

## 4.5 CULTURAL RESOURCES

This section describes the environmental setting with respect to the cultural resources in the Specific Plan Area and vicinity, and evaluates the Project's potential environmental impacts on cultural resources. Cultural resources evaluated in this section include archaeological, paleontological, and historical resources.

### *A. Regulatory Framework*

There are a number of federal, State, and local laws and regulations applicable to historical, paleontological, and archaeological resources in the Specific Plan Area. The key regulations are discussed briefly below.

#### **1. Federal Laws and Regulations**

##### **a. National Historic Preservation Act**

The federal law which governs the treatment of cultural resources is Section 106 of the National Historic Preservation Act (NHPA). Under Section 106, when a federal agency is involved in an undertaking, it must take into account the effects of the undertaking on historic properties, which are defined as those properties that meet criteria for inclusion on the National Register of Historic Places (National Register). Properties are not required to be listed on the National Register to be considered historic properties. The National Register is administered by the National Park Service (NPS).

Properties eligible for listing in the National Register possess integrity of location, design, setting, materials, workmanship, feeling and association, and:

- “ are associated with important historical events (Criterion A); or
- “ are associated with the lives of significant persons in our past (Criterion B); or
- “ embody the distinct characteristics of a type, period, or method of construction (Criterion C); or
- “ may yield information important in prehistory or history (Criterion D).

Listing in the NRHP does not guarantee specific protection or assistance for a property, but it helps to ensure its recognition in the planning process for

federal or federally-assisted projects (see Section 106), eligibility for federal tax benefits, and qualification for federal historic preservation assistance. In addition, the NRHP also is designed to achieve uniform standards of documentation and evaluation for historic properties. A project's effects on properties listed in the NRHP must be evaluated under CEQA.

b. Executive Order 11593 (May 13, 1971), 36 Code of Federal Regulations, Section 8921 as incorporated into Title 7, United States Code  
Executive Order 11593, Protection of the Cultural Environment, orders the protection and enhancement of the cultural environment through providing leadership, establishing State offices of historic preservation, and developing criteria for assessing resource values.

c. American Indian Religious Freedom Act, Title 42 United States Code, Section 1996  
The American Indian Religious Freedom Act protects Native American religious practices, ethnic heritage sites, and land uses.

d. Native American Graves Protection and Repatriation Act (NAGPRA) (1990), Title 25, United States Code  
Native American Graves Protection and Repatriation Act (NAGPRA) defines "cultural items," "sacred objects," and "objects of cultural patrimony;" establishes an ownership hierarchy; provides for review; allows excavation of human remains, but stipulates return of the remains according to ownership; sets penalties for violations; calls for inventories; and provides for return of specified cultural items.

## **2. State Laws and Regulations**

a. California Register of Historic Resources (California Register)  
California Code of Regulations Title 14, Chapter 11.5, Section 4850 creates the California Register. The California Register establishes a list of properties to be protected from substantial adverse change (Pub. Res. Code § 5024.1). Under the Public Resources Code, a historical resource may be listed in the California Register if it meets any of the following criteria:

- “ It is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage.
- “ It is associated with the lives of persons important in our history.
- “ It 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 value.
- “ It has yielded, or may be likely to yield, information important in prehistory or history.

The California Register includes properties that are listed or have been formally determined eligible for listing in the National Register, State Historical Landmarks, and eligible Points of Historical Interest. Other resources that may be eligible for the California Register, and which require nomination and approval for listing by the State Historic Resources Commission, include resources contributing to the significance of a local historic district, individual historical resources, historical resources identified in historic surveys conducted in accordance with OHP procedures, historic resources, or districts designated under a local ordinance consistent with the procedures of the State Historic Resources Commission, and local landmarks or historic properties designated under local ordinance.

b. California Environmental Quality Act (CEQA)

Section 15064.5 of the CEQA Guidelines states that a project may have a significant impact on the environment if it causes a substantial adverse change in the significance of a historical resource. The CEQA Guidelines define four ways that a property can qualify as a significant historical resource for purposes of CEQA compliance:

- “ The resource is listed in or determined to be eligible for listing in the California Register of Historical Resources, as determined by the State Historical Resources Commission.
- “ The resource is 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, unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

- “ The lead agency determines the resource to be significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California, as supported by substantial evidence in light of the whole record.
- “ The lead agency determines that the resource may be a historical resource as defined in Public Resources Code Sections 5020.1(j) or 5024.1 (CEQA Guidelines Section 15064.5) which means, in part, that it may be eligible for the California Register.

