

## 3.12 Cultural Resources

This supplemental environmental impact report (SEIR) addresses proposed modifications to the B.F. Sisk Dam Safety of Dams Modification Project, which was previously evaluated in the B.F. Sisk Dam Safety of Dams Modification Project Environmental Impact Statement/Environmental Impact Report (2019 EIS/EIR). The project addressed in the 2019 EIS/EIR is referred to herein as the Approved Project; the Approved Project with proposed modifications identified since certification of the 2019 EIS/EIR is referred to herein as the Modified Project.

This section describes the existing cultural resources conditions of the Modified Project site and vicinity, identifies associated regulatory requirements, evaluates potential impacts, and identifies any applicable mitigation measures related to implementation of the Modified Project.

Please note that portions of the area covered within the 2019 EIS/EIR were not subject to cultural resources inventory or other cultural resources assessments. Management stipulations, specifically Mitigation Measure CR-1 from the 2019 EIS/EIR, required preparation of a document that would guide future cultural resources technical studies and evaluation efforts to be completed of these unsurveyed areas prior to being cleared for construction. Subsequent to the 2019 EIS/EIR, this document has been prepared and is entitled, Programmatic Agreement Among The Bureau of Reclamation, Interior Region 10 California-Great Basin; and The California State Historic Preservation Officer Regarding Compliance with Section 106 of the National Historic Preservation Act Pertaining to the Implementation of the Safety of Dams B.F. Sisk Dam Project (Programmatic Agreement) (Reclamation and SHPO 2019). As discussed in greater detail in this section, to provide analysis of the Modified Project and provide survey data pertinent to the requirements and implementation of the Programmatic Agreement, Dudek’s cultural resources investigation (Giacinto et al. 2020) included survey of not only all additional impact areas that were added to the Approved Project subsequent to finalization of the 2019 EIS/EIR (the subject of this SEIR), but also priority areas that had not yet been subject to cultural resources investigations within the Approved Project area. There are accessible areas of the Modified Project that remain unsurveyed for cultural resources, such as Medeiros Campground and Basalt Campground. These areas will not be impacted by the Modified Project as presently designed. Should future design refinements introduce impacts to these unsurveyed areas, additional technical studies and environmental review would be required by Mitigation Measure CR-1 of the 2019 EIS/EIR. With the intent of fully documenting available cultural resources information, the general background sections below summarize the results of Dudek’s investigation of both the previously unsurveyed areas within the Approved Project site and the additional impact areas of the Modified Project addressed by the present SEIR.

### 3.12.1 Existing Conditions

#### 3.12.1.1 Project Site

This analysis has been conducted with the intent of supplementing cultural resources studies completed to date and in support of the Approved Project. The 2019 EIS/EIR identified a footprint, or potential disturbance area, of approximately 3,914 acres for the Approved Project. This area is depicted in Figures 1-3, 2-3, and 2-4 and, for the purposes of the analysis carried out in this section, is referred to as the Approved Project site. Pacific Legacy Inc. conducted a pedestrian survey of portions of the Approved Project site and completed a cultural resources report for this area in May 2019 (Holm and Holson 2019). Evaluation recommendations within this report received State Historic Preservation Officer (SHPO) concurrence on April 29, 2021.

The analysis in this section focuses specifically on previously unsurveyed areas of the Approved Project site, as well as additional impact areas that have been added since certification of the 2019 EIS/EIR (i.e., the Modified Project). The proposed modifications associated with the Modified Project include the development of a new permanent public campground on the northwestern shore of O'Neill Forebay, improvements to the San Luis Creek Day Use Area, and the use of additional access roads and potential staging areas. The Modified Project also added two alternative on-site borrow areas—Borrow Area 12 and Borrow Area 14—within areas previously identified for construction staging in the 2019 EIS/EIR. While these borrow areas are within the Approved Project site, they represent an additional activity and would result in a greater level of disturbance than analyzed in the 2019 EIS/EIR. The Modified Project would introduce an additional 184 acres of impacted area. See Figure 3.12-1, Approved Project and Modified Project Survey Areas.

Intensive-level pedestrian survey included (1) the approximately 184 acres that have been added outside of the Approved Project site as a result of the additional impact areas of the Modified Project and (2) an additional approximately 204 acres within the Approved Project site that were not previously subject to survey by Pacific Legacy Inc. These approximately 388 acres comprise the Survey Area.

### 3.12.1.2 Cultural Context

The history of the Modified Project vicinity has been fully outlined within the Supplemental Cultural Resources Inventory for the B.F. Sisk Dam Safety of Dams Modification Project (Giacinto et al. 2020). Included below is a brief summary of that history.

#### **Prehistoric Context**

The archaeology and prehistory of San Joaquin Valley are not well understood. In addition, much of the archaeological material from the valley area has not been found in context, having been scavenged from the surface and placed in private collections or destroyed through agricultural activities. Early and widespread agricultural use of the valley floor has destroyed much of the bottomland archaeology, and siltation has most likely buried many resources well below the surface sediments. On the valley floor, in the Tulare Lake vicinity, fluted projectile points were found at the Witt Site, suggesting possible Clovis occupation in the region earlier than 11,000 years ago, during the Pleistocene. Other evidence for Early Holocene occupation around valley lakes has been recovered from Buena Vista Lake (Giacinto et al. 2020).

More than 30 years ago, Moratto provided a general chronological framework that encompasses the San Joaquin Valley. Since then, numerous additional studies have provided data to supplement and refine this framework (see below for examples). Building on this previous research, the following chronology contains four general time frames with associated periods, dates, and marker traits: Paleoindian (Paleoindian Period), Early Archaic (Early Period), Middle Archaic (Middle Period), and Late Archaic (Late Period). A description of each of these periods is presented as follows (Giacinto et al. 2020).

#### ***Paleoindian Period (ca. 12,000 to 9000 BP)***

There is ample evidence of human habitation in the southern San Joaquin Valley dating to approximately 12,000 years ago. While few sites of Paleoindian age have been identified in the San Joaquin Valley, occupation is known to date to at least 11,000 years ago. Most of the evidence for a Paleoindian presence in the valley has been limited to surface finds of fluted projectile points (see below), which are typically regarded by North American archaeologists as late Pleistocene or early Holocene time markers. These have been most

notably collected from the southern shoreline of Tulare Lake. Unfortunately, most of these discoveries have been made by amateur collectors, many of whom were collecting illegally, so virtually no provenance has been provided for these artifacts. This has resulted in an enormous and irretrievable loss of data for understanding the Paleoindian Period in this region (Giacinto et al. 2020).

### ***Early Period (ca. 9000 to 6000 BP)***

Evidence for the Early Period in the San Joaquin Valley and the southern and central western slopes of the Sierra Nevada is meager. During this period, however, it is believed that human subsistence was based largely on the hunting of large game and fishing. Grinding implements, such as mortars, pestles, millingstones, and handstones, appear infrequently during this time in the archaeological record. Other types of artifacts in these assemblages include hand-molded baked clay net weights, Olivella and Haliotis shell beads and ornaments, charmstones, and stemmed projectile points. Bone artifacts are uncommon. Burials are typically fully extended, oriented to the west, and generally have associated artifacts (e.g., quartz crystals). Cremations are rare for the Early Period (Giacinto et al. 2020).

### ***Middle Period (ca. 6000 to 3000 BP)***

After about 6,000 years ago, the climate became generally warmer, and there appears to have been fairly substantial use of the area during the Middle Period. This period is characterized by a more generalized subsistence pattern. While hunting, fowling, and fishing continue to be the focus of subsistence activities, an increased emphasis on seed processing (particularly acorns) is evident. Artifacts include Olivella and Haliotis beads and other ornaments, distinctive spindle-shaped charmstones, cobble mortars, chisel-ended pestles, and large projectile points (inferring use of the atlatl). Bone tools, such as awls, fish spear tips, saws, and flakers, may be evidence of generalized subsistence, but preservation bias (i.e., the lack of these perishable tools in earlier components) may have affected the archaeological record. Burials are tightly flexed and have few associated artifacts. At the same time, there is a slight increase in the number of cremations. Evidence of violent death appears in the burial assemblage, as indicated by disarticulated skeletons with embedded weapon points (Giacinto et al. 2020).

