3.6 Cultural and Paleontological Resources

This section of the Draft EIR (DEIR) considers and evaluates the potential impacts of the proposed project on historical, cultural, and paleontological resources. This section is based on a technical report provided by Genesis Society for the project site in 2006 as well as an update to the original report prepared by Cogstone Resource Management Inc. (CRM).

CONCEPTS AND TERMINOLOGY FOR EVALUATION OF CULTURAL RESOURCES

For analysis purposes, cultural resources may be categorized into four groups: archaeological resources (prehistoric and historical); historic properties, buildings, and districts; areas of importance to Native Americans; and paleontological resources (fossilized remains of plants and animals). Cultural resource impacts include those to existing historic resources (i.e., historic districts, landmarks, etc.) and to archaeological and paleontological resources. The following definitions are common terms used to discuss the regulatory requirements and treatment of cultural resources:

Cultural resources is the term used to describe several different types of properties: prehistoric and historical archaeological sites; architectural properties such as buildings, bridges, and infrastructure; and resources of importance to Native Americans.

Historic properties is a term defined by the National Historic Preservation Act (NHPA) as any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on, the National Register of Historic Places (NRHP), including artifacts, records, and material remains related to such a property.

Historical resource as described in the California Environmental Quality Act (CEQA) includes buildings, sites, structures, objects, or districts, each of which may have historical, prehistoric, architectural, archaeological, cultural, or scientific importance and is eligible for listing or is listed in the California Register of Historical Resources (CRHR) or a local register of historical resources. The CRHR includes resources listed in, or formally determined eligible for listing in, the NRHP, as well as some California State Landmarks and Points of Historical Interest.

Paleontological resource is defined as including fossilized remains of vertebrate and invertebrate organisms, fossil tracks and trackways, and plant fossils. A unique paleontological site would include a known area of fossil-bearing rock strata.

3.6.1 SETTING

PREHISTORIC OVERVIEW

The record of California prehistory is divided into three broad temporal periods that reflect similar cultural characteristics throughout the state: Paleoindian (ca. 11,500–8000 B.C.), Archaic (8000 B.C.–A.D. 500), and Late Prehistoric (A.D. 500–Historic Contact). Although early occupation in the High Sierra occurred at least 9,000 years ago, only a few projectile points have been identified that likely date to the Paleoindian Period. Fluted points were found in Alpine County at Ebbett's Pass, south of Lake Tahoe (Moratto 1984, p. 87; Dillon 2002, p. 113), and in Placer County, in the Tahoe National Forest at the Sailor Flat site (CA-PLA-500) (Justice 2002, pp. 94–95; Wohlgemuth 1984).

Subsequent to the Paleoindian Period, prehistoric material culture in the northern Sierra region, which includes Lake Tahoe and the drainages of the upper Feather, Yuba, Bear, and American rivers, is categorized by a series of local chronologies that define technological, economic, social, and ideological elements. The Martis-Kings Beach chronological sequence was initially developed by Heizer and Elsasser (1953), after concluding an extensive survey of the Sierran

area around Lake Tahoe, and later revised by a number of archaeologists. The majority of the archaeologists working in the north-central Sierran mountains and foothills (see, for example, Markley and Henton 1985; Jaffke 2006; Wickstrom 1998) currently use the Tahoe Reach chronological sequence as refined by Elston, Davis, and Townsend (1977). The sequence includes the Tahoe Reach Phase, Spooner Phase, Martis Complex, and Kings Beach Complex. Of these, the Martis Complex is the earliest well-documented element, and is described below, followed by the Kings Beach Complex.

For the west slope of the Sierran foothills, a second chronological sequence (Mesilla-Bidwell-Sweetwater-Oroville) was developed and summarized by Ritter (1970) and later by Kowta (1988). Influence from both the high Sierra and Great Basin to the east (Martis Complex) and the Sacramento Valley to the west is recognized within the archaeological components in this sequence. From recent work at Lake Almanor, for example, Compas (2003) recognized Martis, Mesilla, Sweetwater, and Kings Beach assemblages, among others.

Martis Complex (3000 B.C.–A.D. 500)

This well-documented complex has been identified from the Lake Tahoe area, and it extends northward into Lassen County and southward into Alpine County (Elsasser 1960). The age of the complex is based on radiocarbon dates and obsidian hydration measurements (Elsasser and Gortner 1991, p. 361). The fundamental subsistence economy during the Martis Complex was based on hunting and seed collecting, with seasonal movements between the uplands in the spring and summer and the lower elevations in the fall and winter. Projectile points vary in form, are large, heavy, and roughly flaked, and resemble Great Basin types, including the Elko series. Distinctive tool forms also include finger-held drills or punches, basalt pressure-retouched flake scrapers, spokeshave-notched tools with a concave edge, and large biface blades and cores. There was an apparent preference for using local basalt, not chert or obsidian, for the manufacture of flaked tools.

During the cultural resources inventories of over 1,000 acres between Lake of the Pines and Lake Combie for the Dark Horse Residential and Golf Course Development project, located approximately 2 miles northeast of the proposed project, archaeologists identified a cluster of occupation sites and nearby milling features on knolls in the open valley (Jenson and Associates 1996, pp. 2–4, 1999, p. 6; Wickstrom 1998, p. 9). The studies suggested there had been a relatively long occupation by multiple groups between 1500 B.C. and A.D. 1000 during the transition from the Martis Complex to the Kings Beach Complex (Jenson and Associates 1996, p. 57).

Kings Beach Complex (A.D. 500–Historic Contact)

The Kings Beach Complex is characterized by an economy focused on fishing and gathering. Similar to the preceding Martis Complex, the record indicates there were seasonal movements between the uplands in the spring and summer and the lower elevations in the fall and winter. Projectile points are smaller and lighter, resemble Cottonwood, Desert Side-notched, and Rosegate series, and indicate the use of the bow and arrow. Obsidian and chert, instead of basalt, were mainly used to manufacture flaked tools. This shift in preference, or availability of these types of toolstone, suggests there was an increase in trade during this period. The milling equipment used during this period was predominantly bedrock mortars, with pestles made from cobbles.

An increase in reliance on acorns may be reflected in the predominant use of bedrock mortars and pestles (made from cobbles), although ethnographic data indicate bedrock mortars were used to process a variety of plant and animal resources (Hull 2007, p. 1986). For example,

ethnographic data suggests the more than 50 rock-lined cooking basins, dating to approximately A.D. 1000–1500, were used to process camas roots (*Camassia quamash*) (Waechter 2005). Processing of camas roots appears to have intensified during the Medieval Climatic Anomaly, which dates to approximately A.D. 900–750. Uncovered at a site in Plumas County (CA-PLU-1485), the rock-lined features are associated with a house floor and a deep midden. The site is also located near two popular basalt quarries (Siegfried Canyon Ridge and Gold Lake) and was also occupied during the earlier Middle Archaic Period (3000–1000 B.C.).

