

3.5

CULTURAL RESOURCES

3.5 Cultural Resources

This section of the Draft EIR is based on a cultural resources report prepared by Peak & Associates, Inc. The full text of the Peak & Associates report is contained in [Appendix G](#).

Cultural resources are defined as prehistoric and historic archeological sites, architectural properties (e.g., buildings, bridges, and structures), and traditional properties with significance to Native Americans. This definition includes historic properties as defined by the National Historic Preservation Act (NHPA). Cultural resources which could be impacted by development within the City of Merced SUDP/SOI area are described within this section.

During the Notice of Preparation (NOP) period, no comments were received regarding the impact of the proposed General Plan on cultural resources.

3.5.1 SETTING

Environmental Setting

This section identifies known and potential cultural resources located within the City of Merced SUDP/SOI area and evaluates constraints that archaeological resources might have on the development of the General Plan. Research was conducted to identify previously recorded resources in the proposed SUDP/SOI area and to collect a general background of the prehistory and history of the City of Merced and vicinity. The background information collected in this exercise provides a basis for evaluation of the cultural and historical significance of individual resources of the area.

PREHISTORY AND NATIVE AMERICAN ETHNOGRAPHY

The City of Merced SUDP/SOI area lies within the ethnographic territory of the Yokuts people. The Yokuts were members of the Penutian language family which held all 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 Sacran 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 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 the Napa Valley to the north. 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; Baurnhoff 1963).

Settlements were oriented along the water ways, with their 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 between three to 18 meters.

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.

John C. Fremont, on his way 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 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, five 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 of Merced was laid out in January of that year, when the railroad reached the spot. Merced became the county seat in December of 1872 (Hoover, Rensch and Rensch 1990; Gudde 1969: 198-199).

The development of the railroads through the region allowed 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 as well as providing

supplies to the local residents. Freightling to the communities in the foothills became an important industry.

The completion of the Crocker-Huffman canal system led to the colonization of the territory around the City of Merced, and resulted in a rapid expansion of the population. The City of Merced is located in both the center of the State and the Valley, and serves as the gateway to Yosemite Park.

DATA SOURCES

A cultural resources records search was conducted by the Central California Information Center (CCIC) at California State University, Stanislaus for the Merced area on November 19, 2008 to identify previously recorded sites and previous cultural resources studies in and near the project area (IC#72431). In addition, historic maps from the California Room of the California State Library and historic maps provided by the Central California Information Center were reviewed. Maps reviewed include General Land Office plats of the townships, Official County maps, general County maps, early topographic maps (1916-1918) and more recent topographic base maps (1948- 1962).

The cultural resources records search included the following resources: review of maps for the area; the National Register of Historic Places; the California Register of Historic Resources; the *California Inventory of Historic Resources* (1976); the *California Historic Landmarks* (1990); the *California Points of Historic Interest* (May 1992); the Historic Property Data File and several other pertinent sources available at the CCIC. The SUDP/SOI area is located in five tracts. The land areas are located in portions of Township 6 South Range 13 East, Township 6 South Range 14 East, Township 7 South Range 13 East, Township 7 South Range 14 East, Township 8 South Range 13 East, Township 8 South Range 14 East, MDM, mapped on the Atwater, El Nido, Merced, Sandy Mush, Winton and Yosemite Lake 7.5 USGS topographic quadrangles.

The records search revealed that a total of 22 surveys, ranging in size from very small to large scale, have been completed within the City of Merced SUDP/SOI; seven within the southwesterly sector, three within the easterly sector, six within the northeasterly sector, four within the northwesterly sector and two within the westerly sector. Thirteen (13) historic resources were identified by the 22 City of Merced area surveys. These resources are shown in [Table 3.5-1](#) and discussed below with reference to site status and which sector each resource is in within the SUDP/SOI area.

