

4.11 CULTURAL RESOURCES

This section outlines the regulatory context as it applies to cultural resources and is followed by a cultural context that summarizes the prehistoric, ethnographic and historic-era background of the Planning Area and Study Area. A review of previous investigations and historic archives and known resources is followed by an impact analysis.

4.11.1 REGULATORY SETTING

Cultural resources in California are protected by a number of federal, state, and local regulations and ordinances. The following provides a brief outline of the regulations, policies, and ordinances that are applicable to the 2030 General Plan.

FEDERAL PLANS, POLICIES, REGULATIONS, AND LAWS

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies take into account the effects of their actions, and those they fund or permit, on properties that may be eligible for or listed on the National Register of Historic Places (NRHP), and afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on effects to listed or eligible properties. To determine if an undertaking could affect NRHP-listed or eligible properties, all cultural sites that could be affected must be inventoried and evaluated for eligibility to the NRHP.

Although compliance with Section 106 is the responsibility of the lead federal agency, others can undertake the work necessary for compliance. The Section 106 process would need to be completed by any federal agency issuing a permit for the proposed project, but it is not specifically required for CEQA compliance, which is discussed below under “State Plans, Policies, Regulations, and Laws.”

The Section 106 review process involves a four-step procedure:

- ▶ Initiate the Section 106 process by establishing the undertaking, developing a plan for public involvement, and identifying other consulting parties.
- ▶ Identify historic properties by determining the scope of efforts, identifying cultural resources, and evaluating their eligibility for inclusion in the NRHP.
- ▶ Assess adverse effects by applying the criteria of adverse effect on historic properties (resources that are eligible for inclusion in the NRHP).
- ▶ Resolve adverse effects by consulting with the State Historic Preservation Officer and other consulting agencies, including the Advisory Council on Historic Preservation if necessary, to develop an agreement that addresses the treatment of historic properties.

STATE PLANS, POLICIES, REGULATIONS, AND LAWS

CEQA includes protection of cultural resources as an important component of its oversight and management policies. CEQA states that if a proposed project would result in an impact that might cause a substantial adverse change in the significance of a cultural resource (termed a “historical resource”), then an EIR must be prepared and mitigation measures and alternatives must be considered. A “substantial adverse change” in the significance of a historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired (CEQA Section 15064.5[b][1]). Because only significant cultural resources need to be addressed, the significance of cultural resources must be determined before mitigation measures need to be developed.

CEQA Section 5024.1 (California Public Resources Code Section 5024.1) and Section 15064.5 of the State CEQA Guidelines (14 California Code of Regulations [CCR] Section 15064.5) define a historical resource as “a resource listed or eligible for listing on the California Register of Historical Resources.” A historical resource may be eligible for inclusion in the California Register of Historical Resources (CRHR) if it:

- (1) is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;
- (2) is associated with the lives of persons important to our past;
- (3) embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
- (4) has yielded, or may be likely to yield, information important in prehistory or history.

CEQA also distinguishes between two classes of archaeological resources: archaeological sites that meet the definition of a historical resource as above, and “unique archaeological resources.” Under CEQA (Public Resources Code Section 21083.2[g]), an archaeological resource is considered “unique” if it:

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

The State CEQA Guidelines (14 CCR Section 15064.5[c]) also provide specific guidance on the treatment of archaeological resources, depending on whether they meet the definition of a historical resource or a unique resource. If the site meets the definition of a unique archaeological resource, it must be treated in accordance with the provisions of Section 21083.2.

In addition, excavation must be stopped whenever human remains are uncovered, and the county coroner must be called in to assess the remains (14 CCR Section 15064.5[e]). If the county coroner determines that the remains are those of a Native American, the Native American Heritage Commission (NAHC) must be contacted within 24 hours, and the provisions for treating or disposing of the remains and any associated grave goods as described in CCR Section 15064.5 must be followed.

The steps normally taken in a cultural resources investigation for CEQA compliance are as follows:

- ▶ identify cultural resources,
- ▶ evaluate the significance of the resources,
- ▶ evaluate the effects of a project on all cultural resources, and
- ▶ develop and implement measures to mitigate the effects of the project on significant resources.

In addition, the State CEQA Guidelines require consideration of unique archaeological sites (Section 15064.5). If an archaeological site does not meet the criteria for inclusion on the CRHR but does meet the definition of a unique archeological resource as outlined in the Public Resource Code (Section 21083.2), it may be treated as a significant historical resource. Treatment options under Section 21083.2 of CEQA include a project that preserves such resources in place in an undisturbed state. Other acceptable methods of mitigation under Section 21083.2 include excavation and curation or study in place without excavation and curation (if the study finds that the artifacts would not meet one or more of the criteria for defining a “unique archaeological resource”).

Public Resources Code Section 15064.5(e) of the State CEQA Guidelines also requires that excavation activities stop whenever human remains are uncovered and that the county coroner be called in to assess the remains. If the coroner determines that the remains are those of Native Americans, the Native American Heritage Commission (NAHC) must be contacted within 24 hours. At that time, Section 15064.5(d) CEQA Guidelines directs the lead agency to consult with the appropriate Native Americans as identified by the Native American Heritage Commission and directs the lead agency (or applicant) to develop an agreement with the Native Americans for the treatment and disposition of the remains.

CRHR Resource Significance

The significance of cultural resources within a project site is measured against the criteria outlined in the CRHR. CEQA requires that resources eligible for listing on the CRHR be afforded degrees of protection ranging from preservation to the mitigation of adverse impacts. Determining the CRHR eligibility of historic and prehistoric sites is guided by the specific legal context of the site's significance as outlined in Sections 21083.2 and 21084.1 of the Public Resources Code (PRC), and the CEQA Guidelines (California Code of Regulations Title 14) Section 15064.5. In the CRHR, cultural resources are defined as buildings, sites, structures or objects that may have historical, architectural, archaeological, cultural, or scientific importance. A cultural resource may be eligible for listing on the CRHR if it:

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

In California, if a prehistoric or historic resource does not necessarily meet any of the four CRHR criteria, but does meet the definition of a "unique" site as outlined in the PRC (Section 21083.2), it may still be treated as a significant resource. This is the case if it is "...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. It contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.
2. It has a special and particular quality such as being the oldest of its type or the best available example of its type.
3. It is directly associated with a scientifically recognized important prehistoric or historic event."

These two sets of criteria operate independently to ensure that significant potential effects on archaeological and historic resources are considered as a part of a project's environmental analysis. PRC guidelines also recommend provisions be made for the accidental discovery of archaeological sites.

