Archaeological Reconnaissance of a ten-acre parcel located at 1500 Green Island Road, Napa Co	Katherine Flynn	1988
S-030746	A Cultural Resources Study for the Hanna Bridge Project, Project #0253605003-32001, City of American Canyon, Napa County, California	Heidi Koenig	2005
S-034252	An Archaeological Survey of the Green Island Assessment and Reimbursement District, Napa County, California	Thomas Origer	1988
S-034253	Cultural Resources Inspection of the Hanna Court Project Area, American Canyon, Napa County, California	Miley Paul Holman	2006
S-043823	Cultural Resources Inventory and Evaluation Report for Napa River Salt Marsh Restoration Project, Napa and Sonoma Counties, California	No Author	2003
S-048522	A Historical Resources Study for the Jim Oswalt Warehouse IS/MND American Canyon, Napa County, California	Taylor Alshuth and Tom Orige	2016
S-049494	A Historical Resources Study for the Napa Logistics Business Park-Phase II, American Canyon, Napa County, California	Taylor Alshuth and Tom Origer	2016

Source: NWIC Records Search. February 10, 2021. Reports listed in **Bold** address locations within the project boundaries.

Historic Aerials

A review of 15 historic aerials depicting the project site from 1948 to 2018 indicate that from the earliest aerial, the site was undeveloped, with a single homestead directly outside of its southern border. From 1958 to 2018, the site remained undeveloped, with gradual industrial development occurring to the west, south, east and northeast of the site. The site remains undeveloped to the present day.²⁶

Native American Heritage Commission

On January 25, 2021, FCS sent a letter to the NAHC in an effort to determine whether any sacred sites are listed on its Sacred Lands File for the Area of Potential Effect (APE). A response was received on February 4, 2021, indicating that the Sacred Lands File was positive for TRCs in the APE. The NAHC included a list of 10 tribal representatives available for consultation. To ensure that all Native American knowledge and concerns over potential TCRs that may be affected by the proposed project are addressed, a letter containing project information and requesting any additional information was sent to each tribal representative on February 8, 2021. A second follow up letter and/or email was sent on May 13, 2021. On May 21, 2021, a third and final attempt was made via phone call.

²⁶ Historic Aerials. 2020. Website: <https://www.historicaerials.com/viewer>. Accessed June 3, 2021.

On February 9, 2021, a response was received from the Yocha Dehe Wintun Nation stating that the project site falls within the Tribe’s traditional use area and could impact known cultural resources important to the Tribe. The Tribe provided recommended mitigation measures and protocols including construction monitoring of all ground disturbance and cultural sensitivity training for all staff on-site. On May 21, 2021, a representative of the Guidiville Indian Rancheria stated that the original letter was forwarded to their historian and a lack of response would mean there are no further comments. No additional responses or requests from tribal representatives have been received to date.

Tribal consultation pursuant to AB 52 has been initiated by the City of American Canyon and is ongoing. Table 3.4-3 summarizes the tribal consultation milestones.

Table 3.4-3: Tribal Consultation Matrix

Tribal Contact	Letter Sent	First Follow Up Attempt	Second Follow Up Attempt	Comments from the Tribe
Cachil Dehe Band of Wintun Indians of the Colusa Indian Community Daniel Gomez, Chairman	2/8/21	5/13/21	5/21/21	No response has been received to date.
Cortina Rancheria – Kletsel Dehe Band of Wintun Indians Charlie Wright, Chairperson	2/8/21	5/13/21	5/21/21	No response has been received to date.
Guidiville Indian Rancheria Donald Duncan, Chairperson	2/8/21	5/13/21	5/21/21	May 21, 2021: FCS spoke with the representative, who stated that the original letter was forwarded to their historian and if no response is received, this means there are no comments. No additional response has been received to date.
Middletown Rancheria of Pomo Indians Jose Simon, Chairperson	2/8/21	5/13/21	5/21/21	No response has been received to date.
Mishewal-Wappo Tribe of Alexander Valley Scott Gabaldon, Chairperson	2/8/21	5/13/21	5/21/21	No response has been received to date.
Pinoleville Pomo Nation Leona Williams, Chairperson	2/8/21	5/13/21	5/21/21	No response has been received to date.
Yocha Dehe Wintun Nation Leland Kinter, THPO	2/8/21	5/13/21	5/21/21	No response has been received to date.

