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Chapter 32

Tribal Cultural Resources

This chapter describes the environmental setting and study area for Tribal cultural resources; analyzes impacts that could result from construction, operation, and maintenance of the Delta Conveyance Project (project); and provides mitigation measures to reduce the effects of potentially significant impacts. This chapter also analyzes the impacts that could result from implementation of compensatory mitigation required for the project, describes any additional mitigation necessary to reduce those impacts, and analyzes the impacts that could result from other mitigation measures associated with other resource chapters in this Draft Environmental Impact Report (Draft EIR).

The analysis in this chapter is supported by four appendices. Appendix 32A is the *Tribal Consultation and Engagement Log* for the project and Appendix 32B is the *Impacts by Alternative*, which are both public appendices. Appendix 32C is the *Tribal Cultural Resources Identification Report* (TCRIR), which is a confidential appendix.¹ Appendix 32D is DWR’s *Principles for the Identification of Tribal Cultural Resources for the Delta Conveyance Project* (ICF and Environmental Science Associates 2021) and a public appendix.

Tribal cultural resources, unlike most other environmental resources, may be composed of several elements, including other environmental resources. Identifying Tribal cultural resources and analyzing the project’s impacts on them therefore requires consideration of multiple features (generally referred to in this chapter as “character-defining features”) that include both natural environmental resources and built or human-made resources and the relationship between these features. Some aspects of Tribal cultural resources therefore overlap with other environmental resources, and the analysis of Tribal cultural resources was therefore informed by the resource analyses contained in other chapters in this Draft EIR. Chapter 5, *Surface Water*, provides a description of potential changes to surface water resources. Chapter 6, *Water Supply*, is an introductory chapter that describes State Water Project (SWP) and Central Valley Project (CVP) facilities and operations, and the corresponding changes in water supply resulting from implementation of the project. Chapter 7, *Flood Protection*, describes flood risks and potential impacts in the Sacramento River Basin and the Sacramento–San Joaquin Delta (Delta). Chapter 9, *Water Quality*, describes surface water quality impacts in the Sacramento River and San Joaquin River Basins. Chapter 8, *Groundwater*, describes groundwater impacts in the Sacramento River and San Joaquin River Basins that are directly or indirectly affected by changes in surface water characteristics. Chapter 12, *Fish and Aquatic Resources*, and Chapter 13, *Terrestrial Biological Resources*, discuss aquatic and terrestrial biological resources in the study area, respectively. Chapter 18, *Aesthetics and Visual Resources*, discusses how construction of the water conveyance features would alter visual resources such as existing vistas or visual character of the study area, or through potential introduction of light and glare. Chapter 19, *Cultural Resources*, discusses archaeological and historic built resources.

¹ California Government Code Section 6254 of the California Public Records Act does not require a public agency to disclose any records “of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the [California] Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency” (Gov. Code § 6254(r)). See Section 32.1.2.4, *Confidentiality Considerations*, of this chapter for further discussion of confidentiality considerations.

1 The identification and evaluation of Tribal cultural resources is relatively new to the California
2 Environmental Quality Act (CEQA), and CEQA provides minimal direction on how to specifically
3 evaluate a project's impacts on Tribal cultural resources. To better understand the relevance of the
4 features discussed in this chapter and how the project may affect Tribal cultural resources, it is
5 important to understand how the California Department of Water Resources (DWR) is evaluating
6 whether the project may result in a potentially significant impact on Tribal cultural resources. Under
7 CEQA, the potential significance of a project's impacts is based on identifiable quantitative,
8 qualitative, or performance levels that address the potential environmental effects that it may cause
9 (CEQA Guidelines § 15064.7). In complying with CEQA, DWR determined that the most appropriate
10 way to assess the project's potential impacts on Tribal cultural resources is to apply a qualitative
11 standard of significance that evaluates whether the project may "materially impair" character-
12 defining features of a Tribal cultural resource as the term *materially impaired* is commonly
13 understood and used under CEQA (CEQA Guidelines § 15064.5(b)(1)). Character-defining features
14 of Tribal cultural resources are those elements that generally convey physical, ceremonial, or
15 spiritual meaning. To be material, an effect of the project must cause a change in the physical,
16 ceremonial, or spiritual aspect of the character-defining feature that contributed to its importance
17 or the essence of why it was considered a character-defining feature of a Tribal cultural resource.
18 Changes that are irrelevant to the reason the character-defining feature is an element of the Tribal
19 cultural resource or an inconsequential change in a character-defining feature would not be
20 material. The applicable threshold of significance and how DWR adopted material impairment as a
21 key element of the threshold of significance is discussed in Section 32.2.2, *Thresholds of Significance*.

22 **32.0 Summary Comparison of Alternatives**

23 Table 32-0 provides a summary comparison of impacts on Tribal cultural resources by alternative.
24 Due to the sensitive and confidential nature of Tribal cultural resources, this chapter discusses and
25 compares the alternatives and their impacts in a qualitative sense and in most cases without
26 specifying the precise nature of affected character-defining features' physical, ceremonial, or
27 spiritual importance to affiliated California Native American Tribes (Tribes).

28 DWR's understanding of the types of physical features that define Tribal cultural resources (i.e., the
29 character-defining features of a Tribal culture resource), how the project alternatives may affect
30 character-defining features, and the cultural values they embody is informed by DWR's consultation
31 with Tribes who are traditionally and culturally affiliated with the study area and chose to consult
32 with DWR about the project. A list of these "consulting Tribes" is provided in Section 32.1.2.1,
33 *Consultation and Engagement with Tribes*. DWR acknowledges that a Tribe's participation in
34 consultation does not imply the Tribe's approval or acceptance of the project. DWR recognizes, and
35 has heard during consultation, that the Delta holds great significance to Tribes and that Tribes
36 oppose the Delta Conveyance Project due to the potential unmitigable impacts on the Tribal cultural
37 landscape and the many resources that make this place foundational to Tribes.

38 The construction and operation of the water conveyance facilities associated with the project
39 alternatives has the potential to cause a substantial adverse change to the significance of one known
40 Tribal cultural resource resulting from the material impairment of character-defining features of the
41 Sacramento-San Joaquin Delta Tribal Cultural Landscape (Delta TCL). In addition, consulting Tribes
42 may continue to provide DWR with a greater depth of understanding regarding the cultural
43 significance of the Delta TCL character-defining features, or identify other sites, features, places,

1 cultural landscapes, sacred places, and objects with cultural value to consulting Tribes that are not
2 character-defining features of the Delta TCL. Therefore, the project also has the potential to result in
3 impacts on individual Tribal cultural resources.

4 During Tribal consultation, Tribes repeatedly provided input on the relationship between natural
5 and human-made features that, when taken together, constitute a geographically defined cultural
6 landscape, and despite significant changes to the landscape from Euroamerican development, the
7 landscape continues to retain culturally valuable physical, spiritual, and ceremonial features.
8 According to CEQA, a cultural landscape that meets the appropriate criteria for a Tribal cultural
9 resource “is a tribal cultural resource to the extent that the landscape is geographically defined in
10 terms of the size and scope of the landscape” (Public [Pub.] Resources Code § 21074(b)). DWR
11 concluded that a geographically defined cultural landscape, which meets the Public Resources Code
12 criteria for a Tribal cultural resource, exists (the Delta TCL). The Delta TCL is a large, complex, multi-
13 component Tribal cultural resource that comprises diverse natural and human-made character-
14 defining features.

15 Recognizing the Delta TCL as a cultural landscape respects the consulting Tribes’ willingness to
16 discuss Tribal history, ceremony, and sacred Tribal affiliations with the Delta that are typically only
17 discussed within a Tribe, and their willingness to discuss sensitive Tribal perspectives about being
18 displaced from ancestral lands and the loss of Tribal lands to non-Tribal people. The impact analysis
19 presented in this chapter evaluates whether the project may materially impair character-defining
20 features of the Delta TCL. The character-defining features may be located in discrete known
21 locations or throughout all or parts of the study area, which is defined in Section 32.1.1, *Study Area*.

22 The nature of how the project and each project alternative would materially impair character-
23 defining features varies, as follows:

- 24 ● *The Delta as a Tribal homeland and place of origin.* The scale of the project has the potential to
25 materially impair the Delta as a Tribal homeland and place of origin character-defining feature.
- 26 ● *The rivers and waterways within the Delta that are sacred.* The project would cause physical
27 changes from the construction of new intake facilities and changes in hydrodynamics within the
28 Delta TCL south of the intakes that have the potential to materially impair the river and
29 waterways character-defining feature.
- 30 ● *Terrestrial species habitats that are part of the Delta’s ecosystem and Tribal heritage.* The effects
31 of the project alternatives on terrestrial species and habitats (some of which are character-
32 defining features of the Delta TCL) and the mitigation proposed for reducing such impacts to a
33 less-than-significant level are addressed in Chapter 13. Even with consideration of the
34 mitigation proposed in Chapter 13, the project alternatives have the potential to materially
35 impair an affiliated Tribe’s ability to physically, spiritually, or ceremonially experience these
36 character-defining terrestrial species habitats.
- 37 ● *Fish and aquatic species habitats that are part of the Delta’s ecosystem and Tribal heritage.* The
38 effects of the project alternatives on fish and aquatic species and habitats (some of which are
39 character-defining features of the Delta TCL) and the mitigation proposed for reducing such
40 impacts to a less-than-significant level are addressed in Chapter 12. The nominal effects of the
41 project alternatives on character-defining fish and aquatic species habitats identified in Chapter
42 12 would be less than significant from a biological resources perspective, and the project would
43 not materially impair an affiliated Tribe’s ability to physically, spiritually, or ceremonially
44 experience these character-defining features of the Delta TCL.

- 1 • *Ethnohistorical locations that are sacred places and historically important.* The project would
2 cause physical impacts from the construction of conveyance facilities that may alter locations of
3 villages, ceremonies, paths and trails, or trade and subsistence activities that are character-
4 defining features of the Delta TCL or introduce incongruent features that materially impair the
5 spiritual or ceremonial qualities of these character defining features.
- 6 • *Archaeological sites that are sacred or important historical places.* The effects of the project
7 alternatives on archaeological resources, some of which are character-defining features of the
8 Delta TCL, are addressed in Chapter 19. The physical impacts on archaeological resources that
9 are character-defining features of the Delta TCL may materially impair the spiritual or
10 ceremonial aspects of these character-defining features.
- 11 • *Views and vistas of and from the Delta that are sacred and important to Tribal heritage.* The
12 project may materially impair views and vistas that are character-defining features of the Delta
13 TCL through the construction of conveyance facilities that are incongruent with the views and
14 vistas and sense of place inherent to these character-defining features.

15 While no single project component, on its own, results in a significant impact on the Delta TCL, the
16 project as a whole would materially impair character-defining features and result in a substantial
17 adverse change to the significance of the Delta TCL. Some effects would be minimized as a result of
18 mitigation measures proposed to address significant impacts identified in other chapters of this
19 Draft EIR. However, the mitigation measures included in other chapters are not focused on the
20 Tribal or cultural significance of these resources, so the qualities that make these features character-
21 defining features of the Delta TCL may not be mitigated to a less-than-significant level.

22 Therefore, the project would result in a significant impact on the Delta TCL.

23 The precise nature of the impact on individual Tribal cultural resources is not currently known
24 because DWR has not identified any individual Tribal cultural resources at this time; therefore, the
25 features that may make an individual resource eligible for CRHR listing, its significance, attributes
26 and location, and integrity have not been established. In general, DWR anticipates that if an
27 individual resource is identified, the project has the potential to materially impair an affiliated
28 Tribes' ability to physically, ceremonially, or spiritually experience the resource.

29 Mitigation measures have been identified to avoid and minimize impacts on Tribal cultural
30 resources and to incorporate Tribal knowledge, including Tribal Ecological Knowledge, into the
31 preparation and implementation of the *Compensatory Mitigation Plan for Special-Status Species and*
32 *Aquatic Resources* (Appendix 3F) and other measures for mitigating impacts on terrestrial biological
33 resources, fish and aquatic resources, and cultural resources. Where avoidance or protection in
34 place is not feasible, there is additional mitigation by way of resource-specific treatment in
35 consultation with affiliated Tribes. Even with these measures, the project has the potential to
36 materially impair affiliated Tribes' physical, spiritual, and ceremonial experience of character-
37 defining features of the Delta TCL and therefore result in a significant and unavoidable impact on a
38 Tribal cultural resource.

39 Appendix 32B provides a summary of the potential project impacts on Tribal cultural resources and
40 provides additional details about effects on the character-defining features of the Delta Tribal
41 Cultural Landscape.

1 **Table 32-0. Comparison of Impacts on Tribal Cultural Resources by Alternative**

Chapter 32 – Tribal Cultural Resources	Alternative								
	1	2a	2b	2c	3	4a	4b	4c	5
Impact TCR-1: Impacts on the Delta Tribal Cultural Landscape Tribal Cultural Resource Resulting from Construction, Operations, and Maintenance of the Project Alternatives	SU	SU	SU	SU	SU	SU	SU	SU	SU
Impact TCR-2: Impacts on Individual Tribal Cultural Resources Resulting from Construction, Operations, and Maintenance of the Project Alternatives	SU	SU	SU	SU	SU	SU	SU	SU	SU

