

## 4.5 CULTURAL RESOURCES

### 4.5.1 Introduction

This section of the DEIR describes the historical and cultural resources present on-site and in the immediate vicinity of the Project Site. This section includes information from the *Carmelita Project Cultural Resources Environmental Assessment*, Benchmark Resources, July 2010 which includes the *Cultural Resources Survey for the Carmelita Project, Sanger, Fresno County, California* prepared by C. Kristina Roper, M.A., RPA of Sierra Valley Cultural Planning, in November 2008, and subsequently updated in February 2010. The survey included a records search and literature review, background historical research, field survey of the Project Site and vicinity, and documentation and evaluation of the Project Site's cultural resources. The County and its EIR preparer conducted a peer review of these assessments and independently verified the analysis and conclusions.

A follow-up cultural resources records search was requested from the Southern San Joaquin Valley Information Center in September 2010, which expanded the search radius from ½-mile to a one-mile radius. A Sacred Lands File Search was also performed in December 2010 by the California Native American Heritage Commission. A technical report review was prepared by URS Corporation on August 30, 2010. Results of the surveys and records searches and reviews are included in Appendices G-1 and G-2 of this DEIR. It also incorporates revisions to the project description submitted to the County by the Applicant in May 2011 (see Chapter 1.0, Introduction and Chapter 3.0, Project Description).

### 4.5.2 Environmental Setting

The Project Site is located on the eastern edge of the San Joaquin Valley at the base of the Sierra Nevada foothills in the Kings River drainage. Modern-day land use within the area primarily includes stone fruit orchards. The Project Site is bounded by South Reed Avenue on the east, East Central Avenue on the south, East Annadale Avenue on the north, and Byrd Slough on the west. Fink Ditch, an earthen water conveyance feature, crosses through the Project Site. Some commercial and residential structures are present within the Project Site. All residential and commercial structures within the area of disturbance are of modern construction and are less than 50 years old.

The Project Site is located on level terrain just east of Byrd Slough which drains into the Kings River to the south. Campbell Mountain is located approximately 1 mile to the east of the Project Site. Due to extensive and sustained agricultural use, little native vegetation remains within the Project Site. Soils within the Project Site include silty sands with numerous river-rounded cobbles. Elevation ranges from approximately 350 to 375 ft (107-114 m) above mean sea level.

Prior to Euro-American settlement in the region, the San Joaquin Valley was an extensive wetland with contiguous rivers, sloughs, and lakes. Stands of trees – sycamore, cottonwoods, and willows – lined the higher elevation stream courses such as the Kings River, with dense stands of tule rushes in lower wetland areas. Rivers and lakes yielded fish, mussels, and pond turtles; migratory waterfowl nested in the dense tules. Historically, the Kings River had two annual

salmon runs. Tule elk, sometimes referred to by early Spanish explorers as wild horses, found ample forage. Smaller mammals and birds, including jackrabbits, ground squirrels, and quail were abundant.

The San Joaquin Valley region has a history of Indian settlements from as early as 11,000 to 12,000 years ago. The location of the Project Site within a network of river and canal systems had made it suitable for agricultural occupation and provided food resources such as aquatic flora and fauna in pre-historic times.

#### **4.5.2.1 Prehistoric Period Summary**

The San Joaquin Valley and adjacent Sierra foothills and Coast Range have a long and complex cultural history with distinct regional patterns that extend back more than 11,000 years (see Appendix G-1). The first generally agreed-upon evidence for the presence of prehistoric peoples in the region is represented by the distinctive basally-thinned and fluted projectile points, found on the margins of extinct lakes in the San Joaquin Valley. These projectiles, often compared to Clovis points, have been found at three localities in the San Joaquin Valley including along the Pleistocene shorelines of former Tulare Lake. Based on evidence from these sites and other well-dated contexts elsewhere, the Paleo-Indian hunters who used these spear points existed during a narrow time range of 11,550 Before Present (BP) to 8,550 BP (see Appendix G-1).

As a result of climate change at the end of the Pleistocene, a period of extensive deposition occurred throughout the lowlands of central California, burying many older landforms and providing a distinct break between Pleistocene and subsequent occupations during the Holocene. Another period of deposition, also a product of climate change, had similar results around 7,550 BP, burying some of the oldest archaeological deposits discovered in California (see Appendix G-1).

The Lower Archaic (8,550-5,550 BP) is characterized by an apparent contrast in economies, although it is possible they may be seasonal expressions of the same economy. Archaeological deposits which date to this period on the valley floor frequently include only large stemmed spear points, suggesting an emphasis on large game such as artiodactyls (see Appendix G-1). Recent discoveries in the adjacent Sierra Nevada have yielded distinct milling assemblages which clearly indicate a reliance on plant foods. Investigations at Copperopolis (see Appendix G-1) argue that nut crops were the primary target of seasonal plant exploitation. Assemblages at these foothill sites include dense accumulations of handstones, millingslabs, and various cobble-core tools, representing “frequently visited camps in a seasonally structured settlement system” (see Appendix G-1). As previously stated, these may represent different elements of the seasonal round. What is known is that during the Lower Archaic, regional interaction spheres had been well established. Marine shell from the central California coast has been found in early Holocene contexts in the great basin east of the Sierra Nevada, and eastern Sierra obsidian comprises a large percentage of flaked stone debitage and tools recovered from sites on both sides of the Sierra.

About 8,000 years ago, many California cultures shifted the main focus of their subsistence strategies from hunting to nut and seed gathering, as evidenced by the increase in food-grinding

implements found in archeological sites dating to this period. This cultural pattern is best known for southern California, where it has been termed the Milling Stone Horizon (see Appendix G-1), but recent studies suggest that the horizon may be more widespread than originally described and is found throughout the region during the Middle Archaic Period. Radiocarbon dates associated with this period vary between 8,000 and 2,000 BP, although most cluster in the 6,000 to 4,000 BP range (see Appendix G-1).

