



# City Of Merced Wastewater Collection System Master Plan

## DRAFT ENVIRONMENTAL IMPACT REPORT

### CHAPTER 3.5 CULTURAL RESOURCES AND TRIBAL CULTURAL RESOURCES

September 2020



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## **3.5 CULTURAL RESOURCES AND TRIBAL CULTURAL RESOURCES**

### **3.5.1 Basis for Analysis**

The California Environmental Quality Act (CEQA) Guidelines' Appendix G Environmental Checklist was used during the Notice of Preparation (NOP) scoping process (included in Appendix A) to identify the Program components that have the potential to cause a significant impact. The following potential impacts were determined to warrant further evaluation within this Environmental Impact Report (EIR):

- Cause a substantial adverse change in the significance of a historical resource pursuant to Section 15064.5.
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.
- Disturb any human remains, including those interred outside of formal cemeteries?
- 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, or object with cultural value to the California Native American tribe, and that is 1) listed or eligible for listing in the California Register of Historical Resources, or in a local register of historic resources as defined in Public Resource Code section 5020.1(k); or 2) a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1.

The remainder of this section describes the regulatory and environmental setting to support the evaluation of the potential impacts and describes the potential impacts to cultural resources of tribal cultural resources that may result from implementation of the Program, identifying mitigation for significant impacts, where feasible.

### **3.5.2 Regulatory Framework**

This section discusses the federal and state regulations and local policies and objectives that relate to cultural resources or tribal cultural resources and are relevant to the Program.

#### **3.5.2.1 Federal**

##### National Historic Preservation Act

The National Historic Preservation Act (NHPA) of 1966 requires federal agencies or those they fund or permit to consider the effects of their actions on historic properties. This Program does not involve a federal undertaking or federal funding.

#### **3.5.2.2 State**

##### California Environmental Quality Act

CEQA consists of statutory provisions in the Public Resource Code (PRC) and Guidelines promulgated by the Office of Planning and Research. CEQA requires public agencies to evaluate the implications of their project(s) on the

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environment and includes significant historical resources as part of the environment. A project that causes a substantial adverse change in the significance of an historical resource would have a significant effect on the environment (California Code of Regulations [CCR] 14 Section 15064.5; California PRC Section 21098.1). CEQA defines a substantial adverse change as follows.

- Physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of a historical resource would be materially impaired (CCR 14 Section 15064.5[b][1]).

The CEQA Guidelines determine that the significance of an historical resource would be materially impaired when a project results in the following:

- Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historical Resources (CRHR); or
- Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to PRC Section 5020.1(k) or its identification in an historical resources survey meeting the requirements of PRC Section 5024.1(g), unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or
- Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the CRHR as determined by a Lead Agency for purposes of CEQA (CCR 14 Section 15064.5[b][2]).

### California Register of Historical Resources: Public Resources Code Section 5024

The term historical resource includes but is not limited to any object, building, structure, site, area, place, record, or manuscript that is historically or archaeologically significant or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of the PRC (PRC Section 5020.1[j]).

Historical resources may be designated as such through three different processes:

1. Official designation or recognition by a local government pursuant to local ordinance or resolution (PRC Section 5020.1[k]);
2. A local survey conducted pursuant to PRC Section 5024.1(g); or
3. The property is listed in or eligible for listing in the National Register of Historic Places (NRHP) (PRC Section 5024.1[d][1]).

The process for identifying historical resources is typically accomplished by applying the criteria for listing in the CRHR, which states that a historical resource must be significant at the local, state, or national level under one or more of the following four criteria.

It is associated with events that have made a significant contribution to the broad patterns of:

1. California's history and cultural heritage;

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2. It is associated with the lives of persons important in our past;
3. It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master or possesses high artistic values; or
4. It has yielded, or may be likely to yield, information important in prehistory or history (CCR 14 Section 4852).

To be considered a historical resource under CEQA, the resource must also have integrity, which is the authenticity of a resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance. Therefore, resources must retain enough of their historic character or appearance to be recognizable as historical resources and to convey the reasons for their significance. Integrity is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association. It must also be judged with reference to the criteria under which a resource is eligible for listing in the CRHR (CCR 14 Section 4852[c]).

CEQA also identifies "unique archaeological resources" (PRC Section 21083.2 (g)). The term means an archaeological artifact, object, or site about which it can be clearly demonstrated that without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

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

### Assembly Bill 52 (PRC Section 21084.2)

Assembly Bill (AB) 52 changed sections of the PRC (Section 5097.94) to add consideration of Native American tribal cultural resources to CEQA (Sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3). The goal of AB 52 is to promote the involvement of California Native American tribes in the decision-making process when it comes to identifying and developing mitigation for impacts to resources of importance to their culture. To reach this goal, the bill establishes a formal role for tribes in the CEQA process. CEQA lead agencies are required to consult with tribes about potential tribal cultural resources in a project area, the potential significance of project impacts, the development of project alternatives, and the type of environmental document that should be prepared. AB 52 specifically states that a project 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.

### Discovery of Human Remains

Section 7050.5 of the California Health and Safety Code states the following regarding the discovery of human remains:

- a. Every person who knowingly mutilates or disinters, wantonly disturbs, or willfully removes any human remains in or from any location other than a dedicated cemetery without authority of law is guilty of a misdemeanor, except as provided in Section 5097.99 of the [PRC]. The provisions of this subdivision shall not apply to any person carrying out an agreement developed pursuant to subdivision (l) of Section 5097.94 of the [PRC] or to any person authorized to implement Section 5097.98 of the [PRC].

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- b. In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined, in accordance with Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the California Government Code [CGC], that the remains are not subject to the provisions of Section 27491 of the CGC or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the PRC. The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains.
- c. If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission (NAHC) (California Health and Safety Code Section 7050.5).

Of particular note to cultural resources is subsection (c), which requires the coroner to contact the NAHC within 24 hours if discovered human remains are determined to be Native American in origin. After notification, NAHC will follow the procedures outlined in PRC Section 5097.98, which include notification of most likely descendant (MLD), if possible, and recommendations for treatment of the remains. The MLD will have 24 hours after notification by the NAHC to make their recommendation (PRC Section 5097.98). In addition, knowing or willful possession of Native American human remains or artifacts taken from a grave or cairn is a felony under state law (PRC Section 5097.99).