Tribal Contact	Letter Sent	First Follow Up Attempt	Second Follow Up Attempt	Comments from the Tribe
Yocha Dehe Wintun Nation Laverne Bill, Site Protection	2/8/21	5/13/21	5/21/21	Email response: February 9, 2021. Laverne Bill stated that the project site could impact known cultural resources important to the Tribe. The Tribe requests cultural monitors and cultural sensitivity training for all staff on-site. Additional mitigation measures from Yocha Dehe Wintun Nation’s Treatment Protocol should be incorporated.
Yocha Dehe Wintun Nation Anthony Roberts, Chairperson	2/8/21	5/13/21	5/21/21	No response has been received to date.
Yocha Dehe Wintun Nation Isaac Bojorquez, Director of Cultural Resources	2/8/21	5/13/21	5/21/21	No response has been received to date.

Cultural Resources Pedestrian Survey

On April 29, 2021, FCS Senior Archaeologist, Dana DePietro, PhD, RPA, and FCS Historian, Ti Ngo conducted a pedestrian survey for unrecorded cultural resources in the APE. The survey began in the southeast corner of the APE and moved west, using north–south transects spaced at 15-meter intervals. All areas of proposed development were closely inspected for culturally modified soils or other indicators of potential historic or prehistoric resources. Due to the high level of vegetation growth in the APE, visibility of native soils was extremely poor, ranging between 1 to 5 percent. Native soils were most clearly visible in cuts and drainages along the edges of the APE, and in areas where bioturbation had exposed subsurface soils. Other sections of poor visibility were intermittently inspected using a hand trowel. Visible soils were largely composed of medium brown (10YR 6/1) silt with moderate clay content, interspersed with small (2-3 cm) stones primarily composed of chalk and schist.

Dr. De Pietro and Mr. Ngo attempted to relocate informal archaeological resource 483A-001 and historic era resource P-28-001439, the historic corral complex. Details regarding these resources can be found in Appendix D. The corral complex was evaluated in 2007, found ineligible for listing as a historic resource, and was subsequently removed from the site. No elements of the corral complex or resource 483A-001 were observed. Both resources are located within 44.8-acres of the project site that will remain undeveloped for the purposes of environmental conservation. Neither are within the proposed construction plan footprint, nor will they be subjected to any ground-disturbing activities.

3.4.5 - Thresholds of Significance

According to Appendix G, Environmental Checklist, of the CEQA Guidelines, cultural resources impacts resulting from the implementation of the proposed project would be considered significant if the project would:

- a) Cause a substantial adverse change in the significance of a historical resource as pursuant to Section 15064.5?
- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?
- c) Disturb any human remains, including those interred outside of formal cemeteries?
- d) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?
- e) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1?
- f) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
 - i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or
 - ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1.

3.4.6 - Project Impacts and Mitigation Measures

This section discusses potential impacts associated with the development of the proposed project and provides mitigation measures where appropriate.

Historic Resources

Impact CUL-1: The proposed project would not cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5.

Impact Analysis

Historic resources in this context refer to the built environment, mainly buildings and structures over 45 years in age that may be eligible for inclusion on the CRHR or NRHP. Records search results, conducted at the NWIC, identified one historic resource (P-28-001439) located within the project site and three historic resources (P-28-000384, P-28-002466 and NAP-HRI-001) located within the 0.5-mile records search radius. As discussed above, P-28-001439 consists of a corral complex that was used for cattle grazing. The historic resource was evaluated relative to the four CRHR eligibility criteria and found to be ineligible to meet any of the criteria for historic and/or architectural significance required for listing on the NRHP, CRHR, or at the local level. No additional historic resources were encountered during the pedestrian field survey and evaluation. Accordingly, the project will not have an adverse impact on historic era built environment resources.

Level of Significance Before Mitigation

No impact.

Mitigation Measures

None required.

Level of Significance After Mitigation

No impact.

Archaeological Resources

Impact CUL-2: The proposed project could cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.

