

5.18 Tribal Cultural Resources

This section describes the environmental and regulatory setting and discusses impacts associated with the construction and operation of the proposed project with respect to tribal cultural resources. Appendix E includes correspondence with the Native American Heritage Commission (NAHC) and local Native American tribes within the vicinity of the proposed project alignment. Section 5.5, “Cultural Resources” discusses historical resources, unique archaeological resources, and paleontological resources.

Information presented in this section was compiled from the following sources:

- *A Class III Cultural Resource Survey for a Proposed Buried Telecommunications Fiber-Optic Line in Happy Valley, Shasta County, California* (Howell and Copperstone 2017);
- TDS’s Proponent’s Environmental Assessment (Tierra Right of Way Services, Ltd. 2015) and subsequent submittals for the proposed project; and
- The results of the CPUC’s consultation with California Native American tribes pursuant to Assembly Bill (AB) 52 regulations (Appendix E).

The CPUC’s qualified consultant reviewed these documents, other submitted information, and the results of CPUC’s AB 52 consultation with California Native American tribes for the proposed project in preparing this analysis.

5.18.1 Environmental Setting

For the purposes of this evaluation, the environmental setting for which direct effects are considered includes a buffer of 29 feet on either side of the project centerline; this area is referred to as the area of direct impact (ADI). This allows for a 25-foot buffer to either side of the proposed 8 feet of ground disturbance for the conduit. Adjacent parcels (i.e., those touching or encompassed by the buffer) also are considered with regard to potential indirect effects; these areas are referred to as the area of indirect impact (AII). Collectively, the ADI and AII make up the area of potential impact (API).

Ethnographic Cultural Setting

Ethnographic research indicates that three distinct Native American groups have known connections to the general project vicinity: the Achumawi, the Yana, and the Wintu. The information presented herein is largely derived from the discussion of the ethnographic and ethnohistoric setting in the cultural resources report by Howell and Copperstone (2017), unless otherwise noted.

Achumawi/Pit River Tribe. The Achumawi, or “river people” comprise a number of small tribelets who lived in the northeastern part of the region, from Mount Shasta and Lassen Peak to the Warner Range, concentrated mainly along the Pit River and its major tributaries. The Achumawi would spend the winter in villages and the summer in temporary seasonal camps. Achumawi villages typically included one or more semi-subterranean structures that were used as dance houses, chiefs’ homes, or multiple family dwellings. The natural environment was significant to the Achumawi’s spiritual beliefs, and according to tradition, certain peaks, springs, swamps, and other water sources were considered sacred “power places” where individuals could seek supernatural powers.

Largely hunters and gathers, the Achumawi subsisted on a wide variety of aquatic, terrestrial, and avian species from swamps, grasslands, and forested lands within their territory. Deer was the primary protein, though the Achumawi diet also included antelope, bear, beaver, badger, coyote, and a variety of small mammals. Given the riverine setting, fish such as salmon, trout, bass, pike, and catfish, as well as freshwater crawfish, and mussels, were also important dietary staples. The Achumawi also consumed a

1 variety of plants and vegetable matter, most commonly acorn, tule sprouts, and various seeds, berries,
2 roots, and bulbs. What was not used as food, such as wild tobacco, could be employed for ceremonial or
3 medicinal purposes.

4
5 The Achumawi produced their clothing out of animal hides, which could also be rendered for body armor
6 and shields. They crafted lithic tools out of obsidian with projectile points, bows, and arrows and made
7 other expedient stone tools out of chert or chalcedony. The Achumawi used juniper and pine to construct
8 dugout canoes and fashioned a wide variety of nets to catch waterfowl, basket traps, and harpoons for
9 fishing in the vicinity streams and waterways.

10
11 Descendants of the Achumawi remain in the general proposed project area vicinity today and are
12 identified by the NAHC as members of the federally recognized Pit River and Redding Rancheria Tribes,
13 located approximately 48 miles northeast and outside of the proposed project area. The tribes maintain
14 territory comprising all ancestral lands recognized by the Indian Claims Commission, as well as 13 acres
15 deeded to the United States by the State of California in trust for the Pit River Home and Agricultural
16 Cooperative Association, as trustee for the tribe.

17
18 **Yana.** The Yana are a Hokan-speaking group associated with the eastern side of the upper Sacramento
19 River Valley and adjacent foothills east of the proposed project area. Each of the four Yana linguistic
20 groups consisted of a number of small tribelets with varying home styles. The Yana settled in permanent
21 winter villages and temporary seasonal summer camps. Their subsistence activities included hunting for
22 upland food sources and gathering, as well as fishing. Acorns were an important food source for the Yana
23 throughout the year. They also gathered roots, tubers, bulbs, buckeye nuts, seeds, berries, and fruits. The
24 Yana produced spears, harpoons, nets, traps, and poison and fished local waterways primarily for salmon,
25 but also for trout and suckers.

