

# 14 TRIBAL CULTURAL RESOURCES

## INTRODUCTION

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This chapter describes the environmental and regulatory setting for tribal cultural resources (TCRs) in the project site and surrounding area, identifies and analyzes impacts to TCRs from implementation of the Coyote Creek Agrivoltaic Ranch project (proposed project), and recommends mitigation measures to reduce or eliminate significant impacts. Cultural resources other than TCRs are discussed in Chapter 8, “Cultural and Paleontological Resources.”

The County released a Notice of Preparation (NOP) for this Environmental Impact Report (EIR) on January 19, 2022. Since publication of the NOP, written and verbal comments have been received from Wilton Rancheria, United Auburn Indian Community (UAIC), Lone Band of Miwok Indians, and Shingle Springs Band of Miwok Indians. Early in this inter-governmental consultation process, the tribes requested the County to identify and analyze project impacts to TCRs in consideration of tribal knowledge and other information obtained through continued tribal consultation. In their initial comment letter dated February 10, 2022, and in response to the NOP, UAIC specifically listed their recognition of TCRs as including (but not limited to) Indigenous archaeological sites, sacred lands, sacred sites, Traditional Cultural Properties, midden and/or anthropogenic soils, burials, cremations, and all related burial or ceremonial items, burial soils, isolated indigenous objects/artifacts, cultural landscapes, native plants, and plant gathering areas. Responses received on the NOP are included as Appendix PD-1 and other public comment(s) received prior to the NOP release date are included as Appendix PD-2.

In recognition of these comments received early in the intergovernmental consultation process, the County, applicant, and consulting tribes participated in extensive consultation over a period of approximately 3 years. Tribal coordination has primarily occurred directly between the County, consulting tribes, and the applicant. During government-to-government consultation, culturally affiliated tribes identified TCRs within the project site and also outlined the importance of the Tosewin Region and its contribution to past tribal activities and history. This information from the tribes has been captured in a draft TCR Avoidance and Minimization Plan (AMP), which has been shared with consulting tribes, and which provides guidelines for the avoidance and protection of tribal and archaeological resources, as well as the preparation of an ethnography of the Tosewin Region based on oral interviews and archival information from the UAIC, Shingle Springs Band of Miwok Indians, Lone Band of Miwok Indians, and Wilton Rancheria culturally affiliated tribes.

A TCR is defined by CEQA as a site, feature, place, cultural landscape, sacred place, or object with cultural value to a California Native American tribe that either qualify as a historical resource or are a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be eligible for listing on the California Register of Historic Places.

Historical resources, unique archaeological resources, or non-unique archaeological resources may also be TCRs if they meet these criteria.

A landscape that meets the above criteria is a TCR to the extent that it is geographically defined in terms of its size and scope.

TCRs may contain physical cultural remains or may be places within a landscape.

## **NATIVE AMERICAN TRIBES**

The region surrounding the project site would have been near the historical nexus of Plains Miwok and Nisenan tribal territories. Tribal participants in AB 52 intergovernmental consultation for this project were the UAIC, Lone Band of Miwok Indians, Shingle Springs Band of Miwok Indians, and Wilton Rancheria. See Chapter 8, Cultural and Paleontological Resources, for the precontact and ethnographic context of the project site and surrounding area.

### ***UNITED AUBURN INDIAN COMMUNITY***

The UAIC is a federally recognized Tribe comprised of both Miwok and Maidu (Nisenan) Tribal members who are traditionally and culturally affiliated with the greater Sacramento area. The Tribe has deep spiritual, cultural, and physical ties to their ancestral land and are contemporary stewards of their culture and landscapes. The Tribal community represents a continuity and endurance of their ancestors by maintaining their connection to their history and culture. It is the Tribe's goal to ensure the preservation and continuance of their cultural heritage for current and future generations.

The reestablishment of the United Auburn Indian Tribe began when the United States Department of Interior documented the existence of a separate, cohesive band of Maidu and Miwok Indians, occupying a village on the outskirts of the city of Auburn in Placer County. In 1917, the United States acquired land in trust for the Auburn Band near the city of Auburn and formally established a reservation, known as the Auburn Rancheria. Tribal members continued to live on the reservation as a community despite great adversity (UAIC 2024).

In 1953, the United States Congress enacted the Rancheria Act, authorizing the termination of federal trust responsibilities to a number of California Indian tribes including the Auburn Band. With the exception of a 2.8-acre parcel containing a tribal church and a park, the government sold the land comprising the Auburn Rancheria. The United States terminated federal recognition of the Auburn Band in 1967 (UAIC 2024).

In 1991, surviving members of the Auburn Band reorganized their tribal government as the United Auburn Indian Community and requested the United States to formally restore their federal recognition. In 1994, Congress passed the Auburn Indian Restoration Act, which restored the Tribe's federal recognition. The Act provided that the Tribe may acquire land in Placer County to establish a new reservation (UAIC 2024). In 2002, UAIC acquired 49.21-acres under a land trust with the Bureau of Indian Affairs (BIA) to build and operate a casino (BIA 2002 Feb 5). In 2018, UAIC entered into another land trust

with the BIA, for 1,100-acres in Placer County to build 110 single-family homes and other amenities for tribal members (*Indian Country Today* 2018 Sep 12).

### ***LONE BAND OF MIWOK INDIANS***

The Lone Band of Miwok Indians is comprised of Northern Sierra Miwok and Nisenan peoples. For thousands of years, their people have lived on the lands that today make up Amador County and the surrounding area. Following restoration to federal recognition in 1994, the Tribe has worked tirelessly to acquire, and restore to sovereign status, lands they once called their own. In March 2020 they successfully restored their first trust lands in Northwestern Amador County. Restoration of homelands has ushered in a new era for the Lone Band, as they continue to flourish as a government and a people, and to build a community to support many generations to come (Lone Band of Miwok Indians 2024).

### ***SHINGLE SPRINGS BAND OF MIWOK INDIANS***

The Shingle Springs Band of Miwok Indians is a federally recognized Tribe. Members are descendants of the Miwok and Southern Maidu “Nisenan” Indians who thrived in California’s fertile central valley for thousands of years before contact with Europeans. Although early encounters between Indians and Spanish colonizers in the late 1700s resulted in some violence and spread of disease, it was not until the California gold rush of 1849 that the Miwok and Southern Maidu “Nisenan” Indians experienced devastating and sustained genocide. As a result of the gold rush, Indians in northern California lost the use and control of their aboriginal territories, which forced whole tribes to scatter. The impact of the gold rush era is revealed in population statistics. In 1769, an estimated 310,000 native people lived within the borders of the modern-day California. By 1913, only 17,000 Indian people remained in the area.

Despite these harrowing obstacles, Miwok and Southern Maidu “Nisenan” Indians survived the 19th century. In 1916, while conducting a census of Indian people, an agent of the Department of the Interior discovered Indians living along the Sacramento River. The federal government called these native peoples the “Sacramento-Verona Band of Homeless Indians” and set about acquiring land for them. That land is known as the Shingle Springs Rancheria, just off present-day U.S. Highway 50. In 1970, the Tribe formally organized under their Articles of Association and set up home sites on the Rancheria. In 1976, the Tribe’s Articles of Association were approved by the Secretary of the Interior. Since the adoption of the Tribe’s Articles of Association in 1976, the Tribe has sought to honor and protect its territory and cultural heritage to benefit future generations.

The Rancheria has changed significantly from its humble beginnings and today is a bustling, vibrant community. The Tribe is financially independent and has diverse enterprises and programs including, most notably, Red Hawk Casino, the Shingle Springs Health & Wellness Center and the Tribal Temporary Assistance for Needy Families (TANF) Program. Its Business Development Board is dedicated to developing other enterprises for the Tribe’s long-term sustainability (Shingle Springs Band of Miwok Indians 2024).

### **WILTON RANCHERIA**

Members of Wilton Rancheria are descendants of the Penutian linguistic family identified as speaking the Miwok dialect. The Tribe's Indigenous territory encompasses Sacramento County and the land the Tribe's ancestors inhabited were located along a path of massive death and destruction of California Indians caused by Spanish, Mexican, and American military incursions, disease, and slavery, and the violence accompanying mining and settlements (Wilton Rancheria 2024). Between March 1851 and January 1852, three commissioners hastily negotiated eighteen treaties with representatives of some of the indigenous population in California. The Treaty of the Forks of the Cosumnes River ceded the lands on which the Wilton Rancheria in Sacramento County was later established but promised to establish a rancheria on the Cosumnes River.

The Tribe's ancestors came back from nearly being annihilated only to have their children taken to boarding schools that stripped their indigenous language and culture further. Finally, in July 1928, the United States acquired land in trust for the Miwok people that were living in Sacramento County. A 38.77-acre tract of land in Wilton was purchased from the Cosumnes Company which formally established the Wilton Rancheria. However, under the California Rancheria Act of 1958, the federal government terminated federal recognition of the tribe in 1964.

In 1991, surviving members of Wilton Rancheria reorganized their tribal government and in 1999 requested the United States formally restore their federal recognition. A U.S. District Court Judge restored Wilton Rancheria as a Federally Recognized Tribe in 2009. The Tribe passed their constitution in 2011. It stated its four branches of government that include the Office of the Chair & Vice Chair, the Tribal Council, a Tribal-Court, and the General Council. The Tribe's administration office is located in the City of Elk Grove, Sacramento County in California (Wilton Rancheria 2024).

### **NATIVE AMERICAN CONSULTATION AND COORDINATION**

The County conducted government-to-government consultation with traditionally culturally affiliated tribes in accordance with Assembly Bill (AB) 52. County Planning and Environmental Review received requests to consult from United Auburn Indian Community, Lone Band of Miwok Indians, Shingle Springs Band of Miwok Indians, and Wilton Rancheria. Tribal consultation for this project was conducted in good faith and with thorough communication efforts spanning three years of correspondence, meetings, site visits, and direct partnerships with tribal representatives. Tribal coordination has primarily occurred directly between the County, consulting tribes, and the applicant. During government-to-government consultation, culturally affiliated tribes identified TCRs within the project site and outlined the importance of the Tosewin Region (discussed below) and its contribution to past tribal activities and history. This information from the tribes resulted in a proposed TCR AMP. In addition to providing guidelines for the avoidance and protection of tribal and archaeological resources, the TCR AMP provides for the preparation of an ethnography of the Tosewin Region based on oral interviews and archival information from the UAIC, Shingle Springs Band of Miwok Indians, Lone Band of Miwok Indians, and Wilton Rancheria culturally affiliated tribes.

The County engaged in consultation with all four culturally affiliated tribes between January 2022 and December 2024. Site visits occurred with the consulting tribes on June 1 and June 2, 2022, and several subsequent meetings have been held with tribal representatives. Attendees included tribal representatives from Shingle Springs Rancheria (June 1), Wilton Rancheria (June 1 and June 2), and UAIC (June 2). Agency representatives from the County and Sacramento Municipal Utility District (SMUD) were present. Lastly, representatives from the project applicant team and Dudek were also present and available to discuss preliminary design plans and review the archaeological findings to date.

The visits included surveys (both pedestrian and forensic canine) of two indigenous sites with potential human remains that intersect the project site. The June 2 visit also included a visit to newly recorded bedrock milling features and areas outside of the solar development area, but within the portion of the project site near the possible historic-era reburial location of Walltown Nisenan Chief Rabbit George. The specifics of this visit and information provided by these consulting tribes are on file with the County.

## **ENVIRONMENTAL SETTING**

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Refer to the “Environmental Setting” section of Chapter 8, “Cultural and Paleontological Resources,” of this EIR for an overview on the Pre-Contact Native American history and subsequent land use history of the project site. Below is a summary of data from Chapter 8, relevant to understanding archaeological TCRs, followed by oral and ethnographic accounts of Indigenous culture, as well as the means and methods by which TCRs are recognized and evaluated.

