

Study 13.1  
**NATIVE AMERICAN  
TRADITIONAL CULTURAL PROPERTIES**  
November 2010

## **1.0 Project Nexus**

Yuba County Water Agency's (YCWA or Licensee) continued operation and maintenance (O&M) of the existing Yuba River Development Project (Project) has a potential to affect Traditional Cultural Properties (TCP).

TCPs are locations associated with cultural practices or beliefs of a living community that are: 1) rooted in that community's history; or 2) important in maintaining the continuing cultural identity of a community.<sup>1</sup> National Register Bulletin 38, 1998:1 (Parker and King 1998) defines a TCP as:

- Locations associated with the traditional beliefs of an aboriginal/indigenous group about its origins, its cultural history, or the nature of the world and cultural landscapes.
- 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.
- Locations where a community has traditionally carried out economic, artistic or other cultural practices important in maintaining its historic identity.

Under Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, federal agencies must 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 on such undertakings. As defined under 36 CFR 800.16(l), historic properties are prehistoric or historic sites, buildings, structures, objects, districts, or locations of traditional use or beliefs (i.e., TCPs) that are included in, or eligible for inclusion in, the National Register of Historic Places (NRHP). Historic properties are identified through a process of evaluation against specific criteria. For most cultural resources evaluated for listing on the NRHP, these criteria are found at 36 CFR 60.4. However, to be considered a historic property, a TCP must meet other significance criteria identified in amendments made to the NHPA in 1992. These criteria are found at §101(d)(6)(A).

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<sup>1</sup> Historic properties other than Traditional Cultural Properties (TCPs) are addressed in a separate study proposal (Study 12.1, Historic Properties Study) in the Relicensing.

## **2.0 Resource Management Goals of Agencies with Jurisdiction Over the Resource to be Studied**

Under Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, federal agencies must 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 on such undertakings.

[Relicensing Participants - This section is a placeholder in the Pre-Application Document (PAD). Section 5.11(d)(2) of 18 CFR states that an applicant for a new license must in its proposed study “Address any known resource management goals of the agencies or Indian tribes with jurisdiction over the resource to be studied.” During 2010 study proposal development meetings, agencies advised Licensee that they would provide a brief written description of their jurisdiction over the resource to be addressed in this study. If provided before Licensee files its Proposed Study Plan and Licensee agrees with the description, Licensee will insert the brief description by an agency or agencies here, stating the description was provided by that agency. If not, prior to issuing the Proposed Study Plan, Licensee will describe to the best of its knowledge and understanding the management goals of agencies that have jurisdiction over the resource addressed in this study. Licensee]

## **3.0 Study Goals and Objectives**

The goal of the study is to assist the Federal Energy Regulatory Commission (FERC) in meeting its compliance requirements under Section 106 of the NHPA, as amended, by determining if licensing of the Project will have an adverse effect on NRHP-eligible TCPs, ethnographic resources, or other resources of Tribal significance.

The objective of this study is to identify TCPs and other resources of Tribal importance that may potentially be affected by Project O&M, evaluate their eligibility to the NRHP, and identify Project-related activities that may affect TCPs, other Tribal interests, or traditional interests of other groups within the APE.

## **4.0 Existing Information and Need for Additional Information**

Licensee’s Pre-Application Document describes existing, relevant, and reasonably available information regarding cultural resources, including TCPs. This information is summarized below.

### **4.1 Background Research**

To gather the necessary background information, records searches and archival research were completed at two information centers of the California Historical Resources Information System; one at the Northeast Information Center (NEIC) at California State University, Chico (CSU,

Chico), and the other at the North Central Information Center (NCIC) at California State University, Sacramento (CSU, Sacramento). The record searches included: 1) a review of cultural resources records and site location maps; 2) historic Government Land Office (GLO) maps; 3) an up-to-date list of NRHP-listed properties; 4) the California Register of Historic Resources; 5) the Office of Historic Preservation Historic Property Directories for Yuba, Nevada, and Sierra counties; 6) 1992 California Points of Historical Interest; 7) 1996 California State Historic landmarks; 8) and 1976 California Inventory of Historic Resources.

The records searches were employed in part to identify Indian Trust Assets (ITA)<sup>2</sup> and TCPs within the FERC Project Boundary and adjoining area.

No TCPs, ITAs, Indian Reservations, lands designated under Tribal ownership, or any other ITAs were encountered during the research.

Therefore, additional data gathering, including additional archival and field research, is needed to augment the data collected to-date in order to identify whether TCPs could be affected by continued Project O&M.

