5.15 TRIBAL CULTURAL RESOURCES

This section of the Environmental Impact Report (EIR) describes the affected environment and regulatory setting for Tribal Cultural Resources (TCRs) on the project site. The following analysis of the potential environmental impacts related to TCRs is derived primarily from the following sources and agencies:

- California Native American Heritage Commission Sacred Lands File Search, November 24, 2015.
- Cultural Resource Investigations for Tierra Robles Development, Palo Cedro, Shasta County, California, January 2013.
- Ethnographic overviews of the Wintu by Frank R. LePena (1978) and Yana Jerald Jay Johnson (1978).

5.15.1 ENVIRONMENTAL SETTING

ETHNOGRAPHIC, RELIGIOUS, AND CULTURAL CONTEXT

The predominant Native American people occupying the region encompassing the project area at the time of European contact in the late 18th century were the Wintu and the Yana.

The Wintu territory encompassed portions of present day Trinity, Tehama, Shasta, and Siskiyou counties. The territory is bounded in the southwest by the South Fork of the Trinity River, in the north by Mount Shasta, and in the southeast by the Beegum and Little Cow Creeks. There are nine distinct Wintu groups: Nomti-pom, Wenemem, Dawpom, Elpom, λ'abal-pom (pronounced like l'abal-pom), Nomsu's, Dawnom, and Norelmaq. The Wintu language is in the Penutian Language family and is part of the Wintuan language group that includes the Wintu, the Nomlaki, and the Patwin Indians. The Tierra Robles project is located within the eastern edge of the Wintu territory, halfway between the areas of the Stillwater and Baldhill groups. Cow Creek located approximately 0.7 mile east of the project served as the territory boundary between the Wintu and the Yana to the east (LaPena 1978).

The Wintu hunted deer, brown bears, quails, rabbits, rats, squirrels and birds. They mostly fished Chinook salmon and steelhead, but also collected suckers, mussels, and clams. The family units would collect acorns, buckeye, manzanita berries, Indian potatoes, snake's head, clover, miner's lettuce, skenkbush, hazel nuts, pine nuts, and wild grapes. The Wintu would also cultivate many plants for medicine, such as pennyroyal, Oregon grape, soaproot, milkweed, and salt (LaPena 1978).

Trade among the Wintu was most common within the triblets and villages; however, some trade was carried out between the Wintu and the neighboring Shasta, Achumawi, and Yana tribes. Obsidian was obtained from the Shasta tribe to the north but was mostly gathered by the Wintu from Glass Mountain located in the Modoc territory some 60 miles to the northeast. The McCloud Wintu and other northern and western Wintu triblets traded salmon flour for salt from the Achumawi and Yana in the east, and the Stillwater Wintu in the south. Clam disks were used as a form of currency by the Bald Hills Wintu in exchange for salmon from the McCloud Wintu (LaPena 1978).

Village structures included bark houses, steam houses, menstrual huts, and the earth lodge. The bark houses were the family unit's main shelter. Bark houses were conical and made of lashed together poles covered in bark or branches of evergreen. The steam houses and menstrual huts were domed brush shelters. The semi-subterranean earth lodges were the largest structures, ranging from 15 to 20 feet in

diameter with a center pole. The earth lodge was used by men for gatherings, sweating, shaman initiation, and for the single men to sleep during the winter months. (LaPena 1978).

The family unit was the basic organization unit for the Wintu Indians, and the village served as the focus of social, political, and economic organization. Villages ranged in size from 20 to 150 inhabitants. The chieftainships were ostensibly hereditary, passing from father to eldest son; however, it was necessary that the son be deemed worthy by the villagers. The Wintu were generally known to be a peaceful people, but they did engage in warfare. Wintu wars were typically the result of feuds between individuals or neighboring groups, and these conflicts were generally limited in their scope and severity by strong bonds of kinship. The weapons the Wintu used were bows and arrows, clubs, thrusting spears, daggers and slings. Wintu funerary practices required an individual to be buried on the same day that they died, or as soon as their relatives arrived. Individuals were buried in a crouched position, with their elbows placed between their knees and their hands placed on their cheeks. They were then bundled in a deerskin or bearskin and buried. Funerary objects included personal effects of the deceased, the deceased's dog, and a basket of acorn meal. The Wintu buried their dead in graveyards located far from their dwellings, approximately 90 meters away (LaPena 1978).