Senate Bill (SB) 18

California Senate Bill (SB) 18 states that prior to a local (city or county) government's adoption of any general plan or specific plan, or amendment to general and specific plans, or a designation of open space land proposed on or after March 1, 2005, the city or county shall conduct consultations with California Native American tribes for the purpose of preserving or mitigating impacts to Cultural Places.

A Cultural Place is defined in the PRC sections 5097.9 and 5097.995 as:

- ▶ Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine (PRC Section 5097.9), or;
- ▶ Native American historic, cultural, or sacred site, that is listed or may be eligible for listing in the California Register of Historic Resources pursuant to Section 5024.1, including any historic or prehistoric ruins, any burial ground, or any archaeological or historic site (PRC Section 5097.995).

The intent of SB-18 is to establish meaningful consultation between tribal governments and local governments (“government-to-government”) at the earliest possible point in the planning process so that cultural places can be identified and preserved and to determine necessary levels of confidentiality regarding Cultural Place locations and uses. According to the Government Code (GC) Section 65352.4, “consultation” is defined as:

The meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values and, where feasible, seeking agreement. Consultation between government agencies and Native American Tribes shall be conducted in a way that is mutually respectful of each party’s sovereignty. Consultation shall also recognize the tribes’ potential needs for confidentiality with respect to places that have traditional tribal cultural significance.

While consultation is required to take place on a government-to-government level, the SB-18 process begins with a letter from the local government to the Native American Heritage Commission requesting a list of tribal organizations appropriate to the plan or plan amendment area or proposed open space designation. Once contacted by the local government, the tribes have up to 90 days to respond and request consultation regarding the preservation and treatment of known cultural place(s) if any have been identified by the tribe.

REGIONAL AND LOCAL PLANS, POLICIES, REGULATIONS AND ORDINANCES

Sutter County General Plan

GOAL 5.B: To identify, protect and enhance Sutter County’s important historical, archeological and cultural sites.

- ▶ **Policy 5.B-1:** The County shall encourage the preservation of historic sites, buildings, structures, and objects in addition to points of historical interest as identified in the Background Report.
- ▶ **Policy 5.B-2:** The County should promote the registration of historic sites, buildings, structures and objects in the National Register of Historic Places, and inclusion in the California State Office of Historic Preservation’s California Points of Interest and California Inventory of Historic Resources.
- ▶ **Policy 5.B-3:** The County shall solicit the views of the local Native American community in the cases where development may result in disturbance to sites containing evidence of Native American activity and/or tombsites of cultural importance.

Implementation Programs

- ▶ **Implementation Program 5.2:** The County shall require that an archeological reconnaissance be conducted and a report be prepared for development projects located in areas of high archeological sensitivity.
- ▶ **Implementation Program 5.3:** The County shall encourage the use of an architectural historian or other qualified expert to evaluate buildings, structures, and objects for development projects in areas with potential historic significance.

- ▶ **Implementation Program 5.4:** The County should strive to maintain its inventory of historic sites, buildings, structures and objects of local or county-wide historic significance and include them in the next Comprehensive General Plan Update.

4.11.2 ENVIRONMENTAL SETTING

To place the prehistoric and historic resources of the Planning Area into a broader context, they need to be discussed within a larger cultural framework. The presence of a variety of natural resources, topography, and proximity to important transportation routes made the project area an ideal location for prehistoric and historic settlement. The following setting sections are taken from the SWCA (2006) cultural resources report prepared for the City of Live Oak.

NATURAL SETTING

The proposed project site, which includes the city of Live Oak and its Planning Area, is located approximately 3 km (1.9 miles) west of the west bank of the Feather River. Other streams and waterways in the local area include Honcut Creek, Snake Creek, Sutter Butte Canal, Live Oak Slough, and Morrison Slough. The confluence of the Feather River and Honcut Creek bounds the northeast corner of the General Plan Update area. The natural elements (i.e., not man-made, such as Sutter Butte Canal) in this environment offered abundant natural resources, which were exploited prehistorically. During the prehistoric era, the vicinity would have been a very productive environment, one well suited to a hunting-gathering economy with a variety of water birds, small and large mammals, fish, reptiles and amphibians, and edible plant species. The marshy wetlands supported stands of willow, cottonwood, tule, and sycamore (Wallace 1978). In addition to valley oaks, oak groves in the Study Area would have likely included blue oaks and interior live oaks. These natural communities would have provided a portion of the plant resources utilized by prehistoric populations.

Fauna in the Study Area would have likely included a number of larger mammals, including mule deer, black-tailed deer, mountain lion, and black bear. Tule elk and pronghorn were also common in the Valley, but now occur in very limited areas (Jameson and Peeters 1988). Small animals, such as rabbit, black-tailed jackrabbit, gray squirrel, opossum, coyote, and gray fox, would have also been available for exploitation.

Located 8.0 km (4.9 miles) southwest of the Study Area are the isolated peaks of the Sutter Buttes, visible from most of the Sacramento Valley. The Buttes rise to 650 m (2,132 feet) above sea level and are remnants of past volcanic activity that formed about 1.15 million years ago. The Sutter Buttes were of great spiritual importance to Native Americans in the region (see Ethnographic Setting section below).

CULTURAL SETTING

Prehistoric Period

Occupation in the Sacramento Valley during the prehistoric period is estimated to have occurred as early as 12,000 years ago, but only a few archaeological sites have been identified that predate 5,000 years ago. It is likely that later Holocene alluvial deposits buried many prehistoric sites in this area.

Prehistoric material culture in central California (including the Sacramento Valley) has been categorized according to “horizons” or “patterns” that define technological, economic, social and ideological elements. The taxonomic system historically used for central California is a tripartite classification scheme with Early, Middle, and Late Horizons. Today, a series of generalized periods associated with regionally based “patterns” are typically used for the Sacramento Delta area, San Francisco Bay area, and North Coast ranges (Bennyhoff and Fredrickson 1969; Frederickson 1973, 1974). Frederickson (1973, 1974) defined several regionally based patterns, three of which are specific to Central Valley prehistory and the current project area. Referred to as the Windmill Pattern,

Berkeley Pattern, and Augustine Pattern, each represents a general pattern of resource exploitation between 2500 B.C. and the beginning of Euroamerican contact (A.D. 1769).

Windmill Pattern (2500–500 B.C.)

Clearly documented evidence for human occupation in the general area is found at sites characteristic of the Windmill Pattern or Early Horizon. These sites date to as early as 4,500 years ago and as late as 2,500 years ago. Such sites often contain manos (grinding stones) and metates (grinding slabs), as well as mortar fragments, indicating that acorns and/or various seeds formed an important part of the diet (Moratto 1984:201). In addition to plant foods, the subsistence system included many other food resources, such as deer, elk, pronghorn, rabbits, and waterfowl. Numerous faunal remains have been documented at Windmill Pattern sites, along with large quantities of projectile points. The presence of angling hooks and baked clay artifacts possibly used as net or line sinkers, along with the remains of sturgeon, salmon, and smaller fishes, indicate that fishing was an additional source of food (Fredrickson 1973, Heizer 1949, Ragir 1972). Ground and polished charmstones, impressions of twined basketry, shell beads, and bone tools have also been found in Windmill Pattern sites. Some items were obtained by trade, including shell beads, obsidian tools, and quartz crystals.