## **4.2 Identification of Potentially Affected Native American Tribes**

Licensee contacted the Native American Heritage Commission (NAHC) on March 9, 2009, to obtain a listing of tribal groups or individuals who should be notified regarding the Project. NAHC replied to this request on March 16, 2009. All individuals and organizations included on NAHC's list were contacted by telephone in April 2009; four responded to the calls.

Additional tribal representatives with interests in the Project have also been identified through other relicensing projects. These individuals and those previously notified were both contacted in June 2009 so that Licensee could provide updates regarding the relicensing.

In July 2009, Licensee mailed to those tribal representatives identified in the Project PAD Information Questionnaires (Appendix A) to solicit concerns or additional information regarding the Project.

Additionally, all individuals contacted during the June 2009 call were invited to attend a Project information meeting on September 9, 2009, and invitations to the meeting were mailed on August 10, 2009, to each representative as well as to the United States Department of Agriculture Forest Service (Forest Service), United States Department of interior, Bureau of Land Management (BLM), State Historic Preservation Officer (SHPO) and FERC. Two individuals, both from Save the Salmon, a non-governmental organization, and no tribal members or agencies attended the September 9 meeting.

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<sup>2</sup> ITAs are legal interests in assets held in trust by the federal government for Indian tribes or individual Indians. These can be real property, physical assets, or intangible property rights. ITAs do not include things in which a tribe or individuals have no legal interest.

Following Licensee’s initial contact with tribes and tribal representatives, three tribes declined participation in the Relicensing, as described below in Table 4.2-1. Two of these tribes have since informed Licensee that they will participate in the Relicensing. As of October 2010, no communications from other tribes have been received in response to various contacts and outreach from Licensee. Additional outreach to tribes will occur during the study to augment current efforts to date, and to make a reasonable effort to contact individuals and tribes who may have an interest in the Relicensing. Currently, Strawberry Valley Rancheria, Enterprise Rancheria, and United Auburn Indian Community of the Auburn Rancheria are actively participating in the Project Relicensing.

**Table 4.2-1. Tribes and tribal representatives contacted as of September 18, 2009.**

Tribe	Individual Contacted
Berry Creek Rancheria of Maidu Indians	Jim Edwards, Chairperson
	Dwayne M. Brown, Jr., Environmental Coordinator
Butte Tribal Council	Ren Reynolds
Concow Maidu Tribe of Mooretown Rancheria	Laura Winner, Chairperson
	Guy Taylor, Director, Environmental Protection Office
Enterprise Rancheria of Maidu Indians <sup>2</sup>	Glenda Nelson, Chairperson
	Frank Watson, Vice Chairperson
Colfax-Todds Valley Consolidated Tribe <sup>1</sup>	Lavina Suehead, Chairperson
	Stephen Prout, Vice Chairperson
	Sandy Marks
	Judy Marks
	Alicia Juelch
	Clyde Prout
	Leon Portras
	Marjorie J. Cummins
Greenville Rancheria of Maidu Indians	Kyle Self, Chairperson
	Crista Stewart, Environmental Manager
	Lacie Miles
Mechoopda Indian Tribe of Chico Rancheria	Michael DeSpain, Director OEPP
Nisenan/Maidu	April Moore
Strawberry Valley Rancheria	Cathy Bishop, Chairperson
	Rea Cichocki
Todds Valley Miwok-Maidu	Jerri White Turtle
	Lois Zellner
	Brigette Zellner
Tsi-Akim Maidu Tribe	Don Ryberg, Chairperson
	Grayson Coney
United Auburn Indian Community of the Auburn Rancheria <sup>3</sup>	David Keyser, Chairperson
	Marcos Guerrero, Representative
Washoe Tribe of Nevada and California	Waldo Walker, Chairperson
	Darrel Cruz, THPO
	Rose Wood
	Lynda Shoshone
	Brian Wallace
Unaffiliated Individuals	Clara LeCompte
	Tyrone Gore
	Bill Jacobson

<sup>1</sup> Per telephone communications on July 10, 2009, the Colfax-Todds Valley Consolidated Tribe advised Licensee that the Project is too far away and that they will not be participating in the Yuba River Development Project.

<sup>2</sup> By letter dated August 12, 2009, the Enterprise Rancheria advised Licensee that “At this time Enterprise Rancheria will not be interested in the Yuba River Development Project.” At a meeting held on October 1, 2010, Enterprise Rancheria informed Licensee that they will now participate in the Yuba River Development Project relicensing.

