

### 3.2.10 Tribal Resources

This section describes known tribal resources within the 2.92 ac FERC Project Boundary and adjoining area, as identified during background research using existing, relevant, and reasonably available information. The area included in the background research for this Project consists of the FERC Project Boundary plus a 0.25-mile radius around the FERC Project Boundary, for a total area of 160 ac. The purpose of the background research is to identify previously documented cultural and tribal resources and studies and other information relevant to the development of the Project's historic context describing the history, Native American tribes, and the cultural and tribal resources associated with the FERC Project Boundary. The purpose of including the 0.25-mile radius around the FERC Project Boundary is to provide a broader and more detailed understanding of the historic context of the Project Vicinity and thus the types of potential resources that might be encountered within the FERC Project Boundary, as well as identifying the potential for any resources immediately outside of the FERC Project Boundary to be directly or indirectly affected by Project O&M.

This section relies upon the overview of the prehistoric, ethnographic, and historic-era setting described in Section 3.2.9 of this document, and describes the relevant results of a previously documented tribal resources study that was conducted previously for a nearby FERC relicensing (Blount et al. 2013). Sources consulted for this section include data obtained from the North Central Information Center at California State University, Sacramento of the California Historical Resources Information System (CHRIS); the Sacred Lands File (SLF) maintained by the Native American Heritage Commission (NAHC); previous investigations of tribal resources within the research area; and information provided by Native American tribes and organizations.

Section 106 of the NHPA and its implementing regulations at 36 CFR Part 800 (§ 106), requires federal agencies to take into account the effects of their undertakings on historic properties and to consult with interested Native American tribes that attach religious or cultural significance to such properties, including tribes that no longer reside in their ancestral areas, but may still have ancestral affiliations to a place.<sup>1</sup> In this case, FERC's issuance of a new license is considered to be an undertaking (per 36 CFR § 800.16[y]). FERC, or YCWA if designated by FERC as the non-federal representative for day-to-day NHPA Section 106 consultation, will consult with potentially affected Native American tribes and agencies during the Project relicensing.

Except as noted below, certain terms and concepts used throughout this section are defined in Section 106 of the NHPA and its implementing regulations found in 36 CFR 800, as follows:

- **Area of Potential Effects (APE):** The APE is “...*the geographic area or areas within which an undertaking may directly or indirectly cause changes in the character or use of historical properties, if any such properties exist*” (36 CFR 800.16[d]).

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<sup>1</sup> As specified under 36 C.F.R. 800.16(f): “*Consultation* means the process of seeking, discussing, and considering the views of other participants and where feasible, seeking agreement with them regarding matters arising in the section 106 process.” Consultation and coordination with Native American tribes throughout the entire Section 106 process conducted for FERC relicensing of a Project is required.

Section 106 of the NHPA requires agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment (36 CFR 800.1[a]). Under 36 CFR 800.4(a) (1), the APE must be delineated and documented during the historic properties identification stage. The APE will be defined during the relicensing of the Project in consultation with Native American tribes, the California State Historic Preservation Officer, and USACE. YCWA anticipates that the APE will be synonymous with the FERC Project Boundary.

- **Cultural Resource:** For the purpose of this document, the term “cultural resource” is used to discuss any prehistoric or historic district, site, building, structure, or object, regardless of its National Register eligibility. Information specific to cultural resources other than TCPs is provided in Section 3.2.9 of this document.
- **Historic Property:** “Historic Property” refers to any prehistoric or historic district, site, building, structure, object, or traditional cultural property (TCP; defined below) included in or eligible for inclusion in the National Register of Historic Places (NRHP) (36 CFR 800.16[1][1]).
- **Indian Tribal Asset:** ITAs are legal interests in assets held in trust by the federal government for Indian tribes or individual Indians. ITAs can be real property, physical assets, or intangible property rights. A characteristic of an ITA is that it cannot be sold, leased, or otherwise alienated without the United States government’s approval. Examples of ITAs are lands, including reservations and public domain allotments; minerals; water rights; hunting and fishing rights; other natural resources; and money or claims. ITAs do not include things in which a tribe or individuals have no legal interest. For example, off-reservation sacred lands or archaeological sites in which a tribe has no interest are not ITAs.
- **Traditional Cultural Properties (TCPs):** TCPs are defined as any property that is “...eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community’s history, and (b) are important in maintaining the continuing cultural identity of the community” (Parker and King 1998:1).