Windmill populations likely occupied the lower elevations of the Sacramento Valley in the winter months, and shifted to higher elevations during the summer (Moratto 1984:206). Mortuary practices included ventrally extended primary burials, accompanied by grave goods, in cemeteries that were separated from habitation sites.

Berkeley Pattern (500 B.C.–A.D. 500)

Over a 1,000-year period, the Windmill Pattern began to shift to the more specialized adaptive Berkeley Pattern or Middle Horizon (500 B.C. – A.D. 500). A shift to a greater reliance on acorns as a dietary staple is interpreted during the Berkeley Pattern from the increase in mortars and pestles, along with a decrease in manos and metates. Mortars and pestles are better suited to crushing and grinding acorns, while manos and metates were used primarily for grinding wild grass grains and seeds (Moratto 1984:209–210).

As demonstrated by the artifact assemblage, hunting remained an important aspect of food procurement during the Berkeley Pattern (Fredrickson 1973:125–126). The archaeological record, which consists of numerous large shell midden/mounds, also demonstrates that the majority of Berkeley Pattern sites located near, or in the vicinity, of water (both fresh and salt), made intensive use of marine and estuarine resources. The artifact assemblage also includes shell beads and ornaments, as well as numerous types of bone tools. Flexed interments dominate mortuary practices, but a few cremations are also found at Berkeley Pattern sites.

Artifact assemblages and radiocarbon dating of sites from this period suggest this subsistence pattern may have developed in the San Francisco Bay region and later spread to surrounding coastal locales and into central California. Moratto (1984:207–211) suggests that pattern is related to the expansion of Miwok populations from the San Francisco Bay area to the Sacramento Valley and Sierra foothills.

Augustine Pattern (A.D. 500–1769)

The Augustine Pattern (A.D. 500–1769) is evidenced by a number of changes in subsistence, foraging, and land use patterns that begin to reflect the use pattern known from historic period Native American groups in the area. A substantial increase in the intensity of subsistence exploitation, including fishing, hunting, and gathering (particularly the acorn) seen in the archaeological record correlates directly with an increase in population growth (Moratto 1984:211–214). Tools and cooking implements included shaped mortars and pestles, hopper mortars, bone awls used for producing coiled baskets, and the bow and arrow. Pottery vessels, known as Cosumnes Brownware, are found in some parts of the Central Valley, and most likely developed during this period from the prior baked clay industry.

During this period, an increase in sedentism led to the development of social stratification, accompanied by a shift to elaborate ceremonial and social organization. Exchange networks, with the use of clamshell disk beads as currency, also developed during the Augustine Pattern. Mortuary practices during this period included flexed burials and pre-interment burning of offerings in a grave pit, as well as cremation of high-status individuals (Frederickson 1973:127–129, Moratto 1984:211).

Ethnographic Setting

The Study Area is located in an area historically occupied by two indigenous groups: the Konkow (also known as the Northwestern Maidu) and the Nisenan (also known as the Southern Maidu) (Kroeber 1925, Riddell 1978, Wilson and Towne 1978). Both are Penutian-speaking peoples and members of the Maidu language family (Shipley 1978:83).

Konkow villages near the Study Area include *Bieyam* and *Tomcho* on the Feather River south of the confluence with Honcut Creek (Riddell 1978:371). Valley Nisenan villages near the Study Area include *Honcut* and *Tomchoh*, also on the Feather River (Wilson and Towne 1978:388). When the Sacramento Valley was frequently turned into an inland sea before the construction of the extensive modern levee and dam system, the Sutter Buttes, immediately southwest of the Study Area, was an island refuge for indigenous Californians (California Parks 2005). The Maidu called the Buttes “*Histum Yani*,” which translates as “Middle Mountains of the Valley” or “Spirit Mountain”. As an important part of their religious beliefs, the spirits of the Maidu people rest in the Buttes after death, before the journey to the afterlife.

Konkow

Political organization of the Konkow was limited to a settlement pattern of village communities (Kroeber 1925:397–398, Riddell 1978:373). A central village housed a circular, semi-subterranean ceremonial assembly structure and the home of the community spokesman. A community was composed of three to five villages, and the villages were apparently self-sufficient. Kroeber (1925:397) estimated village size as less than 200. Houses were either semi-subterranean or conical bark structures.

The locations of Konkow settlements depended primarily on elevation, exposure, and proximity to water and other natural resources (Dixon 1905:175; Riddell 1978:371, 373). Permanent villages were usually located on ridges above the major watercourses. Ridge crest flats or mid-slope terraces were generally the preferred village settings. The villages were inhabited mainly in the winter months, since spring, summer, and fall were the prime seasons for hunting and gathering resources in the nearby foothills and higher elevations. During the resource-collecting periods, the Konkow erected brush shelters close to their hunting and gathering sites (Riddell 1978:376).

Prior to the discovery of gold in 1848, at Sutter’s Mill near Coloma on the American River, Konkow lifeways were little affected by exploration into their territory by Spanish explorers and American trappers. The great epidemic that swept the Sacramento Valley in 1833, however, followed by the thousands of gold seekers, combined to decimate the Konkow. The results were devastating and included the loss of land and territory, including traditional hunting and gathering locales, violence, malnutrition, and starvation. The local survivors were hired by the miners, and later worked as laborers on Euroamerican ranches and farms.

Valley Nisenan

The Valley Nisenan generally established semi-permanent settlements or winter villages on low, natural rises along streams and rivers or on gentle, south-facing slopes (Wilson and Towne 1978:388, Moratto 1984:172–173). Communities were composed of a central village with several outlying smaller villages. The number of houses varied from three to seven in the smaller villages, with 40 to 50 houses in the larger villages. Houses were circular, dome-shaped or conical, earth-covered semi-subterranean structures. Structures also included dance

houses, sweatshouses, and acorn granaries. Village population ranged from 15 to over 100 individuals (Kroeber 1925).

Like other California Native American peoples, including the Konkow, the Nisenan subsistence depended on seasonally available resources, obtained by hunting, fishing, and collecting plant foods. Like the majority of native Californians, the Nisenan relied on acorns as a staple food, which were collected during the fall and then stored in granaries.