In addition to bedrock milling features, associated with occupation sites identified during inventory of the nearby Dark Horse Residential and Golf Course Development project (Jenson and Associates 1996, 1999; Wickstrom 1998), isolated bedrock milling stations have been identified in the greater project region, including along ephemeral drainages (e.g., Peak and Associates 1983). Isolated flaked stone debitage or portable milling stones have also been found in the Dark Horse development area (Wickstrom 1998, p. 10), within 0.5 miles south of the Bear River (Leach-Palm 2007), and by the prior study in the proposed project site (Jensen 2006, p. 6).

ETHNOGRAPHIC OVERVIEW

The project site is located within the historical territory of the Nisenan, also known as the southern Maidu (Kroeber 1925; Wilson and Towne 1978). Their lands included the southern extent of the Sacramento Valley, east of the Sacramento River between the North Fork Yuba River and Cosumnes Rivers on the north and south, respectively, and extended east into the foothills of the Sierra Nevada range. Their language is closely related to that of the Konkow and Maidu to the north, forming the Maiduan language family (Mithun 2001, p. 455), which is regarded as a subgroup of the Penutian language stock (Wilson and Towne 1978, p. 387). The Northern Hill Nisenan is the dialect of the Nisenan language that was spoken in the area.

Nisenan villages were located along streams or rivers (Wilson and Towne 1978, pp. 388–389). The villages of Tipotoya and Loyowisa were located near Grass Valley; Takema was located on the Bear River near Colfax; Hangwite was situated on the American River near Auburn (Kroeber 1925, Plate 37). There were also a number of ethnographically known settlements near Combie Crossing, about 3 miles east of the project site, and along Wooley Creek, now beneath Lake Combie (Selverston 2008).

Most villages had bedrock mortars, dance houses, sweathouses, and acorn granaries; many had cemeteries. Deceased Nisenan were cremated and the remains buried in the village cemetery (Wilson and Towne 1978, p. 392). Typical Nisenan communities included a central village with several outlying smaller villages. Groups erected temporary brush shelters while hunting or gathering seasonal plant resources, frequently at higher elevations.

Subsistence fishing and hunting, and collecting plant foods in an area where abundant natural resources varied seasonally, comprised the fundamental economy of the Nisenan (Wilson and Towne 1978, pp. 389–390). Like most native Californian groups, the Nisenan relied on the acorn as a staple food and used a wide variety of tools, implements, and enclosures to collect and process food resources. These included bows and arrows, traps, harpoons, hooks, nets, portable stone mortars, bedrock mortars and pestles, various woven tools, and canoes made of tule balsa or logs. The Nisenan also traded with neighboring groups for shell ornaments, money beads, steatite, and obsidian.

Spanish explorers entered Nisenan territory as early as 1808, but there is no record of the forced movement of Nisenan to the missions (Wilson and Towne 1978, p. 396). In the late 1820s during the Mexican Period, trappers camping in Nisenan territory introduced foreign diseases. The

epidemic that swept the Sacramento Valley in 1833 resulted in the demise of approximately 75 percent of the Valley Nisenan population, wiped out entire villages, and forced the survivors to retreat into the hills (Cook 1955, p. 322).

Coloma, located approximately 40 miles southeast of the proposed project site, was in the heart of Nisenan territory. Although Euro-American settlers and trappers had also crossed through their territory, the Hill Nisenan were not affected until after the start of the Gold Rush. The discovery of gold in 1848 near Coloma at Sutter's Mill had a devastating impact on their lives. With the tens of thousands of gold seekers came the mass introduction and concentration of diseases, the loss of land and territory (including traditional hunting and gathering locales), violence, malnutrition and starvation (Grunsky 1989). Traditional lands of the Hill Nisenan were overrun by the early 1850s, and Nisenan survivors were then forced to live at the margins of foothill towns and to work for agricultural, logging, and ranching industries (Wilson and Towne 1978, p. 396).

HISTORIC OVERVIEW

Spanish Period (1769–1822)

Exploration between 1529 and 1769 of Alta (upper) California by Spanish expeditions was limited. The spring of 1769 marks the true beginning of Spanish settlement with the establishment by Gaspar de Portolá at San Diego of the first of 21 missions to be built by the Spanish and Franciscan Order between 1769 and 1823. In the fall of 1769, Portolá reached San Francisco Bay. Later expeditions by Pedro Fages in 1772 and Juan Bautista De Anza in 1776 explored the land east of San Francisco Bay and into the vast plains to the east (Grunsky 1989, pp. 2–3).

The first expedition into the Sacramento Valley was led by Spanish Lieutenant Gabriel Moragain in 1808. Scouting for new mission locations and also searching for runaway Native American neophytes from the coastal missions, they traveled south as far as the Merced River and explored parts of the American, Calaveras, Cosumnes, Feather, Mokelumne, Sacramento, and Stanislaus rivers to the north. Luis Arguello led the final Spanish expedition into the interior of Alta California in 1817. They traveled up the Sacramento River, past today's City of Sacramento, to the mouth of the Feather River, before returning to the coast (Beck and Haase 1974, pp. 18, 20; Grunsky 1989, pp. 3–4).

Missions in the greater San Francisco Bay region were established in 1776 at San Francisco (San Francisco de Asís) and Santa Clara (Santa Clara de Asís), 1797 in Alameda County (San José de Guadalupe), 1817 in Marin County (San Rafael Arcángel), and 1823 in Sonoma County (San Francisco Solano). The goals of the missions were tri-fold: they established a Spanish presence on the west coast, provided a way to Christianize native peoples, and served to exploit native population as laborers. There is no record of the forced movement of Nisenan to the missions (Wilson and Towne 1978, p. 396).

Mexican Period (1822–1848)

After Mexico gained independence from Spain in 1822, the Mission lands were secularized under the Secularization Act of 1833, but much of the land was transferred to political appointees. A series of large land grants (ranchos) that transferred Mission properties to private ownership were awarded by the various governors of California. Land grants were also awarded in the interior to increase the population away from the coastal areas that were settled during the Spanish Period. Captain John Sutter received the two largest land grants in the Sacramento Valley. In 1839, Sutter founded a trading and agricultural empire called New Helvetia, which was headquartered at Sutter's Fort near the divergence of the Sacramento and American rivers, in

Valley Nisenan territory. Although ranchos were granted to the west in nearby Yuba County, no Mexican land grants were awarded in Nevada County.

The Mexican Period also marks the exploration by American fur trappers west of the Sierra Nevada. Jedediah Smith was the first trapper to enter California; his small party trapped and explored along the Sierra Nevadas in 1826 and then entered the Sacramento Valley in 1827. They traveled along the American and Cosumnes rivers, and camped near the Rosemont section of modern-day Sacramento and Wilton. The explorations by Smith and other trappers resulted in the creation and then circulation of maps of Sacramento Valley in the 1830s (Grunsky 1989, pp. 9–11).

American Period (1848–Present)

The Mexican-American war followed on the heels of the Bear Flag Revolt of June 1846 (Ohles 1997). General Andrés Pico and John C. Frémont signed the Articles of Capitulation in December 1847, and with the signing of Treaty of Guadalupe Hidalgo in February 1848, hostilities ended and Mexico relinquished California to the United States. Under the treaty, Mexico ceded the lands of present-day California, New Mexico, and Texas to the U.S. for $15 million (Fogelson 1993, p. 10). Within two years following the treaty, California applied for admission as a state.

