

4.5 CULTURAL AND TRIBAL CULTURAL RESOURCES

This section discusses known paleontological, archaeological, and historical resources that may be present on or near the project site, and evaluates the potential for the project to impact known and unknown cultural resources. Applicable legislation relating to cultural resources, tribal cultural resources, and archaeological sites is also summarized in this section.

The information in this section is based on the following reports:

- A formal evaluation to determine if the buildings onsite qualify as historic resources under the California Environmental Quality Act (CEQA), prepared by JRP Historical Consultants, LLC. (see **Appendix F**)
- The Cultural Resource Assessment prepared by Holman & Associates Archaeological Consultants (see **Appendix G**)
- The *Contra Costa County General Plan 2005-2020* (General Plan)

The above-mentioned reports are also available for review at the Contra Costa County (County), Department of Conservation and Development, Community Development Division, 30 Muir Road, Martinez, California

No comments regarding cultural resources or tribal cultural resources were submitted in response to the Notice of Preparation for this draft environmental impact report.

4.5.1 EXISTING CONDITIONS

Cultural Resources

Cultural resources are traces of human occupation and activity that include prehistoric and historic archaeological sites, districts, and objects; standing historic structures buildings, districts, and objects; and locations of important historic events of sites of traditional and/or cultural importance to various groups. Historic cultural materials may include finds from the late 19th through early 20th centuries that can be attributed to Hispanic, Asian or other ethnic groups. Potentially significant objects and features associated with the Historic Period (1769 – present) can include the following: structural remains or portions of foundations (bricks, cobbles/boulders, stacked field stone, postholes, etc.); trash pits, privies, wells and associated artifacts; isolated artifacts or isolated clusters of manufactured artifacts (e.g., glass bottles, metal cans, manufactured wood items, etc.); or human remains.

Paleontological Resources

Paleontological resources consist of the fossilized remains of plants and animals, including vertebrates (animals with backbones) and invertebrates (e.g., starfish, clams, ammonites, and marine coral). The age and abundance of fossils depends on the topography and geological formations of the region of interest. According to the General Plan, there are no reported paleontological resources at the project site; however, the potential for paleontological resources to be unearthed during project grading and buildout remains, and certified archaeologists will be notified and consulted if any potential resources are unearthed during construction.

Archeological and Historical Resources

Regional Prehistoric Condition

Human occupation in northern California began at least 9,000 to 11,500 years ago, with Native American occupation and use of the Bay Area extending over the last approximately 5,000 to 8,000 years. The following discussion includes a description of the Native American tribes that are expected to have inhabited the project site based on the ethnography of the project area as well as archeological discoveries in the project area. Ethnography is the study of people and is used to characterize the prehistoric setting of the project region. Ethnographic information and archaeology are important because they provide the context for what types of artifacts may be found on the project site.

Ethnographic History

Three groups are thought to have inhabited the County, these include the Coastanoan (Ohlone), Bay Miwok, and the Northern Valley Yokuts. The Coastanoans inhabited the western hills, plains, and the bay shore from Carquinez south to Salinas. All of the village sites were associated with a permanent source of fresh water. According to the General Plan, many were at the mouth of streams along the Bay Shore, but a number of villages were established inland along permanent streams at the base of the hills at the 50 to 150 meter elevation. Special use and seasonal use sites were established throughout the Coastanoan territory, often in association with rock outcrops or abundant food sources. The Bay Miwok settled along the western slopes of the Diablo range, the inland valleys and on the northern coastal plains. Their largest villages were located in the San Ramon Valley. The Northern Valley Yokuts settled along the eastern slopes of the Diablo range to the San Joaquin River. Their primary villages were along the San Joaquin River with only scattered use of the eastern plains and smaller secondary villages in the inland valleys. In 1776 Mission Dolores was established in San Francisco. Cultural subjugation, plagues and the subdivision of the area into ranches largely destroyed Native American lifestyles.