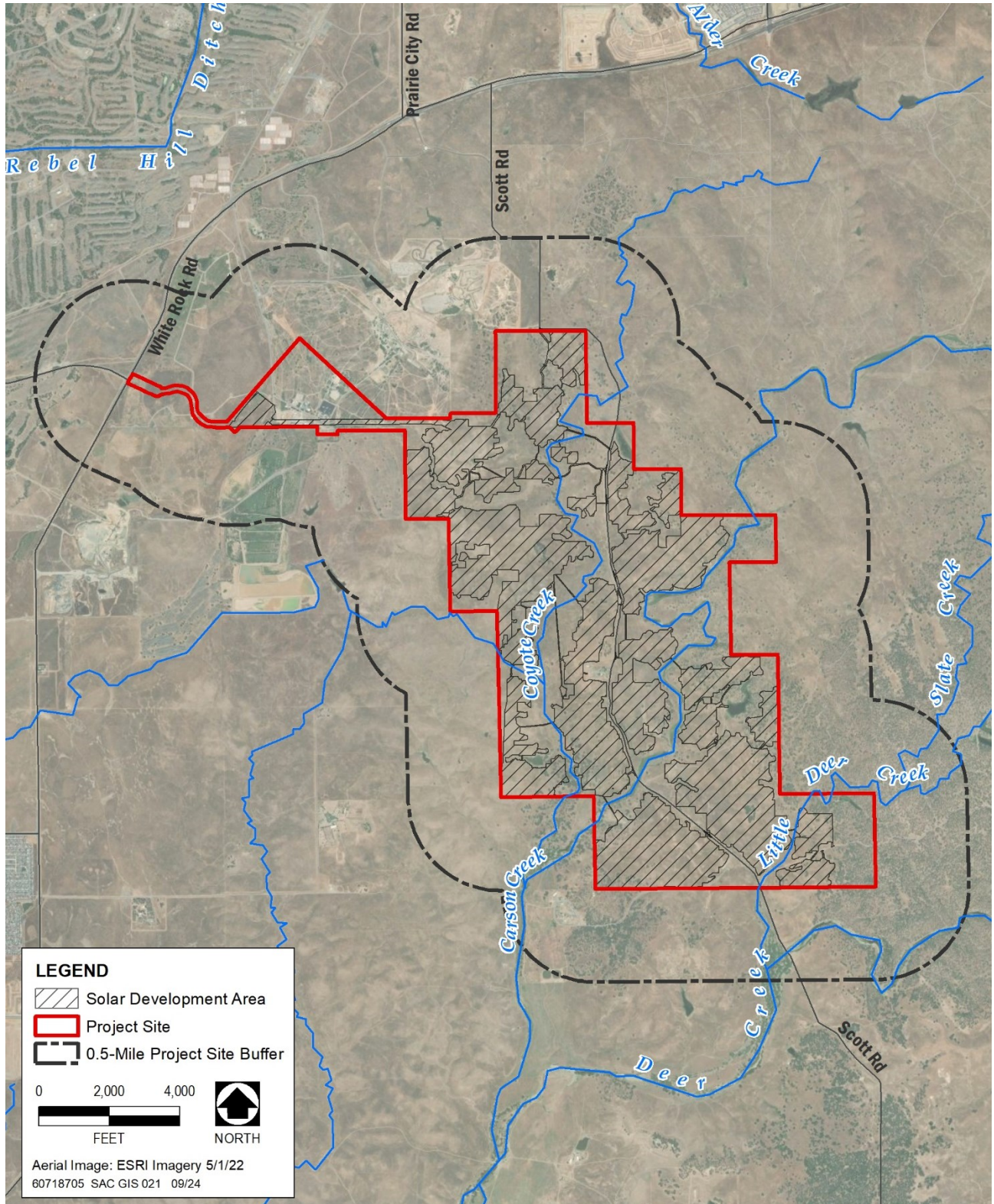
## **RECORDS SEARCH RESULTS**

A records search of the 2,704-acre project site<sup>1</sup> (Plate TCR-1) and a 0.5-mile radius was completed by staff at the North Central Information Center (NCIC) of the California Historical Resources Information System, located at California State University, Sacramento, on June 17, 2021 to identify cultural resources, historic-age built environment resources, and TCRs. The records search included reviews of previously conducted studies, the National Register of Historic Places (NRHP), CRHR, the California Inventory of Historic Resources (1976), California Historical Landmarks (1996), California Points of Historical Interest (1992 and updates), the Historic Property Data File, and historic General Land Office and USGS maps.

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<sup>1</sup> The Coyote Creek Agrivoltaic Ranch Project site (project site) consists of 2,704 acres which exceeds the limits of impact for the proposed photovoltaic facility. The “solar development area” is the 1,412-acre portion of the project site where project components and site disturbance activities related to construction and operation of the proposed photovoltaic solar energy facility could occur (i.e., the limits of direct impact). The solar development area is synonymous with the “Project Area of Potential Effects (APE)” in the *Archaeological Resources Inventory Report for the Coyote Creek Agrivoltaic Ranch Project* (Archaeological Resources Inventory Report) prepared by Dudek in February 2024.

**Plate TCR-1: Project Site and Solar Development Area with 0.5-Mile Project Site Buffer**



The records search identified eight previously recorded ancestral Native American archaeological sites, that are presumed to satisfy the definition of a TCR under Public Resources Code sections 21074 and 5024.1 and are therefore considered TCRs for the purposes of this EIR. The sites recorded within the project site, but excluded from the solar development area, include possible burial locations and habitation debris, a lithic scatter, and bedrock milling features.

## **ETHNOGRAPHIC CONTEXT**

When the first European explorers entered the region between 1772 and 1821, an estimated 100,000 people, about one third of the state's native population, lived in the Central Valley (Moratto 1984). Anthropologists have most commonly grouped the native peoples of California by the known roots of their spoken language on the theory that language is relatively straight forward, and because peoples speaking the same language tend to have other cultural traits in common (Anderson 2005). However, the bonds between people that share a language are often less important than those created by other sorts of relationships. This was especially true in most of Native California, where the nature of trade, warfare, cooperation, and almost every other kind of interaction depended on whether the individuals involved belonged to the same sociopolitical group, not whether they spoke a common language (Anderson 2005). At least seven distinct languages of Penutian stock were spoken among these populations: Wintu, Nomlaki, Konkow, River Patwin, Nisenan, Miwok, and Yokuts (Kroeber 1925). Common linguistic roots and similar cultural and technological characteristics indicate that these groups shared a long history of interaction (Rosenthal et al. 2007). The Central area (as defined by Kroeber 1925) encompasses the project site and includes the Nisenan or Southern Maidu (ECORP 2024).

Ethnographically, the project site falls within the southwestern portion of the territory occupied by the Penutian-speaking Nisenan. Nisenan inhabited the drainages of the Yuba, Bear, and American rivers, and also the lower reaches of the Feather River, extending from the east banks of the Sacramento River on the west to the mid to high elevations of the western flank of the Sierra Nevada to the east (Wilson and Towne 1978). The territory extended from the area surrounding the current City of Oroville on the north to a few miles south of the American River in the south. The Sacramento River bounded the territory on the west, and, in the east, it extended to a general area located within a few miles of Lake Tahoe (ECORP 2024).

Prior to contact, many language groups, particularly in north central California, were subdivided into politically and economically independent groups consisting of several unrelated families that collectively owned and defended a specific tract of land. Alfred Kroeber called these groups "village communities" or "tribelets". Nisenan (meaning "from among us" or "of our side") are members of the Maidu Family of the Penutian stock and are generally divided into three groups based on dialect differences: the Northern Hill (mountain) Nisenan in the Yuba River drainage; the Valley Nisenan along the Sacramento River; and the Southern Hill (foothills) Nisenan along the American River (Beals 1933; Kroeber 1925; Wilson and Towne 1978). Individual and extended families owned hunting and gathering grounds, and trespassing was discouraged (Kroeber 1925; Wilson and

Towne 1978). Residence was generally patrilocal, but couples maintained choice in the matter (Wilson and Towne 1978).

Tribelet chiefs tend to be hereditary, with the chieftainship being the property of a single patrilineage within the tribelet. Tribelet populations of Valley Nisenan were as large as 500 persons (Wilson and Towne 1982), while foothill and mountain tribelets ranged between 100 persons and 300 persons (Levy 1978; Littlejohn 1928). Each tribelet owned a bounded tract of land and exercised control over its natural resources (Littlejohn 1928). Beals (1933) estimated that Nisenan tribelet territories averaged approximately 10 miles along each boundary, or 100 square miles, with foothill territories tending to encompass more area than mountain territories. Littlejohn (1928) noted that in many instances, these boundaries were indicated by piles of stones. Regardless, Nisenan groups tended to stay within their village areas except during the summer season when groups of people would sojourn into the mountains to hunt and gather (Littlejohn 1928).

The basic social and economic group for the Nisenan was and is the family or household unit. The nuclear and extended family usually lived in proximity to each other as a group. These family units were combined into distinct village or hamlet groups, each largely composed of consanguine relatives (Beals 1933). Lineage groups were important political and economic units that combined to form tribelets, which were the largest socio-political unit identified for Nisenan (Wilson and Towne 1978). Villages typically included family dwellings, acorn granaries, a sweathouse, and a dance house, owned by the chief (ECORP 2024).

### ***INDIGENOUS LIFEWAYS***

Prior to European contact, Nisenan practiced seasonal migration, a subsistence strategy involving moving from one area or elevation to another to harvest plants, fish, and hunt game across contrasting ecosystems that were in relatively close proximity. Valley Nisenan generally did not range beyond the valley and lower foothills, while foothill and mountain groups ranged across a more extensive area that included jointly shared territory whose entry was subject to traditional understandings of priority of ownership and current relations between the groups (d'Azevedo 1963). Although tribal members no longer practice seasonal migration, seasonally available natural resources are nonetheless important in maintaining connection with the land, with local tribes dedicated to preserving and protecting the cultural and ecological heritage of their ancestors.

During most of the year, prior to the cultural devastation of the Gold Rush, Nisenan usually lived in permanent villages located below about 2,500 feet elevation that generally had a southern exposure, were surrounded by an open area, and were located above, but close to watercourses (Littlejohn 1928). Beals (1933) noted that permanent villages in the foothills and mountains were usually located on high ground between rivers. Valley villages were also usually located on raised areas to avoid flooding. Littlejohn (1928) stated that at one time or another there were settlements located on every small stream within Nisenan territory, but permanent villages were not located in steep, dark, narrow canyons of large rivers, or at altitudes where deep snows persisted throughout the winter.



In fact, permanent occupation sites above 3,500 feet elevation were only located in protected valleys (Littlejohn 1928).

Nisenan built residential dwellings, ceremonial structures, semi-subterranean sweat lodges, and menstruation huts (Wilson and Towne 1978). The typical hill-and-mountain dwelling was the conical bark house made by overlapping three or four layers of bark with no interior support. A thatched house was used at lower elevations, consisting of a conical framework of poles that was covered by brush, grass, or tules. Semi-subterranean earth lodge roundhouses were also built by hill and mountain groups and used for ceremonial gatherings, assemblies, local feasts, and for housing visitors (Beals 1933; Levy 1978). These ancestral methods and materials are used by tribal members today in the construction of ceremonial structures.

Flaked-stone and groundstone tools were common among the ethnographic Nisenan and included knives, arrow and spear points, club heads, arrow straighteners, scrapers, rough cobble and shaped pestles, bedrock mortars, grinding stones (metates), pipes, charms, and short spears (Beals 1933; Wilson and Towne 1978). Beals (1933:341) also noted that certain colored stone points were considered *lucky* and could be traded for four or five other projectile points. In addition, obsidian was highly valued and imported. Ethnographic Nisenan informants stated that obsidian only came from a place to the north, outside of Nisenan territory (Littlejohn 1928:32). Littlejohn (1928) also noted that soapstone was used for bowl mortars, although informants of Wilson and Towne (1978) claimed that neither they nor their ancestors made mortars (ECORP 2024). Trade in these raw materials, and the production and distribution of finished lithic tools, is an important element of maintenance of traditional lifeways by modern Nisenan and Miwok and, more broadly, in the maintenance of intertribal relationships throughout California.

