

## 5.3 CULTURAL RESOURCES

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### 5.3.1 INTRODUCTION

This section discusses the existing cultural resources on the project site and evaluates whether the proposed project will cause a substantial adverse change to these resources. The discussion and analysis contained in this section is based on the findings of the Phase I Archaeological Survey of the Riverwalk Marketplace II Study Area, Porterville, Tulare County, California, prepared by W & S Consultants and dated February 16, 2009<sup>1</sup> (see **Appendix 5.3**), and a review of the Porterville 2030 General Plan.<sup>2</sup>

### 5.3.2 SUMMARY OF 2030 GENERAL PLAN EIR FINDINGS

According to the Southern San Joaquin Valley Archaeological Information Center (AIC) at California State University, Bakersfield, the Porterville planning area is considered extremely sensitive due to the number of recorded cultural resources.<sup>3</sup> It can be assumed that there is a probability of uncovering and identifying additional archaeological deposits as future uses in the planning area are constructed. Existing national, state, and local laws as well as policies in the 2030 General Plan reduce these potential impacts on historic and archaeological resources to less than significant levels.

Paleontological resources have been documented to occur in the general plan planning area. There is the potential to encounter unidentified fossils during construction of new development. Since fossils are considered to be nonrenewable resources, such impacts would be considered significant.

### 5.3.3 METHODOLOGY

An archival records search was conducted at the California State University, Bakersfield, Southern San Joaquin Valley AIC, by AIC staff members to determine if prehistoric or historical archaeological sites had previously been recorded within the project site, if the project site had been systematically surveyed by archaeologists prior to the initiation of this field study, and/or whether the region of the proposed project was known to contain archaeological sites and to thereby be archaeologically sensitive.<sup>4</sup>

In addition to the records search, the project site was examined by W & S Consultants' staff on February 11, 2009, by walking parallel transects across the property spaced at approximately 10- to 15-meter

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<sup>1</sup> W & S Consultants, *Phase I Archaeological Survey of the Riverwalk Marketplace II Study Area, Porterville, Tulare County, California*, February 16, 2009.

<sup>2</sup> City of Porterville, *2030 General Plan*.

<sup>3</sup> City of Porterville, *2030 General Plan Draft Environmental Impact Report*, November 2007, 134.

<sup>4</sup> W & S Consultants, *Phase I Archaeological Survey of the Riverwalk Marketplace II Study Area, Porterville, Tulare County, California*, February 16, 2009.

intervals, in order to identify surface artifacts, archaeological indicators (e.g., shellfish or animal bone), and/or archaeological deposits (e.g., organically enriched midden soil).<sup>5</sup> Surface visibility was good as moderate to low density cover of grass had begun to grow on the ground surface, which had been previously disked, but this accommodated easy visibility of the surface.

### 5.3.4 EXISTING CONDITIONS

#### Setting

Penutian-speaking Yokuts tribal groups occupied the southern and central San Joaquin Valley region and much of the nearby Sierra Nevada. Villages were typically located along lakeshores and major stream courses (as these existed circa AD 1850). Most Yokuts groups, regardless of specific tribal affiliation, were organized and recognized as distinct tribelets. These were land-owning groups linked by their shared territory and descent from a common ancestor, organized around a central village. The population of most tribelets ranged from about 150 to 500 persons. Although population estimates vary, and population size was greatly affected by Euro-American-introduced diseases and social disruption more generally, the Yokuts as a whole were one of the largest and most successful Native American groups in California.

The tribelet was headed by a chief who was assisted by a variety of assistants, perhaps the most important of whom was the winatum, a herald or messenger and assistant chief. A shaman also existed who served as a religious officer but did not have any direct political authority in a strict sense although; they did maintain substantial influence within their tribelet.

Subsistence practices varied from tribelet to tribelet as a result of specific environments of residence. Throughout native California and the Yokuts territory in general, the acorn was a primary dietary component, as were a variety of gathered seeds. The valley tribes supplemented this resource with lacustrine and riverine foods, especially fish and wildfowl.

Initial occupation of the region occurred at least as early as the Paleoindian Period, or prior to about 10,000 YBP (years before present). Evidence of this early use of the region has been revealed by the discovery of characteristic fluted and stemmed points found around the margin of Tulare Lake, in the foothills of the Sierra, and in the Mojave Desert proper. In each case, these are locations that are many miles distant from the project site.