Impact Analysis

Records search results from the NWIC identified one informal archaeological resource (483A-001) within the project site and three prehistoric archaeological resources (P-28-000643, P-28-001156 and P-28-002458) located within the 0.5-mile records search radius. Additionally, the Sacred Lands Files search conducted by the NAHC came back positive for TRCs within the project site. During the pedestrian field survey, Dr. DePietro and Mr. Ngo attempted to relocate the informal resource 483A-001, but were unable to find any remaining indication of it. 483A-001 is located within 44.8-acres of the project site that will remain undeveloped for the purposes of environmental conservation, and will not be subjected to any ground-disturbing activities.

No additional archaeological resources were encountered during the pedestrian field survey, however, poor soil visibility and the presence of several archaeological resources in the immediate vicinity increases the possibility of resources being encountered during project construction.

Implementation of Mitigation Measure (MM) CUL-2, which requires a qualified Archaeologist to be present on-site during all earth disturbing activities, would reduce potential impacts to archaeological resources that may be discovered during project construction. If a potential resource is identified, construction would be required to stop until appropriate identification and treatment measures are implemented.

Level of Significance Before Mitigation

Potentially significant impact.

Mitigation Measures

- MM CUL-2a** No ground disturbance shall take place within 100 feet of informal archaeological resource 483A-001. The resource shall be preserved in place.
- MM CUL-2b** An Archaeologist who meets the Secretary of the Interior’s Professional Qualification Standards for archaeology shall be present on-site during all earth disturbing activities. If prehistoric or historic-period archaeological resources are encountered, all construction activities within 100 feet of the find shall halt and the City of American Canyon shall be notified. Prehistoric archaeological materials may include obsidian and chert flaked stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil (“midden”) containing heat-affected rocks, artifacts, or shellfish remains; and stone milling equipment (e.g., mortars, pestles, hand stones, or milling slabs); and battered stone tools, such as hammerstones and pitted stones. Historic-period materials might include stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse.

The Archaeologist shall inspect the findings within 24 hours of discovery. If it is determined the project could damage a historical resource or a unique archaeological resource (as defined pursuant to the CEQA Guidelines), mitigation shall be implemented in accordance with Public Resources Code Section 21083.2 and Section 15126.4 of the CEQA Guidelines, with a preference for preservation in place. Consistent with Section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement. If avoidance is not feasible, a qualified Archaeologist shall prepare and implement a detailed treatment plan in consultation with the City of American Canyon. Treatment of unique archaeological resources shall follow the applicable requirements of Public Resources Code Section 21083.2. Treatment for most resources would consist of (but would not be limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource to be impacted by the proposed project. The treatment plan shall include provisions for analysis of data in a regional context, reporting of results within a timely manner, curation of artifacts and data at an approved facility, and dissemination of reports to local and State repositories, libraries, and interested professionals.

Level of Significance After Mitigation

Less than significant impact.

Human Remains

Impact CUL-3: **The proposed project could disturb human remains, including those interred outside of formal cemeteries.**

Impact Analysis

While no formal cemeteries or areas containing human remains are known to be in the project vicinity, the possibility always exists that construction-related ground disturbance may uncover previously undiscovered human remains. In the unlikely event such a discovery is made, CEQA Guidelines Section 15064.5, Health and Safety Code Section 7050.5, and Public Resources Code Sections 5097.94 and Section 5097.98 must be followed. Implementation of MM CUL-3, which details inadvertent discovery procedures, would reduce potential impacts to previously undiscovered human remains to a less than significant level.

Level of Significance Before Mitigation

Potentially significant impact.

Mitigation Measures

MM CUL-3 In the event of the accidental discovery or recognition of any human remains, CEQA Guidelines Section 15064.5, Health and Safety Code Section 7050.5, and Public Resources Code Sections 5097.94 and Section 5097.98 shall be followed. If during project construction, there is accidental discovery or recognition of any human remains, the following steps shall be taken:

1. There shall be no further excavation or disturbance within 100 feet of the remains until the County Coroner is contacted to determine whether the remains are Native American and if an investigation of the cause of death is required. If the Coroner determines the remains to be Native American, the Coroner shall contact the Native American Heritage Commission (NAHC) within 24 hours, and the NAHC shall identify the person or persons it believes to be the Most Likely Descendant (MLD) of the deceased Native American. The MLD may make recommendations to the landowner or the person responsible for the excavation work within 48 hours, for means of treating or disposing of, with appropriate dignity, the human remains, and any associated grave goods as provided in Public Resource Code Section 5097.98.
2. Where the following conditions occur, the landowner or authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity either in accordance with the recommendations of the MLD or on the project site in a location not subject to further subsurface disturbance:
 - The NAHC is unable to identify an MLD or the MLD failed to make a recommendation within 48 hours after being notified by the commission.
 - The descendant identified fails to make a recommendation.
 - The landowner or authorized representative rejects the recommendation of the descendant, and mediation by the NAHC fails to provide measures acceptable to the landowner.