On the valley floor, early Middle Archaic sites are relatively rare. This changes significantly toward the end of the Middle Archaic. In central California, late Middle Archaic settlement focused on river courses on the valley floor. “Extended residential settlement at these sites is indicated by refined and specialized tool assemblages and features, a wide range of non-utilitarian artifacts, abundant trade objects, and plant and animal remains indicative of year-round occupation” (see Appendix G-1). Again, climate change apparently influenced this shift, with warmer, drier conditions prevailing throughout California. The shorelines of many lakes, including Tulare Lake, contracted substantially, while at the same time rising sea levels favored the expansion of the San Joaquin/Sacramento Delta region, with newly formed wetlands extending eastward from the San Francisco Bay.

In contrast, early Middle Archaic sites are relatively common in the Sierran foothills, and the mainly utilitarian assemblages recovered show relatively little change from the preceding period with a continued emphasis on acorns and pine nuts. Few bone or shell artifacts, beads, or ornaments have been recovered from these localities. Projectile points from this period reflect a high degree of regional morphological variability, with an emphasis on local toolstone material supplemented with a small amount of obsidian from eastern sources. In contrast with the more elaborate mortuary assemblages and extended burial mode documented at Valley sites, burial sites documented at some foothill sites such as CA-FRE-61 on Wahtoke Creek are reminiscent of “re-burial” features reported from Milling Stone Horizon sites in southern California. These re-burials are characterized by re-interment of incomplete skeletons often capped with inverted millstones (see Appendix G-1).

A return to colder and wetter conditions marked the Upper Archaic in Central California (2,500-1,000 BP). Previously desiccated lakes returned to spill levels and increased freshwater flowed in the San Joaquin and Sacramento watershed. Cultural patterns as reflected in the archeological record, particularly specialized subsistence practices, emerged during this period. The archeological record becomes more complex as specialized adaptations to locally available resources were developed and valley populations expanded into the lower Sierran foothills. New and specialized technologies expanded; distinct shell bead types occur across the region. The range of subsistence resources utilized and exchange systems expanded significantly from the previous period. In the Central Valley, archaeological evidence of social stratification and craft specialization is indicated by well-made artifacts such as charmstones and beads, often found as mortuary items.

The period between approximately 1,000 BP and Euro-American contact is referred to as the Emergent Period. The Emergent Period is marked by the introduction of bow and arrow technology which replaced the dart and atlatl at about 1,100 to 800 BP. In the San Joaquin region, villages and small residential sites developed along the many stream courses in the lower

foothills and along the river channels and sloughs of the valley floor. A local form of pottery was developed in the southern Sierran foothills along the Kaweah River. While many sites with rich archaeological assemblages have been documented in the northern Central Valley, relatively few sites have been documented from this period in the southern Sierran foothills and adjacent valley floor, despite the fact that the ethnographic record suggests dense populations for this region.

#### 4.5.2.2 Ethnographic Summary

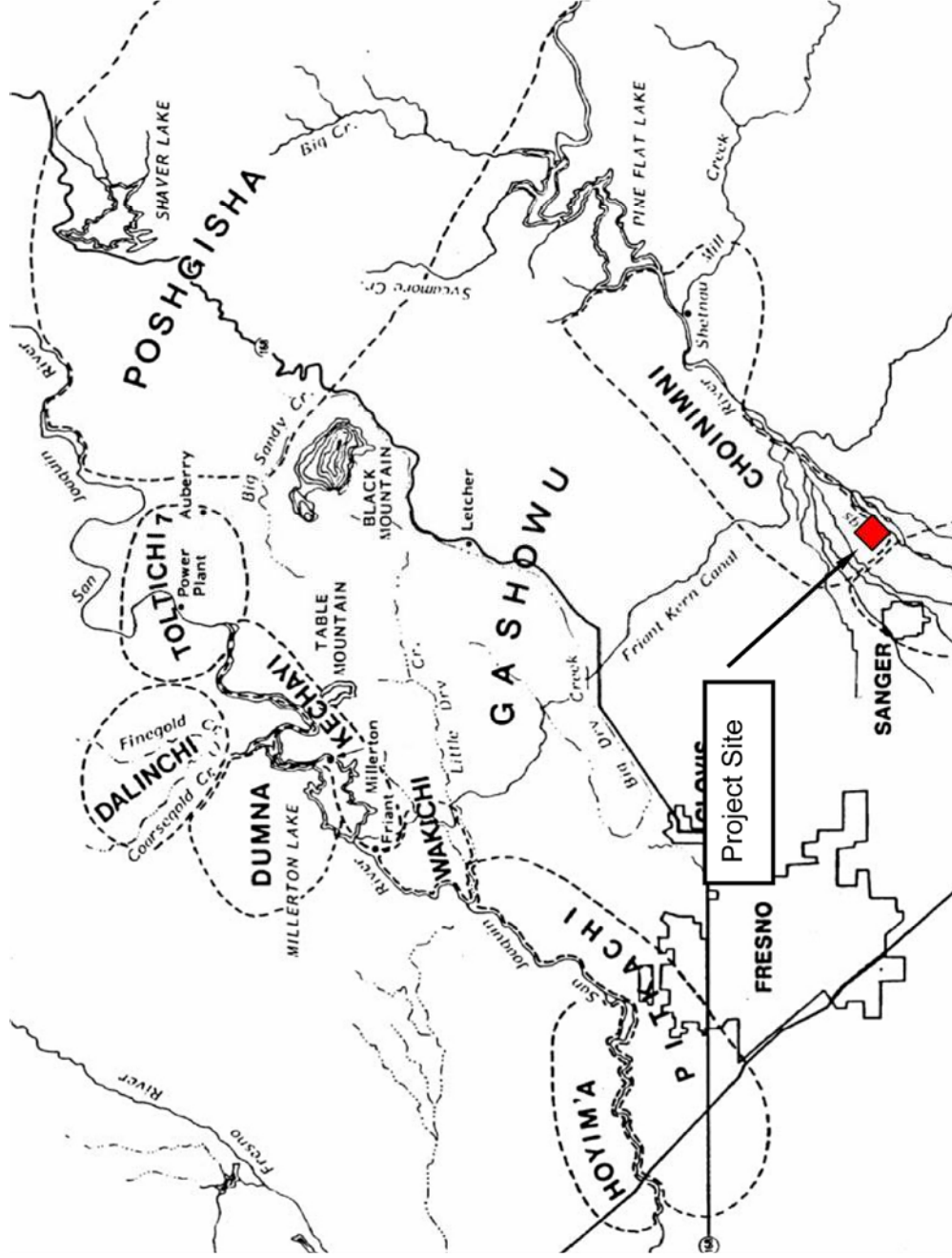
Prior to Euro-American settlement, most of the San Joaquin Valley and the bordering foothills of the Sierra Nevada and Diablo Range were inhabited by speakers of Yokutsan languages. The bulk of the Valley and Foothill Yokuts people lived on the eastern side of the San Joaquin River. The Project Site falls within territory occupied by the Choinimne Yokuts (see Figure 4.5-1 - Ethnographic Tribal Areas in Fresno County, CA). To the west is territory once held by the Wechihit Yokuts (see Appendix G-1). Centerville is located at the western terminus of Choinimne Yokuts territory. The village of Kipai'yu was situated to the north of the Project Site on Byrd Slough (see Appendix G-1). Pulwoi, originally a Wechihit village, was occupied by numerous Choinimne during the early decades of the 20<sup>th</sup> Century while working on the farms and orchards in the Reedley vicinity (see Appendix G-1).