Wood was used for a variety of tools and weapons, including both simple and sinew-backed bows, arrow shafts and points, looped stirring sticks, flat-bladed mush paddles, pipes, and hide preparation tools (Wilson and Towne 1978). Cordage was made from plant material and used to construct fishing nets and braided and twined tumplines. Soaproot brushes were commonly used during grinding activities to collect meal or flour. Specialized food processing and cooking techniques included the grinding and leaching of ground acorn and buckeye meal; burning of umbelliferae, a plant with cabbage-like leaves, to obtain salt; and roasting various foods in earth ovens (d'Azevedo 1986; Wilson and Towne 1978). Both hill and valley groups used the bedrock mortar and pestle (both rough cobble and shaped) to grind acorns, pine nuts, seeds, other plant foods, and meat. A soaproot brush was used to sweep ground meal into mortar cups and collect flour. Fist-sized, heated stones were used to cook or warm liquid-based foods, such as acorn gruel and pine nut meal. Whole acorns were stored in granaries, and pine nuts were stored in large pine bough-covered caches (Wilson and Towne 1978).

Ethnographically, Nisenan used baskets for a variety of tasks, including storage, cooking, traps, cradles, hats, cages, serving and processing foods, seed beaters, and winnowing trays. Basket manufacturing techniques included both twining and coiling, and baskets were decorated with a variety of materials and designs. Other woven artifacts include material made of tule, milkweed, sage fibers, or wild hemp (Wilson and Towne 1978).

Traditional basket making and other weaving technologies are still practiced by members of the Shingle Springs Rancheria and serve as a connection with traditional lifeways, as well as a means of outreach to the public to teach tribal connections to the land. For example, Nisenan weavers participate in public basket weaving demonstrations to teach the cultural significance of baskets and the importance of environmental reciprocity.

### ***ECOLOGY AND PEOPLE***

The local ecology of the Sacramento region is inextricably linked with the Nisenan people. Today, tribal artisans and culture bearers maintain the old ways through the practice of traditional ecological knowledge. The first European explorers and American trappers entering the Sacramento Valley described the landscape as one providing nourishment through mild gathering and easy hunting with “game aplenty” (Cronise 1868), and the availability of resources influenced the location of Nisenan permanent villages, since they acquired a proportion of their food resources from the surrounding general area (Littlejohn 1928; Wilson and Towne 1978). Juan Jose Warner, who traveled through the San Joaquin Valley during the winter of 1832-33 noted, “The banks of the Sacramento and San Joaquin, and the numerous tributaries of these rivers, and the Tule Lake [probably Tulare Lake], were at this time studded with Indian villages...the population of this extensive valley was so great that it caused surprise, and required a close investigation into the nature of a country that without cultivation, could afford the means of subsistence to so great a community.”

In actuality, the productive and diverse landscape were the outcome of sophisticated and complex harvesting and management practices by tribes (Anderson 2005). As today, the Nisenan protected and tended favored plant species and habitats, harvested plant and animal products at carefully calculated frequencies and intensities, and practiced an array of horticultural techniques. Through coppicing, pruning, harrowing, sowing, weeding, burning, digging, thinning, and selective harvesting, they influenced desired characteristics increased populations of useful plants, and altered the structures and compositions of plant communities (Anderson 2005).

Nisenan groups managed many wild plants, primarily by controlled burning which removed underbrush and encouraged growth of edible grasses, seed-producing plants, and other useful plant resources (e.g., basketry materials) (Blackburn and Anderson 1993). The use of fire for environmental modification and as an aid in hunting is frequently mentioned in the ethnographic literature relating to the Nisenan. Littlejohn (1928) noted that the lower foothills in the valley oak zone were thickly covered with herbaceous vegetation that was annually burned by the Nisenan to remove and limit its growth while facilitating the growth of oaks for harvesting acorns. The annual fires destroyed seedlings but did not harm established oak trees. Beals (1933) also noted that the Nisenan regularly burned the land, primarily for the purpose of driving game, and consequently created much more open stands of timber than currently exist in the area. Beals (1933:363) informants stated that before their traditional burning regimes were halted by European-Americans, “it was often a mile or more between trees on the ridges.” In addition to removing underbrush, improving travel conditions, and facilitating plant growth, burning may also have improved areas of deer forage, potentially altering migratory patterns of

deer populations by lessening their need to seek fresh forage on a seasonal basis (Matson 1972). The loss of cultural burning during the 19<sup>th</sup> and 20<sup>th</sup> centuries is now widely recognized as one of the causal factors for more recent devastating wildfires throughout California, and government agencies have begun calling on tribes to help prevent wildfires by bringing back this traditional cultural practice.

Communally organized Nisenan task groups exploited a wide variety of resources. Ethnographically, communal hunting drives were undertaken to obtain deer, quail, rabbits, and grasshoppers. Bears were hunted in the winter when their hides were at their best condition. Runs of salmon in the spring and fall provided a regular supply of fish, while other fish such as suckers, pike, whitefish, and trout were obtained with snares, fish traps, or with various fish poisons such as soaproot and wild cucumber (Beals 1933; Faye 1923; Starkey 2014; Wilson and Towne 1978). Birds were caught with nooses or large nets and were also occasionally shot with bow and arrow. Game was prepared by roasting, baking, or drying. In addition, salt was obtained from a spring near modern-day Rocklin (Wilson and Towne 1978).

Acorns were gathered in the fall and stored in granaries for use during the rest of the year. Although acorns were the staple of the Nisenan diet, they also harvested roots like wild onion and Indian potato, which were eaten raw, steamed, baked, or dried and processed into flour cakes to be stored for winter use (Wilson and Towne 1978). Buckeye, pine nuts, hazelnuts, and other edible nuts further supplemented the diet. Key resources such as acorns, salmon, and deer were spiritually managed through ceremonies to facilitate successful exploitation and equitable distribution (Beals 1933; Swezey 1975; Swezey and Heizer 1977).

Trade was important, with goods traveling between the coast and valleys into the Sierra Nevada, and beyond to the east. Coastal items like shell beads, salmon, salt, and Foothill pine nuts were traded for resources from the mountains and farther inland, such as bows and arrows, deer skins, and sugar pine nuts. In addition, obsidian was imported from the north (Wilson and Towne 1978).

For the Nisenan, and other local tribal groups, nature is considered fully alive and sensate: every rock, hill, valley, wind, plant, and animal is inhabited by spirit forces. Ethnographically, many cultural rules existed to keep humans from offending these spirits, who might otherwise react emotionally and cause lightning, thunder, whirlwinds, or earthquakes. Taboos were rigidly observed concerning diet and the physical body (Anderson 2005). While gathering or hunting, a belief centric to Indigenous Californians is to: (1) leave some of what is gathered for the other animals and (2) do not waste what you have harvested. Some acorns were always left on oak trees, some berries on bushes, and some tubers in the ground for “the birds and squirrels and other animals,” attested Marie Potts, a Maidu elder (Anderson 2005).

The spiritual practices that surround the act of harvesting, hunting, or fishing are as important as the act itself. How one approaches a plant or animal—with what frame of mind and heart—is very significant. A personal connection was often made by saying a silent prayer, leaving an offering, and thanking the plant or animal for the gift of its life

(Anderson 2005). Straying from this common practice is understood to result in the diminishment of plant and animal numbers. A prominent Pomo basket weaver explained this personal connection to place and to the plants:

“When you come to dig these basket roots, you don’t rush there and run all over, you don’t do that. My mother always approached this grass very slowly. She’d come and stand and say a prayer. She also had a cane, and she’d touch this grass with it very slowly. She didn’t go in there and just start digging. She’d come to a certain bed and try it; then she’d go on to another one and try there. Before she ever sat down, she’d do these three or four times. Then she’d sit down. She always asked the Spirit to give her plenty of roots. Then she’d say, “Thank you, Father,” before she dug. And after she’d finished and had got what she wanted, she said a prayer, which is like saying, “That’s good, you gave me enough. Amen, Father.” (Anderson 2005).

As described above, a wide variety of ecological resources are important to Nisenan traditional lifeways. Table TCR-1, below, presents a list of resources that were and are harvested by Nisenan people, and their traditional uses.

**Table TCR-1: Traditional Natural Resources Utilized in Central Valley, California**

Common Name	Type	Scientific Name	Used For
Bear Grass or White Grass	Herbaceous Plants	<i>Xerophyllum tenax</i>	Baskets
Brodiaeas	Herbaceous Plants	<i>Brodiaea;</i> <i>Dichelostemma;</i> <i>Triteleia</i>	Food
Canary Grasses	Herbaceous Plants	<i>Phalaris</i> sp.	Food
Cattails	Herbaceous Plants	<i>Typha</i> sp.	Unspecified
Clarkias or Farewell-to-Spring	Herbaceous Plants	<i>Clarkia</i> sp.	Food
Clovers	Herbaceous Plants	<i>Trifolium</i> sp.	Food, Regalia
Dandelions	Herbaceous Plants	<i>Taraxacum</i> sp.	Medicine
Dogbane or Indian Hemp	Herbaceous Plants	<i>Apocynum cannabinum</i>	Cordage
Goosefoot	Herbaceous Plants	<i>Chenopodium</i> sp.	Food
Ithuriel’s Spear or Grass-Nut	Herbaceous Plants	<i>Triteleia laxa</i>	Food
Mariposa Lillies	Herbaceous Plants	<i>Calochortus</i> sp.	Food
Milkweeds	Herbaceous Plants	<i>Asclepias</i> sp.	Cordage, Medicine, Food
Miner’s Lettuce	Herbaceous Plants	<i>Claytonia perfoliata</i>	Food
Monkeyflower	Herbaceous Plants	<i>Mimulus guttatus</i>	Food, Medicine
Native Barley	Herbaceous Plants	<i>Hordeum intercedens</i>	Food
Nightshades	Herbaceous Plants	<i>Solanum</i> sp.	Food, Medicine
Red Maids	Herbaceous Plants	<i>Calandrinia cillata</i>	Food

Common Name	Type	Scientific Name	Used For
Sedges	Herbaceous Plants	<i>Carex</i> sp.	Food
Soap Plant	Herbaceous Plants	<i>Chlorogalum pomeridianum</i>	Medicine, Food, Poison, Soap
Tarweeds	Herbaceous Plants	<i>Madia, Hemizonia, and Blepharizonia</i> sp.	Food, Building Material
Toloache or Jimson Weed	Herbaceous Plants	<i>Datura wrightii</i>	Medicine, intoxicant
Tules or Bulrushes	Herbaceous Plants	<i>Schoenoplectus</i> sp.	Building Material, Basketry, Clothing, Regalia, Boats, Food
Turkey Mullein	Herbaceous Plants	<i>Ermocarpus setigerus</i>	Poison
Wild Oats	Herbaceous Plants	<i>Avena</i> sp.	Food
Wild Onions	Herbaceous Plants	<i>Allium</i> sp.	Food
Wild Strawberries	Herbaceous Plants	<i>Fragaria</i> sp.	Food
Wild Sunflowers	Herbaceous Plants	<i>Helianthus</i> sp.	Food
Wild Tobaccos	Herbaceous Plants	<i>Nicotiana</i> sp.	Intoxicant, Medicine
California Maiden-Hair Fern	Mosses and Ferns	<i>Adiantum jordanii</i>	Basketry
Big-leaf Maple	Trees and Shrubs	<i>Acer macrophyllum</i>	Building Material, Clothing, Food Preservation
Black Oak	Trees and Shrubs	<i>Quercus kelloggii</i>	Food, Building Material, Fuel, Tools, Weapons
Blue Oak	Trees and Shrubs	<i>Quercus douglasii</i>	Food, Building Material, Fuel, Tools, Weapons
California Bay or Laurel	Trees and Shrubs	<i>Umbellularia californica</i>	Medicine, Weapons
California Blackberry	Trees and Shrubs	<i>Rubus ursinus</i>	Food
California Buckeye	Trees and Shrubs	<i>Aesculus californica</i>	Food, Tools
California Hazel	Trees and Shrubs	<i>Corylus cornuta</i>	Food, Basketry, Weapons
California Wild Grape	Trees and Shrubs	<i>Vitis californica</i>	Food, cordage, cooking
Canyon Live Oak	Trees and Shrubs	<i>Quercus chrysolepis</i>	Food, Building Material, Fuel, Tools, Weapons
Currants and Gooseberries	Trees and Shrubs	<i>Ribes</i> sp.	Food
Elderberries	Trees and Shrubs	<i>Sambucus</i> sp.	Food, Musical Instruments, Tobacco Pipes
Foothill Pine or Gray Pine	Trees and Shrubs	<i>Pinus sabiniana</i>	Food, Fuel, Building Material, Basketry, Medicine
Incense-Cedar	Trees and Shrubs	<i>Calocedrus decurrens</i>	Building Material, Boats, Pigment, Flavoring
Interior Live Oak	Trees and Shrubs	<i>Quercus wislizenii</i>	Food, Building Material, Fuel, Tools, Weapons
Manzanitas	Trees and Shrubs	<i>Arctostaphylos</i> sp.	Medicinal Food, Fuel, Tools
Mountain Dogwood	Trees and Shrubs	<i>Cornus nuttallii</i>	Medicine
Oregon Oak	Trees and Shrubs	<i>Quercus garryana</i>	Food, Building Material, Fuel, Tools, Weapons

