

4.12 Tribal Cultural Resources

This section analyzes the potential effects on tribal cultural resources related to implementation of the project.

4.12.1 Setting

The project lies within an area traditionally occupied by the Northern Pomo Tribe. A full discussion of the precontact and ethnographic setting of the region is presented in Section 4.5, *Cultural Resources*.

4.12.2 Regulatory Setting

a. Federal Regulations

There are no federal regulations pertaining to tribal cultural resources that are applicable to this analysis.

b. State Regulations

Assembly Bill 52

As of July 1, 2015, California Assembly Bill 52 of 2014 (AB 52) was enacted and expands the California Environmental Quality Act (CEQA) by defining a new resource category, “tribal cultural resources.” Assembly Bill 52 establishes that “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” (PRC Section 21084.2). It further states that the lead agency shall establish measures to avoid impacts that would alter the significant characteristics of a tribal cultural resource, when feasible (PRC Section 21084.3). PRC Section 21074 (a)(1)(A) and (B) defines tribal cultural resources as “sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe” and meets either of the following criteria:

- 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
- 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.

AB 52 also establishes a formal consultation process for California tribes regarding those resources. The consultation process must be completed before a CEQA document can be certified. AB 52 requires that lead agencies “begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project.” Native American tribes to be included in the process are those that have requested notice of projects proposed within the jurisdiction of the lead agency.

If a lead agency determines that a project may cause a substantial adverse change to a tribal cultural resource, AB 52 requires the implementation of mitigation measures identified in the consultation

process required under PRC Section 21080.3.2. If consultation fails to identify specific mitigation, PRC Section 21084.3(b) lists the following measures that may be considered, where feasible, to avoid or minimize the impacts:

- Avoidance and preservation of the resources in place, including, but not limited to: planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- Treating the resource with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
 - Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - Protecting the resource.

Senate Bill 18

California Government Code Section 65352.3 (adopted pursuant to the requirements of Senate Bill [SB] 18) requires local governments to contact, refer plans to, and consult with tribal organizations prior to deciding to adopt or amend a general or specific plan. The tribal organizations eligible to consult have traditional lands in a local government’s jurisdiction, and are identified, upon request, by the Native American Heritage Commission (NAHC). As noted in the California Office of Planning and Research’s Tribal Consultation Guidelines (2005), “The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early planning stage, for the purpose of protecting, or mitigating impacts to, cultural places.”

c. AB 52 and SB 18 Process for Ukiah 2040

On April 7, 2022, a letter was sent to the NAHC requesting a current SB 18 and AB52 Native American Contact List for the project vicinity. On June 9, 2022, the NAHC provided a list of 15 tribal contacts with tribal connections to the Planning Area. In accordance with AB 52 and SB 18, the City of Ukiah notified the following 15 tribes of the project and invited them to participate in consultation:

- Bear River Band of Rohnerville Rancheria
- Coyote Valley Band of Pomo Indians
- Guidiville Indian Rancheria
- Habematolel Pomo of Upper Lake
- Hopland Band of Pomo Indians
- Kashia Band of Pomo Indians of the Stewarts Point Rancheria
- Cahto Tribe
- Manchester Band of Pomo Indians of the Manchester Rancheria
- Noyo River Indian Community
- Potter Valley Tribe

- Redwood Valley or Little River Band of Pomo Indians
- Robinson Rancheria of Pomo Indians
- Round Valley Reservation/Covelo Indian Community
- Sherwood Valley Rancheria of Pomo
- Yokayo Tribe

The City prepared and mailed letters on June 21, 2022, informing all 15 tribes listed above of the General Plan update (Ukiah 2040), in accordance with SB 18 and AB 52. On June 29, 2022, the Sherwood Valley Rancheria of Pomo Indians of Northern California (Sherwood Valley) responded, requesting that Ukiah 2040 consider recorded sites and/or cultural resources that are affected during any ground disturbance work, cultural resource protection measures on permit applications, and that the Most Likely Descendent be contacted if cultural resources are found, disturbed, or threatened. The City of Ukiah responded to the Tribe’s letter on July 6, 2022, and shared the policies in Ukiah 2040 that would protect cultural and tribal cultural resources. For additional information about the policies in Ukiah 2040 that would protect cultural and tribal cultural resources, please refer to Impact TCR-1 below. Sherwood Valley did not provide any further comments.

On July 13, 2022, Habematolel Pomo of Upper Lake (Habematolel Pomo) responded via email and stated that the area of Ukiah 2040 is outside of the aboriginal territories of the Habematolel Pomo and deferred correspondence to the Pinoleville Pomo Nation, Redwood Valley, and Guidiville Indian Rancheria. The City of Ukiah responded via email on July 26, 2022 notifying the Habematolel Pomo that letters had been sent to the all three tribes the Habematolel Pomo had suggested. Habematolel Pomo did not have any further comments.

A full schedule of AB 52 and SB 18 consultation between the City and consulted tribes is shown in Table 4.12-1 below.