26
27 Information for sacred places associated with the Yana was not available from ethnographic or
28 ethnohistoric sources. Descendants of the Yana, including those identified by the NAHC that are
29 members of the federally recognized Redding Rancheria, remain in the proposed project area's general
30 vicinity today.

31
32 **Wintu.** The Wintu are associated with territory containing the proposed project area. Anthropologists
33 divide the Wintu linguistically into the Northern, Southern, and Central language groups, with
34 neighboring tribes speaking closely related dialects. The proposed project area is located in what was the
35 dawpom ("front ground") of the group's territory.

36
37 Socio-politically, the Wintu consisted of six to nine distinct groups. Each group was associated with a
38 specific area within the Wintu tribe. The following information relating to the Wintu's settlement,
39 subsistence patterns, and material culture has been drawn from other, better-documented Wintu groups.
40 The material cultural associated with the Wintu is likely to have included items similar to those identified
41 for the Achumawi and/or the Yana: hides that were used for clothing and other items; basketry that was
42 used for cooking and storage; lithic tools; a wide variety of fishing items, such as nets, traps, and
43 harpoons; and plants that were used for ceremonial and/or medicinal purposes.

44
45 Wintu sacred places consisted of topographical features with meaning outside of the domestic sphere of
46 the village, such as pot and seepage holes, rocks in the shape of animals, caves, river whirlpools, and
47 knolls. In addition to sacred places, the Wintu appear to have maintained sacred relationships with animal
48 species, such as the salmon and the grizzly bear. For instance, grizzly bears were feared by the Wintu, and
49 several powerful Wintu curses invoked actions by a grizzly bear on a human.

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51 Descendants of the Wintu remain in the general vicinity of the proposed project area today, including
52 those identified by the NAHC as members: of the federally recognized Redding Rancheria (Sanchez

2014; Redding Rancheria 2017); of the state-recognized California Native American tribes (the Wintu Tribe of Northern California [Wintu]; the Winnemem Wintu Tribe; the Nor-Rel-Muk-Nation; and the United Tribe of Northern California, Inc., Wintu, Wintun, Winton); of a group associated with the Wintu (the Wintu Educational and Cultural Council); and as individual Wintu descendants (Sanchez 2014). The federally recognized Redding Rancheria is a small reservation located on the south side of Clear Creek, approximately 3 miles northeast and outside of the area associated with the proposed project. The state-recognized California Native American (Wintu) tribes, the Wintu group, and the Wintu individuals are all generally located in areas north of, and approximately 3 to 34 miles away from, the proposed project area.

According to the Constitution of the Wintu, their jurisdiction accounts for all land encompassing the Wintu ancestral territory, which includes the “McCloud River area and Mt. Shasta in Siskiyou County, to the North; the Burnt Ranch area, to the west; the Red Bluff area in Tehama County, to the East. This land area constitutes the place of origin and of continued habitation and occupancy of the aboriginal Wintu Tribe, from which the Wintu Tribe of Northern California derives” (Wintu n.d.). According to the Wintu creation story, when the first Wintu people emerged from the sacred spring at Mt. Shasta, they did not have the ability to speak.

Tribal Cultural Resources

Tribal cultural resources (TCRs) are sites, features, places, cultural landscapes, sacred places, or objects that are of cultural value to a California Native American Tribe. They are either included or determined to be eligible for inclusion in the California Register of Historic Resources or included in a local register. They also can be resources that the lead agency, at its discretion, chooses to treat as a TCR (PRC section 21074).

Additionally, a cultural landscape is a TCR to the extent that the landscape is geographically defined in terms of the size and scope of the landscape (PRC section 21074(b)). Additionally, TCRs may be historical resources (PRC section 21084.1), unique archaeological resources (PRC section 21083.2(g)), or non-unique archaeological resources (PRC sections 21083.2 (h) and 21084(c)).

California Native American Heritage Commission Consultation

On December 2, 2014, TDS’s environmental consultant, Tierra Right of Way Services, Ltd., contacted the California NAHC to request a search for sacred lands and a list of Native American contacts for the proposed project area. The California NAHC provided a response via letter dated December 11, 2014. In this response, the California NAHC indicated that the results of their record search of the sacred land file did not indicate the presence of Native American cultural resources in the immediate proposed project area. However, they noted that the absence of specific site information in the sacred land file does not indicate the absence of cultural resources in a given area, and they recommended that other sources of cultural resources information should also be consulted regarding known and recorded sites that may be in the proposed project area (Sanchez 2014).