### 3.5.2.3 Local

#### Merced Vision 2030 General Plan

The City of Merced (City) Merced Vision 2030 General Plan (2030 General Plan), adopted January 3, 2012 (City of Merced 2012), contains several policies that directly or indirectly pertain to cultural resources and tribal cultural resources, including the following:

#### Goal Area SD-2: Cultural Resources

- **Policy SD-2.1.** Identify and preserve the City's archaeological resources.
- **Policy SD-2.2.** Identify and preserve the City's historic and cultural resources.

#### Historic Preservation Commission

The purpose of the Planning Commission is to hold public hearings to periodically update the City's General Plan and to review applications for discretionary development within the City, including recommendations for projects requiring final City Council action. The Planning Commission also acts as the Design Review Commission and Historic Preservation Commission. The Design Review/Historic Preservation Commission performs comprehensive site plan and architectural review within the downtown area to promote orderly development of the City and stability of land values and investments. The Historic Preservation Commission was established to promote the protection,

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enhancement, perpetuation, and use of structures, sites, and areas that are reminders of past eras, events, and persons important to local, state, or national history.

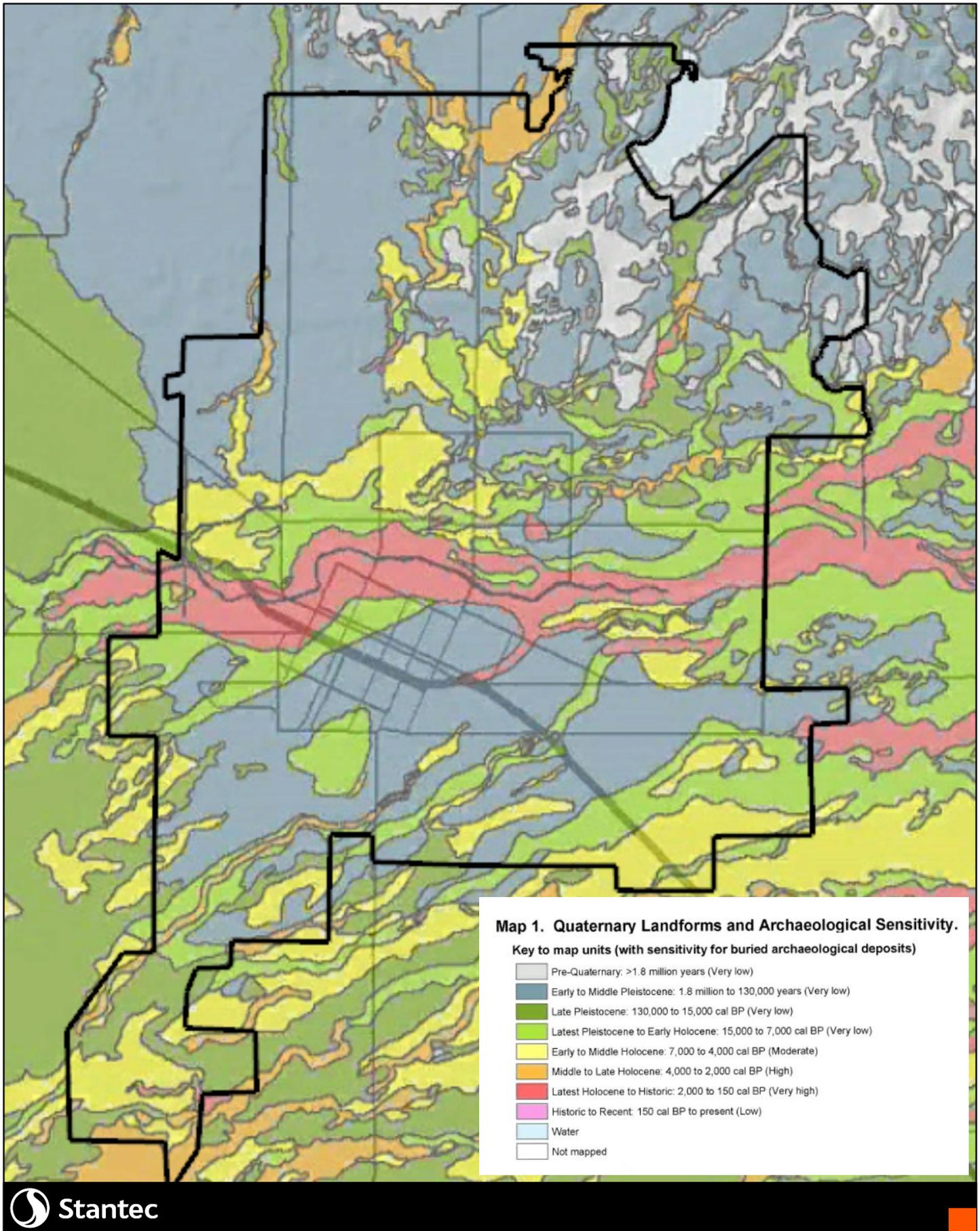
## 3.5.3 Environmental Setting

This environmental setting provides a brief overview of the natural environment, prehistoric, ethnographic, and historic setting of the Program Study Area. This information is provided as context within which to interpret cultural resources identified in the Program Study Area. The summary of prehistory, Native American ethnography, and history of the Program Study Area is excerpted from the 2030 General Plan Draft Program EIR.

### 3.5.3.1 Natural Setting

A brief overview of the natural environment setting for the Program Study Area is provided in Section 3.4.3, Environmental Setting. The information presented in Section 3.4.3 is sufficient to provide a context for the discussion of cultural resources in the Program Study Area (i.e., areas associated with the Program components including the pipelines, pump stations, and the Wastewater Treatment and Reclamation Facility [WWTRF] expansion) and any discussion of the environment related to cultural resources is based on previously presented information in Section 3.4.3.