2 SU = significant and unavoidable.

32.1 Environmental Setting

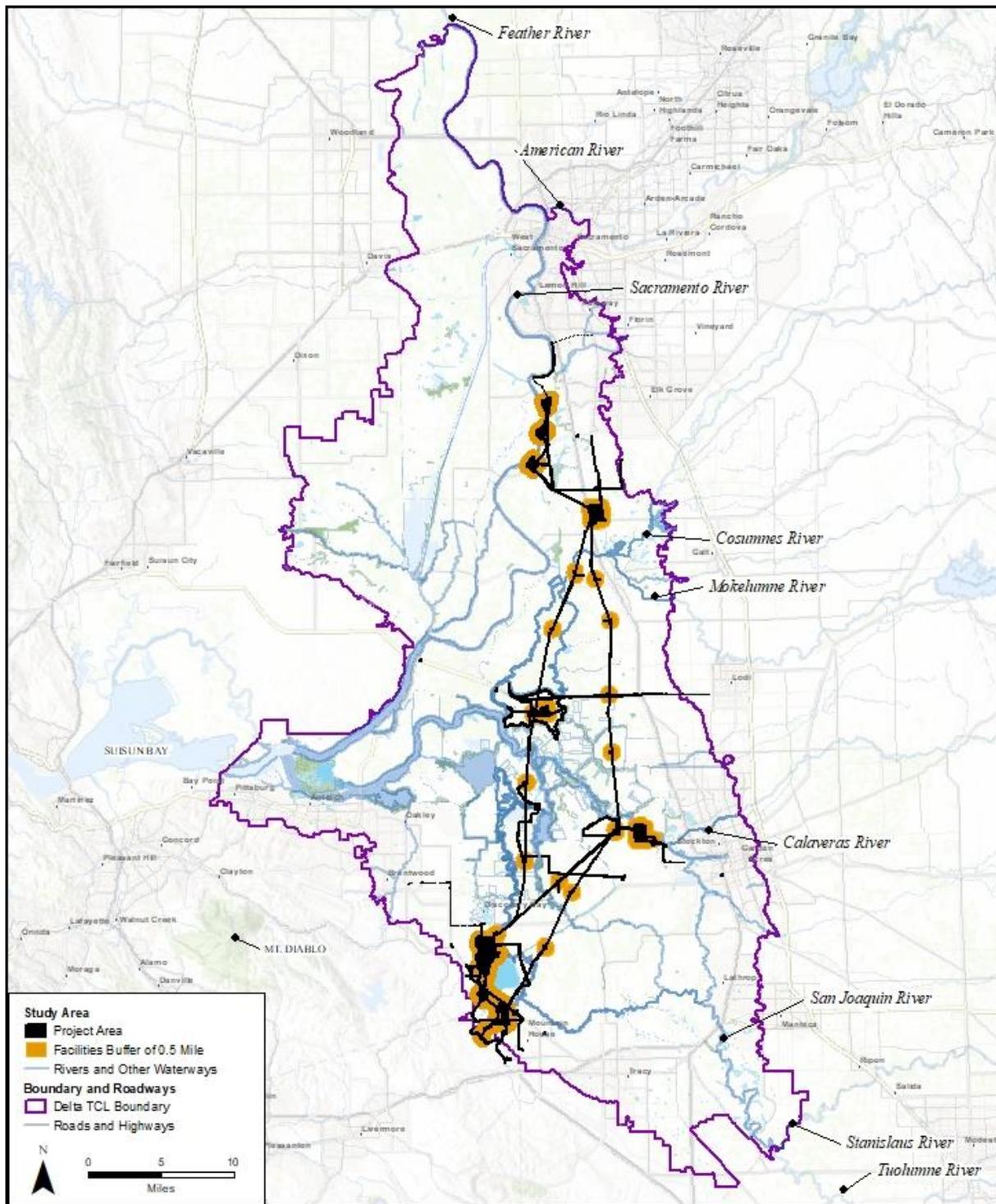
This section describes the Tribal cultural resources study area and summarizes DWR's identification of Tribal cultural resources and the character-defining features that may be materially impaired by the project. In 2015, the State of California added Public Resources Code Section 21074 to CEQA. Under Section 21074, CEQA recognizes Tribal cultural resources as a distinct environmental resource separate from "cultural resources" which are evaluated as archaeological or historical resources pursuant to CEQA Guidelines Section 15064.5. Prior to 2015, resources of Native American origin were evaluated as a subset of cultural resources primarily for their archaeological or historical significance. Under CEQA, DWR must identify Tribal cultural resources in accordance with Public Resources Code Section 21074 and in consultation with Tribes that are traditionally and culturally affiliated with the project area pursuant to Section 21080.3.1 of the Public Resources Code (i.e., "affiliated Tribes"). In accordance with CEQA, DWR has identified Tribal cultural resources that may be affected by the project. The information summarized in this section is in large part drawn from Appendix 32C, *Tribal Cultural Resources Identification Report* (Confidential), which documents identification and evaluation of Tribal cultural resources in the study area.

For the Draft EIR, DWR engaged in a robust process to gather information regarding resources of cultural value to affiliated Tribes to fulfill DWR's responsibilities under CEQA and further DWR's policies regarding its government-to-government relationship with Tribes. Through the process of identifying and evaluating potential Tribal cultural resources, DWR recognized the expertise of Tribes regarding their histories and cultures and the importance of meaningful consultation about the significance of resources from Tribal perspectives. Such consultation with Tribal representatives and related data sharing are confidential and not subject to disclosure under California law (as discussed further in Section 32.1.2.4, *Confidentiality Considerations*). For this reason, some information regarding the presence, nature, or location of potential Tribal cultural resources, and the project's potential impacts on those resources, is not reported in this chapter.

32.1.1 Study Area

The Tribal cultural resources study area (study area) is defined by the area in which project-related impacts on Tribal cultural resources may occur. The Tribal cultural resources study area, shown in Figure 32-1, includes all areas where project activities have the potential to physically disturb Tribal cultural resources, where operations have the potential to materially impair waterways that are a character-defining feature of a Tribal cultural resource, or where the project has the potential to materially impair, through visual disruption, a character-defining feature.

The study area includes construction-related physical impacts that may materially impair character-defining features, and thus the study area includes the entire project area. Construction activities involving excavation, filling, stockpiling, or otherwise disturbing the ground to construct the conveyance facilities and related infrastructure have the potential to physically disturb Tribal cultural resources. The study area also includes operations-related physical impacts that may occur in waterways as a result of changes in flows on the Sacramento River and other interrelated waterways in the Delta.



1
2 **Figure 32-1. Study Area**

1 The study area also considers the visual resources study area discussed in Chapter 18 because
2 construction of aboveground project facilities may materially impair character-defining features by
3 altering the setting, viewsheds,² or other visual aspects of a character-defining feature. The
4 components of the project that are aboveground and visible are dispersed throughout the project
5 area. Thus, the study area also includes buffer areas surrounding the aboveground (i.e., visible)
6 project facilities. The following are the project features where aboveground, visible changes would
7 occur.

- 8 • At the north Delta intakes and Twin Cities Complex for all project alternatives.
- 9 • At the launch, reception, and maintenance shaft locations for all project alternatives.
- 10 • At the Southern Complex for Alternatives 1, 2a, 2b, 2c, 3, 4a, 4b, and 4c.
- 11 • At the Bethany Complex for Alternative 5.

12 The views affected by these project features are defined by the physical constraints of the
13 environment and the physiological limits of human sight. The buffer for a project feature is
14 considered to be a 0.5-mile radius from the project features in rural areas and a 0.25-mile radius
15 from the project features in urbanized areas. Based on the rural and generally flat topography
16 around these project features, the study area uses a 0.5 mile buffer. No new structures are proposed
17 upstream of the Delta or in the SWP and CVP export service areas under any of the project
18 alternatives; therefore, construction of the project would not result in visual changes upstream of
19 the Delta or in the SWP and CVP export service areas. Chapter 18 provides a robust explanation of
20 the visual resources study area that informed the definition of the study area in this chapter.

21 For potential operational activities that may materially impair character-defining features, the study
22 area also includes the rivers downstream of the north Delta intakes as they flow within the Delta.
23 Operations may alter water flows in the Delta, which could lead to a physical effect that materially
24 impairs a character-defining feature. DWR recognizes that the Tribes perceive that project effects
25 would extend beyond the study area due to the interconnectedness of waterways. During
26 consultation, some Tribes expressed concerns about resources that could be affected by changes in
27 water operations (reservoir storage or river flows) upstream from the Delta. No construction would
28 occur outside of the Delta counties, and the proposed project and alternatives would not change
29 operational criteria associated with upstream reservoirs. Some indirect operational changes could
30 occur because of the interconnectedness of the waterways, but modeling analysis has indicated that
31 these changes would be negligible (see Chapter 5, *Surface Water*). Because changes to reservoir
32 storage and river flows would be small, they would not have the potential to affect resources
33 upstream from the Delta and those areas are not included in the study area. Additionally, there
34 would be no physical alterations and minimal variations in surface water flows south of the Delta in
35 SWP and CVP service areas. Therefore, the study area does not include the potential for physical
36 impacts in areas upstream of the Delta region or the south-of-Delta SWP and CVP service areas.

² A *viewshed* is defined as what people can see in the landscape (e.g., an area of land, water, or other urban or environmental element) from a fixed vantage point. Viewsheds are confined by the physical constraints of the environment and the physiological limits of human sight.

32.1.2 Methods for Resource Identification

DWR committed to identifying Tribal cultural resources as part of a good-faith consultation effort with consulting Tribes under CEQA and according to DWR's Tribal Engagement Policy (which incorporates by reference the California Natural Resources Agency's [CNRA] Tribal Consultation Policy) (California Department of Water Resources 2016). Tribal consultation and engagement, archival research, and DWR's California Register of Historical Resources (CRHR) eligibility evaluations were all used to identify potential Tribal cultural resources within the study area. DWR used this data to prepare a confidential report that details the project's Tribal cultural resources identification methods and results (i.e., confidential Appendix 32C).

32.1.2.1 Consultation and Engagement with Tribes

Tribal engagement is an important component of every major project led by the State of California, providing an opportunity for government-to-government consultation, collaboration, and coordination between Tribal governments and the State. DWR is committed to proactive and meaningful consultation with Tribes. Guided by Executive Orders (B-10-11, N-10-19, N-15-19), DWR is conducting government-to-government consultation with Tribes under two different processes: Public Resources Code 21080.3.1 and DWR's Tribal Engagement Policy. The confidential TCRIR contains records of the project's consultation and engagement with Tribes. Appendix 32A, *Tribal Consultation and Engagement Log*, presents a nonconfidential table which lists the Tribal consultation and informational meetings that have occurred for the project to date.

DWR recognizes that Tribal participation in consultation does not imply the consulting Tribes endorse the project. DWR understands the Delta holds great significance to the affiliated Tribes and that there is Tribal opposition to the project due to potentially significant impacts on Tribal cultural resources that cannot be mitigated to less than significant, and in particular impacts on the cultural landscape that make this place foundational to Tribes. Tribes have expressed that they chose to continue consultation with DWR to emphasize the importance of the Delta and that the information provided to DWR regarding Tribal resources, the Delta, and mitigation has been shared specifically for the purposes of resource and site protection. Consulting Tribes have voiced support for the No Project Alternative. Throughout the consultation process, Tribes have conscientiously weighed the extent to which they would share confidential and culturally sensitive information for the protection of resources. Numerous Tribes have contributed significant amounts of time and information which has been invaluable to DWR in conducting its analysis of the project's potential environmental impacts on Tribal cultural resources, and other environmental resources. DWR appreciates Tribes' ongoing consultation efforts despite their opposition to the project.

Sections 21080.3.1 and 21080.3.2 of the Public Resources Code establishes a formal consultation process between CEQA lead agencies and Tribes to, among other things, identify and evaluate Tribal cultural resources and mitigate a project's potential environmental impacts on Tribal cultural resources. The Public Resources Code recognizes Tribal expertise concerning their Tribal cultural resources and the importance of incorporating Tribal knowledge in the analysis and mitigation of potentially significant impacts on Tribal cultural resources. Because of this, Public Resources Code Section 21080.3.1 requires consultation with Tribes that are traditionally and culturally affiliated with the geographic area of the project and that have requested consultation. To participate in consultation on projects for which DWR is the CEQA lead agency, a Tribe must have submitted a written request to DWR for notice of proposed projects in the geographic area with which a Tribe is traditionally and culturally affiliated and responded to DWR's written project notification.

1 In 2016, DWR adopted the DWR Tribal Engagement Policy to guide Tribal consultation and to
2 strengthen and sustain collaboration with Tribes, consistent with Executive Order B-10-11, the
3 CNRA Tribal Consultation Policy, and the previously enacted Public Resources Code sections
4 addressing Tribal cultural resources and Tribal consultation. These policies include maintaining
5 consistent and clear communication in Tribal outreach efforts, establishing guidelines for sharing
6 confidential information, providing cultural competency training for DWR staff, and facilitating
7 Tribal participation with communication plans and grant funding. In particular, the DWR Tribal
8 Engagement Policy recognizes Tribes' knowledge of cultural and natural resources and requires
9 DWR to consult with Tribes to identify and protect Tribal cultural resources where feasible, develop
10 treatment and mitigation plans for impacts on Tribal cultural resources, and enable Tribes to
11 manage and act as caretakers of Tribal cultural resources.

12 In the spirit of Public Resources Code Section 21080.3.1, DWR's Tribal Engagement Policy, and
13 CNRA's Tribal Consultation Policy (California Natural Resources Agency 2012), DWR developed a
14 set of principles which laid out a thoughtful process and methods for identifying Tribal cultural
15 resources in preparation of the development of this Draft EIR. Appendix 32D presents DWR's
16 *Principles for the Identification of Tribal Cultural Resources for the Delta Conveyance Project* (ICF and
17 ESA 2021).

18 **Pre-Consultation Tribal Informational Meetings**

19 Prior to the release of the Notice of Preparation (NOP), and outside of the CEQA process, DWR
20 hosted two Tribal informational meetings. The first Tribal informational meeting was held on
21 September 11, 2019, which was an informational meeting for the California Tribal community and
22 was attended by Tribes from various regions of California. A second follow-up informational
23 meeting was held on November 12, 2019, for affiliated Delta Tribes. The purpose of these
24 informational meetings included discussing the status and next steps related to Delta conveyance,
25 such as future CEQA requirements. During these meetings, DWR encouraged Tribes to submit a
26 formal letter to DWR if they were interested in consulting with DWR regarding projects in the
27 geographic area with which the Tribes are traditionally and culturally affiliated, if they had not
28 submitted this formal notice to DWR already.

29 **Contact Lists and Initial Outreach**

30 For the purpose of sending notification letters to Tribes regarding consultation on the project, DWR
31 identified the appropriate Tribes to contact based on the project area as identified in the NOP, which
32 included the statutory Delta, areas upstream of the Delta, and the SWP and CVP service areas.

33 On January 15, 2020, DWR sent notification letters and a copy of the NOP to all Tribes that are
34 traditionally and culturally affiliated with the geographic project area identified in the NOP and who
35 had submitted a written request for notification to DWR in accordance with the Public Resources
36 Code. These Tribes were asked to respond, in writing, within 30 days of receipt of this notification if
37 they wished to consult with DWR pursuant to Public Resources Code Section 21080.3.1. DWR also
38 engaged in consultation with two additional Tribes pursuant to Public Resources Section Code
39 21080.3.1 that had verbally requested to participate in consultation for the project to DWR's Tribal
40 Policy Advisor prior to January 15, 2020. Tribes were also provided with an opportunity to engage
41 with DWR pursuant to DWR's Tribal Engagement Policy.

42 While lead agencies are required to reach out specifically to those Tribes that have previously
43 requested project notifications, Tribal cultural resources may also be of importance to Tribes that

1 have not submitted requests to receive project notifications from DWR. Therefore, DWR also
2 contacted Tribes beyond those that previously requested project notifications as part of DWR's
3 good-faith effort to identify potential Tribal cultural resources, consistent with DWR's Tribal
4 Engagement Policy. To identify these additional Tribes, DWR requested a Local Government Tribal
5 Consultation List from the Native American Heritage Commission (NAHC) for the counties of the
6 project area as identified in the NOP and received a response and contact list on December 3, 2019.
7 For Tribes included on the NAHC list, DWR sent project notification letters, a copy of the NOP, and
8 an invitation to consult under DWR's Tribal Engagement Policy on January 15, 2020. Under DWR's
9 Tribal Engagement Policy, Tribes can consult with DWR for the project at any point during the CEQA
10 process.

11 Between February 3 and February 6, 2020, DWR followed up with Tribes that had not yet
12 responded to their project notification letters. DWR followed up by either phone or email, using the
13 contact information that was provided by the NAHC on December 3, 2019, or by the Tribes in letters
14 that were previously submitted to DWR. If follow-up occurred via email, copies of the project
15 notification letters and the NOP were included as attachments.

16 Subsequent to these notifications and follow-up communications, DWR held a public CEQA scoping
17 meeting for the project on March 2, 2020. After this meeting, DWR learned that the Karuk Tribe and
18 Yurok Tribe had concerns about potential indirect effects on the Klamath and Trinity Rivers. Given
19 that the project does not include changes to operations on either of these rivers or the surrounding
20 area, this area was not included within the project area as identified in the NOP and the NAHC did
21 not identify the project area to be traditionally and culturally affiliated with either of these Tribes.
22 However, in response to their interest, DWR sent project notification letters to both of these Tribes,
23 thereby extending an opportunity to consult with DWR. In total, DWR sent 121 Tribes project
24 notification letters.

25 **Tribal Consultation**

26 DWR consulted with all Tribes who submitted the appropriate request for consultation to DWR in
27 accordance with Public Resources Code Section 21080.3.1. Consultation included the following nine
28 Tribes.