Table 3.5-1
CCIC at California State University, Stanislaus Cultural Records Search Results

Resource Number (P-24-)	Description	Site Status	SUDP/SOI Sector
000073	Prehistoric bowl mortar	not evaluated	SW
000577	Segment of El Capitan Canal	not evaluated	SW
000579	Thomas Farms	not evaluated	SW
000656	Bridge #39-97	not eligible for NRHP	SW
001808	Bettencourt property/dairy	not eligible for NRHP	SW
001809	Campos property/former dairy	not eligible for NRHP	SW

Resource Number (P-24-)	Description	Site Status	SUDP/SOI Sector
000607	Segment of Hartley Doane lateral	not evaluated	E
000648	Bradley Overhead	eligible for NRHP; listed in the CRHR	E
001658	Caseretta Brothers pig farm	not evaluated	E
001660	Cattle trough	not evaluated	NE
001680	Fence	not evaluated	NE
001681	Smith Ranch (1913)	not evaluated	NE
000667	Yosemite Lake water tower	CA Point of Historical Interest	NE
NRHP: National Register of Historic Places CRHR: California Register of Historical Resources			

As shown above, the records search revealed that the SUDP/SOI surrounding the City of Merced contains only one recorded Native American archaeological resource listed with the Historical Resources Information System; a prehistoric bowl mortar in the south west sector of the SUDP.

There are, however, several natural waterways in the southwesterly, northeasterly and northwesterly portion of the SUDP/SOI with Bear Creek crossing the easterly portion of the study area, and there is a possibility of the presence of unrecorded prehistoric period sites near the water courses.

The Central California Information Center at CSU Stanislaus also searched for non Native American historical resources in the Merced SUDP/SOI area. A historical resource is defined as a building, structure, object, prehistoric or historic archaeological site, or district possessing physical evidence of human activities over 45 years old. There may be unidentified features within the City of Merced SUDP/SOI area that are 45 years or older and considered as historical resources requiring further study and evaluation at the time of future development proposals by a qualified professional of the appropriate discipline.

As shown in Table 3.5-1, the CCIC records search revealed that the SUDP/SOI area surrounding the City of Merced contains 11 non Native American recorded historical resources with a twelfth site at the edge of Lake Yosemite just outside the SUDP/SOI boundary in the northeasterly sector of the SUDP/SOI. These resources are listed below:

- A section of the El Capitan Canal in the south west sector of the SUDP/SOI
- Thomas Farms in the south west sector of the SUDP/SOI
- A bridge in the south west sector of the SUDP/SOI
- Bettencourt property/dairy in the south west sector of the SUDP/SOI
- The Campos property/former dairy in the south west sector of the SUDP/SOI
- A segment of the Hartley Dome lateral in the easterly sector of the SUDP/SOI
- The Bradley Overhead in the easterly sector of the SUDP/SOI
- The Caseretta Brothers pig farm in the easterly sector of the SUDP/SOI
- A cattle trough in the northeasterly sector of the SUDP/SOI
- A fence in the northeasterly sector of the SUDP/SOI

- The 1913 Smith Ranch in the northeasterly sector of the SUDP/SOI
- The Lake Yosemite Water Tower at the edge of Lake Yosemite (just outside of the SUDP/SOI boundary) in the northeasterly sector of the SUDP/SOI

Early maps (1850s) of the southwest, easterly, northeasterly and northwesterly portion of the SUDP/SOI area show no historic features or development. Agricultural development began with the development of the water delivery systems. Later historic period maps of these areas show a number of features including buildings, structures, features and canals. By 1909 most of these lands had been subdivided and developed as agricultural colonies. Features related to this development could be present in the SUDP/SOI area such as buildings, structures and other features. Many of the canals and laterals that are shown on the older historic maps are still on the modern topographic maps and have been evaluated as not eligible for the National Register of Historic Places (i.e. the Fairfield Canal, the Le Grand Canal, Sells Lateral, and the Yosemite Lateral). The westerly portion of the SUDP/SOI area has been almost completely surveyed and no evidence of prehistoric or historic resources has been found. It is unlikely that prehistoric or historic period resources will be found in this portion of the plan area.

Regulatory Setting

FEDERAL

National Historic Preservation Act

The National Historic Preservation Act was enacted in 1966 as a means to protect cultural resources that are eligible to be listed on the National Register of Historic Places (NRHP). The law sets forth criterion that is used to evaluate the eligibility of cultural resources. The NRHP is composed of districts, sites, buildings, structures, objects, architecture, archaeology, engineering, and culture that are significant to American History.

Virtually any physical evidence of past human activity can be considered a cultural resource, although not all such resources are considered to be significant and eligible for listing. They often provide the only means of reconstructing the human history of a given site or region, particularly where there is no written history of that area or that period. Consequently, their significance is judged largely in terms of their historical or archaeological interpretive values. Along with research values, cultural resources can be significant, in part, for their aesthetic, educational, cultural and religious values.