Regional Archaeological Context

The earliest archaeological discovery within interior portions of the County has a radiocarbon date of 2500 to 400 Before Christ (B.C.). This time period is associated with flexed burials and artifacts that reflect the later culture of the Bay Area (the Berkeley Pattern). The Berkeley Pattern (lasting until about Anno Domini [A.D.] 500) is characterized by the use of certain hunting and cooking tools. Around A.D. 500, the social trends of the later Berkeley Pattern intensified and developed into the Augustine Pattern. These trends include development of status distinctions based on wealth emergence of group-oriented religions, greater complexity of exchange systems to equalize access to resources, and regulation of trade relationships between different populations. Archaeologically, the Augustine Pattern is marked by the introduction of the bow and arrow.

Regional Historical Conditions

Hispanic Period (1772-1848)

In 1772, Pedro Fages discovered the Carquinez Strait and explored the County area. Between 1769 and 1823, the Franciscan order of missionary priests, serving as the principal agency of Spain's imperial expansion into Alta California, founded 21 missions establishing Hispanic control over an area from San Diego to the Bay Area. The Franciscan missions were organized to convert the native people to Roman Catholic Christianity and to a frontier form of Hispano-European society.

The introduction of disease for which native populations had no natural immunity or resistance slowly led to the decline of the native population and thus, the mission system began to fall apart. After 1834, the missions were secularized and Franciscan control was phased out. The largest part of the mission lands came into the hands of opportunistic Spanish colonists. These colonists created a hacienda system built around a frontier ranching economy, characteristic of Mexican California in the late 1830s and 1840s.

American Period (1848-Present)

After the Mexican War, the Treaty of Guadalupe Hidalgo (1848) transferred sovereignty of California to the United States. This coincided with the discovery of gold in the Mother Lode region of the Sierra Nevada, accelerating population growth in the area. The gold rush and the long-term success of mining encouraged the development of ranching, farming, trade, and urban growth. These events began a cycle of development causing California's population to increase every decade since the 1850s. Railroad construction by the Southern Pacific Railroad gave impetus to the beginning of industrial development in the County.

Project Site Conditions

Archaeological Resources

Prehistoric archaeological resources for the part of the San Ramon Valley in the vicinity of the project site are located primarily along the banks and within the riparian zone of the San Ramon Creek, both to the north and south of Danville.

Excavations done by archaeologists along the creek drainages have revealed a record of Native American occupation extending back over 4,000 years. The steep hills to the west were utilized primarily for hunting: Las Trampas Regional Park derived its name from the stone walls and other obstructions constructed by the Native Americans for hunting purposes. Archaeological resources in the steeper portions of the hills to the west are limited to rock quarries and possible evidence of the stone enclosures built to channel animals into killing zones; acorns and a variety of plant resources were also obtained from the steeper hill areas, but camp locations are extremely rare, given the close proximity of the larger villages located near San Ramon Creek.

A field survey of the project site was conducted on February 3, 2012 by Holman & Associates. The soils of the walnut orchard were found to be comprised of a black to brown clay loam containing little to no rock, other than a small amount of rounded quartzite modules and angular siltstone gravels – the area is made up of alluvial fan. No evidence of either historic and/or prehistoric archaeological deposits were found at the project site. The ideal location for Native American settlements – the lower flats containing the existing walnut orchards, showed no evidence of historic trash pits, sheet scatters or filled in wells or privy pits, and there was no evidence of Native American use and/or habitation: typical indicators would include evidence of fire (ash, charcoal, fire affected rock and earth), concentrations of bone, stone, or fresh water shellfish, and artifacts of these materials. However, there is a potential for archaeological and historical resources to be unearthed during project grading and buildout.

Historic Resources

JRP Historical Consulting, LLC (JRP) formally evaluated the Ball Estate property for its eligibility as a historic resource as defined under CEQA. For the evaluation, JRP conducted research at the California State Library, Shields Library, University of California – Davis, Contra Costa County Recorder's Office, Contra Costa County Assessor's Office, and the Contra Costa County Historical Society. The existing residence was built in 1912, with several remodels and additions occurring throughout the years. Based on the research, and field recordation and evaluation, the Ball Estate property does not appear to meet the criteria to be listed in the National Register of Historic Places (NRHP) or the California Register of Historic Resources (CRHR) nor does it appear to qualify as a historical resource for the purposes of CEQA.