<sup>3</sup> Per telephone communications on July 14, 2009, the United Auburn Indian Community of the Auburn Rancheria (UAIC) advised Licensee that the Project is out of their territory and that they will not be participating in the Yuba River Development Project. On July 28, 2010, UAIC informed Licensee via email that the tribe will participate in the Project relicensing.

## **5.0 Study Methods and Analysis**

### **5.1 Study Area**

The study area is the Area of Potential Effects (APE), which includes all lands, Project facilities and features within the FERC Project Boundary, and Project-affected locations outside the FERC Project Boundary. The APE map is provided in Appendix B.

The APE may be modified if during the study, it is determined that the Project affects TCPs or other resources of tribal importance outside the APE.

If YCWA proposes an addition to the Project, the study area will be expanded if necessary to include areas potentially affected by the addition.

### **5.2 General Concepts and Procedures**

The following general concepts and practices apply to the study:

- Personal safety is the most important consideration of each fieldwork team.
- Licensee will make a good faith effort to obtain permission to access private property where needed well in advance of entering the property.
- Field crews may make minor variances to the FERC-approved study in the field to accommodate actual field conditions and unforeseen problems. When minor variances are made, Licensee's field crew will follow the protocols in the FERC-approved study.
- When Licensee becomes aware of major variances to the FERC-approved study, Licensee will issue an e-mail to the Relicensing Contact List describing the variance and reason for the variance. Licensee will contact by phone the Forest Service (if the variance is on National Forest System land), US Fish and Wildlife Service, State Water Resources Control Board and CDFG to provide an opportunity for input regarding how to address the variance. Licensee will issue an e-mail to the Relicensing Contact List advising them of the resolution of the variance. Licensee will summarize in the final study report all variances and resolutions.
- Licensee's performance of the study does not presume that Licensee is responsible in whole or in part for measures that may arise from the study.
- GPS data will be collected using either a Map Grade Trimble GPS (sub-meter data collection accuracy under ideal conditions) or similar units. GPS data will be post-processed and exported from the GPS unit into Geographic Information System (GIS) compatible file format in an appropriate coordinate system using desktop software. The resulting GIS file will then be reviewed by both field staff and Licensee's relicensing GIS analyst. Metadata will be developed for deliverable GIS data sets.
- Licensee's field crews will record incidental observations of aquatic and wildlife species observed during the performance of this study. All incidental observations will be reported

in the appropriate Licensee report (e.g., incidental observations of special-status fish recorded during fieldwork for the Special-Status Turtles – Western Pond Turtle Study will be reported in Licensee’s Stream Fish Populations Study report). The purpose of this effort is not to conduct a focus study (i.e., no effort in addition the specific field tasks identified for the specific study) or to make all field crews experts in identifying all species, but only to opportunistically gather data during the performance of the study.

- Field crews will be trained on and provided with materials (e.g. Quat) for decontaminating their boots, waders, and other equipment between study sites. Major concerns are amphibian chytrid fungus, and invasive invertebrates (e.g. zebra mussel, *Dreissena polymorpha*). This is of primary importance when moving: 1) between tributaries and mainstem reaches; 2) between basins (e.g. Middle Yuba River, Yuba River, and North Yuba River); and 3) between isolated wetlands or ponds and river or stream environments.

### **5.3 Study Methods**

The study methods will consist of the following seven steps, each of which is described below.

#### **5.3.1 Step 1 – Obtain SHPO Approval of APE**

As required under Section 106 [36 CFR § 800.4(a)(1)], Licensee will submit maps depicting the APE to the SHPO for formal review, comment, and approval. Once approved, the maps including SHPO’s concurrence letter will be filed with FERC.

#### **5.3.2 Step 2 – Archival Research**

Licensee will, at a minimum, conduct additional archival research at the following repositories:

- California Native American Commission
  - Sacred Lands Files
- University of California, Berkeley, The Bancroft Library,
  - Western Americana Collection
    - ✓ Native American Studies/Anthropology/Archeology/Linguistics
  - University Archives, Department of Anthropology Records
  - C. Hart Merriam Papers
  - Dorothea J Theodoratus Papers
  - Samuel Alfred Barrett Papers
  - A. L. Kroeber Papers

- California State Library, California Room
  - California History Collections
    - ✓ Manuscript Collections
    - ✓ Pictorial Resources
    - ✓ Maps
  
- North Central Information Center, California State University, Sacramento (CSU, Sacramento)
  
- Northeast Information Center, California State University, Chico (CSU, Chico)
  