National Environmental Policy Act of 1969

The National Environmental Policy Act of 1969 declares that it is the policy of the federal government to preserve important historic, cultural, and natural aspects of the Nation's heritage. Federal agencies must prepare environmental impact statements prior to making decisions about projects, which may significantly affect the quality of the human environment.

Archaeological Resources Protection Act of 1979

The Archaeological Resources Protection Act of 1979 regulates the taking of archaeological resources on federal lands by setting a broad policy that archaeological resources are important for the nation and should be protected. It establishes a requirement for the excavation or removal of archaeological resources from public or Indian lands with special permits. Violations of the law include civil and criminal penalties of fines and imprisonment.

American Indian Religious Freedom Act of 1978

The American Indian Religious Freedom Act recognizes that Native American religious practices, sacred sites, and sacred objects have not been properly protected under other statutes. This act establishes as national policy that traditional practices and beliefs, sites (including right of access) and the use of sacred objects shall be protected and preserved.

Native American Graves Protection and Repatriation Act of 1990

This law addresses the rights of lineal descendants, Indian tribes, and Native Hawaiian organizations to Native American human remains, funerary objects, sacred objects, and other cultural items.

Secretary of the Interior's Standards

The Secretary of the Interior is responsible for establishing professional standards and providing guidance related to the preservation and protection of all cultural resources listed in, or eligible for, listing in the NRHP. The Secretary of the Interior's Standards for the treatment of historic properties apply to all grant-in-aid projects assisted through the National Historic Preservation Fund, and are intended to be applied to a wide variety of resource types, including buildings, structures, sites, objects, and districts. The treatment standards, developed in 1992, were codified as 36 CFR 68 entitled, "The Secretary of the Interior's Standards for Historic Preservation Projects." The standards address four treatments:

- Preservation focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time (protection and treatment are also considered under this treatment).
- Rehabilitation as a treatment focuses on the repair and replacement of deteriorated features; when alterations or additions to the property are planned for a new or continued use; and when a depiction of a property at a particular point in time is not appropriate.
- Restoration is the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time, through the removal of features from other periods in its history and reconstruction of missing features from the target reconstruction period.
- Reconstruction addresses those aspects of treatment necessary to re-create an entire non-surviving building using new material.

STATE

California Register of Historic Resources (CRHR)

California State law also provides for the protection of cultural resources by requiring evaluations of the significance of prehistoric and historic resources identified in CEQA documents. Under CEQA, a cultural resource is considered an important historic resource if it meets any of the criteria found in Section 15064.5(a) of the CEQA Guidelines. Criteria identified in the CEQA Guidelines are similar to those described under the NHPA. The State Historic Preservation Office (SHPO) maintains the CRHR. Historic properties listed, or formally designated for eligibility to be listed, on The National Register are automatically listed on the CRHR. State Landmarks and Points of Interest are also automatically listed. The CRHR can also include properties designated under local preservation ordinances or identified through local historic resource surveys.

California Environmental Quality Act (CEQA)

CEQA Guidelines Section 15064.5 provides guidance for determining the significance of impacts to archaeological and historical resources. Demolition or material alteration of a historical resource, including archaeological sites, is generally considered a significant impact. CEQA requires lead agencies to carefully consider the potential effects of a project on historical resources. An “historical resource” includes, but is not limited to, any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant (Public Resources Code Section 5020.1). Section 15064.5 of the CEQA Guidelines specifies criteria for evaluating the importance of cultural resources, including:

- The resource is associated with events that have made a contribution to the broad patterns of California history;
- The resource is associated with the lives of important persons from our past;
- The resource embodies the distinctive characteristics of a type, period, region or method of construction, or represents the work of an important individual or possesses high artistic values; or
- The resource has yielded, or may be likely to yield, important information in prehistory or history.

Tribal Consultation Guidelines (Senate Bill 18)

Senate Bill 18 (SB 18), signed into law by Governor Arnold Schwarzenegger in September 2004, requires cities and counties to notify and consult with California Native American Tribes about proposed local land use planning decisions for the purpose of protecting Traditional Tribal Cultural Places.