The California NAHC also provided a list of 14 Native American individuals and organizations who may have knowledge of cultural resources in the proposed project area, including:

- Two individuals (both of Wintu cultural affiliation);
- A representative of the Nor-Rel-Muk Nation (Wintu cultural affiliation);
- Three representatives of the Pit River Tribe of California (Pit River, Ajumawi-Atsugewi, and Wintun cultural affiliations);
- Three representatives of the Redding Rancheria (Wintu, Pit River, and Yana cultural affiliations);

- Two representatives of the United Tribe of Northern California, Inc., Wintu, Wintun, Winton (Wintu, Wintun, and Winton cultural affiliations);
- A representative of the Winnemem Wintu Tribe (Wintu cultural affiliation);
- A representative of the Wintu Educational and Cultural Council (Wintu cultural affiliation); and
- A representative of the Wintu (Wintu cultural affiliation) (Sanchez 2014).

Accordingly, the individuals and organizations on this list were contacted to identify known or potential Native American cultural resources in the proposed project area or to obtain recommendations of others with such knowledge (Sanchez 2014).

AB 52 Tribal Consultation

On March 31, 2017, the CPUC notified, via letter, a total of 24 federally recognized Indian tribes, California Native American tribes, and Native American individuals and organizations of its initiation of the AB 52 consultation process (see Table 5.18-1). The CPUC received six responses from the Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; the Federated Indians of Graton Rancheria, California; the San Manuel Band of Mission Indians, California; the Torres Martinez Desert Cahuilla Indians; the Twenty-Nine Palms Band of Mission Indians of California; and the Wintu.

The six responding tribes offered the following comments on the proposed project:

- Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California - indicated that they do not have any specific comment on the proposed project and defer to the comments of other affiliated tribes (Harper 2017);
- Federated Indians of Graton Rancheria, California - indicated that they reviewed the location of the proposed project and determined that it is not in their traditional ancestral territory and therefore they have no comments on the proposed project (McQuillen 2017);
- San Manuel Band of Mission Indians, California - indicated that the proposed project location is outside of Serrano ancestral territory, and therefore the tribe will not be requesting consulting party status under CEQA or AB 52 and will not be requesting to participate in the scoping, development, and/or review of documents created pursuant to these legal and regulatory mandates (Clauss 2017);
- Torres Martinez Desert Cahuilla Indians - indicated that they reviewed the information provided by the CPUC, determined that the location of the proposed project is outside of the tribe's traditional use area, and are deferring consultation for this project to other tribes closer to the proposed project area (Mirelez 2017);
- Twenty-Nine Palms Band of Mission Indians of California - indicated that the Tribal Historic Preservation Office is not aware of any archaeological/cultural sites or properties in the proposed project area that pertain to the tribe, the tribe currently has no interest in the proposed project, and the tribe defers to the comments of other affiliated tribes. However, they noted that if there are inadvertent discoveries of archaeological remains or resources, construction should stop immediately, and the appropriate agency and tribe(s) should be notified (Madrigal 2017); and
- Wintu and Toyan-Wintu Center - indicated that the proposed project would be located within the tribe's ancestral territory, the tribe is the acknowledged tribe having inherent rights over this territory, and that all Wintu monitoring and consultations are to go through the tribe (Hayward 2017a, 2017b).

Table 5.18-1 Summary of Initiation of Assembly Bill 52 Tribal Consultation for the Proposed Project (2017)

Name of Tribe or Organization	Person Contacted	Date of Notification	Date of Response	Summary of Response
Individual ⁽¹⁾	Loretta Root	March 31, 2017 (Uchida 2017a)	No response received.	No response received.
Individual ⁽¹⁾	Matthew Root	March 31, 2017 (Uchida 2017b)	No response received.	No response received.
Cabazon Band of Mission Indians ⁽²⁾	Doug Todd Welmas (Tribal Chairman)	March 31, 2017 (Uchida 2017c)	No response received.	No response received.
Colorado River Indian Tribes ⁽²⁾	Amanda Barrera (Tribal Secretary)	March 31, 2017 (Uchida 2017d)	April 7, 2017 (Harper 2017)	<ul style="list-style-type: none"> Colorado River Indian Tribes do not have any specific comment on the proposed project. Colorado River Indian Tribes defer to the comments of other affiliated tribes.
Federated Indians of Graton Reservation ⁽²⁾	Buffy McQuillen (Tribal Heritage Preservation Officer)	March 31, 2017 (Uchida 2017e)	April 6, 2017 (McQuillen 2017)	<ul style="list-style-type: none"> Federated Indians of Graton Rancheria, California reviewed the location of the proposed project. Federated Indians of Graton Rancheria, California determined that it is not in their traditional ancestral territory. Federated Indians of Graton Rancheria, California has no comments on the proposed project.
Gabrieleno Band of Mission Indians ⁽²⁾	Andrew Salas (Chairman)	March 31, 2017 (Uchida 2017f)	No response received.	No response received.
Nor-Rel-Muk Nation ⁽¹⁾	Marilyn Delgado (Chairperson)	March 31, 2017 (Uchida 2017g)	No response received.	No response received.
Pechanga Band of Luiseno Indians ⁽²⁾	Anna Hoover (Cultural Analysis)	March 31, 2017 (Uchida 2017h)	No response received.	No response received.
Pit River Tribe of California ⁽¹⁾	Dolores Raglin (Chairperson)	March 31, 2017 (Uchida 2017i)	No response received.	No response received.
Pit River Tribe of California ⁽¹⁾	Alexis Barry (Tribal Administrator)	March 31, 2017 (Uchida 2017j)	No response received.	No response received.
Pit River Tribe of California ⁽¹⁾	Morning Star Gali (Historic Preservation Office)	March 31, 2017 (Uchida 2017k)	No response received.	No response received.