### ***Late Period (ca. 3000 to 150 BP)***

The Late Period has been postulated to represent the occupation of the ethnographic Yokuts, although this presumption is based on assemblage composition and must be conditioned by the recognition that artifacts cannot be equated with culture. This is especially true because it is increasingly understood that the high diversity of identified tribes in California may have been a relatively late phenomenon associated with the development of an individualized currency economy (Giacinto et al. 2020).

During the Late Period in general, subsistence began to focus on the processing of acorns and other labor-intense processed plant foods, with a proportionate decrease in the contribution of hunting, fowling, and fishing. Typical artifacts of this period include Olivella beads, Haliotis ornaments, stone beads and cylinders, clamshell disk beads, tubular smoking pipes of schist and steatite, arrow shaft straighteners, flat-bottomed mortars, cylindrical pestles, and small side-notched projectile points for use with the bow and arrow. Burials are often in flexed positions and cremation is more common than during the Middle Period (Giacinto et al. 2020).

### **Ethnohistoric (post-AD 1750)**

The history of Native American communities prior to the mid-1700s has largely been reconstructed through later mission-period and early ethnographic accounts. The first records of the Native American inhabitants of the region come predominantly from European merchants, missionaries, military personnel, and explorers. These brief, and generally peripheral, accounts were prepared with the intent of furthering respective colonial and economic aims and were combined with observations of the landscape. They were not intended to be unbiased accounts regarding the cultural structures and community practices of the newly encountered cultural groups. The establishment of the missions in the region brought more extensive documentation of Native American communities, though these groups did not become the focus of formal and in-depth ethnographic study until the early twentieth century. The principal intent of these researchers was to record the pre-contact, culturally specific practices, ideologies, and languages that had survived the destabilizing effects of missionization and colonialism. This research, often understood as “salvage ethnography,” was driven by the understanding that traditional knowledge was being lost due to the impacts of modernization and cultural assimilation. Alfred Kroeber applied his “memory culture” approach by recording languages and oral histories within the region (Giacinto et al. 2020).

The Modified Project falls on the boundary between Northern Valley Yokuts and Costanoan (Ohlone) populations documented during the ethnohistoric period. Costanoan and Yokuts are subgroups of the Penutian linguistic group spoken by populations that moved south from Oregon, displacing Hokan-speaking groups (Giacinto et al. 2020).

### ***Northern Valley Yokuts***

Ethnohistoric inhabitants of the area now representing the Modified Project site would have likely spoken *Noptinte*, a dialect of Northern Valley Yokuts that has been documented by records held at Mission San Juan Bautista to have been used by neophytes from the Los Banos area. The Northern Valley Yokuts group inhabited the lower San Joaquin River watershed and its tributaries extending from the Calaveras River in the north to approximately the large bend of the San Joaquin River eastward near Mendota. The lower San Joaquin River meanders through the territory making bends, sloughs, and marshes full of tule reeds as it meanders. Farther from the rivers and marshes, the valley floor would have been dry and sparsely vegetated (Giacinto et al. 2020).

Northern Valley Yokuts habitation areas were most commonly situated in proximity to rivers and major tributaries, more often on the east side of the river. West-of-the-river populations were much sparser and concentrated in the foothills on minor waterways. Traditional villages were perched on top of low mounds on or near riverbanks. There was a high level of sedentism due to abundant riverine resources, though there were times of seasonal disbandment for harvesting wild plant resources such as acorns and seeds (Giacinto et al. 2020).

The Northern Valley Yokuts saw sharp and devastating decline from disease and relocation to coastal missions nearly immediately after Spanish contact. This only increased with the large influx of cattle ranching and Anglos Americans after the gold rush (Giacinto et al. 2020).

### ***Costanoan (Ohlone)***

Ethnohistoric inhabitants immediately west of the Modified Project area spoke a variety of Costanoan. As an alternative to the term “Costanoan,” which was popularized through use by Kroeber, other researchers such as Merriam use “Ohlone” because it was the self-identifying term used by inhabitants of the region during interviews. Throughout this section, “Costanoan” is used to reference the language community, while “Ohlone” is used to describe the people (Giacinto et al. 2020).

Due to the effects of missionization, relatively little is known about the Ohlone ethnographically. The material culture of these people has largely been reconstructed from the archaeological record. Ohlone communities were generally organized into autonomous tribelets, with one or more permanent habitation areas near the coast or major drainages and a limited number of more peripheral semi-permanent villages situated near other important resources. As previously noted, these groups spoke different dialects of a broader, mutually intelligible language. The population within each tribelet generally numbered 200 to 400 people and was overseen by a headman and council of elders. Permanent villages were established near the coast and river drainages, while temporary camps were located in prime resource-collecting areas. The most common burial practice at the time of European contact was cremation (Giacinto et al. 2020).

### **The Historic Period**

#### ***Spanish Period (1769–1822)***

Spanish missionization of Alta California was initiated in San Diego in 1769. A total of 21 missions were constructed by the Dominican and Franciscan orders between 1769 and 1823. Missions in the region included San Juan Bautista (1797), Santa Clara de Asís (1776), San José (1797), and Santa Cruz (1791). The first Spaniards arrived in the San Joaquin Valley in 1772, led by don Pedro Fages). In 1805, A Spanish expedition led by Gabriel Moraga traversed Pacheco Pass, northwest of the Modified Project site, which had been a Yokut trail previously. A Spanish expedition from San Francisco named the vicinity of the Modified Project site San Luis Gonzaga after Saint Aloysius Gonzaga, a sixteenth-century Italian aristocrat and Jesuit (Giacinto et al. 2020).

#### ***Mexican Period (1822–1848)***

Mexico's separation from the Spanish Empire in 1821 and the secularization of the California missions in the 1830s caused further disruptions to Native American populations. Following the establishment of the Mexican Republic, the government seized many of the lands belonging to Native Americans, providing them as parts of larger land grants to affluent Mexican citizens and rancheros. The 1833 Secularization Act passed by the Mexican Congress ordered half of all mission lands to be transferred to Native Americans, and the other half to remain in trust and managed by an appointed administrator. These orders were never implemented due to several factors that conspired to prevent Native Americans from regaining their patrimony. A Mexican land grant, Rancho San Luis Gonzaga, was issued in the Modified Project vicinity to Juan Perez Pacheco and José Maria Mejía in 1843. This grant included more than 48,000 acres within present-day Merced and Santa Clara Counties. José Maria Mejía soon gave his portion of the land grant to Pacheco, who became the sole owner. Juan Perez Pacheco saw construction of the area's first adobe building around 1844, and the ownership of the rancho stayed with Pacheco into the American Period (Giacinto et al. 2020).

#### ***American Period (Post 1848)***

California was officially ceded to the United States in 1848, which led to the continued appropriation of Native American territory by ranchers, prospectors, and an increasing number of settlers. Pacheco Pass saw increased traffic into the mid-nineteenth century due to the 1849 Gold Rush and the discovery of gold in the Kern River in 1853. Over the decade, routes through Pacheco Pass became more formalized with the creation of a toll road in 1857, and the Butterfield Stage Lines established a regular route through the pass. Rancho San Luis Gonzaga became a stage station in the Butterfield Overland Mail stagecoach route, which connected Saint Louis, Missouri to San Francisco. The completion of the Transcontinental Railroad in 1869 facilitated the shipping of animal products to markets east (Giacinto et al. 2020).

While Americans slowly populated the San Joaquin Valley into the latter half of the nineteenth century, ranching continued to play an important economic role in the region around Rancho San Luis Gonzaga. The majority of Rancho San Luis Gonzaga was condemned by the State of California in 1962 to create B.F. Sisk Dam and San Luis Reservoir. To provide rock for the upstream face of the dam, Basalt Hill Quarry and the Rock Separation Plant were established nearby. Construction of B.F. Sisk Dam was completed by 1968, and on May 31, 1969, San Luis Reservoir filled for the first time. Later, Paula Fatjo, owner of Rancho San Luis Gonzaga and Juan Perez Pacheco’s descendant, leased 5,000 acres of Rancho San Luis Gonzaga in a 25-year lease to support a wind energy conservation facility. Paula Fatjo died on December 30, 1992, and left the remaining acreage of the Rancho San Luis Gonzaga to the California Department of Parks and Recreation parks system (Giacinto et al. 2020).