Under Criterion A (NRHP) or 1 (CRHR), the residential estate is not significant for its association within the context of agricultural or early suburban development of the San Ramon Valley, nor is it associated with the rapid post World War II suburbanization. While a weekend home of Walter Arnstein, a promoter of the San Ramon transportation corridor through his work with the San Ramon Railroad, the residence did not directly contribute to the growth of transportation in the area. Dwight Hutchinson, a subsequent owner, viewed the property as a farm, but Hutchinson's agricultural activities were not significant within the context of agriculture in the San Ramon Valley. Attempts were made to establish wealthy country homes in the San Ramon Valley in the early twentieth century. While Ball Estates is such a country home from the period, it is and was isolated from other similar development and cannot be viewed as part of an early suburban development. Mass suburban development of the area occurred following World War II and the property's setting was altered to reflect the transition from agriculture to suburban development.

Under Criterion B or 2, Ball Estates is not significant for its association with individuals who have made an important contribution to national, State, or local history. While the residence has been associated with prominent citizens, it has not been either a primary residence or directly associated with any significant person's achievements.

The residence is the work of master architect Arthur Brown Jr.; however, it does not express a particular phase of his career, an aspect of his work or an idea or theme within his work, and thus is not eligible as an important example of his work. While the residence is indicative of an architect-designed eclectic style popular in the late nineteenth and early twentieth century, it does not display the distinctive characteristics of any single style. As a result of the mixed design, the house does not embody distinctive characteristics of a type, period, or method of construction as defined by Criterion C or 3.

Tribal Cultural Resources

Tribal cultural resources are sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a tribe that are listed, or determined to be eligible for listing, in the national, state, or local register of historical resources. Additionally, a tribal cultural resource may also be a resource that the lead agency determines, in its discretion, is a tribal cultural resource. While cultural resources are generally defined as traces of human occupation and activity that include prehistoric and historic archaeological sites, districts, and objects; standing historic structures buildings, districts, and objects; and locations of important historic events of sites of traditional and/or cultural importance to various groups, tribal cultural resources could include intangible resources that provide cultural value to a tribe.

California has a history of Native American presence and occupation, with the Coastanoan (Ohlone), Bay Miwok, and the Northern Valley Yokuts identified as inhabiting Contra Costa County approximately 1,500 years ago. At the time of European contact in the mid-1700s, a Bay Miwok-speaking tribe called Tatcan occupied the San Ramon and Sycamore Valleys in the present-day areas of Alamo, Danville, and San Ramon. Mount Diablo was a key element of their spirituality and they featured the mountain in many of their traditions and creation accounts. Within the project area, Native American resources are usually found on high peaks or on relatively undisturbed and level ground near creeks or ponds.

4.5.2 REGULATORY SETTING

Federal

National Historic Preservation Act

Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to take into consideration the potential effects of proposed undertakings on cultural resources listed on or determined eligible for inclusion in the NRHP, and to allow the Advisory Council on Historic Preservation the opportunity to comment on the proposed undertaking. The regulations implementing Section 106 are promulgated by the Secretary of the Interior, as codified in Title 36 Code of Federal Regulations (CFR) Part 800. Section 106 requirements apply to properties not formally determined eligible, but which are considered to meet eligibility requirements.

Archaeological resources are typically considered eligible for inclusion in the NRHP because of the information they have or may be likely to convey. Intensity of impacts to archaeological resources relates to the importance of the information they contain and the extent of the disturbance or degradation.

Determining the NRHP eligibility of a site or district is guided by the specific legal context of the site's significance as set out in 36 CFR Section 60.4. The NHPA authorizes the Secretary of the Interior to expand a National Register of districts, sites, buildings, structures and objects of significance in American history, architecture, archaeology, engineering and culture. A property may be listed in the NRHP if it meets criteria for evaluation as defined in 36 CFR Section 60.4. Section 110(d)(6)(A) of the NHPA allows properties of traditional religious and cultural importance to a tribe to be determined eligible for inclusion in the NRHP.