Table 5.18-1 Summary of Initiation of Assembly Bill 52 Tribal Consultation for the Proposed Project (2017)

Name of Tribe or Organization	Person Contacted	Date of Notification	Date of Response	Summary of Response
Redding Rancheria ⁽¹⁾	Tracy Edwards (Chief Executive Officer)	March 31, 2017 (Uchida 2017l)	No response received.	No response received.
Redding Rancheria ⁽¹⁾	Jason Hart (Chairperson)	March 31, 2017 (Uchida 2017m)	No response received.	No response received.
Redding Rancheria ⁽¹⁾	James Hayward, Sr. (Cultural Resources Program)	March 31, 2017 (Uchida 2017n)	No response received.	No response received.
San Luis Rey Band of Mission Indians ⁽²⁾	Cami Mojado (Cultural Resources Manager)	March 31, 2017 (Uchida 2017o)	No response received.	No response received.
San Manuel Band of Mission Indians ⁽²⁾	Daniel F. McCarthy, MS, RAP (Director-CRM Development)	March 31, 2017 (Uchida 2017p)	April 11, 2017 (Clauss 2017)	<ul style="list-style-type: none"> Proposed project location is outside of Serrano ancestral territory. San Manuel Band of Mission Indians, California will not be requesting consulting party status under CEQA or AB 52. San Manuel Band of Mission Indians, California will not be requesting to participate in the scoping, development, and/or review of documents created pursuant to CEQA or AB 52 legal and regulatory mandates.
Temecula Band of Luiseno Mission Indians ⁽²⁾	Timothy J. Sullivan (Executive Director)	March 31, 2017 (Uchida 2017q)	No response received.	No response received.
Torres Martinez Desert Cahuilla Indians ⁽²⁾	Michael Mirelez (Cultural Resources Coordinator)	March 31, 2017 (Uchida 2017r)	April 25, 2017 (Mirelez 2017)	<ul style="list-style-type: none"> Torres Martinez Desert Cahuilla Indians reviewed the information provided by the CPUC. Torres Martinez Desert Cahuilla Indians determined that the location of the proposed project is outside of the tribe's traditional use area. Torres Martinez Desert Cahuilla Indians are deferring consultation for this project to other tribes closer to the proposed project area.
Twenty-Nine Palms Band of Mission Indians ⁽²⁾	Darrell Mike (Tribal Chairman)	March 31, 2017 (Uchida 2017s)	April 7, 2017 (Madrigal 2017)	<ul style="list-style-type: none"> Twenty-Nine Palms Band of Mission Indians of California's Tribal Historic Preservation Office is not aware of any archaeological/cultural sites or properties in the proposed project area that pertain to the tribe. Twenty-Nine Palms Band of Mission Indians of California currently has no interest in the proposed project.

Table 5.18-1 Summary of Initiation of Assembly Bill 52 Tribal Consultation for the Proposed Project (2017)