The initial Euro-American occupation of Porterville can be traced to the gold rush of 1849, when prospectors moved into the region in search of gold. By 1856 a store had been established, serving the

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<sup>5</sup> W & S Consultants, Phase I Archaeological Survey of the Riverwalk Marketplace II Study Area, Porterville, Tulare County, California, February 16, 2009.

local miners and Native American population. The origin of the name Porterville is attributed to Royal Porter Putnam, who moved into the area in 1858 to manage the Tule River Station and raise livestock. Putnam purchased 40 acres of swampy land near the current intersection of Oak and Main Streets, where he built a two-story store and hotel. Due to flooding in 1862, the Tule River changed its course and drained Putnam's land, allowing him to subdivide it into lots for sale. This was the origin of the town's development.

This early settlement was primarily associated with agriculture. In 1888 the Southern Pacific Railroad extended a line south from Fresno, allowing the local farmers to more easily access markets. The City of Porterville was incorporated in 1902 and by 1920 had about 5,000 residents. The early agricultural-economic emphasis of the town has continued into contemporary times, although industrial and commercial activities increasingly contribute to the town's economy.

### **On-Site Archeological Resources**

The records search at the AIC indicated that the study area had been previously surveyed by archaeologists in 2004, and that no sites had been recorded within it. Furthermore, no archaeological sites were known within the immediate vicinity, indicating that the surrounding area exhibited little archaeological sensitivity.

The surface of the site was clearly visible during the field walkover, during which time no cultural resources of any kind were observed.<sup>6</sup>

### **On-Site Paleontological Resources**

The project site is underlain by deposits from the Tule River, related streams, and possibly lakes that have existed in the region during the past 1.6 million years. During the Quaternary age, several large and small lakes occupied the southern portion of the San Joaquin Valley. The present surface extent of these lakes is reflected in the remnants of Buena Vista Lake, Kern Lake, and Tulare Lake. In the past, these lakes fluctuated in size with climatic changes. Wet seasons resulted in the expansion of the lakes; droughts resulted in the shrinking of lakes. During the Pleistocene age, there was a diverse assemblage of large and small animals living along the shores of these lakes. As a result, lake deposits in these areas have produced the remains of numerous species of extinct animals such as elephants, sloths, camels, horses, and a variety of rodents.

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<sup>6</sup> W & S Consultants, *Phase I Archaeological Survey of the Riverwalk Marketplace II Study Area, Porterville, Tulare County, California*, February 16, 2009.

Geological records of the region indicate that the project site is underlain by recent alluvial deposits to all depths likely to be reached by excavations associated with development. These alluvial deposits appear to be too young geologically to contain significant fossil remains. Fossils of the Pleistocene age would not be disturbed. Therefore, the project site is considered to have a very low potential to contain paleontological resources.<sup>7</sup>

### 5.3.5 REGULATORY PLANS AND POLICIES

#### Federal Plans and Policies

##### *National Register of Historic Places (National Register)*

The National Register of Historic Places<sup>8</sup> is the nation's most comprehensive inventory of historic resources. The National Register is administered by the National Park Service and includes buildings, structures, sites, objects, and districts that possess historical, architectural, engineering, archaeological, or cultural significance at the national, state, or local level. Typically, resources over 50 years of age are eligible for listing in the National Register if they meet any of four criteria of significance and retain historical integrity. However, resources under 50 years of age can be eligible if it is demonstrated that they are of "exceptional importance," or if they are contributors to a potential historic district. A resource can be considered significant to American history, architecture, archaeology, engineering, or culture on a national, state, or local level. The criteria under which a structure, site, building, district, or object can be considered eligible for listing in the National Register are as follows:<sup>9</sup>

- **Criterion A (Event):** Buildings that are associated with events that have made a significant contribution to the broad patterns of our history;
- **Criterion B (Person):** Buildings that are associated with the lives of persons significant in our past;
- **Criterion C (Design/Construction):** Buildings that embody the distinctive characteristics of a type, period or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant distinguishable entity whose components lack individual distinction; and
- **Criterion D (Information Potential):** Buildings that have yielded, or may be likely to yield, information important in prehistory or history.

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<sup>7</sup> W & S Consultants *Phase I Archaeological Survey of the Riverwalk Marketplace II Study Area, Porterville, Tulare County, California*, February 16, 2009.

<sup>8</sup> U.S. Code, Title 35, *National Historic Preservation Act of 1966*, Federal Historic Preservation Laws, Public Law 89-665.

<sup>9</sup> U.S. Code, Title 36, *National Register Criteria for Evaluation*, Part 60.