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:

- That are associated with events that have made a significant contribution to the broad patterns of our history; or
- That are associated with the lives of persons significant in our past; or
- 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
- That have yielded, or may be likely to yield, information important in prehistory or history.

Project Consistency Analysis

The project site was surveyed for cultural and historically significant resources, none of which were determined eligible for the NRHP.

State

California Register of Historic Resources

The California Office of Historic Preservation (OHP) administers the CRHR, which was established in 1992 through amendments to the Public Resources Code (PRC), 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 from substantial adverse change.

The CRHR includes resources that have been formally determined eligible for, or listed in, the NRHP, State Historical Landmark Number 770 or higher, Points of Historical Interest recommended for listing by the State Historical Resources Commission (SHRC) for listing, resources nominated for listing and determined eligible in accordance with criteria and procedures adopted by the SHRC, and resources and districts designated as city or county landmarks when the designation criteria are consistent with CRHR criteria.

PRC Section 5024.1 requires evaluation of historical resources to determine their eligibility for listing on the CRHR. The criteria for listing resources on the CRHR were expressly developed to be in accordance with previously established criteria developed for listing in the NRHP, which is described above.

As defined by Section 15064.5(a)(3)(A-D) of the CEQA Guidelines, a resource shall be considered historically significant if the resource meets the following criteria:

- It is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
- It is associated with the lives of persons important in our past;

- It embodies the distinctive characteristics of a type, period, region or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
- It has yielded, or may be likely to yield, information important in prehistory or history. (Criterion D is usually applied only to archaeological sites, rather than in the evaluation of most historic architectural structures, see below.)

Automatic CRHR listings include NRHP listed and determined eligible historic properties (either by the Keeper of the NRHP or through a consensus determination on a project review); State Historical Landmarks from number 770 onward; Points of Interest nominated from January 1998 onward. Landmarks prior to 770 and Points of Historical Interest may be listed through an action of the SHRC (CAL/OHP ca. 1999b).

Project Consistency Analysis

The project area was surveyed for cultural and historically significant resources. None of the sites within the project area have been determined eligible for the CRHR.

Senate Bill 18

Signed into law on September of 2004, Senate Bill (SB) 18 requires cities and counties to notify and consult with California Native American Tribes about proposed local land use planning decisions for the purpose of protecting tribal cultural resources. SB 18 stipulates that, beginning on March 1, 2005, cities and counties must send any proposals for revisions or amendments to general plans and specific plans to those California Native American Tribes that are on the Native American Heritage Commission's (NAHC) contact list and have traditional lands located within the city or county's jurisdiction. Cities and counties must also conduct consultations with these tribes prior to adopting or amending their general plans or specific plans, or designating land as open space.

Project Consistency Analysis

The project would not require any amendments to the General Plan or to any specific plans for the County. Additionally, the open space area onsite, which encompasses the upper portion of the project site, was designated as open space by the Contra Costa County Board of Supervisors through a General Plan Amendment (GPA) adopted back in January 2005. Thus the area onsite that would remain undeveloped open space was previously designated as open space through a GPA, and no consultation under SB 18 would be required.

Assembly Bill 52

Signed into law in July 2015, Assembly Bill (AB) 52 was enacted to guarantee that tribal cultural resources are protected to the largest extent possible throughout the

development process. Tribal cultural resources are defined by Public Resources Code Section 21074 as follows:

(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.

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.

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).

If tribal cultural resources are identified within a project site, impacts must be avoided or mitigated to the extent feasible. AB 52 protects these resources by requiring that lead agencies seek tribal consultation prior to the release of any CEQA documentation. Lead agencies must notify tribes traditionally and culturally affiliated with a potential project area within 14 days of a development application being complete. Upon this initial notification, tribes would confirm consultation within 30 days of notification if consultation is deemed necessary. AB 52 also required updates to the CEQA Guidelines Appendix G environmental checklist to include a section to formally analyze tribal cultural resources during environmental review.