- 29 • California Valley Miwok Tribe (Sheep Ranch Rancheria of Me-Wuk Indians of California)
- 30 • Ione Band of Miwok Indians
- 31 • Northern Valley Yokuts Tribe
- 32 • Shingle Springs Band of Miwok Indians
- 33 • United Auburn Indian Community of the Auburn Rancheria of California
- 34 • Wilton Rancheria
- 35 • Winnemem Wintu Tribe
- 36 • Wintu Tribe of Northern California & Toyon-Wintu Center
- 37 • Yocha Dehe Wintun Nation

38 DWR consulted with four additional Tribes pursuant to DWR's Tribal Engagement Policy.

- 39 • Buena Vista Rancheria of Me-Wuk Indians

- 1 • Rincon Band of Luiseño Indians
- 2 • Viejas Band of Kumeyaay Indians
- 3 • Yurok Tribe

4 DWR used a variety of media and venues to communicate and collaborate with Tribes. DWR
5 regularly maintained the Delta Conveyance Project Tribal Engagement website to provide
6 information on the various Tribal engagement activities for the project that were occurring outside
7 of government-to-government consultation, including links to presentations and other materials as
8 applicable. Several meeting formats were used including technical working group meetings which
9 focused on the Tribal cultural resource identification process and sharing information regarding
10 potential Tribal cultural resources, area of interest mapping meetings which provided technical
11 geographic information system (GIS) support to consulting Tribes who requested this assistance,
12 and ethnographic mapping meetings to discuss DWR and Tribal data on ethnographic and/or record
13 search information. DWR provided GIS data and shapefiles reflecting the outcome of these mapping
14 meetings. In addition, DWR provided weekly, bimonthly, or quarterly project updates to consulting
15 Tribes which included general project updates, updated project GIS when available, and information
16 on public meetings where DWR would be presenting information on the project.

17 Additional materials were prepared and provided by DWR to consulting Tribes to aid in the
18 communication of project timelines and initiatives including fact sheets, identification steps for
19 Tribal cultural resources, bibliographies, plant and animal lists, project ethnographic data, question
20 sheets for Tribes, and draft meeting notes. In some cases, at the request of some consulting Tribes,
21 nondisclosure agreements were prepared and provided, and DWR maintained secure and
22 confidential SharePoint sites with Tribes, as requested, to share information. DWR also participated
23 in or hosted numerous informational meetings, not all of which constituted formal consultation
24 under either Public Resources Code Sections 21080.3.1 and 21080.3.2 or DWR's Tribal Engagement
25 Policy, with individual Tribes or Tribal organizations in 2020 and 2021.

26 After January 2021, the frequency of consultation meetings with interested consulting Tribes
27 increased. Throughout the preparation of the Draft EIR, DWR provided consulting Tribes with
28 updates on the CEQA schedule to maintain transparency with Tribes regarding DWR goals for
29 consultation, including the identification of Tribal cultural resources, the discussion of project
30 impacts on known or potential Tribal cultural resources, and mitigation for project impacts on
31 known or potential Tribal cultural resources. DWR began and facilitated the discussion of Tribal
32 cultural resource impacts and mitigation by sharing summarized documentation of what DWR had
33 heard from Tribes during consultation regarding identification of resources with cultural value to
34 each consulting Tribe, coordinating site visits with interested Tribes to parcels that DWR had
35 obtained temporary access to that overlapped with the project footprint, and sharing preliminary
36 information on various resource analyses that may be associated with the Delta TCL.

37 In some cases, representatives from the project design team were invited to consultation meetings
38 to talk with Tribes about the proximity of mapped archaeological or ethnohistorical locations
39 relative to project features. These discussions informed the design team regarding a range of
40 options for adjusting the design to avoid or reduce the likelihood of impacting such resources, as
41 feasible (pending field verification of the precise location of cultural materials).

42 DWR is continuing consultation with Tribes during public review of the Draft EIR. DWR will
43 continue to seek consensus with consulting Tribes and will close CEQA consultation when the
44 parties agree to measures to mitigate or avoid significant impacts on Tribal cultural resources or

1 when DWR concludes, acting in good faith and after reasonable effort, that mutual agreement cannot
2 be reached. DWR is committed to continuing consultation and engagement with Tribes as part of the
3 project's mitigation measures, but formal consultation under Public Resources Code Sections
4 21080.3.1 and 21080.3.2 will conclude before DWR certifies the Final EIR.

5 **Tribal Engagement Committee Informational Meetings**

6 In 2019, Tribal representatives from affiliated Tribes formed the groundbreaking Tribal
7 Engagement Committee, which was a joint effort between Wilton Rancheria and the Shingle Springs
8 Band of Miwok Indians. Tribal Engagement Committee meetings were convened by the Shingle
9 Springs Band of Miwok Indians, who invited DWR representatives to speak on set discussion topics.
10 In 2020 and 2021, and as invited by Tribal representatives, DWR and Delta Conveyance Design and
11 Construction Authority (DCA) representatives presented project updates and preliminary
12 engineering information from the DCA Stakeholder Engagement Committee³ meetings at eight
13 Tribal Engagement Committee meetings. For more information on the DCA Stakeholder Engagement
14 Committee, please see Chapter 35, *Public Involvement*.

15 Additionally, in October 2020, DWR and Tribal Engagement Committee representatives attended a
16 tour of the Intake Screens Incorporated facility, where Intake Screens Incorporated staff provided a
17 presentation on intake screens and displayed various intake screens on the grounds of their facility.

18 While discussions with Tribes during the Tribal Engagement Committee meetings were
19 informational and did not constitute formal consultation under either Public Resources Code Section
20 21080.3.1 or DWR's Tribal Engagement Policy, the Tribes in attendance utilized these meetings to
21 coordinate with DWR and DCA and to ask questions and provide comments on the project.
22 Comments and questions that arose during Tribal Engagement Committee meetings were noted by
23 DWR and followed up on during the government-to-government consultation process if they needed
24 to be addressed further with the individual Tribe.

25 **Implications of Coronavirus 19**

26 During the course of the proposed project planning, there have been changes which affected, or
27 were applicable to, Tribal consultation procedures. First, the coronavirus 19 (COVID-19) pandemic
28 began and has persisted for more than 2 years of the project environmental review and planning
29 process. Essential functions have been prioritized to ensure they continue during this COVID-19
30 pandemic, and DWR has remained dedicated to public involvement and transparency. To respond to
31 these unprecedented times, DWR worked to strengthen and expand public outreach tools to make
32 information more accessible and enable safe participation. Some consulting Tribes formally
33 requested DWR, CNRA, and the Governor's Office to pause consultation and/or notified DWR of
34 temporary office closures due to health and safety concerns. Several consulting Tribes reported
35 extreme hardships during this period wherein their Tribal administrative offices and access to their
36 Tribal lands were closed or limited.

37 The Governor's Office responded with Executive Order N-54-20, which became effective April 22,
38 2020, and suspended the time requirement for Tribes to request consultation under Public

³ In addition to, and separate from, the Tribal consultation and engagement conducted by DWR for CEQA, the DCA Stakeholder Engagement Committee, which included two Tribal representatives, was established as a forum for Delta interested parties to provide input and feedback on engineering and design work related to the DCA's activities.

1 Resources Code Section 21080.3.1 and for agencies to respond to Tribes that have requested
2 consultation, for a 60-day period from the date of the Executive Order. However, this Executive
3 Order did not require a pause if consultation had already begun. Consultation started for the project
4 before the Executive Order was issued, and therefore this Executive Order and formal suspension of
5 consultation did not apply to the project. During this time, DWR continued proactive consultation
6 while also respecting the hardships and concerns of the Tribes by providing regular written project
7 updates to consulting and engaging Tribes via email; meeting with available Tribes, either on an
8 informational basis or in formal consultation; conducting government-to-government consultation
9 virtually, via teleconference and/or videoconference; and hosting virtual Tribal informational
10 meetings.

11 **32.1.2.2 Archival and Ethnographic Research**

12 Archival research included California Historical Resources Information System (CHRIS) records
13 searches, a NAHC Sacred Land Files search, and other archives searches. The purpose of the CHRIS,
14 NAHC, and archival searches was to identify existing scholarly source material for review and
15 analysis in support of establishing the historic and ethnographic context for understanding the
16 significance of resources identified through research and consultation. The importance of
17 contributions from Tribes cannot be over emphasized as they are the keepers of their own history.
18 This analysis was incorporated into the TCRIR as part of the history of specific resources as well as a
19 set of updated overviews of ethnographic context for five cultural groups (Patwin, Winnemem
20 Wintu, Maidu, Miwok, and North Valley Yokut). The information collected was also made available to
21 consulting Tribes, as appropriate.

22 **California Historical Resources Information System Records Search**

23 Between July 2020 and August 2021, CHRIS searches were conducted at three regional information
24 centers to obtain records for previously recorded cultural resources located within 0.5 miles of the
25 project area, including confidential archaeological site records. The CHRIS searches were conducted
26 at the Northwest Information Center in Rohnert Park, the North Central Information Center in
27 Sacramento, and the Central California Information Center in Turlock. The project's confidential
28 TCRIR presents further information about the CHRIS records searches and results.

29 The CHRIS requests resulted in the following information.

- 30 ● GIS shapefiles for cultural resources studies
- 31 ● GIS shapefiles for cultural resources
- 32 ● Data tables for resource records and studies
- 33 ● PDFs of cultural resources records

34 This information was used to establish whether previously documented cultural resources are
35 present in the project area. The searches mainly found previously documented archaeological and
36 built environment resources records, and those resources are among those addressed in Chapter 32
37 *Cultural Resources*.

38 In addition to archaeological and built environment resources, the CHRIS results included the record
39 of the Sacramento River TCL (P-34-005225). The record reflects input from three of the Tribes
40 (UAIC, Wilton Rancheria, and Ione Band) that are also consulting on the Delta Conveyance project.
41 DWR recognized similar themes from consultation that are documented on the Sacramento River

1 TCL record. For example, the record states that “The primary character defining elements of this
2 landscape are the waterways, tule habitat, fisheries, and other wildlife. These natural resources once
3 served as the lifeblood of the local inhabitants. Today, relics of historical habitat still survive with
4 the river supporting anadromous and resident fish populations, as well as shellfish, and waterfowl”
5 (Tremaine, 2018).

6 **California Native American Heritage Commission**

7 On September 9, 2020, DWR requested a Sacred Land Files search from the NAHC for the record
8 search area representing a 0.5 mile buffer of the project area. This request also sought updated
9 contact information for Tribes that are traditionally and culturally affiliated with the project area.
10 The NAHC responded on September 18, 2020, that the Sacred Land Files search results for the study
11 area were positive and recommended two Tribes to consult for potential further information. These
12 two Tribes were already consulting Tribes on the project. The NAHC also provided the requested
13 contact information for Tribes that are traditionally and culturally affiliated with the project area.

14 **Other Archives**

15 DWR compiled ethnographic and ethnohistorical information from public archival sources,
16 including review of materials such as anthropological and archaeological journals and reports.
17 Because of COVID-19 pandemic restrictions, in place at the time the background research was
18 conducted some commonly used physical archives were not available for research. To reasonably
19 replace physical visitations to archives, internet repositories were utilized as the primary source for
20 archival research. This research was heavily augmented with materials referenced or provided by
21 Tribes as part of consultation.

22 **32.1.2.3 California Register of Historical Resources Evaluation and** 23 **Eligibility Determinations**

24 This section explains DWR’s methods for evaluating the CRHR eligibility of potential Tribal cultural
25 resources, which is required under Public Resources Code Section 21074 to determine whether a
26 resource is a Tribal cultural resource. In evaluating a resource’s CRHR’s eligibility, DWR recognized:

- 27 • Tribes’ expertise in attributing significance to resources.
- 28 • DWR’s responsibility to make CRHR eligibility determinations based on application of the CRHR
29 evaluation criteria in consultation with Tribes.
- 30 • The sensitive and confidential nature of information shared by consulting Tribes.

31 **CEQA Requirements for Identifying Tribal Cultural Resources**

32 DWR, as the CEQA lead agency, determines if sites, features, places, cultural landscapes, sacred
33 places, and objects (referred to collectively as “resources”) within the study area that have cultural
34 value to a Tribe are already included in the CRHR or local register of historical resources (Pub.
35 Resources Code § 21074(a)(1)) or, if not listed, whether such resources are eligible for inclusion in
36 the CRHR (Pub. Resources Code § 21074(a)(1),(2)).

37 DWR determined if a resource was a Tribal cultural resource by applying the definitions established
38 by CEQA. Under Section 21074(a) of the California Public Resources Code, “Tribal cultural resources
39 are either of the following:

1 (1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a
2 California Native American tribe that are either of the following:

3 (A) Included or determined to be eligible for inclusion in the California Register of Historical
4 Resources.

5 (B) Included in a local register of historical resources as defined in subdivision (k) of Section
6 5020.1, or

7 (2) A resource determined by the lead agency, in its discretion and supported by substantial
8 evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1
9 [of the Public Resource Code]. In applying the criteria set forth in subdivision (c) of Section
10 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of
11 the resource to a California Native American tribe.”

12 Under Section 21074(b) of the California Public Resources Code, a “cultural landscape that meets
13 the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is
14 geographically defined in terms of the size and scope of the landscape.”

15 Under Section 21074(c) of the California Public Resources Code, a “historical resource described in
16 Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2,
17 or a “nonunique archaeological resource” as defined in subdivision (h) of Section 21083.2 may also
18 be a tribal cultural resource if it conforms with the criteria of subdivision (a).”

19 **Application of the Requirements for Identification of Tribal Cultural Resources**

20 DWR considered whether a resource qualifies as a “Tribal cultural resource” by applying the four
21 approaches described in Public Resources Code 21074(a)-(c), listed above. In general, a resource
22 needs to be significant to a Tribe and eligible for listing in the CRHR to be a Tribal cultural resource.
23 As described in Section 32.1.2.1, DWR’s first step in applying the Public Resources Code was to
24 consult with affiliated Tribes to identify resources that have cultural value to one or more Tribes.
25 DWR also conducted record searches to identify resources with cultural value to Tribes that were
26 included in the CRHR or local register of historical resources, and any resources that were not listed
27 but had previously been assessed and determined eligible for inclusion in the CRHR.

28 If a resource was not previously listed on the CRHR (or a local register), DWR evaluated whether the
29 resource may be eligible for listing on the CRHR (considering among other things any previous
30 CRHR-eligibility evaluations) and thereby satisfying Section 21074(a)(1) of the Public Resources
31 Code. For resources that were not already listed on the CRHR or a local register of historical
32 resources, DWR also evaluated them in accordance with 21074(a)(2) of the Public Resources Code
33 to determine whether DWR finds the resource “significant” pursuant to Section 5024.1(c) of the
34 Public Resources Code. Public Resources Code 5024.1(c) sets forth the criteria for listing in the
35 CRHR (discussed in more detail below). In applying the CRHR criteria to resources that were not
36 already listed, DWR relied on substantial evidence in the record that includes professional judgment
37 of technical experts, including DWR staff, consultants, and Tribal members. The data or evidence
38 used to form a professional judgment included information provided by Tribes during consultation
39 and information that DWR developed through ethnographic and other research.

40 In recent guidance (Ball et al. 2015), West Coast Tribes, including the Yurok Tribe and nine affiliates
41 in California, explained the importance of Tribes engaging lead agencies and describing cultural
42 resources from an indigenous perspective. The guidance involves the employment of project
43 principles that are committed to indigenous self-determination of significance and that use a

1 cultural landscape approach for integrated resources management (Ball et al. 2015:29). A “cultural
2 landscape approach” is a holistic approach to identifying, treating, and managing heritage resources
3 that “recognizes broad interconnections and does not consider a single artifact or a single species as
4 existing without complex relationships” (Ball et al. 2015:4).