Spanish explorers first crossed into Nisenan territory in 1808, but there is no record of Nisenan peoples being removed from their lands to Spanish missions (Wilson and Towne 1978:396). Trappers entered the Sacramento Valley in the late 1820s, and camped in Nisenan territory. Because of the introduction of foreign diseases, an estimated 75 percent of the Valley Nisenan did not survive a great epidemic that swept the Sacramento Valley in 1833. With entire villages wiped out, Valley Nisenan survivors retreated into the hills (Cook 1955:322).

Like the Konkow, the discovery of gold at Sutter's Mill near Coloma on the American River signaled major upheavals for the Nisenan, who were even closer to the source as Coloma is in the heart of Nisenan territory. Traditional lands of the Hill Nisenan were overrun in the early 1850s, and Nisenan survivors then lived at the margins of foothill towns and worked for agricultural, logging, and ranching industries (Wilson and Towne 1978:396).

Local History

Sutter County was named after John Sutter, whose Mexican New Helvetia land grant comprised the majority of the acreage that later became the county (Sutter County 2005). Sutter's Hock Farm, established in 1842 in what is now Yuba City, became the first large-scale agricultural settlement in northern California. Cattle, grain, orchards, and vineyards were the agricultural mainstays. One of the state's original 27 counties, Sutter County was incorporated in 1850.¹

People began to settle on the fertile agricultural lands along the west banks of the Feather River after the Gold Rush. During the Gold Rush, nearby Marysville became a large trading center because of its proximity to the gold fields and its accessibility on the river. In 1848, Marysville became the third largest city in the state of California. Although gold mining (placer, hydraulic, and dredging) continued for decades as a significant economic activity in the area, the miners and immigrant families turned to farming for subsistence. The annual Peach Festival in the Live Oak Historic Commercial District celebrates the agricultural heritage of the City and Sutter County.

The town of Live Oak was first settled in 1866 by A. M. McGrew (Live Oak Chamber 2005), and named for the beautiful groves of oak trees by H. L. Gregory in 1871 (Gudde 1969:179). The town is located within a portion of the Rancho Boga Mexican land grant (Beck and Haase 1974:26). The 22,185-acre grant paralleled the west side of the Feather River, north and south of today's Butte-Sutter county line. The Rancho Boga grant was originally awarded in 1843 to William Flugge who had been employed by John Sutter (Huberland 2004). Flugge sold the land to Thomas Larkin in 1847, and by 1870 Larkin's survivors had sold off most of his lands within Sutter County.

The small settlement prospered after the California and Oregon Railroad laid tracks in the area in 1869, and Live Oak became the main point in Sutter County for shipping agricultural produce (Napoli 1997). A store, railroad siding, warehouse, blacksmith shop, post office, and saloon had been constructed by 1874. Five years later, the town had many new businesses and a population of about 125, including 25 Chinese residents. During this period of commercial growth, in 1876, the first railroad depot was constructed and was replaced by a larger depot in 1882. This second depot and Live Oak Hall, which was constructed circa 1875, are still standing within today's

¹ The county's boundaries at that time included portions of Placer and Colusa Counties. In 1857, the boundaries were fixed like the present day, and had included the return of the Sutter Buttes from Butte County. Yuba City, on the west bank of the Feather River, was named the county seat in 1856.

Live Oak Historic Commercial District. Around the turn of the century, the California and Oregon Railroad was acquired by the Central Pacific Railroad, and ultimately the Southern Pacific Railroad (Robinson 1948:154).

The growth of the community slowed during the economic depression near the turn of the century, and Live Oak's population was only 400 in 1910 (Napoli 1997). With the construction of the Butte County Canal by Duncan McCallum and Thomas Fleming in 1905–1907, however, local agricultural practices flourished (Butte Creek Watershed Project 1998:150). Now known as the Sutter Butte Canal, this conduit brought water from the Feather River for irrigation. New settler-farmers arrived in the area, producing two agricultural colonies for Mormons and Germans (Napoli 1997). In addition, the arrival of the Northern Electric Railroad (later the Sacramento Northern) to Live Oak in 1906 and the paving of a state highway in 1915 (designated State Route 99 East) brought increased settlers and commerce to the town. The community prospered again until the Great Depression of the 1930s.

The Second World War revived the economy of Live Oak (Napoli 1997). After this period, businesses were constructed along State Route 99 away from the Historic Commercial District.

4.11.3 RESEARCH METHODOLOGY

Research included examination of data collected from earlier efforts, contact with the Native American Heritage Commission, and an archaeological and architectural examination of the Planning Area. As with the setting sections, the background research results and survey findings are detailed in SWCA's 2006 background report and excerpted here.

BACKGROUND RESEARCH

SWCA performed a cultural resources record search for the City of Live Oak in 2005 at the California Historical Resources Information System's Northeast Information Center (NEIC) located at California State University, Chico. The record search included a review of the standard resources as well as historic USGS quadrangle maps.

The records search indicated that a total of 16 investigations have been previously completed within portions of the Planning Area. The majority of these investigations were concentrated within the City of Live Oak and covered a relatively small portion of the entire Planning Area. No prehistoric resources or Traditional Cultural Properties were identified within the Planning Area.

Historic maps of the Planning Area provided some information; the USGS 1:125,000 Marysville 1895 map shows the community of Live Oak, bisected from north to south by the San Francisco and Portland Rail Line (now the Union Pacific Railroad). The Gridley (1912) USGS 7.5-minute quadrangle shows a number of potential historic resources within the project area, including the Southern Pacific and Northern Electric Railroads, Butte County Canal (now Sutter Butte Canal), the communities of Live Oak, Bihlman, Riviera, and Sunset; numerous structures and unnamed irrigation ditches; and a levee west of the Feather River. Other historic quadrangles included roads, canals, structures, and orchards, as well as the Live Oak Cemetery.

The records search also indicated that two historic resources have been previously recorded within the Planning Area, a historic residence and the National Register-listed Live Oak Historic Commercial District:

- ▶ 2463 Date Street. This is a dwelling built in 1918. According to the NEIC results, the residence was determined ineligible for inclusion on the NRHP by consensus; however the property has not been evaluated for listing on the CRHR or any local register.
- ▶ Live Oak Historic Commercial District. The Live Oak Historic Commercial District faces Broadway between Pennington Road on its north end and Elm Street to the south (Napoli 1997). The eastern and western boundaries of the historic district are Live Oak Boulevard (State Route 99) and roughly Center Street,

respectively. The district represents the development of local commerce in the city of Live Oak between 1875 and 1930. It comprises 12 structures, eight contributing and four non-contributing (SWCA 2006), as well as a row of palm trees planted along Broadway ca. 1900. The District also includes a three-block-long parcel, currently owned by the Union Pacific Railroad, with an 1882 depot and a warehouse (non-contributing) east of Broadway. A single-rail track remains, paralleling Broadway, east of the row of palm trees. The Live Oak Historic Commercial District and its eight contributing buildings and palm tree row were listed on the NRHP on 23 January 1998, and so are automatically listed on the CRHR as well.