In addition, Public Resources Code Section 21083.2 and Section 15126.4 of the CEQA Guidelines specify lead agency responsibilities to determine whether a project may have a significant effect on archaeological resources. If it can be demonstrated that a project will damage a unique archaeological resource, this will be determined to be a significant impact under CEQA and the lead agency may require reasonable efforts for the resources to be preserved in place or left in an undisturbed state, with preservation in place being the preferred approach. The Public Resources Code also details required mitigation if unique archaeological resources are not preserved in place.

Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These codes protect such remains from disturbance, vandalism, and inadvertent destruction; establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project; and establish the Native American Heritage Commission (NAHC) as the authority to identify the most likely descendant and mediate any disputes regarding disposition of such remains.

c. Health and Safety Code

Section 7050.5 of the Health and Safety Code requires that construction or excavation be stopped in the vicinity of discovered human remains until the County Coroner can determine whether the remains are those of a Native American. Section 7050.5(b) outlines the procedures to follow should human remains be inadvertently discovered in any location other than a dedicated cemetery. The section also states that the County Coroner, upon recognizing the remains as being of Native American origin, is responsible to contact the NAHC within twenty-four hours. The NAHC has various powers and duties to provide for the ultimate disposition of any Native American remains, as does the assigned Most Likely Descendant.

d. Title 14, Penal Code, Section 622.5

According to Penal Code Section 622.5, anyone (except the owner) who willfully damages or destroys an item of archaeological or historic interest or value is guilty of a misdemeanor.

e. California Historical Building Code, California Code of Regulations, Title 24, Part 8

The California Historical Building Code, defined in Sections 18950 to 18961 of Division 13, Part 2.7 of Health and Safety Code, provides regulations and standards for the rehabilitation, preservation, restoration (including related reconstruction) or relocation of historical buildings or structures deemed by any level of government as having importance to the history, architecture, or culture of an area.

f. Native American Historic Resource Protection Act; Archaeological, Paleontological, and Historical Sites; Native American Historical, Cultural, and Sacred Sites (Public Resources Code Sections 5097-5097.994)

Public Resources Code Section 5097 specifies the procedures to be followed in the event of the unexpected discovery of Native American human remains on non-federal public lands. California Public Resources Code 5097.9 states that no public agency or private party on public property shall “interfere with the

free expression or exercise of Native American Religion.” The code further states that:

No such agency or party [shall] cause severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine. . . except on a clear and convincing showing that the public interest and necessity so require.

g. Government Code 65352.3-5, Local Government – Tribal Consultation California Government Code Section 65352.3-5, commonly referred to as Senate Bill (SB) 18, states that prior to the adoption or amendment of a city or county’s General Plan, or Specific Plans, a city or county must consult with California Native American tribes that are on the contact list maintained by the NAHC. The intent of this legislation is to preserve or mitigate impacts on places, features, and objects that are culturally significant to Native Americans. The bill also states that the city or county shall protect the confidentiality of information concerning the specific identity, location, character, and use of those places, features, and objects identified by Native American consultation. The consultation required under the law has been commenced as part of this Draft EIR.

### **3. Local Regulations and Policies**

#### **a. City of Tracy General Plan**

The Tracy General Plan includes several policies that are relevant to protection of cultural resources. Key policies from the General Plan are listed in Table 4.5-1. A full listing of all General plan goals and policies is included in Appendix C.