### 3.12.1.3 Central California Information Center Records Search Results

A records search of the Survey Area and a 1-mile buffer was completed by Central California Information Center staff on May 8, 2020 (Confidential Appendix E of this SEIR). The records search included the Central California Information Center collection of mapped prehistoric, historical, and built-environment resources; California Department of Parks and Recreation (CDPR) site records; technical reports; archival resources; and ethnographic references. Additional consulted sources included the National Register of Historic Places (NRHP); California Inventory of Historical Resources/California Register of Historical Resources (CRHR); and listed Office of Historic Preservation Archaeological Determinations of Eligibility, California Points of Historical Interest, California Department of Transportation Bridge Surveys, historical maps, and California Historical Landmarks.

Central California Information Center records indicate that 57 previous cultural resources technical investigations have been conducted within 1 mile of the Survey Area. Of these studies, 22 cultural resources studies have covered the area subject to supplemental Dudek survey. Records at the Central California Information Center indicate that 9 cultural resources have been previously identified within or near the Survey Area (Table 3.12-1). In addition, 23 cultural resources have been identified within 1 mile of the Modified Project site.

**Table 3.12-1. Previously Recorded Cultural Resources Recorded as Intersecting or Near the Survey Area**

Primary Number	Trinomial	Name	Type	Period	Attributes
P-24-000219	CA-MER-000119	12-7-65 #1	Site	Prehistoric	Roads/trails; lithic scatter; bedrock milling feature; habitation debris
P-24-001876	CA-MER-000451H	80131-01; Domengin Sheep Ranch	Structure, object, site	Historic	Wells/cisterns; water conveyance system; single family property; ancillary building; engineering structure; trees/vegetation; farm/ranch
P-24-001986	CA-MER-000492H	PL-SLLP-A-011	Structure, site	Historic	Foundations/structure pads; roads/trails; mines/quarries/tailings; standing structures; mine structure/building
P-24-001988	CA-MER-000494H	PL-SLLP-A-015	Structure, other	Historic	Roads/trails

**Table 3.12-1. Previously Recorded Cultural Resources Recorded as Intersecting or Near the Survey Area**

Primary Number	Trinomial	Name	Type	Period	Attributes
P-24-002008	None	O'Neill Dam, O'Neill Forebay, and O'Neill Pumping-Generating Plant	Building, structure	Historic	Ancillary building; public utility building; engineering structure; canal/aqueduct; dam; reservoir
P-24-002154	CA-MER-000509H	PL-SLLPIP-16-01 Basalt Hill Quarry Rock Separation Plant	Site	Historic	Foundations/structure pads; trash scatters; mines/quarries/tailings
P-24-002165	CA-MER-000520H	PL-SLLPIP-16-14; 34 Survey Markers	Site	Historic	Survey markers
P-24-002184	None	B.F. Sisk Dam, San Luis Reservoir Historic District	District	Historic	Public utility building; engineering structure; canal/aqueduct; dam; reservoir
P-24-002185	None	B.F. Sisk Dam, San Luis Reservoir, and W. Gianelli Pumping-Generating Plant	Structure	Historic	Public utility building; engineering structure; canal/aqueduct; dam; reservoir

#### 3.12.1.4 Supplemental Pedestrian Survey

As noted, Pacific Legacy Inc. completed a cultural resources inventory report for portions of the Approved Project site in May 2019 (Holm and Holson 2019). Evaluation recommendations provided within this report received SHPO concurrence on April 29, 2021. Dudek archaeologists Ross Owen and Aristides Aguilera Figueroa completed an intensive-level pedestrian survey from May 11 to May 15, 2020. The Survey Area covered a total of 388 acres—approximately 204 acres within the Approved Project site that were not previously subject to survey and approximately 184 acres of additional impact areas associated with the Modified Project.

All fieldwork was performed using standard archaeological procedures and techniques that meet the Secretary of the Interior's standards and guidelines for cultural resources inventory and evaluation (48 FR 44720–44726). The areas added by the Modified Project were subject to a 100% survey with transects spaced no more than 15 meters apart. Survey crew was equipped with a GPS receiver with sub-meter accuracy. Field recording and photo documentation of cultural resources and the Modified Project setting was completed during the survey. A series of overview photographs was taken to document the current conditions. Location-specific photographs were taken using an Apple iPhone equipped with 12-megapixel resolution and georeferenced PDF maps of the Survey Area. Evidence for buried cultural deposits was opportunistically sought through inspection of natural or artificial erosion exposures and the spoils from rodent burrows. The Modified Project was observed to be heavily grassed, allowing for approximately one-fifth of the ground to be directly observed in most areas. Areas considered to have a higher potential to support archaeological resources, such as near drainages and exposed bedrock, were given more intensive attention by surveying more slowly and reducing transect spacing.

### Pedestrian Survey Results

Ground surface conditions were observed to be disturbed in sections of the Survey Area, which include the San Luis Creek Day Use Area, the vicinity of Basalt Hill Quarry, the vicinity of the Gianelli Pumping-Generating Plant, and existing roads. The Survey Area appeared fairly undisturbed in the area of the proposed new campground and some areas surrounding existing roads. Ground surface visibility was restricted due to tall grass, with approximately 20% directly observable during survey.

Seven of the eight previously recorded cultural resources within the Survey Area were relocated and found to be in the same general condition as previously recorded (Table 3.12-2). One cultural resource, P-24-000219, while mapped as adjacent or potentially intersecting areas introduced by the Modified Project, was not observed in the Survey Area and thus not reidentified. No previously unrecorded cultural resources were identified during the survey. In order to meet minimum standards for recordation outlined by the California Office of Historic Preservation, Dudek prepared California Department of Parks and Recreation DPR 523 series site forms for the relocated resources.

**Table 3.12-2. Cultural Resources Identified and/or Updated During Survey**

Resource ID	Trinomial	Resource Age	Resource Type	Proximity to Additional Modified Project Areas	UTM (NAD 1983)	Description
P-24-000219	None	Prehistoric	Roads/trails; lithic scatter; bedrock milling feature; habitation debris	Lies entirely out of APE (adjacent to existing day use area)	Confidential	Village site
P-24-001986	CA-MER-492H	Historic-era	Quarry; industrial structure	Intersects APE	670297mE 4,100,246mN	Quarry processing area
P-24-001988	CA-MER-494H	Historic-era	Roads/trails	Intersects APE for approx. 0.8 miles	671006mE 4100496mN, 670565mE 4099785mN, 670552mE 4099777mN, 669294mE 4099313mN	Earthwork road
P-24-002008	None	Historic-era	Ancillary building; public utility building; engineering structure; canal/aqueduct; dam; lake/river/reservoir	Intersects APE	673429mE 4107580mN	O'Neill Dam, O'Neill Forebay, O'Neill Pumping-Generating Plant
P-24-002154	CA-MER-509H	Historic-era	Foundations/structure pads; trash scatter; mines/quarries/tailings	Intersects approx. 0.9 acres of the APE	669430mE 4098850mN (Datum)	Quarry used during construction of San Luis Reservoir, started use in 1963



Table 3.12-2. Cultural Resources Identified and/or Updated During Survey

Resource ID	Trinomial	Resource Age	Resource Type	Proximity to Additional Modified Project Areas	UTM (NAD 1983)	Description
P-24-002165	CA-MER-520H	Historic-era	Markers	Three (3) markers are within the APE	Multiple (See Confidential Appendix E of this SEIR)	38 historic survey markers, elevation markers, control points, and observation wells, in various locations
P-24-002184	None	Historic-era	Historic District: Public utility building; engineering structure; canal/aqueduct; dam; lake/river/reservoir	Majority of the APE lies within the district	Multiple	B.F. Sisk Dam/San Luis Reservoir Historic District
P-24-002185	None	Historic-era	Public utility building; engineering structure; canal/aqueduct; dam; lake/river/reservoir	Intersect portions of the APE	670970mE 4103384mN	B.F Sisk Dam

Note: APE = area of potential effect.