Additionally, California Public Resources Code Section 15064.5 requires the following relative to Native American Remains:

- When an initial study identifies the existence of, or the probable likelihood of, Native American Remains within a project, a lead agency shall work with the appropriate Native Americans as identified by the NAHC as provided in Public Resources Code Section 5097.98. The applicant may develop a plan with respect to their respective individual development proposals for treating or disposing of, with appropriate dignity, the human remains, and any items associated with Native American Burials with the appropriate Native Americans as identified by the NAHC.

Level of Significance After Mitigation

Less than significant.

Listed or Eligible Tribal Cultural Resources

Impact CUL-4: The proposed project may cause a substantial adverse change in the significance of a Tribal Cultural Resource.

Impact Analysis

Records search results from the NWIC indicate several prehistoric sites are located within the project vicinity, and a review of the NAHC Sacred Lands File was positive for recorded TCRs being located within the project site. On February 9, 2021, a response was received from the Yocha Dehe Wintun Nation stating that the project site falls within the Tribe’s traditional use area and could impact known cultural resources important to the Tribe. This would constitute a significant impact. The Tribe provided recommended mitigation measures and protocols including construction monitoring of all ground disturbance. Implementation of these protocols, included here as MM CUL-4, would reduce potential impacts to TCRs to a less than significant level.

Level of Significance Before Mitigation

Potentially significant impact.

Mitigation Measures

MM CUL-4 A Tribal Monitor representing the Yocha Dehe Wintun Nation shall be present during all project-related ground disturbance. Additionally, the Yocha Dehe Wintun Nation’s Treatment Protocol (Protocol) shall be followed with respect to Tribal Cultural Resources (TCRs). The purpose of the protocol is to formalize procedures for the treatment of Native American human remains, grave goods, ceremonial items, and items of cultural patrimony, if any are found in conjunction with development, including archaeological studies, excavation, geotechnical investigations, grading, and any ground-disturbing activity. This Protocol also formalizes procedures for Tribal Monitoring during archaeological studies, grading, and ground-disturbing activities.

1. Cultural Affiliation: The Yocha Dehe Wintun Nation (Tribe) traditionally occupied lands in Yolo, Solano, Lake, Colusa, and Napa Counties. The Tribe has designated its Cultural Resources Committee (Committee) to act on the Tribe's behalf with respect to the provisions of this Protocol. Any human remains which are found in conjunction with projects on lands culturally affiliated with the Tribe shall be treated in accordance with Section III of this Protocol. Any other cultural resources shall be treated in accordance with Section IV of this Protocol.
2. Inadvertent Discovery of Native American Human Remains: Whenever Native American human remains are found during the course of a project, the determination of Most Likely Descendant (MLD) under California Public Resources Code Section 5097.98 will be made by the Native American Heritage Commission (NAHC) upon notification to the NAHC of the discovery of said remains at a project site. If the location of the site and the history and prehistory of the area is culturally affiliated with the Tribe, the NAHC contacts the Tribe; a Tribal member will be designated by the Tribe to consult with the landowner and/or project proponents. Should the NAHC determine that a member of an Indian tribe other than Yocha Dehe Wintun Nation is the MLD, and the Tribe agrees with this determination, the terms of this Protocol relating to the treatment of such Native American human remains shall not be applicable; however, that situation is very unlikely.
3. Treatment of Native American Remains: In the event that Native American human remains are found during development of a project and the Tribe or a member of the Tribe is determined to be MLD pursuant to Section II of this Protocol, the following provisions shall apply. The Medical Examiner shall immediately be notified, ground-disturbing activities in that location shall cease and the Tribe shall be allowed, pursuant to California Public Resources Code Section 5097.98(a), to (1) inspect the site of the discovery and (2) make determinations as to how the human remains and grave goods shall be treated and disposed of with appropriate dignity. The Tribe shall complete its inspection and make its MLD recommendation within 48 hours of getting access to the site. The Tribe shall have the final determination as to the disposition and treatment of human remains and grave goods. Said determination may include avoidance of the human remains, reburial on-site, or reburial on tribal or other lands that will not be disturbed in the future. The Tribe may wish to rebury said human remains and grave goods or ceremonial and cultural items on or near the site of their discovery, in an area which will not be subject to future disturbances over a prolonged period of time. Reburial of human remains shall be accomplished in compliance with the California Public Resources Code Sections 5097.98(a) and (b). The term "human remains" encompasses more than human bones because the Tribe's traditions call for the burial of associated cultural items with the deceased (funerary objects), and/or the ceremonial burning of Native American human remains, funerary objects, grave goods, and animals. Ashes, soils, and other remnants of these burning ceremonies, as well as associated funerary objects and unassociated funerary objects buried with or found near the Native