#### **b. City of Tracy Resolutions**

The City of Tracy Resolution 3232, which was signed in 1978, designated fifty structures and sites to be historical landmarks in Tracy. The resolution followed a survey of architecturally and historically significant resources in the City. Resolution 2001-076 added two more buildings to the above-referenced list of designated properties. The Tracy Historic Landmarks

TABLE 4.5-1 **GENERAL PLAN POLICIES RELEVANT TO CULTURAL RESOURCES**

<b>Goal/ Policy No.</b>	<b>Goal/Policy Content</b>
<b>Community Character Element</b>	
<b>Goal CC-3</b>	<b>Preserve and enhance historic resources.</b>
<i>Objective CC-3.1</i>	<i>Identify and preserve cultural and historic resources.</i>
Policy P2	Identified cultural and historic landmarks and buildings shall be preserved.
Policy P3	New development, redevelopment, alterations, and remodeling projects should be sensitive to surrounding historic context.
Policy P4	As part of the development review process, there shall be a standard condition of approval that if any resources are found during construction, all operations within the project area shall halt until an assessment can be made by appropriate professionals regarding the presence of archaeological and paleontological resources and the potential for adverse impacts on these resources.
Policy P5	Any archaeological or paleontological resources on private property shall be either preserved on their sites or adequately documented and conserved as a condition of removal. If any resources are found unexpectedly during development, then construction must cease immediately until accurate study and conservation measures are implemented.
Policy P6	If Native American artifacts are discovered on a site, the City shall consult representatives of the Native American community to ensure the respectful treatment of Native American sacred places.

Source: City of Tracy General Plan, 2011.

designation encourages public recognition and protection of resources of architectural, cultural, or historical significance for local planning purposes. However, the City has not adopted a historic preservation ordinance or other protective or restrictive regulation. Accordingly, a local Landmarks designation does not equate with permanent protection for a structure from demolition or alteration.

c. City of Tracy Municipal Code

Title 9 of the Tracy Municipal Ordinance addresses building regulations. Chapter 9.48 adopts the California Historical Building Code. The purpose of the chapter is to “provide regulations for the preservation, restoration, rehabilitation, relocation, or reconstruction of buildings or structures designated as qualified historical buildings or properties; provide alternative solutions for the preservation of qualified historical buildings or properties, to provide access for persons with disabilities, to provide a cost-effective approach to preservation, and to provide for the reasonable safety of occupants or users.”

***B. Existing Conditions***

**1. Historical Overview<sup>1</sup>**

Northern San Joaquin Valley is one of the least known ethnographic areas of California. Although little record of their culture has survived, it is known that Native Americans occupied portions of northern San Joaquin County for over 10,000 years. Prior to European-American contact, the Tracy area was inhabited by the Northern Valley Yokuts, whose range extended from the Calaveras River to the southern extent of the San Joaquin River. The Northern Valley Yokuts were part of a larger population that occupied much of the San Joaquin Valley. The Yokuts lived in permanent villages on high ground near watercourses and subsisted on fishing, hunting, catching fowl, and intensive collecting.

Several northern Yokut tribelets lived near what is now Tracy: including the Chulamni to the north, and the Hoyima to the southeast. The Chulamni tribelet built their villages near Tracy, along the banks of the Old River and San Joaquin River, and along creeks in the Diablo Range. The largest

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<sup>1</sup> Kroeber, Alfred Louis, 1925. *Handbook of the Indians of California*, New York: Dover Publications, pages 474 to 496, 526, and 542 to 543; Wallace, William J., 1978, “Northern Valley Yokuts.” In *Handbook of North American Indians*, ed. Robert F. Heizer, Washington D.C.: Smithsonian Institution, pages 462 to 470.



Chulamni village site near Tracy was named “Pescadero” by the Spanish during one of their first expeditions in 1810 and 1811.

Spanish colonial expeditions and mission recruitment began around 1770 and led to the rapid decline of Indian populations in the San Joaquin Valley. Permanent Hispanic populations along the coast brought disease to Indian populations, who had no resistance to the disease. The result was widespread epidemics that killed approximately 75 percent of the San Joaquin Valley people before the end of 1846.

American settlement around 1848 destroyed what remained of Valley Indian cultures and people. With the discovery of gold in the Sierra foothills, Yokuts were driven from their homes along watercourses. The expansion of San Joaquin Valley agriculture shortly thereafter forced the remaining Yokuts to leave for the mountains.

Permanent settlement in what is now the Tracy city limits began after construction of the Central Pacific Railroad through the Altamont Pass in 1869. Southern Pacific laid a second rail line to the north in 1878, connecting San Joaquin County with Martinez. In 1887, a third line was extended south from the junction of these two railways, connecting the San Francisco Bay Area with Los Angeles. The “Town of Tracy” was named after Lathrop J. Tracy, an Ohio railroad man and grain merchant. The Town’s strategic location led to early prosperity as a commercial and service center. Tracy was incorporated in 1910.