Name of Tribe or Organization	Person Contacted	Date of Notification	Date of Response	Summary of Response
				<ul style="list-style-type: none"> Twenty-Nine Palms Band of Mission Indians of California defers to the comments of other affiliated tribes. Twenty-Nine Palms Band of Mission Indians of California noted, however, that if there are inadvertent discoveries of archaeological remains or resources, construction should stop immediately, and the appropriate agency and tribe(s) should be notified.
United Tribe of Northern California, Inc., Wintu, Wintun, Wintoon ⁽¹⁾	Gloria Gomes (Chairperson)	March 31, 2017 (Uchida 2017t)	No response received.	No response received.
United Tribe of Northern California, Inc., Wintu, Wintun, Wintoon ⁽¹⁾	John Castro (Cultural Liaison)	March 31, 2017 (Uchida 2017u)	No response received.	No response received.
Winnemem Wintu Tribe ⁽¹⁾	Caleen Sisk-Franco (Tribal Chair)	March 31, 2017 (Uchida 2017v)	No response received.	No response received.
Wintu Educational and Cultural Council ⁽¹⁾	Robert Burns	March 31, 2017 (Uchida 2017w)	No response received.	No response received.
Wintu Tribe of Northern California ⁽¹⁾	Kelli Hayward	March 31, 2017 (Uchida 2017x)	April 18, 2017 (Hayward 2017a)	<ul style="list-style-type: none"> Proposed project is located within the Wintu Tribe of Northern California's ancestral territory. Wintu Tribe of Northern California is the acknowledged tribe having inherent rights over this territory. All Wintu monitoring and consultations are to go through the Wintu Tribe of Northern California.

Sources: Clauss 2017; Harper 2017; Hayward 2017a; Madrigal 2017; McQuillen 2017; Mirelez 2017; Uchida 2017a-x.

Notes:

⁽¹⁾ Individual or organization identified by the California NAHC (Sanchez 2014).

⁽²⁾ California Native American tribe that has requested to the CPUC, in writing, to be informed about proposed projects through formal notification under AB 52.

Key:

AB Assembly Bill

CEQA California Environmental Quality Act

CPUC California Public Utilities Commission

NAHC Native America Heritage Commission

1
2 In December 2017 and January 2018, additional California tribes responded to the CPUC requesting
3 information about proposed projects that may be located within geographic area(s) of interest to them due
4 to their traditional and cultural affiliations. Among these new tribes responding to the CPUC for projects
5 in Shasta County were the Elk Valley Rancheria and the Shasta Indian Nation. In response to these two
6 tribes, the CPUC provided project initiation letters to these two tribes on February 16, 2018. (see Table
7 5.18-2.)
8

Table 5.18-2 Summary of Initiation of Assembly B 52 Tribal Consultation for the Proposed Project (2018)

Name of Tribe or Organization	Person Contacted	Date of Notification	Date of Response	Summary of Response
Elk Valley Rancheria	Dale A. Miller	February 16, 2018 (Uchida 2018a)	No response received.	No response received.
Shasta Indian Nation	Sami Jo Difuntorum	February 16, 2018 (Uchida 2018b)	2/20/2018 (Difuntorum 2018)	<ul style="list-style-type: none"> Proposed project is outside their area of interest. The Shasta Indian Nation has no comments.

Sources: Difuntorum 2018; Uchida 2018a, 2018b

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AB 52 Consultation with the Wintu Tribe of Northern California

Based on the response received, the CPUC conducted AB 52 consultation with the Wintu. On July 6, 2017, the CPUC initiated consultation, via letter, with the tribe in accordance with AB 52 regarding the potential for the proposed project to result in impacts on TCRs.

The Wintu responded July 19, 2017, to confirm that the tribe was requesting consultation under AB 52 for the proposed project and was aware of TCRs located within the proposed project area. Specifically, the tribe indicated that the Cloverdale Cemetery was an area of concern, as there are Wintu ancestors buried there, including members of Wintu families from the Igo and Ono areas, and waterways are an area of concern and should be treated with the utmost care and respect when work takes place near them (Hayward 2017b).

A conference call was held on September 12, 2017, between the CPUC and the Wintu to obtain clarification regarding the comments from the July 19, 2017 letter. During the conference call, the CPUC confirmed that:

- The tribe is requesting monitoring by a Wintu representative during construction in the vicinity of the Cloverdale Cemetery;
- The tribe is concerned about the potential archaeological sensitivity at the locations of waterbody crossings; and
- The tribe noted that the depth of excavation for installation of proposed project components appears to be deeper than depths used in previous surveys conducted within the proposed project area.

A letter dated December 28, 2017, provided a high level summary of the September conference call and further information regarding the proposed project (Uchida 2017y). It also included a summary of the proposed construction in the vicinity of the Cloverdale Cemetery, information regarding the waterbody crossings, and a description of the depths of excavations. The letter also presented the applicant-proposed measures (APMs) and potential mitigation measures for review (Uchida 2017z).

A response was received from the Wintu in February 2018, noting that the tribe concurred with the APMs and CPUC mitigation measures for construction within 50 feet of the Cloverdale Cemetery. The tribe also requested that any reports regarding waterbodies be sent to them, especially with regard to the waterways within the area where impacts could occur. The tribe further noted that they would like to see additional information regarding the depths of excavation if human remains or cultural resources are discovered. Finally, they noted that they would like information on the depth of surface and subsurface disturbance and the test pits for the eventual boring (Wintu 2018).