NATIVE AMERICAN CONSULTATION

The City of Live Oak contacted the NAHC in November 2005, pursuant to SB 18 consultation requirements, asking for a list of individuals that might have knowledge of the Planning Area. The City received a response from the NAHC later that same month identifying potential contacts. The City used this same contact list to circulate a letter providing the opportunity to participate in the local land use planning process to ensure consideration of cultural places in the context of broad local land use policy. One Native American contact notified City staff of a workshop related to tribal consultation, but did not identify issues related to the General Plan. No other Native American contacts responded. The NAHC response also stated that there were no known sites in the Sacred Lands File in the Planning Area.

ARCHAEOLOGICAL AND ARCHITECTURAL SURVEY

SWCA completed a pedestrian reconnaissance of the Planning Area. The survey was completed on 20–21 and 27–30 December 2005. The survey methodology consisted of transects with no greater than 15-meter spacing, as feasible. Survey coverage varied within the developed areas containing residential and commercial properties, roadways, etc. Potential historic buildings or structures were visually inspected and accessed when permission was granted from the property owner. In most cases, private landowners allowed the field crew to survey the property. A number of private landowners did not allow access to their properties. This happened most commonly along the area adjacent to the Feather River.

All properties within the Planning Area were surveyed and visually inspected for any historic buildings or other structures. There were a few open lots and grassy areas within the City limits, such as parks. All of these open lots and grassy areas had vegetative cover greater than 90 percent, mostly short grasses, with some shrubs and trees.

The City's Sphere of Influence (SOI) also has some residential and commercial properties, but mainly consists of agricultural fields and orchards. All fields and orchards were surveyed, once permission was granted by the landowner. If no property owner was found, the field crew still surveyed the area, carrying the job description letter from the City of Live Oak in case the property owner was found or appeared once the survey began. Short grasses (vegetative cover >90%) covered the majority of the agricultural fields and orchards. Approximately 10 percent of the open fields had been recently plowed and had no vegetative cover.

Land cover outside the SOI to the west and south was similar to the SOI, mostly agricultural fields and orchards with some residential/commercial properties. The same survey methods used for the SOI and the open lots/fields within the City limits were used for a buffer zone outside the SOI, which was also investigated. Like the SOI, the majority of the agricultural fields and orchards were covered by short grasses (vegetative cover >80%). Some of the open fields, less than 20 percent of the total buffer zone acreage, had been recently plowed and have no vegetative cover.

All previously unrecorded cultural resources identified during the survey were documented using the State of California Department of Parks and Recreation recordation forms (DPR forms). Location data for point, linear, and area plots were recorded with a Trimble Geo-Explorer XT GPS hand-held unit. Photographs were taken using digital cameras.

4.11.4 FINDINGS

As detailed below, two previously recorded historic resources were relocated and six previously unrecorded historic resources were identified during the pedestrian reconnaissance of the Study Area. These included an irrigation canal, cemetery, railroad, bridge, and two residences. The crew also identified and recorded eight additional palm trees as a contributing element of the listed Live Oak Historic Commercial District. No prehistoric or ethnohistoric (contact period) resources were identified within the Study Area during the 2005 pedestrian survey.

SUTTER BUTTE CANAL

The Sutter Butte Canal is an historic irrigation canal built in 1905 and originally named the Butte County Canal. Duncan C. McCallum and Thomas Fleming became partners in 1900 and secured support around the Gridley area to construct an irrigation canal. Located immediately west of and generally paralleling the Feather River, the Butte County Canal was completed on June 9, 1905. The canal brought water from the nearby Feather River for irrigation of local agriculture fields. The Butte County Canal is shown on the USGS 7.5-Minute Gridley 1912 Quadrangle, and later became known as the Sutter Butte Canal. A 4.7-mile segment of the Sutter County portion of this canal is within the Study Area. This earthen canal runs between mainly walnut orchards and is regularly maintained. There are a number of floodgates and weirs spaced at intervals along the canal. The majority is constructed of concrete and metal and few wooden floodgates remain.

LIVE OAK CEMETERY

The Live Oak Cemetery is located about one-half mile west of the current City limits on Pennington Road and is shown on the 1952 USGS 7.5-Minute Gridley Quadrangle. The cemetery was officially named in 1905 and is still in use today. The earliest tombstone recorded at this historic cemetery is for Katherine Kustokowick and is dated August 1858 (Sutter County 2005a), 8 years prior to settlement of Live Oak in 1866. The majority of the tombstones are in good condition and are legible. Some of the older tombstones (pre-20th century) are somewhat faded and the dates are harder to decipher. The high infant/child mortality rate common in the mid to late 19th century can be seen in the numerous infant and child burials dated from the 1860s to the early 20th century. There is also a small building/maintenance shed within the boundaries of the cemetery. The building has no historically diagnostic attributes.

NORTHERN ELECTRIC RAILROAD

The Northern Electric Railroad (later the Sacramento Northern Railroad) arrived in Live Oak in 1906. Remaining segments of the Northern Electric Railroad berm were identified during the pedestrian survey. With a depot near Fir Street, the railroad tracks once ran north-south along California Street (Napoli 1997:10), and crossed those of the Southern Pacific to the north. The Sacramento Northern served as a link between Sacramento and the valley towns to the north, as well as south to the Bay Area. This inter-urban railroad carried freight and passengers for nearly half a century (Huberland 2004). Within the majority of the Planning Area, the railroad (tracks, wooden ties, etc.) and the railroad berm have been removed. Five remaining berm segments were recorded within the Study Area. These short segments (ranging from 1,056 to 1,531 feet) are located: (1) immediately north of Riviera Road, (2) east side of Hwy 99, (3) crossing N Street diagonally from east to west, (4) south side of Elm Street, and (5) north side of Paseo Road near Graves Road.

METTEER ROAD RESIDENCE

This historic residence, located at 10048 Metteer Road immediately northeast of the current City limits, is a one and one-half story hall-parlor house with a rear-facing T-Plan. The closest style classification for this building is Classical (1847–1890), and it may potentially fall into the Georgian subgroup (1850–1865) of the Classical style.

The original structure was brick, with later wood additions. The residence is unique and is a fine example of the history of the Live Oak area.