Tracy has continued to grow, particularly over the past 50 years. This growth has been influenced by several factors, including the following:

- “ The establishment of the Tracy Defense Depot during World War II, which created thousands of jobs and brought new residents to the area.
- “ The location of major agricultural industries in Tracy after World War II.
- “ High home values in the San Francisco Bay Area and a resulting increase in demand for lower cost housing in Tracy.

- “ Proximity to several major interstates and relatively inexpensive land values, which encouraged the development of large shipping and distribution facilities.

## **2. Existing Cultural Resources**

In general, little archaeological or paleontological work has been completed in San Joaquin County. Cultural resources in the vicinity outside of Tracy city limits are generally prehistoric in nature and include remnants of native human populations that existed before European settlement. Large portions of the vicinity in and around Tracy have not been surveyed for prehistoric artifacts.

### **a. Archaeological Resources**

Based on available documentation, there are approximately 191 known archaeological, prehistoric, and ethnographic sites in the County.<sup>2</sup> Very few prehistoric archaeological sites have been recorded in the vicinity of Tracy. The Central California Information Center lists 32 cultural resource sites in the City limits and its sphere of influence (SOI), which includes the Cordes Ranch Specific Plan Area. Nineteen of these resources are historic sites, 13 exhibit prehistoric features, and one site exhibits both historic and prehistoric features. The noted prehistoric resources include four Native American burial sites that were recorded in the Tracy area in 1939 when land leveling exposed skeletal material and artifacts.<sup>3</sup> These sites indicate that additional prehistoric sites may exist within the Tracy area. While the Specific Plan Area was included in the territory controlled by the Northern Valley Yokuts at the time of European settlement, no ethnographic camps or villages have been reported within the Specific Plan Area.<sup>4</sup>

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<sup>2</sup> San Joaquin County, 1992. *Countywide General Plan*, Volume III, IV.G Heritage Resources, page IV.G-7.

<sup>3</sup> City of Tracy, 1993. *Final Environmental Impact Report for the City of Tracy Urban Management Plan/ General Plan*, p.140.

<sup>4</sup> Tom Origer & Associates, 2013. Included as Appendix G of this Draft EIR.

b. Paleontological Resources

There are several rock formations in the Tracy area that could be indicators of potential paleontological resources. These include the Neroly Formation, Moreno Shale deposits, and Panoche Formations. However, these rock formations do not constitute a unique geologic feature.

According to a records search of the University of California Museum of Paleontology (UCMP) Collections Date, eighty fossils have been found and recorded within San Joaquin County. Over half of them are dated to the tertiary period, with quaternary being the second most frequent period. These are the first and second periods of the Cenozoic Era respectively, during which modern flora, apes, large mammals, and eventually humans developed. The majority of fossils found within the Tracy area have been vertebrate in nature. The UCMP database lists five localities within the Specific Plan Area, specifically, where Pleistocene vertebrate finds were made in 1948 during construction of the Delta Mendota Canal.<sup>5</sup> These fossils include mammoth/mastodon, horse, pocket gopher, and other unspecified rodents, and unidentified artiodactyl (hoofed mammal) bone.<sup>6</sup>

c. Historic Resources

San Joaquin County contains nearly 70 sites that are listed on National Register or California Register, are State Landmarks, or are California Points of Interest. However, none of these sites are located in the Specific Plan Area.<sup>7</sup>

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<sup>5</sup> Tom Origer & Associates, 2013. Included as Appendix G of this Draft EIR.

<sup>6</sup> Tom Origer & Associates, 2013. Included as Appendix G of this Draft EIR.

<sup>7</sup> California State Parks, Office of Historic Preservation, California Historical Resources website, <http://ohp.parks.ca.gov/listedresources/>; U.S. Department of the Interior, National Park Service, National Register of Historic Places website, <http://nrhp.focus.nps.gov/natregadvancedsearch.do?searchtype=natregadvanced>; and San Joaquin County, 1992, *Countywide General Plan*, Volume III, IV.G Heritage Resources.