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2 A follow-up letter was sent by the CPUC to the Wintu on October 25, 2018. This letter provided project
3 updates, requested review of proposed mitigation measures, and addressed comments received in the
4 December 28, 2017, letter from the tribe. The Wintu issued a response via email on October 26, 2018.
5

6 To continue the consultation with the Wintu, the CPUC held a telephone conference call with Ms. Kelli
7 Hayward, the AB-52 representative of the Wintu, on November 28, 2018. As part of this call, general
8 questions regarding the Wintu's comments were discussed, along with potential areas in which the Wintu
9 would like to monitor construction activities, and specific wording within the proposed mitigation
10 measures. Ms. Hayward also noted the importance of the general area of the proposed project, as
11 members of the Wintu were involved with the mining activities near Igo. No specific locations or
12 resources were discussed with regard to the proposed project other than the Cloverdale Cemetery and
13 waterways.
14

15 A letter summarizing revised mitigation measures, accounting for the November 2018 discussion, was
16 provided to the Wintu on February 20, 2019. The letter also noted a change in the CPUC Project Manager
17 and information regarding how the Wintu may provide additional comments. The CPUC received a
18 response from Ms. Kelli Hayward on February 26, 2019, noting that they did not have any further
19 comments. Receipt of this email was acknowledged by the CPUC project team on February 26, 2019.
20

21 **5.18.2 Regulatory Setting**

22 **Federal**

23
24 No federal regulations related to TCRs are applicable to the proposed project.
25

26 **State**

27 **Assembly Bill 52.** Under AB 52, Native American culture must be considered in the CEQA process
28 based on changes made to the California PRC. If a project may cause significant impact to a TCR, the
29 project may have a significant impact on the environment per AB 52 (PRC 21084.2). AB 52 establishes a
30 defined and formal consultation role with tribes as part of the CEQA process and requires lead agencies to
31 consult with Native American tribes regarding potential TCRs within the study area, the potential for
32 significant impacts to TCRs, analysis of project alternatives, and input on the level of analysis under
33 CEQA.
34

35 **Additional State Laws Regarding Archaeological and Native American Cultural Resources.**

36 California law extends additional protections to Native American cultural resources (not limited to
37 TCRs):

- 38 • PRC sections 5097.91 through 5097.991 pertain to the establishment and authority of the NAHC.
39 These sections also prohibit the acquisition or possession of Native American artifacts or human
40 remains taken from a Native American grave or cairn, except in accordance with an agreement
41 reached with the NAHC, and provide for Native American remains and associated grave artifacts
42 to be repatriated.
- 43 • PRC subsections 5097.98(b) and (e) require a landowner on whose property Native American
44 human remains are found to limit further development activity in the vicinity until conferring
45 with the most likely descendants (as identified by the NAHC) to consider treatment options.

- 1 • Health and Safety Code sections 7050 through 7054 make the disturbance and removal of human
2 remains felony offenses because of the importance of human remains to the Native American
3 community.
- 4 • PRC section 65092 provides for the notification of California Native American tribes who are on
5 the contact list maintained by the NAHC about construction projects.
- 6 • PRC sections 5097.993 through 5097.994 make it a misdemeanor crime to perform unlawful and
7 malicious excavation, removal, or destruction of Native American archaeological or historical
8 sites on public or private lands.
- 9 • Penal Code section 622 establishes as a misdemeanor the willful injury, disfiguration,
10 defacement, or destruction of any object or thing of archaeological or historical interest or value,
11 whether situated on private or public lands.
- 12 • PRC section 6254(r) protects Native American graves, cemeteries, and sacred places maintained
13 by the NAHC by protecting records of such resources from public disclosure under the California
14 Public Records Act.

15 16 **Local**

17 No local regulations related to TCRs are applicable to the proposed project.

18 19 **5.18.3 Environmental Impacts and Mitigation Measures**

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21 The impact analysis below identifies and describes the proposed project's potential impacts on TCRs
22 within the proposed project area. Potential impacts were evaluated according to the significance criteria
23 presented in Appendix G of the CEQA Guidelines and listed at the start of each impact analysis section
24 below. Both the construction and maintenance/operations phases were considered; however, because the
25 construction phase could result in physical changes to the environment, analysis of the construction phase
26 effects warranted a more detailed evaluation.

27 28 **Applicant Proposed Measures**

29 The applicant has not incorporated APMs to specifically minimize or avoid impacts on TCRs; however,
30 APMs proposed from other resource sections, as further described below, would mitigate impacts to
31 TCRs. **Mitigation Measure (MM) GEN-1** requires implementation of these APMs to mitigate impacts,
32 and the impact analysis in this section applies these APMs to reduce impacts. A list of all project APMs is
33 included in Table 4-2 in Chapter 4.