### 3.12.2 Relevant Plans, Policies, and Ordinances

#### 3.12.2.1 Federal

##### National Register of Historic Places

The NRHP is the United States’ official list of districts, sites, buildings, structures, and objects worthy of preservation. Overseen by the National Park Service, under the U.S. Department of the Interior, the NRHP was authorized under the National Historic Preservation Act, as amended. Its listings encompass all National Historic Landmarks, as well as historic areas administered by the National Park Service.

NRHP guidelines for the evaluation of historic significance were developed to be flexible and to recognize the accomplishments of all who have made significant contributions to the nation's history and heritage. Its criteria are designed to guide state and local governments, federal agencies, and others in evaluating potential entries in the NRHP. For a property to be listed in or determined eligible for listing, it must be demonstrated to possess integrity and to meet at least one of the following criteria:

The quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- 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 is defined in NRHP guidance, *How to Apply the National Register Criteria*, as “the ability of a property to convey its significance. To be listed in the NRHP, a property must not only be shown to be significant under the NRHP criteria, but it also must have integrity” (NPS 2009). NRHP guidance further asserts that properties be completed at least 50 years ago to be considered for eligibility. Properties completed fewer than 50 years before evaluation must be proven to be “exceptionally important” (criteria consideration G) to be considered for listing.

A historic property is defined as “any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the NRHP maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the NRHP criteria” (36 CFR Sections 800.16[i][1]).

Effects on historic properties under Section 106 of the National Historic Preservation Act are defined in the assessment of adverse effects in Title 36, Sections 800.5(a)(1) of the Code of Federal Regulations:

An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Consideration shall be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the National Register. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative.

Adverse effects on historic properties are clearly defined and include, but are not limited to the following:

- (i) Physical destruction of or damage to all or part of the property;
- (ii) Alteration of a property, including restoration, rehabilitation, repair, maintenance, stabilization, hazardous material remediation and provision of handicapped access, that is not consistent

with the Secretary's Standards for the Treatment of Historic Properties (36 CFR Part 68) and applicable guidelines;

- (iii) Removal of the property from its historic location;
- (iv) Change of the character of the property's use or of physical features within the property's setting that contributes to its historic significance;
- (v) Introduction of visual, atmospheric or audible elements that diminish the integrity of the property's significant historic features;
- (vi) Neglect of a property which causes its deterioration, except where such neglect and deterioration are recognized qualities of a property of religious and cultural significance to an Indian tribe or Native Hawaiian organization; and
- (vii) Transfer, lease, or sale of property out of Federal ownership or control without adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance (36 CFR Section 800.5 [2]).

To comply with Section 106, the criteria of adverse effect are applied to historic properties, if any exist in a project's area of potential effect (APE), pursuant to Title 36, Section 800.5(a)(1) of the Code of Federal Regulations. If no historic properties are identified in a project's APE, a finding of "no historic properties affected" will be made for the project. If there are historic properties in the APE, application of the criteria of adverse effect will result in project-related findings of either "no adverse effect" or of "adverse effect," as described above. A finding of no adverse effect may be appropriate when a project's effects do not meet the thresholds in criteria of adverse effect outlined in Title 36, Section 800.5(a)(1) of the Code of Federal Regulations, in certain cases when the undertaking is modified to avoid or lessen effects, or if conditions were imposed to ensure review of rehabilitation plans for conformance with the Secretary of the Interior's Standards for the Treatment of Historic Properties (codified in 36 CFR Part 68).

If adverse effects findings were expected to result from a proposed project, mitigation would be required, as feasible, and resolution of those adverse effects by consultation may occur to avoid, minimize, or mitigate adverse effects on historic properties pursuant to Title 36, Part 800.6(a) of the Code of Federal Regulations.

### **Native American Human Remains on Federal Land**

Under the Native American Graves Protection and Repatriation Act (25 USC 3001) and implementing regulations Title 43, Part 10 of the Code of Federal Regulations, the Bureau of Reclamation (Reclamation) is responsible for the protection of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony that are discovered on Reclamation lands. All human remains and potential human remains must be treated with respect and dignity at all times. In the event that suspected human remains are discovered during Modified Project activity on Reclamation land, all activities in the immediate area will cease, and appropriate precautions will be taken to protect the remains and any associated cultural items from further disturbance. Reclamation will follow the procedures outlined in Title 43, Part 10.4 of the Code of Federal Regulations (Inadvertent Discoveries). Reclamation's protocol is also outlined in Appendix E of the Programmatic Agreement (Reclamation and SHPO 2019). The Reclamation Region 10 Regional Environmental Officer will be immediately notified by telephone and will take responsibility for the discovery by contacting the appropriate law enforcement and Reclamation officials. Within 3 working days of confirmation of the discovery (see 43 CFR Part 10.4[d][1][iii]), the Regional Cultural Resource Officer will ensure that Indian tribes likely to be affiliated with the discovered human remains (e.g., lineal descendant, culturally affiliated Indian tribe, Indian tribe with other cultural relationship, and Indian tribe that aboriginally occupied area) are notified by telephone or in person, with written confirmation. Treatment and handling of the remains will be determined through consultation between Reclamation and consulting tribes.

### 3.12.2.2 State

#### California Register of Historical Resources

In California, the term “historical resource” includes “any object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California” (California Public Resources Code, Section 5020.1[j]). In 1992, the California legislature established the CRHR “to be used by state and local agencies, private groups, and citizens to identify the state’s historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change” (California Public Resources Code, Section 5024.1[a]). The criteria for listing resources on the CRHR, enumerated in the following text, were developed to be in accordance with previously established criteria developed for listing in the NRHP. According to California Public Resources Code, Section 5024.1(c)(1–4), a resource is considered historically significant if it (i) retains “substantial integrity,” and (ii) meets at least one 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

To understand the historic importance of a resource, sufficient time must have passed to obtain a scholarly perspective on the events or individuals associated with the resource. A resource less than 50 years old may be considered for listing in the CRHR if it can be demonstrated that sufficient time has passed to understand its historical importance (14 CCR 4852[d][2]).

The CRHR protects cultural resources by requiring evaluations of the significance of prehistoric and historic resources. The criteria for the CRHR are nearly identical to those for the NRHP, and properties listed or formally designated as eligible for listing in the NRHP are automatically listed in the CRHR, as are state landmarks and points of interest. The CRHR also includes properties designated under local ordinances or identified through local historical resource surveys.

#### California Environmental Quality Act

As described in the following text, the following California Environmental Quality Act (CEQA) statutes and State of California CEQA Guidelines (CEQA Guidelines) are of relevance to the analysis of archaeological, historic, and tribal cultural resources:

- California Public Resources Code, Section 21083.2(g), defines “unique archaeological resource.”
- California Public Resources Code, Section 21084.1, and CEQA Guidelines, Section 15064.5(a), define “historical resources.” In addition, CEQA Guidelines, Section 15064.5(b), defines the phrase “substantial adverse change in the significance of an historical resource.” It also defines the circumstances when a project would materially impair the significance of a historical resource.

- California Public Resources Code, Section 21074(a), defines “tribal cultural resources.”
- California Public Resources Code, Section 5097.98, and CEQA Guidelines, Section 15064.5(e), set forth standards and steps to be employed following the accidental discovery of human remains in any location other than a dedicated ceremony. The Native American Heritage Commission (NAHC) is to resolve disputes regarding the disposition of such remains. In addition, the Native American Historic Resource Protection Act makes it a misdemeanor, punishable by up to 1 year in jail, to deface or destroy a Native American historic or cultural site that is listed or may be eligible for listing in the CRHR.