A site-specific survey of the Specific Plan Area, conducted in February 2013, identified one recorded resource within the Specific Plan Area and one resource adjacent to the Specific Plan Area. The resource within the Specific Plan Area was recorded in 2001 as a historic house, but this resource was since removed or demolished at some point between 2001 and 2013. The resource located adjacent to the Specific Plan Area is a 0.5-mile long section of the Delta Mendota Canal, which was constructed between 1946 and 1952. This section of the Delta Mendota Canal is considered eligible for inclusion on the National Register of Historic Places.<sup>8</sup>

Review of late 19th and early 20th century maps found depictions of three buildings within the Specific Plan Area by 1907, and several other buildings in place by 1953.<sup>9</sup> However, according to a site-specific field assessment of the Specific Plan Area, as found in the cultural resources study included as Appendix F of this Draft EIR,<sup>10</sup> extant buildings and building complexes within the Specific Plan Area lack the potential for inclusion on the California Register of Historical Resources.

### *C. Standards of Significance*

The Project would have a significant impact with regard to cultural resources if it would:

- “ Cause a substantial adverse change in the significance of a historical resource.
- “ Cause a substantial adverse change in the significance of an archaeological resource.
- “ Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.

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<sup>8</sup> Tom Origer & Associates, 2013. Included as Appendix F of this Draft EIR.

<sup>9</sup> Tom Origer & Associates, 2013. Included as Appendix F of this Draft EIR.

<sup>10</sup> The field assessment was conducted from the right-of-way of Mountain House Parkway, Old Schulte Road, and Hansen Road by Tom Origer & Associates in January 2013.

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

#### ***D. Impact Discussion***

##### **1. Project Impacts**

###### **a. Substantial Adverse Change in the Significance of a Historical Resource**

As described in Section B.2.c. above, the Specific Plan Area does not contain any sites that are listed on National Register or California Register, are State Landmarks, or are California Points of Interest. A site-specific field assessment of the Specific Plan Area also found that extant buildings and building complexes on-site lack the potential for inclusion on the California Register of Historical Resources. As described above, one historic resource was previously located on-site but has since been removed. In addition, there is one historic resource in the vicinity of the Specific Plan Area, which is a 0.5-mile long section of the Delta-Mendota canal that is eligible for inclusion on the National Register of Historic Places. However, the Project neither includes this historic section of the Delta Mendota Canal nor proposes any changes to the Delta Mendota Canal. Further, the Project, although placing urban development nearby, would not impair this historic resource since it would not demolish or alter characteristics of the historic section of the Delta Mendota Canal which contribute to its historic significance.<sup>11</sup> Because there is no known historical resources within the Specific Plan Area, buildout of the Project would not result in a substantial change in the significance of historical resources. Therefore, there would be a *less-than-significant* impact.

###### **b. Substantial Adverse Change in the Significance of an Archaeological Resource**

As described above, there are 32 cultural resource sites within the City limits and its SOI (per Central Calif. Info. Center), and the Specific Plan Area includes territory that was controlled by the Northern Valley Yokuts at the

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<sup>11</sup> Beard, Vicki R., Senior Associate, Tom Origer & Associates. Personal communication with Kyle Simpson, The Planning Center | DC&E, March 5, 2013.

time of European settlement. Although no ethnographic camps or villages have been reported within the Specific Plan Area, there is potential that additional prehistoric sites may exist in the Specific Plan Area or vicinity. As such, buildout of the Project has the potential to impact unknown archaeological resources because of its grading and construction activities. However, all site-specific individual development projects under the Specific Plan would be required to comply with federal and State regulations and the existing Tracy General Plan policies, which would reduce any potential impacts to archaeological resources, if any archaeological resources were discovered during the implementation. In particular, Tracy General Plan Policies P4 and P5 require immediate cessation of construction activity upon discovery of archaeological or paleontological resources and the protection of cultural resources. However, inadvertent damage to unique, buried archaeological deposits during construction would result in a *significant* impact prior to mitigation.

c. Direct or Indirect Destruction of a Unique Paleontological Resource or Site or Unique Geologic Feature