Examples of TCPs may include:

- Locations associated with the traditional beliefs of a Native American group about its origins, its cultural history, or the nature of the world;
- A rural community whose organization, buildings and structures, or patterns of land use reflect the cultural traditions valued by its long-term residents;
- An urban neighborhood that is the traditional home of a particular cultural group, and that reflects its beliefs and practices;
- Locations where Native American religious practitioners have historically gone and are known or thought to go to today, to perform ceremonial cultural rules of practice; and
- Locations where a community has traditionally carried out economic, artistic, or other cultural practices important in maintaining its historic identity (Parker and King 1998:1).

The Advisory Council on Historic Preservation (ACHP) provides guidance on identifying Native American traditional cultural landscapes, stating that “[t]here is no single defining feature or set of features that comprise” these areas of interrelated significance, and:

[s]uch places could be comprised of natural features such as mountains, caves, plateaus, and outcroppings; water courses and bodies such as rivers, streams, lakes, bays, and inlets; views and view sheds from them, including the overlook or similar locations; vegetation that contributes to its significance; and, manmade features including archaeological sites; buildings and structures; circulation features such as trails; land use patterns; evidence of cultural traditions, such as petroglyphs and evidence of burial practices; and markers or monuments, such as cairns, sleeping circles, and geoglyphs (ACHP 2012).

The National Park Service (NPS) also provides guidance for evaluating and documenting TCPs in *National Register Bulletin 38: National Register Guidelines for Evaluating and Documenting Traditional Cultural Properties*, in which it states that “*it is the people for whom these landscapes hold value and importance who are the primary authorities on them*” (Parker and King 1998).

As such, FERC will uphold the federal trust obligations to tribes with intent to achieve successful consultation during the application phase as well as the life of the FERC license by following guidance of the ACHP and NPS in support of consultation under Section 106. YCWA is providing the following information on tribal resources and Native American tribes and organizations in support of FERC’s obligations.

### **3.2.10.1 Affected Environment**

This section provides information regarding Native American tribes, tribal lands, and interests that may be affected by the Project, as well as a discussion of resources identified above in sections 3.2.1 through 3.2.10 to the extent that Project O&M affecting those resources may impact tribal cultural or economic interests (18 CFR § 5.6[d][3][xii][A]).

#### **3.2.10.1.1 Potentially Affected Native American Tribes**

The FERC Project Boundary is within the ancestral territory of the Nisenan, otherwise known as the Southern Maidu or Valley Maidu. Together with the northeastern Maidu and Konkow, they formed one of the three principal branches of the Maidu linguistic group, which is part of the larger Penutian language family. A detailed account of the prehistory and ethnographic occupation within the FERC Project Boundary is provided in Section 3.2.9 of this document.

With the assistance of the NAHC and local Native American tribes and organizations, YCWA maintains contact and correspondence with Native American tribes and organizations in the vicinity of the Project for coordination and correspondence related to several projects, and as

such, has compiled a list of potentially affected Native American tribes and organizations in Table 3.2.10-1 that may have an interest in the current undertaking.<sup>2</sup>