- American remains are to be treated in the same manner as bones or bone fragments that remain intact.
4. **Non-Disclosure of Location of Reburials:** Unless otherwise required by law, the site of any reburial of Native American human remains shall not be disclosed and will not be governed by public disclosure requirements of the California Public Records Act, California Government Code Section 6250 *et seq.* The Medical Examiner shall withhold public disclosure of information related to such reburial pursuant to the specific exemption set forth in California Government Code Section 6254(r). The Tribe will require that the location for reburial is recorded with the California Historic Resources Inventory System (CHRIS) on a form acceptable to the CHRIS center. The Tribe may also suggest that the landowner enter into an agreement regarding the confidentiality of site information that will run with title on the property.
 5. **Treatment of Cultural Resources:** Treatment of all cultural items, including ceremonial items and archaeological items will reflect the religious beliefs, customs, and practices of the Tribe. All cultural items, including ceremonial items and archaeological items, which may be found at a project site shall be turned over to the Tribe for appropriate treatment, unless ordered by a court or agency of competent jurisdiction. The project proponent shall waive any and all claims to ownership of Tribal ceremonial and cultural items, including archaeological items, which may be found on a project site in favor of the Tribe. If any intermediary, (for example, an Archaeologist retained by the project proponent) is necessary, said entity or individual shall not possess those items for longer than is reasonably necessary, as determined solely by the Tribe.
 6. **Inadvertent Discoveries:** If additional significant sites or sites not identified as significant in a project environmental review process, but later determined to be significant, are located within a project impact area, such sites will be subjected to further archaeological and cultural significance evaluation by the project proponent, the Lead Agency, and the Tribe to determine whether additional mitigation measures are necessary to treat sites in a culturally appropriate manner consistent with CEQA requirements for mitigation of impacts to cultural resources. If there are human remains present that have been identified as Native American, all work will cease for a period of up to 30 days in accordance with Federal Law.

Level of Significance After Mitigation

Less than significant impact.

Lead Agency Determined Tribal Cultural Resources

Impact CUL-5:	The proposed project may cause a substantial adverse change in the significance of a tribal cultural resource.
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Impact Analysis

FCS sent letters containing project information and requesting any additional information to each tribal representative identified by the NAHC on February 8, 2021. A second follow up letter and/or email was sent on May 13, 2021. On May 21, 2021, a third and final attempt was made via phone call. On February 9, 2021, a response was received from the Yocha Dehe Wintun Nation stating that the project site falls within the Tribe's traditional use area and could impact known cultural resources important to the Tribe. The Tribe provided recommended mitigation measures and protocols including construction monitoring of all ground disturbance and cultural sensitivity training for all staff on-site.

Tribal consultation pursuant to AB 52 has been initiated by the City of American Canyon and is ongoing. The City of American Canyon, in its capacity as lead agency, has not identified any TCRs within the project site that are significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. However, the possibility remains that TCRs in the form of subsurface archaeological resources or human remains may be encountered during project construction. Implementation of MM CUL-2a, MM CUL-2b, MM CUL-3 and MM CUL-4 would require construction monitoring by a qualified Archaeologist and Native American Monitor. These measures include protocols provided by the Yoche Dehe Wintun Nation and would reduce potential impacts to TCRs to a less than significant level.

Level of Significance Before Mitigation

Potentially significant impact.

Mitigation Measures

Implement Mitigation Measures CUL-2a, CUL-2b, CUL-3 and CUL-4.

Level of Significance After Mitigation

Less than significant impact.

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