Gold was discovered in 1848 on the American River at Sutter's Mill near Coloma. One year later, nearly 90,000 people had journeyed to the gold fields of California. A portion of the land grant awarded to Captain John Sutter during the Mexican Period became the bustling Gold Rush boomtown of Sacramento. California became the 31st state in 1850, and three years later the population of the state exceeded 300,000. In 1854, Sacramento became the state capital.

Thousands of new settlers and immigrants poured into the state after the transcontinental railroad was completed in 1869, spurring California's economic growth. The fertile soils in the vast Central Valley combined with the rise in the number of irrigation canals promoted the state's role as a national leader in agricultural production. Products included fruits, vegetables, and nuts, field crops, such as barley, cotton, hay, and rice, and livestock (cattle and sheep).

LOCAL HISTORY

Nevada County was established in 1851 from land that had been part of neighboring Yuba County. By 1850, prospectors had filed claims and were actively mining within today's Nevada County at camps named Rough and Ready, Sailor Flat, and Mooney Flat, among others, and along the rivers and streams in the greater project region, including Wolf Creek and the Bear River. The miners soon developed elaborate systems of ditches and sluice boxes after ground sluicing was introduced in 1850 as a form of placer mining by William Elwell at Nevada City (Hoover et al. 2002, p. 254). By 1867, there were 850 miles of ditches in the county, and over 1,000 miles by 1880 (Tyson 2011).

The California Trail, also known as the Truckee Pass Emigrant Road, traversed the county and was a popular westward-bound trail during the late-1840s and 1850s (Hoover et al. 2002, pp. 250–253). The trail followed the Truckee River over Donner Pass and then the ridge north of the Bear River to the Sacramento Valley. It crossed State Route (SR) 49 at Wolf Creek, halfway between Auburn and Grass Valley, and is well known for the Donner Party tragedy of the winter of 1846–1847. Grass Valley was named in 1849 by a party of California Trail emigrants whose cattle had wandered into the meadows during the night.

Numerous underground mines, such as Empire, Eureka, Idaho, and Gold Hill, were established near Grass Valley within the Grass Valley-Nevada City gold district (Caltrans 2008, p. 25; Hoover et al. 2002, pp. 255–257). Gold-bearing quartz was discovered by George Knight in October 1850 at Gold Hill, and between 1850 and 1857, the mine produced some $4 million in gold. Together, these mines and several others spurred the economy and development of Grass Valley. A few historic buildings from this period, such as the Holbrooke Hotel, a former boardinghouse on Mill Street, and Mount St. Mary's Academy, still stand today within the city limits. Southeast of the city, the Empire Mine continued to operate into the 1950s and is now a state historic park. Between 1850 and 1940, Nevada County produced 22 percent of California's total gold production and 40 percent of gold produced from lode mines within the state (Caltrans 2008, p. 57).

With the influx of miners in the mid-19th century, entrepreneurs, saloon-keepers, farmers, and ranchers settled in Nevada County and provided essential goods, manufactured products, and foodstuffs. The era also witnessed the growth of toll roads, stage lines, water companies, logging companies, foundries, and lumber mills, among other industries. Logging and ranching persisted in the region until recently. These businesses continue to decline in the vicinity of the project site as the area shifts from an undeveloped to a rural residential character.

In 1917, rancher Munson "Bert" Church and his wife, Kate, envisioned creating a water system in the county that would transport water westward from the Sierra Nevada to the drier farms and ranches in the foothills (NID 2007). They were joined by other residents and the Nevada County Farm Bureau, and the creation of a new irrigation district was approved by voters in 1921. Today the Nevada Irrigation District (NID), headquartered in Grass Valley, services more than 287,000 acres in Nevada and Placer counties, providing power generation and water for irrigation, municipal, domestic, and industrial purposes via an extensive network of canals, reservoirs, and associated infrastructure. The Combie Phase Canal, which traverses the eastern half of the project site, is one of NID's major canal segments (NID 2005, p. ES-15). The portion of this canal within the project site was formerly known as the Magnolia Ditch. This is but one of the network of ditches excavated in the county after the start of the Gold Rush that are now part of the NID system.

PRIOR CULTURAL STUDIES

A records search was completed on June 16, 2011, by the North Central Information Center (NCIC) at California State University, Sacramento. The search included a review of the California Inventory of Historic Resources, Caltrans bridge inventory, Historic Property Data File, updated listings of the National Register of Historic Places (NRHP), the California Register of Historical Resources (CRHR), California State Historical Landmarks and California Points of Historical Interest, and historic maps. The search by the NCIC indicated three prior cultural studies had been conducted within a one-quarter-mile radius of the project site. These included:

- *Archaeological Survey of 73.4 Miles of Nevada Irrigation District Canals and Ditches in Placer and Nevada Counties, California* by Jerald J. Johnson (1972)
- *Archaeological Inventory Survey, Rincon Del Rio Development Project, c. 216 acres along the Bear River, Nevada County, California* by Sean Jensen (2006)
- *Cultural Resources Inventory for the Nevada Irrigation District (NID) Rodeo Flat Project, Nevada County, California,* by D. Andolina (2009)

The prior survey by Jensen (2006) encompassed the entire project site, and the survey by Johnson (1972) covered water conveyance systems operated by the NID in Nevada and Placer counties, including part of the Magnolia Ditch.

As a result of the prior survey by Jensen (2006), three historic-era resources were identified and formally recorded (**Table 3.6-1**). These include the remains of a ranch complex (P-29-2969, CA-NEV-1809H), the Magnolia Ditch (P-29-2970), and an unnamed ditch (P-29-2971). The earlier survey by Johnson (1972) also covered the Magnolia Ditch, which bisects the project site on a north–south bearing, but the ditch was not formally recorded until 2006 by Jensen and McCann. Within a 1-mile radius of, but outside the project site, prior studies have recorded a historic-era roadway and two prehistoric isolates (**Table 3.6-1**).

TABLE 3.6-1
PREVIOUSLY RECORDED CULTURAL RESOURCES WITHIN PROJECT SITE AND 1-MILE RADIUS

Primary No.	Trinomial	Brief Description	Recorded by	Year	Proximity to Project Site
P-29-0667	CA-NEV-605H	Historic: Combie Road; determined ineligible for NRHP listing; not evaluated for CRHR	A. Medin and B. Wickstrom	1998	Outside
P-29-0835	N/A	Prehistoric: isolate	B. Wickstrom	1996	Outside
P-29-2969	CA-NEV-1809H	Historic: remains of cattle/sheep ranch complex (hand-stacked fieldstone corral and loading chute foundations, terraces, walls); bisected by modern barbed-wire fence	S. Jensen and R. McCann	2006	Within
P-29-2970	N/A	Historic: 1938–1949 Magnolia Ditch; modified and maintained by Nevada Irrigation District	S. Jensen and R. McCann	2006	Within
P-29-2971	N/A	Historic: shallow, unnamed ditch; disturbed	S. Jensen and R. McCann	2006	Within
P-31-3354	N/A	Prehistoric: isolate, handstone	L. Leach-Palm	2007	Outside

Source: CRS 2011, p. 18

In addition to the three resources recorded previously within the project site, the prior report by Jensen (2006, p. 6) noted the presence of basalt cores at four locations within the project site. During that survey, a search of the ground surrounding each of these cores failed to identify further evidence of prehistoric or ethnohistoric activity or occupation, and the four isolated finds were not formally recorded. Similarly, the report by Jensen (2006, p. 6) noted six isolated occurrences of historic-era artifacts and features. These included segments of logging cables, "generalized mining-related landscape modifications," and church-key-opened tin cans. No further evidence of historic-era activity was found in 2006 in association with these six isolated finds, and they were not formally recorded or filed with the NCIC.