BIHLMAN FAMILY RESIDENCE

“House of Bihlman Established October 24, 1887” is etched on a metal placard at the front door to this historic residence. In addition to the historic home, a tank tower and connected shed, two barns, and a small mound are present at 8880 Larkin Road. The small mound is a remnant of a Northern Electric Railway (later Sacramento Northern) crossing, which was removed around 1941. The home is a two-story, Georgian style, “L” shaped saltbox, which despite more recent additions, has good integrity. The location of the historic property is shown on the 1912 Gridley USGS 7.5-minute quadrangle, marked as “Bihlman.” The home, associated outbuildings, and the surrounding 150 acres of their original property are still owned by the Bihlman family.

WPA 1939 BRIDGE

This bridge has a concrete base and wooden guardrails with “WPA 1939” impressed in the concrete base on both ends. The WPA (Works Progress Administration) was created in 1935 in order to provide jobs to those affected by the Great Depression. The bridge is located on Metteer Road approximately 1.5 miles north of the intersection with Pennington Road, and north of the limits of the City of Live Oak. It is in good condition and has been maintained. The remnants of an irrigation ditch are associated with the bridge. The irrigation ditch is likely older than the bridge since an unnamed ditch is shown at the same location on the 1912 USGS Gridley 7.5-minute quadrangle. The remnants of the irrigation ditch appear to retain an original shape. It appears no longer to be in service since the sides and bottom were covered with grasses at the time of the survey.

PALM TREES

SWCA personnel recorded eight additional palm trees in alignment with the 13 previously recorded as a contributing element of the Live Oak Historic Commercial District. The NRHP nomination form states that the 13-recorded palms are “planted every 100 feet and rise around 60 feet” (Napoli 1997:8). The 13 previously recorded palms are located between Pennington Road on the north and Elm Street on the south. The eight additional palms recorded here are located immediately south, between Elm and Center Streets. These trees reach the same height, are equally spaced along the east side of Broadway, and also contribute to the history of the district.

4.11.5 IMPACTS AND MITIGATION MEASURES

ANALYSIS METHODOLOGY

The following assessment of impacts and proposed mitigation measures is based upon a review of previous cultural resources work conducted within the Planning Area. In some cases, further work would be required to identify and assess for significance prehistoric and historic-era resources that may be present as part of future, project-level environmental review.

THRESHOLDS OF SIGNIFICANCE

Based on Appendix G of the State CEQA Guidelines, the proposed project would result in a potentially significant impact on cultural resources if it would:

- ▶ cause a substantial adverse change in the significance of a unique archaeological resource or a historical resource as defined in Section 21083.2 of CEQA and Section 15064.5 of the State CEQA Guidelines, respectively; or

- ▶ disturb any human remains, including those interred outside of formal cemeteries.

Section 15064.5 of the State CEQA Guidelines defines “substantial adverse change” as physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings.

IMPACT 4.11-1 *Changes to the historic character of Live Oak. Proposed land uses and infill development envisioned by the 2030 General Plan could result in changes that could affect historic structures, historic districts, or the historic character of Live Oak. However, the 2030 General Plan contains goals, policies, and implementation programs that would ensure that the context of historic features is considered in future development. Implementation of these policies and implementation programs would reduce impacts to a **less-than-significant** level.*

Proposed land uses and infill development envisioned by the 2030 General Plan could result in changes that affect historic structures, historic districts, or the historic character of Live Oak. However, the 2030 General Plan contains goals, policies, and implementation programs that would ensure that the context of historic features would be considered in future development. As expressed in the 2030 General Plan, the City wishes to maintain and enhance the historic character of the City and its Planning Area. The Live Oak Historic Commercial District is a primary example of the character the community wishes to preserve.

The following policies and programs in the 2030 General Plan address potential changes to the historic character of Live Oak:

Relevant Policies and Programs of the 2030 General Plan

GOAL Cultural-2: Identify, protect, and enhance Live Oak’s historic resources and associations.

- ▶ **Policy Cultural-2.1:** The City will encourage private property owners to preserve and maintain historic structures.
- ▶ **Policy Cultural-2.2:** Roadway and other infrastructure shall be located to avoid taking any property within, or otherwise adversely affecting the Live Oak Cemetery.
- ▶ **Policy Cultural-2.3:** The City will encourage adaptive reuse of historic structures where as much of the historic character as possible is preserved. Structures that are grouped in close proximity, particularly rural, agricultural, and structures associated with the railroad, will receive special emphasis.
- ▶ **Policy Cultural-2.4:** Infill structures built in the Live Oak Historic Commercial District shall be designed so that their size, shape, design, color, and detail are architecturally compatible with the surrounding buildings.
- ▶ **Policy Cultural-2.5:** The City should preserve views of the historic building frontages along SR 99.
- ▶ **Policy Cultural-2.6:** The City will establish educational and awareness programs to promote understanding and foster support for preservation of important cultural resources.
- ▶ **Implementation Program Cultural-2:** The City will require development projects to preserve the community’s historically significant sites and buildings, whenever feasible, through the following actions or those deemed equally effective by the City:
 - Request information from the North Central Information Center about sites where the proposed development may disturb historic sites or structures.
 - Protect historically significant structures by following state Historic Building Code for all retrofit, remodels or similar construction activities.

- Leave existing orchard trees in place wherever feasible; plant smaller in-fill trees so that as trees age they can be removed without leaving large gaps.
 - Ensure that roads planned around the Live Oak Cemetery are located to avoid noise and visual impacts to the cemetery.
- ▶ **Implementation Program Cultural-3:** The City will investigate and provide information to property owners regarding tax incentives and other federal and state programs that are offered for rehabilitation of historic structures. The City will explore opportunities to also participate financially or otherwise in historic rehabilitation projects consistent with General Plan policy, with the focus of such efforts being in the Live Oak Historic Commercial District.

GOAL Design-9: Preserve historic features so they can continue to add to the character of downtown Live Oak.

- ▶ **Policy Design-9.1:** The City should retain as many key character-giving features as possible in the restoration or renovation of historical buildings. Wherever possible, maintain or restore original proportions, dimensions, and elements. Historic preservation techniques and Secretary of the Interior standards should be used to maintain the historical integrity of buildings that are designated as city, state, or federal landmarks, wherever feasible.
- ▶ **Policy Design-9.2:** New buildings in the downtown core area shall be compatible with the scale, proportions, massing, general architectural elements, and materials of neighboring buildings of historical quality or significance.
- ▶ **Policy Design-9.3:** The City will encourage preservation and upgrades of the physical appearance and usability of buildings and sites with special historic and/or architectural interest, insofar as these improvements maintain the historical registry status of subject buildings and sites.
- ▶ **Policy Design-9.4:** The City will celebrate the history and cultural diversity of Live Oak by encouraging buildings, uses, and events that reflect that history and cultural diversity.