34 35 **Significance Criteria**

36 Table 5.18-3 describes the significance criteria from Appendix G of the CEQA Guidelines' TCRs section,
37 which the CPUC used to evaluate the environmental impacts of the proposed project. Based on
38 consultation with California Native American tribes, and per the lead agency discretion, TCRs include the
39 Cloverdale Cemetery (located in the AII) and waterways (located within the ADI and AII).

Table 5.18-3 Tribal Cultural Resources Checklist

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:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
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	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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 Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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2 Items (a) and (b) of the cultural resources checklist are considered together for the purposes of this
3 evaluation due the potential for similar impacts for resources that are listed or eligible for listing on the
4 California Register of Historic Resources or local register of historical resources and those that are
5 considered tribal cultural resources per the discretion of the lead agency.

6

7 *a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register*
8 *of historical resources as defined in Public Resources Code section 5020.1(k), or*

9 *or*

10 *b. A resource determined by the lead agency, in its discretion and supported by substantial evidence,*
11 *to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section*
12 *5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section*
13 *5024.1, the lead agency shall consider the significance of the resource to a California Native*
14 *American tribe.*

15

16 Consultation with California Native American tribes in accordance with AB 52 resulted in the
17 identification of the Cloverdale Cemetery as an area of concern for the Wintu Tribe of Northern California
18 & Toyon-Wintu Center, as Wintu ancestors are buried within the cemetery, including members of Wintu
19 families from the Igo and Ono areas (Hayward 2017b).

20

21 The Cloverdale Cemetery fenceline is located approximately 53 feet west of the proposed project
22 alignment. It is located within the AII. As it is located outside the area in which ground disturbance is
23 planned (i.e., the ADI), no direct impacts on this resource are anticipated to occur. However, as the
24 cemetery dates to the late 19th century (ca. 1892), there is some potential for burials to be located outside
25 of the fenceline. The applicant has proposed APMs that would help to reduce the potential for impacts to
26 the Cloverdale Cemetery. These include **APM CR-2** (which has been implemented and incorporated into
27 the project design) and **APM CR-4**. In addition, **MM CUL 1, MM CUL-2, MM CUL-3, MM CUL-5,**
28 **MM TCR-1, and MM TCR-2** will be implemented. With the implementation of these APMs and
29 mitigation measures, the impact will be reduced to less than significant.

30

1 Indirect impacts to the Cloverdale Cemetery would consist of visual and auditory impacts associated with
2 the presence of construction equipment and personnel. The impacts to the cemetery would be anticipated
3 to be less than significant, as they would be temporary and would be similar to those associated with
4 typical roadway repairs.
5

6 The Wintu Tribe of Northern California & Toyon-Wintu Center also noted that waterways were an
7 important resource that needed consideration with regard to the potential impacts of the proposed project.
8 The proposed project would cross 29 waterbodies and eight wetlands. In addition, the proposed project
9 would cross 14 culverts that may represent ephemeral waterbodies or drainage swales that do not
10 necessarily lead to a larger order, permanent waterbody. However, the applicant would use the directional
11 boring technique for fiber-optic cable installation beneath all waterbody and wetland crossings, except for
12 Spring Gulch. Due to the topography of Spring Gulch, the proposed project would be installed using
13 directional boring across the top of the banks for this stream along Happy Valley Road, parallel to the
14 bridge over this stream. The applicant has identified the following APMs that collectively would help to
15 avoid physical impacts on waterbody and wetland crossings, including areas adjacent to these features:
16 **APM BIO-1, APM BIO-2, APM BIO-3, APM CR-1, APM CR-3, APM CR-4, APM GEO-4, and**
17 **APM GEO-7.** In particular, **APM CR-3** and **APM CR-4** would assist in the avoidance of potential
18 archaeologically sensitive areas adjacent to waterbodies and wetland crossings. In addition to these
19 APMs, **MM CUL-1** and **MM CUL-2** would be implemented. With the implementation of the APMs and
20 mitigation measures, the impacts to waterways would be less than significant.
21

22 No impacts would be anticipated to occur with the operation and maintenance of the proposed project, as
23 no ground disturbance that would have the potential to impact the cemetery and waterways would occur.
24

25 **Significance: Less than significant with mitigation.**
26

27 **Mitigation Measures**

28 See Section 5.5, “Cultural Resources” for other applicable mitigation.
29

30 **MM TCR-1: Tribal Monitoring for Cloverdale Cemetery:** One Native American monitor from the
31 Wintu Tribe of Northern California (Wintu) shall be retained, at the Tribe’s option, to observe ground-
32 disturbing activities and all work within 200 feet of the Cloverdale Cemetery, subject to the conditions
33 outlined in this mitigation measure.
34