Jesse Morrow Mountain, located to the northeast of the Project Site, was formerly labeled Choinimne Mountain on older maps, including USGS maps of the area. According to McCarthy (see Appendix G-1), the Choinimne name for the mountain is Wahahlish, "Someone Cried." Latta (see Appendix G-1) notes, however, that it is Campbell Mountain to the east that is called by this name. The valley between Jesse Morrow and Campbell mountains is called Wuhlahlyu; this was an area where people went to gather red maid seeds in the spring (see Appendix G-1).

The Native American occupants of the San Joaquin Valley and adjoining Sierra Nevada foothills were hunters and gatherers who depended on the seasonal procurement of locally abundant vegetal and faunal resources. The Choinimne lived in permanently established villages during most of the year, usually between October and May (see Appendix G-1). During the remainder of the year Choinimne people would move across their territory tracking seasonally available plant resources as well as game and fish. Principal villages were situated along permanent stream courses, while temporary camp sites and special use areas were scattered throughout their territory. Bedrock milling sites, the most visible vestige of Native American occupation, were located in rock boulders and outcrops above stream courses. The abundance of resources in the valley and adjoining foothills provided a nearly sedentary life, with high population density typically limited elsewhere to agricultural adaptations (see Appendix G-1).

Numerous accounts of Valley Yokuts lifeways offer details of pre-European land use in the San Joaquin Valley. For additional information on pre-contact Yokuts subsistence and culture see Appendix G-1.

SOURCE: Cultural Resources Survey of the Carmelita Project, Sierra Valley Cultural Planning (09-2009)



NOTE: Adapted from drawing by Tim Seymour in Meighan and Dillon (1987)

# Ethnographic Tribal Areas in Fresno County, CA

Carmelita Mine and Reclamation Project  
 County of Fresno, California

Figure 4.5-1

### 4.5.2.3 Historic Period Summary

The Kings River area was visited in the early 1800s by Spanish expeditions exploring the interior in search of potential mission sites. Lt. Gabriel Moraga, accompanied by Fr. Pedro Munoz, about 25 soldiers, and a few neophytes arrived in the territory of the Wechihit on October 16, 1806 (see Appendix G-1). Moraga's group visited the Aiticha and several villages downstream.

#### Government and Tribe Relations

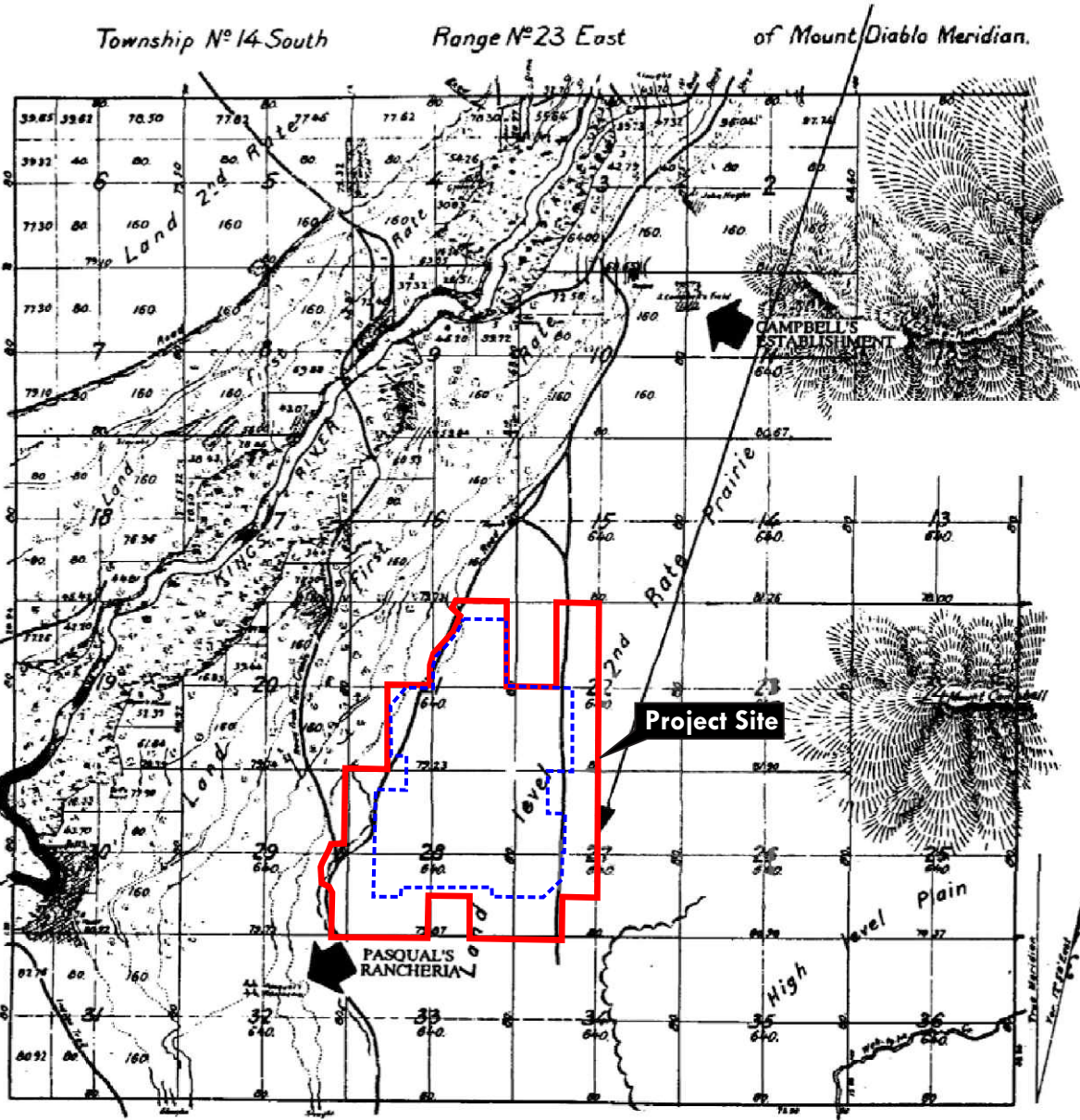
In April of 1851, negotiations were held between the U.S. government and the 16 tribes of the central Sierra foothills at Camp Barbour on the San Joaquin River, resulting in the signing of a treaty between the tribes and the government (which, along with 17 other negotiated treaties, was never ratified). Part of these treaties involved the creation of reserves for the tribes to protect them from intruding miners and settlers (see Appendix G-1). A reserve was created on the Kings River (the Kings River Farm) and William Campbell established a trading post which served as agency headquarters. The post was located east of the Project Site in Township 14S, Range 23E, SW 1/4 Sec. 9. At one point the Farm included 350 acres of arable land and was fenced and irrigated. An 1854 GLO plat map depicts several fields and structures in this area including Campbell's house; Pasqual's rancheria is noted southwest of the Project Site in Section 32. A copy of this map is included as Figure 4.5-2 - Original Government Land Office Plat Map (1855), relative to the Project Site. Poktown, also referred to as Bobtown and located just southeast of Minkler, was an ethnically mixed historic settlement where Choinimne and other local Indian peoples lived while working on the reserve and other nearby farms (see Appendix G-1).