The Wintu population prior to contact with Europeans is estimated to have been over 14,000; however, as a result of a malaria epidemic that swept through the Central and Upper Sacramento Valley in 1830 to 1833, approximately 75 percent of the indigenous population was killed. This epidemic severely hampered the ability of the Wintu to resist incursions into their territory by settlers. By 1846, Euroamericans were settling land in the region as a result of the Mexican Government granting land in the upper Sacramento Valley to Pearson B. Reading. Two years later, the California Gold Rush brought miners to the rivers and streams in the area in mass quantities. As settlers and miners moved into the region, the Wintu faced the destruction of vital resources by livestock on their lands, the pollution of fishing areas by gold miners, and violent conflict with settlers and miners. These factors further diminished the Wintu population, and by 1910 the Wintu population is estimated to have been 395. In the 20th century, dams were constructed, dispersing the last large concentrations of Wintu as much of their habitable land was inundated. The Wintu population in 1971 is estimated to have reached 900, and today they live throughout the United States (LaPena 1978).

The Yana, a Hokan-language-speaking group, inhabited the upper Sacramento River valley and foothills east of the Sacramento River, south of the Pit River and north of Pine and Rock Creeks (primarily along the Deer Creek drainage). The crest of the southern Cascades passing through Lassen Peak formed the eastern boundary. Neighboring tribes include the Wintu to the northwest, Achumawi to the north, Atsugewi to the northeast, Maidu to the east and southeast, and the Nomlaki to the west. The Yana were separated into four divisions: Northern Yana, Central Yana, Southern Yana, and Yahi. These divisions were based on differences in language between the three groups. The project is located closest to the Central Yana region who based their villages and subsistence around the surrounding creeks including: Little Cow, Oak Run, Clover, Old Cow, South Fork Cow, and Bear Creeks (Johnson 1978).

Much of what is known about Yana culture was provided by Ishi, a Yahi Yana, who was brought to the University of California in 1911 after his family group died and he was left alone to survive. Yana territory was divided among numerous tribelets, each consisting of a major village with a principal chief and assembly house and several allied villages. The chief's position was hereditary, but the chief's authority was limited to making suggestions, without the power of control or command. The chief's status within the community obtained certain favors, however. For instance, the chief did not have to hunt and was provided with other presents as well (Johnson 1978). The southern Yana and Yahi lived in single-family

dwellings, which consisted of a shallow, oval depression 10 to 12 feet in diameter. The exterior structure was conical in shape and consisted of a covering of slabs of bark supported by a framework of poles. (Johnson 1978).

Yana subsistence procurement consisted of the gathering of a wide variety of resources. They consumed a variety of plant foods, including acorns, berries, seeds, roots, tubers, and bulbs. The acorn, harvested in September and October, was the most important of all resources. Of the various game animals hunted, deer were the most important. Deer usually were hunted by individual hunters, as were rabbits and quail. In addition to these animals, rodents and some insects were a part of the Yana diet, as were fish such as salmon, trout, and suckers. (Johnson 1978).

Relations between the Yana and their neighbors were seldom cordial. The Maidu considered them enemies, as did the Wintu and Achumawi. Despite the enmity, however, some trade did take place between the Yana and their adjacent neighbors. Goods acquired by the Yana included obsidian, arrows, quivers, buckskin, woodpecker scalps, clamshell disk beads, magnesite cylinders, dentalium shells and arrow points. In trade, the Yana supplied fire drills, deer hides, dentalia, salt, buckskin and baskets. (Johnson 1978).