Starting on March 1, 2005, cities and counties must send their general plan and specific plan proposals to those California Native American Tribes that are on the Native American Heritage

Commission's (NAHC) contact list and have traditional lands located within the city or county's jurisdiction. After March 1, 2005, cities and counties must also conduct consultations with these tribes prior to adopting or amending their general plans or specific plans. The City of Merced began this consultation process for the proposed project in April 2006.

California Health and Safety Code, Section 7050.5 (b)

California Health and Safety Code, Section 7050.5 (b) requires that construction or excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. If the remains are identified as Native American, the coroner must contact the California Native American Heritage Commission.

Public Resources Code, Section 5024 and 5024.5

Public Resources Code, Section 5024 and 5024.5 requires State agencies to inventory and protect historical structures and artifacts under their jurisdiction.

Public Resources Code, Section 5097.9

This section of the Public Resources Code states that it is contrary to the free expression and exercise of Native American religion for a public agency or private party using, occupying or operating on public property to interfere with or cause severe or irreparable damage to any Native American cemetery, place of worship, religious or ceremonial site or sacred shrine.

Public Resources Code, Section 21083.2

If an archaeological resource does not meet the definition of a "historical resource" as defined by CEQA's criteria of significance (see discussion of CEQA Guidelines Section 15064.5 below), it may meet the definition of a "unique archaeological resource." An archaeological resource is "unique" if it: a) contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information; b) has a special and particular quality as being the oldest of its type or the best available example of its type; or c) is directly associated with a scientifically recognized important prehistoric or historical event or person. A non-unique archaeological resource need be given no further consideration under CEQA, other than the simple recording of its existence by the lead agency if it so elects.

Confidentiality

California Government Code Section 6254.10 exempts archaeological site information from the California Public Records Act, to prevent vandalism, trespassing, and unauthorized artifact acquisition. Locational information is not circulated as part of public documents.

LOCAL

General Plan Consistency

The *Merced Vision 2030 General Plan* contains a number of policies that apply to Cultural Resource impacts in conjunction with ultimate build-out of the City in accordance with the

General Plan. The specific policies listed below contained in the Sustainable Development of the General Plan are designed to ensure that cultural resource impacts are minimized as development occurs in accordance with the *Merced Vision 2030 General Plan*.

Sustainable Development Policies:

SD-2.1 Identify and preserve the City's archaeological resources.

SD-2.2 Identify and preserve the City's historic and cultural resources.

SD-2.3 Develop and promote financial incentive programs for historic preservation efforts.

3.5.2 THRESHOLDS OF SIGNIFICANCE

According to Section 15064.5 of the CEQA Guidelines, the proposed project will normally be considered to have a potentially significant impact on the environment if it will:

- Cause a substantial adverse change in the significance of a historical resource;
- Cause a substantial adverse change in the significance of an archaeological resource;
- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or
- Disturb any human remains, including those interred outside of formal cemeteries.

3.5.3 IMPACTS AND MITIGATION MEASURES

Impact #3.5-1: Cause a substantial adverse change in the significance of a historic or archaeological resource

Discussion/Conclusion: Within the SUDP/SOI area there are few recorded resources, in large part due to a lack of systematic surveys. There is only one site that has been evaluated as a significant resource. Many other recorded resources have not been formally evaluated, again, in part due to a lack of development in these areas. There could be impacts to cultural resources resulting from development within the SUDP/SOI area. Both prehistoric and historic period resources may be present, with prehistoric period resources more likely to occur along the natural water courses.

Adoption of the proposed General Plan will not directly result in actions which would potentially disturb or destroy buried cultural resources. However, future development in accordance with the General Plan could result in earthmoving activities which have the potential to unearth previously undiscovered cultural resources.

Impacts on cultural resources can result either directly or indirectly from pre-construction activities and construction of a proposed project. Direct impacts are those which result from the

immediate disturbance of resources from vegetation removal, vehicle travel over the surface, earthmoving activities, excavation, or alteration of the setting of a resource. Indirect impacts are those which result from increased erosion due to site clearance and preparation, or from inadvertent damage or outright vandalism to exposed resource materials which could occur due to improved accessibility.