#### The Town of Centerville and the Gold Rush Era

The earliest town settlement in the region was the historic Town of Centerville located approximately 2.3 miles northwest of the Project Site. The history of the town is primarily associated with flood disaster, and economic and social depression. The early settlement originated in 1854 as Scottsburg in the low lands of the Kings River. In 1862, the swelling waters of the Kings River swept the town away, and it was reestablished on the other side of the river approximately  $\frac{3}{4}$  of a mile southeast of the present location. Although the new town site was built at a higher elevation, floods again devastated the town (also known as Kings River) in 1867. The town was then moved to its present location on top of a bluff, where it became known as the Town of Centerville, referring to its central location in the state. The second townsite, which represents Scottsburg's second occupation between 1862 and 1867, is listed on the California Inventory of Historic Resources within the Exploration/Settlement Theme.

The Gold Rush after 1849 had a significant demographic and economic repercussion when European American miners considered establishing permanent residence in the valley. The first settlements in the valley emerged along the major waterways: the Chowchilla, Fresno, San Joaquin, and Kings Rivers (largely to service the transportation and material needs of the miners). The momentum of the Gold Rush could not be sustained, and by the early 1850s, most of the miners and the merchants who relied on their patronage turned to farming food and livestock close to the present location of the Town of Centerville.

SOURCE: Cultural Resources Survey of the Carmelita Project, Sierra Valley Cultural Planning (09-2009)



The above plat of Township N°14 South, Range N°23 East "Mount Diablo Base & Meridian Line" has been made out from & in conformity to the field notes of the undermentioned Surveys thereof, returned and filed in this Office, which have been Examined and Approved.

| Under Contract               |              | Work executed & exhibited      | Distance |     |    | Cost     |       | Payments charged in accounts of the Surveyer General for the |
|------------------------------|--------------|--------------------------------|----------|-----|----|----------|-------|--|
| Dated                        | With         |                                | Miles    | Chs | Ls | Dollars  | Cents |  |
| August 13 <sup>th</sup> 1853 | Jas. A. Tivy | North Boundary of the Township | 6        | 0   | 00 | 84       | 00    | 4 <sup>th</sup> Quarter 1853                                 |
|                              |              | East                           | 4        | 0   | 00 | 58       | 00    |  |
|                              |              | South                          | 6        | 0   | 00 | 84       | 00    |  |
|                              |              | West                           | 6        | 0   | 00 | 84       | 00    |  |
| May 27 <sup>th</sup> 1854    |              | Section Lines                  | 53       | 31  | 07 | 640      | 66    | 1 <sup>st</sup> 1855   |
|                              |              | Meanders                       | 13       | 24  | 32 | 199      | 58    |  |
|                              |              |                                |          |     |    | 1,148.22 |       |  |

NOTE: Figure shows Cambell's establishment and Pasquals's Rancheria relative to Project Site.

Source: Benchmark Resources, 12/2010.

# Original Government Land Office Plat Map (1855)

Carmelita Mine and Reclamation Project  
County of Fresno, California

During the late 1860s and early 1870s, the Town's cattle ranching industry along with increasing farm activity fueled the growth of associated commercial services, which often financed other business ventures throughout the County. To support agricultural activities, a network of canals emerged around the City of Fresno, Town of Centerville, City of Kingsburg and City of Reedley drawing water from the Kings River flowing two miles north of the Town. At this time, the Town of Centerville had a population of approximately 300 residents and was second in size to the City of Fresno.