Common Name	Type	Scientific Name	Used For
Ponderosa Pine	Trees and Shrubs	<i>Pinus ponderosa</i>	Food, Building Material, Fuel, Basketry
Skunkbush	Trees and Shrubs	<i>Rhus trilobata</i>	Medicine
Sugar Pine	Trees and Shrubs	<i>Pinus lambertiana</i>	Food, Building Material
Toyon	Trees and Shrubs	<i>Heteromeles arbutifolia</i>	Food
Valley Oak or White Oak	Trees and Shrubs	<i>Quercus lobate</i>	Food, Building Material, Fuel, Tools, Weapons
Western Redbud	Trees and Shrubs	<i>Cercis occidentalis</i>	Basketry
White Fir	Trees and Shrubs	<i>Abies concolor</i>	Poison
Willows	Trees and Shrubs	<i>Salix</i> sp.	Basketry, Cordage, Building Material, Fuel, Clothing, Weapons
Wormwoods or Mugworts	Trees and Shrubs	<i>Artemisia</i> sp.	Medicine
Yerba Santa or Mountain Balm	Trees and Shrubs	<i>Eriodictyon californicum</i>	Medicine
Turtles	Amphibians and Reptiles	<i>Testudines</i>	Food
Western Rattlesnake	Amphibians and Reptiles	<i>Crotalus viridis</i>	Poison
Chinook or King Salmon	Anadromous Fishes	<i>Oncorhynchus tshawytscha</i>	Food
Pacific Lamprey	Anadromous Fishes	<i>Lampetra tridentate</i>	Food
Rainbow Trout	Anadromous Fishes	<i>Oncorhynchus mykiss</i>	Food
Sturgeons	Anadromous Fishes	<i>Acipenser</i> sp.	Food
Crayfish	Crustaceans/Water Invertebrates	<i>Astacidae</i> sp.	Food
Hardhead	Freshwater Fishes	<i>Mylopharodon conocephalus</i>	Food
Sacramento Perch	Freshwater Fishes	<i>Archoplites interruptus</i>	Food
Sacramento Splittail	Freshwater Fishes	<i>Pogonichthys macrolepidotus</i>	Food
Sacramento Sucker	Freshwater Fishes	<i>Catostomus occidentalis</i>	Food
Steelhead	Freshwater Fishes	<i>Onocorynchus irideus</i>	Food
Thicktail Chub	Freshwater Fishes	<i>Gila crassicauda</i>	Food
Angleworms or Earthworms	Insects/Terrestrial Invertebrates	<i>Lumbricus</i> sp.	Food
Ants	Insects/Terrestrial Invertebrates	<i>Formicae</i> sp.	Food
California Gall Wasp	Insects/Terrestrial Invertebrates	<i>Andricus quercuscalifornicus</i>	Medicine

Common Name	Type	Scientific Name	Used For
Caterpillars	Insects/Terrestrial Invertebrates	<i>Lepidoptera</i>	Food
Ceanothus Silk Moth and Polyphemus Moth	Insects/Terrestrial Invertebrates	<i>Hyalophora euryalus</i> and <i>Antheraea Polyphemus</i>	Musical Instruments
Grasshoppers	Insects/Terrestrial Invertebrates	<i>Caelifera</i> sp.	Food
Honeybee	Insects/Terrestrial Invertebrates	<i>Apis mellifera</i>	Food
Horsefly	Insects/Terrestrial Invertebrates	<i>Tabanidae</i> sp.	Food
Salmon Fly	Insects/Terrestrial Invertebrates	<i>Plecoptera</i> sp.	Food
Yellowjacket Larvae	Insects/Terrestrial Invertebrates	<i>Vespula dolichovespula</i>	Food
American Coot	Marine Birds	<i>Fulica Americana</i>	Food, Blankets
Ducks	Marine Birds	<i>Anatidae</i> sp.	Food, Basketry
Geese	Marine Birds	<i>Anatidae</i> sp.	Food
Grebes	Marine Birds	<i>Podicipedidae</i> sp.	Food
Loons	Marine Birds	<i>Gaviidae</i> sp.	Food
Rails	Marine Birds	<i>Rallidae</i> sp.	Food, Blankets
Freshwater Clams	Shellfish	<i>Sphaeriidae</i>	Food, Regalia
Freshwater Pearl Mussel and Western Ridged Mussel	Shellfish	<i>Margaritifera margaritifera</i> and <i>Gonidea angulate</i>	Food, Tools, Time
Band-Tailed Pigeon and Mourning Dove	Terrestrial Birds	<i>Patagonenas fasciata</i> and <i>Zanaida macroura</i>	Food, Weapons
California Quail	Terrestrial Birds	<i>Callipepla californica</i>	Food, Basketry, Regalia
Crows and Ravens	Terrestrial Birds	<i>Corvidae</i> sp.	Regalia
Dusky Grouse	Terrestrial Birds	<i>Dendragapus obscurus</i>	Weapons, Musical Instruments, Clothing
Falcons	Terrestrial Birds	<i>Falconidae</i> sp.	Regalia
Golden Eagle	Terrestrial Birds	<i>Aquila chrysaetos</i>	Regalia, Musical Instruments
Greater Roadrunner	Terrestrial Birds	<i>Geococcyx californianus</i>	Food, Regalia, Weapons
Hawks	Terrestrial Birds	<i>Accipitridae</i> sp.	Regalia, Weapons, Fans
Jays	Terrestrial Birds	<i>Corvidae</i> sp.	Food, Regalia
Owls	Terrestrial Birds	<i>Tytonidae</i> and <i>Strigidae</i> sp.	Regalia
Woodpeckers	Terrestrial Birds	<i>Picidae</i> sp.	Food, Regalia
Yellow-Billed Magpie	Terrestrial Birds	<i>Pica nuttallii</i>	Regalia

Common Name	Type	Scientific Name	Used For
Bears	Terrestrial Mammals	<i>Ursus</i> sp.	Food, Clothing, Blankets, Regalia
Black-tailed Deer or Mule Deer	Terrestrial Mammals	<i>Odocoileus hemionus columbianus</i>	Food, Weapons, Tools, Musical Instruments, Leather, Clothing, Blankets, Sinew
Chipmunks	Terrestrial Mammals	<i>Tamias amoenus and minimus</i>	Food
Foxes	Terrestrial Mammals	<i>Vulpes and Urocyon</i> sp.	Food, Leather
Gophers	Terrestrial Mammals	<i>Geomysidae</i> sp.	Food
Hares and Rabbits	Terrestrial Mammals	<i>Leporidae</i> sp.	Food, Regalia, Blankets, Clothing
Pronghorn	Terrestrial Mammals	<i>Antilocapra Americana</i>	Food, Clothing, Blankets, Leather, Containers (Horn)
Squirrels	Terrestrial Mammals	<i>Sciuridae</i> sp.	Food
Tule Elk	Terrestrial Mammals	<i>Cervus elaphus nannodes</i>	Food, Armor
Woodrats	Terrestrial Mammals	<i>Neotoma</i> sp.	Food
Basalt	Rocks and Minerals	<i>Basalt</i>	Tools, Weapons
Chert	Rocks and Minerals	<i>Chert</i>	Tools
Clay	Rocks and Minerals	<i>Clay</i>	Food Additive, Pigment, Pottery
Hematite	Rocks and Minerals	<i>Hematite</i>	Pigment
Magnesite	Rocks and Minerals	<i>Magnesite</i>	Currency
Obsidian	Rocks and Minerals	<i>Obsidian</i>	Tools, Weapons
Salt	Rocks and Minerals	<i>Sodium chloride</i>	Unspecified
Soapstone	Rocks and Minerals	<i>Steatite</i>	Tools, Utensils, Weapons

Source: NAHC Digital Atlas

### **ORAL TRADITIONS**

Oral histories, explanatory stories, and cautionary tales were, and continue to be, integral aspects of native Californian culture. Stephen Powers, an anthropologist, once wrote:

“The boundaries of all tribes...are marked with the greatest precision, being defined by certain creeks, canyons, boulders, conspicuous trees, springs, etc., each of which has its own individual name. Accordingly, [they] teach these things to their children in a kind of sing song...Over and over, time and again, they rehearse all these boulders, etc., describing each minutely and by name, with its surroundings. Then, when the children are old enough, they take them around...and so faithful has been their instruction, that [the children] generally



recognize the objects from the descriptions given them previously by their mothers.” (Anderson 2005).

Nisenan groups had a holistic epistemology; a theorem of holistic knowledge in which any subject is a composite of all other subjects, and every aspect of knowledge is interconnected. The Nisenan world contains many ineffable supernatural beings and spirits, and all natural objects are endowed with potential supernatural powers (Beals 1933).

### ***REGIONAL AND PROJECT SITE ACCOUNTS***

As an area situated generally between the Cosumnes River to the south, the American River to the north, and the foothills to the east, the project site falls into a liminal space several miles between numerous ethnographic village locations, and near the border between numerous tribal groups. However, as described below, this area became increasingly important to tribal groups in the surrounding region, as their territories were further constrained and violence continued to be inflicted upon them in the latter half of the 19<sup>th</sup> century.

The project site and surrounding area comprises an area marginal to both the cultures of the Valley and Hill Nisenan groups, as well as the Plains Miwok located further downstream along the Cosumnes River, southwest of the project site. Indigenous lifeways in this area were drastically impacted by the Gold Rush. The revival of local traditions and knowledge is a continuous process which relies on the preservation of contemporary resources.

### **TOSEWIN CULTURAL LANDSCAPE**

The outcome of tribal testimony and ethnographic studies have demonstrated that, unlike other areas of Sacramento Valley where traditional tribal boundaries were observed, the project site is encompassed within a “landscape of survivance” in which members of many local tribes retreated and lived together as their lands were occupied and forcefully taken during the Gold Rush era. The Tosewin region generally encompasses approximately 192,000 acres (300 square miles) in the Sacramento Valley and foothills. It generally spans north to creeks running parallel to Folsom Lake, east to the foothills surrounding Latrobe, south to the oak woodlands of Rancho Murieta, and west to the riversides of Deer Creek. As described above, the Gold Rush period in California history was the culmination of decades of depredations, both intentional and unintentional, that led to the destruction of traditional tribal lifeways. By 1800, Spanish missionaries began making forays into the lower reaches of the Cosumnes River—with a recorded baptism occurred in a Miwok village in vicinity of the project site in 1826— in search of Catholic converts and forced Indian labor, after decimation of the tribes immediately surrounding the coastal missions (Maniery 2017:29). In 1833, soon after the first baptism, a devastating epidemic (variably considered to be malaria, smallpox, cholera, or measles) wrought havoc on the Native American populations of Northern California and Oregon. It is estimated that the mortality rate from the 1833 epidemic was 75 percent, and that over 20,000 people died in the Central Valley (Cook 1955).

Upon this backdrop, John Sutter arrived in 1839 and established New Helvetia, after obtaining a large land grant from the Mexican government, at the confluence of the Sacramento and American rivers. To build his agricultural empire, Sutter depended on labor (often forced) from the local Miwok and Nisenan, but also resorted to violence and terror to establish control over his land grant. Bennyhoff (1977) reports that many of the named villages along the Cosumnes River, immediately south of the project site, were moved there after conflicts with Sutter in the mid-1840s.