NATIVE AMERICAN CONSULTATION

As of March 1, 2005, Senate Bill (SB) 18 (Government Code, Sections 65352.3, 65352.4) requires that, prior to the adoption or amendment of a general plan proposed on or after March 1, 2005, a city or county must consult with Native American tribes with respect to the possible

preservation of, or the mitigation of impacts to, specified Native American places, features, and objects located within that jurisdiction. A Sacred Lands File search was requested from the Native American Heritage Commission (NAHC) on June 16, 2011. The NAHC responded on June 23, 2011, that there were no known sacred lands in the immediate project area. Based on recommendations made by the NAHC, letters and maps were subsequently sent to 11 Native American contacts on June 27, 2011, requesting any information related to cultural resources heritage sites within or immediately adjacent the proposed project's area of potential effect (APE). If no reply was received, telephone calls were placed to the recipients of the letters. To date, four responses have been received. Daniel Fonseca, Assistant Director for the Shingle Springs Band of Miwok Indians, indicated they are not aware of any known cultural resources in the project area and requested notification of any new information or identification of human remains during project implementation. Rose Enos indicated she is concerned about potential burials in the area. On behalf of the United Auburn Indian Community of the Auburn Rancheria, Marcus Guerrero stated that he has no concerns regarding the project area. Grayson Coney, Cultural Director of the Tsi-Akim Maidu, indicated there are sites in the area and that the potential for the discovery of isolates is high. All correspondence and a tracking log are provided in **Appendix 3.6-A**.

2011 SURVEY OF THE PROJECT SITE

Cogstone Resource Management Inc. (CRM) conducted a Cultural Resource Assessment Update for the project site in 2011 that included a record search, survey, and assessment of potential impacts on cultural resources.

During the 2011 survey, vegetation within the surveyed acreage was dense and nearly impassable in places. The thick ground cover included annual grasses, brambles, and clover. Ground visibility was poor (<2%) along most of the Magnolia Ditch (P-29-2970), along the unnamed ditch (P-29-2971), within the historic ranch complex (P-29-2969, CA-NEV-1809H), and in areas along the Bear River. Although not frequent, ground visibility improved in some areas along the Magnolia Ditch to about 45 percent. Dozens of boulder outcrops occur immediately adjacent to the north side of Bear River within the southern portion of the project site. The outcrops were closely examined, but none exhibited bedrock milling features. The density of the vegetation cover prohibited any view of prior disturbances by historic-era logging and mining, or by ranching outside of the recorded Ranch Complex site (P-29-2969, CANEV-1809H). The large, single-family residence in the southern portion of the project site was accessible by road and had a number of associated outbuildings, picnic grounds with paved access, obvious land contouring, and extensive landscaping above the Bear River. The land within the project site was being used for cattle grazing. An abundance of fauna was observed during the survey, including wild turkey, deer, and ground squirrel. Water was flowing swiftly within the seasonal tributary trending north–south and bisecting the center of the project site. Soil along the north bank of the Bear River was a yellowish-brown coarse sandy loam.

Resources Recorded Within the Project Site

As detailed further in **Table 3.6-2** each of the three historic-era resources previously recorded within the project site was relocated during the 2011 survey. No prehistoric, ethnohistoric, or historic-era resources were newly identified during the 2011 site survey.

TABLE 3.6-2
PREVIOUSLY RECORDED CULTURAL RESOURCES WITHIN PROJECT SITE AND 1-MILE RADIUS

Primary No.	Trinomial	Brief Description	Condition	CRHR & NRHP Eligibility Recommendations
P-29-2969	CA-NEV-1809H	Historic: remains of cattle/sheep ranch complex (hand-stacked fieldstone corral and loading chute foundations, terraces, walls)	Poor, deteriorated, bisected by modern barbed-wire fence	Not Eligible
P-29-2970	N/A	Historic: 1938-1949 Magnolia Ditch	Modified and maintained by Nevada Irrigation District	Not Eligible
P-29-2971	N/A	Historic: shallow, unnamed ditch	Disturbed	Not Eligible

Source: CRS 2011, p. 23

Ranch Complex (P-29-2969, CA-NEV-1809H)

This historic-era site was recorded in December 2006 by S. Jensen and R. McCann. The site is described as a small ranch complex associated with cattle/sheep ranching and consisting of approximately 15,000 square feet with three features. Feature 1 is described as the foundation remains of a livestock corral with hand-stacked fieldstones, rock terraces, and short rock walls. Feature 2 is recorded as a hand-stacked fieldstone foundation of a livestock loading chute. Feature 3 is a short segment of a ditch that runs along the western and southern boundary of the site. Given its extent beyond the ranch complex, feature 3 was recorded by Jensen and McCann as a separate resource (P-29-2971), detailed below.

The condition of the Ranch Complex remains poor and unchanged since its initial recording in 2006. The modern barbed-wire fence, noted in 2006 as bisecting the site along a north–south axis between features 1 and 2, is still present. Additional disturbance included tree clearing and other unnamed activities, as well as natural deterioration with lack of use or maintenance (Jensen 2006, pp. 10–11). There is no evidence of artifacts, other features, or structural remains. Soils within the site are a reddish-yellow sandy clay. No site record update was filed at the NCIC, as conditions have not changed and there is no new information.

The age of the Ranch Complex is unknown. As noted in the resource record, no structures are shown at this location on the 1949 USGS quadrangle map or on the earlier 1871 General Land Office map. CRM agreed with the statement in the prior report (Jensen 2006, pp. 10–11) that site CANEV-1809H has no potential to yield additional information, is not associated with persons or events important to history, and is not considered eligible for listing on the CRHR. The resource is also not considered eligible for NRHP inclusion.

Magnolia Ditch (P-29-2970)

Initially recorded in December 2006 by S. Jensen and R. McCann, this historic-era resource is described as a water conveyance system constructed between 1938 and 1949, based on its appearance on U.S. Geological Survey (USGS) quadrangle maps. The irrigation ditch is 4 to 6 feet wide and 3 to 4 feet deep, and trends north–south within the project site along the approximately 1,540-foot contour. As part of the canal system operated and maintained by NID, the ditch has undergone modern modifications, including gunite lining, concrete linings, welded

pipe, concrete and steel gates, and further modifications associated with continual maintenance for water delivery. Additional modifications shown on the 1950 USGS quadrangle map include siphons that served to transport water from the ditch in a westerly direction.