A series of events in the late 1880s reduced further growth and ultimately sent the Town into a slow downward spiral. The Town sustained itself by diversifying its agricultural industry and was dominated by citrus and vineyards. Another significant event was the construction of the Kings River Lumber Company flume located in the City of Sanger. Located approximately 54 miles into the Sierra Nevada, the flume transported lumber from two smaller mills located in the highlands. The flume passed through the middle of the town and across the northwest corner of the Project Site. No evidence of the flume presently exists on the Project Site.

After 1930, the Town's population began to dwindle. Fruit orchards filled the area between the Town and the City of Sanger. The Town became progressively isolated from the social mainstream of the County but continued to be commercially active. The increased automotive traffic brought on by the establishment of Kings Canyon National Park in 1940 and the construction of SR 180 failed to revive the Town.

### **4.5.3 Applicable Policies, Plans, and Regulations**

#### **4.5.3.1 Federal**

##### National Historic Preservation Act (NHPA)

If the Proposed Project were required to obtain an incidental take permit under the federal ESA, the Project may be considered a federal undertaking subject to Section 106 of the National Historic Preservation Act (NHPA). Section 106 requires that, before taking action on an undertaking, a federal agency must take into account the effects of the undertaking on *historic properties* and afford the Advisory Council on Historic Preservation (ACHP) and other interested parties an opportunity to comment on these actions. Implementing regulations for Section 106 are found at 36 CFR § 800.

A *historic property* is a cultural resource that is eligible for listing in the National Register of Historic Places (NRHP). The NRHP significance criteria applied to evaluate the cultural resources in this study are defined in 36 CFR Section 60.4 as follows:

*The quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, association, and,*



1. *That are associated with events that have made a significant contribution to the broad patterns of our history; or*
2. *That are associated with the lives of persons significant in our past; or*
3. *That embody the distinctive characteristics of type, period, or method of construction, or that represent a significant and distinguishable entity whose components may lack individual distinction; or*
4. *That has yielded, or may be likely to yield, information important in prehistory or history.*

Section 106 of the NHPA prescribes specific criteria for determining whether a project would adversely affect a *historic property*, as defined in 36 Code of Federal Regulations (CFR) Section 800.5. An impact is considered significant when prehistoric or historic archaeological sites, structures, or objects listed in or eligible for listing in the NRHP are subjected to the following adverse effects:

- Physical destruction of or damage to all or part of the property;
- Alteration of a property;
- Removal of the property from its historic location;
- Change of the character of the property's use or of physical features within the property's setting that contribute to its historic significance;
- Introduction of visual, atmospheric, or audible elements that diminish the integrity of the property's significant historic features;
- Neglect of a property that causes its deterioration; and
- Transfer, lease, or sale of the property out of federal ownership or control.

Although the tasks necessary to comply with Section 106 may be delegated to others, the federal agency is ultimately responsible for ensuring that the Section 106 process is completed according to statute. Project approval may require compliance with both CEQA and NHPA Section 106. While parallel, the two statutes are separate regulatory processes. However, the more rigorous standards and review process required for Section 106 can provide the information useful for CEQA compliance.

#### **4.5.3.2 State**

##### California Environmental Quality Act

The term "cultural resource," as it is used in CEQA, is a broad term that describes a wide variety of resources including archaeological sites, isolated artifacts, features, records, manuscripts, historical sites, historical resources, and historic properties. Under CEQA, cultural resources can be divided into two sub-categories: (1) historical resources; and (2) unique archaeological resources. Historical resources are resources that have been adjudged, either formally or informally, to be significant in the historical, architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California. Unique archaeological resources are archaeological resources that generally do not have historical

qualities, but have unique characteristics nonetheless that could add to the current body of scientific knowledge or that render the resource of exceptional quality or consequence.

A resource may be both a historical resource and an archaeological resource under CEQA, in that an archaeological resource may be deemed to have high historical significance. Such resources are termed “historical archaeological resources,” and are afforded all the same protections as historical resources, with a few special considerations. They are properly viewed as a subset of historical resources, and the laws and guidelines for treatment of historical resources should be applied to them; the guidelines for dealing with unique archaeological resources do not pertain to historical archaeological resources. Unique archaeological resources, then, are archaeological items or sites that qualify as “unique” but not necessarily “historical.” Non historical, non-unique archaeological resources need not be considered under CEQA.

### *CEQA Historical Resource*

The term *historical resource* includes, but is not limited to, any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California (PRC § 5020.1(j)). Under CEQA, there are three broad categories of historical resources:

- Resources listed in, or determined to be eligible by, the State Historical Resources Commission for listing in the California Register of Historical Resources (CRHR).
- Resources included in a local register of historical resources, as defined in Section 5020.1(k) of the PRC or identified as significant in an historical resource survey meeting the requirements in Section 5024.1(g) of the PRC. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- 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 to be 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 CRHR including the following:
  - It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States;
  - It is associated with the lives of persons important to local, California, or national history;
  - It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master or possesses high artistic values;or

- It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

The CRHR automatically includes all California properties that have been listed with the NRHP; consequently, properties within the state that are listed on the NRHP are also historical resources under CEQA. The fact that a resource has not been listed in, or determined eligible for listing in, the CRHR (or NRHP) or identified as historic by a local register does not preclude a lead agency from making its own determination that a resource is historic using the criteria set forth in item 3, above (14 CCR § 15064.5(a)(4)).

The above CEQA Guidelines have been paraphrased as constituting three categories of historic resources:

1. **“Mandatory” historic resources:** Those that are listed in, or determined by the State Historic Resources Commission (SHRC) to be eligible for listing in, the CRHR;
2. **“Presumed” historic resources:** Those that are included in a local register of historic resources or that have been identified as significant pursuant to a historical resource survey; and
3. **“Optional” historic resources:** Those that do not fall within either the mandatory or presumptive categories, but which may be deemed historical at the discretion of the lead agency. If a lead agency chooses to designate a resource historically significant under the “optional” provision, that designation must be supported by substantial evidence in light of the whole record (14 CCR § 15064.5(a)(4)).