35 Wintu monitoring shall be subject to the following conditions:
36

- 37 • The applicant shall give the Wintu 14 days’ advance notice of construction in the vicinity of the
38 Cloverdale Cemetery and shall provide the Wintu with the opportunity to monitor construction
39 activities in the vicinity of the Cloverdale Cemetery as requested in AB 52 consultation with the
40 CPUC. The applicant shall make a good-faith best effort to schedule construction activities in the
41 vicinity of the Cloverdale Cemetery when a Wintu monitor is available.
- 42 • The Wintu monitor’s attendance during construction activities within 200 feet of the Cloverdale
43 Cemetery is ultimately at the discretion of the tribe, and the absence of a Wintu monitor shall not
44 delay construction work if the Wintu has been given 14 days’ advance notice. The applicant shall
45 include documentation of its notification of, and communications with, the Wintu regarding the
46 tribe’s monitoring in the vicinity of Cloverdale Cemetery as part of the monitoring plan for the
47 proposed project.
- 48 • The Wintu monitor shall have the ability to temporarily halt work or redirect trenching from the
49 immediate vicinity of a potential unanticipated find or the unanticipated discovery of human
50 remains within 200 feet of the Cloverdale Cemetery. The Wintu monitor shall immediately notify

1 the CPUC-approved archaeological monitor to follow the procedures for the discovery of
2 unanticipated finds (per MM CUL-3) and/or for the unanticipated discovery of human remains
3 per PRC section 5097.98.
4

5 **MM TCR-2: Treatment for Unanticipated Tribal Cultural Resources.** In the event a resource is
6 discovered that, in the opinion of the CPUC-approved archaeologist, may be considered a tribal cultural
7 resource or a resource of importance to the Wintu Tribe, TDS shall notify the CPUC Project Manager
8 (PM) and Wintu Tribe (Wintu AB 52 or cultural representative) within 24 hours of its discovery. As part
9 of the notification, the resource will be described with sufficient detail to allow the CPUC PM/Wintu AB
10 52 or cultural representative an understanding of the resource.
11

12 The CPUC-approved archaeologist, the CPUC PM, and the Wintu AB 52 or cultural representative will
13 assess the potential significance of the find based on the notification information. If the CPUC-approved
14 archaeologist, the CPUC PM, and Wintu AB 52 or cultural representative determine that the resource is
15 not significant, TDS may proceed with construction within 24 hours of receiving notification of this
16 determination.
17

18 If the find is not determined to be significant, TDS shall submit the appropriate California Department of
19 Parks and Recreation (DPR) 523 forms to the CPUC for review and approval within 48 hours of the find.
20 The CPUC PM will approve or request changes to the DPR 523 forms within seven days of submittal by
21 TDS. Once approved, TDS shall file the completed DPR 523 forms with the Northeast Information
22 Center and shall provide a copy of the DPR 523 forms to the CPUC for its records.
23

24 If the find is potentially significant, the following procedures will be implemented:

- 25 • If the resource can be avoided and the CPUC-approved archaeologist, CPUC PM, and Wintu AB
26 52 or cultural representative concur, TDS may proceed with construction work in the area of
27 discovery.
- 28 • TDS shall ensure that the CPUC-approved archaeologist records the unanticipated resource on the
29 appropriate DPR 523 forms. TDS shall submit the DPR 523 forms to the CPUC for review and
30 approval within 48 hours of the find. The CPUC PM will approve or request changes to the DPR
31 523 forms within seven days of submittal by TDS. Once approved, TDS shall file the completed
32 DPR 523 forms with the Northeast Information Center and shall provide a copy of the DPR 523
33 forms to the CPUC for its records.
- 34 • If the Wintu request further consultation on a resource, the CPUC-approved archaeologist, CPUC
35 PM, and Wintu AB 52 or cultural representative will consult on the development of the
36 Evaluation Plan and/or the Data Recovery Plan and all subsequent documentation. The review
37 and approval will be sought in the same timeframe for both the CPUC and Wintu AB 52 or
38 cultural representative as that described in MM CUL-3. If the Wintu indicate that consultation
39 with them regarding the Evaluation Plan and/or Data Recovery Plan is not needed, only CPUC
40 review and approval will be required for this plan(s), along with subsequent fieldwork and
41 documentation.
42

43 Once the CPUC-approved archaeologist, CPUC PM, and Wintu AB 52 or cultural representative approve
44 the Evaluation Plan and/or Data Recovery Plan, TDS shall ensure that the CPUC-approved archaeologist
45 implements the approved plan. If a Wintu monitor is requested as part of the Evaluation and/or Data
46 Recovery Plan, the role of the monitor will be outlined in the Evaluation Plan and/or Data Recovery Plan.
47

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