As a result of these events, and as testified to by stories passed down in the Native American community, the Tosewin (spelled To-se-win in some ethnographies) area became a landscape of survivance, an area between and slightly removed from the major land grabs and violence in Sacramento County and along the American and Cosumnes rivers, away from the predations of the major American settlements, where a semblance of traditional lifeways could still be practiced.

The Nisenan village at Walltown, is one example of a habitation site that was established in the Tosewin Cultural Landscape during the period of major upheaval and struggle for cultural survival in the latter half of the 19th century. The historic mining community of Walltown, associated with Wall's Diggings, was established in the early 1850s as a series of loosely affiliated modest dwellings established in proximity to the scattered claims (Thompson and West 1880: 215). Because of its relative remoteness, Walltown developed into a regional trading center; however, the development did not last, and the town became quickly depopulated when the yields decreased in the surrounding claims, decreasing from 40 registered voters in 1865 to 14 voters by 1868 (Wilson 2006). At the same time, Chinese prospectors arrived to work the placer mine operations alongside their white counterparts until the early 1870s, when white miners began to abandon the area. The Chinese mining operation at Walltown was purportedly a "corporate effort" (Wilson 2006), suggesting that the Chinese were hired by white claimholders or a larger Chinese entity, with over 1,000 Chinese having been resettled in Walltown.

During this same time, the Walltown Indian Village was established near the mining camp, likely due to the employment of tribal members at the diggings, having relocated from an older village located along Carson Creek southwest of the solar development area (Payen 1961). This was also likely the birth village of one of the headmen of the Walltown Indian community, Rabbit George, who is buried near the proposed project site. A larger and older Nisenan village on Deer Creek was also abandoned in approximately 1872, again indicative of the social upheaval of this period (Payen 1961). The Walltown Indian Village was in existence until the 1880's, but the main body of the camp departed earlier. The inhabitants of Walltown and the village on Deer Creek are believed to have joined a Hill Nisenan group (and perhaps members of other tribes) at even more eastern villages along the peripheries of the Tosewin Cultural Landscape. Though disenfranchised from their ancestral lands, the project site is part of important wayfinding locations for 19<sup>th</sup> century refugees—including trails which connect critical ecological resources, spiritual locations, and safe places where tribelets could still meet and live. Tribal members from Shingle Springs, consulted for the project, indicate that Scott Road follows the route of another precontact foot path that was used to trek to and from the Cosumnes River to White Rock. Tribal members consulted for the project also indicate that the boundaries of

where the Walltown Nisenan lived includes the project site, where they hunted and collected acorns, conducted grasshopper drives, and other subsistence activities. The general area was also used for ancestral burial sites.

### **SACRED ORIGIN MYTHOS**

In addition to being a landscape of survivance, with access to important resource areas, a corridor that connected tribes and villages from the American River, Cosumnes River, and foothills, and held important historical implications for the maintenance and continuation of traditional tribal ways, the Tosewin landscape—inclusive of project site—is also related to traditional sacred origin stories.

Although details of these stories and the specific associated locations on the landscape are sacred and necessarily protected information, some limited details are included here. Eastern Sacramento County, containing the project site, has a spiritual connection to Mount Diablo. Portions of the project site fall within the viewshed of Mount Diablo. The associated origin tale describes how the first people came into being on top of the mountain and lived immortal and without need for resources. Coyote led them away from the mountain and to the creeks below the American River. They bathed in the creek and became mortals and now had to learn to make baskets and harvest acorns, and the general area is where they first did this (Burril 1988).

### ***PROJECT SITE NATIVE HERITAGE TREES***

The proposed project requests the removal of 4,787 trees (of which 1,792 are heritage trees) from the solar development area. Although not unique to the Tosewin Cultural Landscape, native oak species are major contributors to local indigenous history and lifeways. They continue to play a significant role as a spiritual contributor to the landscape for Nisenan descendants today. On the significance of California Heritage Trees, the UAIC of the Auburn Rancheria provided Sacramento County with the following narrative to address the tree resources in 2023:

The United Auburn Indian Community are a Tribe of Miwok and Maidu (Nisenan) people with deep spiritual, cultural, and physical ties to their land. Their world view does not make clear distinctions between the “natural” and “cultural” resources of a place, as one does not exist without the other.

Heritage trees are typically over 100 years old and hold historical significance in addition to providing many benefits to communities and landscapes. These trees have born witness to history and human interactions and are thought to hold a collective memory that is remembered and passed down from generation to generation. These resources also provide continuity between the past, present, and future.

Heritage trees are no longer common due to persistent and ongoing development in the Tribe’s traditional territory. These trees represent an important part of a

landscape and cultural heritage that were once a part of the Tribe's social, economic, and religious wellbeing.

For example, the Tribal values of large oak trees go beyond tangible attributes, such as acorn production. They also provide aesthetics to the landscape, are symbolic, and hold religious and historic values by retaining a sense of the cultural heritage that contributes to the character of the landscape.

Furthermore, it should be noted that heritage trees necessitate increased conservation priority because they often provide exponentially more cultural and biological value than the same proportion of non-heritage trees. For example, traditional land stewardship often used cultural fire to preserve and increase the prevalence of heritage oak trees because they provided more acorns and cultural materials, associated biodiversity, resilience to disturbance, and other benefits than younger trees. Certain trees were tended by multiple generations of Indigenous peoples and held deep familial ties for this reason.

Heritage trees are living archives of the environmental conditions they experienced. Documented within the trunks of these trees is the history and important stewardship legacy of Indigenous peoples. Indeed, heritage trees act simultaneously as archives, habitat, legacy bearers, gathering places for people and food, genetic repositories, ancestral touchstones, and more.

Heritage trees not only provide important ecological functions, but they also play an important role in UAIC's social and cultural identity. Unfortunately, these Tribal values are often not taken into consideration in planning and administration of conservation policies and management guidelines.

Bringing awareness of heritage trees as an integral part of Tribal identity and cultural heritage is essential when addressing the issue of their decline within the Tribe's area of traditional and cultural affiliation. Tribal values of heritage trees must be considered in all conservation plans, developments, landscape policies, or other related management tools. When Tribal values are included, conservation outcomes are enhanced through the increased protection of ecological, social, and cultural values.

## **REGULATORY SETTING**

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### **FEDERAL**

#### ***SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT, 1966***

Federal regulations for cultural resources are governed primarily by Section 106 of the National Historic Preservation Act (NHPA) of 1966 (as amended). Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties and affords the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on such undertakings. The ACHP's implementing regulations are the "Protection of Historic Properties" 36 Code of Federal Regulations (CFR) Part 800. The Federal agency first must determine whether it has an undertaking that is a type of activity that could affect historic properties. Historic properties are those that meet the criteria for or are listed in the NRHP.

#### **TRADITIONAL CULTURAL PROPERTIES**

Traditional Cultural Properties (TCPs) are resources eligible for the NRHP based on cultural significance derived from the "beliefs, customs, and practices of a living community of people that have been passed down through the generations" (NPS 1998:1). TCPs embrace a wide range of historic properties, such as the location associated with a Native American group's origin or the origin of the world (cosmogony), or an urban neighborhood that is the traditional home of a particular cultural group and that still reflects and is associated with their beliefs and practices. Other examples include places where traditional people historically have gone and continue to visit for ceremonial practices or objects imbued with particular cultural significance. These examples are not intended to be exhaustive, but instead to illustrate the range of possible TCPs. The National Park Service (NPS) National Register Bulletin 38 defines a traditional cultural property as a district, site, building, structure, or object that is eligible for NRHP inclusion "because of its association with cultural practices or beliefs of a living community that (a) are rooted in the community's history and (b) are important in maintaining the continuing cultural identity of the community" (NPS 1998:1). The identification and evaluation of TCPs can be conducted only by consultation with members of the relevant group of people that ascribe value to the resource, or through other forms of ethnographic research.

#### **EVALUATION OF TCPs**

Federal agencies must evaluate TCPs for eligibility for listing in the NRHP to determine if they are historic properties subject to management as required under Section 106 of the NHPA. As with any resource that is evaluated for listing in the NRHP, the TCP must be a tangible district, site, building, structure, or object (NPS 1998:11). This consideration requires merely that the TCP be a physical place or tangible object, in the broadest sense, rather than the intangible beliefs or values alone. Evaluation of TCPs requires two major steps: evaluation of the integrity of the resource as a TCP and its eligibility for listing on

the NRHP under the process for assessing significance of historic properties. The four NRHP criteria for assessing significance include properties:

- A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. That are associated with the lives of persons significant in our past; or
- C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. That have yielded, or may be likely to yield, information important in prehistory or history.

### **INTEGRITY OF TCPS**

The TCP must have integrity, like any property eligible for listing in the NRHP. For traditional cultural resources, this means that they must have “integrity of relationship” and “integrity of condition” (NPS 1998:11–12). Integrity of relationship means simply that the specific place is integral and necessary to a traditional cultural group’s beliefs or specific practices (NPS 1998:11). National Register Bulletin 38 gives the example of two different cultures, one that believes that baptism at a specific river is necessary to accept individuals as members, and another that simply requires baptism in any body of water. For the first example, the river is integrated into beliefs and practices of a traditional culture and thus has integrity of relationship.

Integrity of condition requires simply that the TCP has not been altered in such a way that it no longer can serve its function for the traditional cultural group. For example, a pilgrimage route to a sacred site would no longer have integrity of condition if modern construction had physically interrupted the route and thus made it unusable. This requirement does not mean that the TCP must be completely intact without any changes to the setting or features of the resource; rather, the test is whether the resource can still function for traditional cultural purposes or whether the presence of new elements disrupts the function. National Register Bulletin 38 offers an example of a resource that has integrity despite changes to the setting. One reach of the Klamath River in northern California is within the ancestral and present territory of the Karuk people and is the place where they carry out world renewal ceremonies and other rituals despite the presence of a modern highway, a U.S. Forest Service ranger station, and modern residences (NPS 1998:12).

## **STATE**

### ***CALIFORNIA ENVIRONMENTAL QUALITY ACT***

CEQA requires public agencies to consider the effects of their actions on historical resources, unique archaeological resources, and TCRs. Under Public Resources Code Section 21084.1, a “project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment.” Under Public Resources Code Section 21084.2, a “project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment.” Section 21083.2 requires agencies to determine whether projects would have effects on unique archaeological resources.

### **TRIBAL CULTURAL RESOURCES**

TCRs may or may not manifest as archaeological sites. In some cases, TCRs are viewsheds, plant gathering areas, or other sacred spaces or objects that are not readily identifiable to non-tribal members but that meet the statutory definition of a TCR in that it is a significant resource under Public Resources Code Section 5024.1. In many cases, TCRs also include an archaeological component, such as artifacts, features, and sites (with or without human remains). Public Resources Code Section 21074 states the following:

- (a) “Tribal cultural resources” are either of the following:
  - (1) Sites, features, places, cultural landscapes, 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.
    - (B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.
  - (2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1 [see below]. 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.
- (b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

- (c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a “non-unique archaeological resource” as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms to the criteria of subdivision (a).

Subdivision (c) of Section 5024.1 states that a resource is eligible for inclusion in the California Register of Historical Resources (i.e., “significant”), if it meets any of the following criteria:

- (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 in 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.
- (4) Has yielded, or may be likely to yield, information important in prehistory or history.

***ASSEMBLY BILL (AB) 52***

AB 52 (effective July 1, 2015) added Public Resources Code Sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3 to CEQA, relating to intergovernmental consultation with California Native American tribes, consideration of TCRs, and confidentiality. AB 52 provides procedural and substantive requirements for lead agency consultation with California Native American tribes and consideration of effects on TCRs, as well as examples of mitigation measures to avoid or minimize impacts to TCRs. AB 52 establishes that if a project may cause a substantial adverse change in the significance of a TCR, that project may have a significant effect on the environment. Lead agencies must avoid damaging effects to TCRs, when feasible, and shall keep information submitted by tribes confidential.

