

## 4.9 TRIBAL CULTURAL RESOURCES

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### 4.9.1 Introduction

This section of the Draft SEIR evaluates the potential impacts to Tribal Cultural Resources (TCRs) from the implementation of the proposed 2020 LRDP. TCRs are sites, features, places, cultural landscapes, sacred places and objects with cultural value to a California Native American tribe. As detailed later in this section, potential impacts of campus development under the 2020 LRDP on TCRs are evaluated based on consultation with interested Native American tribes pursuant to Assembly Bill (AB) 52.

### 4.9.2 Environmental Setting

#### *Prehistory*

Detailed information regarding the prehistoric occupation of the campus vicinity is presented in Section 4.5, Cultural Resources, in the 2009 LRDP EIS/EIR. As noted in Section 4.5.2.1 of the EIS/EIR, although few archaeological sites demonstrate evidence of human occupation of the San Joaquin Valley during the late Pleistocene and early Holocene epochs (12,000–6000 B.C.), this is likely a product of the archaeological record itself rather than lack of human habitation in the valley. Most Pleistocene- and Holocene-epoch archaeological sites are deeply buried in accumulated gravels and silts or have eroded away (UC Merced 2009).

The earliest sites in the San Joaquin Valley are believed to be the Farmington Complex sites in San Joaquin and Stanislaus Counties, the Tranquility site in Fresno County, and the Witt site in Kings County. Archaeologists have identified fluted projectile points on the margin of Tulare Lake. The points, which are morphologically similar to Clovis points, may date as early as 11,000–12,000 years ago. No fluted projectile points have been reported in the Merced vicinity to date (UC Merced 2009).

The closest-available prehistoric chronology for the project area comes from the west side of the San Joaquin Valley as a result of the excavations at several sites during archaeological efforts for reservoir construction of the San Luis, Los Banos, and Little Panoches Reservoirs. Four cultural complexes were identified in the archaeological data collected during these excavations. These complexes are assigned to timespans for the development of a cultural chronology for the area and are represented by archaeological assemblages that are summarized here. The Positas Complex (5200–4600 B.P.) is characterized by small, shaped mortars; cylindrical pestles; millingsstones; perforated flat cobbles; small flake scrapers; handstones; and spire-topped *Olivella* beads. The perforated cobbles resemble the cogstones documented at many southern Californian archaeological sites, prompting some researchers to

posit a cultural relationship between the Positas Complex and southern Californian cultures. To date, archaeologists have not identified burials or structures associated with the Positas Complex (UC Merced 2009).

The Pacheco Complex (4600–1600 B.P.) consists of two subcomplexes: Pacheco Complex A (3600–1600 B.P.) and Pacheco Complex B (4600–3600 B.P.). Pacheco Complex B is characterized by foliate bifaces, rectangular shell ornaments, flexed burials, and thick rectangular *Olivella* beads. Sites attributed to Pacheco Complex A exhibit spire-ground *Olivella* beads, perforated canine teeth, bone awls, whistles, grass saws, large stemmed and side-notched points, flexed burials, millingstones, mortars, and pestles. Domestic structure remnants attributed to Pacheco Complex A were probably circular in outline and 10-12 feet in diameter (UC Merced 2009).

The Gonzaga Complex (1600–1000 B.P.) is characterized by extended and flexed burials; bowl mortars; shaped pestles; squared and tapered-stem points; few bone awls; distinctive shell ornaments; and thin rectangular, split-punched, and oval *Olivella* beads. Projectile points are rare in comparison to the Pacheco Complex and are predominantly made from silicate stones. Archaeologists have reported a few fragmentary serrated projectile points fashioned from obsidian. Architectural features from the Gonzaga Complex are larger than those reported from earlier complexes. Archaeologists hypothesize that the Gonzaga Complex marks the arrival of the Yokuts in the San Joaquin Valley (UC Merced 2009).

The Panoche Complex (400–200 B.P.) is recognized by large circular structures (pits), flexed burials and primary and secondary cremations, varied mortars and pestles, bone awls, whistles, small side-notched points, clamshell disk beads, and other bead types. The Panoche Complex appears to represent Yokuts occupation of the valley (UC Merced 2009).

### ***Ethnography***

The aboriginal inhabitants of the area in which the campus is located are known as the Northern Valley Yokuts. “Yokuts” is a term applied to a large and diverse number of peoples inhabiting the San Joaquin Valley and Sierra Nevada foothills of central California. The Yokuts cultures include three primary divisions, corresponding to gross environmental zones: the Southern San Joaquin Valley Yokuts, the Foothill Yokuts, and the Northern San Joaquin Valley Yokuts (UC Merced 2009).