5 The fourth step in applying the Public Resources Code was to consider whether any resources in the
6 study area qualified as a cultural landscape per the requirements of Section 21074(b). If DWR
7 determined that it met the criteria for listing in the CRHR and that it could be geographically defined
8 in terms of the size and scope of the landscape, it was characterized as Tribal cultural resources. A
9 “cultural landscape” is not defined in CEQA or the CRHR. A cultural landscape is a type of heritage
10 resource that has been defined by the National Park Service (NPS) as “a geographic area, including
11 both cultural and natural resources and the wildlife or domestic animals therein, associated with a
12 historic event, activity, or person or exhibiting other cultural or aesthetic values” (Birnbaum and
13 Peters 1996:4). An understanding of its characterization and affiliated heritage is needed to
14 understand this type of resource.

15 If DWR found “unique archaeological resources” or “nonunique archaeological resources,” those
16 resources were then evaluated as required under Section 21074(c) to determine if they were
17 resources that are listed or eligible for listing in the CRHR, or listed in a local register. If so, those
18 resources were also characterized as Tribal cultural resources pursuant to Public Resources Code
19 Section 21074(c).

20 **Historical Integrity**

21 If DWR found a resource had significance through the application of the associative criteria, then
22 DWR evaluated the integrity of the resource. Integrity is a resource’s ability to convey its
23 significance based on the authenticity of its physical identity evidenced by the survival of
24 characteristics that existed during the resource’s period of significance (14 Cal. Code of Regs. §
25 4852(c)). The integrity of a resource with cultural value to a Tribe is in relation to the Tribe’s
26 perception, not the perception of non-Tribal people. For instance, a resource that has the integrity of
27 feeling to a Tribal elder or delegated Tribal representative does not need to convey that significance
28 to, for example, a non-Tribal historian or archaeologist. The characteristics that contribute to a
29 resource’s significance and ability to continue to convey that significance must be described in
30 sufficient detail to support a finding of CRHR eligibility. Integrity is evaluated with regard to the
31 retention of location, design, setting, materials, workmanship, feeling, and association, described
32 below, and must be judged with reference to the period of significance, character-defining features,
33 and physical boundary of the resource. DWR’s evaluation of integrity heavily relied on Tribal
34 descriptions of how well the resource conveys its significance.

- 35 ● *Location*: the place where the historic property was constructed or the place where the historic
36 event occurred.
- 37 ● *Design*: the combination of elements that create the form, plan, space, structure, and style of a
38 property.
- 39 ● *Setting*: the physical environment of a historic property.
- 40 ● *Materials*: the physical elements that were combined or deposited during a particular period of
41 time and in a particular pattern or configuration to form a historic property.
- 42 ● *Workmanship*: the physical evidence of the crafts of a particular culture or people during any
43 given period in history or prehistory.

- 1 • *Feeling*: a property's expression of the aesthetic or historic sense of a particular period of time.
- 2 • *Association*: the direct link between an important historic event or person and a historic
- 3 property.

4 **Evaluation of California Register of Historical Resources Eligibility**

5 **Historical Significance**

6 DWR recognizes the consulting Tribes have knowledge, expertise, and values regarding the cultural
7 and historical significance of potential Tribal cultural resources. As stated above, DWR relied on
8 Tribal expertise, as well as DWR's own research, to identify sites, features, places, cultural
9 landscapes, sacred places, and objects within the study area that have cultural value to one or more
10 Tribes.

11 **California Register of Historical Resources Criteria**

12 For each of the resources identified by Tribes during consultation or by DWR through other
13 research, DWR determined if the resource met one or more of the CRHR criteria (Pub. Resources
14 Code § 5024.1):

- 15 • Criterion 1: Is associated with events that have made a significant contribution to the broad
16 patterns of California's history and cultural heritage.
- 17 • Criterion 2: Is associated with the lives of persons important in our past.
- 18 • Criterion 3: Embodies the distinctive characteristics of a type, period, region, or method of
19 construction, or represents the work of an important creative individual, or possesses high
20 artistic values.
- 21 • Criterion 4: Has yielded, or may be likely to yield, information important in prehistory or history.

22 In the cultural landscape approach, significance is generally found in association with Criterion 1
23 because of that criterion's broad scope, as opposed to the more specific scope of the other three
24 criteria. It is rare that a cultural landscape rises to the level of importance in association with a
25 single important person or design because it is uncommon for an entire landscape to represent that
26 person's or design's more singular significance. The larger the landscape and the greater the breadth
27 of its multi-component features and their significance, the less likely the landscape will meet the
28 requirements of Criteria 2, 3, or 4.

29 *A period of significance* must be established for any resource that appears to possess significance
30 under one or more of the criteria. DWR's consultation with Tribes included efforts to establish
31 appropriate periods of significance. DWR used available information and made a good faith effort to
32 establish an appropriate time period.

33 **Character-defining Features**

34 Once the significance of a resource was defined in relationship to the criteria, DWR identified the
35 physical or intangible qualities of the resource that define its character. These qualities are referred
36 to as the character-defining features of a resource. They are essential to the resource's ability to
37 convey its significance.

38 Examples of physical character-defining features of Tribal cultural resources may include being
39 located adjacent to a river, the presence of buried cultural or burial materials, or the arrangement of

1 landscape features that are used for specific cultural purposes. Examples of intangible character-
2 defining features may include accessibility to the Tribe at certain times to perform certain
3 ceremonies, experience views or vistas toward other natural or spiritual landmarks, or experience
4 the spiritual quality of a location that comes from its association with deities, sacred events, or
5 ancestors.

6 Understanding and itemizing the character-defining features of a significant resource informs the
7 evaluation of whether the resource retains sufficient historical integrity to qualify for listing in the
8 CRHR. Character-defining features are also used in the analysis of potential project impacts.

9 **32.1.2.4 Confidentiality Considerations**

10 California law limits the information regarding Tribal cultural resources that can be disclosed in an
11 EIR to avoid public dissemination of privileged Tribal information and to avoid vandalism that could
12 occur as a result of public dissemination of locational data (*Clover Valley Foundation v. City of Rocklin*
13 (2011) 197 Cal.App.4th 200, 219). The CEQA Guidelines prohibit an EIR from including “information
14 about the location of archaeological resources and sacred lands, or any other information that is
15 subject to the disclosure restrictions of Section 6254 of the Government Code” (CEQA Guidelines §
16 15120(d)). In turn, California Government Code Section 6254 does not require a public agency to
17 disclose under the of the California Public Records Act any records “of Native American graves,
18 cemeteries, and sacred places and records of Native American places, features, and objects
19 described in Sections 5097.9 and 5097.993 of the [California] Public Resources Code maintained by,
20 or in the possession of, the Native American Heritage Commission, another state agency, or a local
21 agency” (Government [Gov.] Code § 6254(r)).

22 California Public Resources Code Sections 5097.9 and 5097.993 list the Native American places,
23 features, and objects, the records of which should not be publicly disclosed under the California
24 Public Records Act: “any Native American sanctified cemetery, places of worship, religious or
25 ceremonial site, or sacred shrine located on public property” (Pub. Resources Code § 5097.9) and
26 any “Native American historic, cultural, or sacred site, that is listed or may be eligible for listing in
27 the California Register of Historic Resources ..., including any historic or prehistoric ruins, any burial
28 ground, any archaeological or historic site, any inscriptions made by Native Americans at such a site,
29 any archaeological or historic Native American rock art, or any archaeological or historic feature of a
30 Native American historic, cultural, or sacred site ...” (Pub. Resources Code § 5097.993(a)(1)).

31 The California Public Records Act also generally protects archaeological site locations and records
32 from public disclosure. Government Code Section 6254.10 provides: “Nothing in [the Act] requires
33 disclosure of records that relate to archaeological site information and reports maintained by, or in
34 the possession of ... a local agency, including the records that the agency obtains through a
35 consultation process between a California Native American tribe and a state or local agency.”

36 These regulations do not require the disclosure of records and specific information concerning
37 Tribal cultural resources and archaeological, cultural, and historical resources in public documents
38 including this Draft EIR. In accordance with these requirements, confidentiality of the site locations
39 and details of certain archaeological, cultural, and historic resources found in the region is necessary
40 to prevent vandalism to the resources. Public release of information about the resources may allow
41 their discovery by trespassers, leading to potential looting and also may publicly disclose
42 information about privileged and confidential activities or information associated with Tribal
43 cultural resources.

1 Therefore, full descriptions of Tribal cultural resources are not provided in this chapter. Resource-
2 specific content and location information is documented in confidential Appendix 32C, and has been
3 reviewed by appropriate DWR officials only on a need-to-know basis, thereby protecting the
4 resources. Although it will be a part of the record DWR utilizes to achieve CEQA compliance and
5 make a decision on whether to approve the proposed project, Appendix 32C will not be available for
6 public review.

7 DWR recognizes its responsibility under California law to protect confidential information regarding
8 Tribal cultural resources and has implemented protocols for managing confidential information.
9 These protocols include maintaining sensitive Tribal information obtained through consultation and
10 engagement independently for each Tribe, and all such information is treated as confidential, and
11 thus, is not described in public documents.

12 **32.1.3 Tribal Cultural Resources in the Study Area**

13 DWR reviewed the results of the CHRIS and NAHC records searches and found that there were no
14 resources within the study area that had been previously evaluated for their cultural value to Tribes
15 and formally listed in the CRHR or a qualified local register of historical resources. The previously
16 identified Sacramento River TCL (P-34-005225) represents a landscape perspective as it was
17 understood in 2018 with a focus on the Sacramento River, rather than the entire Delta. DWR
18 considered this record in tandem with consultation, literature review, and analysis conducted for
19 the project.

20 DWR heard from consulting Tribes that many types of resources are culturally valuable and
21 important to Tribes, such as biological species and habitats, water and waterways, archaeological
22 sites, built mound structures, trails, villages, ceremonial places, and cemeteries and burials. As DWR
23 requested further information and understanding of individual resources to assist in assessing the
24 presence of Tribal cultural resources within the study area, consulting Tribes consistently drew
25 DWR's attention back to the Tribal perspective about the interconnected nature of these features. As
26 a result of Tribal input, DWR learned that the full cultural value of a single archaeological site could
27 not be fully understood without an understanding of the plant communities, waterways, and trail
28 systems that are the reasons that the archaeological site exists and would have been used in tandem
29 with the village or mound that is the archaeological site. Similarly, the importance of a certain river
30 cannot be isolated from the vistas from that river to other spiritual points on the landscape, or from
31 the ceremonies performed at certain locations along the river, or from reliance on such views and
32 vistas for navigating through the broad Delta landscape.

33 Recognizing the importance of how these features are understood holistically, the CRHR evaluation
34 of the Delta TCL found that each of these features are important contributors to the landscape's
35 CRHR eligibility. This approach was shared with Tribes in consultation.

36 DWR also considered whether the evidence in its record supported a finding that any of the
37 landscape features qualify for listing in the CRHR as individual resources. DWR applied a three-step
38 CRHR screening process to all of the landscape's currently known character-defining features that
39 includes assessing information about significance, description including boundaries, and integrity.
40 After applying the three-step screening process (further described below), DWR concluded that all
41 of these features are important as part of the Delta TCL and that the information in DWR's record at
42 the time of the development of this Draft EIR did not support a finding that these features are CRHR-
43 eligible separate from the Delta TCL. DWR recognizes that Tribes have shared information with

1 DWR in consultation for the purpose of protecting important resources. DWR also recognizes that
2 Tribes may have additional information about resources' significance, location, and description to
3 share with DWR during ongoing consultation. DWR will consider information provided through
4 consultation about resources of importance to affiliated Tribes and reapply the three-step screening
5 process, as appropriate, to evaluate whether these resources qualify for listing in the CRHR as
6 individual resources.

7 Confidential Appendix 32C details the project's CRHR evaluations and findings of eligibility of
8 individual Tribal cultural resources.

9 **32.1.3.1 Sacramento-San Joaquin Delta Tribal Cultural Landscape**

10 DWR determined there is a geographically defined cultural landscape that is eligible for listing in the
11 CRHR located within the study area. The Delta TCL was evaluated as a cultural (sometimes called
12 ethnographic) landscape, which relies on the continued recognition of culturally important
13 processes in addition to historical trends. This is different than a "historic landscape," which focuses
14 on a particular moment in history and compares the extant resource to its historic conditions. The
15 evaluation addressed all four CRHR criteria to assess how all of the landscape characteristics, as
16 individually or categorically explained by consulting Tribes, together represent and convey the
17 significance of the whole landscape as attributed by multiple Tribes.

18 Much of the information that describes the cultural significance of the Delta TCL is not disclosed in
19 this chapter because it is confidential under state law (Section 32.1.2.4). This section generally
20 summarizes information about the Delta TCL's eligibility for listing in the CRHR, providing only
21 information that is not confidential.

22 **Cultural and Historic Context of the Landscape**

23 Tribes have lived in and used the Delta since time immemorial through the present day. The Delta's
24 waterways, landscape, flora, and fauna are intrinsically and fundamentally linked with Tribes
25 historically and contemporarily. Just as Tribal ancestors moved over the land, gathering resources,
26 so do Tribes today, although with limited access and fewer natural resources.

27 Between 250 and 150 years ago, Tribes' use of and access to the Delta was rapidly disrupted by
28 Western colonization and the practices of nonindigenous settlers. Settlers and their governments
29 removed Tribes from the Delta region and also claimed the Delta's lands and resources for their own
30 uses. This relatively brief era in the Tribes' histories saw settlers displace and marginalize Tribes
31 from their homeland, make refugees of Tribal people, and disrupt Tribes' traditions and
32 transmission of Tribal knowledge. Tribes curated Delta knowledge and have continued to practice
33 Delta traditions despite all of these events and having little if any access to their Delta homeland.

34 The Delta TCL is central to the identity of consulting Tribes. Tribal people continue to look to the
35 Delta for livelihood, ecological knowledge, ceremony and spirituality, and heritage. Consulting
36 Tribes continue to recognize their stewardship responsibilities in the Delta, and practice
37 stewardship in private and public ways. Despite extensive modifications to the Delta in the
38 nineteenth and twentieth centuries, the Delta continues to be a sacred place and recognized
39 ancestral homeland of consulting Tribes. Consulting Tribes practice ceremony such as traveling with
40 seasonal salmon runs; gathering plants for crafts, medicine, ceremony, and food; fishing and
41 hunting; education; maintaining traditional cultural and ecological knowledge; leadership;
42 community gatherings; and the overall health of the Tribes.

1 **Landscape Features**

2 The Delta TCL description is based on information that consulting Tribes shared with DWR about
3 important cultural traditions including those physically associated with waterways, plant and
4 animal species habitats, architecture and archaeology, and views and vistas. The features that
5 characterize cultural traditions are those associated with practices that influence the development
6 of a landscape in terms of land use, patterns of land division, building forms, stylistic preferences,
7 and the use of materials. The Delta's rivers and waterways, trails, ceremonial places, cemeteries, and
8 villages are examples of these features.

9 The Delta's rivers and waterways are places of significance and cultural traditions. In addition to the
10 Sacramento and San Joaquin rivers, important rivers that flow into the Delta and become part of the
11 Delta TCL include the Mokelumne, Cosumnes, Tuolumne, and Stanislaus. Rivers are important for
12 fishing, gathering, drinking, and bathing. Water is used for cleansing as part of ceremony. Rivers
13 have spiritual meaning to Tribes, and the rivers are part of a larger Tribal cultural landscape
14 because they relate to creation stories, afterlife, ancestors, and how ancestors move around in the
15 environment.

16 Specific plants and animals were used by Tribes for subsistence, craft, education and knowledge,
17 and ceremony. In consultation, Tribes recommended a species habitat approach to describing plant
18 and animal species, including those that are especially associated with Tribes' cultural practices. The
19 importance of plant and animal species is closely tied to the health of biological habitats within
20 Tribal cosmologies and the larger Delta ecology as well as other Tribal values pertaining to cultural
21 uses and traditions. Tribes actively cultivated some habitats to improve the productivity of
22 traditionally important resources.