Thus, under the CEQA Guidelines, only those resources that are already listed with the CRHR (by direct listing or by virtue of inclusion in the NRHP), or that have gone through the formal CRHR nomination process and have been approved for listing, are mandatory historic resources under CEQA (14 CCR § 15064.5(a)). Resources that are listed with a local historic register are presumed to be historic resources unless the lead agency determines, by applying the CRHR criteria, that the preponderance of the evidence points away from a finding of historical significance (14 CCR § 15064.5(a)(2)). Finally, a lead agency may make an independent determination that a non-listed resource has historical significance by applying the CRHR criteria. Any such determination must be supported by substantial evidence in light of the whole record (14 CCR § 15064.5(a)(4)).

### **National Register of Historic Places**

Under CEQA, resources that are listed with the CRHR are historical resources. By statute, the CRHR automatically includes California properties listed in, or formally determined eligible for listing in the NRHP. The NRHP has four statutory “Criteria for Evaluation” of a property, which are essentially the same four considerations for determining eligibility under the CRHR listed above (36 CFR § 60.4; PRC § 5024.1(c)). The NRHP normally will not list cemeteries, the birthplaces or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties that are primarily commemorative in nature, and properties that have achieved significance in the past 50 years.

However, exceptions can be made for particularly unique properties or circumstances. Unlike the CRHR, only the State Historic Preservation Officer (SHPO) may nominate a property for inclusion in the NRHP. Individuals or organizations wishing to nominate a site must first submit a nomination packet to the SHPO, who makes a threshold determination concerning the property's potential for listing.

As noted above, the criteria for determining CRHR-eligible properties are substantially the same as the NRHP criteria (PRC § 5024.1(c)). However, the NRHP provides more supplemental guidance for evaluating properties than the CRHR. Where a lead agency is considering using its discretionary authority under the "optional" prong to designate a non-listed resource as nonetheless historically significant under CEQA, it may look to the supplemental materials and information provided by the NRHP for additional guidance in determining whether the site has historical significance.

Traditional Cultural Property: The NRHP publishes a number of bulletins that provide advice on how to evaluate potential sites and determine their eligibility. In particular, Bulletin 15, entitled, *How to Apply the National Register Criteria for Evaluation*, gives definitions for the terms used in each of the four criteria, and provides detailed examples of the types of properties that would qualify as historic resources. One such type of qualifying property is the "traditional cultural" property. Traditional cultural properties are properties whose historical significance "is derived from the role a property plays in a community's historically rooted beliefs, customs, and practices. Properties may have significance if they are associated with events or a series of events significant to the cultural traditions of a community"<sup>1</sup> (Bulletin 15 at 13). Traditional cultural properties are eligible for listing as historical places with the NRHP to the extent they are congruous with the NRHP's four Criteria for Evaluation of potential historic properties.

The NRHP publishes a separate bulletin dedicated entirely to evaluating and documenting traditional cultural properties.<sup>2</sup> This bulletin, known as Bulletin 38, expounds on the four NRHP Criteria for Evaluation, explaining how they can assist in the recognition of properties that may have traditional cultural associations. The bulletin notes that these properties can be particularly difficult to recognize because their significance is often entirely intangible, and may not come to light through the traditional archaeological or historical resource survey (Bulletin 38 at 2). In many cases, the existence of such locations can only be ascertained through interviews with appropriate individuals and other ethnographic research.

Bulletin 38 outlines a general four-step approach, as recommended by the NRHP, to identify traditional cultural properties within a project area. The first step is to conduct background research "into what is already recorded about the area's history, ethnography, sociology and folklife" (*Id.* at 7). The next step is to make contact with traditional communities, groups, and individuals who have knowledge of or intimate familiarity with the area, and to glean

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<sup>1</sup> By way of example, Bulletin 15 indicates that a site may be considered a traditional cultural property if oral historical accounts evidence that the site was associated with the founding of an Indian tribe or society. Bulletin 15, *How to Apply the National Register Criteria for Evaluation*, National Register of Historic Places, 13.

<sup>2</sup> Bulletin 38, *Guidelines for Evaluating and Documenting Traditional Cultural Properties*, National Register of Historic Places.

whatever information they may have regarding a site's cultural significance. The third recommended step is to conduct fieldwork and recordation, consisting of land surveys, outside consultations, and information gathering within the community by way of interviews and community meetings.

The fourth and final step is to reconcile the data and resolve any conflicts. As noted in the bulletin, it is not uncommon for a traditional cultural property to be "discovered" only when it is threatened by a land use change, or other such project. This is partially because, according to the bulletin, many of these properties are kept secret out of respect or reverence for their significance, and partially because there may have been no reason to talk about the property until it was threatened. In other cases, there will be conflicts between the significance that is ascribed to the property in recorded and historical data, and the significance that is ascribed to it modernly by the community or group.

The NRHP acknowledges that reconciliation of such conflicts is far from an exact science. "In general, the only reasonably reliable way to resolve conflict among sources is to review a wide enough range of documentary data, and to interview a wide enough range of authorities to minimize the likelihood either of inadvertent bias or of being deliberately misled" (*Id.* at 10). It is recommended that in most cases, the authorities consulted should include knowledgeable parties from within the community as well as "appropriate specialists in ethnography, sociology, history, and other relevant disciplines" (*Id.*).

### **Unique Archaeological Resource**

A *unique archaeological resource* is defined in Section 21083.2(g) of the PRC as an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

1. Contains information needed to answer important scientific research questions and for which there is a demonstrable public interest;
2. Has a special and particular quality such as being the oldest of its type or the best available example of its type; or
3. Is directly associated with a scientifically recognized important prehistoric or historic event or person.

Archaeological resources that may have high historical value should first be evaluated under the historical resources criteria. Only if a resource does not meet the historical resources criteria should it be evaluated under the standards for unique archaeological resources (see 14 CCR § 15064.5(c)(2)). If the resource is considered unique pursuant to the above criteria, the lead agency will need to consider whether the project may have a significant effect on it. A non-unique archaeological resource is any archaeological artifact, object, or site which does not meet the above criteria (PRC § 21083.2(h)). If the site is determined to be non-unique, its existence may be recorded at the discretion of the lead agency, but need no further evaluation for purposes of CEQA (14 CCR § 15064.5(c)(4)). The mere existence of archaeological resources on the property does not require a finding of significance. Absent a

finding that the resources are unique, the lead agency is not required to impose conditions mitigating the impacts to those resources.