- California State University, Chico
  - Special Collections, Meriam Library
    - ✓ NE California Collection
    - ✓ Historic Photograph Collection,
    - ✓ Historic Map Collection
    - ✓ Dorothy Morehead Hill Collection
    - ✓ The Bleyhl Collection
  
- National Archives and Records Administration, Pacific Region, San Francisco
  - Bureau of Indian Affairs, Record Group 75
  - Indian Health Service, Record Group 513
  - U.S. Geological Survey, Records Group 57
  
- Yuba County Library, Marysville
  - California Room
  
- Phoebe Hearst Museum of Anthropology
  - Ethnographic Collections
  
- U. S. Army Corps of Engineers, Sacramento District
  - Archives for the Marysville Lake Project (Parks Bar Site)
  
- Other appropriate repositories identified during the research

### **5.3.3 Step 3 – Tribal Consultation and Identification of Resources**

Following the ethnographic literature review in Step 2, the next step in identifying potential TCPs will involve extensive tribal consultation. Consultation and any fieldwork and potential TCP documentation shall be undertaken in accordance with Section 106 of the NHPA, as amended, and shall be consistent with National Register Bulletin No. 38, *Guidelines for*

*Evaluating and Documenting Identification of Traditional Cultural Properties* (Parker and King 1998).

In order to facilitate tribal consultation, Licensee intends to retain a qualified, professional ethnographer who meets the standards for ethnography as defined in Appendix II of National Register Bulletin No. 38. Licensee will coordinate its selection of the ethnographer with the assistance of affected tribes and other interested cultural/tribal stakeholders.

The ethnographer, in consultation with tribal representatives (i.e., Tribal Chairs, Tribal Councils, elders, as directed by the tribes), will determine the scope and breadth of interviews. The ethnographer will then contact the appropriate tribe(s) and interested tribal and cultural stakeholders to arrange for interviews at a time and location acceptable to those tribal interviewees. Tribal interviewees and the ethnographer may need to visit the APE together to accurately define potential TCPs or other ethnographic and non-TCP resources of importance to the tribes. If necessary, Licensee will arrange for an initial introductory meeting between Licensee, tribal representatives and the ethnographer.

Interviews may be conducted on a one-on-one basis with the ethnographer. The oral traditions and information collected during the interviews will be used to help define potential TCPs or other resources of tribal significance in the APE and to assist in making sound judgments and management decisions in Project planning. As part of this study, Tribal interviewees or other Tribal representatives may wish to develop, in coordination with the ethnographer, a listing of plants of potential interest to Tribes that may be provided to botanical specialists implementing plant studies to assist in identifying whether any of the plants listed by Tribes are present in the APE and their locations.

If participating tribes do not wish to disclose the locations of any potential TCPs or other resources, Licensee will instead work with the tribes to identify the general issues and concerns that the tribe(s) may have regarding potential impacts of the Project upon resources known to the tribe(s) and further work and with the tribes and appropriate land management agencies to develop agreeable measures to address these concerns.

#### **5.3.4 Step 4 – Archaeological Site Visit**

Tribal interviewees, or a physically capable tribal representative, and Licensee's ethnographer may want to visit archaeological sites identified during the study or during Licensee's Historic Properties Study (Study 12.1). The purpose of the visit would be to provide tribal representatives the opportunity to examine any archaeological sites of interest to the tribes that were encountered during the Historic Properties Study fieldwork, and to enable the ethnographer to obtain additional information on potential TCPs that may be associated with the sites. Licensee or Licensee's ethnographer will make a reasonable effort to contact participating tribes to invite participation in archaeological site visits by calling, sending letters by way of the U.S. Postal Service, or through electronic mail. For archaeological sites on National Forest System (NFS) land, Forest Service cultural specialists will be invited to participate in the field visits, and may meet in advance with tribal representatives prior to any archaeological site visits planned for

NFS land. Licensee anticipates that the Forest Service will keep information about prehistoric archaeological sites and TCPs confidential.

### **5.3.5 Step 5 – National Register of Historic Places Evaluation**

Following completion of Step 4, Licensee’s ethnographer will evaluate the eligibility of identified TCPs and other resources of Tribal importance for listing on the NRHP using the data collected from the field studies described above, and in consultation with participating Tribes. Although the National Register codifies the criteria used to evaluate most cultural resources for listing on the NRHP at 36 CFR 60.4, amendments to the NHPA in 1992 [§101(d)(6)(A)] specify that properties of traditional religious and cultural importance to a tribe may be determined eligible for inclusion in the NRHP because of their “*association with cultural practices or beliefs of a living community that are: 1) rooted in that community’s history; and 2) are important in maintaining the continuing cultural identity of the community.*” Therefore, a TCP can only be significant and eligible for listing on the NRHP if it meets these two criteria. Other resources that may be identified during this study plan will be evaluated against all appropriate NRHP criteria.