There is no indication that subsurface prehistoric cultural deposits in the area of General Plan SUDP/SOI are likely to exist, or to have survived past uses of the land; however, the possibility cannot be totally eliminated based on a records search or surface inspection. Proposed new development will be guided by policies in the General Plan. The Sustainable Development Element of the proposed General Plan contains policies and implementing actions designed to protect historical and cultural resources. Policies SD-2.1, SD-2.2 and SD-2.3 call for the City to identify and preserve the City's archaeological resources; identify and preserve the City's historic and cultural resources; and develop and promote financial incentive programs for historic preservation efforts. Implementing actions of Policy SD-2.1 call for the City to utilize the inventory of known archeological sites maintained by the Central California Information Center for the review of development proposals (2.1.a); utilize standard practices for preserving archeological materials that are unearthed during construction, as prescribed by the State Office of Historic Preservation (2.1.b); and if appropriate, consider reconstruction of archaeological sites in city parks, on school grounds, in open space areas, or other suitable locations where they can serve an educational purpose (2.1.c). Implementing actions of Policy SD-2.2 call for the City to expand its cultural and historic information resources (2.2.a); support community groups and individuals working to preserve, protect and enhance the City's Historic and Cultural Resources (2.2.b); review and revise as necessary, the City's development/construction regulations to facilitate the preservation of historic structures (2.2.c); support, as feasible, efforts to promote the preservation of historically or architecturally significant structures in the City (2.2.d); and support efforts to designate historic districts within the City (2.2.e).

Implementation of these policies included in the proposed General Plan and adherence to federal, state and local regulations would ensure that impacts to historical and archaeological resources would be reduced to a ***less than significant*** level.

Mitigation Measures

No mitigation measures are required.

Impact #3.5-2: Potentially disturb human remains or destroy a unique paleontological resource, site, or geologic feature

Discussion/Conclusion: Impacts on buried human remains or unique paleontological resources, sites, or geologic features can result either directly or indirectly from pre-construction activities and construction of a proposed project. Direct impacts are those which result from the immediate disturbance of resources from vegetation removal, vehicle travel over the surface, earthmoving activities, excavation, or alteration of the setting of a resource. Indirect impacts are those which result from increased erosion due to project site clearance and preparation, or from

inadvertent damage or outright vandalism to exposed resource materials which could occur due to improved accessibility.

Concordant with the mandates of Section 7050.5 of the California Health and Safety Code, if human remains are discovered during the construction phase of a development, all work must stop in the immediate vicinity of the find, and the County Coroner must be notified. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission, which in turn will inform a most likely descendant. The descendant will then recommend to the landowner the appropriate method for the disposition of the remains and any associated grave goods.

There is always the possibility that in the normal course of construction and land development, vegetation removal, earth moving, and other alterations could result in the discovery of previously unidentified human remains or unique paleontological resources. Damage or destruction to any human remains or resources encountered on project sites within the City's SUDP/SOI area during future construction is a potentially significant impact. As noted in Impact #3.5-1, the policies and implementing actions as proposed in the General Plan and adherence to federal, state and local regulations will result in a less than significant impact to historic and archaeological resources. The same holds true for unique paleontological resources, geologic features or human remains found as a result of construction activities. The impact is *less than significant*.

Mitigation Measures

No mitigation measures are required.

CUMULATIVE IMPACT ANALYSIS

Implementation of the proposed General Plan in combination with other reasonably foreseeable projects as planned for in the County of Merced General Plan and General Plans of incorporated cities within the County would increase the density of development throughout the County and could further threaten significant cultural resources within the County. Professional archaeologists generally recognize that population growth increases the probability for vandalism and other purposeful as well as inadvertent acts that destroy significant archaeological resources. However, the degree of probability is unknown as such cumulative impacts, if any, would be difficult to measure. Over recent decades, development in the County as well as the City of Merced has converted hundreds of acres to urban uses. Thousands of additional acres are proposed for development by the Merced County General Plan and the General Plans of its incorporated cities in addition to the proposed City of Merced SUDP/SOI area. Such development could further threaten significant cultural resources in the County. Additionally, road construction, site grading, infrastructure installation, and construction of residential, commercial, and public facilities uses could result in the direct loss of significant cultural resources. Most of the land that has been or is planned for development in Merced County is made up of property similar to the proposed undeveloped lands within the proposed City of Merced SUDP/SOI which may include remnants of cultural resources.

Although individual project impacts can be mitigated, based on the standards of significance, the cumulative impacts of development in accordance with the proposed General Plan and other General Plans in the County are significant, and the project's incremental contribution to this impact is itself ***cumulatively considerable***. This impact cannot be mitigated to a less than cumulatively considerable level and thus is ***significant and unavoidable***.