The condition of this resource has not changed since its initial recording in 2006. There is no evidence of artifacts, other features, or structural remains. No site record update was filed at the NCIC, as conditions have not changed and there is no new information. At the time it was recorded in 2006, Jensen and McCann estimated that less than 30 percent of the original historic attributes of this linear resource remained within the project site, including structural components (e.g., distribution gates, other support features) or artifacts dating to earlier than the 1950s or 1960s. Since 1949, the Magnolia Ditch has been substantially modified and continually maintained by NID, and it is now part of the Combie Phase Canal. CRM agreed with the statements in the prior report (Jensen 2006, pp. 9–10) that this resource has no potential to yield additional information, is not associated with persons or events important to history, and is not considered eligible for listing on the CRHR. The resource is also not considered eligible for NRHP inclusion.

Unnamed Ditch (P-29-2971)

This ditch was originally recorded in December 2006 by S. Jensen and R. McCann. The resource is described as an earthen ditch measuring approximately 1 to 2 feet wide and roughly 1 foot deep. It roughly follows the 1,380-foot contour for approximately 7,800 feet within the project site and includes an eastern and western arm, both of which trend southward. The two arms parallel the eastern and western sides of the now-improved pond in the center of the project site. The ditch continues southward outside the project site. A short segment of the northern extent of the ditch is associated with the historic-era Ranch Complex recorded as site CA-NEV-1809H (P-29-2969). No other features or artifacts were recorded in association with the ditch.

The 2006 record indicates the ditch had been extensively disturbed, mostly from ranching activities dating to the historic and modern eras, as well as by recent residential development in the southern portion of the project site near the Bear River. Today, although disturbance by construction of the private residence, associated outbuildings and landscaping was visible, the most prominent disturbance is by natural processes, particularly erosion from lack of use. Soils along the ditch are a reddish-yellow sandy clay. The condition of this linear resource remains poor and unchanged since its initial recording in 2006. There is no evidence of artifacts, other features, or structural remains. No site record update was filed at the NCIC, as conditions have not changed and there is no new information. The age of the ditch is unknown. As noted in the prior report (Jensen 2006, p. 7), it could be associated with historic-era mining in this region circa 1850s but, considering the size of the trees within the ditch, it may have been dug in conjunction with later ranching activities. CRM agreed with the statements in the prior report (Jensen 2006, pp. 9–10) that the unnamed ditch (P-29-2971) has no potential to yield additional information, is not associated with persons or events important to history, and is not considered eligible for listing on the CRHR. The resource is also not considered eligible for NRHP inclusion.

3.6.2 REGULATORY FRAMEWORK

NATIONAL HISTORIC PRESERVATION ACT OF 1966

The National Historic Preservation Act (NHPA) of 1966 requires that the federal government list significant historic resources on the National Register of Historic Places. Federal agencies must consult the NRHP when planning to undertake or grant approval through permits for a project. Prior to the issuance of any license or implementation of any project, the federal agency must

consider the effects of a project or license on any historical buildings, sites, structures, or objects that are included on, or eligible for inclusion on, the NRHP (16 U.S. Code Section 470(f)). This typically includes consultation with the federal agency responsible for the undertaking; the state historic preservation officer; local Native American groups and individuals; local and state historical societies and organizations; and relevant archival sources, including the appropriate facility of the California Historical Resources Information System.

STATE

California Register of Historical Resources

The State Historical Resources Commission has designed the California Register of Historic Resources (CRHR) for use by state and local agencies, private groups, and citizens to identify, evaluate, register, and protect California's historical resources. The CRHR is the authoritative guide to the state's significant historical and archeological resources. This program encourages public recognition and protection of resources of architectural, historical, archeological, and cultural significance, identifies historical resources for state and local planning purposes, determines eligibility for state historic preservation grant funding, and affords certain protections under CEQA.

California Environmental Quality Act

Under CEQA, public agencies must consider the effects of their actions on both historical resources and unique archaeological resources. Pursuant to Public Resources Code (PRC) Section 21084.1, a "project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment." Section 21083.2 requires agencies to determine whether proposed projects would have effects on unique archaeological resources.

Historical resource is a term with a defined statutory meaning (PRC Section 21084.1; determining significant impacts to historical and archaeological resources is described in the CEQA Guidelines, Section 15064.5 [a], [b]). Under CEQA Guidelines Section 15064.5(a), historical resources include the following:

1. A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the California Register of Historical Resources (Public Resources Code, Section 5024.1).

2. A resource included in a local register of historical resources, as defined in Section 5020.1(k) of the Public Resources Code or identified as significant in a historical resource survey meeting the requirements of Section 5024.1(g) of the Public Resources Code, will be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.

3. Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be a historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource will be considered by the lead agency to be "historically

significant" if the resource meets the criteria for listing in the California Register of Historical Resources (Public Resources Code, Section 5024.1), including the following:

a) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;

b) Is associated with the lives of persons important in our past;

c) 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

d) Has yielded, or may be likely to yield, information important in prehistory or history.

The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources (pursuant to Section 5020.1(k) of the Public Resources Code [PRC]), or identified in a historical resources survey (meeting the criteria in Section 5024.1(g) of the PRC) does not preclude a lead agency from determining that the resource may be an historical resource as defined in PRC Section 5020.1(j) or 5024.1.

Historic resources are usually 45 years old or older and must meet at least one of the criteria for listing in the California Register, described above (such as association with historical events, important people, or architectural significance), in addition to maintaining a sufficient level of physical integrity.

Properties of local significance that have been designated under a local preservation ordinance (local landmarks or landmark districts) or that have been identified in a local historical resources inventory may be eligible for listing in the CRHR and are presumed to be historical resources for purposes of CEQA unless a preponderance of evidence indicates otherwise (PRC Section 5024.1 and California Code of Regulations (CCR), Title 14, Section 4850). Unless a resource listed in a survey has been demolished, lost substantial integrity, or there is a preponderance of evidence indicating that it is otherwise not eligible for listing, a lead agency should consider the resource to be potentially eligible for the CRHR.

For historic structures, CEQA Guidelines Section 15064.5, subdivision (b)(3) indicates that a project that follows the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings, or the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (1995) shall be considered as mitigating impacts to a less than significant level.

As noted above, CEQA also requires lead agencies to consider whether projects will impact unique archaeological resources. Public Resources Code Section 21083.2, subdivision (g), states that " 'unique archaeological resource' means 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:

- Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information.

- Has a special and particular quality such as being the oldest of its type or the best available example of its type.

- Is directly associated with a scientifically recognized important prehistoric or historic event or person."

Treatment options under Section 21083.2 include activities that preserve such resources in place in an undisturbed state. Other acceptable methods of mitigation under Section 21083.2 include excavation and curation or study in place without excavation and curation (if the study finds that the artifacts would not meet one or more of the criteria for defining a unique archaeological resource).