Table 4.12-1 Summary of AB 52/SB 18 Correspondence

Activity Date	Activity	Materials Provided/Agenda Topics
Ukiah 2040 Consultation		
June 22, 2022	AB 52 and SB 18 notice	Both the AB52 and SB18 notices were mailed and e-mailed to tribes
June 29, 2022	E-mail from Sherwood Valley Rancheria to City	Response letter to AB52 and SB18 notice requesting specific measures be included within Ukiah 2040
July 6, 2022	E-mail from City to Sherwood Valley Rancheria	Response letter including proposed Ukiah 2040 policies protecting cultural and tribal cultural resources
July 13, 2022	E-mail from Habematolel Pomo Upper Lake to City	Response letter stating Ukiah 2040 area is outside of aboriginal territories and suggesting three tribes for the City to contact
July 26, 2022	E-mail from City to Habematolel Pomo Upper Lake with attachments	Notified the tribe that letters had been sent to the three tribes suggested in their letter during the initial notifications

Source: City of Ukiah 2022

4.12.3 Impact Analysis

a. Significance Thresholds and Methodology

Significance Thresholds

According to Appendix G of the *CEQA Guidelines*, impacts related to tribal cultural resources from implementation of the project would be significant if it would:

1. 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:
 - a. 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
 - b. 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 presence and significance of a potential tribal cultural resource is determined through consultation between lead agencies and local California Native Americans. Impacts to tribal cultural resources are highly dependent on the nature of the resource but, in general, could occur if there is destruction or alteration of the resource and its surroundings, access restrictions to the resource, or other disturbances.

b. Project Impacts and Mitigation Measures

Threshold 1a: Would the project cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code Section 21074 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 Resources Code Section 5020.1(k)?

Threshold 1b: Would the project cause a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code Section 21074 that is determined by the lead agency to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code section 5024.1?

Impact TCR-1 DEVELOPMENT FACILITATED BY THE PROJECT MAY INVOLVE EXCAVATION, WHICH HAS THE POTENTIAL TO IMPACT PREVIOUSLY UNIDENTIFIED TRIBAL CULTURAL RESOURCES. HOWEVER, WITH ADHERENCE TO EXISTING CEQA REGULATIONS AND PROPOSED UKIAH 2040 POLICIES, IMPACTS ON TRIBAL CULTURAL RESOURCES WOULD BE LESS THAN SIGNIFICANT WITH MITIGATION.

Because the effects on tribal cultural resources are highly dependent on the individual project site conditions and characteristics of the proposed activity, including the level of ground disturbance, effects on tribal cultural resources can only be known once a specific project has been proposed. As

described in Section 4.12.2, *Regulatory Setting*, the City sent letters to Native American tribes provided by the NAHC, per SB 18 and AB 52 requirements and to date, no tribes have responded requesting consultation under AB 52 or SB 18, although Sherwood Valley did respond requesting Ukiah 2040 include consideration of resources that are affected during ground disturbance work, cultural protection measures on permit applications, and to have the Most Likely Descendant contacted if cultural resources are found, disturbed, or threatened.

Although the current AB 52 and SB 18 outreach did not result in the identification of any tribal cultural resources (TCRs) within the City, TCRs may be identified during implementation of future projects facilitated by Ukiah 2040. As specific projects are proposed, consultation with tribes under AB 52 would occur to determine if any TCRs may be impacted by specific projects. If TCRs are identified during AB 52 consultation, compliance with AB 52 on a project-by-project basis, as required, would ensure that development facilitated by Ukiah 2040 does not have a detrimental effect on TCRs.

In addition, the following proposed policies in Ukiah 2040 would require future projects to comply with Tribal Consultation and consult with the City if any TCRs are identified:

Policy ENV-3.2: Archaeological Resource Impact Mitigation. The City shall ensure appropriate and feasible mitigation for new development that has the potential to impact sites likely to contain archaeological, paleontological, cultural, or tribal resources.

Policy ENV-3.3: Protect Archaeological Resources. The City shall require any construction, grading, or other site altering activities cease if cultural, archaeological, paleontological, or cultural resources are discovered until a qualified professional has completed an evaluation of the site.

Policy ENV-3.4: Tribal Consultation. The City shall proactively engage local Native American tribes in the planning process, particularly when matters related to Native American culture, heritage, resources, or artifacts may be affected.

The proposed policies aim at protecting TCRs; however, future projects may encounter undiscovered TCRs, which could result in a potentially significant impact. Although development associated with implementation of Ukiah 2040 would likely occur within infill or previously developed sites, Mitigation Measure CR-2 in Section 4.5, *Cultural Resources*, would require archaeological resource studies for future projects within potentially sensitive areas, and implementation of further requirements to avoid or reduce impacts on those resources on a project-by-project basis. These measures, in tandem with current laws and CEQA regulations that outline measures and procedures for accidental discovery and require AB 52 consultation on a project-by-project basis, take into consideration the suggestions by Sherwood Valley. The project would not increase the likelihood for development that could affect TCRs, and all individual projects would adhere to federal, State, and local regulations. In addition, the City would implement Mitigation Measures TCR-1 and TCR-2 to avoid and properly treat TCRs with local Native American involvement.

Mitigation Measures

Mitigation Measure CR-2 (see Section 4.5, *Cultural Resources*).

TCR-1 Avoidance of Tribal Cultural Resources

When feasible, development facilitated by the project shall be designed to avoid known tribal cultural resources. Any tribal cultural resource within 60 feet of planned construction activities shall

be protected by establishing an Environmentally Sensitive Area (ESA) that would be fenced, or otherwise protected to ensure avoidance. The feasibility of avoidance of tribal cultural resources shall be determined by the City and applicants in consultation with local California Native American tribe(s).

TCR-2 Unanticipated Discovery

If previously unidentified tribal cultural resources are encountered during project implementation, altering the materials and their stratigraphic context shall be avoided and work shall halt immediately. Project personnel shall not collect, move, or disturb cultural resources. A representative from a locally-affiliated Native American Tribe shall be contacted to evaluate the resource and prepare a tribal cultural resources plan identifying methods necessary to protect the resource, in consultation with the City.

Significance After Mitigation

Implementation of Mitigation Measures CR-2, TCR-1, and TCR-2 would reduce potential impacts to TCRs from development facilitated by the project to less than significant levels by requiring avoidance and proper treatment of resources if found during unanticipated discovery.