23 As described in Chapter 13, "natural communities are distinct and reoccurring assemblages of plants
24 and animals associated with specific physical environmental conditions and ecological processes. A
25 natural community occurs across a landscape where similar ecological conditions exist. The Wildlife
26 and Natural Areas Conservation Act defines a natural community as "a distinct, identifiable, and
27 recurring association of plants and animals that are ecologically interrelated" (Fish & Game Code
28 § 2702(d)). Like all Delta habitats and the elements that comprise them, the health of and treatment
29 of plants is vital to the health of the ecosystem and central to consulting Tribes' heritage and
30 identity. These natural communities may support the plants and animals that were traditionally
31 used by Tribes.

32 Numerous archaeological sites in the project area are elements of the landscape. In California,
33 known archaeological sites have trinomial designations (e.g., CA-SAC-21) and their locations are
34 confidential and protected by state laws. Many of these sites contain mound structures. Section
35 32.1.3.2, *Individual Tribal Cultural Resources*, presents further information about the nature of
36 archaeological sites and mound structures in the project area and Delta TCL.

37 **Cultural Significance of the Landscape**

38 The Delta is central to the identity and heritage of consulting Tribes as a place of extraordinary
39 cultural significance.

40 Consulting Tribes' input has the greatest importance for characterizing the cultural value and
41 importance of the Delta TCL. The cultural significance, as evaluated under CRHR criteria, was shared

1 with DWR by multiple Tribes in consultation, and the significance of the landscape is attributed from
2 multiple Tribes' perspectives.

3 The Delta is at the heart of multiple consulting Tribes' traditional areas and storyscapes, and its
4 interconnected and interdependent natural and cultural resources carry the cultural, spiritual, and
5 physical lifeblood of Tribes' heritage, livelihood, and identity. The Delta is a cultural landscape
6 because it is infused with Tribal spiritual beliefs, the presence of ancestors, and present-day
7 stewardship. The association between the resources, practices, and beliefs make up the holistic
8 cultural landscape. Individual elements and features identified by Tribes during consultation as
9 being important (e.g., gathering areas, archaeological sites, villages, plant species, and trails) are also
10 interconnected and interdependent. During consultation, many Tribes explained that the
11 significance of the Delta and all of its components is best understood as a Tribal cultural landscape.

12 In consultation, several Tribes frequently and clearly expressed that the Delta is significant both in
13 the context of Tribal heritage and the present-day lives of Tribal members. Records reviews,
14 archival research, field visits, and information shared by Tribes have further demonstrated the
15 following Tribal perspectives.

- 16 • Tribes have inhabited the Delta from time immemorial and continue to act as stewards of this
17 landscape.
- 18 • The Delta is central to Tribes' origins and cosmologies, and Tribes attribute their stories of
19 creation to its central environment.
- 20 • Tribes have intensively traversed the landscape and named landmarks across the Delta.
- 21 • Tribes' traditional subsistence practices center on the Delta's diverse and productive habitats.
- 22 • Tribes view the Delta as a spiritual and sacred place.
- 23 • Tribes practice important ceremonies in the Delta and related to the Delta.
- 24 • The Delta and its importance are still celebrated by Tribes in the present day.

25 Because consulting Tribes explained these perspectives and shared supporting information, DWR
26 decided to evaluate whether a cultural landscape was present and, once a cultural landscape was
27 identified, assess it for CRHR eligibility in support of its Tribal cultural resources analysis.

28 **Delta Tribal Cultural Landscape Boundary**

29 An important step in evaluating the CRHR eligibility of a landscape and, if eligible, defining a Tribal
30 cultural resource, is establishing an appropriate geographic boundary.

31 For the Delta TCL boundary, DWR considered the Sacramento River Tribal Cultural Landscape that
32 is documented as extending through the Sacramento River near Sacramento and concluded that
33 landscape's boundary was not large enough to describe the Delta TCL. DWR decided the Delta TCL
34 boundary needed to include more of the ecological Delta and more of the area that Tribes described
35 as a homeland and storyscape.

36 California adopted the statutory Delta Boundary as part of the 1959 Delta Protection Act, and the
37 boundary is codified in the California Water Code (Section 12220). This boundary, also known as the
38 legal Delta boundary, continues to be used by state agencies such as the Delta Stewardship Council
39 and the Delta Protection Commission for regulatory purposes. These delineations of the Delta focus
40 on the Sacramento and San Joaquin Rivers confluence and floodplain, and the characteristics of that

1 place that distinguishes it from the western Sierran foothills, the Coast Ranges, and the northern and
2 southern reaches of the Central Valley.

3 The San Francisco Estuary Institute developed a Historical Delta boundary as part of a larger
4 mapping study of the early nineteenth century Delta (San Francisco Estuary Institute 2012). The
5 study used historical maps, expedition reports, surveys by the General Land Office, Reclamation
6 Districts, U.S. Department of Agriculture, U.S. Geological Survey, eighteenth and nineteenth century
7 texts, historical paintings and sketches, engineering reports, and numerous other references. The
8 study resulted in a robust interpretation of the Delta's historical hydrography and numerous types
9 of wetland and terrestrial habitats prior to settler's intensive leveeing, livestock grazing, riparian
10 deforestation, and water channeling (San Francisco Estuary Institute 2012:xxv). The study used
11 ethnographic and historical information to explain some ways in which Tribes' management and use
12 of the Delta maintained or changed vegetation and animal communities (San Francisco Estuary
13 Institute 2012:109; 152, 177) including the variation in these communities associated with
14 indigenous habitation mounds (San Francisco Estuary Institute 2012:191–192).

15 According to the San Francisco Estuary Institute study, the historical Delta:

16 ... comprises the upper extent of the San Francisco Estuary and connects two-thirds of
17 California via the watersheds that feed into it. It is central to the larger California
18 landscape and associated ecosystems, which will continue to experience substantial
19 modification in the future due to climate change and continued land and water use
20 changes. (San Francisco Estuary Institute 2012:xx–xxi)

21 DWR integrated the Delta boundaries of the California Water Code and the San Francisco Estuary
22 Institute to define a Delta TCL boundary (see Figure 32-1: Tribal Cultural Resources Study Area).
23 DWR determined that the combination of the two boundaries reflects what DWR heard from
24 multiple consulting Tribes about defining a landscape that is at the heart of many Tribes' homelands
25 and storscapes.

26 Tribes that continue to live in the landscape and hold connections to the waterways consider the
27 entire Central Valley and Bay, beyond the Delta TCL as defined in this environmental review, as their
28 heartland and place within the universe. DWR recognizes that individual consulting or affiliated
29 Tribes may define their stor scape, homeland, and place of origin with larger or different
30 boundaries. Consulting Tribes have expressed their perspective that a Delta landscape exists beyond
31 the Delta TCL, largely due to the interconnectedness of waterways that flow beyond the Delta.
32 However, DWR has determined that, for the purposes of evaluating the project's impacts, the San
33 Francisco Estuary Institute boundary in combination with the statutory boundary, encompasses the
34 entire area potentially affected.

35 **Character-Defining Features of the Delta Tribal Cultural Landscape**

36 DWR has identified physical characteristics within the boundary of the Delta TCL that represent its
37 significance, including elements such as landforms, water and waterways, plant and animal species
38 habitats, important and sacred places, archaeological sites, and the interconnected nature of all of
39 these physical elements.

40 According to repeated statements documented in the consultation record, the cultural values that
41 comprise the significance of the landscape are still very recognizable and frequently experienced by
42 consulting Tribes, and thus the Delta landscape as it exists today is not only significant but retains

1 ample integrity to be able to convey that significance. Character-defining features of the Delta TCL
2 that represent and convey this significance, and that contribute to a finding of eligibility, and thereby
3 support this resource as a Tribal cultural resource, include:

- 4 • The ***Delta as a holistic place that is a Tribal homeland and place of origin***, used by people
5 past and present for sustenance, refuge, travel, ceremony, trade, and burial. The Delta is
6 characterized by its boundary, both modern and historical, and all of its important inter-related
7 and inter-dependent environmental and cultural elements, both mapped and unmapped
8 (typically due to cultural sensitivity rather than a lack of Tribal knowledge of such places).
- 9 • The ***waterways that are sacred***, that continue to live and to change, and that provide
10 sustenance and transportation for important historical people, deities, spirits and ancestors, and
11 fish and people. The Sacramento, San Joaquin, and Mokelumne rivers and tributaries within the
12 Delta are specific waterway features that contribute to the eligibility of the Delta TCL.
- 13 • The ***terrestrial and aquatic plant and animal species habitats that are part of the Delta's***
14 ***ecosystem and the heritage of Tribes*** pertaining to sustenance, traditional knowledge,
15 ceremony and spiritual practices, and stewardship. The terrestrial and aquatic habitats
16 (including estuaries and wetlands) of certain specified plants, animals, and fish are features that
17 contribute to the eligibility of the Delta TCL.
- 18 • The ***ethnohistorical locations that are sacred places and historically important***, both
19 mapped and unmapped. Locations of villages, ceremonies, paths and trails, and trade and
20 subsistence activities that are found in Tribal histories and historical documents are examples of
21 features that contribute to the eligibility of the Delta TCL.
- 22 • The ***archaeological sites*** that are sacred places, important historical places, cemeteries,
23 mounded landforms that were built above the floodplain, fishing places, gathering places, and
24 places of traditional knowledge. Archaeological sites CA-SAC-21, CA-SAC-59, CA-SJO-64, and CA-
25 SJO-65 (see Table 19-1 in Chapter 19 for more information on these sites) are examples of sites
26 in the Delta that have these characteristics and that contribute to the eligibility of the Delta TCL.
- 27 • The ***views and vistas of and from the Delta that are sacred and important to the heritage of***
28 ***Tribes***. For example, the view of Mount Diablo from the Delta is a specific vista feature that
29 contributes to the eligibility of the Delta TCL.

30 **California Register of Historical Resources Eligibility Finding**

31 DWR determined the Delta TCL is eligible for listing in the CRHR under Criterion 1 because of the
32 importance the Delta TCL holds for many consulting Tribes' heritage as a living and sacred
33 landscape, and because the Delta TCL retains sufficient historical integrity to convey that
34 importance. DWR further determined the Delta TCL is eligible for listing in the CRHR under Criterion
35 4 for the significance attributed by Tribes regarding its potential to yield, support, and develop
36 important Tribal knowledge including indigenous knowledge and Tribal Ecological Knowledge, and
37 because the Delta TCL retains sufficient historical integrity to convey that importance. At this time,
38 DWR has not determined that the Delta TCL is eligible under Criteria 2 or 3 related to the reasons
39 presented in Section 32.1.2.3, *California Register of Historical Resources Evaluation and Eligibility*
40 *Determinations*.

41 The evaluation's integrity assessment considers the context of many of the consulting Tribes' deep
42 histories in the Delta, the forced removal of Tribal peoples from the Delta, and the Tribal identities
43 and traditions that continue, and how these influence the integrity of setting, materials, design, and

1 workmanship. Integrity of location, feeling, and association are understood from the Tribal
2 perspective of recognized heritage and contemporary stewardship of the Delta TCL.

3 DWR acknowledges the numerous natural and cultural resources that are integral character-
4 defining features of the Delta TCL and that contribute to the landscape's eligibility for listing in the
5 CRHR under Criteria 1 and 4.

6 This is a living and sacred landscape, which is different than being a native or pristine landscape.
7 From a Western perspective, the current Delta is an amalgam of engineered islands that bear little
8 resemblance to the eighteenth or nineteenth century tidal marsh encountered by Spanish and
9 Anglo-American explorers. However, the consulting Tribes who recognize the Delta as a homeland
10 and place of origin have a perspective that begins much earlier and that continues through the time
11 of contact between the Tribes and Spanish or Anglo explorers, nineteenth century reclamation,
12 agricultural, residential, and commercial development, right up to the present day. While the
13 changes over the past 200 years have affected elements of the Delta that are important to Tribes, the
14 Delta is still culturally valuable to Tribes that have an ancestral connection to the Delta, including
15 many of the consulting Tribes. Many of the consulting Tribes expressed that they continue to
16 maintain a cultural (i.e., physical, ceremonial, or spiritual) connection to the Delta, especially when
17 this cultural connection is viewed in the context of thousands of years as an evolving connection.

18 **32.1.3.2 Individual Tribal Cultural Resources**

19 In addition to evaluating the Delta TCL for CRHR eligibility, DWR considered whether any of the
20 landscape's character-defining features, such as biological species habitats, waterways,
21 archaeological sites, built mound structures, trails, villages, ceremonial places, and cemeteries and
22 burials possess cultural value as an individual resource, separate from what they contribute to the
23 landscape. Thus, DWR established the following screening process for identifying which individual
24 landscape components warrant further CRHR evaluation as potential individual Tribal cultural
25 resources.

26 Evaluation of the CRHR eligibility of individual natural and cultural features and places involved a
27 three-step assessment of significance, known attributes, and integrity. In these steps, DWR has
28 reviewed its record of substantive information shared by Tribes or collected by DWR to describe the
29 natural and cultural resources with importance to Tribes affiliated with the study area.

30 **Significance**

31 In the first step, DWR assessed whether evidence, in the form of Tribal expert opinion shared
32 through consultation (including materials shared) or other information collected by DWR, that a
33 discrete resource has cultural value (*significance*) separate and apart from the holistic Delta
34 landscape (though it may also contribute to the landscape).

35 DWR's records contain information about natural and cultural features and places (e.g., biological
36 species habitats, waterways, archaeological sites, built mound structures, trails, villages, ceremonial
37 places, and cemeteries and burials) that occur within the culturally and spiritually important
38 landscape. DWR's records demonstrate that Tribes have knowledge of natural and cultural features
39 and places, and that these types of resources almost exclusively hold significance for Tribes when
40 considered holistically from the landscape perspective. DWR's records also demonstrate that Tribes
41 have preferences for the treatment of natural and cultural types of features and places (e.g.,
42 protection and restoration) that recognizes the importance of their inter-relatedness.

1 To put this another way, each time a discrete location was discussed in consultation, the record
2 shows that the consulting Tribe was describing the traditional, spiritual, ceremonial, historical, or
3 architectural qualities that are meaningful to the Tribe in the context of the Delta as a whole. For
4 example, in consultation Tribes described important plant and animal species habitats and
5 gathering areas that have cultural value to Tribes in relationship to the Delta waterways, trails, and
6 villages. Similarly, while conducting a site visit with Tribal representatives, a Tribe described the
7 location as an example of how an archaeological site exists because of its relationship with the
8 biological habitats, waterways, and aspects of the Delta landscape that brought people to the place
9 historically and traditionally. This evidence supports recognition of these places as contributors to
10 the Delta TCL. Because the significance described is not separate from the significance of the
11 landscape, these locations would not proceed past this step in the screening process.

12 **Attributes and Location**

13 In the second step, DWR assessed whether evidence, in the form of Tribal expert opinion shared
14 through consultation (including materials shared in consultation) or other information collected by
15 DWR, that a discrete resource that has demonstrated significance is described and mapped
16 sufficiently for CRHR evaluation.

17 The purpose of this step is to determine, if a resource has demonstrated significance apart from the
18 landscape, whether it is physically and/or geographically defined in a manner that meets the
19 requirements of the CRHR. In general, a resource location and constituents need to be described and
20 (in the case of many types of resources) a resource boundary needs to be established.

21 Where DWR assessed that a feature or place has significance to Tribes as an individual resource, and
22 that significance is not based primarily on a relationship to other types of landscape features, DWR
23 then considered the following types of information.