Conclusion

Adherence to the above policies and programs would reduce this impact to a **less-than-significant** level; because preservation and re-use of historic structures would be required whenever feasible and project-level CEQA review, analysis, and mitigation would be required for projects with a potential to affect historic structures. New development would be in character with existing historic structures, blending in to the community and enhancing modern usage of historic structures.

Mitigation Measure

No mitigation beyond the 2030 General Plan policies and programs is required.

IMPACT 4.11-2 **Destruction of or Damage to Known Cultural Resources.** *A total of 16 significant or potentially significant cultural resources have been identified in the Planning Area. These include buildings in the historic district, residences, a canal, a cemetery, railroad tracks, a bridge and the row of palm trees along Broadway. However, the 2030 General Plan contains goals and policies which would ensure that potential historic features were assessed for their significance in advance of future development. Impacts to these resources which could affect their potential historic significance could then be mitigated. Implementation of these goals and policies would reduce impacts to a **less-than-significant** level.*

The resources related to the historic district and one of the residences have been evaluated for eligibility to the NRHP; the others have not. The resources that have not yet been evaluated may possess values (such as integrity of setting, design, and materials, and associations with persons important in local history) that make them potentially eligible for listing on the NRHP at the local level or on the CRHR. Because they are more than 50 years old and are potentially eligible for listing on the NRHP or CRHR, impacts to these resources would be potentially significant.

Relevant Policies and Programs of the 2030 General Plan

GOAL Cultural-2: Identify, protect, and enhance Live Oak's historic resources and associations.

- ▶ **Policy Cultural-2.1:** The City will encourage private property owners to preserve and maintain historic structures.
- ▶ **Policy Cultural-2.2:** Roadway and other infrastructure shall be located to avoid taking any property within, or otherwise adversely affecting the Live Oak Cemetery.
- ▶ **Policy Cultural-2.3:** The City will encourage adaptive reuse of historic structures where as much of the historic character as possible is preserved. Structures that are grouped in close proximity, particularly rural, agricultural, and structures associated with the railroad, will receive special emphasis.
- ▶ **Policy Cultural-2.4:** Infill structures built in the Live Oak Historic Commercial District shall be designed so that their size, shape, design, color, and detail are architecturally compatible with the surrounding buildings.
- ▶ **Policy Cultural-2.5:** The City should preserve views of the historic building frontages along SR 99.
- ▶ **Policy Cultural-2.6:** The City will establish educational and awareness programs to promote understanding and foster support for preservation of important cultural resources.
- ▶ **Implementation Program Cultural-1:** The City will require development projects to protect Native American and prehistoric resources through the following actions or those deemed equally effective by the City:
 - Identify and protect significant archaeological or traditional sites.
 - Request information from the Native American Heritage Commission and the North Central Information Center (NCIC) to determine if prehistoric sites or traditional use areas exist in the project site.
 - Avoid potential impacts to significant cultural resources whenever possible. If impacts are unavoidable, mitigate to a less-than-significant level. Determination of impacts, significance, and mitigation shall be made by a qualified professional archaeologist or architectural historian, as appropriate.
 - Involve the local Native American community in determining the appropriate mitigation of impacts to significant prehistoric sites.
 - Provide the North Central Information Center with appropriate Department of Parks and Recreation site record forms and cultural resources reports.
 - Require a professional archaeologist to monitor all City-sanctioned ground-disturbing activities proposed within 150 meters of the Feather River, (agricultural uses are exempted).

- ▶ **Implementation Program Cultural-2:** The City will require development projects to preserve the community’s historically significant sites and buildings, whenever feasible through the following actions or those deemed equally effective by the City:
 - Request information from the North Central Information Center about sites where the proposed development may disturb historic sites or structures.
 - Protect historically significant structures by following state Historic Building Code for all retrofit, remodels or similar construction activities.
 - Leave existing orchard trees in place wherever feasible; plant smaller in-fill trees so that as trees age they can be removed without leaving large gaps.
 - Ensure that roads planned around the Live Oak Cemetery are located to avoid noise and visual impacts to the cemetery.
- ▶ **Implementation Program Cultural-3:** The City will investigate and provide information to property owners regarding tax incentives and other federal and state programs that are offered for rehabilitation of historic structures. The City will explore opportunities to also participate financially or otherwise in historic rehabilitation projects consistent with General Plan policy, with the focus of such efforts being in the Live Oak Historic Commercial District.

GOAL Design-9: Preserve historic features so they can continue to add to the character of downtown Live Oak.

- ▶ **Policy Design-9.1:** The City should retain as many key character-giving features as possible in the restoration or renovation of historical buildings. Wherever possible, maintain or restore original proportions, dimensions, and elements. Historic preservation techniques and Secretary of the Interior standards should be used to maintain the historical integrity of buildings that are designated as city, state, or federal landmarks, wherever feasible.
- ▶ **Policy Design-9.2:** New buildings in the downtown core area shall be compatible with the scale, proportions, massing, general architectural elements, and materials of neighboring buildings of historical quality or significance.
- ▶ **Policy Design-9.3:** The City will encourage preservation and upgrades of the physical appearance and usability of buildings and sites with special historic and/or architectural interest, insofar as these improvements maintain the historical registry status of subject buildings and sites.
- ▶ **Policy Design-9.4:** The City will celebrate the history and cultural diversity of Live Oak by encouraging buildings, uses, and events that reflect that history and cultural diversity.

Conclusion

Adherence to the above policies would reduce this impact to a **less-than-significant** level, because future projects would be required to identify and evaluate historic sites and structures, and preservation and re-use of historic sites and structures would be encouraged. New development would be in character with existing historic structures, blending in to the community and enhancing modern usage of historic structures.

Mitigation Measure

No mitigation beyond the 2030 General Plan policies and programs is required.

IMPACT **Destruction of or Damage to As-Yet-Unknown Cultural Resources.** *Individual development projects within the Planning Area would involve grading, excavation or other ground-disturbing activities which could disturb or damage any as-yet-undiscovered archaeological resources or human remains. This impact would be less than significant.*

Individual development projects within the Planning Area would involve grading, excavation or other ground-disturbing activities which could disturb or damage any as-yet-undiscovered archaeological resources or human remains. It is possible that archaeological or architectural resources have been covered by later deposits that could be removed, exposing the cultural deposits during project-related construction activities. Prehistoric archeological indicators can include: obsidian and chert flakes and flaked stone tools; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of burned and unburned faunal bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells, and dumps.

The following proposed policies and programs in the 2030 General Plan address potential destruction or damage to known cultural resources:

Relevant Policies and Programs of the 2030 General Plan

GOAL Cultural-1: Identify, protect, and preserve Live Oak’s prehistoric resources.