### **California Health and Safety Code, Section 7050.5**

California law protects Native American burials, skeletal remains, and associated grave goods, regardless of their antiquity, and provides for the sensitive treatment and disposition of those remains. California Health and Safety Code, Section 7050.5, requires that if human remains are discovered in any place other than a dedicated cemetery, no further disturbance or excavation of the site or nearby area reasonably suspected to contain human remains can occur until the county coroner has examined the remains (California Health and Safety Code, Section 7050.5b). California Public Resources Code, Section 5097.98, also outlines the process to be followed in the event that remains are discovered. If the county coroner determines or has reason to believe the remains are those of a Native American, the county coroner must contact the California NAHC within 24 hours (California Health and Safety Code, Section 7050.5c). The NAHC will notify the most likely descendant. With the permission of the landowner, the most likely descendant may inspect the site of discovery. The inspection must be completed within 48 hours of notification of the most likely descendant by the NAHC. The most likely descendant may recommend means of treating or disposing of, with appropriate dignity, the human remains and items associated with Native Americans. California Public Resources Code, Sections 21083.2(b–c), and CEQA Guidelines, Section 15126.4, provide information regarding the mitigation framework for archaeological and historic resources, including examples of preservation-in-place mitigation measures. Preservation-in-place is the preferred manner of mitigating impacts to significant archaeological sites because it maintains the relationship between artifacts and the archaeological context and may also help avoid conflict with religious or cultural values of groups associated with the archaeological sites.

Under CEQA, a project may have a significant effect on the environment if it may cause “a substantial adverse change in the significance of an historical resource” (California Public Resources Code, Section 21084.1; 14 CCR 15064.5[b]). If a site is either listed or eligible for listing in the CRHR, included in a local register of historic resources, or identified as significant in a historical resources survey (meeting the requirements of California Public Resources Code, Section 5024.1[q]), it is a “historical resource” and is presumed to be historically or culturally significant for purposes of CEQA (California Public Resources Code, Section 21084.1; 14 CCR 15064.5[a]). The lead agency is not precluded from determining that a resource is a historical resource, even if it does not fall within this presumption (California Public Resources Code, Section 21084.1; 14 CCR 15064.5[a]).

A “substantial adverse change in the significance of an historical resource” reflecting a significant effect under CEQA means “physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired” (14 CCR 15064.5[b][1]; California Public Resources Code, Section 5020.1[q]). In turn, the significance of a historical resource is materially impaired when a project does any of the following:

1. Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register; or

2. Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to Section 5020.1(k) of the California Public Resources Code or its identification in an historical resources survey meeting the requirements of Section 5024.1(g) of the California Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or
3. Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its eligibility for inclusion in the California Register as determined by a lead agency for purposes of CEQA. (14 CCR 15064.5[b][2])

Pursuant to these sections, the CEQA inquiry begins with evaluating whether a project site contains any “historical resources,” then whether that project will cause a substantial adverse change in the significance of a historical resource such that the resource’s historical significance is materially impaired.

If it can be demonstrated that a project will cause damage to a unique archaeological resource, the lead agency may require reasonable efforts be made to permit any or all of these resources to be preserved in place or left in an undisturbed state. To the extent that they cannot be left undisturbed, mitigation measures are required (California Public Resources Code, Section 21083.2[a–c]).

California Public Resources Code, Section 21083.2(g), defines a unique archaeological resource as an archaeological artifact, object, or site about which it can be clearly demonstrated that without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:

1. Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information
2. Has a special and particular quality such as being the oldest of its type or the best available example of its type
3. Is directly associated with a scientifically recognized important prehistoric or historic event or person

Impacts to nonunique archaeological resources are generally not considered a significant environmental impact (California Public Resources Code, Section 21083.2[a]; 14 CCR 15064.5[c][4]). However, if a nonunique archaeological resource qualifies as a tribal cultural resource (California Public Resources Code, Sections 21074[c], 21083.2[h]), further consideration of significant impacts is required.

CEQA Guidelines, Section 15064.5, assigns special importance to human remains and specifies procedures to be used when Native American remains are discovered (14 CCR 15064.5). These procedures are detailed in California Public Resources Code, Section 5097.98.

### **California State Assembly Bill 52**

Assembly Bill (AB) 52 of 2014 amended California Public Resources Code, Section 5097.94, and added California Public Resources Code, Sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3, 21083.09, 21084.2, and 21084.3. AB 52 established that tribal cultural resources must be considered under CEQA, and also provided for additional Native American consultation requirements for the lead agency. California Public Resources Code, Section 21074, defines tribal cultural resources as follows:

- (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. 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 “nonunique archaeological resource” as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

AB 52 formalizes the lead agency–tribal consultation process, requiring the lead agency to initiate consultation with California Native American tribes located on the contact list maintained by the NAHC. This includes California Native American groups that are traditionally and culturally affiliated with a project area, including tribes that may not be federally recognized. Lead agencies are required to begin consultation prior to the release of a negative declaration, mitigated negative declaration, or EIR.

Section 9 of AB 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.” Section 6 of AB 52 added Section 21080.3.2 to the California Public Resources Code, which states that parties may propose mitigation measures “capable of avoiding or substantially lessening potential significant impacts to a tribal cultural resource or alternatives that would avoid significant impacts to a tribal cultural resource.” Further, if a California Native American tribe requests consultation regarding project alternatives, mitigation measures, or significant effects to tribal cultural resources, the consultation shall include those topics (California Public Resources Code Section 21080.3.2[a]). The environmental document and the mitigation monitoring and reporting program (where applicable) shall include any mitigation measures that are adopted (California Public Resources Code, Section 21082.3[a]).

### **Native American Human Remains**

California Public Resources Code, Section 5097 et seq., addresses the disposition of Native American remains on lands subject to state jurisdiction or related state-level regulatory review and protects such remains from disturbance, vandalism, or inadvertent destruction; establishes procedures to be implemented if Native American skeletal remains are discovered during construction of a project; and established the NAHC.

In the event that Native American human remains or related cultural material are encountered on lands under jurisdiction of, the state, or any city, county, district, authority, or public corporation, or any agency thereof, Section 15064.5(e) of the CEQA Guidelines (as incorporated from California Public Resources Code, Section 5097.98) and California Health and Safety Code, Section 7050.5, define the subsequent protocol. In the event of the accidental discovery or recognition of any human remains, excavation or other disturbances shall be suspended on the site or

any nearby area reasonably suspected to overlie adjacent human remains or related material. Protocol requires that the county coroner or county-approved coroner be contacted in order to determine if the remains are of Native American origin. Should the coroner determine the remains to be Native American, the coroner must contact the NAHC within 24 hours. The most likely descendant may make recommendations to the landowner or the person responsible for the excavation work for means of treating, with appropriate dignity, the human remains and any associated grave goods as provided in California Public Resources Code, Section 5097.98 (14 CCR 15064.5[e]).

### **San Luis Reservoir State Recreation Area Resource Management Plan/General Plan**

CDPR, in partnership with Reclamation, manages most of the San Luis Reservoir State Recreation Area (SRA). The CDPR planning process is integrated with Reclamation's resource management planning process. CDPR developed the San Luis Reservoir SRA Resource Management Plan/General Plan (San Luis Reservoir SRA RMP/GP) in partnership with Reclamation, and adopted the 25-year plan in 2013. The San Luis Reservoir SRA RMP/GP directs the future development, operations, and maintenance of the SRA, and CDPR and Reclamation continue to collaborate on the plan to guide future growth. Lands managed by CDPR for recreation are part of the state park system and comprise the SRA. The San Luis Reservoir SRA RMP/GP's primary objective is to identify general areas in which future development may occur for recreation management. The plan includes an overview of existing conditions, including a summary of opportunities and constraints, a plan for future use and management of the plan area, and the associated environmental analysis pursuant to the National Environmental Policy Act (NEPA) and CEQA (Reclamation and CDPR 2013).

The San Luis Reservoir SRA RMP/GP identifies a series of policies in the form of goals and guidelines. Goals and guidelines related to cultural resources include the following (Reclamation and CDPR 2013):

#### **Resource Management (RES)**

**Goal RES-H1:** Protect and preserve significant prehistoric and historic resources, and collections within the Plan Area, including those that may be undocumented.