## State Plans and Policies

In the State of California, the process of reviewing projects and decisions that may impact cultural resources including historical, archaeological, and paleontological resources is conducted under several different federal, state, and local laws. The California Environmental Quality Act (CEQA) requires that public agencies consider the effects of their actions on historical resources eligible for listing on the California Register of Historical Resources (CRHR).

California state law (SB 18)<sup>10</sup> requires cities and counties to notify and consult with California Native American Tribes about proposed approvals and amendments to their general plan for the purpose of protecting Traditional Tribal Cultural Places (cultural places). The Native American Heritage Commission (NAHC) was notified of the project during the Notice of Preparation (NOP) review period. The NAHC's response to the NOP is located in **Appendix 1.0** of this draft EIR.

### *State CEQA Guidelines*

The *State CEQA Guidelines*<sup>11</sup> define three ways that a resource can qualify as a significant historical resource for the purposes of CEQA review:

- The resource is listed in or determined eligible for listing in the California Register of Historical Resources (CRHR).
- The resource is 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 unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- The lead agency determines the resource to be significant as supported by substantial evidence in light of the whole record.

### *California Register of Historic Resources*

The CRHR is an inventory of significant architectural, archaeological, and historical resources in the State of California. Resources can be listed in the CRHR through a number of methods. State Historical Landmarks and National Register-eligible properties are automatically listed in the CRHR. Properties can also be nominated to the CRHR by local governments, private organizations, or citizens. Typically, resources over 45 years of age are eligible for listing in the CRHR if they meet any of four criteria of significance and retain historic integrity. The evaluative criteria used by the CRHR for determining eligibility are based closely on those developed by the National Park Service for the National Register of

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<sup>10</sup> California Senate Bill 18, Chapter 905, Statutes of 2004.

<sup>11</sup> California Code of Regulations, Title 14, Division 6, Chapter 3, Section 15064.5(a)..

Historic Places.<sup>12</sup> In order for a property to be eligible for listing in the CRHR, it must be found significant under one or more of the following criteria:

- **Criterion 1 (Events):** Resources that are associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States.
- **Criterion 2 (Persons):** Resources that are associated with the lives of persons important to local, California, or national history.
- **Criterion 3 (Architecture):** Resources that embody the distinctive characteristics of a type, period, region, or method of construction, or represent the work of a master, or possess high artistic values.
- **Criterion 4 (Information Potential):** Resources or sites that have yielded or have the potential to yield information important to the prehistory or history of the local area, California, or the nation.

In addition to being significant under one of the aforementioned criteria, a resource must retain sufficient integrity to be eligible for listing in the CRHR. The definition of “integrity” for the CRHR is similar to the definition of “integrity” for the National Register.

### Native American Heritage Commission

Section 7050.5 of the California Health and Safety Code<sup>13</sup> requires that construction or excavation be stopped in the vicinity of discovered human remains until the County coroner can determine whether the remains are those of a Native American. If the remains are determined to be Native American, the coroner must contact the California Native American Heritage Commission (NAHC). The *State CEQA Guidelines* specify the procedures to be followed in case of the discovery of human remains on non-federal land. The disposition of Native American burials falls within the jurisdiction of the NAHC.

### City of Porterville 2030 General Plan

Applicable policies from the City’s 2030 General Plan include the following:

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| LU-I-17 | Require that all new subdivisions preserve natural, cultural, and biological resources, including stands of large trees and rock outcroppings, to the maximum extent feasible. |
| LU-I-34 | Utilize redevelopment, or other tools where available, to revitalize and preserve historic buildings.  |

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<sup>12</sup> U.S. Code, Title 35, *National Historic Preservation Act of 1966*, Federal Historic Preservation Laws, Public Law 89-665.

<sup>13</sup> California Health and Safety Code, Section 7050.5.

- OSC-I-71 Update the City's inventory of historic resources to determine sites or buildings of federal, state, or local historic significance.
- OSC-I-72 Develop agreement with Native American representatives for consultation in the cases where new development may result in disturbance to Native American sites.
- OSC-I-73 Require that new development analyze and avoid any potential impacts to archaeological, paleontological, and historic resources by:
- Requiring a records review for development proposed in areas that are considered archaeologically sensitive, including hillsides and near the Tule River;
  - Studying the potential effects of development and construction (as required by CEQA);
  - Developing, where appropriate, mitigation measures to minimize potential impacts; and
  - Implementing appropriate measures to avoid the identified impacts.