AB 52 requires a lead agency to consult with California Native American tribes that are traditionally and culturally affiliated with the geographic area of the proposed project, if the tribe requested the lead agency, in writing, to be informed by the lead agency of proposed projects in that geographic area and the tribe requests consultation. Public Resources Code Section 21080.3.1(d) states that within 14 days of determining that an application for a project is complete or a decision by a public agency to undertake a project, the lead agency shall provide formal notification to the designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, which shall be accomplished by means of at least one written notification that includes a brief description of the proposed project location and its location, the lead agency contact information, and a notification that the California Native American tribe has 30 days to requests consultation pursuant to this section.



***PUBLIC RESOURCES CODE, SECTION 5097.98***

Public Resources Code Section 5097.98 states that whenever the NAHC receives notification of Native American human remains from a county coroner, the NAHC shall immediately notify the most likely descendant (MLD). The MLD may, with permission from the owner of the land in which the human remains were found, inspect the site and recommend to the owner or the responsible party conducting the excavation work a means for treating and/or disposing of the human remains and any associated grave goods. The MLD is required to complete their site inspection and make their recommendation within 48 hours of their notification from the NAHC.

***CALIFORNIA HEALTH AND SAFETY CODE, SECTION 7052 AND 7050.5***

Section 7052 of the California Health and Safety Code states that the disturbance, mutilation, or removal of interred human remains is a felony if the remains are within a dedicated cemetery and a misdemeanor if interred outside of a dedicated cemetery. Section 7050.5 requires that construction or excavation be stopped in the vicinity of discovered human remains until the coroner examines the find and determines whether the remains are subject to various laws, including recognizing whether the remains are or may be those of a Native American. If determined to be Native American, the coroner must contact the NAHC.

***CALIFORNIA NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT, HEALTH AND SAFETY CODE SECTION 8010 THROUGH 8030***

In the California Health and Safety Code, Division 7, Part 2, Chapter 5 broad provisions are made for the protection of Native American cultural resources. The Act sets the state policy to ensure that all California Native American human remains, and cultural items are treated with due respect and dignity. The Act also provides the mechanism for disclosure and return of human remains and cultural items held by publicly funded agencies and museums in California. Likewise, the Act outlines the mechanism with which California Native American tribes not recognized by the federal government may file claims to human remains and cultural items held in agencies or museums.

***CALIFORNIA NATIVE AMERICAN HISTORICAL, CULTURAL, AND SACRED SITES ACT***

The California Native American Historical, Cultural, and Sacred Sites Act applies to both state and private lands. This law requires that if human remains are discovered, construction or excavation activity must cease, and the County Coroner must be notified. If the remains are of a Native American, the coroner must notify the NAHC. The NAHC then notifies those persons most likely to be descended from the Native American whose remains were discovered. The California Native American Historical, Cultural, and Sacred Sites Act stipulates the procedures the descendants may follow for treating or disposing of the remains and associated grave goods.

## LOCAL

### ***SACRAMENTO COUNTY GENERAL PLAN***

The *Sacramento County General Plan of 2005–2030* (Sacramento County 2011, as updated in 2017) Conservation Element, states under Section VI, Cultural Resources, the following goal and six objectives:

Promote the inventory, protection and interpretation of the cultural heritage of Sacramento County, including historical and archaeological settings, sites, buildings, features, artifacts and/or areas of ethnic historical, religious or socio-economic importance.

1. Comprehensive knowledge of archeological and historic site locations.
2. Attention and care during project review and construction to ensure that cultural resource sites, either previously known or discovered on the project site, are properly protected with sensitivity to Native American values.
3. Structures with architectural or historical importance preserved to maintain contributing design elements.
4. Known cultural resources protected from vandalism unauthorized excavation, or accidental destruction.
5. Properly stored and classified artifacts for ongoing study.
6. Public awareness and appreciation of both visible and intangible historic and cultural resources.

To implement the primary goal and the objectives, the Conservation Element contains the following policies relevant to the project and TCRs:

- **Policy CO-150.** Utilize local, state and national resources, such as the NCIC, to assist in determining the need for a cultural resources survey during project review.
- **Policy CO-152.** Consultations with Native American tribes shall be handled with confidentiality and respect regarding sensitive cultural resources on traditional tribal lands.
- **Policy CO-154.** Protection of significant prehistoric, ethnohistoric and historic sites within open space easements to ensure that these resources are preserved in situ for perpetuity.
- **Policy CO-155.** Native American burial sites encountered during preapproved survey or during construction shall, whenever possible, remain in situ. Excavation and reburial shall occur when in situ preservation is not possible or when the archeological significance of the site merits excavation and recording procedure.

On-site reinterment shall have priority. The project developer shall provide the burden of proof that off-site reinterment is the only feasible alternative. Reinterment shall be the responsibility of local tribal representatives.

- **Policy CO-157.** Monitor projects during construction to ensure crews follow proper reporting, safeguards, and procedures.
- **Policy CO-159:** Request a Native American Statement as part of the environmental review process on development projects with identified cultural resources.

## **SIGNIFICANCE CRITERIA AND METHODOLOGY**

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### **SIGNIFICANCE CRITERIA**

Based on Appendix G of the CEQA Guidelines, a project may have a significant impact on TCRs if it would:

- Cause a substantial adverse change in the significance of a TCR, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
  - i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
  - ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

### **METHODOLOGY**

The analysis of tribal cultural resources provided in this section is based on tribal traditional knowledge obtained through intergovernmental consultation, a cultural resources records search through the California Historical Resources Information System NCIC and a SLF search through the Native American Heritage Commission (NAHC). In addition, Dudek Inc. reviewed available Sanborn Maps, historic aerials, and conducted an intensive pedestrian survey for the project site. The County also submitted notification and request to consult letters to all interested Native American individuals and

organizations on the County's AB 52 Notification List and conducted Native American consultation, as requested, pursuant to AB 52.

CEQA requires intergovernmental consultation to occur early in the CEQA process to allow tribal governments, public lead agencies, and project applicants to exchange information to inform the CEQA lead agency's identification of TCRs that may be impacted by the project, determine the significance of any potential adverse impacts to TCRs, and identify feasible avoidance and mitigation measures. The intergovernmental consultation process is intended to reduce the potential for delay and conflict in the environmental review process through a good faith negotiation on the part of all participants. AB 52 defines "consultation" 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." (Public Resources Code Section 21080.3.1(b), citing Government Code Section 65352.4) "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." (Public Resources Code Section 21080.3.1(b), citing Government Code Section 65352.4.)

As described above and in the technical report prepared for archaeological resources (Appendix CR-1), archival research, intergovernmental consultation pursuant to AB 52, and fieldwork were conducted to establish what TCRs may be present within the project site and, furthermore, may be impacted as a result of the implementation of the proposed project. The identification of and impact analysis for TCRs is based on the consultation between the County and culturally affiliated tribes, and the findings and recommendations of the Archaeological Resources Inventory Report (ECORP 2024) which includes eligibility evaluations of identified resources. In addition to the archaeological field surveys, at the request of tribal representatives, canine forensics surveys were undertaken by the Institute for Canine Forensics (ICF) to evaluate the definitive boundaries of the known occupation sites and to identify the location of potential human remains.

The analysis is also informed by the provisions and requirements of federal, state, and local laws and regulations that apply to cultural resources. Pursuant to requirements set forth by AB 52, the County Planning and Environmental Review Department sent letters to all registered interested parties on December 23, 2021. The County received requests to consult from UAIC, Wilton Rancheria, Lone Band of Miwok Indians, and Shingle Springs Band of Miwok Indians. It is uncommon for a project to concern all four of the County's AB 53 consulting tribes. Tribal consultation for this project was conducted in good faith and with thorough communication efforts spanning three years of correspondence, meetings, site visits, and direct partnerships with tribal representatives. The County Planning and Environmental Review formally closed tribal consultation with UAIC, Wilton Rancheria, Lone Band of Miwok Indians, and Shingle Springs Band of Miwok Indians on January 13<sup>th</sup>, 2025.

Public Resources Code section 21074(b) provides that, “[a] cultural landscape that meets the criteria of subdivision (a) is a TCR to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.” To determine if the project site contains a Tribal Cultural Landscape (TCL), the County met with tribal elders and representatives, who were willing to share some of the aspects of landscapes within Sacramento County which contribute to contemporary spiritual practices and the overall preservation of indigenous lifeways. The applicant’s consultant also engaged with tribes to collect ethnographic data in order to clarify the significance of TCRs throughout the project site. Particularly, the County requested that the ethnographer meet with tribal experts for more information regarding Tosewin, a landscape that was described during tribal consultation as existing within the project site. Sacramento County Planning and Environmental Review staff used the resulting ethnographic data to approximate the boundaries of Tosewin and to generate a quantitative impact analysis for the proposed project. In relation to the creation story described above, the applicant’s consultant performed a viewshed analysis to compare tribal elder testimony to current site conditions and verify that Mount Diablo is visible from the project site.

## **RESULTS**

Archaeological investigations by Dudek and consultation between the County and culturally affiliated tribes resulted in the identification of TCRs as defined in CEQA (Public Resources Code Section 21074) and other historical resources that may be subject to tribal consultation under CEQA. As summarized in Dudek’s Archaeological Resource Inventory Report (Confidential, Dudek 2023) and in Chapter 8 of this EIR, 14 precontact or multicomponent archaeological sites (eight previously recorded and identified through the records search, and six identified through pedestrian field survey for this project) were identified within the project site. UAIC noted riparian corridors as having special significance during consultation between the County, applicant, and Tribes. Due to the Tribe’s stated interest in resources along these riparian corridors, the County is treating all 14 sites as TCRs for the purposes of CEQA. In addition to the archaeological TCR’s, the project site has been identified as existing within a larger cultural landscape, identified by tribal consultants as the “Tosewin District.” The Tosewin District is a TCL related to a “landscape of survivance” for multiple tribal groups during the historic-era, with associations to sacred burial locations, traditional origin stories and associated sacred viewsheds, and traditional resource gathering areas. As described above in the “Environmental Setting” Section, the Tosewin region generally encompasses approximately 192,000 acres (300 square miles) in the Sacramento Valley and foothills, and spans north to creeks running parallel to Folsom Lake, east to the foothills surrounding Latrobe, south to the oak woodlands of Rancho Murietta, and west to the riversides of Deer Creek.

California Health and Safety Code section 8012(p) states: “‘Tribal traditional knowledge’ means knowledge systems embedded and often safeguarded in the traditional culture of California Indian tribes and lineal descendants, including, but not limited to, knowledge about ancestral territories, cultural affiliation, traditional cultural properties and landscapes, culturoscapes, traditional ceremonial and funerary practices, lifeways,

customs and traditions, climate, material culture, and subsistence. Tribal traditional knowledge is expert opinion.”

According to the Governor’s Office of Planning and Research, “Evidence that may support ... a [significant] finding could include elder testimony, oral history, tribal government archival information, testimony of a qualified archaeologist certified by the relevant tribe, testimony of an expert certified by the tribal government, official tribal government declarations or resolutions, formal statements from a certified Tribal Historic Preservation Officer, or historical/anthropological records” (OPR Technical Advisory, AB 52 and Tribal Cultural Resources in CEQA, 2017, p.5.). Many of these sources of information have come to bear in the definition of the Tosewin TCL. Pursuant to section 8012(p), the County considers the information provided by Tribes throughout consultation and during the ethnographic data collection period to be crucial evidence which supports the existence of a TCL that meets the CRHR eligibility criterion.

### **EVALUATION OF THE TOSEWIN TRIBAL CULTURAL LANDSCAPE**

Not all significant events require demonstrable, tangible evidence. Federal law provides examples of potential sources of tribal knowledge in which a landscape is significant through origin myth and allegorical tales that are spiritually and culturally significant to the contemporary tribal members. The federal Native American Graves Protection and Repatriation Act recognizes the following types of evidence of cultural affiliation: geographical, kinship, biological, archaeological, anthropological, linguistic, folklore, oral tradition, historical, or other relevant information or expert opinion. (43 C.F.R. Section 10.14(d)).