- 24 ● The date that mapping occurred and the purpose of such mapping.
- 25 ● Whether there are multiple mapped locations that may conflict with each other.
- 26 ● Information shared by Tribal experts during field visits.
- 27 ● Information shared by non-Tribal people during field visits (e.g., non-Tribal archaeologists or
28 biologists).

29 **Integrity**

30 In the third step, DWR assessed whether evidence, in the form of Tribal expert opinion shared
31 through consultation (including materials shared in consultation) or other information collected by
32 DWR, that a discrete resource has integrity of its characteristics to convey its cultural value
33 (significance) separate and apart from the holistic Delta landscape (though it may also contribute to
34 the landscape).

35 The purpose of this step is to determine, if a resource has demonstrated significance apart from the
36 landscape and its characteristics have been described, whether its characteristics have the ability to
37 convey the cultural value that has been attributed to it. In conducting a CRHR evaluation, a
38 resource's integrity is a measure of its ability to convey its significance under a CRHR criterion. The
39 evaluation of integrity must be grounded in an understanding of the resource's physical features and
40 how they relate to its significance. Integrity is specifically evaluated with regard to the retention of

1 location, design, setting, materials, workmanship, feeling, and association, and viewed through a
2 Tribal perspective.

3 In general, a resource's character-defining features must be present and in a condition that allows
4 those characteristics to reflect cultural values assessed under a CRHR criterion.

- 5 • The amount and nature of disturbance that may have occurred since the most recent description
6 of the resource was documented that pertain to integrity of location and setting.
- 7 • Field verification with Tribal experts to document qualities pertaining to integrity, including the
8 more intangible qualities (e.g., feeling, association) that have integrity to convey significance.
- 9 • More intensive physical investigations to assess the integrity of design, materials, and
10 workmanship (as applicable).

11 **California Register of Historical Resources Eligibility Finding**

12 DWR applied this screening process to all the natural and cultural features and places that were
13 evident in the project's Tribal cultural resources research and consultation record. Based on the
14 screening results, DWR concluded that none of the natural and cultural features and places located
15 in the project study area passed through all three screening steps. As such, DWR determined that,
16 while all of these features are considered to be important both individually and as part of the
17 landscape, the information in DWR's record at the time of the development of this Draft EIR did not
18 support a finding of CRHR eligibility for these features separate from the Delta TCL. However, as
19 described above in Section 32.1.3, *Tribal Cultural Resources in the Study Area*, DWR will continue to
20 consider information provided during ongoing consultation about resources of importance to
21 affiliated Tribes and reapply the three-step screening process, as appropriate, to evaluate whether
22 these resources may qualify for listing in the CRHR as individual resources. DWR recognizes that
23 Tribes may have additional information about resources' significance, location, and description to
24 share with DWR during ongoing consultation.

25 **32.2 Applicable Laws, Regulations, and Programs**

26 The applicable laws, regulations, and programs considered in the assessment of project impacts on
27 Tribal cultural resources are indicated in Section 32.3.1, *Methods for Analysis*, or the impact analysis,
28 as appropriate. Applicable laws, regulations and programs associated with state and federal
29 agencies that have a review or potential approval responsibility have also been considered in the
30 development CEQA impact thresholds or are otherwise considered in the assessment of
31 environmental impacts. A listing of some of the agencies and their respective potential review and
32 approval responsibilities, in addition to those under CEQA, is provided in Chapter 1, *Introduction*,
33 Table 1-1. A listing of some of the federal agencies and their respective potential review, approval,
34 and other responsibilities, in addition to those under NEPA, is provided in Chapter 1, Table 1-2.

35 **32.3 Environmental Impacts**

36 This section describes the environmental impacts associated with Tribal cultural resources that
37 would result from construction, operation, and maintenance of the project and associated
38 mitigation. It describes the methods used to determine the impacts of the project and lists the

1 thresholds used to conclude whether an impact would be significant. Where available, measures to
2 mitigate (i.e., avoid, minimize, rectify, reduce, eliminate, or compensate for) potentially significant
3 impacts are provided.

4 **32.3.1 Methods for Analysis**

5 This section describes the methods used to evaluate changes to Tribal cultural resources associated
6 with implementation of the project. These changes would be associated with construction,
7 operation, and maintenance of the project, and implementation of associated mitigation for
8 environmental impacts found to be significant and implementation of the Compensatory Mitigation
9 Plan (CMP) (Appendix 3F, *Compensatory Mitigation Plan for Special-Status Species and Aquatic*
10 *Resources*). The methods discussed in this section were used to assess the potential for project-
11 related changes in the physical environment to determine if the project would materially impair
12 character-defining features, as further described in Section 32.3.2, *Thresholds of Significance*.

13 **32.3.1.1 Impact Mechanisms for Tribal Cultural Resources**

14 This section presents the mechanisms by which the project construction, operations, and
15 maintenance activities could affect Tribal cultural resources. DWR defined the impact mechanisms
16 based, in part, on consideration of concerns raised by Tribes during consultation.

17 Impact mechanisms that are common to construction, operations, maintenance, and implementation
18 of mitigation, including but not limited to restoration related to the CMP (Appendix 3F), and involve
19 the following.

- 20 • Activities that materially impair character-defining features of a Tribal cultural resource by
21 disturbing, damaging, or destroying it. This may include activities such as ground disturbance
22 that physically displaces buried cultural materials, burials or grave goods, or habitats that
23 support important plant or animal species. This can also include activities that reduce the
24 abundance or distribution of culturally important species (terrestrial biological or aquatic) or
25 their habitats in such a way that affiliated Tribes' ability to perform ceremony associated with
26 the plant or animal species or gather the plant or animal for traditional medicinal or other uses
27 is materially impaired.
- 28 • Activities that physically alter character-defining features of a Tribal cultural resource in ways
29 that materially impair an affiliated Tribe's spiritual or ceremonial experience even if the
30 character-defining feature isn't destroyed or otherwise physically damaged. This may include
31 limiting access to the resource, changing a character-defining feature in a way that disassociates
32 the feature from its cultural meaning or introducing a barrier between features that are meant
33 to be experienced together.
- 34 • Activities that would be visible from character-defining features of a Tribal cultural resource
35 that introduce incongruent features to, or remove important visual cues from, the surrounding
36 setting in ways that interfere with the ability to understand or experience the full meaning of the
37 feature may materially impair the character-defining feature.

38 **32.3.1.2 Evaluation of Construction Activities**

39 Construction activities such as site preparation and the construction of new, permanent, facilities or
40 modifications to existing facilities may materially impair character-defining features of a Tribal

1 cultural resource. Potential effects were considered qualitatively based on consideration of
2 construction activities such as preconstruction field investigations, excavation (from minimal
3 grading to deep excavation), installation and removal of temporary structures, installation of
4 permanent structures, and operation of vehicles and equipment within and between construction
5 areas relative to their potential to diminish an affiliated Tribe's experience of character-defining
6 features of the Delta TCL. These considerations also apply to individually eligible Tribal cultural
7 resources that may be identified through ongoing consultation since they are likely to be features of
8 the Delta TCL that also have individual significance.

9 Construction of all structural components under the project could potentially occur over a period of
10 up to 14 years, although construction of individual components would occur on shorter time scales
11 (Chapter 3, *Description of the Proposed Project and Alternatives*). Construction activities common to
12 all project alternatives have a potential to result in permanent and temporary impacts on Tribal
13 cultural resources.

14 Construction activities that may materially impair character-defining features of the Delta TCL
15 include:

- 16 • In-water work: Construction of the north Delta intakes and Southern Complex or Bethany
17 Complex may materially impair the character-defining features of the Delta TCL by physically
18 altering rivers or other waterway in ways that materially impair an affiliated Tribe's physical,
19 spiritual, or ceremonial experience of the character-defining feature.
- 20 • Equipment operations: Construction activities may occur over a period of up to 14 years,
21 although construction of individual components would occur on shorter time scales (Chapter 3,
22 *Description of the Proposed Project and Alternatives*). During this time, there may be changes in
23 public access to some areas within the Delta; variations in traffic, lighting, and noise levels; and a
24 general appearance of disruption to the existing Delta landscape. Such activities may interfere
25 with a Tribe's ability to access character-defining features of the Delta TCL or otherwise
26 interfere with their ability to spiritually or ceremonially experience such features.
- 27 • Ground-disturbing activities: Landside construction of intake facilities, tunnel shafts, levees,
28 roadways, the Southern Complex or Bethany Complex (depending on alternative), and various
29 supporting infrastructure, field investigations, and post-construction reclamation efforts would
30 involve ground-disturbing activities that may limit a Tribe's ability to physically experience
31 character-defining features by physically damaging or destroying them during construction.
- 32 • Tunneling: The tunnel would be constructed at a depth that exceeds the potential location of
33 prior human habitation and does not have the potential to destroy or otherwise physically
34 damage character-defining features of the Delta TCL. Geoarchaeological analysis indicates that
35 deeply buried landforms and surfaces representing the earliest human habitation or activities
36 are widespread across the study area and may extend to a depth of up to 68 feet below mean sea
37 level in some areas (ICF 2021). The tunnel would be more than 30 feet below these landforms,
38 as the bottom elevations of the 26- to 40-foot-diameter tunnel would range from -143 feet
39 to -164 feet. However, consulting Tribes have indicated that the existence of the tunnel may
40 alter a Tribe's spiritual experience of ethnohistorical or archaeological sites at the surface above
41 the tunnel, since the spiritual qualities of such sites extend vertically indefinitely both up and
42 down into the earth.
- 43 • Construction of permanent structures or infrastructure: Introduction of new aboveground
44 facilities, such as the north Delta intakes, Twin Cities Complex, tunnel shafts, and Southern

1 Complex or Bethany Complex may materially impair a Tribe's ability to physically, spiritually, or
2 ceremonially experience character-defining features by introducing new facilities that impede
3 access, degrade or obstruct views, or otherwise interfere with Tribal spiritual or ceremonial
4 experiences of such features. Changes to views or viewsheds that are a character-defining
5 features were considered qualitatively based on extrapolation from the aesthetics and visual
6 analysis for the project (Chapter 18, *Aesthetics and Visual Resources*).

7 Construction activities with no potential to materially impair character-defining features of the
8 Delta TCL or other Tribal cultural resources include:

- 9 • Dust or haze generated by construction activities: Construction of the proposed project or
10 project alternatives would generate emissions of criteria pollutants and precursors, including
11 particulate matter (PM), nitrogen oxides (NO_x), and sulfur dioxide (SO₂). At certain
12 concentrations and under certain atmospheric conditions, PM pollution can decrease visibility
13 by absorbing and scattering light. This may obstruct or alter the appearance of a viewed
14 background, such as a landscape feature or the sky. Atmospheric particles containing nitrogen
15 or sulfur can also contribute to declining clarity, color, and visual range. PM pollution can travel
16 many miles from the emissions source and for this reason, impaired visibility from PM pollution
17 is often referred to as *regional haze* (California Air Resources Board 2022). Chapter 23, *Air*
18 *Quality and Greenhouse Gases*, summarizes estimated construction emissions that would be
19 generated by the proposed project. The project will minimize emissions of PM through
20 implementation of a dust control plan (EC-11: *Fugitive Dust Control*) and best management
21 practices at onsite concrete batch plants (EC-12: *On-Site Concrete Batching Plants*). Exhaust-
22 related pollutants, including PM, NO_x, and SO₂, will likewise be minimized through use of newer
23 model year haul trucks, prioritization of electric-powered engines, and use of advanced off-road,
24 locomotive, and marine engines, as required by Environmental Commitments EC-7 (*Off-Road*
25 *Heavy-Duty Engines*), EC-8 (*On-Road Haul Trucks*), EC-9 (*On-Site Locomotives*), EC-10 (*Marine*
26 *Vessels*), and EC-13 (*DWR Best Management Practices to Reduce GHG Emissions*). The project
27 would also comply with local air district rules to control emissions, including in the San Joaquin
28 Valley, Rule 4101. Rule 4101 expressly prohibits the emissions of visible air contaminants to the
29 atmosphere. Collectively, implementation of environmental commitments and compliance with
30 air district rules will minimize air quality impacts and the potential of the proposed project or
31 project alternatives to contribute to regional haze. DWR would further implement mitigation
32 measures to offset emissions of NO_x and PM. Specifically, Mitigation Measures AQ-1, AQ-2, and
33 AQ-3 would mitigate NO_x and PM emissions, as applicable, to net zero or below air quality
34 thresholds recommended by the regional air quality management districts. With
35 implementation of these measures, neither the proposed project nor project alternatives would
36 contribute a significant level of air pollution such that regional air quality within the San
37 Francisco Bay Area, San Joaquin Valley, or Sacramento Valley would be degraded. Accordingly,
38 emissions generated by construction of the proposed project or project alternatives would not
39 materially degrade visibility or cumulatively contribute to regional haze.

40 **32.3.1.3 Evaluation of Operations and Maintenance**

41 **Operations**

42 Operational activities related to diversion of water from the Sacramento River and the use of
43 facilities that support water diversion may materially impair character-defining features of the Delta
44 TCL. The operational activities related to diversion of water from the Sacramento River and the use

1 of facilities that support water diversion and their effects on character-defining features were
2 evaluated based on extrapolation from other resource chapters. The operational activities that may
3 materially impair a character-defining feature include:

- 4 • Water diversion: Water diversion from the Sacramento River at the new north Delta intakes
5 may materially impair the waterways or terrestrial and aquatic plant and animal species habitat
6 character-defining features. Potential effects on character-defining features were considered
7 qualitatively for changing surface waterbodies (Chapter 5, *Surface Water*), water quality
8 (Chapter 9, *Water Quality*), and plant or animal habitats that support species (Chapter 12, *Fish*
9 *and Aquatic Resources*, and Chapter 13, *Terrestrial Biological Resources*).

10 Maintenance

11 The general activities involved in maintenance of intake facilities, tunnel shaft locations, and either
12 the Southern Complex or Bethany Complex would require activities that have the potential to
13 materially impair the spiritual or ceremonial qualities of the Delta TCL, if any character-defining
14 features are present in proximity to these facilities. A full description of maintenance activities
15 including equipment use, duration, and frequency of activity is provided in Appendix 23B, *Air*
16 *Quality and GHG Analysis Activity Data*. Maintenance activities could also result in periodic
17 disturbances that materially impair natural communities and habitats, or plants and wildlife that are
18 character-defining features of the Delta TCL. A more comprehensive discussion of potential impacts
19 of maintenance on habitats and species can be found in Chapter 13.

20 The general activities involved in maintenance of intake facilities, tunnel shaft locations, and either
21 the Southern Complex or Bethany Complex would require similar activities to those addressed
22 under construction, but to a lesser degree, and would be in locations already affected by
23 construction. However, because these activities would occur at a different time than construction
24 activities, the maintenance of aboveground water conveyance facilities for all project alternatives
25 could affect character-defining features of the Delta TCL. For example, these activities include annual
26 dredging at sedimentation basin and drying lagoons, dewatering, repaving, use of overhead cranes
27 at permanent facilities, vegetation removal at facilities, and tunnel inspection and repairs.