### 5.3.6 THRESHOLDS OF SIGNIFICANCE

Appendix G of the *State CEQA Guidelines*<sup>14</sup> contains the Initial Study Environmental Checklist form. Issues presented in the checklist have been used as thresholds of significance in this section. Accordingly, a project may present a significant impact if it would:

- cause a substantial adverse change in the significance of an archaeological resource pursuant to *State CEQA Guidelines* Section 15064.5 including
  - demolition of a significant resource;
  - relocation that does not maintain the integrity and significance of a significant resource;
  - conversion, rehabilitation, or alteration of a significant resource which does not conform to the *Secretary's Standards and Guidelines*; or
  - construction that reduces the integrity or significance of important resources on the site or in the vicinity.
- cause a substantial adverse change in the significance of a historical resource as defined in *State CEQA Guidelines* Section 15064.5;

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<sup>14</sup> California Environmental Quality Act, *State CEQA Guidelines*, Appendix G, 2009, 277–291.

- directly or indirectly destroy a unique paleontological resource or site or unique geological feature; and/or
- disturb any human remains, including those interred outside of formal cemeteries [Note: This criterion was removed from further consideration during preparation of the Initial Study].

### 5.3.7 PROJECT IMPACTS

**Impact 5.3-1:**            **The project will not cause a substantial adverse change in the significance of an archeological resource either through demolition, relocation, or through alterations that reduces the integrity of any archeological resources listed on the local register of historical resources pursuant to Section 5020.1(k) of the Public Resources Code. Impacts would be mitigated to less than significant.**

Approximately 45 recorded archaeological sites have been identified within the Porterville general plan planning area; however, none is located on the project site.<sup>15</sup> An archival records search, background studies, and an intensive, on-foot surface reconnaissance of the Riverwalk Marketplace II Project study area were conducted as part of the Phase I archaeological survey.<sup>16</sup> No cultural resources were present within the study area, confirming the results of a previous Phase I archaeological survey for the property. Due to the previous earth disturbance and the lack of recorded resources on or in the immediate vicinity of the subject property, it is unlikely that any archeological deposits are located beneath the surface as well. Therefore, development of the proposed project would not cause a substantial adverse change in the significance of an archeological resource. However, as the potential does exist, albeit unlikely, for archaeological resources to be uncovered, impacts are considered potentially significant.

#### Mitigation Measures

The following mitigation measures shall be implemented:

- 5.3-1**            In the event that cultural resources are unearthed during project subsurface activities, all earth-disturbing work within a 200-meter radius must be temporarily suspended or redirected until an archaeologist or paleontologist has evaluated the nature and significance of the find. Any artifacts uncovered shall be recorded and removed for storage at a location to be determined by the archaeologist or paleontologist. Construction on other parts of the project will be subject to Public Resources Code

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<sup>15</sup> City of Porterville, *2030 General Plan*, "Open Space and Conservation Element," 148.

<sup>16</sup> W & S Consultants, *Phase I Archaeological Survey of the Riverwalk Marketplace II Study Area, Porterville, Tulare County, California*, February 16, 2009.

Section 21083.2(i). After the find has been appropriately mitigated, pursuant to this measure, work in the area may resume.

### Residual Impacts

**Mitigation Measure 5.3-1** would reduce these impacts to a level considered less than significant.

**Impact 5.3-2:**            **The project may cause a substantial adverse change in the significance of a historical resource as defined in *State CEQA Guidelines* Section 15064.5. *Less than significant impact.***

The project site has experienced various levels of development, including excavation and grading activity. No structures currently exist on the project site. Because the site has been previously disturbed by excavation and grading, the probability of unknown historical resources—such as archaeological resources, paleontological resources, or Native American remains—being present on the site is considered low. In addition, the results of both the records search and field survey indicate that the potential for these resources to be present on the project site are low.<sup>17</sup> Although it is unlikely that a previously undiscovered resource is uncovered during project construction, impacts are potentially significant.

In addition to **Mitigation Measure 5.3-1**, compliance with California Health and Safety Code Section 7050.5, listed below, would reduce any impacts to less than significant.

If human remains are unearthed, California Health and Safety Code Section 7050.5 requires that no further disturbance shall occur until the County coroner has made the necessary findings as to origin and disposition pursuant to Public Resources Code Section 5097.98. If the remains are determined to be of Native American descent, the coroner has 24 hours to notify the Native American Heritage Commission (NAHC). The NAHC will then contact the most likely descendant of the deceased Native American, who will then serve as consultant on how to proceed with the remains (e.g., avoid, re-bury).