The Yana suffered severely during the period of Anglo-American contact. In 1844, Mexican land grants to Peter Lassen and Job F. Dye were established along the eastern side of the valley and extended into the foothills occupied by the southern and Yahi Yana. Daniel Sill settled on part of the Lassen grant in 1846 (Johnson 1978). The first major hostility took place when Capt. John Fremont attacked a peaceful gathering of Native Americans on Bloody Island (at the mouth of Battle Creek) in the Sacramento River. The village supposedly belonged to the Yana (Johnson 1978). This initial conflict marked the beginning of the end for the Yana. Johnson estimates that in approximately 20 years, their numbers were reduced from 1,900 individuals to fewer than 100. Today, while a few individuals claim Yana ancestry, there are no federally recognized Yana tribes.

5.15.2 REGULATORY SETTING

ASSEMBLY BILL 52

Effective July 1, 2015, Assembly Bill 52 (AB 52) amended CEQA to require that: 1) a lead agency provide notice to any California Native American tribes that have requested notice of projects proposed by the lead agency; and 2) for any tribe that responded to the notice within 30 days of receipt with a request for consultation, the lead agency must consult with the tribe. Topics that may be addressed during consultation include tribal cultural resources, the potential significance of project impacts, type of environmental document that should be prepared, and possible mitigation measures and project alternatives.

Pursuant to AB 52, §21073 of the Public Resources Code defines California Native American tribes as “a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of the Statutes of 2004.” This includes both federally and non-federally recognized tribes. Section 21074(a) of the Public Resource Code defines Tribal Cultural Resources for the purpose of CEQA as:

1) *Sites, features, places, cultural landscapes (geographically defined in terms of the size and scope), sacred places, and objects with cultural value to a California Native American tribe that are either of the following:*

   a. *included or determined to be eligible for inclusion in the California Register of Historical Resources; and/or*

   b. *included in a local register of historical resources as defined in subdivision (k) of Section 5020.1; and/or*

   c. *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 Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.*

Because criteria "a" and "b" also meet the definition of a Historical Resource under CEQA, a Tribal Cultural Resource may also require additional consideration as a Historical Resource. Tribal Cultural Resources may or may not exhibit archaeological, cultural, or physical indicators. Recognizing that California tribes are experts in their tribal cultural resources and heritage, AB 52 requires that CEQA lead agencies initiate consultation with tribes at the commencement of the CEQA process to identify Tribal Cultural Resources. Furthermore, because a significant effect on a Tribal Cultural Resource is considered a significant impact on the environment under CEQA, consultation is required to develop appropriate avoidance, impact minimization, and mitigation measures.

5.15.3 METHODOLOGY

SUMMARY OF TRIBAL CONSULTATION

AB 52 consultation requirements went into effect on July 1, 2015 for all projects that have not already published a Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration, or published a Notice of Preparation (NOP) of an Environmental Impact Report (Section 11 [c]). At the time the NOP was circulated Shasta County had not received any written requests from any California Native American Tribes to receive notifications. On January 30, 2017, the County received a request for formal notification and information on proposed projects within the Wintu Tribe of northern California's geographic area of traditional and cultural affiliation. In response to Wintu Tribe's request and in accordance with AB 52 and §21080.3.1 of the California Public Resources Code (PRC), on March 28, 2017, Shasta County submitted a written notice of opportunity to consult on the proposed project to Kelli Hayward, Cultural Resources Director of the Wintu Tribe of Northern California. The letter notified the Wintu Tribe of the 30-day response period in accordance with §21080.3.1(d) of the PRC. Written response with a specific request for, or decline of, consultation was requested by no later than May 1, 2017. Shasta County did not receive any written or verbal requests for consultation from the Wintu Tribe of Northern California for the proposed project between the March 28, 2017 to May 1, 2107 response period.

Information about potential impacts to Tribal Cultural Resources was drawn from the ethnographic context (summarized above) and the results of a search of the Sacred Lands File of the NAHC, which were obtained by ECORP Consulting on November 24, 2015. The ethnographic information reviewed for the proposed project, including ethnographic maps, does not identify any villages, occupational areas, or

resource procurement locations in or around the current project area (LaPena 1978; Johnson 1978). In addition, the Sacred Lands File failed to identify any sacred lands or tribal resources in or near the project area (Sanchez 2015).