Project Consistency Analysis

AB 52 provisions are only applicable to projects that have a Notice of Preparation filed on or after July 1, 2015. As discussed in **Section 1.0, Introduction**, the Notice of Preparation for the project was issued on August 27, 2013. Though the project is not required to comply with the provisions of AB 52, in good faith efforts, the County issued a letter in February 2016 notifying five Native American tribes that the Ball Estates project would occur within their traditional and cultural geographic

area. In response to invitation for tribal consultation, Wilton Rancheria requested consultation in March 2016. Although the Wilton Rancheria response was submitted beyond the 30-day period, the County will carefully consider all comments from the Wilton Rancheria on the adequacy of this draft environmental impact report. The CEQA Guidelines Appendix G environmental checklist tribal cultural resources questions are included in in **Subsection 4.5.3**.

Other California Laws and Regulations

The disposition of Native American burials is governed by Section 7050.5 of the California Health and Safety Code and PRC Sections 5097.94 and 5097.98 and fall within the jurisdiction of the NAHC.

Project Consistency Analysis

The project will follow the procedures required by the California Health and Safety Code as outlined below in **Impact CUL-4** and **Mitigation Measure CUL-2** if any Native American remains are uncovered during project construction. The project would therefore be consistent with these requirements.

Local

Contra Costa County General Plan

The Open Space Element of the General Plan contains the following relevant policies related to the protection of cultural resources:

Open Space Element

- 9-32: Areas which are identifiable and important archaeological or historic significance shall be preserved for such uses, preferably in public ownership.
- 9-33: Buildings or structures that have visual merit and historic value shall be protected.
- 9-34: Development surrounding areas of historic significance shall have compatible and high quality design in order to protect and enhance the historic quality of the area.

Project Consistency Analysis

The project would be in compliance with General Plan policies related to cultural resources. As previously stated, and in response to policy 9-33, existing structures on site are not eligible for listing in the NRHP or in the CRHR. Furthermore, the project site is not in an area identified for archaeological or historical significance and is therefore in compliance with policies 9-32 and 9-34.

4.5.3 IMPACTS AND MITIGATION MEASURES

Significance Criteria

Appendix G of the CEQA Guidelines identifies environmental issues a lead agency can consider when determining whether a project could have significant effects on the environment. The project would have a significant impact on cultural resources if it would:

- Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5.
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.
- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.
- Disturb any human remains, including those interred outside of formal cemeteries.

The project would have a significant impact on tribal cultural resources if it would:

- Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
 - Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public 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.

Discussion of Significant Impacts

Would the project cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?

Impact CUL-1: Construction of the project could potentially cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5 (Less than Significant with Mitigation).

As described in **Subsection 4.5.1**, none of the buildings on the project site were identified as eligible for listing in the NRHP or the CRHP and therefore their removal would not constitute a significant impact. However, there is always a possibility that an unknown site may exist in the project area and could be discovered during grading, excavation, or construction. Indicators of historic resources include glass, metal, ceramics, brick, wood, and similar debris. The following mitigation measure would be implemented to protect unknown historic resources on the site.

Mitigation Measure CUL-1: Pursuant to CEQA Guidelines Section 15064.5, and other applicable law, in the event that any prehistoric, historic, archaeological, or paleontological resources are discovered during ground-disturbing activities, all work within 100 feet of the resources shall be halted and the proponent shall consult with the County and a qualified professional (historian, archaeologist, and/or paleontologist, as determined appropriate and approved by the County) to assess the significance of the find.

If any find is determined to be significant, representatives of the County and the consulting professional shall determine, with the input of any affected California Native American tribe, the appropriate avoidance measures, such as planning greenspace, parks, or other open space around the resource to preserve it and/or its context (while protecting the confidentiality of its location to the extent feasible) or other appropriate mitigation, such as protecting the historical or cultural value of the resource through data recovery or preservation.