As described above, several fossils have been found in the Specific Plan Area in 1948 during construction of the Delta Mendota Canal. These fossils include mammoth/mastodon, horse, pocket gopher, and other unspecified rodents, and unidentified artiodactyl (hoofed mammal) bone. As such, Project development has the potential to impact unknown paleontological resources because of its grading and construction activities. However, all site-specific individual development projects under the Specific Plan would be required to comply with applicable federal and State regulations and the existing Tracy General Plan Policies, which would reduce any potential impacts to paleontological resources, if any archaeological resources were discovered during construction. Particularly, Tracy General Plan Policies P4 and P5 require immediate cessation of construction activity upon discovery of archaeological or paleontological resources and the protection of cultural resources. While fossils are not expected to be discovered during construction, it is possible that significant fossils could be discovered during excavation activities, even in areas with a low likelihood of occurrence.

Fossils encountered during excavation could be inadvertently damaged. If a unique paleontological resource is discovered, the impact to the resource could be substantial. This would result in a *significant* impact without mitigation.

d. Disturbance of Any Human Remains, Including Those Interred Outside of Formal Cemeteries

As noted above, four Native American burial sites were recorded in the Tracy area in 1939. While these burial sites were not located in the Specific Plan Area or vicinity, there is still the possibility that as of yet undiscovered human remains may exist in the Specific Plan Area. As such, Project grading and construction activities in the Specific Plan Area have the potential to impact unknown human remains. However, this risk is considered low given the historical agricultural use of the Specific Plan Area, and the fact that no ethnographic camps or villages have been reported there, the likelihood of undiscovered human remains is remote.

California law and the Tracy General Plan recognize the need to protect interred human remains, particularly Native American burials and related items of patrimony, and have established procedures for the treatment of discovered remains. The California Health and Safety Code and Tracy General Plan Policy P4, P5, and P6 require that if human remains are inadvertently discovered during excavation or construction activities, all construction affecting the discovery site must halt, the contractor must contact the appropriate professionals, and the county coroner must examine the remains within 48 hours of discovery. Additionally, if the remains are determined to be Native American, the City will work with local Native American representatives to insure that the remains and any associated artifacts are treated in a respectful and dignified manner. Despite the applicable regulatory framework and the relatively low likelihood of discovery, it remains possible that the Project would discover human remains during subsurface activities, which could then result in the remains being inadvertently damaged. This would be a *significant* impact without mitigation.

## **2. Cumulative Impacts**

This section analyzes potential impacts on cultural resources that could occur from a combination of the proposed Project with other past, present, and reasonably foreseeable projects in the vicinity. The cumulative assumptions considered in this section are discussed in Chapter 4, Environmental Evaluation, of this Draft EIR, and the geographic scope of this analysis considers the Specific Plan in the context of the City's General Plan, which takes into account the entire incorporated area of Tracy and its SOI, as well as the nearby Mountain House community, located in unincorporated San Joaquin County.

Cumulative impacts would occur when a series of actions leads to the loss of a substantial type of site, building, or resource. For example, while the loss of a single historic building may not be significant to the character of a neighborhood or streetscape, continued loss of such resources on a project-by-project basis could constitute a significant cumulative effect. This would be most obvious in historic districts, such as Tracy's historic downtown, where destruction or alteration of a percentage of the contributing elements may lead to a loss of integrity for the district overall. As there are no existing historic structures and no known archaeological resources, or human remains in the Specific Plan Area, buildout of the Project would not create or contribute to a cumulative impact on cultural resources. Although Project development has the potential to impact unknown cultural resources (including historic archeological and paleontological), the existing federal, State, and local regulations and policies described throughout this chapter, together with Mitigation Measures CUL-1, CUL-2, and CUL-3 would serve to protect any as-yet-undiscovered cultural resources in the Specific Plan Area. Continued compliance with these regulations and implementation of existing policies and the aforementioned mitigation measures, would preclude significant impacts to historical, archaeological, and paleontological resources and to human remains to the maximum extent practicable.

In addition, other past, present, and reasonably foreseeable projects would be required to comply with these federal, State, and local regulations and policies



to mitigate impacts to cultural resources within and around Tracy. For instance, with the California Historical Building Code, California Register, and the Tracy Municipal Code in place, historic buildings and landmarks in Tracy's historic downtown would be protected from significant changes that would diminish their historical values. Impacts to as-yet-undiscovered cultural resources would be mitigated through federal, State and local regulations, as well as the CEQA review process. Therefore, in combination with past, present, and reasonably foreseeable projects, the Project would result in a *less-than-significant* cumulative impact with respect to cultural resources.