The Tosewin TCL, is directly associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage (CRHR Criterion 1). Specifically, the landscape was vital in the maintenance of traditional tribal lifeways during a period of major upheaval for the Sacramento Valley and foothills indigenous population and is also important in ethnic heritage and sacred origin stories. Contributing elements of the Tosewin TCL include habitation sites, resource collection and processing sites, burial sites, travel routes/paths, specific locations (e.g., Coyote Creek) related to sacred origin stories, viewsheds related to these stories (e.g., viewshed of Mount Diablo), as well as animal and plant communities (including native oak woodlands and “heritage trees”) that are considered sacred and necessary for passing down indigenous traditions and customs. The Tosewin TCL is also directly associated with the lives of individuals who made an important contribution to the past (CRHR Criterion 2). Specifically, Coyote Spirit (an important spiritual figure prominent in various festivals and ceremonies) is associated with locations across the landscape. As described in the revised National Register Bulletin 38 (which is specifically developed to assist with evaluation under the National Historic Preservation Act but is a credible and relevant source of guidance in the County’s consideration of the Tosewin TCL) “persons’ can refer to a physical human being whose existence in the past can be documented from historical, ethnographic, or other research, as well as an ancestor or spirit who features in the traditions of a group. Criterion B [equivalent to CRHR Criterion 2, in this case] is intended to be applied to a place associated with a *specific* person—or ancestor or spirit—

not a general group like ‘the ancestors’.” (NPS 2013:60). Finally, the Tosewin TCL appears significant for its potential to yield information important to the history and prehistory of California (Criterion 4). Aside from the archaeological sites identified within the Tosewin District—including the 14 identified within the project site (but excluded from the solar development area; see discussion below)—which are assumed eligible as historical resources with the potential to yield important archaeological data (see Chapter 8, “Cultural and Paleontological Resources”), as well as being eligible as TCRs, other as-yet undefined portions of Tosewin have the potential to yield important information through ethnographic, archeological, sociological, folkloric, or other studies. Through ongoing tribal interaction with the landscape, the Tosewin TCL has the potential to continue to provide important ethnographic and historic information about the integral relationship between the landscape and the tribes.

Large portions of the Tosewin TCL do not retain sufficient integrity. Large swaths of the TCL, primarily along the American River corridor, have been altered through modern development (e.g., the communities of Carmichael, Rancho Cordova, etc.) impacting many of the traditional contributing elements described above. Despite this, the southern and eastern portions of the TCL, including the current project site, remain relatively undeveloped (other than disparate agricultural and historic mining areas) and retain sufficient integrity of location, setting, feeling, and association, to convey the historic sense of place of this natural landscape.

The CRHR and the NRHP require definition of the “period of significance” for an eligible resource (i.e., the time period during which the resource is associated with significant events or attained significance). As stated in the revised draft National Register Bulletin 38, “Since significance to a living community in the present is a key characteristic of a... TCP, the period of significance of a TCP must extend to the present and may continue into the future. However, determining the ‘starting point’ of a period of significance for a TCP may be challenging” (NPS 2023:109). Numerous examples are given in Bulletin 38 of TCP associated with sacred origin stories and the perpetuation of cultural traditions “where no specific starting date is readily identified, the recommended phrase for nomination is ‘time immemorial to the present’” (NPS 2023:113). Although the Tosewin TCL is directly related to the landscape of survivance, sites like Walltown, and individuals like Rabbit George, all of which gained significance during the historic-era, associations with sacred locations and viewsheds (like the Coyote and Mount Diablo origin stories) and the importance of the region to living descendants, suggest that the period of significance for Tosewin is indeed time immemorial to the present.

## IMPACTS AND ANALYSIS

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### **IMPACT TCR-1: CAUSE A SUBSTANTIAL ADVERSE CHANGE IN THE SIGNIFICANCE OF A TRIBAL CULTURAL RESOURCE**

Numerous sites, both NRHP-listed and eligible have been recorded within the project site or within a half-mile radius. There are also numerous reports supporting the likelihood that Nisenan traversed the area and benefitted from TCRs that once flourished.

As described in Chapter 8, “Cultural and Paleontological Resources,” all precontact indigenous archaeological resources identified through background research and field inventory have been excluded from the solar development area through project design. Traditionally culturally affiliated Native American tribes have been contacted by the County to provide input on precontact indigenous resources in close proximity to the solar development area, particularly P-34-000250 and P-34-000253. Site visits were also completed with tribal representatives in these areas (as described in Chapter 8, “Cultural and Paleontological Resources”). The applicant will be required to avoid and preserve in place all recorded precontact indigenous archaeological sites (also considered TCRs), consisting of 14 sites in total, through mitigation required as a part of this EIR. These 14 resources are assumed to be NRHP/CRHR eligible. Given the presence of significant precontact archaeological resources, geomorphic and topographic conditions suited for some areas to contain buried features and/or deposits, and the conditions during fieldwork (variable ground surface visibility during survey), it is possible that additional unrecorded TCRs could be present. Archaeological TCRs may be buried and exposed during project construction and decommissioning activities. Buried archaeological remains may be determined eligible for listing in the CRHR as TCRs, as would Native American human remains. Impacts to such resources, left unmitigated, would have potential to result in a significant impact.

As described in Chapter 8, “Cultural and Paleontological Resources,” the implementation of Mitigation Measures CR-2a (Cultural Resource Management Plan), CR-2b (Construction Monitoring), and CR-3a (Walltown Mining District Historic Study and Interpretive Plan) would generally reduce the potential impacts to any unknown archaeological sites or buried human remains that could be determined to be TCRs. Among other requirements, Mitigation Measure CR-2a (Construction Monitoring) provides for the establishment and maintenance of environmentally sensitive areas (ESA) to avoid impacts to known resources adjacent to the solar development area, and the appropriate treatment of unanticipated discoveries made during the course of construction. Mitigation Measure CR-2b (Construction Monitoring) provides for archaeological and Native American monitoring during construction. Mitigation Measure CR-3a (Cultural Resource Management Plan) provides for the appropriate treatment of unanticipated discoveries of human remains, in accordance with applicable statutes. While these mitigation measures would reduce the potential for adverse impacts to any archaeological resources and ancestral Native American human remains during construction, the implementation of *TCR-1* (Tribal Cultural Resource Avoidance and Minimization Plan), defined below, would further address the impacts to TCRs.



In addition to the archaeological TCRs discussed in Chapter 8 “Cultural and Paleontological Resources”, the project site and solar development area have been determined to exist wholly within the Tosewin District which, through tribal consultation and ethnographic research, has been determined by the County to be significant and therefore eligible for listing in the CRHR as a TCL for purposes of CEQA. The significance of the TCL was previously known to the tribes, but the exact details of all of the existing contributing resources were not. As a result, as part of the consultation and background studies conducted in support of this EIR, the tribes asked for the following additional studies:

- Canine Forensic survey to delineate the boundaries of potential burials. Survey was conducted and the ESA buffers were adjusted to ensure avoidance of the site boundaries.
- Drone footage for the tribes to review and provide their own resource identifications. This was given to tribes, but no additional information was disclosed by the tribes to the County, as specific resource locations are often considered sacred tribal knowledge.
- Ethnographic study to be conducted and applied as a technical study. The ethnographic study has two phases—the technical data gathered through tribal elder testimony to define the general boundaries and significance of Tosewin, and the second phase, which is a deliverable to the tribe with the ethnographer’s full findings (see TCR-1 (Tribal Cultural Resource Avoidance and Minimization Plan), below).
- Treatment plan that is specific to TCRs and separate from the archaeological treatment plan created by applicant’s consultant (see MM-CR-2b [Construction Monitoring]).

The County has concluded that the impacts to the Tosewin TCL are significant based on the following evidence:

1. Tosewin is a vast landscape described by tribes in their ethnographic accounts as “a landscape of survivance”. It spans north to creeks running parallel to Folsom Lake, east to the foothills surrounding Latrobe, south to the oak woodlands of Rancho Murieta, and west to the riversides of Deer Creek. Thus, the entirety of the project site is subsumed within its approximated boundary. It is known to all the regional tribes as the place where traditional tribal boundaries were suspended and many individuals from different villages came to cohabitate as their traditional territories became increasingly encroached by the immigrants of the Gold Rush. The landscape, including Coyote Creek within the proposed solar development area, also has a direct connection to the Coyote Spirit.

Tosewin as a TCL is considered an altered landscape. There are numerous examples of altered sacred landscapes, including in Sacramento County. For example, the Sacramento River is a registered TCL. Coyote Creek and its surrounding woodland is a cultural place within the landscape that is particularly spiritual and retains a high degree of integrity. In other words, the fact that Tosewin is largely altered through urbanization is not an argument to invalidate the significance of the remaining undeveloped landscape. Where the ecological spiritualism of Tosewin is lost elsewhere, the remaining lands, including the project site, retain increased importance as examples of the landscape's character and contemporary tribal significance.

Despite being subject to agriculture and past mining activities, the project site itself provides an example of Tosewin oak woodlands whose viewshed is largely absent of urbanization. Sacramento County Planning and Environmental Review staff worked with consulting tribes to further identify the section of Tosewin where a spiritual quality relating to the history and character of Coyote Creek is present. Landscape with these characteristics include:

- A. Undeveloped
- B. Contains waterflows with mature oak woodland

The tribes relayed to the County the importance of walking among oak trees and seeing Mount Diablo as a spiritual interaction with a religious being (Coyote Spirit) as it is an ancient wayfinding tool. The viewshed of Tosewin between approximately Highway 50 (north boundary), the County line (east boundary), State Route 16 Jackson Highway (south boundary), and Sunrise Boulevard (west boundary) qualifies as a TCL as it meets three of the four CRHR criteria (1,2, and 4). The proposed project would impact portions of this viewshed in a spiritual sense. In addition, the existence of historic waterways (e.g., Coyote Creek and Carson Creek), culturally significant plant and animal species, as well as increasingly rare native oak woodlands are sacred and necessary for passing down indigenous traditions and customs. The proposed project would reduce the extent of these native habitats/resources within the solar development area, which would reduce the proliferation of these resources in a broader sense following construction of the project.

2. Burial Proximity and Orientation. Known burial locations in the project site vicinity, but outside of the proposed solar development area, are oriented with the intention to connect the deceased with the viewshed of Coyote Creek, the movement of the sun through the sky, and Mount Diablo. To the degree that the project would impact this geographical affiliation and disrupt the natural setting of these burials, as attested by consulting tribal representatives is a significant impact supported by

the National Register Bulletins “Guidelines for Identifying, Evaluating, and Documenting Traditional Cultural Places”. (NPS 2023).

The County has determined Tosewin to be a TCL. Based on the evidence gathered, the County has verified that the TCRs are unique and spiritually significant to the living descendants of its former inhabitants and would be significantly impacted by changes in the viewshed and the local ecology, including removal of heritage oak trees, which are associated with contemporary tribal spirituality and a contributor to the Tosewin TCL. Unlike archaeological historical resources and unique archaeological resources, which are typically eligible for their data potential (Criterion 4) and the impacts to which can be mitigated through archaeological excavations to recover and document that important information, the significance of TCRs, and the Tosewin TCL in particular, rests primarily in their importance to living tribal groups and the connection they provide to important historic events and traditional lifeways. The County has worked with the tribal community to develop the following mitigation measures, to minimize impacts to tribal cultural resources to the degree possible.

### ***MITIGATION MEASURES***

#### *TCR-1. Tribal Cultural Resource Avoidance and Minimization Plan.*

In order to mitigate impacts to known TCRs and those resources that may inadvertently be encountered during construction-related activities, the applicant shall prepare a *Tribal Cultural Resources Avoidance and Minimization Plan* (TCR AMP). The TCR AMP shall be reviewed by the County and consulting tribes, and finalized and approved prior to construction. The TCR AMP shall, at a minimum, include specific guidelines and direction on the following components:

#### **Pre-Construction Elements**

Avoidance and Preservation in Place. The applicant shall demonstrate to the County’s satisfaction that the 14 identified indigenous archaeological sites, plus a minimum 100-foot buffer around them (Environmentally Sensitive Areas [ESAs]), will be fenced prior to construction and shall be avoided during project construction. No project activity can occur within an ESA without County approval and a tribal monitor present. Prior to issuance of a grading permit, the applicant and the landowner shall jointly propose to the County for review and approval a measure to avoid impacts within the ESAs throughout the life of the project, including ongoing management responsibility of the ESAs throughout the life of the project.