#### **Guidelines**

- Maintain the existing inventory, mapping system, and database for cultural resources within the Plan Area.
- Provide for storage of collections and documentation and display of select cultural resources.
- Submit and complete site records to the State Historic Preservation Officer as necessary to determine eligibility for inclusion in the National Register of Historic Places, the California Register of Historical Resources, or for listing and recognition under CSP's [California Department of Parks and Recreation's] Cultural Resources Division, including under cultural landscapes.
- The District Superintendent may solicit the evaluation of potential cultural landscapes within the Plan Area using National Park Service (NPS) guidance on cultural landscapes as outlined in Protecting Cultural Landscapes. Prepare Cultural Landscape Reports when deemed appropriate and necessary.
- Consult with CSP's cultural resource specialists when planning the construction of new facilities and uses.
- When new development or improvements to existing facilities are proposed and may impact cultural resources, ensure compliance with NEPA and CEQA requirements.



## 3.12.2.3 Local

**Merced Vision 2030 General Plan**

As required by state law, Merced County has developed its own general plan. At a minimum, general plan documents must address the topics of land use, transportation, housing, conservation, open space, noise, and safety. These documents serve as statements of county goals, policies, standards, and implementation programs for the physical development of a county. The Merced Vision 2030 General Plan (Merced County General Plan), adopted in 2013, has established the year 2030 as the plan's time horizon. The Merced County General Plan recognizes the rich archaeological and historic past of Merced County and understands that certain measures must be stated to ensure protection of these resources. The Merced County General Plan Recreation and Cultural Resources Element applies California Public Resources Code, Section 21083.2, and CEQA Guidelines Section 15123.4(b) for resource significance and cultural resources management in the county. The following goal and policies would apply to the Modified Project (Merced County 2013):

***Recreation and Cultural Resources Element***

**Goal RCR-2:** Protect and preserve the cultural, archaeological, and historic resources of the County in order to maintain its unique character.

- **Policy RCR-2.1. Archaeological Site and Artifact Protection:** Require development projects that affect archaeological sites and artifacts to avoid disturbance or damage to these sites.
- **Policy RCR-2.2. Historical Area Preservation:** Support the preservation of historical structures and areas, particularly those listed on the National Registrar of Historic Places and California Registrar of Historic Places.
- **Policy RCR-2.3. Architectural Character Preservation:** Require that the original architectural character of significant State- and Federally-listed historic structures be maintained in compliance with preservation standards and regulations.
- **Policy RCR-2.4. Parks and Open Space Historic Resource Preservation:** Require the preservation of historic resources located in parks and publicly-owned open space areas.
- **Policy RCR-2.5. Human Remains Discovery:** Require that, in the event of the discovery of human remains on any project construction site, all work in the vicinity of the find will cease and the County Coroner and Native American Heritage Commission will be notified.
- **Policy RCR-2.6. Historic Buildings and Areas:** Identify buildings and areas with special and recognized historic, architectural, or aesthetic value to be preserved and rehabilitated during the Community Plan update process. New development should respect architecturally and historically significant buildings and areas, and conform to the current Secretary of the Interior's Standards for the Treatment of Historic Properties and Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings, and incorporate adaptive reuse practices, where feasible, to preserve the County's historical heritage and rural character.
- **Policy RCR-2.7. Historic Preservation:** Support the efforts of local preservation groups and community property owners to preserve or improve building facades and exteriors consistent with the historic and visual character of the specific building or area.
- **Policy RCR-2.8. Historical Preservation Area/Site Designations:** Allow sites of historical and archaeological significance to be designated as historical preservation areas or sites during the Community Planning process or on individual sites in rural areas.

- **Policy RCR-2.9. Historical and Cultural Resources Investigation, Assessment, and Mitigation Guidelines:** Establish and adopt mandatory guidelines for use during the environmental review processes for private and public projects to identify and protect historical, cultural, archaeological, and paleontological resources, and unique geological features.
- **Policy RCR-2.10. Tribal Consultation:** Consult with Native American tribes regarding proposed development projects and land use policy changes consistent with Planning and Zoning Law at Government Code Section 65351, and the OPR Tribal Consultation Guidelines (2005).

### 3.12.3 Thresholds of Significance

The following significance criteria from the 2019 EIS/EIR are used for the purposes of analysis in this SEIR. These criteria, which have not changed from the 2019 EIS/EIR, are identified in Chapter 23, Cultural Resources, of the 2019 EIS/EIR. A significant impact related to cultural resources would occur if the Modified Project would:

1. Result in adverse effects to a cultural resource included in or eligible for inclusion in the NRHP and/or the CRHR.

### 3.12.4 Impacts Analysis

#### Threshold 1

***Would the Modified Project result in adverse effects to a cultural resource included in or eligible for inclusion in the NRHP and/or the CRHR?***

2019 EIS/EIR Impact Determination	Modified Project Impact Determination	New Significant Increase in Impact Severity?
Less than Significant with Mitigation Incorporated	Less than Significant with Mitigation Incorporated	No

#### Campground Construction and Day Use Area Improvements

The Modified Project would construct a new permanent campground on the northwestern shore of O’Neill Forebay and make improvements to the existing San Luis Creek Day Use Area. The proposed new campground would be built on 40 acres of undeveloped grassland bisected by an existing paved road on the west side of O’Neill Forebay. Both additional impact areas were subject to 100% pedestrian survey. The Survey Area appeared largely undisturbed in the area of the proposed new campground and some areas surrounding existing roads. Ground surface visibility was restricted due to tall grass, with approximately 20% directly observable during survey.

No new cultural resources were discovered and no previously recorded cultural resources were relocated in the campground construction and day use area improvement areas. The Modified Project could result in adverse effects to known or previously unknown, inadvertently discovered archaeological resources and human remains during earth disturbing activities. Through implementation of **Mitigation Measures SEIR-CR-1** and **SEIR-CR-2 (new mitigation measures)** (refer to Section 3.12.5, Mitigation Measures), which require investigation and assessment by a qualified archaeologist in the event that an unknown resource is encountered and that pertinent regulatory requirements are implemented in the event of human remains are encountered, respectively, impacts to archaeological resources resulting from the Modified Project would be reduced to **less than significant**.

Most ground-disturbing activities would occur in areas that have been substantially modified by existing dam infrastructure or recreational facilities, although it is possible that remnant areas of relatively less-disturbed soils remain. Based on review of information by Reclamation staff, areas with an elevated potential to support the presence of buried cultural deposits may be located within the Modified Project. Reclamation has developed a geoarchaeological sensitivity map and supporting summary that identifies areas of elevated potential for encountering buried resources within the Modified Project site; archaeological monitoring would be required in the areas identified by this map. Consulting Native American tribes would also be provided the opportunity to monitor in sensitive areas. With monitoring incorporated as outlined in **Mitigation Measure SEIR-CR-3 (new mitigation measure)**, this element of the Modified Project would result in **less-than-significant impacts** to a cultural resource included in or eligible for inclusion in the NRHP and/or CRHR.

### Changes in Borrow Area Location

The Modified Project added two alternative on-site borrow areas within areas previously identified for construction staging in the 2019 EIS/EIR. While these borrow areas are within the Approved Project site, they represent an additional activity and would result in a greater level of disturbance than contemplated by the 2019 EIS/EIR. These areas were subject to 100% pedestrian survey in a previous study (Holm and Holson 2019).

Three previously identified cultural resources were documented within the borrow area location. P-24-001988, P-24-002154, and P-24-002165 are located in the vicinity of the Basalt Hill Borrow Area. P-24-001988 had been evaluated as part of the previous study (Holm and Holson 2019) and recommended not eligible for CRHR/NRHP listing. These recommendations received SHPO concurrence on April 29, 2021. P-24-002154 and P-24-002165 have been determined not eligible for the NRHP (Reclamation 2017; OHP 2018).

As all portions of the two alternative on-site borrow areas were previously surveyed, no additional survey by Dudek was required and previously recorded resources are either determined not eligible or recommended not eligible for CRHR/NRHP listing in the borrow areas. For archaeological resources, construction and excavation may result in adverse effects to known or previously unknown, inadvertently discovered archaeological resources and human remains. Through implementation of **Mitigation Measures SEIR-CR-1 and SEIR-CR-2**, which would require investigation and handling by a qualified archaeologist in the event that an unknown resource is encountered and proper procedures for encountering human remains, respectively, the Modified Project-level impact to archeological resources would be reduced to below a level of significance. Therefore, this element of the Modified Project would result in **less-than-significant impacts** to a cultural resource included in or eligible for inclusion in the NRHP and/or CRHR.