### **Native American Graves and Human Remains**

There are several state laws that provide for the protection of Native American human remains.

#### Health and Safety Code

Contained in the California Health and Safety Code, (CHSC §§ 8010-8030) are broad provisions for the protection of Native American cultural resources. The California Native American Graves Protection and Repatriation Act established state policy to ensure that California Native American human remains and cultural items are treated with respect and dignity. The Act also provides the mechanism for disclosure and return of human remains and cultural items held by publicly funded agencies and museums in California. Additionally, the Act outlines the mechanism by which California Native American tribes not recognized by the federal government may file claims for human remains and cultural items held by agencies or museums.

#### Public Resources Code

Procedures are detailed under PRC Sections 5097.9-5097.996 for the actions to be taken whenever Native American remains are discovered. No public agency and no private party using or occupying public property or operating on public property under a public license, permit, grant, lease, or contract made on or after July 1, 1977 shall in any manner interfere with the free expression or exercise of Native American religion as provided in the United States Constitution and the California Constitution; nor shall any such agency or party cause severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property, except on a clear and convincing showing that the public interest and necessity so require. The NAHC is responsible for the enforcement of the provisions of this chapter.

Any 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 as provided in Section 5097.99 of the PRC. In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, no further excavation or disturbance of the site or any nearby area is allowed until the coroner of the county in which the human remains are discovered is contacted. If the coroner determines that the remains are not subject to his or her authority, and if the coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the NAHC.

Every person who removes any part of any human remains from any place where it has been interred, or from any place where it is deposited while awaiting interment or

cremation, with intent to sell it or to dissect it, without authority of law or written permission of the person or persons having the right to control the remains under CHSC Section 7100, or with malice or wantonness, has committed a public offense that is punishable by imprisonment in a state prison.

#### 4.5.3.3 Local

The County of Fresno General Plan identifies environmental, social and economic goals for the region, and sets forth policies, standards, and programs to guide physical development within the County. The following are sections from the General Plan Open Space and Conservation Element's Historical, Cultural, and Geological Resources that are relevant to the Proposed Project. The goal of the historical and cultural policies is to identify, protect, and enhance Fresno County's important historical, archaeological, paleontological, geological, and cultural sites and their contributing environment.

**Policy OS-J.1:** The County shall require that, as part of any required CEQA review, important historical, archaeological, paleontological, and cultural sites and their contributing environment are identified and protected from damage, destruction, and abuse to the maximum extent feasible. Project-level mitigation shall include accurate site surveys, consideration of project alternatives to preserve archaeological and historic resources, and provision for resource recovery and preservation when displacement is unavoidable.

**Policy OS-J.2:** The County shall, within the limits of its authority and responsibility, maintain confidentiality regarding the locations of archaeological sites in order to preserve and protect these resources from vandalism and the unauthorized removal of artifacts.

**Policy OS-J.3:** The County shall solicit the views of the local Native American community in cases where development may result in disturbance to sites containing evidence of Native American activity and/or sites of cultural importance.

#### 4.5.4 Project Impacts and Mitigation Measures

##### 4.5.4.1 Thresholds of Significance

The following Thresholds of Significance have been established to evaluate the potential project impacts on cultural resources.

- Cause a substantial adverse change in the significance of a historical resource as defined in the State CEQA Guidelines, Section 15064.5;
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to the State CEQA Guidelines, Section 15064.5;
- Directly or indirectly destroy a unique paleontological resource or site, or a unique geologic feature; or

- Disturb any human remains, including those interred outside of formal cemeteries;

These thresholds were selected by the County of Fresno, Department of Public Works and Planning to specifically address potentially significant impacts of the Proposed Project.

CEQA defines a *substantial adverse change* as:

- Physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of a historical resource would be materially impaired; or
- Demolition or material alteration of the physical characteristics that convey the resource's historical significance and justify its designation as a *historical resource* (14 CCR § 15064.5(b)).

#### 4.5.4.2 Issues Determined to Have No Impact

As a result of the research conducted, no significant impacts to cultural resources are anticipated. However the potential for unanticipated impacts to, an as yet undiscovered resource remains. As a result, potentially significant impacts may occur and mitigation measures are identified in Section 4.5.4.4.

#### 4.5.4.3 Impacts Determined to Be Less Than Significant

Although impacts that could occur to cultural resources as a result of the Proposed Project are currently unknown, unanticipated impacts if they occurred would be potentially significant and therefore, no potential impacts were determined to be less than significant.

#### 4.5.4.4 Impacts Determined to be Potentially Significant

**Cause a substantial adverse change in the significance of a historical resource pursuant to the State CEQA Guidelines, Section 15064.5.**

##### **Impact CR-1:**

**The Proposed Project may result in a significant impact if cultural materials (i.e., flaked stone artifacts, ground stone, historical glass, bone, etc.) or features (e.g., hearths, structural foundations, privies, etc.) are discovered during project-related activities. This is a potentially significant impact.**

A resource may be listed as an historical resource in the California Register of Historical Resources (CRHR) if it is in excess of 50 years of age and it meets any of the following criteria:

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; or,
4. It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

In addition to the above, the resource must possess integrity which can be defined as the authenticity of an historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance. Historical resources eligible for listing in the California Register must meet one of the criteria of significance described above and retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. Integrity is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association. It must also be judged with reference to the particular criteria under which a resource is proposed for eligibility (California Code of Regulations, Title 14, Chapter 11.5).

The one residential building and the commercial buildings on the Project Site are all of newer vintage (for less than 50 years in age) and do not meet any of the above criteria.

No historic properties (i.e., cultural resources eligible for inclusion on the CRHR) were identified within the area of disturbance in the Project Site; thus, it is unlikely that development of the Proposed Project will have an effect on significant or important archaeological or other cultural resources. Therefore, no further cultural resource investigation is recommended at this time. In the unlikely event that unanticipated buried archaeological deposits are encountered during Project-related activities, work in the immediate vicinity of the discovery must cease until the finds can be evaluated by a qualified archaeologist.