Section 7050.5(b) of the California Health and Safety Code (CHSC) specifies protocol when human remains are discovered, as follows:

> *In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined, in accordance with Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code, that the remains are not subject to the provisions of Section 27492 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of death, and the recommendations concerning treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code.*

CEQA Guidelines Section 15064.5, subdivision (e) requires that excavation activities be stopped whenever human remains are uncovered and that the county coroner be called in to assess the remains. If the county coroner determines that the remains are those of Native Americans, the Native American Heritage Commission must be contacted within 24 hours. At that time, the lead agency must consult with the appropriate Native Americans, if any, as timely identified by the Native American Heritage Commission. Section 15064.5 directs the lead agency (or applicant), under certain circumstances, to develop an agreement with the Native Americans for the treatment and disposition of the remains.

In addition to the mitigation provisions pertaining to accidental discovery of human remains, the CEQA Guidelines also require that a lead agency make provisions for the accidental discovery of historical or archaeological resources, generally. Pursuant to Section 15064.5, subdivision (f), these provisions should include "an immediate evaluation of the find by a qualified archaeologist. If the find is determined to be an historical or unique archaeological resource, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation should be available. Work could continue on other parts of the building site while historical or unique archaeological resource mitigation takes place."

Paleontological resources are classified as non-renewable scientific resources. California Public Resources Code Section 5097.5 et seq. makes it a misdemeanor for anyone to knowingly disturb any archaeological, paleontological, or historical features situated on public lands. No state or local agencies have specific jurisdiction over paleontological resources. No state or local agency

requires a paleontological collecting permit to allow for the recovery of fossil remains discovered as a result of construction-related earthmoving on state or private land in a project site.

LOCAL

Nevada County General Plan

The Nevada County General Plan serves as the overall guiding policy document for the unincorporated areas of Nevada County. A summary of the proposed project's consistency with applicable General Plan cultural resource policies is contained in **Appendix 3.0-A**. While this Draft EIR analyzes the project's consistency with the General Plan pursuant to CEQA Section 15125(d), the Nevada County Board of Supervisors makes the ultimate determination of consistency with the General Plan.

Nevada County Land Use and Development Code

The Nevada County Land Use and Development Code Chapter II, Zoning Regulations, Article 4.0, Comprehensive Site Development Standards, Sections L-II 4.3.3 and L-II 4.3.6 provide a set of standards for the identification and protection of significant cultural resources in the county. These sections of the code direct that site development standards be used in the preservation, protection, and management of the county's unique natural, paleontological, archaeological, historical, architectural, cultural, and traditional cultural resources. These standards also require a North Central Information Center (NCIC) records search to provide the most current information about the sensitivity of the property to contain cultural resources and to assess the need for a cultural resource study. Should the NCIC recommend a cultural resource study, the applicant is required to acquire the services of a qualified professional to conduct a cultural resource study of the project site. The code emphasizes the avoidance of archaeological and historical resources as the preferred means of reducing potential significant effects. If avoidance is not feasible, an excavation program or some other form of mitigation must be developed to mitigate any impacts.

3.6.3 IMPACTS AND MITIGATION MEASURES

STANDARDS OF SIGNIFICANCE

Following Public Resources Code Sections 21083.2 and 21084.1, and Section 15064.5 and Appendix G of the CEQA Guidelines, cultural resource impacts are considered to be significant if implementation of the project considered would result in any of the following:

1) Cause a substantial adverse change in the significance of a historical resource as defined in Public Resources Code Section 21084.1 and CEQA Guidelines Section 15064.5.

2) Cause a substantial adverse change in the significance of an archaeological resource as defined in Public Resources Code Sections 21083.2 and 21084.1, and CEQA Guidelines Section 15064.5.

3) Directly or indirectly destroy a unique paleontological resource or site or unique geological feature.

4) Disturb any human remains, including those interred outside of formal cemeteries.

State CEQA Guidelines Section 15064.5 defines "substantial adverse change" as physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource is materially impaired.

CEQA Guidelines, Section 15064.5, subdivision (b)(2), defines "materially impaired" for purposes of the definition of substantial adverse change as follows:

> *The significance of an historical resource is materially impaired when a project:*
>
> *(A) 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 of Historical Resources; or*
>
> *(B) 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 Public Resources Code or its identification in an historical resources survey meeting the requirements of section 5024.1(g) of the 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*
>
> *(C) 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 of Historical Resources as determined by a lead agency for purposes of CEQA.*

CEQA requires that if a project would result in an effect that may cause a substantial adverse change in the significance of a historical resource or would cause significant effects on a unique archaeological resource, then alternative plans or mitigation measures must be considered. Therefore, prior to assessing effects or developing mitigation measures, the significance of cultural resources must first be determined. The steps that are normally taken in a cultural resources investigation for CEQA compliance are as follows:

- Identify potential historical resources and unique archaeological resources;
- Evaluate the eligibility of historical resources; and
- Evaluate the effects of the project on eligible historical resources.

METHODOLOGY

The impact analysis below is based primarily on the Cultural Resource Assessment Update conducted by CRM for the project site in June 2011 (**Appendix 3.6-A**). Historical archaeologist Cindy Arrington conducted an intensive-level pedestrian survey of portions of the project site on June 27, 2011. A concerted effort was made to relocate each of the three resources previously recorded within the project site. The survey included a 100-foot corridor north of the Bear River along the southern edge of the project site, a 50-foot corridor (25 feet on either side) of the Magnolia Ditch (P-29-2970) and unnamed ditch (P-29-2971), and within the historic-era ranch complex (P-29-2969, CA-NEV-1809H). Survey transects were spaced 10 to 15 feet apart.

No attempt was made to specifically relocate the isolated occurrences of four basalt cores or six historic-era artifacts or features, as their location had not been formally recorded or specified in the prior survey report (Jensen 2006, p. 6). All undeveloped ground surface areas within the surveyed area were examined for artifacts (e.g., flaked stone tools, tool-making debris, stone milling tools, or fire-affected rock), soil discoloration that might indicate the presence of a cultural midden, soil depressions and features indicative of the former presence of structures or buildings (e.g., postholes, foundations), or historic-era debris (e.g., metal, glass, ceramics). Ground disturbances (e.g., dirt road and path clearings, cutbanks) were visually inspected. Photographs of the project site, including ground surface visibility and items of interest, were taken with a digital camera. Location data was recorded with a handheld Trimble (sub-foot accuracy) GPS unit. Soil color was recorded using a Munsell Soil Color Chart.

In addition, a records and sacred lands search were conducted as discussed under Prior Cultural Studies and Native American Consultation above.

The potential impacts of the proposed project on cultural resources have been evaluated by considering both construction activities and operational impacts of the proposed project, and mitigation has been identified for each significant impact in this section.

PROJECT IMPACTS AND MITIGATION MEASURES

Potential Destruction or Damage to Historical Resources (Standard of Significance 1)

Impact 3.6.1 Implementation of the proposed project would not cause a substantial adverse change in the significance of a known historical resource. Therefore, **no impact** would occur.