Formal TCP and other resource evaluations will be submitted to the SHPO for concurrence. Licensee will work with Tribes regarding resources of Tribal importance that may not qualify for the NRHP, or resources for which Tribes do not wish to disclose their locations, to identify the general issues and concerns that the tribe(s) may have regarding potential impacts of the Project upon resources known to the tribe(s) and further work and with the tribes and appropriate land management agencies to develop agreeable measures to address these concerns.

### **5.3.6 Step 6 – Identify and Assess Potential Project Effects on National Register-Eligible Properties**

As required under 36 CFR § 800.5, Licensee will identify and assess any adverse effects on TCPs resulting from Project O&M. Adverse effects are defined as follows:

*An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Consideration shall be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the National Register. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative (36 CFR § 800.5(a)(1)).*

### **5.3.7 Step 7 – Reporting**

Licensee will prepare a report at the conclusion of the study that includes the following sections: 1) Study Goals and Objectives; 2) Methods; 3) Results; 4) Discussion, and; 5) Description of Variances from the FERC-approved study proposal, if any.

Copies of this report will be provided to the affected Indian Tribes, Forest Service, SHPO, CSU at Chico, NEIC, CSU at Sacramento, NCIC, and FERC. Copies of the final report and detailed locations of identified properties may be withheld from public disclosure in accordance with Section 304 (16 U.S.C. 4702-3) of the NHPA, as amended. Concurrence on report recommendations will be sought from SHPO. Tribes, Forest Service, and other interested parties will be provided the opportunity to review the TCP report before it is sent to SHPO for concurrence.

## **6.0 Study-Specific Consultation**

Licensee will engage in the following study-specific consultation:

- Licensee will obtain SHPO’s concurrence with the APE. (Step 1.)
- Licensee will coordinate its selection of the ethnographer with the assistance of affected tribes and other interested cultural/tribal stakeholders (Step 3).
- Licensee’s ethnographer will consult with tribal representatives (i.e., Tribal Chair, Tribal Council, elders, as directed by the Tribes) to determine the scope and breadth of interviews (Step 3).
- Licensee’s ethnographer will contact the appropriate tribe(s) and interested tribal and cultural stakeholders to arrange for interviews at a time and location acceptable to those tribal Interviewees. All consultation will be undertaken in accordance with Section 106 of the NHPA, as amended, and shall be consistent with National Register Bulletin No. 38, *Guidelines for Evaluating and Documenting Identification of Traditional Cultural Properties*. (Step 3.)
- If field visits are needed, Licensee’s ethnographer will contact by telephone, U.S. Postal Mail, and/or electronic mail to invite Tribal interviewees, tribal representatives and the Forest Service, if the sites are located on Forest Service-managed land, to visit archaeological sites that may be of interest to the Tribes (Step 4).
- Tribes, Forest Service, and other interested parties will be provided the opportunity to review the TCP report before it is sent to SHPO for concurrence (Step 7).

## **7.0 Schedule**

Licensee anticipates the schedule to complete the study proposal is as follows, assuming the PAD is filed on November 1, 2010, and FERC issues its Study Determination by October 4, 2011:

Planning/Pre-field Arrangements (Step 1).....	October 2011 - December 2011
Field Work (Steps 2, 3 & 4).....	October 2011 - July 2012
Office Work (Steps 5 & 6).....	July 2012 - August 2012

Report Preparation (Step 7) .....August 2011 - October 2012

## **8.0            Consistency of Methodology with Generally Accepted Scientific Practices**

The proposed study methods discussed above are consistent with the study methods followed in several recent relicensing projects. These methods have been accepted by the participating Indian Tribes, agencies, and other interested parties associated with those projects. The methods presented in this study plan also are consistent with the ACHP’s guidelines for compliance with the requirements of Section 106 of the NHPA found at 36 CFR 800 and with the related guidance set forth in National Register Bulletin 38 (Parker and King 1998).

## **9.0            Level of Effort and Cost**

[Relicensing Participants – Licensee will include a cost range estimate for this study in its Proposed Study Plan. Licensee]

## **10.0          References Cited**

Parker, Patricia L., and Thomas F. King. 1998. *Guidelines for Evaluating and Documenting Traditional Cultural Properties*. Revised. National Register Bulletin 38. U.S. Department of the Interior, National Park Service, National Register, History, and Education Division, Washington, D.C.

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