#### **Mitigation Measure CR-1:**

*If cultural materials (i.e., flaked stone artifacts, ground stone, historical glass, bone, etc.) or features (e.g., hearths, structural foundations, privies, etc.) are discovered during project-related activities, the find shall be reported immediately to the County of Fresno Planning Department, who shall recommend a qualified historical/archaeological monitor. The area of the find shall be avoided until the monitor is on-site. The monitor shall assess and make any necessary recommendations, including any procedures to further investigate or mitigate impacts to the find as required by law.*

#### **Level of Significance After Mitigation:**

Potential impacts to cultural materials or features encountered during project activities would be less than significant with implementation of Mitigation Measure CR-1.

**Cause a substantial adverse change in the significance of an archaeological resource pursuant to the State CEQA Guidelines, Section 15064.5**

**Impact CR-2:**

**The Proposed Project could disturb unidentified subsurface archaeological resources during project-related activities; this is a potentially significant impact.**

A Sacred Lands File Search was performed by the California Native American Heritage Commission (NAHC) in December 2010; wherein no Native American cultural resources were identified within ½-mile of the area of potential effect (APE). Letters of inquiry were, nonetheless, sent to potentially affected and culturally affiliated tribes who may have knowledge of the religious and cultural significance of properties in the project area. Response from these entities is still pending.

Prior to field inspection, a records search was conducted by the Southern San Joaquin Valley Information Center of the California Historical Resources Information System (SSJVIC) to identify areas previously surveyed and identify known cultural resources present within, or in close proximity to, the Project Site.

The records search performed for the Project Site included files covering the following:

- Known and recorded archaeological and historic sites
- Inventory and excavation reports filed with the SSJVIC
- Properties listed in the Historic Property Data File
- The National Register of Historic Places
- The California Register of Historic Places
- California Historical Landmarks
- The California Inventory of Historic Resources
- The California Points of Historical interest

No cultural resource surveys, other than those performed for the Proposed Project, have been completed for the area within the Project Site boundaries. Four cultural resource surveys have been conducted within ½-mile of the Project Site, and three more were conducted between ½-mile and one-mile of the Project Site.

None of the surveys discovered any recorded cultural resources on or within a one-mile radius of the Project Site.

No archaeological deposits or isolated finds were identified during the cultural resources survey. No plant resources of potential value for Native Americans such as sedge or deer grass, which are of importance in the traditional methods of basketry construction, were observed in the Project Site. Nonetheless, because buried cultural resources that may be unique or otherwise significant may be uncovered during the mining process, this impact is potentially significant.

**Mitigation Measure CR-2:**

*In the event that unanticipated archaeological resources are encountered during project operations, all earthmoving activity in the area shall cease until a qualified archaeologist*

*can evaluate the resources. The archaeologist shall assess the significance of the resources and offer recommendations for procedures determined appropriate to either further investigate or mitigate impacts to the cultural resources encountered. If the cultural resource is associated with the past lifeways of California Native Americans, evaluation, recommendations for further investigation, and/or mitigation shall be determined in consultation with the most likely descendent.*

**Level of Significance After Mitigation:**

Potential impacts to subsurface archaeological resources encountered during project activities would be less than significant with implementation of Mitigation Measure CR-2.

**Directly or indirectly destroy a unique paleontological resource or site, or a unique geologic feature.**

**Impact CR-3:**

**The Project may directly or indirectly destroy a unique paleontological resource during project-related activities. This is a potentially significant impact.**

Although no paleontological resources were identified in the course of the archaeological and historical resources survey of the Project Site, the possibility that such resources could be found nonetheless exists. The following mitigation measure is recommended to reduce the level of a potentially significant impact.

**Mitigation Measure CR-3:**

*If paleontological resources are discovered during project-related activities, the find shall be reported immediately to the County of Fresno Planning Department, who shall provide direction to contact a paleontological monitor. The area of the find shall be avoided until the monitor is on-site. The monitor shall assess the find and make any necessary recommendations, including any procedures to further investigate or mitigate impacts to the find as required by law.*

**Level of Significance After Mitigation:**

Potential impacts to paleontological resources encountered during project activities would be less than significant with implementation of Mitigation Measure CR-3.

**Disturb any human remains, including those interred outside of formal cemeteries.**

**Impact CR-4:**

**Project-related activities such as the mining of materials, could uncover and disturb unidentified human remains. This is a potentially significant impact.**

Although no human remains were identified in the course of the archaeological and historical resources survey of the Project Site, the possibility that remains could be found nonetheless exists. This would be considered a potentially significant impact and therefore the following mitigation measures are recommended:

**Mitigation Measure CR-4:**

*In the event that unanticipated human remains are discovered, work will immediately stop at the discovery location and any nearby area reasonably suspected to overlie adjacent human remains. The Fresno County Coroner shall immediately be contacted to determine if the cause of death must be investigated. If the coroner has reason to believe that the remains are of Native American origin, he or she will contact the NAHC by telephone within 24 hours (PRC § 7050.5).*

**Mitigation Measure CR-5:**

*The NAHC and landowner will follow prescribed steps in PRC Section 5097.98, which include but are not limited to the following: The NAHC will notify those persons it believes to be the most likely descended from the deceased Native American. The most likely descendant may recommend to the landowner the means of treating and disposing of, with appropriate dignity, the human remains and any associated grave goods. The landowner shall ensure the immediate vicinity of the Native American human remains is not damaged or disturbed by further development activity until the landowner has discussed and conferred with the most likely descendants regarding their recommendations.*

*If Native American remains are discovered, the Applicant shall work with the NAHC to develop and execute an agreement between themselves and the most likely descendant(s) of Native Americans who may be buried in the vicinity by which the human remains and associated burial items will be treated or disposed, with appropriate dignity.*

**Level of Significance After Mitigation:**

Potential impacts associated with the disturbance of buried human remains that may be encountered during project activities would be less than significant with implementation of Mitigation Measures CR-4 and CR-5.