28 32.3.2 Thresholds of Significance

29 The threshold of significance used to evaluate a project's impacts on Tribal cultural resources is not
30 well defined by CEQA. While CEQA defines a significant impact on a Tribal cultural resource as a
31 "substantial adverse change in the significance of the Tribal cultural resource" (Pub. Resources Code
32 § 21084.2), the meaning of a substantial adverse change in the significance of a Tribal cultural
33 resource is not defined further by the CEQA Guidelines. However, CEQA uses a similar definition for
34 evaluating potential environmental impacts on historical resources: "a project that may cause a
35 substantial adverse change in the significance of an historical resource is a project that may have a
36 significant effect on the environment" (Pub. Resources Code § 21084.1). Section 15064.5 of the
37 CEQA Guidelines goes on to explain that a substantial adverse change in the significance of an
38 historical resource means the physical demolition, destruction, relocation, or alteration of the
39 resource or its immediate surroundings such that the significance of an historical resource would be
40 "materially impaired." The CEQA Guidelines further recognize that a historical resource may be
41 materially impaired if it is altered in a manner that adversely affects the physical characteristics that
42 convey its historical significance and that justify its eligibility for inclusion in the CRHR or its
43 inclusion in a local register of historical resources. *Materially impaired*, as commonly understood

1 and applied in this context, means a project would result in a change to the resource that goes
2 beyond a nominal change and results in a change to the characteristics of the resource such that the
3 historical resource no longer conveys is historical significance, or a change in an intrinsic
4 characteristic that makes it eligible for listing under the CRHR.

5 Tribal cultural resources have unique cultural value to Tribes, and a Tribal sense of integrity that
6 may make a resource eligible for listing in the CRHR. Although Tribal cultural resources are distinct
7 from historical resources, CEQA guidance on how a project may materially impair a historical
8 resource, and therefore result in a significant impact, is instructive for evaluating whether the
9 project would have a potentially significant impact on Tribal cultural resources.

10 A substantial adverse change to the significance of a Tribal cultural resource would occur if the
11 project would materially impair character-defining features that qualify the resource for listing in
12 the CRHR; character-defining features would be materially impaired if the project substantially
13 limits or eliminates an affiliated Tribe's ability to spiritually, physically, or ceremonially experience
14 those features.

15 As discussed above in Section 32.1.3.1, *Sacramento-San Joaquin Delta Tribal Cultural Landscape*, the
16 Delta has changed substantially since European contact. DWR is evaluating the project's potential
17 impacts to this resource based on the of nature of character-defining features of the Delta TCL as
18 they existed when DWR issued the NOP (i.e., the baseline conditions). Based on the conditions that
19 existed when the NOP was issued, DWR determined the cultural values that comprise the
20 significance of the cultural landscape are still recognizable and frequently experienced by consulting
21 Tribes. As discussed above, this analysis does not compare the project's potential changes to
22 conditions that may have existed at some time in the past.

23 **32.3.3 Impacts and Mitigation Approaches**

24 This section analyzes impacts that would result from the No Project Alternative and the nine project
25 alternatives. DWR continues to consult with Tribes about feasible impact avoidance, minimization,
26 and mitigation for the potential impacts on the Delta TCL.

27 **32.3.3.1 No Project Alternative**

28 As described in Chapter 3, *Description of the Proposed Project and Alternatives*, CEQA Guidelines
29 Section 15126.6 directs that an EIR evaluate a specific alternative of "no project" along with its
30 impact. The No Project Alternative in this Draft EIR represents the circumstances under which the
31 project (or project alternative) does not proceed and considers predictable actions, such as projects,
32 plans, and programs, that are predicted to occur in the foreseeable future if the Delta Conveyance
33 Project is not constructed and operated. The description of the environmental conditions under the
34 No Project Alternative first considers how Tribal cultural resources located in the project study area
35 could change over time and then discusses how other predictable actions could affect Tribal cultural
36 resources that may be located in the geography where those projects would occur.

37 **Future Tribal Cultural Resources Conditions**

38 The future conditions affecting Tribal cultural resources in the Delta are not anticipated to
39 substantially change compared to existing conditions under the no project scenario. The
40 development trends and natural processes that currently affect the Tribal cultural resources in the

1 Delta would continue with no known potential for substantial increases in the scale or severity of
2 those effects.

3 Impacts on the rivers or waterways that are character-defining features of the Delta TCL may occur
4 under the No Project Alternative as the result of changes in upstream hydrologic conditions, sea
5 level rise, and continued seismic risk to Delta levees. Also, changes in the quality of Delta water may
6 occur as a result of sea level rise and upstream hydrologic conditions as a result of climate
7 change. Changes in water quality have the potential to reduce or eliminate character-defining
8 aquatic habitat that support species or the conditions necessary for certain Tribal ceremonies along
9 the rivers. In addition, immediate, and potentially long-term, changes have the potential to occur
10 under the No Project Alternative because of seismic events, levee failure, and the inundation of Delta
11 lands. Such changes could physically alter multiple natural systems in the Delta landscape, and
12 therefore could diminish Tribe's experience of character-defining features of the Delta TCL.

13 **Predictable Actions by Others**

14 A list and description of actions included as part of the No Project Alternative are provided in
15 Appendix 3C, *Defining Existing Conditions, No Project Alternative, and Cumulative Impact Conditions*.
16 As described in Chapter 4, *Framework for the Environmental Analysis*, the No Project Alternative
17 analyses focus on identifying the additional water-supply related actions public water agencies may
18 opt to follow if the Delta Conveyance Project does not occur.

19 Public water agencies participating in this project have been grouped into four geographic regions.
20 The water agencies within each geographic region would likely pursue a similar suite of water
21 supply reliability projects under the No Project Alternative (Appendix 3C).

22 These water supply reliability projects would occur outside of the project study area, and therefore,
23 DWR does not know whether Tribal cultural resources would be present or the nature of the
24 potential Tribal cultural resources that could be affected by water supply projects outside the study
25 area under the No Project Alternative. Tribal cultural resources are uniquely related to the
26 geography in which they exist and the Tribe(s) with which they are affiliated. DWR cannot foresee
27 the types of resources that may be present, and as a result, any analysis would be speculative. As
28 part of planning and environmental reviews for such projects, each water agency would follow its
29 own policies for complying with state laws related to Tribal consultation and the identification of
30 Tribal cultural resources.

31 Construction of water supply reliability projects would result in ground-disturbing activities that
32 could impact Tribal cultural resources. Table 32-1 provides a general summary of the potential
33 impacts from the likely projects under the No Project Alternative.

1 **Table 32-1. Effects on Tribal Cultural Resources from the Plans, Policies, and Programs for the No**
 2 **Project Alternative**

Project Type	Regions	Potential Construction Effects on Tribal Cultural Resources	Potential Operational and Maintenance Effects on Tribal Cultural Resources
Increased/accelerated desalination	Northern Coastal, Southern Coastal	Impacts related to ground disturbance that destroy or damage character-defining features or that cause changes in setting that impair an affiliated Tribe's ability to spiritually or ceremonially experience character-defining features of a Tribal cultural resource.	Potential to materially impair character-defining features by changing the setting in a manner that materially impairs an affiliated Tribe's ability to spiritually or ceremonially experience character-defining features.
Water recycling	Northern Coastal, Northern Inland, Southern Coastal, Southern Inland	Impacts related to ground disturbance that destroy or damage character-defining features or that cause changes in setting that impair an affiliated Tribe's ability to spiritually or ceremonially experience character-defining features of a Tribal cultural resource.	Potential to materially impair character-defining features by changing the setting in a manner that materially impairs an affiliated Tribe's ability to spiritually or ceremonially experience character-defining features.
Groundwater management	Northern Coastal, Southern Coastal	Impacts related to ground disturbance that destroy or damage character-defining features or that cause changes in setting that impair an affiliated Tribe's ability to spiritually or ceremonially experience character-defining features of a Tribal cultural resource.	Potential to materially impair character-defining features by changing the setting in a manner that materially impairs an affiliated Tribe's ability to spiritually or ceremonially experience character-defining features.
Groundwater recovery (brackish water desalination)	Northern Inland, Southern Coastal, Southern Inland	Impacts related to ground disturbance that destroy or damage character-defining features or that cause changes in setting that impair an affiliated Tribe's ability to spiritually or ceremonially experience character-defining features of a Tribal cultural resource.	Potential to materially impair character-defining features by changing the setting in a manner that materially impairs an affiliated Tribe's ability to spiritually or ceremonially experience character-defining features.
Water use efficiency measures	Northern Coastal, Northern Inland, Southern Coastal, Southern Inland	No impacts anticipated.	No impacts anticipated.

3

1 Desalination projects would most likely be pursued in the northern and southern coastal regions.
2 The southern coastal regions would likely require larger and more desalination projects than the
3 northern coastal region to replace the water yield that otherwise would have been received through
4 the Delta Conveyance Project as well as other contributing factors, such as differences in local
5 hydrology and climate. These projects would be sited near the coast and could involve disturbance
6 of natural communities and agricultural lands that provide habitat for species that may have cultural
7 value to Tribes or ground-disturbance that could damage physical qualities of archaeological
8 resources or spiritual and ceremonial qualities of ethnohistorical locations. Groundwater recovery
9 (i.e., brackish water desalination) would involve similar types of ground disturbance but could occur
10 across the northern inland, southern coastal, southern inland regions and in both coastal and inland
11 areas, such as the San Joaquin Valley. Grading and excavation at the desalination and groundwater
12 recovery plant sites would be necessary for construction of foundations, and trenching would occur
13 for installation of water delivery pipelines and utilities, which could impact various types of
14 potential Tribal cultural resources or their character-defining features and result in direct impacts
15 by materially impairing an affiliated Tribe's ability to physically, spiritually, or ceremonially
16 experience those resources.

17 The northern and southern coastal regions are also most likely to explore constructing groundwater
18 management projects. The southern coastal region would likely require more projects than the
19 northern coastal region under the No Project Alternative. Groundwater management projects would
20 occur in association with an underlying aquifer but could occur in a variety of locations.
21 Construction activities for each project could require excavation for the construction of the recharge
22 basins, conveyance canals, and pipelines and drilling for the construction of recovery wells (with
23 completion intervals between approximately 200 and 900 feet below ground surface). Construction
24 activities would include site clearing; excavation and backfill; and construction of basins,
25 conveyance canals, pipelines, pump stations, and the turnout. Grading activities associated with the
26 construction of recharge basins would involve earthmoving, excavation, and grading. Canals and
27 pipelines would likely be constructed using typical open trench construction methods. In some cases
28 where siphons would be installed, jack and bore methods could be used to tunnel under and avoid
29 disruption of surface features. These activities would potentially result in the disturbance of various
30 types of Tribal cultural resources or materially impair their character-defining features.

31 Water recycling projects could be pursued in all four regions. The northern inland region would
32 require the fewest number of wastewater treatment/water reclamation plants, followed by the
33 northern coastal region, and then by the southern coastal region. The southern inland region would
34 require the greatest number of water recycling projects to replace the anticipated water yield that it
35 otherwise would have received through the Delta Conveyance Project. These projects would be
36 located near water treatment facilities. Construction techniques for water recycling projects would
37 vary depending on the type of project (e.g., for landscape irrigation, groundwater recharge, dust
38 control, industrial processes) but could require earthmoving activities, grading, excavation, and
39 trenching. Because construction would involve ground-disturbing activities that could result in the
40 disturbance of landscape features, natural communities, archaeological resources, or ethnohistorical
41 locations that may have cultural value to Tribes, this could materially impair an affiliated Tribe's
42 ability to physically, spiritually, or ceremonially experience those resources. In the southern inland
43 region where a greater number of projects would be needed as a substitute for the Delta Conveyance
44 Project, the potential for impact would also be greatly increased.

45 Water efficiency projects could be pursued in all four regions and involve a wide variety of project
46 types, such as flow measurement or automation in a local water delivery system, lining of canals, use

1 of buried perforated pipes to water fields, and additional detection and repair of commercial and
 2 residential leaking pipes. These projects could occur anywhere in the regions and most would
 3 involve little ground disturbance or would occur in previously disturbed areas.

4 As detailed above, all project types across all regions would involve relatively typical construction
 5 techniques and would be required to comply with CEQA, and would therefore also include
 6 mitigation measures such as Tribal monitoring, implementing avoidance and minimization
 7 measures for known resources, and development of resource-specific treatment plans, which would
 8 reduce the potential impacts on Tribal cultural resources.

9 **32.3.3.2 Impacts of the Project Alternatives on Tribal Cultural Resources**

10 **Impact TCR-1: Impacts on the Delta Tribal Cultural Landscape Tribal Cultural Resource**
 11 **Resulting from Construction, Operations, and Maintenance of the Project Alternatives**

12 Construction, operations, and maintenance activities have the potential to cause a significant impact
 13 on the Delta TCL by materially impairing an affiliated Tribes’ ability to physically, spiritually, or
 14 ceremonially experience character-defining features of the Delta TCL. To understand how the
 15 project alternatives may affect the Delta TCL, the construction and operations activities are analyzed
 16 for their potential to materially impair the Delta TCL’s character-defining features.

17 Table 32-2 describes the input DWR received from consulting Tribes about the importance of the
 18 Delta and how project activities (including construction, operations, maintenance, and mitigation)
 19 have the potential to affect Tribal cultural resources. As mentioned above, DWR utilized input from
 20 the Tribes to evaluate the potential impacts of the project on the Delta TCL.

21 **Table 32-2. Tribal Views on Delta TCL Character-Defining Features⁴**

Delta TCL Character-Defining Feature	Tribal Views on Character-Defining Features
The <i>Delta as a holistic place that is a Tribal homeland and place of origin</i> , used by people past and present for sustenance, refuge, travel, ceremony, trade, and burial.	<ul style="list-style-type: none"> • Consulting Tribes have indicated that the Delta is part of culturally affiliated Tribal creation stories and oral histories, and that the landscape is a connected system of important sites and resources. • Consulting Tribes have expressed that the Delta TCL is a continual social construction and that Tribes have the longest time depth of placemaking and placeshaping in this region. Consulting Tribes have stated that, although the Delta’s landscape has been changed, its significance as a living landscape remains. • Consulting Tribes indicated that all ground disturbance involved in construction has the potential to physically disturb, damage, or destroy character-defining features of the Delta TCL.
The <i>waterways that are sacred</i> , that continue to live and to change, and that provide sustenance and transportation	<ul style="list-style-type: none"> • Consulting Tribes have indicated the spiritual and ceremonial importance of waterways for Tribal

⁴ This table provides Tribal views that DWR heard during consultation, but does not disclose confidential details. The table includes perspectives on the significance of the Delta and concerns about the project’s potential impacts. DWR recognizes that this table is incapable of representing the full breadth of Tribal views, and that not all consulting Tribes hold the same views.