### Minor Additions to Contractor Work Area

The Modified Project includes minor temporary and permanent expansions of contractor work areas downstream of B.F. Sisk Dam that were not part of the Approved Project site addressed in the 2019 EIS/EIR. These additional elements are shown in Figures 2-4a and 2-4b, Modified Project Detail, and total approximately 41 acres. The additional contractor work areas include several staging/soil stockpiling areas downstream of the dam, as well as another small area of less than 1 acre immediately west of the dam's right abutment, where a haul road would be widened. The additional temporary haul road area is a portion of the footprint of the alignment of an existing road that crosses San Luis Reservoir and is exposed when the reservoir is at a low water level. These areas were subject to 100% pedestrian survey.

Three previously identified cultural resources was recorded potentially within the Survey Area (P-24-001986, P-24-002185, and P-24-002165; see Table 3.12-2, Cultural Resources Identified and/or Updated During Survey). P-24-

001986 has been evaluated as part of a previous study (Holm and Holson 2019) and recommended not eligible for CRHR/NRHP listing, with SHPO concurrence being received on April 29, 2021. P-24-002185 was subject to recent evaluation and recommended as eligible for listing in the CRHR/NRHP under Criterion A/1 (Webb and McMorris 2019). This resource has been subject to regular maintenance and upgrades since construction in the 1960s. Modified Project activities would be part of this series of maintenance and would not represent an adverse effect, though State Historic Preservation Officer review of this study and recommendation is pending. P-24-002165 has been determined not eligible for the NRHP (Reclamation 2017; OHP 2018).

No new cultural resources were discovered and previously recorded resources are either determined not eligible or would not be adversely affected by the Modified Project. For archaeological resources, construction and excavation may result in adverse effects to known or previously unknown, inadvertently discovered archaeological resources and human remains. Through implementation of **Mitigation Measures SEIR-CR-1** and **SEIR-CR-2**, which would require investigation and handling by a qualified archaeologist in the event that an unknown resource is encountered and proper procedures for encountering human remains, the Modified Project-level impact to archeological resources would be reduced to below a level of significance. Therefore, this element of the Modified Project would result in **less-than-significant** impacts to a cultural resource included in or eligible for inclusion in the NRHP and/or CRHR.

### **Additional Construction Assumptions**

The Modified Project outlines additional construction assumptions, including changes to the construction schedule, equipment and personnel specifications, the inclusion of the campground development and improvement, and dewatering specifications for proposed excavations at the base of the dam. The impact of the proposed new campground and improvements to the San Luis Creek Day Use Area are analyzed above under Campground Construction and Day Use Area Improvements. These Modified Project elements would have no relevance to cultural resources. Therefore, this element of the Modified Project would result in **less-than-significant impacts** to a cultural resource included in or eligible for inclusion in the NRHP and/or CRHR.

### **Cumulative Impacts**

Cumulative impacts on cultural resources consider whether impacts of the Modified Project, when taken together with other related projects identified within the vicinity of the Modified Project, substantially diminish the number of historic or archeological resources within the same or similar context or property type. Impacts to cultural resources, if any exist, tend to be site-specific.

Seven previously identified historic built-environment resources and no newly identified cultural resources were recorded within or adjacent to the Modified Project site. Three of these resources (P-24-02008, P-24-002184, and P-24-002185) were subject to recent evaluation and recommended as eligible for listing in the CRHR/NRHP under Criterion A/1 (Webb and McMorris 2019); State Historic Preservation Officer review of this study and related recommendation is pending. These resources have been subject to regular maintenance and upgrades since their construction in the 1960s. Modified Project activities would be part of this series of maintenance and would not represent an adverse effect.

Two other resources, P-24-001986 and P-24-001988, had been evaluated as part of a previous study (Holm and Holson 2019) and recommended not eligible for CRHR/NRHP listing; these findings received SHPO concurrence on April 29, 2021. P-24-002154 and P-24-002165 have been determined not eligible for the NRHP (Reclamation 2017; OHP 2018). The Modified Project was determined to have less-than-significant direct and indirect impacts on historic resources. Therefore, the Modified Project would not result in any cumulatively considerable impacts to historic resources.

For archaeological resources, cumulative projects may require extensive excavation in culturally sensitive areas, and thus, may result in adverse effects to known or previously unknown, inadvertently discovered archaeological resources. There is the potential for accidental discovery of other archaeological resources by the Modified Project, as well as by cumulative projects. Because all significant cultural resources are unique and non-renewable, all adverse effects or negative impacts contribute to a dwindling resource base. Through implementation of **Mitigation Measures SEIR-CR-1 through SEIR-CR-3**, which would require investigation and handling by a qualified archaeologist in the event that an unknown resource is encountered, proper procedures for encountering human remains, and construction monitoring requirements, respectively, the Modified Project-level impact to archeological resources would be reduced to **less than significant**.

Other individual projects occurring in the vicinity of the Modified Project would also be subject to the same requirements of CEQA as the Modified Project and any impacts to archaeological resources would be mitigated, as applicable. These determinations would be made on a case-by-case basis, and the effects of cumulative development on historical and archaeological resources would be mitigated to the extent feasible in accordance with CEQA and other applicable legal requirements. Therefore, impacts on archaeological resources would not be cumulatively considerable with mitigation incorporated (Mitigation Measures SEIR-CR-1 through SEIR-CR-3).

The Modified Project was determined to have less-than-significant direct impacts on human remains. Existing regulations are adequate to address the potential for impacts due to the inadvertent discovery of human remains on the Modified Project site. Other individual projects occurring in the vicinity of the Modified Project would also be subject to the same state requirements to contact appropriate agencies and coordinate with the county coroner. Therefore, the Modified Project would not result in any cumulatively considerable impacts related to human remains.

### Comparison to 2019 EIS/EIR

The additional project components analyzed above would result in less-than-significant impacts with mitigation incorporated and therefore impacts of the Modified Project would not result in a significant increase in the severity of impacts as determined in the 2019 EIS/EIR. Impacts of the Modified Project would remain less than significant with mitigation incorporated (see Section 3.12.5).

### 3.12.5 Mitigation Measures

The following mitigation measures are required to reduce cultural resources impacts. Notably, Mitigation Measures SEIR-CR-1 through SEIR-CR-3 have been added as new mitigation. Mitigation Measure CR-1 identified in the 2019 EIS/EIR is not required to reduce cultural resources impacts specifically resulting from components of the Modified Project as discussed above. However, Mitigation Measure CR-1 identified in the 2019 EIS/EIR remains applicable to the Modified Project as determined by the 2019 EIS/EIR.

**SEIR-CR-1 (New mitigation measure): Unanticipated Discovery of Archaeological Resources.** Prior to construction, a qualified cultural resources specialist, meeting the Secretary of the Interior's Professional Qualification Standards for Archaeology, shall review the final Modified Project design to confirm impacts to all known cultural resources and/or resources identified to be of importance to consulting Native American tribes, have been considered and addressed. As stipulated by Mitigation Measure CR-1 of the B.F. Sisk Dam Safety of Dams Modification Project Environmental Impact Statement/Environmental Impact Report (2019 EIS/EIR), the Programmatic Agreement Among The Bureau of Reclamation, Interior Region 10 California-Great Basin; and The California State Historic Preservation Officer Regarding Compliance with Section 106 of the National Historic

Preservation Act Pertaining to the Implementation of the Safety of Dams B.F. Sisk Dam Project (Programmatic Agreement) was prepared. This document, specifically the section pertaining to Treatment of Post Review Discoveries, provides that in the event of a post-review discovery during construction or other Modified Project-related activities, the Bureau of Reclamation (Reclamation) in conjunction with California Department of Water Resources (DWR) shall determine if ongoing construction activities will affect a previously unidentified cultural resource that may be eligible for the National Register of Historic Places and California Register of Historical Resources or affect a known cultural resource in an unanticipated manner, and address the discovery or unanticipated effect in accordance with Title 36, Part 800.13(b) of the Code of Federal Regulations (CFR) (Reclamation and SHPO 2019). There remain areas within the Modified Project that have not been subject to cultural resources survey because no activities are presently planned in these areas with potential to impact cultural resources. As stipulated by Mitigation Measure CR-1 of the 2019 EIS/EIR, should project plans change such that use of these areas could introduce impacts to cultural resources, additional cultural resources survey and evaluation efforts will be performed as stipulated in the Programmatic Agreement.