The Yokuts languages, of which there are three subdivisions, belong to the Yokutsan family, Penutian stock. Each of the primary divisions included several dialects. The North Valley Yokuts lived in the northern San Joaquin Valley from around Bear Creek north of Stockton to the bend in the San Joaquin River near Mendota (UC Merced 2009).

There was no Yokuts tribal organization that encompassed the whole of the peoples speaking Yokutsan languages, or even a tribal organization that encompassed an entire primary division, such as Foothill Yokuts. These are linguistic and geographic designations only. Similar to most Native American groups in California, the largest political entity among the Yokuts was that of the tribelet. A tribelet consisted of a large village and a few smaller surrounding villages. Larger villages and tribelets had a chief or headman—an advisory position that was passed from father to son (UC Merced 2009).

In general, the Yokuts were seasonally mobile hunter-gathers with semi-permanent villages. Seasonal movements to temporary camps would occur to exploit food resources in other environmental zones. The primary difference between the various Yokuts groups rests largely on the differences in available resources in their territory. The North Valley Yokuts relied heavily on acorns as a food staple, which was processed into a thick soup, along with salmon and other fish, grass seeds and tule roots (which were processed into meal), and probably water fowl, tule elk, and pronghorn (UC Merced 2009).

Principal settlements were located on the tops of low mounds, on or near the banks of the larger watercourses. Settlements were composed of single-family dwellings, sweathouses, and ceremonial assembly chambers. Dwellings were small and lightly constructed, semi-subterranean and oval. The public structures were large and earth covered. Sedentism was fostered by the abundance of riverine resources in the area (UC Merced 2009).

The Yokuts first came into contact with Europeans when Spanish explorers visited the area in the late 1700s, possibly followed by expeditions to recover Native Americans who had escaped from the missions. The North Valley Yokuts were far more affected by the missions than were other groups. The loss of individuals to the missions, the influence of runaway neophytes, various epidemics in the 1800s, and the arrival of settlers and miners all contributed to the disintegration of Yokuts culture. Although nearly obliterated, the descendants of the Northern Valley Yokuts still live in Merced County today and continue to rebuild their cultural identity (UC Merced 2009).

### **4.9.3 Regulatory Considerations**

#### ***Federal Laws and Regulations***

There are no federal laws or regulations related to TCRs. Although the Native American Graves Protection and Repatriation Act (NAGPRA) concerns the disposition of Native American cultural items and human remains, the law applies to Federal agencies and institutions that receive Federal funding (including, but not limited to, museums, colleges and universities, state or local agencies and their subdivisions), as well as the ownership or control of cultural items and human remains discovered on Federal or tribal lands after November 16, 1990. NAGPRA is not applicable to the campus.

## *State Laws and Regulations*

### **Assembly Bill (AB) 52**

AB 52, which was approved in September 2014 and became effective on July 1, 2015, requires that CEQA lead agencies consult with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of a proposed project, if so requested by the tribe. A provision of the bill, chaptered in CEQA Section 21084.12, also specifies that a project with an effect that may cause a substantial adverse change in the significance of a TCR is a project that may have a significant effect on the environment.

Defined in Section 21074(a) of the Public Resources Code, TCRs are:

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; or
  - 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. 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.

TCRs are further defined under Section 21074 as follows:

- a. 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; and
- b. 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 TCR if it conforms with the criteria of subdivision (a).

Mitigation measures for TCRs must be developed in consultation with the affected California Native American tribe, pursuant to Section 21080.3.2, or according to Section 21084.3. Section 21084.3 identifies mitigation measures that include avoidance and preservation of TCRs and treating TRCs with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource.

## California Register of Historical Resources

The State Historical Resources Commission has designed this program for use by state and local agencies, private groups and citizens to identify, evaluate, register and protect California's historical resources. The Register is the authoritative guide to the state's significant historical and archeological resources.

The California Register program encourages public recognition and protection of resources of architectural, historical, archeological and cultural significance, identifies historical resources for state and local planning purposes, determines eligibility for state historic preservation grant funding and affords certain protections under the California Environmental Quality Act. The criteria for designation include:

- Associated with events that have made a significant contribution to the broad patterns of local or regional history or the cultural heritage of California or the United States (Criterion 1)
- Associated with the lives of persons important to local, California or national history (Criterion 2)
- Embodies the distinctive characteristics of a type, period, region or method of construction or represents the work of a master or possesses high artistic values (Criterion 3)
- Has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation (Criterion 4)

### 4.9.4 Impacts and Mitigation Measures

#### *Significance Criteria*

This Draft SEIR uses significance criteria derived from Appendix G of the *State CEQA Guidelines*. For the purposes of this Draft SEIR, impacts related to TCRs resulting from the implementation of the proposed 2020 LRDP would be considered significant if the proposed project would cause:

- A substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
  - listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resource Code Section 5020.1(k); or
  - 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 Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

### *Issues Not Discussed Further*

At the time the 2009 LRDP EIS/EIR was prepared, CEQA did not require an analysis of impacts to TCRs due to project implementation. Therefore, impacts on TCRs are analyzed below, consistent with the significance criteria set forth above.