Assessing the sensitivity for a project area to contain buried archaeological sites requires a review of the natural environment and takes into consideration the factors that support human occupations, such as access to food resources, fresh water, slope, and the underlying geomorphology, as well as the historical development of an area, including actions such as grading and filling that may obscure landform characteristics, natural soil deposits, and prehistoric or historic archaeological resources. Generally speaking, a large proportion of previously recorded prehistoric archaeological sites are located within 150 meters of a fresh water source and on relatively level ground (slope of less than 5 percent). Portions of a project that occur within these parameters have an increased potential to contain buried cultural resources and buried stable land surfaces that may have been attractive to prehistorical or historical human settlement. In 2004 (Rosenthal and Meyer 2004), the California Department of Transportation (Caltrans) completed a geoarchaeological study of Caltrans District 10, which included the City and the Program Study Area. This study identified potential sensitivity for buried archaeological deposits throughout the City and Program Study Area based on the factors considered and listed above. Figure 3.5-1 depicts this potential sensitivity for buried archaeological deposits within the Program Study Area. As shown on Figure 3.5-1, gray, dark blue, dark green, and light green all indicate very low sensitivity for buried archaeological deposits. Pink indicates a low sensitivity for buried archaeological deposits. Yellow indicates a moderate sensitivity for buried archaeological deposits. Orange indicates a high sensitivity for buried archaeological deposits. Red indicates a high sensitivity for buried archaeological deposits. Light blue represents water and white are unmapped areas for sensitivity for buried archaeological deposits.



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## 3.5.3.2 Prehistory and Native American Ethnography

The Program Study Area is within the boundary of the ethnographic territory of the Yokuts people. The Yokuts were members of the Penutian language family, this territory includes the southern portion of the Central Valley, San Francisco Bay Area, and the Pacific Coast from Marin County to near Point Sur. The Yokuts differed from other ethnographic groups in California as they had true tribal divisions with group names (Kroeber 1925). Each tribe spoke a particular dialect, common to its members, but similar enough to other Yokuts that they were mutually intelligible (Kroeber 1925).

The Yokuts held portions of the San Joaquin Valley from the Tehachapis in the south to Stockton in the north. On the north they were bordered by the Plains Miwok, on the west by the Saclan or Bay Miwok and Costanoan peoples. Although neighbors were often from distinct language families, differences between the people appear to have been more influenced by environmental factors as opposed to linguistic affinities. Thus, the Plains Miwok were more similar to the nearby Yokuts than to foothill members of their own language group. Similarities in cultural inventory co-varied with distance from other groups and proximity to culturally diverse people. The material culture of the southern San Joaquin Valley Yokuts was more closely related to that of their non-Yokuts neighbors than to that of Delta members of their own language group.

Trade was well developed, with mutually beneficial interchange of needed or desired goods. Obsidian, rare in the San Joaquin Valley, was obtained by trade with Paiute and Shoshoni groups on the eastern side of the Sierra Nevada, where numerous sources of this material are located, and to some extent from tribes with access to obsidian sources in northern California. Shell beads, obtained by the Yokuts from coastal people, and acorns, rare in the Great Basin, were among many items exported to the east by Yokuts traders (Davis 1961).

Economic subsistence was based on the acorn, with substantial dependency on gathering and processing of wild seeds and other vegetable foods. The rivers, streams, and sloughs that formed a maze within the valley provided abundant food resources such as fish, shellfish, and turtles. Game, wild fowl, and small mammals were trapped and hunted to provide protein augmentation of the diet. In general, the eastern portion of the San Joaquin Valley provided a lush environment of varied food resources, with the estimated large population centers reflecting this abundance (Cook 1955; Baumhoff 1963).

Settlements were oriented along the water ways, with village sites normally placed adjacent to these features for their nearby water and food resources. House structures varied in size and shape (Latta 1949; Kroeber 1925), with most constructed from the readily available tules found in the extensive marshes of the low-lying valley areas. House pit depressions ranged in diameter from 3 to 18 meters (City of Merced 2010).

## 3.5.3.3 Historic Period

Merced County was first explored by Gabriel Moraga in 1806, when he named the Merced River, "El Rio de Nuestra Señora de la Merced." Moraga's explorations were designed to locate appropriate sites for an inland chain of missions. Moraga explored the region again in 1808 and 1810.

Fur traders began working the streams of the San Joaquin Valley in 1828. Beaver skins may have been gathered by Hudson's Bay Company trappers in the Merced region.

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John C. Fremont, on his way to leaving California in 1844, proceeded southward from Sutter's Fort, passing through what is now Merced County. His party crossed the Merced River in a boat that they constructed, camping on the south bank near the Merced River's junction with the San Joaquin River. The expedition stopped and camped on Bear Creek, 5 miles from its mouth. They then crossed the Creek and traveled on into Madera County.

Merced County was carved out of Mariposa County in 1855. The construction of the Southern Pacific Railroad in 1872 brought major changes to the region. The City was laid out in January of that year when the railroad reached the spot. Merced became the county seat in December of 1872 (Hoover et al. 1990; Gudde 1969: 198-199).

The development of the railroads through the region allowed for the establishment of the communities. The small communities grew up as service centers for the surrounding areas, providing a means of marketing farm products to remote destinations and providing supplies to the local residents. Freight to the communities in the foothills became an important industry.

Formed in 1919, the Merced Irrigation District (MID) infrastructure is located throughout the Program Study Area. According to MID's website, it owns, operates, and maintains ditches, canals, laterals, wells, pumping plants, the New Exchequer and McSwain Dams, reservoirs, and hydroelectric facilities. These serve farmers and domestic water users (MID 2019).

The completion of the Crocker-Huffman canal system led to the colonization of the territory around the Program Study Area and resulted in a rapid expansion of the population. The City is located in both the center of the state and the valley and serves as the gateway to Yosemite Park (City of Merced 2010).

### 3.5.3.4 Known Cultural Resources

A records search that encompassed 0.25 miles surrounding the Program Study Area was conducted at the Central California Information Center (CCIC) on December 19, 2018 (included in the confidential Appendix D) (CCIC 2018). The records search identified 12 cultural resources (all historic-era) within this search area. All previously recorded resources within the Program Study Area were previously found not eligible to the NRHP and CRHR, with the exception of the MID historic district (P-24-001909), which was previously recommended for reevaluation for the CRHR and may become eligible for the CRHR with restoration or if it meets other specific conditions for eligibility. The records search also identified 33 previously recorded cultural resources (32 historic-era, 1 prehistoric-era) and 91 previous studies within the Program Study Area and the 0.25-mile search area. Table 3.5.1 provides relevant information on twelve previously recorded cultural resources within the Program Study Area.