The ESA locations shall be noted on project construction and engineering plans as “Environmentally Sensitive Areas” and shall be fenced prior to commencement of construction activities (detailed below). In order to achieve preservation in place, it is important to confirm the boundaries of the ESAs in coordination with the consulting tribes and archaeologists.

- **Pre-Designation of Reburial Area.** The applicant shall pre-identify a reburial location in consultation with culturally affiliated tribes, to serve as a reburial location in the event that tribal cultural resources are identified during ground-disturbing activities associated with project construction. The location pre-selected shall be recorded with a GPS device capable of sub-meter accuracy and be under the control of the property owner and in an area not planned for future disturbance. A copy of a map showing the reburial location and GPS-recorded shapefiles shall be filed with the County for proof of compliance and shall remain confidential.
- **Communication Protocols for Monitoring.** The applicant shall develop a set of communication protocols, to the satisfaction of the County and tribes, to identify all points of contact and to ensure that tribes are notified when the applicant will proceed with authorized construction activities. Points of contact shall be established for the applicant, construction supervisor, monitoring tribes, project archaeologist, and County staff, and the cell phone numbers and email addresses must be documented and shared among all parties. Points of contact are responsible for identifying backup representatives in the event they are unable to perform due to an absence or other reasons.

### **Construction-Period Elements**

**Reburial Lab Facility.** The applicant or prime contractor shall provide one standard office-style construction trailer that is to be used exclusively by tribal monitors. In the event that there is a discovery of tribal cultural resources during construction, this trailer will be converted into a lab space for tribal monitors to prepare the materials in a culturally appropriate manner prior to reburying them. The lab facility shall remain until all ground disturbing activities have been completed and any tribal cultural resources have been reburied.

**Temporary Fencing.** All ESAs shall be protected from incidental disturbances during construction activities by the placement of high visibility temporary exclusionary fencing. The fencing shall be installed under the direction of a tribal monitor and archaeological monitor (collectively, "Monitors") and shall remain intact throughout project construction. The Monitors will be responsible for periodic checks of the fencing, and any deficiencies reported to the contractor must be remedied before resumption of ground disturbing activities within 100 feet of the repair site.

**Worker Awareness Training.** The County shall ensure that a worker awareness training program is developed in coordination with the Tribes and delivered to train the Contractor's equipment operators and the project's field consultants about tribal cultural resources and the requirements for avoidance and minimization. The County shall offer the opportunity to the consulting tribes to provide content for the training program. The training shall be given first to construction supervisors. The construction supervisors are responsible for ensuring that all workers that will operate ground-disturbing equipment receive this training prior to operating

equipment that will disturb original ground. All trained workers will be required to receive a brochure and hardhat sticker and sign a form indicating their understanding of the requirements and restrictions and copies of the forms shall be provided to the County as proof of compliance.

Tribal Monitoring. All construction-related ground-disturbing activity shall be monitored by a qualified tribal monitor from a consulting tribe on this project to ensure that the procedures for unanticipated discoveries are addressed expeditiously and in accordance with the plan. The requirements for a monitor should be inclusive of all day and night construction activity that has the potential to result in ground disturbance. "Ground-disturbing activity" is defined as any activities that have the potential to disturb soil beyond that which was reasonably visible to tribal monitors and archaeologists during the pre-project pedestrian survey. This includes, but is not limited to, ground disturbing activities such as: grading; trenching; excavation for below-ground utility installation or foundation work; and any other below the ground activities. An adequate number of tribal monitors must be present to sufficiently cover multiple locations of ground disturbing activities.

Tribal Monitors will have the authority to request a temporary and reasonable pause of ground-disturbing activities within 100 feet of a discovery of up to 30 minutes to safely and initially examine the ground more closely for indications of potential tribal cultural resources, without being impeded by construction equipment. In the event of the discovery of a potential tribal cultural resource, treatment plan protocol must be completed before resuming work at that location.

- Response to Unanticipated Discoveries of Tribal Cultural Resources. If potential tribal cultural resources are encountered at the project site during construction, work shall be temporarily suspended within 100 feet of the find (based on the apparent distribution of cultural materials), and the construction Contractor shall immediately notify the County. Within two business days of the County receiving notification of an unanticipated discovery of a tribal cultural resource outside of the ESA, the County, tribal monitors, and applicant shall perform a field visit to the location of the discovery and confer on the appropriate treatment of the resource. The applicant shall be afforded the opportunity to review the feasibility of avoidance and preservation in place. The County shall review available information and comments from the traditionally culturally affiliated tribes and determine if the resource meets the definition of a tribal cultural resource, as defined by Section 21074(a) of the Public Resources Code. If the County concludes on the basis of substantial evidence that the resource qualifies as a tribal cultural resource under Section 21074(a) of the Public Resources Code, the County shall require the project proponent to implement the following mitigation measure to comply with the standards in Public Resources Code section 21084.3 (1) preservation in place where feasible; (2) if preservation in place is not feasible, mitigation shall be undertaken pursuant to the TCR AMP. The County's determination of the presence of a tribal cultural resource should not be unreasonably withheld. If

the discovery includes human remains, the procedures under Health and Safety Code Section 7050.5 or 7000 and, if applicable, Public Resources Code Section 5097.9 et seq. shall be carried out prior to any further action described below.

The Contractor shall take protective measures to install temporary high-visibility fencing around the limits of the stop-work radius until consultation and treatment is completed in accordance with this mitigation measure and the AMP. Fence installation must be monitored by a tribal representative and shall include a sign indicating an Environmentally Sensitive Area. The Contractor may also use plywood sheets or metal plates to cover the exposure, in consultation with the tribal representative, in the event that the discovery must remain protected during non-working hours. The Contractor is responsible for ensuring that the security measures that are taken to protect the entire construction site are extended to the location of the discovery as well.

Additional boundary delineation may be necessary to understand the horizontal and vertical extent of the discovery outside of the ESA area. Selection of the appropriate method will be made by the applicant, in consultation with the parties participating in the consultation process described in this Plan. Options may include ground penetrating radar (including ground truthing of identified anomalies), geoarchaeological trenching, shovel testing or auguring, and/or controlled mechanical grading.

Evaluation of the significance of identified tribal cultural resources is the responsibility of tribal monitors. Where such a resource includes archaeological components, the evaluation shall be a cooperative effort with the archaeologists, whereas the archaeologists will record and evaluate relative to NRHP/CRHR criteria, and tribal monitors evaluate relative to TCR criteria and provide their preferences on recovery, relocation, and/or repatriation.

The consulting tribes will be invited to provide recommendations on culturally appropriate treatment to the County and the applicant. Avoidance and preservation in place are the preferred manner of mitigating impacts to cultural resources and tribal cultural resources. Discoveries of cultural resources that are determined not to meet the definition of a tribal cultural resource but that are determined to be otherwise historic resources under Public Resources Code section 5024.1(c) will be subject to the cultural resources mitigation measures which are documented separately in the environmental document.

### **Post-Construction Elements**

Repatriation of Tribal Cultural Resources. Reburial methods will ensure that reasonable measures have been taken to prevent future disturbance. This may include a reburial process that will use a series of layered soil or materials that serve to warn future excavators of the presence of repatriated materials, upon mutual agreement of the parties, and through consultation with the MLD, if one is

designated by the NAHC. Culturally affiliated tribes shall be afforded the opportunity to prepare collected materials in a culturally appropriate manner prior to reburial. Reburial can occur at any time but must be completed no later than 30 days after the conclusion of construction. If the reburial does not occur within 30 days of the completion of construction because tribal monitors require additional time to prepare the materials for reburial in a culturally appropriate way, the County may authorize operation of the project prior to reburial. Recognizing the importance of culturally appropriate preparation of materials for reburial, the applicant shall provide funding for tribal repatriation specialists to prepare the materials.

In addition, in the event human remains or cultural materials are reburied, in accordance with Section 5097.98(e) of the Public Resources Code, the location of the reburial shall be recorded on a Department of Parks and Recreation (DPR) 523-Series Primary Record and Location Map and submitted to the California Historical Resources Information Center [5097.98(e)(1)], NAHC, and a reinternment record filed with the County [5097.98(e)(3)], within 30 days of the reburial. Recording of the location of reburial is required by state law (5097.98(e)) and is critical to ensuring that the reburial site is not inadvertently disturbed in the future. The reburial location will be documented on a DPR 523 series form and filed with the CHRIS and California NAHC within 30 days, unless tribe choose to rebury on tribal-owned land.

- Restrictive Instrument for Preservation. The applicant recognizes that they hold a lease option over the entire project site, but the resulting project will impact a smaller footprint (the “solar development area”). It is anticipated that areas outside of the solar development area, including avoidance areas, of the project will not be leased by the applicant, and the land outside of the solar development area will generally be released to the landowner for their use. Thus, within six (6) months of the completion of construction of the project, the applicant shall exercise good faith, reasonable efforts to cause to be recorded, by the landowner, a restrictive instrument to the County or other entity agreed to by the County and landowner over the avoidance areas (and the reburial location, if used) (collectively, the “ESAs”) and restricting future uses of the avoidance areas consistent with the conservation of the applicable tribal cultural resource. Such restrictions shall not disclose the nature of the ESAs.

In the event that the landowner is unwilling to record a restrictive instrument over the ESAs, the applicant shall direct the project Archaeologist to fully record the boundaries of the ESAs with the California NAHC, CHRIS, and County. In addition, the applicant shall notify the landowner in writing, with copies to the Tribes, County, and SMUD, that these ESAs are recommended to be preserved in place in perpetuity; the applicant proposes to do so without additional consultation with said entities. The intent of these notifications is to help ensure that future unrelated project proponents are alerted to the presence of restricted areas.

- Monitoring Report. At the conclusion of monitoring activities, the project Archaeologist shall submit to the County a Monitoring Report for the project, which incorporates all previously unknown discoveries and presents the methods and results of all monitoring activities. The draft report shall be submitted to the County within 18 months of the completion of all project construction. Tribal monitors shall be invited to review or contribute to the report. For funerary objects and human remains, only sketches of materials shall be documented with DPR forms; no photography is permitted.
- Ethnography Deliverable Phase 2. The ethnography may be prepared in both confidential and public-facing versions, shall be subject to review by consulting tribes in draft form, and approved by the County prior to dissemination to appropriate repositories. The draft report shall be submitted to the County within 24 months of the completion of all project construction. The approval of the final report by the County will deem the implementation of the deliverables complete.

### ***SIGNIFICANCE AFTER MITIGATION***

Implementation of *TCR-1* would provide Native American tribes an opportunity to be involved in awareness training of construction personnel, notification of pending ground disturbing activities and opportunity to monitor such activity with the authority to stop work if warranted, as well as involvement in decisions regarding the identification, treatment, and disposition of TCRs. In addition, *TCR-1* provides for the completion of an ethnographic study to document the intangible and culturally relevant elements of TCRs in the project site and surrounding Tosewin area. In combination with Mitigation Measures CR-2a, CR-2b, and CR-3a, the recommended mitigation measures would address the inadvertent discovery of TCRs, including cessation of construction activities proximate to the discovery and notification of the appropriate Tribal Representative(s). However, the project would result in the development of significant new infrastructure and visual impacts that would substantially alter the historical setting and feeling of contributing elements of the CRHR-eligible Tosewin TCL. Based on the evidence gathered, the County has verified that the TCRs in the vicinity of Coyote Creek are unique and spiritually significant to the living descendants of its former inhabitants and would be significantly impacted by changes in viewshed and the contemporary, spiritually associated ecology. The proposed solar development area will impact the remaining oak woodland associated with Coyote Creek, the Walltown Nisenan, and a portion of the remaining developed sections of the landscape itself. The mitigation measures shall ensure the proper treatment of TCRs but will not fully reduce the holistic impacts to the landscape and its contributing resources to below a level of significance. The County is unaware of other feasible measures that would fully mitigate for this impact. As a result, despite implementation of the recommended mitigation measures, the impact on TCRs would be **significant and unavoidable**.