### Residual Impacts

**Mitigation Measures 5.3-1** and compliance with California Health and Safety Code Section 7050.5 would reduce these impacts to a level considered less than significant.

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<sup>17</sup> W & S Consultants, *Phase I Archaeological Survey of the Riverwalk Marketplace II Study Area, Porterville, Tulare County, California*, February 16, 2009.

**Impact 5.3-3**            **The project may directly or indirectly destroy a unique paleontological resource or site or unique geological feature. *This impact would be mitigated to less than significant.***

A single paleontological site has been recorded in the general plan planning area, but it is not located near the project site.<sup>18</sup> Adverse impacts on paleontological resources could occur when earthwork activities such as mass excavation cut into geological formations, or depths below the soil layer, which is generally 6 feet deep. The project site has been disturbed by previous annual disking for weed abatement, grading associated with the Riverwalk Marketplace Phase I development and development of Vandalia Avenue through the southerly portion of the project site, so extensive cuts below grade would not be needed to construct the proposed project. Due to both the natural topography and the previous site grading, unique geological features do not exist on the project site. Therefore, implementation of the proposed project is not expected to directly or indirectly destroy a unique geological feature.

Consequently, the potential for the physical destruction of fossil remains is considered to be low since the upper approximately 6 feet of soils are alluvial deposits from historic flooding of the Tule River. In the event that previously unrecorded fossil deposits are uncovered during construction the implementation of **Mitigation Measure 5.3-1** would ensure that paleontological resources would be preserved.

However, because the potential does exist, impacts are considered potentially significant.

#### **Mitigation Measures**

**Mitigation Measure 5.3-1** shall be implemented.

#### **Residual Impacts**

**Mitigation Measure 5.3-1** would mitigate these impacts to less than significant.

### **5.3.8 CUMULATIVE IMPACTS**

Most of the City's historic resources, including four structures currently listed on the National Register of Historic Places and the California Register are located in proximity to the downtown Porterville area, near Main Street and Morton Avenue.<sup>19</sup>

There are 45 recorded archaeological sites within the Porterville Planning Area. Most of these sites are prehistoric and contain some of the following attributes: bedrock mortars, rock art, human burials, village complexes contain extensive midden, and many artifacts such as projectile points, pestles, and pottery.

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<sup>18</sup> City of Porterville, *2030 General Plan, "Open Space and Conservation Element,"* 149.

<sup>19</sup> City of Porterville, *2030 General Plan Draft Environmental Impact Report,* November 2007, 134.

Project-specific studies will be necessary to determine the actual potential for significant impacts on archaeological resources resulting from bailout of the 2030 General Plan, some general impacts can be identified based on the probable locations of new development in the Planning Area and known geographic features near which prehistoric resources are most likely to be located. Projects in the vicinity of ridgelines, mid-slope terraces, alluvial flats, ecotones, and sources of water have the greatest possibility of encountering a prehistoric archaeological resource.<sup>20</sup>

A single paleontological site has been recorded in the planning area. While no other known significant paleontological resources occur within the Planning Area, there is the potential to encounter unidentified fossils during construction of new development.<sup>21</sup>

Buildout of the Porterville 2030 General Plan would have the potential to impact cultural resources. The cumulative effect of these projects would contribute to the loss of subsurface cultural resources, if these resources were not protected upon discovery. CEQA requirements for protecting cultural resources are applicable to development of future projects and would be the same as **Mitigation Measures 5.3-1**. Because subsurface cultural resources would be protected upon discovery as required by law, cumulative impacts to those resources from buildout of the 2030 General Plan would be less than significant. In addition, the project includes mitigation measures that would reduce the project's impact to cultural resources to a less than significant level. Consequently, the project's contribution to the less than significant cumulative impacts would not be cumulatively considerable.

#### **Cumulative Mitigation Measures**

No mitigation measures beyond compliance with the existing Municipal Code and policies of the general plan are required.

#### **5.3.9 LEVEL OF SIGNIFICANCE AFTER MITIGATION**

Implementation of **Mitigation Measure 5.3-1** would ensure the projects impacts remain less than significant.

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<sup>20</sup> City of Porterville, *2030 General Plan Draft Environmental Impact Report*, November 2007, 134.

<sup>21</sup> City of Porterville, *2030 General Plan Draft Environmental Impact Report*, November 2007, 134.