As part of the records search, Stantec reviewed the following inventories for cultural resources in and/or adjacent to the Program Study Area:

- Previous City environmental documents (City of Merced 2018)
- California Inventory of Historic Resources
- California Historical Landmarks
- California Points of Historical Interest
- NRHP and CRHR databases
- Caltrans Historic Bridge Inventory
- General Land Office Maps

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**Table 3.5-1: Previously Recorded Cultural Resources within the Program Study Area**

Primary Number	Resource Type	Description	Eligibility Status	Associated Program Component
P-24-000577	Historic	El Capitan Canal	Previously determined not eligible to the NRHP or CRHR (Caltrans 1998)	New Trunk Sewer Infrastructure Projects
P-24-000653	Historic	Bridge #39-67	Previously determined not eligible to the NRHP or CRHR (Caltrans 2018)	New Trunk Sewer Infrastructure Projects (including the new pump station associated with the Northern Trunk Sewer)
P-24-000654	Historic	Bridge #39-68	Previously determined not eligible to the NRHP or CRHR (Caltrans 2018)	New Trunk Sewer Infrastructure Projects (including the new pump station associated with the Northern Trunk Sewer)
P-24-000656	Historic	Bridge #39-97	Previously determined not eligible to the NRHP or CRHR (Caltrans 2018)	New Trunk Sewer Infrastructure Projects
P-24-001771	Historic	Bellevue Ranch Canal System	Previously determined not eligible to the CRHR (William Self Associates 2003)	New Trunk Sewer Infrastructure Projects
P-24-001773	Historic	Bellevue Ranch	Previously determined not eligible to the CRHR (William Self Associates 2004)	New Trunk Sewer Infrastructure Projects
P-24-001881	Historic	Burlington Northern Santa Fe Railroad	Previously determined not eligible to the NRHP or CRHR (Smallwood 2009)	New Trunk Sewer Infrastructure Projects
P-24-001909	Historic District	Merced Irrigation District	Needs to be re-evaluated-may become eligible for the NRHP with restoration or when meets other specific conditions. (Loftus 2011)	Within the Program Study Area and all proposed Project components
P-24-001918	Historic	Transmission Tower 5/39	Previously determined not eligible to the NRHP or CRHR (URS Corporation 2011)	New Trunk Sewer Infrastructure Projects
P-24-002047	Historic	Black Rascal Creek and Canal	Previously determined not eligible to the NRHP or CRHR (Caltrans 2002)	New Trunk Sewer Infrastructure Projects (including the new pump station associated with the Northern Trunk Sewer)
P-24-002106	Historic	Highway, State Route 59	Previously determined not eligible to the NRHP or CRHR (Caltrans 2002)	New Trunk Sewer Infrastructure Projects (including the new pump station associated with the Northern Trunk Sewer)

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Primary Number	Resource Type	Description	Eligibility Status	Associated Program Component
P-24-002108	Historic	Irrigation system siphons and a former railroad berm	Previously determined not eligible to the NRHP or CRHR (Caltrans 2002)	New Trunk Sewer Infrastructure Projects (including the new pump station associated with the Northern Trunk Sewer)

Notes:

CRHR = California Register of Historical Resources

NRHP = National Register of Historic Places

**3.5.3.5 Assembly Bill 52 Native American Outreach**

To date, no tribes have contacted the City requesting to be consulted on City projects under AB 52. The records search and previous surveys have not identified tribal cultural resources within the Program Study Area. No additional tribal outreach was conducted.

**3.5.3.6 Survey**

A large portion of the Program Study Area has been previously surveyed for cultural resources; however, there are portions of the that have not been surveyed. Much of the Program Study Area is within existing roadways and disturbed sites. As described in Section 3.4.2, environmental scientists and biologists conducted a survey of the Program Study Area on February 11, 2019, making general site observations about ground cover and visibility that a qualified archaeologist use to determine the need for additional cultural resource surveys. Based on a review of the natural setting described in Section 3.5.3.1, no additional detailed cultural resource surveys were conducted within the Program Study Area.

**3.5.4 Environmental Impacts**

This section analyzes the Program’s potential to result in significant impacts to cultural and tribal cultural resources. When an impact was determined to be potentially significant, feasible mitigation measures (MMs) were identified to reduce or avoid that impact.

### **3.5.4.1 Impact Analysis**

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**Impact CUL-1 Potential to cause a substantial adverse change in the significance of a historical resource<sup>1</sup> as defined in section 15064.5.**

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#### Impact CUL-1 Analysis *Program Impacts*

##### Construction

There are several historical resources within the Program Study Area (Table 3.5-1). Therefore, the construction of the Program could have the potential to cause a substantial adverse change in the significance of any of these historical resource, as well as any previously undiscovered resources, if the resource was present within the construction footprint and if the construction activities could not avoid or mitigate impacts to that resource. The cultural setting of the Program Study Area has largely been surveyed and identified for its sensitivity for the presence of historical resources and potential historical resources through individual project surveys and a Caltrans District 10 geoarchaeological study (Rosenthal and Meyer 2004) (Figure 3.5-1). It is anticipated that areas identified as high sensitivity (Figure 3.5-1) would have a greater probability for the presence of buried potential historical resources than those of lower sensitivities; however, a low sensitivity does not rule out the possibility of encountering a potential historical resource. Consequently, once specific activities are defined under the Program, the City would need to complete a cultural resource study to identify any resources within the specific project footprint to identify any resources and to determine the eligibility of those resources for inclusion on the CRHR as required by MM CUL-1, CEQA-Level Cultural Resource Study for Proposed Projects, and MM CUL-2, Evaluation of Cultural Resources and Treatment of Cultural Resources if Found Eligible for the California Register of Historical Resources.

Additionally, it is likely that Program components would cross, be adjacent to, or require encroachment into MID facilities since they occur throughout areas within the Program Study Area (Table 3.5-1). To avoid or mitigate impacts to the known MID historic district (P-24-001909), these Program components would also be subject to MM CUL-2 to assess the extent of a potential impact and implement avoidance and treatment measures to limit the extent of any impacts to historical resources to a less than significant level. Specifically, MM CUL-2 includes treatment of any resources in accordance with the Secretary of the Interior's Standards, documentation of the resource, and restoration of the disturbed area, as deemed necessary from the qualified archaeologist's evaluation. Therefore, impacts to these known historic resources would be less than significant with MM CUL-2 incorporated.