- ▶ **Policy Cultural-1.1:** New development projects involving the movement, scraping, or leveling of soil should conduct archeological background research to determine if the project is likely to disturb a prehistoric site or traditional-use area. If disturbance is likely, site analysis will be conducted to identify resources of concern. The project will make all reasonable efforts to use site design to avoid impacts to any prehistoric site or traditional-use area.
- ▶ **Policy Cultural-1.2:** The City will use state legislation as a guideline for the identification and protection of prehistoric cultural resources or traditional-use areas.
- ▶ **Policy Cultural-1.3:** The City will keep the locations of archaeological sites confidential in order to prevent vandalism and looting.
- ▶ **Policy Cultural-1.4:** New developments shall be designed to provide view corridors to the Sutter Buttes by orienting major and minor collectors southwest to provide a valuable community aesthetic amenity and maintain vistas that were important to local Native American populations.
- ▶ **Implementation Program Cultural-1:** The City will require development projects to protect Native American and prehistoric resources through the following actions or those deemed equally effective by the City:
 - Identify and protect significant archaeological or traditional sites.
 - Request information from the Native American Heritage Commission and the North Central Information Center (NCIC) to determine if prehistoric sites or traditional use areas exist in the project site.
 - Avoid potential impacts to significant cultural resources whenever possible. If impacts are unavoidable, mitigate to a less-than-significant level. Determination of impacts, significance, and mitigation shall be made by a qualified professional archaeologist or architectural historian, as appropriate.

- Involve the local Native American community in determining the appropriate mitigation of impacts to significant prehistoric sites.
- Provide the North Central Information Center with appropriate Department of Parks and Recreation site record forms and cultural resources reports.
- Require a professional archaeologist to monitor all City-sanctioned ground-disturbing activities proposed within 150 meters of the Feather River, (agricultural uses are exempted).

Conclusion

Adherence to existing regulations and the above policies and implementation strategies would reduce impacts on undiscovered archaeological resources to a **less-than-significant** level, because the City will require analysis and mitigation, as appropriate, consistent with Section 15064.5 of the State CEQA guidelines. In the event of the inadvertent discovery of previously unknown archaeological sites during excavation or construction, all construction affecting the site shall cease and the contractor shall contact the City. The City shall obtain the services of a qualified archaeological professional to assess the significance of the find. If the resource is found to be significant an appropriate plan will be drafted to mitigate impacts.

Mitigation Measure

No mitigation beyond the 2030 General Plan policies and programs is required.

IMPACT 4.11-4 **Discovery of Human Remains.** *The general project vicinity is known to have been heavily utilized by Native American groups prehistorically; in addition, Live Oak was settled by European immigrants by the mid-19th century. While some burial ground locations (generally from the historic era) are known, there is the possibility that ground disturbing activities in the general plan update area could encounter prehistoric or historic human remains. This impact is considered to be less than significant.*

The general project vicinity is known to have been heavily utilized by Native American groups prehistorically; in addition, Live Oak was settled by European immigrants by the mid-19th century. While some burial ground locations (generally from the historic era) are known, there is the possibility that ground disturbing activities in the Planning Area could encounter prehistoric or historic human remains. California law recognizes the need to protect interred human remains and associated items of patrimony from vandalism and inadvertent destruction. The procedures for the treatment of human remains are contained in California Health and Safety Code Section 7050.5 and Section 7052 and California Public Resources Code Section 5097.

The following proposed policies and programs in the 2030 General Plan address potential destruction or damage to known cultural resources, including human remains:

Relevant Policies and Programs of the 2030 General Plan

GOAL Cultural-1: Identify, protect, and preserve Live Oak’s prehistoric resources.

- ▶ **Policy Cultural-1.1:** New development projects involving the movement, scraping, or leveling of soil should conduct archeological background research to determine if the project is likely to disturb a prehistoric site or traditional-use area. If disturbance is likely, site analysis will be conducted to identify resources of concern. The project will make all reasonable efforts to use site design to avoid impacts to any prehistoric site or traditional-use area.
- ▶ **Policy Cultural-1.2:** The City will use state legislation as a guideline for the identification and protection of prehistoric cultural resources or traditional-use areas.

- ▶ **Policy Cultural-1.3:** The City will keep the locations of archaeological sites confidential in order to prevent vandalism and looting.
- ▶ **Goal Cultural-2:** Identify, protect, and enhance Live Oak’s historic resources and associations.
- ▶ **Policy Cultural-2.2:** Roadway and other infrastructure shall be located to avoid taking any property within, or otherwise adversely affecting the Live Oak Cemetery.
- ▶ **Implementation Program Cultural-1:** The City will require development projects to protect Native American and prehistoric resources through the following actions or those deemed equally effective by the City:
 - Identify and protect significant archaeological or traditional sites.
 - Request information from the Native American Heritage Commission and the North Central Information Center (NCIC) to determine if prehistoric sites or traditional use areas exist in the project site.
 - Avoid potential impacts to significant cultural resources whenever possible. If impacts are unavoidable, mitigate to a less-than-significant level. Determination of impacts, significance, and mitigation shall be made by a qualified professional archaeologist or architectural historian, as appropriate.
 - Involve the local Native American community in determining the appropriate mitigation of impacts to significant prehistoric sites.
 - Provide the North Central Information Center with appropriate Department of Parks and Recreation site record forms and cultural resources reports.
 - Require a professional archaeologist to monitor all City-sanctioned ground-disturbing activities proposed within 150 meters of the Feather River, (agricultural uses are exempted).

Conclusion

Adherence to existing regulations and the above policies and implementation strategies would reduce impacts on human remains to a **less-than-significant** level, because the City and State will require adherence to California Health and Safety Code Section 7050.5 and Section 7052 and California Public Resources Code Section 5097. In accordance with the California Health and Safety Code, if human remains are uncovered during ground disturbing activities all such activities in the vicinity of the find shall be halted immediately and the Lead Agency or the Lead Agency’s designated representative shall be notified. The Lead Agency or the archaeological monitor shall immediately notify the county coroner. The coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or state lands (Health and Safety Code Section 7050.5[b]). If the coroner determines that the remains are those of a Native American, he or she must contact the Native American Heritage Commission by phone within 24 hours of making that determination (Health and Safety Code Section 7050[c]). The responsibilities of the Agency for acting upon notification of a discovery of Native American human remains are identified in detail in the California Public Resources Code Section 5097.9. The Agency or their appointed representative and the professional archaeologist will consult with a Most Likely Descendent (MLD) determined by the NAHC regarding the removal or preservation and avoidance of the remains and determine if additional burials could be present in the vicinity.

Mitigation Measure

No mitigation beyond the 2030 General Plan policies and programs is required.