### *Methodology*

Although AB 52 requires the Native American tribes to request notification of projects that involve an EIR or a Mitigated Negative Declaration (MND), the University proactively reached out to the Native American Heritage Commission (NAHC) and requested a list of Native American tribes with traditional lands or cultural places located within the region of each campus. Using the list of tribes identified by the NAHC for the campus, UC Merced sent out eight letters to representatives of the identified tribes on September 17, 2018, informing them of the commencement of CEQA review of the proposed 2020 LRDP and asking them if they wished to consult regarding this proposed project pursuant to AB 52. Pursuant to AB 52, the tribes have 30 days from the receipt of the letter to request consultation with UC Merced. No requests for formal consultation were received by UC Merced from the tribes as of the publication of this Draft SEIR.

### **4.9.5 LRDP Impacts and Mitigation Measures**

**LRDP Impact TCR-1: The proposed project would not cause a substantial adverse change in the significance of a tribal cultural resource as defined in Section 21074. (*Less than Significant*)**

As noted above, UC Merced sent out notification letters on September 17, 2018, to eight tribes identified by the NAHC for the region around the Merced campus and no requests for formal consultation were received by UC Merced as of the publication of this Draft SEIR.

Based on surveys conducted prior to and in conjunction with the preparation of the 2009 LRDP EIS/EIR, no known prehistoric sites are located within the campus site. Furthermore, no cultural resources have been encountered during grading and excavation conducted on the campus site since 2002 when the construction of the campus was commenced. Therefore, the campus is not expected to contain any TCRs. Furthermore, as noted in **Section 3.0, Project Description**, the proposed 2020 LRDP is a land use plan to guide the development of the campus and is not a project proposal. Therefore, no earthmoving activities would occur as a direct result of the approval of the 2020 LRDP. Earthmoving activities that could potentially disturb previously undiscovered buried archaeological resources, including human remains, which could be considered TCRs, would occur only when specific development projects are proposed by

UC Merced under the 2020 LRDP. While those projects would have the potential to inadvertently affect TCRs, all projects under the 2020 LRDP would be required to implement **2009 LRDP Mitigation Measures CUL-2** and **CUL-3** to ensure that should cultural resources, including human remains, be encountered, they would be protected, documented, and preserved, as appropriate. In summary, the proposed project would not result in a significant impact on TCRs.

With respect to small-scale projects that may be located within lands designated CMU, CBRSL or ROS, due to the location, small size, and nature of these projects, they would be unlikely to affect TCRs. Further, UC Merced will require the projects to implement **2009 LRDP Mitigation Measures CUL-2** and **CUL-3** which would ensure that any impact on TCRs would not be significant.

**Mitigation Measures:** No mitigation is required.

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#### 4.9.6 Cumulative Impacts and Mitigation Measures

**Cumulative Impact C-TCR-1: Implementation of the proposed 2020 LRDP would not result in a significant cumulative impact on tribal cultural resources. (*Less than Significant*)**

An evaluation of potential impacts on TCRs was not required at the time that the 2009 LRDP EIS/EIR was prepared. Therefore, the 2009 LRDP EIS/EIR does not contain an evaluation of the potential for campus development under the 2009 LRDP to result in a cumulative impact on TCRs. The 2009 LRDP EIS/EIR however contains an analysis of the cumulative impact of campus development under the 2009 LRDP along with other foreseeable development in Merced County and the City of Merced on cultural resources and human remains under Cumulative Impact CUL-1, and that analysis concludes that the cumulative impact on cultural resources and human remains would be less than significant because campus projects would be required to implement appropriate mitigation measures to avoid or minimize impacts to significant resources (UC Merced 2009). Because the same measures would avoid and minimize impacts to TCRs, it is reasonable to conclude that the cumulative impacts of campus development under the 2020 LRDP would result in a less than significant cumulative impact on TCRs. Furthermore, in compliance with CEQA, if UC Merced prepares another EIR or a Mitigated Negative Declaration for a future project under the 2020 LRDP, it will again initiate consultation with Native American tribes pursuant to AB 52. The proposed project would not make a cumulatively considerable contribution to a cumulative impact on TCRs. There would be a less than significant impact.

**Mitigation Measures:** No mitigation is required.

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#### 4.9.7 References

UC Merced. 2009. UC Merced/University Community Final Environmental Impact Statement/Environmental Impact Report, SCH No. 2005012113.