Further, because the Program would include earthmoving activities such as trenching and excavations, there is also the potential for unintentional discoveries of potential historical resources during construction. To avoid significant impacts to undiscovered resources MM CUL-3, Proper Handling of Inadvertent Discovery of Cultural and Tribal Cultural Resources, would be required for any activities under the Program involving ground disturbance. MM CUL-3 would provide proper handling procedures for the City's contractor to follow in the event a cultural resource is encountered during project construction. MM CUL- 2 would then be implemented to treat the resources in accordance with the Secretary of the Interior's Standards, document the resource, and restore the disturbed area, as deemed necessary from the qualified archaeologist's evaluation. Therefore, the potential impact of disturbing or destroying

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<sup>1</sup> The term is described in Section 3.5.2.2

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previously undiscovered resources during construction activities would be less than significant with mitigation incorporated.

In areas with high sensitivity for the presence of buried cultural resources (Figure 3.5-1), MM CUL-5 would be implemented. MM CUL-5, Worker Environmental Awareness Program (WEAP) (Cultural Resources), involves a preconstruction training session conducted by a qualified archaeologist for all construction personnel and staff performing excavation activities at Program component sites. The training will cover how to identify a cultural resource, how to respond to the discovery of a potential resource, and how to maintain proper discovery records and adhere to appropriate protocols during construction. The goal of MM CUL-5 is to educate workers regarding the potential to inadvertently uncover cultural resources and to limit the potential impacts to those resources.

With the implementation of MM CUL-1, CUL-2, CUL-3, and CUL-5, any potentially significant impacts to historical resources pursuant to CCR 14 Section 15064.5 associated with construction of the Program would be reduced to a less than significant level.

### Operation

Once constructed, the Program would have no ongoing impacts to cultural resources. Therefore, there would be no operational impacts related to cultural resources.

**Level of Significance Prior to Mitigation:** Potentially Significant

**Mitigation Required:** MM CUL-1, MM CUL-2, MM CUL-3, and MM CUL-5

**Level of Significance After Mitigation:** Less than Significant

*Proposed Projects: New Trunk Sewer Infrastructure and WWTRF Expansion Impacts*

### Construction

The records search identified 12 cultural resources (all historic-era) within proposed Project sites, including areas associated with the Northern Trunk Sewer, Southern Trunk Sewer, and the new pump station associated with the Northern Trunk Sewer. No historic-era cultural resources were identified within the WWTRF footprint. All previously recorded resources within the proposed Project sites were found not eligible to the NRHP and CRHR, with the exception of the MID historic district (P-24-001909), which needs to be re-evaluated since it may meet the eligibility requirements for the CRHR, particularly if any restoration activities are implemented. Similar to the discussion for the Program above, proposed Projects, including the Northern Trunk Sewer and Southern Trunk Sewer, would cross or encroach on MID historic district infrastructure and would therefore be subject to MM CUL-2. Specifically, a MID canal runs adjacent to the majority of the Northern Trunk Sewer and portions of the Southern Trunk Sewer. Additionally, both the Northern Trunk Sewer Project and the Southern Trunk Sewer Project include several undercrossings of MID facilities; however, these would be avoided by trenchless installation methods. Final design would determine the exact footprint of these pipelines; however, the feasibility of encroachment into the MID canals is unlikely. In the event that encroachment is required, the treatments and specifications identified in MM CUL-2 would limit the potential for a significant impact. MM CUL-2 would require any MID Historic District infrastructure within the direct or indirect footprint to be evaluated by a qualified archaeologist, architectural historian, or historian who would recommend the infrastructure either eligible or not eligible for the CRHR. If a resource is deemed not eligible for the CRHR, the

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resource would require no further consideration and any impact resulting from the project would be less than significant. However, if a resource is deemed eligible, every effort would be made to avoid it through design re-routes, trenchless technologies, or other low-impact construction methodologies. If avoidance of the resource is infeasible, the stipulations in MM CUL-2 shall be implemented, which include treatment of the resource in accordance with the Secretary of the Interior's Standards, documentation of the resource, and restoration of the disturbed area, as deemed necessary from the qualified archaeologist's evaluation. Therefore, potential impact to the historic resources would be reduced to a less than significant level.

Additionally, similar to the Program impacts discussed above, the proposed construction activities at Project sites would have the potential for unintentional discoveries of potential historical resources, including all trenching and other earthwork activities associated with the new pipelines, pump station, and the WWTRF. To avoid significant impacts to undiscovered resources, MM CUL-3, Proper Handling of Inadvertent Discovery of Cultural Resources and Tribal Cultural Resources, would be required for any proposed Project activities involving ground disturbance. MM CUL-3 would provide proper handling procedures for the City's contractor to follow in the event that a cultural resource is encountered during construction. MM CUL- 2 would then be required to properly evaluate, document, and treat the resources in accordance with the Secretary of the Interior's Standards, thus reducing the potential impact to a less than significant level.

In areas with high sensitivity for the presence of buried cultural resources such as along creek crossings (Figure 3.5-1), it is anticipated that trenchless technologies would be used to install pipelines. However, if the area cannot be completely avoided, MM CUL-5 would be implemented. MM CUL-5, Worker Environmental Awareness Program (Cultural Resources), involves a pre-construction training session conducted by a qualified archaeologist for all construction personnel and staff performing excavation activities on a proposed Project site. The training would cover how to identify a cultural resource, how to respond to the discovery of a potential resource, and how to maintain proper discovery records and adhere to appropriate protocols during construction. The goal of MM CUL-5 is to educate workers regarding the potential to inadvertently uncover cultural resources and how to limit potential impacts to those resources.

With the implementation of MM CUL-2, CUL-3, and CUL-5, any potentially significant impacts to a historical resource pursuant to CCR 14 Section 15064.5 associated with proposed Projects (i.e., New Trunk Sewer Infrastructure and WWTRF Expansion Projects) would be reduced to a less than significant level.

## Operation

Once constructed, the proposed Projects would have no ongoing impacts to cultural resources. Therefore, there would be no operational impacts related to cultural resources.