5.15.4 STANDARDS OF SIGNIFICANCE

SIGNIFICANCE CRITERIA

In accordance with State *CEQA Guidelines*, the effects of a project are evaluated to determine whether they would result in a significant adverse impact on the environment. An EIR is required to focus on these effects and offer mitigation measures to reduce or avoid any significant impacts that are identified. The criteria used to determine the significance of impacts may vary depending on the nature of the project. According to Appendix G of the State *CEQA Guidelines*, the proposed project would have a significant impact related to a Tribal Cultural Resource, if it would:

- *Cause a substantial adverse change in the significance of a Tribal Cultural Resource.* Refer to Impact 5.15-1, below.

AB 52 established that a substantial adverse change to a TCR has a significant effect on the environment. In assessing substantial adverse change, the County must determine whether or not the project will adversely affect the qualities of the resource that convey its significance. The qualities are expressed through integrity. Integrity of a resource is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association [CCR Title 14, Section 4852(c)]. Impacts are significant if the resource is demolished or destroyed or if the characteristics that made the resource eligible are materially impaired [CCR Title 14, Section 15064.5(a)]. Accordingly, impacts to a TCR would likely be significant if the project negatively affects the qualities of integrity that made it significant in the first place. In making this determination, the County need only address the aspects of integrity that are important to the TCR's significance.

Based on these standards, the effects of the proposed project have been categorized as either a "*less than significant"* impact or a "*potentially significant"* impact. Mitigation measures are recommended for potentially significant impacts. If a potentially significant impact cannot be reduced to a less than significant level through the application of mitigation, it is categorized as a "*significant and unavoidable"* impact.

5.15.5 POTENTIAL IMPACTS AND MITIGATION MEASURES

In accordance with CEQA, the effects of a project are evaluated to determine if they would result in a significant adverse impact on the environment. Impacts are analyzed below according to topic. Mitigation measures directly correspond with an identified impact.

IMPACT 5.15-1	***Ground disturbing activities could result in the unanticipated discovery of prehistoric archaeological sites, which may be considered to be Tribal Cultural Resources.***

Significance: Potentially Significant Impact.

Impact Analysis: No TCRs were identified within or immediately adjacent to the project area and therefore, the proposed project would not result in a significant impact to known TCRs. Impacts to unknown TCRs that may be discovered during project construction would be *less than significant* with the incorporation of **MM 5.5-1a** and **MM 5.5-1b** in Section 5.5, CULTURAL RESOURCES.

Mitigation Measures: Implement **MM 5.5-1a** and **MM 5.5-1b** in Section 5.5, CULTURAL RESOURCES.

Level of Significance After Mitigation: Impacts would be *less than significant* with mitigation incorporated.

5.15.6 CUMULATIVE SETTING, IMPACTS, AND MITIGATION MEASURES

IMPACT 5.15-2	***Implementation of the proposed project, combined with planned and reasonably foreseeable development within Shasta County could result in the unanticipated discovery of prehistoric archaeological sites, which may be considered to be Tribal Cultural Resources.***

Significance: Potentially Significant Impact.

Cumulative Setting: The geographic scope for cumulative impacts to Tribal Cultural Resources includes past, present, and reasonably foreseeable projects as identified in Section 4.0, BASIS OF CUMULATIVE ANALYSIS. Impacts of the proposed project would be cumulatively considerable if they have the potential to combine with similar impacts of the identified cumulative projects.

Impact Analysis: Potential TCR Tribal impacts associated with cumulative development within Shasta County are site-specific and would be evaluated on a project-by-project basis. The proposed project would not contribute to a cumulative TCR impact as the project itself would not cause a substantial adverse action to a known TCR. Each incremental development in the County would be required to comply with the provisions of AB 52, any resultant consultation and implement measures similar to **MM 5.5-1a** and **MM 5.5-1b** (refer to Section 5.5, CULTURAL RESOURCES). In consideration of the requirements of AB 52 and other applicable State and local regulations, potential cumulative impacts on TCRs would not be considered significant.

Mitigation Measures: Implement **MM 5.5-1a** and **MM 5.5-1b** in Section 5.5, CULTURAL RESOURCES.

Level of Significance After Mitigation: Cumulative impacts to Tribal Cultural Resources would be *less than significant*.