#### ***E. Impacts and Mitigation Measures***

With implementation of Mitigation Measures CUL-1, CUL-2, and CUL-3, the Project would not result in any significant impacts to cultural resources.

**Impact CUL-1:** Inadvertent damage to unique buried archaeological deposits during construction of the Project would result in a *significant* impact.

Mitigation Measure CUL-1: If any prehistoric or historic subsurface cultural resources are discovered during ground-disturbing activities, all work within 50 feet of the resources shall be halted and a qualified archaeologist shall be consulted to assess the significance of the find according to CEQA Guidelines Section 15064.5. If any find is determined to be significant, representatives from the City and the archaeologist shall meet to determine the appropriate avoidance measures or other appropriate mitigation. All significant cultural materials recovered shall be, as necessary and at the discretion of the consulting archaeologist, subject to scientific analysis, professional museum curation, and documentation according to current professional standards. In considering any suggested mitigation proposed by the consulting archaeologist to mitigate impacts to historical resources or unique archaeological resources, the City shall determine whether avoidance is

necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations.

If avoidance is infeasible, other appropriate measures (e.g. data recovery) shall be instituted. Work may proceed on other parts of the Specific Plan Area while mitigation for historical resources or unique archaeological resources is being carried out.

Significance After Mitigation: With implementation of Mitigation Measure CUL-1, described above, it will ensure that potential impacts resulting in a substantial adverse change in the significance of an archaeological resource from implementation of the Project are *less than significant*.

**Impact CUL-2:** While fossils are not expected to be discovered during construction, it is possible that significant fossils could be discovered during excavation activities, even in areas with a low likelihood of occurrence. Fossils encountered during excavation could be inadvertently damaged. If a unique paleontological resource is discovered, the impact to the resource could be *significant*.

Mitigation Measure CUL-2: In the event that fossils or fossil-bearing deposits are discovered during construction, excavations within 50 feet of the find shall be temporarily halted or diverted. The contractor shall notify a qualified paleontologist to examine the discovery. The paleontologist shall document the discovery as needed in accordance with Society of Vertebrate Paleontology standards, evaluate the potential resource, and assess the significance of the find under the criteria set forth in CEQA Guidelines Section 15064.5. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If in consultation with the paleontologist, the Project proponent determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the Project on the qualities

that make the resource important. The plan shall be submitted to the City for review and approval and the Project proponent shall implement the approval plan.

Significance After Mitigation: With implementation of Mitigation Measure CUL-2, described above, it will ensure that potential impacts related to direct or indirect destruction of a unique paleontological resource or site, or a unique geologic feature from implementation of the Project are *less than significant*.

**Impact CUL-3:** It is unlikely that human remains would be encountered during construction in the Specific Plan Area. However, in the unlikely event that human remains, including those interred outside of formal cemeteries, are discovered during subsurface activities, the human remains could be inadvertently damaged. This would be a *significant* impact.

Mitigation Measure CUL-3: If human skeletal remains are uncovered during construction, the contractor (depending on the Project component) shall immediately halt work within 50 feet of the find, contact the San Joaquin County coroner to evaluate the remains, and follow the procedures and protocols set forth in Section 15064.5(e)(1) of the CEQA Guidelines. If the county coroner determines that the remains are Native American, the Project proponent shall contact the NAHC, in accordance with Health and Safety Code Section 7050.5, subdivision (c), and Public Resources Code 5097.98 (as amended by AB 2641). Per Public Resources Code 5097.98, the contractor shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the human remains are located, is not damaged or disturbed by further development activity until the contractor has discussed and conferred, as prescribed in this section (California Public Resources Code Section 5097.98), with the most likely descendants regarding their recommendations, if applicable, taking into account the possibility of multiple human remains.

Significance After Mitigation: Implementation of Mitigation Measure CUL-3 would prevent inadvertent damage of human remains from implementation of the Project, thus ensuring that impacts are *less than significant*.