**Level of Significance Prior to Mitigation:** Potentially Significant

**Mitigation Required:** MM CUL-2, MM CUL-3, and MM CUL-5

**Level of Significance After Mitigation:** Less than Significant

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## Impact CUL-1 Findings

**Impact CUL-1 Overall Level of Significance Prior to Mitigation:** Potentially Significant

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**Impact CUL-1 Mitigation Required:** MM CUL-1, MM CUL-2, MM CUL-3, and MM CUL-5

**Impact CUL-1 Overall Level of Significance After Mitigation:** Less than Significant

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**Impact CUL-2 Potential to cause a substantial adverse change in the significance of an archaeological resource<sup>2</sup> pursuant to section 15064.5.**

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## Impact CUL-2 Analysis *Program Impacts*

### Construction

As shown and discussed in Section 3.5.3.4, Known Cultural Resources and Table 3.5-1, there are no currently identified archaeological resources within the Program Study Area. Potential impacts resulting from implementation of the Program to archaeological resources pursuant to CCR 14 Section 15064.5 would therefore be related to previous undiscovered resources during construction activities and would be similar to those described for Impact CUL-1. The presence of unknown archaeological resources would need to be identified and evaluated on a site-specific basis for Program component undertakings as required by MM CUL-1 and MM CUL-2. Unanticipated discoveries may occur, and MM CUL-3 and MM CUL-5 would be required for construction areas with high sensitivity for the presence of buried archaeological resources. With the implementation of MM CUL-1, CUL-2, CUL-3, and CUL-5, any potentially significant impacts to an archaeological resource associated with the Program pursuant to CCR 14 Section 15064.5 would be reduced to a less than significant level through identification of previously undiscovered resources, proper handling and treatment of such resources in accordance with federal and state regulations, and education of workers on the regulations governing the treatment and handling of the resources. Therefore, impacts treated to previously undiscovered archaeological resources during construction of Program components would be less than significant.

### Operation

Once constructed, the Program would have no ongoing impacts to archaeological resources. Therefore, there would be no operational impacts related to archaeological resources.

**Level of Significance Prior to Mitigation:** Potentially Significant

**Mitigation Required:** MM CUL-1, MM CUL-2, MM CUL-3, and MM CUL-5

**Level of Significance After Mitigation:** Less than Significant

## *Proposed Projects: New Trunk Sewer Infrastructure and WWTRF Expansion Impacts*

### Construction

As shown and discussed in Section 3.5.3.4, Known Cultural Resources, and Table 3.5-1, there are no currently identified archaeological resources within the Program Study Area, including within any of the proposed Project site. Therefore, potential impacts resulting from implementation of the proposed Projects, including the Northern Trunk Sewer, Southern Trunk Sewer, pump station associated with the Northern Trunk Sewer, and the WWTRF expansion,

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<sup>2</sup> The term is described in Section 3.5.2.2

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would be limited to unintentional discovery of previously unidentified archaeological resources during construction activities that would involve trenching, excavation, or other earthwork. Unanticipated discoveries may occur and MM CUL-2, MM CUL-3 and MM CUL-5 would be required for construction activities that would involve earthwork to properly evaluate, document, and treat the resources in accordance with the Secretary of the Interior's Standards. With the implementation of MM CUL-2, MM CUL-3, and MM CUL-5, any potentially significant impacts to any archaeological resources associated with the proposed Projects pursuant to CCR 14 Section 15064.5 would be reduced to a less than significant level.

## Operation

Once constructed, the proposed Projects would have no ongoing impacts to archaeological resources. Therefore, there would be no operational impacts related to archaeological resources.

**Level of Significance Prior to Mitigation:** Potentially Significant

**Mitigation Required:** MM CUL-2, MM CUL-3, and MM CUL-5

**Level of Significance After Mitigation:** Less than Significant

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## Impact CUL-2 Findings

**Impact CUL-2 Overall Level of Significance Prior to Mitigation:** Potentially Significant

**Impact CUL-2 Mitigation Required:** MM CUL-1, MM CUL-2, MM CUL-3, and MM CUL-5

**Impact CUL-2 Overall Level of Significance After Mitigation:** Less than Significant

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**Impact CUL-3 Potential to disturb human remains, including those interred outside of formal cemeteries.**

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## Impact CUL-3 Analysis *Combined Program/Proposed Project Impacts*

### Construction

Previous and current archaeological research within the City has not identified any evidence to suggest that there is potential to disturb any human remains during implementation of construction activities associated with the Program, including any of the proposed Projects. However, there is always the potential for the inadvertent discovery of human remains during construction activities that involve earthwork, trenching, and excavations. As such, MM CUL-4 would be implemented to reduce any potentially significant impacts to inadvertently discovered human remains to a less than significant level. MM CUL-4 would require that work halt near a discovery of human remains until the Coroner and an archaeologist are notified and evaluate the remains. The human remains and any associated grave goods would be treated in accordance with PRC Section 5097.98. Consequently, with the implementation of MM CUL-4, any potential impacts to human remains would be less than significant.

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## Operation

Once constructed, the Program components would have no ongoing impacts to related to human remains. Therefore, there would be no operational impacts related to disturbance of human remains.

**Level of Significance Prior to Mitigation:** Potentially Significant

**Mitigation Required:** MM CUL-4

**Level of Significance After Mitigation:** Less than Significant

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## Impact CUL-3 Findings

**Impact CUL-3 Overall Level of Significance Prior to Mitigation:** Potentially Significant

**Impact CUL-3 Mitigation Required:** MM CUL-4

**Impact CUL-3 Overall Level of Significance After Mitigation:** Less than Significant

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**Impact CUL-4** Potential to 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 1) 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 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.

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## Impact CUL-4 Analysis *Program Impacts*

### Construction

The Program would include installation of pipelines, pump stations, and expansion of the WWTRF expansion, as well as general wastewater collection system maintenance activities. It is anticipated that the majority of Program components would be constructed within roadways or previously disturbed areas (specifically the pipelines and WWTRF expansion). To date, no tribes have contacted the City of Merced requesting to be consulted on City projects under AB 52, and the records search did not identify any tribal cultural resources. However, this does not discount the potential for tribal cultural resources to be found within the construction disturbance area of a Program component. Therefore, since some of the specific Program components have yet to be identified. Prior to the implementation of each separate Program components, the City intends to comply with AB 52 by inviting Native American tribes as appropriate to consult on future Program components and its potential impacts, including impacts to previously unidentified tribal cultural resources. The identification of a tribal cultural resources may require implementation of MM CUL-1, MM CUL-3, and MM CUL-5 to facilitate verification and protection of the resource.

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With the implementation of MM CUL-1, MM CUL-3, and MM CUL-5, and following guidance at PRC Sections 21074, 21082.3, 21080.3.2, and 21084.2, any potentially significant impacts to a tribal cultural resource as defined under PRC Code Sections 21074, 5020.1(k), or 5024.1, associated with implementation of the Program would be reduced to a less than significant level through proper identification of previously undiscovered tribal cultural resources, proper handling and treatment of such resources in accordance with federal and state regulations, and education of workers on the regulations governing the treatment and handling of the resources. Therefore, impacts treated to previously undiscovered tribal cultural resources during construction of proposed Projects would be less than significant.