In considering any suggested mitigation proposed by the consulting professional to mitigate impacts to cultural resources, the County shall determine whether avoidance is feasible in light of factors such as the nature of the find, project design, costs, and other considerations.

If avoidance is infeasible, other appropriate measures, such as data recovery, shall be instituted. The resource shall be treated with the appropriate dignity, taking into account the resource's historical or cultural value, meaning, and traditional use, as determined by a qualified professional or California Native American tribe, as is appropriate. Work may proceed on other parts of the project site while mitigation for cultural resources is carried out. All significant cultural materials recovered shall, at the discretion of the consulting

professional, be subject to scientific analysis, professional museum curation, and documentation according to current professional standards.

At the County's discretion, all work performed by the consulting professional shall be paid for by the proponent and at the County's discretion, the professional may work under contract with the County.

Significance after Mitigation: With implementation of **Mitigation Measure CUL-1**, the project would not cause an adverse change in the significance of a historical resource, and any impacts would be reduced to a less-than-significant level.

Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?

Impact CUL-2: Construction of the project could potentially cause a substantial adverse change in the significance of an unknown archaeological resource pursuant to Section 15064.5 (Less than Significant with Mitigation).

As previously discussed, no archeological resources were observed or are known to be present on the project site. However, there is a possibility that resources meeting the definition of a unique archeological resource in Section 21083.2 of the Public Resource Code or qualifying as historic resources could become visible once vegetation is removed or during construction excavation. Indicators of prehistoric site activity include artifacts, exotic rock, or unusual amounts of shell or bone.

Significance after Mitigation: Mitigation Measure CUL-1 would reduce potential impacts related to unknown archaeological resources to a less-than-significant level.

Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Impact CUL-3: Construction of the project potentially could directly or indirectly destroy a unique paleontological resource on site or unique geologic feature (Less than Significant with Mitigation).

As previously discussed, no paleontological resources or unique geologic features were observed or are known to be present on the project site. According to the General Plan, the nearest known paleontologically sensitive area is Shell Ridge, located over 3 miles northeast of the project site. There is, however, a possibility that paleontological resources may become visible once vegetation is removed or during construction activities such as grading and excavation. Examples of paleontological resources include body fossils (e.g., bones, any part of an organism) and trace fossils (e.g., any evidence of past life such as tracks, trails, burrows).

Significance after Mitigation: Mitigation Measure CUL-1 would reduce potential impacts related to unknown archaeological resources to a less-than-significant level.

Would the project disturb any human remains, including those interred outside of formal cemeteries?**Impact CUL-4: Construction of the project could potentially disturb human remains, including those interred outside of formal cemeteries (Less than Significant with Mitigation).**

Although no signs of human remains or burial sites were observed during the survey of the project site, nor are known to be present in the vicinity of the project site, there is always a possibility that such remains may become visible once vegetation is removed or during construction activities such as grading and excavation.

The project proponent shall comply with California law regarding the treatment of Native American human remains as contained in California Health and Safety Code Section 7050.5 and Section 7052 and California Public Resources Code Section 5097.

California law recognizes the need to protect Native American human burials, skeletal remains, and items associated with Native American burials from vandalism and inadvertent destruction. The California Health and Safety Code requires that if human remains are found in any location other than a dedicated cemetery, work is to be halted in the immediate area, and the county coroner is to be notified to determine the nature of the remains. The coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or state lands (Health and Safety Code Section 7050.5[b]). If the coroner determines that the remains are those of a Native American interment, then the Native American Heritage Commission shall be consulted to identify the most likely descendants and the appropriate disposition of the remains.

Mitigation Measure CUL-2: In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps shall be taken:

1. There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
 - The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required, and
 - If the coroner determines the remains to be Native American:
 - The coroner shall contact the Native American Heritage Commission within 24 hours;
 - The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American;

- The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98; or
2. Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance:
- The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the Commission;
 - The identified descendant fails to make a recommendation; or
 - The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

Significance after Mitigation: In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, **Mitigation Measure CUL-2** would ensure that impacts are reduced to a less-than-significant level.

Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- **Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public 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.**

Impact CUL-5: Construction of the project could potentially cause a substantial adverse change in the significance of an unknown tribal cultural resource (Less than Significant with Mitigation).

As described in **Subsection 4.5.1**, none of the buildings on the project site were identified as eligible for listing in the NRHP or the CRHP and therefore their removal would not constitute a significant impact.

In accordance with Section 21080.3.1 of the California Public Resources Code and AB 52, the County consulted the NAHC and Native American tribes. To help determine whether a project could cause a substantial adverse change in the significance of a tribal cultural resource, the County contacted the California Native American tribes traditionally and culturally affiliated with the geographic area of the proposed project. On February 11, 2016 the County contacted five Native American tribes that requested notification of projects that take place within the County: Wilton Rancheria, the Ohlone Indian tribe, Muwekma Ohlone Indian Tribe of the San Francisco Bay Area, Amah Mutsun Tribal Band of Mission San Juan Bautista, and Indian Canyon Mutsun Band of Costanoan. The County's notice included a project description and provided an opportunity for tribes to request consultation regarding the presence of potential tribal cultural resources in the project area.

Wilton Rancheria replied to the County's Notice of Opportunity to Request Consultation requesting inclusion in the consultation process, but did not identify any tribal cultural resources within the project vicinity. The four other tribes contacted by the County did not respond to the notice.

The Sacred Lands File, operated by the NAHC, is a confidential set of records containing places of religious or social significance to Native Americans. To address the possibility of tribal cultural resources on the project site, a Sacred Lands File

search was requested on July 10, 2017. A response from the NAHC was received on July 26, 2017 indicated that there is no data on file for the proposed project site. The NAHC results also noted, however, that the absence of specific site information in the Sacred Lands File does not indicate the absence of Native American cultural resources in the project vicinity. Included with the response was a list of six Native American representatives that the NAHC suggested could have site-specific knowledge. Five out of six of the tribes identified in this response were duplicated with the County's Notice of Opportunity to Request Consultation sent in February. The North Valley Yokuts were identified by NAHC as the sixth tribe that could provide site-specific information. All six tribes identified by the NAHC will be provided with this draft environmental impact report to ensure adequate opportunity to comment on the project during the public circulation period.

As previously discussed, no known historical, archaeological, or paleontological resources were observed or are known to be present on the project site, and consultation efforts did not identify other tribal cultural resources on the project site. However, ground-disturbance associated with project construction could encounter an object with tribal cultural value. Application of **Mitigation Measures CUL-1** and **CUL-2** would ensure monitoring and protection of archeological resources unearthed during construction, thereby reducing potential impacts related to currently unknown tribal cultural resources to a less-than-significant level.

4.5.4 CUMULATIVE IMPACTS

Impacts to cultural resources are generally site specific and do not cumulate. Even if impacts to cultural resources on the project site could cumulate with impacts to resources on sites in the vicinity, the cumulative setting for cultural resources includes the project and the three proposed developments within a 1-mile radius of the project site (see **Chapter 4.0, Setting, Impacts, and Mitigation Measures**). These developments include two residential subdivisions and one church expansion. Some of these areas could include locations where there is increased potential of encountering unknown archaeological and/or cultural resources during excavation activities and thus there is a potential for cumulative impacts to cultural resources in the area.

No known historical, archaeological, or paleontological resources were identified on the project site, and therefore it is unlikely that the project would contribute to a potential cumulative impact to cultural resources. To the extent that construction activities unearth previously undiscovered resources, implementation of **Mitigation Measures CUL-1** and **CUL-2** would ensure their proper identification and treatment. The project would therefore not result in a considerable contribution to a cumulative impact to cultural resources and no additional mitigation would be required.

4.5.5 REFERENCES

Contra Costa County, 2005. *Contra Costa County General Plan, Open Space Element*.

Holman & Associates Archaeological Consultants, 2012. *Cultural Sensitivity Resource Study of the Ball Property, Alamo, Contra Costa County, California*.

JRP Historical Consulting, LLC, 2008. *Historical Evaluation of Ball Estate*.