As discussed under Setting above, three historic-era resources have been identified within the project site, including the remains of a ranch complex (P-29-2969, CA-NEV-1809H), the Magnolia Ditch (P-29-2970), and an unnamed ditch (P-29-2971). Proposed development associated with the project would be limited to 48 acres total, with all development except the proposed emergency access road, trails, barbeque areas, water tank, and sewer lift station to be clustered within the northwest portion of the site. As such, project development would avoid the unnamed ditch (P-29-2971) entirely. However, the Ranch Complex (P-29-2969, CA-NEV-1809H) would be partially impacted by the proposed access roadway and potentially by Phase 5 of the project, which would include 4 duplexes, 22 cottage units, the common house, a farm stand, row gardens, and an auto/tractor repair barn. The Magnolia Ditch (P-29-2970), now part of the Combie Phase Canal, would be crossed by the emergency access road in the northeast corner of the project site. Even so, the Cultural Resource Assessment Update completed for the project site (CRM 2011) determined that these resources have no potential to yield additional information, are not associated with persons or events important to history, and are not considered eligible for listing on the CRHR. The resources are also not considered eligible for NRHP inclusion.

Therefore, based on the above information and assessment that no known sites within the project site are eligible for listing on the CRHR, the project does not have the potential to cause a substantial adverse change on any resource that currently qualifies as a historical resource or that has been recommended eligible for listing on the CRHR. Therefore, **no impact** would occur.

Mitigation Measures

None required.

Potential Destruction or Damage to Known and Undiscovered Historic and Archaeological Resources (Standard of Significance 2)

Impact 3.6.2 Implementation of the proposed project could result in a substantial adverse change in the significance of an archaeological resource, as well as the potential disturbance of currently undiscovered cultural resources (i.e., prehistoric archaeological sites, historical archaeological sites, and isolated artifacts and features) and human remains. This impact would be considered **potentially significant**.

Three historic-era resources associated with ranching or irrigation, as well as a total of ten isolated occurrences of prehistoric/ethnohistoric basalt cores and historic-era materials, have been identified within the project site. As discussed under Impact 3.6.1 above, project development would avoid the unnamed ditch (P-29-2971) but would impact the Ranch Complex (P-29-2969, CA-NEV-1809H) and the Magnolia Ditch (P-29-2970), now part of the Combie Phase Canal. Even so, these resources are not are eligible for listing on the CRHR and are not associated with persons or events important to history.

However, considering the results of the literature search, local ethnographic settlement, and subsistence patterns, the prehistory and history of the area, the proposed project's proximity to the Bear River, and the patterns of local historic-era land use, the project site is considered highly sensitive for prehistoric, ethnohistoric, and historic-era cultural resources. Ethnographic settlements, prehistoric occupation sites, bedrock milling stations, and isolated artifacts have been recorded in the vicinity of the project site, and historic-era activity in the vicinity is typically associated with mining, logging, irrigation, ranching, and associated infrastructure. Despite some past disturbance by historic-era and recent activities on the project site, there is a possibility of unanticipated and accidental archaeological discoveries during ground-disturbing project-related activities. Unanticipated and accidental archaeological discoveries during project implementation have the potential to affect significant archaeological resources located within the project site. Prehistoric materials might include flaked stone tools, tool-making debris, bedrock mortars and other stone milling tools, fire-affected rock, basketry, shell or bone artifacts, or soil darkened by cultural activities (midden). Historic period cultural resources, including metal, glass or ceramic artifacts, equipment remnants, other debris, or features indicative of the former presence of structures or buildings (e.g., postholes, foundations), would most likely be related to ranching, logging, or construction of irrigation ditches. These "inadvertent discoveries" can appear unexpectedly in construction trenches or in back dirt piles and, once discovered, they require special treatment. This is considered a **potentially significant** impact.

Mitigation Measures

MM 3.6.2a The project applicant shall retain a qualified archaeologist meeting the Secretary of Interior's Professional Qualifications Standards in prehistoric or historical archaeology, as appropriate, to monitor all initial ground-disturbing activities in native soils or sediments, including all vegetation removal. If no cultural resources are identified during this phase of ground disturbance, and if determined between the qualified archaeologist and the lead agency, monitoring may be reduced to on-call status.

If any prehistoric or historic artifacts or other indications of archaeological resources are found during site grading or once project construction is under way, the on-site monitor shall be empowered to temporarily halt or divert construction in the immediate vicinity of the discovery while it is evaluated for

significance, and the County shall be immediately notified. Construction activities could continue in other areas. The archaeologist shall evaluate the finds and recommend appropriate mitigation measures for the inadvertently discovered cultural resources. The County and the project applicant will consider the recommendations of the qualified archaeologist. The County, the qualified archaeologist, and the project applicant shall consult and agree upon implementation of a measure or measures that the County, the qualified archaeologist, and the project applicant deem feasible and appropriate. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures. Further ground disturbance shall not resume within the area of the discovery until an agreement has been reached by the project applicant, the qualified project archaeologist, and the lead agency as to the appropriate preservation or mitigation measures.

Timing/Implementation: *As a condition of project approval, and implemented during ground-disturbing activities*

Enforcement/Monitoring: *Nevada County Planning Department*

MM 3.6.2b Should cultural resources, other than human remains, be discovered during construction activities when an archaeological monitor is not present, project personnel shall halt such activities in the immediate area and notify a qualified archaeologist meeting the Secretary of Interior's Professional Qualifications Standards in prehistoric or historical archaeology immediately to evaluate the resource(s) encountered and recommend the development of mitigation measures for potentially significant resources consistent with PRC Section 21083.2(i). Construction activities could continue in other areas. The archaeologist shall evaluate the finds and recommend appropriate mitigation measures for the inadvertently discovered cultural resources. The County and the project applicant will consider the recommendations of the qualified archaeologist. The County, the qualified archaeologist, and the project applicant shall consult and agree upon implementation of a measure or measures that the County, the qualified archaeologist, and the project applicant deem feasible and appropriate. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures. Further ground disturbance shall not resume within the area of the discovery until an agreement has been reached by the project applicant, the qualified project archaeologist, and the lead agency, as well as the Native American tribal representative if relevant, as to the appropriate preservation or mitigation measures.

Should the discovery include Native American human remains, in addition to the required procedures of Health and Safety Code Section 7050.5, PRC Section 5097.98 and California Code of Regulations (CCR) Section 15064.5(e), all work must stop in the immediate vicinity of the find and the Nevada County Coroner must be notified. If the remains are determined to be Native American, the coroner will notify the Native American Heritage Commission, and the procedures outlined in CEQA Sections 15064.5(d) and (e) shall be followed.

Timing/Implementation: *As a condition of project approval, and implemented during ground-disturbing activities*

Enforcement/Monitoring: *Nevada County Planning Department*

Implementation of mitigation measures **MM 3.6.2a** and **MM 3.6.2b** would ensure that any cultural resources inadvertently discovered during project construction activities would be protected consistent with the recommendations of a qualified archaeologist meeting the Secretary of Interior's Professional Qualifications Standards in prehistoric or historical archaeology. Therefore, impacts would be reduced to a **less than significant** level.

Impact Unique Paleontological Resources (Standard of Significance 3)

Impact 3.6.3 Implementation of the proposed project could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature. This is considered a **potentially significant** impact.