### Operation

Once constructed, the Program components would consist of stationary objects and structures that would not result in any ongoing impacts related to tribal cultural resources. Therefore, there would be no operational impacts related to tribal cultural resources.

**Level of Significance Prior to Mitigation:** Potentially Significant

**Mitigation Required:** MM CUL-1, MM CUL-3, and MM CUL-5

**Level of Significance After Mitigation:** Less than Significant

*Proposed Projects: New Trunk Sewer Infrastructure and WWTRF Expansion Impacts*

### Construction

To date, no tribes have contacted the City of Merced requesting to be consulted on City projects under AB 52 and the records search did not identify any tribal cultural resources. However, this does not discount the potential for tribal cultural resources to be found within the disturbance area associated with a Project site. If the City were to be made aware of a tribal cultural resource prior to or during construction activities, it would take appropriate measures to invite Native American tribes to consult and discuss potential impacts as required by MM CUL-1, MM CUL-3, and MM CUL-5, to facilitate verification and protection of the resource, and to train workers on the identification of resources.

With the implementation of MM CUL-1, MM CUL-3, MM CUL-5, and following guidance at PRC Sections 21074, 21082.3, 21080.3.2, and 21084.2, any potentially significant impacts to a tribal cultural resource as defined under PRC Code Sections 21074, 5020.1(k), or 5024.1 associated with implementation at any Project site would be reduced to a less than significant level through proper identification of previously undiscovered tribal cultural resources, proper handling and treatment of such resources in accordance with federal and state regulations, and education of workers on the regulations governing the treatment and handling of the resources. Therefore, impacts treated to previously undiscovered tribal cultural resources during construction at a Project site would be less than significant.

### Operation

Once constructed, the Project components would consist of stationary objects and structures that would not result in any ongoing impacts related to tribal cultural resources. Therefore, there would be no operational tribal cultural resource impacts.

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**Level of Significance Prior to Mitigation:** Potentially Significant

**Mitigation Required:** MM CUL-1, MM CUL-3, and MM CUL-5

**Level of Significance After Mitigation:** Less than Significant

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## Impact CUL-4 Findings

**Impact CUL-4 Overall Level of Significance Prior to Mitigation:** Potentially Significant

**Impact CUL-4 Mitigation Required:** MM CUL-1, MM CUL-3, and MM CUL-5

**Impact CUL-4 Overall Level of Significance After Mitigation:** Less than Significant

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### 3.5.5 Cultural and Tribal Cultural Resources Mitigation

#### Mitigation Measure CUL-1: California Environmental Quality Act-Level Cultural Resource Study for Proposed Projects

A California Environmental Quality Act (CEQA)-level cultural resource study shall be completed as Project sites within the Program Study Area are identified in the future. At a minimum, the study shall include the following: A project-specific records search at the Central California Information Center (CCIC), Assembly Bill 52 outreach (if applicable) / identification of tribal cultural resources, and a pedestrian cultural resource survey of the Project site. If a cultural resource is identified within the Project site, the resource should be avoided through redesign. If avoidance is not possible, a California Register of Historical Resources (CRHR) evaluation of the resource shall take place. If the resource is found not eligible to the CRHR, the resource is not considered a historical resource for the purposes of CEQA, and no further consideration of the resource is required. If the resource is found eligible to the CRHR, any potentially significant impacts to the resource must be addressed and mitigated following guidance at California Code of Regulations 15064.5 and Public Resources Code 21083.2, which identify specific measures such as preservation, excavation, and capping of sites. The findings of the project CEQA-level cultural resource study shall be included in the CEQA document and once final, submitted to the CCIC.

##### **Mitigation Measure CUL-1 Implementation**

**Responsible Party:** The City

**Timing:** Prior to construction at future Project sites

**Monitoring and Reporting Program:** The findings of the project CEQA-level cultural resource study shall be included in the CEQA document and once final, submitted to the CCIC.

**Standards for Success:** A complete project CEQA-level cultural resource study.

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## **Mitigation Measure CUL-2: Evaluation of Cultural Resources and Treatment of Cultural Resources if Found Eligible for the California Register of Historical Resources**

Any infrastructure associated with the Merced Irrigation District (MID) Historic District (P-24-001909) or other identified eligible resources within a project area shall be evaluated for eligibility to the California Register of Historical Resources (CRHR). If a resource is deemed not eligible individually or as a contributing element of the MID Historic District, the resource requires no further consideration for a proposed Project. If the infrastructure is found to be individually eligible or a contributing element of the MID Historic District to the CRHR, the resource shall be avoided through design re-routes or impact avoidance technologies such as trenchless pipe installations. If avoidance is infeasible, treatment of any eligible resource is discussed below and shall follow the Secretary of Interior's Standards. For an inactive earthen ditch, the ditch would be restored to its original state immediately after construction. An active canal would either be tunneled under, or the canal water would be temporarily diverted during construction of the pipeline. Immediately after construction, the canal would be restored to its original state including contours and materials (i.e., gunite or earthen bottom). A report shall be prepared by a qualified archaeologist or historian according to current professional standards for any eligible resource and submitted to the CCIC.

### **Mitigation Measure CUL-2 Implementation**

**Responsible Party:** The City would ensure that a qualified archaeologist or historian conducts the work necessary for any resources found to be eligible for the CRHR.

**Timing:** Prior to proposed Project construction

**Monitoring and Reporting Program:** A qualified archaeologist or historian shall prepare and submit for the City's approval a report that provides the history of the eligible cultural resource and the surrounding area. The report shall include information on research methods, fieldwork conducted (may use eligibility evaluation fieldwork if appropriate), and a research design with research questions that shall be addressed and answered in the report. After City approval, the report shall be submitted to the CCIC.

**Standards of Success:** The proper treatment and recordation of any eligible cultural resource.

## **Mitigation Measure CUL-3: Proper Handling of Inadvertent Discovery of Cultural and Tribal Cultural Resources**

If cultural or tribal cultural resources are encountered during construction, compliance with federal and state regulations and guidelines regarding the treatment of cultural resources shall be required (See MM CUL-2). If concentrations of cultural or tribal resources are encountered during ground disturbing work, work within 100 feet of the discovery shall be halted until a qualified archaeologist can evaluate the significance of the find. If the archaeologist determines that the resource may be considered a tribal resource, then the City shall consult with tribal representatives. If the find is determined to be significant, the City will determine the appropriate avoidance measures or other appropriate mitigation in consultation with a qualified archaeologist and any tribes, as necessary.