**Table 3.2.10-1. Native American tribes and organizations potentially affected by the Project.**

Native American tribe/organization	Contact
Colfax-Todds Valley	Clyde Prout, III, Chairperson
	Pamela Cubbler, Treasurer/Most Likely Descendant/Cultural Preservation
Greenville Rancheria	Kyle Self, Chair
	Patty Allen, Assistant to Chair
Mechoopda Indian Tribe of Chico Ranch	Dennis Ramirez, Chair
Mooretown Rancheria of Maidu Indians	Benjamin Clark, Chairperson
	Kenny Clark, Vice-Chairperson
Nevada City Rancheria	Shelly Covert, Secretary
Pakan'yani Maidu of Strawberry Valley Rancheria	Tina Goodwin, Chairperson
Shingle Springs Rancheria	Regina Cuellar, Chairwoman
	Kara Perry, Site Protection Manager
Todds Valley Miwok Maidu Cultural Foundation	Michelle Roper, Chairperson
Tsi-Akim Maidu	Don Ryberg, Chair
United Auburn Indian Community	Gene Whitehouse, Chair
	Anna Starkey, Cultural Regulatory Specialist
Washoe Tribe of Nevada and California	Darrel Cruz, Tribal Historic Preservation Officer

### 3.2.10.1.2 Potentially Affected Native American Lands and Interests

Background research revealed that one tribal resources study was previously completed from 2009 through 2013 and the area included in the tribal study encompassed the land on the north/northwest side of the Narrows 1 powerhouse within the FERC Project Boundary. (Blount et al. 2013). The tribal resources study relied on information gathered through archival research, interviews with Native American participants, and a review of the NAHC's Sacred Lands File. The results of this study identified no TCPs, ITAs, Indian Reservations, lands designated under tribal ownership, or specific ethnographic locales within the FERC Project Boundary (Blount et al. 2013:6).

A record search of the SLF was completed by the NAHC for the FERC Project Boundary and 0.25-mile radius around the boundary and the results were negative. It is noted, however, that the absence of specific site information in the SLF does not indicate the absence of cultural or tribal resources in any area.

Native American tribes and organization representatives listed in Table 3.2.10-1 were contacted via e-mail on June 11, 2020, to request any existing, relevant, and reasonably available information and to solicit interest in a conference call to discuss the Project. A response was received via e-mail on June 25, 2020, from Anna Starkey, Cultural Regulatory Specialist with the United Auburn Indian Community (UAIC). In Ms. Starkey's e-mail, she indicated that UAIC is unaware of tribal cultural resources or sites with traditional or religious significance within the FERC Project Boundary. UAIC is aware of sites in the vicinity and identified the potential for sites to be in the FERC Project Boundary. Ms. Starkey requested that UAIC be

<sup>2</sup> YCWA contacted the NAHC on April 29, 2020, to request an updated list of Native American tribes who may also have knowledge of cultural resources in the research area. On May 4, 2020, the NAHC provided a list of contacts that have been incorporated into Table 3.2.10-1.

provided the results of the cultural resources survey, cultural resources report, and photographs of the FERC Project Boundary. Photographs were provided to Ms. Starkey via email on June 26, 2020, by Monica Ruth, Cultural Resources Specialist with HDR, and Ms. Starkey was informed that the field survey was recently completed, no cultural resources were identified within the FERC Project Boundary, and that the survey report would be provided to UAIC for review after completion. The results of the survey report will be provided to all participating Native American tribal contacts listed in Table 3.2.10-1 upon FERC's initiation of Section 106 consultation under the relicensing if YCWA is designated as FERC's non-federal representative for day to day Section 106 tasks during the relicensing. Ms. Starkey thanked Ms. Ruth for the information and photographs in an e-mail dated June 26, 2020, and indicated that UAIC will likely not request a site visit, will provide their recommendations to the lead agency after review of the survey report, and that they appreciate language being included in the survey report's recommendations for inadvertent discoveries to immediately contact affiliated tribes so that they may provide their recommendations on the treatment of any discoveries.

Follow-up phone calls were made and messages were left on July 20, 2020, to other Native American tribes and organizations listed in Table 3.2.10-1. No responses aside from UAIC were received. Appendix A includes correspondence documentation with the NAHC, Native American tribes, and tribal organization representatives.

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