The pedestrian surface survey of the project site and its vicinity conducted in June 2011, and other previous research as mentioned under the Setting and Methodology sections above, did not identify any evidence of paleontological resources within the project site. Paleontological resources, however, have been identified in Nevada County, and the project site in its entirety has not been investigated by a professional paleontologist. Excavations could occur in association with development of the proposed project that could affect paleontological resources buried at deeper depths. Therefore, it is possible that project-related ground-disturbing activities could uncover previously unknown paleontological resources within project boundaries. Unanticipated and accidental paleontological discoveries during project implementation have the potential to affect significant paleontological resources. This is considered a **potentially significant** impact.

Mitigation Measures

MM 3.6.3 Should any paleontological resources (i.e., fossils) be uncovered during project construction activities, all work in the immediate vicinity shall be halted or diverted to other areas on the site and the County shall be immediately notified. A qualified paleontologist shall be retained to evaluate the finds and recommend appropriate mitigation measures for the inadvertently discovered paleontological resources. The County and the project applicant shall consider the recommendations of the qualified paleontologist. The County, the qualified paleontologist, and the project applicant shall consult and agree upon implementation of a measure or measures that the County, the qualified paleontologist, and the project applicant deem feasible and appropriate. Such measures may include avoidance, preservation in place, excavation, documentation, curation, data recovery, or other appropriate measures. Further ground disturbance shall not resume within the area of the discovery until an agreement has been reached by the project applicant, qualified paleontologist, and the County, as well as the Native American tribal representative if relevant, as to the appropriate preservation or mitigation measures.

Timing/Implementation: *As a condition of project approval, and implemented during ground-disturbing activities*

Enforcement/Monitoring: Nevada County Planning Department

Implementation of mitigation measure **MM 3.6.2** would ensure that any paleontological resources inadvertently discovered during project construction activities would be protected consistent with the recommendations of a qualified paleontologist. Impacts would be reduced to a **less than significant** level.

Disturb Human Remains (Standard of Significance 4)

Impact 3.6.4 No human remains have been identified within the project site; however, implementation of the proposed project could result in the inadvertent disturbance of currently undiscovered human remains. Any discovery of human remains would trigger state law governing the treatment of human remains. Therefore, this impact is considered to be **less than significant**.

Although no human remains have been identified within the project site, implementation of the proposed project would include ground-disturbing construction activities that could result in the inadvertent disturbance of currently undiscovered human remains. Procedures of conduct following the discovery of human remains on non-federal lands are mandated by Health and Safety Code Section 7050.5, PRC Section 5097.98, and by CEQA in the California Code of Regulations (CCR) Section 15064.5(e). According to these provisions, should human remains be encountered, all work in the immediate vicinity of the burial must cease, and any necessary steps to ensure the integrity of the immediate area must be taken. The remains are required to be left in place and free from disturbance until a final decision as to the treatment and their disposition has been made. The Nevada County Coroner would be immediately notified and the coroner would then determine whether the remains are Native American. If the coroner determines the remains are Native American, the coroner has 24 hours to notify the NAHC, who will, in turn, notify the person they identify as the most likely descendent (MLD) of any human remains. Further actions would be determined, in part, by the desires of the MLD, who has 24 hours to make recommendations regarding the disposition of the remains following notification from the NAHC of the discovery. If the MLD does not make recommendations within 24 hours, the owner is required, with appropriate dignity, to reinter the remains in an area of the property secure from further disturbance. Alternatively, if the owner does not accept the MLD's recommendations, the owner or the descendent may request mediation by the NAHC. Any discovery of human remains within the project site would be subject to these procedural requirements, which would reduce impacts associated with the discovery/disturbance of human remains to a **less than significant** level.

Mitigation Measures

None required.

3.6.4 CUMULATIVE SETTING, IMPACTS, AND MITIGATION MEASURES

CUMULATIVE SETTING

The cumulative setting associated with the proposed project includes approved, proposed, planned, and other reasonably foreseeable projects and development in Nevada County as described in **Table 3.0-2** in Section 3.0 of this Draft EIR. Developments and planned land uses, including the proposed project, would cumulatively contribute to known and unknown cultural resources and paleontological resources in the county. The Setting subsection provides an overview of cultural resources and the history of the region.

CUMULATIVE IMPACTS AND MITIGATION MEASURES

Cumulative Impacts to Prehistoric Resources, Historic Resources, and Human Remains

Impact 3.6.5 Implementation of the proposed project, along with any foreseeable development in the project vicinity, could result in cumulative impacts to cultural resources i.e., prehistoric sites, historic sites, and isolated artifacts and features). This contribution would be considered **cumulatively considerable.**

Proposed CCRC Development

Implementation of the proposed project, along with other cumulative development in Nevada County, could contribute to the cumulative loss and/or disturbance of cultural resources (i.e., prehistoric sites, historic sites, and isolated artifacts and features), and human remains. This contribution could be cumulatively considerable prior to mitigation.

General Plan and Zoning Ordinance Text Amendments

As discussed in further detail in Section 4.0, Cumulative Impacts Summary, the proposed General Plan and Zoning Ordinance text amendments are policy actions that would not directly result in impacts to cultural resources in the cumulative setting. Although CCRCs would be permitted in either a PD (Planned Development) or SDA (Special Development Area) land use designation with approval of a zone change after implementation of the proposed project, such rezoning applications would be subject to further CEQA analysis of project-specific impacts (proposed Zoning Ordinance amendment Section L.II 2.7.11(C)(4)), including cultural impacts. At a programmatic level, the environmental impacts associated with development of all PD and SDA designated areas in the county were analyzed in the Nevada County General Plan Environmental Impact Report, Volume I, SCH #1995102136 (1995). Future site-specific CEQA analysis would result in project-specific mitigation to address impacts.

Mitigation Measures

Implementation of mitigation measures **MM 3.6.2a** and **MM 3.6.2b**, and adherence to Health and Safety Code Section 7050.5, PRC Section 5097.98, and CCR Section 15064.5(e), will ensure that any discoveries will be handled in accordance with state law and reduce the proposed project's contribution to these impacts to a **less than cumulatively considerable** level.

Cumulative Impacts to Paleontological Resources

Impact 3.6.6 Implementation of the proposed project, along with any foreseeable development in the project vicinity, could result in cumulative impacts to paleontological resources. This contribution would be considered **cumulatively considerable.**

Proposed CCRC Development

Implementation of the proposed project, in combination with cumulative development in the surrounding region, would increase the potential to disturb known and undiscovered paleontological resources in the region.

General Plan and Zoning Ordinance Text Amendments

As described under **Impact 3.6.5** above, the proposed General Plan and Zoning Ordinance text amendments are policy actions that would not directly result in impacts to paleontological resources in the cumulative setting and future CCRC rezoning applications would be subject to further CEQA analysis of project-specific impacts (proposed Zoning Ordinance amendment Section L.II 2.7.11(C)(4)), including paleontological impacts. It is reasonable to assume that future site-specific CEQA analysis would result in project-specific mitigation to address impacts. At a programmatic level, the environmental impacts associated with development of all PD and SDA designated areas in the county were analyzed in the Nevada County General Plan Environmental Impact Report, Volume I, SCH #1995102136 (1995).

Mitigation Measures

Implementation of mitigation measures **MM 3.6.3** will ensure that any discoveries will be handled in accordance with state law and reduce the project's contribution to these impacts to a **less than cumulatively considerable** level.

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