### **Mitigation Measure CUL-3 Implementation**

**Responsible Party:** The City, representatives, and contractor

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**Timing:** During all ground disturbing activities

**Monitoring and Reporting Program:** If any find is determined to be significant, representatives of the City shall document consultation with the archaeologist and determination of recommended protection and avoidance measures or other appropriate mitigation. The City shall prepare a memorandum incorporating notes and records from the contractor and qualified archaeologist to document steps taken to comply with the avoidance measures or other appropriate mitigation. The memorandum shall be saved as a file copy and submitted to the CCIC.

**Standards for Success:** The evaluation and recording of any newly identified cultural or tribal cultural resources and treatment by avoidance, protection, or documentation of any discovered resources that qualify as historically, archaeologically, or significant as a tribal cultural resource.

## Mitigation Measure CUL-4: Proper Handling of Inadvertent Discovery of Human Remains

Section 7050 of the California Health and Safety Code states that it is a misdemeanor to knowingly disturb a human burial. If human remains are encountered during activity related to the proposed Project, construction workers shall do the following:

- Stop work within 100 feet
- Immediately contact the City of Merced, who will then notify the county coroner
- Secure location but not touch or remove remains and associated artifacts
- Not remove associated spoils or pick through them
- Record the location and keep notes of calls and events
- Treat the find as confidential and not publicly disclose the location

Further:

- If the human remains are of Native American origin, the coroner must notify the Native American Heritage Commission within 24 hours of such identification. The most likely descendant will work with the City to develop a program for re-interment or other disposition of the human remains and associated artifacts.
- No additional work shall take place within the immediate vicinity of the find until the appropriate actions have been implemented.

### Mitigation Measure CUL-4 Implementation

**Responsible Party:** The City, representatives, and contractor

**Timing:** During all ground disturbing activities

**Monitoring and Reporting Program:** The City shall immediately report the discovery to the County Coroner. The recording and evaluation of any newly identified human remains shall be conducted by qualified professional archaeologist in conjunction with the County Coroner and a report detailing the recording, location, evaluation, and treatment of human remains, shall be kept on file at the City and submitted to the Central California Information Center.

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**Standards for Success:** The proper recording, evaluation, and treatment of any newly identified human remains.

## **Mitigation Measure CUL-5: Worker Environmental Awareness Program (Cultural Resources)**

The purpose of a Worker Environmental Awareness Program (WEAP) is to educate personnel (i.e., construction workers) about the existing onsite and surrounding resources and the measures required to protect these resources as well as avoidance and potential hazards within these sites. The WEAP, developed by the City, shall include materials and information on potentially sensitive biological and cultural resources, air quality protection measures, and potential hazards resulting from construction within the proposed Project area and applicable precautions that personnel should take to reduce potential impacts.

The WEAP presentation shall be given to all personnel who may be exposed to site hazards or may harm sensitive environmental resources as identified within the WEAP mitigation measures (i.e., prolonged exposure to noise levels over 85 decibels [like the operation of a bulldozer at 50 feet], exposure to dust-generating or ground-disturbing activities, work in non-biologically cleared areas, and equipment operators who may encounter sensitive species). The WEAP presentation shall be given prior to the start of construction and as necessary throughout the life of the proposed Project as new personnel arrive onsite. The City and the contractor are responsible for ensuring that all onsite personnel attend the WEAP presentation, receive a summary handout, and sign a training attendance acknowledgement form to indicate that the contents of the program are understood and to provide proof of attendance. Each attendant of the WEAP presentation shall be responsible for maintaining their copy of the WEAP reference materials and making sure that other onsite personnel are complying with the recommended precautions. The contractor shall keep the sign-in sheet onsite and shall submit copies of the WEAP sign-in sheet to the City's Project Manager, who shall keep it on file at City offices.

For the cultural resources portion of the WEAP presentation, the following information and implementation steps shall be prepared, presented, and executed prior to and during construction to prevent cultural resources from being disturbed or destroyed by proposed Project construction without proper documentation and recordation:

- In areas with high sensitivity for buried cultural resources (Figure 3.5-1 of the Draft EIR), a preconstruction training session conducted by a qualified archaeologist shall be held for all construction personnel and staff performing excavation activities on the Project site. Training materials shall address procedures to be followed and appropriate conduct to be adhered to if unanticipated cultural resources or human remains are encountered during the Project work. All construction personnel involved in earth-moving activities shall attend preconstruction training in person prior to the start of construction. Training should include how to identify archaeological resources (including tribal cultural resources), how to respond to the discovery of a potential resource, and how to maintain proper discovery records and adhere to professional protocols during construction.

### **Mitigation Measure CUL-5 Implementation**

**Responsible Party:** The City and contractor

**Timing:** Prior to the initiation of construction and as new personnel arrive on the Project site in areas with high sensitivity for buried cultural resources (Figure 3.5-1)

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**Monitoring and Reporting Program:** Development of a WEAP presentation and handout packet in accordance with this mitigation measure and any other resource-specific WEAP requirements. A sign-in sheet completed for all workers on the construction site shall be kept on file at the Project site, and copies shall be submitted to the City's Project Manager to be kept on file at City offices.

**Standards for Success:** The prevention of resources from being disturbed/destroyed by Project construction without proper documentation and recordation.

## 3.5.6 Abbreviations

AB	Assembly Bill
Caltrans	California Department of Transportation
CCIC	Central California Information Center
CCR	California Code of Regulations
CEQA	California Environmental Quality Act
CGC	California Government Code
City	City of Merced
CRHR	California Register of Historical Resources
EIR	Environmental Impact Report
MID	Merced Irrigation District
MLD	Most Likely Descendant
MM	Mitigation Measure
NAHC	Native American Heritage Commission
NHPA	National Historic Preservation Act
NOP	Notice of Preparation
NRHP	National Register of Historic Places
PRC	Public Resources Code
WEAP	Worker Environmental Awareness Program
WWTRF	Wastewater Treatment and Reclamation Facility
2030 General Plan	Merced Vision 2030 General Plan

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