

4.15 Tribal Cultural Resources

This section evaluates potential effects on tribal cultural resources related to implementation of the 2018 RTP/SCS.

4.15.1 Setting

The prehistoric populations of San Joaquin County included the Miwok in the north and Northern Valley Yokuts in the south.

Miwok populations focused their settlements alongside the waterways of the Sierra Nevada north from the Cosumnes River south to the Calaveras River and in California's central valley as far west as Mount Diablo. Miwok villages were the primary political unit and consisted of as many as two dozen to several hundred individuals. Miwok subsistence relied upon hunting, fishing, and the gathering of acorns (Levy 1978).

Northern Valley Yokuts populations were concentrated along waterways in the San Joaquin River. Settlements were typically composed of single-family dwellings, sweathouses, and ceremonial structures. Subsistence revolved around water resources in the San Joaquin Valley, with a focus on salmon and acorns (Wallace 1978).

a. Regulatory Setting

Assembly Bill 52

California Assembly Bill 52 of 2014 (AB 52) was enacted on July 1, 2015 and expands CEQA by defining a new resource category, "tribal cultural resources." AB 52 establishes that "A project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment" (PRC Section 21084.2). It further states that the lead agency shall establish measures to avoid impacts that would alter the significant characteristics of a tribal cultural resource, when feasible (PRC Section 21084.3). PRC Section 21074 (a)(1)(A) and (B) defines tribal cultural resources:

1. "Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe" and meets either of the following criteria: Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
2. A cultural resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

AB 52 also establishes a formal consultation process for California tribes regarding those resources. The consultation process must be completed before a CEQA document can be certified. AB 52 requires that lead agencies "begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project." Native American tribes to be included in the process are those that have requested notice of projects proposed within the jurisdiction of the lead agency.

Senate Bill 18

California Government Code §65352.3 (adopted pursuant to the requirements of SB 18) requires local governments to contact, refer plans to, and consult with tribal organizations prior to making a decision to adopt or amend a general or specific plan. The tribal organizations eligible to consult have traditional lands in a local government's jurisdiction, and are identified, upon request, by the Native American Heritage Commission (NAHC). As noted in the California Office of Planning and Research's Tribal Consultation Guidelines (2005), "The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early planning stage, for the purpose of protecting, or mitigating impacts to, cultural places."

b. Existing Conditions

SJCOG conducted AB 52 consultation for the 2018 RTP/SCS. This consultation included written communication with the Buena Vista Rancheria Band of Me-Wuk Indians and the Lone Band of Miwok Indians to invite them to participate in the RTP/SCS Working Group. Neither tribe opted to participate.

Written communications between SJCOG and the Buena Vista Rancheria and Lone Band is provided in Appendix E.

4.15.2 Impact Analysis

a. Methodology and Significance Thresholds

Appendix G of the State CEQA Guidelines identifies the following criteria for determining whether a project's impacts would have a significant impact to tribal cultural resources:

1. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
 - a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
 - b. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

b. Project Impacts and Mitigation Measures

This section describes generalized tribal cultural resources impacts associated with the 2018 RTP/SCS. Due to the programmatic nature of the 2018 RTP/SCS, a precise, project-level analysis of the specific impacts associated with individual transportation and land use projects is not possible at this time. However, all projects under the 2018 RTP/SCS that are subject to CEQA must comply with AB 52. In general, implementation of proposed transportation improvements and future projects under the land use scenario envisioned by the 2018 RTP/SCS could result in tribal cultural resources impacts as described in the following section.

Threshold 1: Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe

IMPACT TCR-1 IMPLEMENTATION OF PROPOSED TRANSPORTATION IMPROVEMENTS AND FUTURE PROJECTS FACILITATED BY THE LAND USE SCENARIO ENVISIONED IN THE 2018 RTP/SCS HAVE THE POTENTIAL TO IMPACT TRIBAL CULTURAL RESOURCES. IMPACTS WOULD BE SIGNIFICANT BUT MITIGABLE.

Potential tribal cultural resources are likely to be present throughout the SJCOG region. Therefore, it is possible to encounter tribal cultural resources during implementation of the transportation improvement projects listed in the 2018 RTP/SCS and the land use scenario envisioned by the 2018 RTP/SCS. Effects on tribal cultural resources are highly dependent on the individual project site conditions and the characteristics of the proposed project. Impacts to tribal cultural resources may include damage or destruction of the resources. Adherence to the requirements of AB 52 would ensure consultation with local California Native Americans on a project-by-project basis and the identification of appropriate project-specific mitigation measures. If AB 52 consultation determines that a specific transportation or land use project could cause a substantial adverse change in the significance of a tribal cultural resource, the impact would be potentially significant.

Mitigation Measures

For transportation projects under their jurisdiction, SJCOG shall implement, and transportation project sponsor agencies can and should implement, the following mitigation measure developed for the 2018 RTP/SCS program where applicable for transportation projects that would substantially impact tribal cultural resources. Municipalities in the SJCOG region can and should implement this measure, where relevant to land use projects implementing the 2018 RTP/SCS.

TCR-1 Tribal Cultural Resources Impact Minimization

If the project sponsor determines that a project may cause a substantial adverse change to a tribal cultural resource, identified through project-specific AB 52 consultation, and measures are not otherwise identified in the consultation process required under PRC Section 21080.3.2, project sponsors shall implement the following measures where feasible and necessary to address site-specific impacts to avoid or minimize the significant adverse impacts:

- Avoidance and preservation of the resources in place, including, but not limited to: planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- Treating the resource with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource
 - Protecting the traditional use of the resource
 - Protecting the confidentiality of the resource.
 - Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.

Significance After Mitigation

Implementation of Mitigation Measure TCR-1 would reduce potential impacts to tribal cultural resources to a less than significant level.

c. Cumulative Impacts

Tribal cultural resources are regionally specific and determined by the local tribes. However, development in the SJCOG area would increase under buildout of the 2018 RTP/SCS by increasing mobility and growth. The increase in growth in previously undisturbed areas contributes to regional impacts on tribal cultural resources. If a tribe determines that there may be tribal cultural resources at the location of a project site, tribal consultation in accordance with AB 52 would occur to ensure protection of tribal cultural resources. However, tribal territory often crosses the boundaries of multiple jurisdictions within and outside of the SJCOG region, therefore there could be several minor impacts to tribal cultural resources that together would result in a significant cumulative impacts. Therefore, the potential for cumulative impacts related to tribal cultural resources is significant and the 2018 RTP/SCS contribution would be cumulatively considerable. The mitigation measure described earlier in this section would reduce these impacts, but not to less-than-cumulatively-considerable levels.