All construction crews shall be alerted to the potential to encounter sensitive cultural and tribal cultural material. This may occur through inclusion of a cultural resources component within a Worker Environmental Awareness Program or other preconstruction training. Prior to construction, a communication matrix with primary and secondary cultural resources points of contact from Reclamation, DWR, consulting parties, and other pertinent project personnel shall be developed and circulated. A simple overview guide with roles and responsibilities, cultural resource management protocols, and a list of guiding documents shall be prepared as a companion to this communication matrix prior to construction. In the event that archaeological resources (e.g., sites, features, or artifacts) are exposed during construction activities for the Modified Project, all construction work occurring in the vicinity shall immediately stop until a qualified archaeologist can evaluate its significance and determine whether additional study is warranted. A minimum work exclusion buffer should be assumed to be no less than 100 feet, or as otherwise specified by the approved Programmatic Agreement (Reclamation and SHPO 2019) and its future amendments. This buffer may be adjusted by the qualified archaeologist in consultation with the lead agency. Prehistoric archaeological deposits may be indicated by the presence of discolored or dark soil, fire-affected material, the presence of imported shell, burned or complete bone, non-local lithic materials, or other characteristics observed to be atypical of the surrounding area. Common prehistoric artifacts may include modified or battered lithic materials; lithic or bone tools that appeared to have been used for chopping, drilling, or grinding; projectile points; fired-clay ceramics or non-functional items; and other items. Historic-age deposits are often indicated by the presence of glass bottles and shards, ceramic material, building or domestic refuse, ferrous metal, or old features such as concrete foundations or privies. Depending on the nature and the significance of the find under the California Environmental Quality Act (14 CCR 15064.5[f]; California Public Resources Code, Section 21082) and/or Section 106 of the National Historic Preservation Act, it may be appropriate for the qualified archaeologist to simply record the find and allow work to continue. Avoidance should be considered the preferred option for treatment of unanticipated cultural resources. Prior to any ground-disturbing investigative techniques, the feasibility of resource avoidance should be considered. If the discovery proves significant, as determined by the qualified archaeologist in consultation with the lead agency(s) and other consulting parties, additional work, such as testing, data recovery, or other alternatives, may be warranted. The qualified archaeologist shall prepare a report to document compliance with

approved mitigation requirements and to DWR/Reclamation standards. This report shall be reviewed by lead agency staff and, once finalized, submitted to a California Historical Resources Information System information center.

Reclamation will ensure that any non-Native American Graves Protection and Repatriation Act-related cultural materials and associated records falling under Reclamation's Scope of Collections Statement (Programmatic Agreement, Appendix F) that result from the identification, evaluation, and treatment of historic properties on Reclamation land conducted under the Programmatic Agreement shall be properly maintained in accordance with 36 CFR 79. If there is an adverse effect determined that requires the development of a Historic Properties Treatment Plan (HPTP) under the Programmatic Agreement, Reclamation shall ensure that documentation of the curation of these materials is prepared and provided to parties named in the HPTP specific to the resolution of effects for that historic property as stipulated within the HPTP. Reclamation's responsibilities under the Programmatic Agreement shall continue and shall include follow-up with consulting parties should any changes to the Modified Project occur.

### SEIR-CR-2

**(New mitigation measure): Unanticipated Discovery of Human Remains.** In the event that Native American human remains, funerary objects, sacred objects, and/or objects of cultural patrimony are inadvertently discovered under or on the surface of Bureau of Reclamation (Reclamation) lands, Reclamation shall follow the procedures outlined in the Native American Graves Protection and Repatriation Act (NAGPRA), as specified in the implementing regulations at Title 43, Section 10.2(d)(1-2) of the Code of Federal Regulations (CFR) and Stipulation X and Appendix E of the Programmatic Agreement Among The Bureau of Reclamation, Interior Region 10 California-Great Basin; and The California State Historic Preservation Officer Regarding Compliance with Section 106 of the National Historic Preservation Act Pertaining to the Implementation of the Safety of Dams B.F. Sisk Dam Project. Reclamation shall ensure that all such NAGPRA cultural items encountered during any undertaking on Reclamation lands are treated in accordance with the requirements at Section 3(c-d) of NAGPRA and the implementing regulations at 43 CFR 10.

On State-owned or private lands, in accordance with Section 7050.5 of the California Health and Safety Code, if suspected human remains are found, the county coroner shall be immediately notified of the discovery. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur on either federal or State-owned lands until agency approval is provided. On State-owned or private lands, the county coroner shall determine within 2 working days of notification of the discovery whether the remains are human in origin. If the county coroner determines that the remains are, or are believed to be, Native American, the county coroner shall notify the Native American Heritage Commission (NAHC) in Sacramento within 24 hours. In accordance with California Public Resources Code, Section 5097.98, the NAHC must immediately notify those persons it believes to be the most likely descendant from the deceased Native American. The descendants or authorized representative may, with the permission of the owner of the land, inspect the site of the discovery of the Native American human remains and may recommend to the owner or the person responsible for the excavation work means for treatment or disposition, with appropriate dignity, of the human remains and any associated grave goods. The most likely descendant shall complete inspection of the remains within 48 hours of being granted access to the site.

**SEIR-CR-3 (New mitigation measure) Archaeological and Native American Monitors and Worker Environmental Awareness Program.** The Bureau of Reclamation (Reclamation) has developed a geoarchaeological sensitivity map and supporting summary that identifies areas of elevated potential for encountering buried resources within the area of potential effect; archaeological monitoring shall be required in the higher sensitivity areas identified by this map. Archaeological monitors shall be provided a copy of Reclamation’s geoarchaeological sensitivity map and supporting documentation at least 30 days prior to the initiation of ground-disturbing activities. Consulting Native American tribes shall be given the opportunity to monitor in higher sensitivity areas identified as having elevated potential for encountering buried resources. A copy of the geoarchaeological sensitivity map and supporting documentation shall be provided to Native American Monitors at least 30 days prior to the initiation of ground-disturbing activities within areas subject to monitoring. Prior to and during construction, all construction crews shall be alerted to these monitoring requirements and the potential to encounter sensitive cultural and tribal cultural material. This may occur through inclusion of a cultural resources component within a Worker Environmental Awareness Program or other preconstruction training.

### 3.12.6 Level of Significance After Mitigation

With incorporation of Mitigation Measure CR-1 from the 2019 EIS/EIR, as well as Mitigation Measures SEIR-CR-1, SEIR-CR-2, and SEIR-CR-3, the Modified Project would result in less-than-significant impacts with respect to resulting in adverse effects to cultural resources included in or eligible for inclusion in the NRHP and/or the CRHR. The 2019 EIS/EIR Mitigation Measure CR-1 would ensure ongoing compliance with federal regulatory requirements as well as agreements between DWR and Reclamation that have been outlined in the PA. Mitigation Measure SEIR-CR-1 requires a qualified archaeologist to be consulted in the event of an unanticipated cultural resource discoveries, Mitigation Measure SEIR-CR-2 outlines the procedure of notification in the event of human remains being uncovered, and Mitigation Measure SEIR-CR-3 requires archaeological monitoring in areas of high sensitivity.





\*The 2019 EIS/EIR analyzed impacts of the project within the East Dike and Medeiros Campground area but did not include these areas in mapping of the project footprint. These areas have been added to the Approved Project footprint to correct this mapping omission.

SOURCE: Basemap: ESRI World Imagery  
 Project Boundary: Reclamation, 9/2/20  
 Previous Boundary: DWR, 4/2019

**DUDEK**  0 0.5 1 Miles

**FIGURE 3.12-1**

**Approved Project and Modified Project Survey Areas**

B.F. Sisk Dam Safety of Dams Modification Project SEIR

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