Delta TCL Character-Defining Feature	Tribal Views on Character-Defining Features
<p>for important historical people, deities, spirits and ancestors, and fish and people.</p>	<p>traditions and practices, including the passageway for fish species and ancestral travel routes.</p> <ul style="list-style-type: none"> • Consulting Tribes expressed concerns that diversion of water at the north Delta intakes could disrupt these travel routes and undermine Tribal stewardship efforts aimed at protecting and restoring the spiritual qualities of the Delta that declined due to modern development activities. • Consulting Tribes expressed concerns related to water quality issues in the Delta.
<p>The <i>terrestrial and aquatic plant and animal species habitats that are part of the Delta’s ecosystem and the heritage of Tribes</i> pertaining to sustenance, traditional knowledge, ceremony and spiritual practices, and stewardship.</p>	<ul style="list-style-type: none"> • Consulting Tribes have indicated that various terrestrial and aquatic plant and animal species are gathered, hunted, or fished, and are utilized for many traditional purposes which include ceremony, medicine, food, clothing and regalia, tool-making, recreation and music, and basketry. • Consulting Tribes expressed concerns related to terrestrial and aquatic species and habitats in the Delta.
<p>The <i>ethnohistorical locations that are sacred places and historically important</i>, both mapped and unmapped. Locations of villages, ceremonies, paths and trails, and trade and subsistence activities that are found in Tribal histories and historical documents are examples of features that contribute to the eligibility of the Delta TCL.</p>	<ul style="list-style-type: none"> • Consulting Tribes have indicated that ethnohistorical locations are part of Tribal oral histories and are associated with past and current ceremonies, spirituality, and Tribal ancestors. • Consulting Tribes have expressed that their ability to experience the spiritual or ceremonial qualities of ethnohistorical sites would be affected wherever the tunnel construction (tunneling) underlies the site because they would be disturbed by the awareness that tunneling is occurring under these sacred places and sites. Such locations would continue to be disturbed during operations due to the awareness that the water flowing through the tunnels had been diverted from the rivers. • Consulting Tribes expressed concerns related to potential physical and spiritual impacts on ethnohistorical locations.
<p>The <i>archaeological sites</i> that are sacred places, important historical places, cemeteries, mounded landforms that were built above the floodplain, fishing places, gathering places, and places of traditional knowledge.</p>	<ul style="list-style-type: none"> • Consulting Tribes have indicated that archaeological sites are part of Tribal oral histories and are associated with past and current ceremonies, spirituality, and Tribal ancestors. • Consulting Tribes expressed concerns related to potential physical and spiritual impacts on archaeological sites.
<p>The <i>views and vistas of and from the Delta that are sacred and important to the heritage of Tribes</i>.</p>	<ul style="list-style-type: none"> • Consulting Tribes have indicated that viewsheds are important as part of the holistic and spiritual feeling of the landscape that is an essential part of past and current ceremonial practice., • Consulting Tribes have expressed that obstructions to sacred viewsheds interfere with their spiritual connection or ceremonies in which the viewsheds are important.

1 ***All Project Alternatives***

2 All project alternatives would involve construction and operations activities with the potential to
3 result in both temporary and permanent impacts that would materially impair character-defining
4 features of the Delta TCL. Each of the character-defining features would be materially impaired to
5 some degree, and these impacts would occur across a large area of the Delta TCL. The following
6 project activities have the potential to contribute to the overall impact on the Delta TCL:

- 7 • In-water work
- 8 • Equipment operations
- 9 • Ground-disturbing activities
- 10 • Construction of permanent structures or infrastructure

11 ***Construction***

12 Construction of the project would result in temporary impacts as a result of in-water work, landside
13 work, and equipment operations as well as permanent impacts as a result of ground-disturbing
14 activities and construction of permanent structures or infrastructure. Project activities would
15 materially impair each of the character-defining features to some degree, with specific examples
16 described below. Each location where this would occur has the potential to contribute to a
17 substantial adverse change to the significance of the Delta TCL Tribal cultural resource. Project
18 commitments to provide cultural resources awareness training to all construction personnel (EC-6)
19 would help reduce inadvertent effects and generally support the effectiveness of other commitments
20 or mitigation measures, but would not ensure complete avoidance of construction-related effects.

21 ***Delta as a Holistic Place***

- 22 • In general, consulting Tribes have expressed that one of the ways that they experience the
23 spiritual significance of the Delta TCL is through their stewardship efforts to preserve, restore,
24 and maintain the ongoing health of the Delta TCL. Tribes have ongoing programs and activities
25 focused on stewardship of the Delta that seek to spiritually restore a place that has been heavily
26 modified over the past 200 years. Introduction of the project could impede those efforts and
27 would weigh heavily on the Tribes and thus limit their ability to spiritually experience the place
28 of origin character-defining feature. The magnitude of the project construction may affect the
29 Tribes' stewardship efforts for the Delta TCL, even those that are routinely practiced in spite of
30 not having access.
- 31 • Introducing aboveground project features at the north Delta intakes, Twin Cities Complex,
32 maintenance, reception, and launch shaft locations, Southern Complex or Bethany Complex
33 (depending on the alternative selected), and RTM stockpiles could affect ongoing Tribal
34 stewardship and associated ceremonies aimed at protecting and restoring the spiritual qualities
35 of the Delta that are performed at publicly accessible lands, if such facilities are in the viewshed
36 of those ceremony locations.
- 37 • Construction of up to seven (depending on the alternative) tunnel shafts, intake shafts, the Twin
38 Cities Complex, and the Southern Complex or Bethany Complex would create a series of artificial
39 cavities in the landscape. This would materially impair an affiliated Tribe's ability to physically,
40 spiritually, or ceremonially experience the landscape feature of the Delta as a holistic place
41 because the shafts would be regularly spaced, deeply excavated holes in the landscape.

- 1 • In addition to construction of the north Delta intakes, which would modify levees on the
2 Sacramento River, levee improvements are proposed for Bouldin Island (for the central
3 alignment alternatives) and Lower Roberts Island (for the eastern and Bethany Reservoir
4 alignment alternatives). There is potential for the existing Delta levees to contain Tribal
5 ancestral remains and associated burial items, or other materials if that levee location originally
6 incorporated a mound or village site.

7 Waterways

- 8 • Construction activities may affect Tribes' ability to perform ceremonies that are part of ongoing
9 cultural traditions.
- 10 • Construction activities themselves could materially impair an affiliated Tribe's ability to
11 physically access portions of the Delta TCL used for ceremony, and construction noise may
12 materially impair the performance of ceremonies on-site, such as the annual Run4Salmon
13 ceremonies that takes place along the entire length of the Sacramento River and could be
14 temporarily disrupted during construction of the north Delta intakes, as the route passes the
15 intake locations. The project would include commitments to modify construction activities
16 during certain festivals by working with event organizers to understand how such activities
17 would disrupt the festival and identify ways to offset such disruptions to the extent feasible (see
18 Environmental Commitment EC-18: *Minimize Construction-Related Disturbances to Delta*
19 *Community Events and Festivals*).

20 Terrestrial and Aquatic Plant and Animal Species Habitats

- 21 • Construction activities could affect Tribes' ability to access habitats that related to sustenance,
22 traditional knowledge, ceremony and spiritual practices, or stewardship practices.
- 23 • Construction of the intakes could result in permanent and temporary impacts on fish
24 populations and loss of aquatic habitat. This would include impacts on tidal perennial habitat
25 and channel margin habitat in the Sacramento River. These effects are related to water quality
26 issues caused by temporary increases in turbidity; underwater noise resulting from
27 construction, including pile driving; fish stranding due to cofferdam construction; and predation.
28 Mitigation measures proposed in Chapter 12 would reduce these impacts to a less-than-
29 significant level for all the species of fish.
- 30 • Constructing the water conveyance facilities would impact areas of natural communities,
31 occurrences and habitat for special-status plants and wildlife species, and aquatic resources in
32 the study area. Implementation of the Compensatory Mitigation Plan (CMP) (Appendix 3F)
33 would compensate for the loss of natural communities, habitats for species, and aquatic
34 resources. The CMP together with other mitigation measures and environmental commitments
35 to avoid and minimize effects on terrestrial biological resources would reduce impacts for all
36 alternatives to less than significant.

37 Ethnohistorical Locations

- 38 • Any project-related ground disturbance where ethnohistorical locations are present has the
39 potential to damage or destroy portions of those sites. For some of the ethnohistorical or
40 archaeological sites, the mapped location may be unreliable, as many of them were originally
41 mapped in the early twentieth century using methods that were not as precise as current
42 technologies. It is possible that cultural materials related to a known ethnohistorical or

- 1 archaeological site may extend well beyond the mapped boundary, resulting in project-related
2 ground disturbance damage to such sites.
- 3 ● In addition to construction of the north Delta intakes, which would modify levees on the
4 Sacramento River, numerous levee improvements are proposed for Bouldin Island for the
5 central alignment alternatives (Alternatives 1, 2a, 2b, and 2c) and Lower Roberts Island for the
6 eastern and Bethany Reservoir alignment alternatives (Alternatives 3, 4a, 4b, 4c, and 5). There is
7 potential for the existing Delta levees to contain Tribal ancestral remains and associated burial
8 items, or other materials if that levee location originally incorporated a mound or village site.
9 Such remains could be disturbed or damaged during construction activities.
 - 10 ● Similar to the nature of such impacts discussed for Waterways, construction activities may affect
11 Tribes' ability to perform ceremonies at certain locations, which could include locations of
12 ethnohistorical importance within the Delta TCL. In addition to the potential to limit physical
13 access to such locations, construction activities could interfere with the spiritual experience. For
14 example, construction of the tunnels beneath ethnohistorical locations could disrupt the
15 spiritual or ceremonial experience of that location because the spiritual relationship extends
16 deep into the earth and high into the sky, and the tunneling activity and the void created by the
17 tunnel would be spiritually perceived by Tribes as a desecration of the sacred place.

18 Archaeological Sites

- 19 ● Similar to the nature of such impacts discussed for Ethnohistorical Locations, project-related
20 ground disturbance where archaeological sites are present has the potential to damage or
21 destroy portions of those sites. The project includes Environmental Commitment EC-6: *Conduct*
22 *Cultural Resources Awareness Training*, which would help minimize damage by educating all
23 construction personnel on cultural resources sensitivity in the project footprint, cultural
24 resources that could be encountered during work, and best practices for addressing
25 unanticipated finds. Mitigation measures proposed in Chapter 19, *Cultural Resources*, would
26 reduce these impacts for archaeological resources by conducting pre-construction surveys to
27 accurately map the boundaries and develop site-specific plans to avoid or reduce physical
28 impacts to the site, or treat it appropriately if it cannot be avoided.
- 29 ● Also similar to the nature so such impacts discussed for *Ethnohistorical Locations*, Tribes could
30 also be affected by tunnel construction (tunneling) that underlies archaeological sites because
31 they would be disturbed by the awareness that tunneling is occurring under these sacred sites.

32 Views and Vistas of and from the Delta

- 33 ● Once constructed, the aboveground facilities have the potential to degrade existing vistas and
34 generally interfere with the setting of character-defining features of the Delta TCL through the
35 introduction of visual barriers that impede important views or vistas. For example, a person
36 standing at an ethnohistorical location, archaeological site, or area of habitat may typically be
37 able to see Mount Diablo, the Sierras, or other spiritually important natural landmarks.
38 Introduction of aboveground project features such as the intakes, the Twin Cities Complex, or
39 any of the shaft locations may introduce these modern facilities in between the viewer and the
40 character-defining view, resulting in a diminished visual experience that could impair an
41 affiliated Tribe's ability to spiritually or ceremonially experience those character-defining
42 features.

1 **Operations**

2 The analysis considers whether the operation of project facilities has the potential to cause
3 permanent impacts on character-defining features of the Delta TCL, which would occur if operations
4 materially impair an affiliated Tribe's ability to physically, spiritually, or ceremonially experience
5 those features. However, analysis of other resources in the Draft EIR (such as water quality and
6 fisheries), including consideration of proposed mitigation where applicable, has found that the
7 operational changes, including surface water flow changes from project operations, will not cause
8 substantial changes to character-defining features. Examples include: Terrestrial and Aquatic Plant
9 and Animal Species Habitats

- 10 • Operations activities could reduce or impair aquatic habitats that are important to Tribal
11 sustenance, traditional knowledge, ceremony and spiritual practices, or stewardship practices.
- 12 • Changes in river flows (such as reduced river flows downstream of the north Delta intakes)
13 could affect the survival rates of various fish species (e.g., winter-run juvenile Chinook salmon)
14 by potentially increasing their travel times and potentially increasing their exposure to
15 predators. However, as described in Chapter 12, mitigation has been proposed to offset these
16 potential effects (CMP-25: *Tidal Habitat Restoration to Mitigate North Delta Hydrodynamic*
17 *Effects on Chinook Salmon Juveniles* and CMP-26: *Channel Margin Habitat Restoration for*
18 *Operations Impacts on Chinook Salmon Juveniles*) by reducing negative hydrodynamic effects
19 such as increased flow reversals in the Sacramento River at Georgiana Slough (CMP-25) and
20 reducing effects from decreased inundation of riparian/wetland benches as a result of north
21 Delta intakes operations (CMP-26). Descriptions of CMP-25 and CMP-26 are available in Table
22 3F.1-3 Attachment 3F.1, *Compensatory Mitigation Design Guidelines*.
- 23 • Changes in Delta outflow could also affect (though with uncertainty) habitat conditions for
24 various fish species (e.g., delta smelt). However, these potential changes are within the existing
25 parameters of current regulations (e.g., State Water Resources Control Board Water Right
26 Decision 1641; federal and state water project permits). As described in Chapter 12, tidal habitat
27 restoration under CMP-27: *Tidal Habitat Restoration for Operations Impacts on Delta Smelt*
28 would mitigate these potential impacts by increasing the extent of suitable intertidal and
29 subtidal habitat with appropriate parameters (e.g., turbidity) providing habitat for occupancy or
30 higher food availability in the vicinity. A description of CMP-27 is available in Table 3F.1-3 in
31 Attachment 3F.1. Overall, the proposed mitigation included in Chapter 12 would reduce
32 potential operational effects on fish and aquatic resources to less than significant.

33 Ethnohistorical Locations

- 34 • Consulting Tribes have expressed that their ability to experience the spiritual qualities of
35 ethnohistorical sites would be affected wherever the tunnel underlies the site because they
36 would be disturbed by the awareness that water from sacred waterways is being transported in
37 a way that does not provide sustenance and transportation for deities, spirits and ancestors, and
38 fish.

39 **Maintenance**

40 Maintenance activities have the potential to affect character-defining features that occur in areas
41 affected by project maintenance activities as described in Section 32.3.1.1, *Impact Mechanisms for*
42 *Tribal Cultural Resources*, by materially impairing an affiliated Tribes' ability to spiritually or
43 ceremonially experience the feature. For example, periodic disturbances could occur that materially

1 impair natural communities and habitats, or plants and wildlife that are character-defining features
2 of the Delta TCL. These maintenance activities include repaving of access roads every 15 years and
3 semiannual general and ground maintenance (e.g., mowing, vegetation trimming, herbicide
4 application).

5 ***CEQA Conclusion—All Project Alternatives***

6 Through the combined effects of construction, operations, and maintenance on the character-
7 defining features of the Delta TCL described above, all of the project alternatives have the potential
8 to result in a substantial adverse change to the significance of the Delta TCL. Each of the character-
9 defining features of the Delta TCL would be impaired to some degree by project construction and
10 operation activities in ways that have the potential to materially impair affiliated Tribes' ability to
11 physically, spiritually, or ceremonially experience those features. While the maintenance of
12 aboveground water conveyance facilities for all project alternatives has the potential to result in
13 impacts on character-defining features of the Delta TCL, impacts from these maintenance activities
14 are anticipated to be intermittent, infrequent, and short duration and thus less than significant.

15 The magnitude of the combined impact of construction, operations, and maintenance on the Delta
16 TCL is the same for all the project alternatives, as summarized in Table 32-0. Differences between
17 alternatives include differing amounts of species habitat that would be displaced. For example, the
18 central alignment alternatives (Alternatives 1, 2a, 2b, and 2c) would generally result in greater
19 impacts on terrestrial biological resources relative to the eastern alignment alternatives
20 (Alternatives 3, 4a, 4b, and 4c) and the Bethany Reservoir alignment alternative (Alternative 5); this
21 is largely due to levee improvements on Bouldin Island and road improvements throughout the
22 central alignment.

23 Similarly, there is a slight difference in the number of ethnohistorical or archaeological sites that
24 have the potential to be damaged or to have their spiritual qualities disrupted depending on the
25 alternative. Alternative 5 would avoid impacts on a potential ethnohistorical complex located in the
26 vicinity of the Southern Complex facilities. Alternative 5 would involve the construction of the
27 Bethany Complex instead, where there are no known ethnohistorical or archaeological resources
28 present. Besides ethnohistorical and archaeological sites, the project has the potential to result in
29 the same impacts on the remaining character-defining features across project alternatives.

30 Project construction and operational activities would impair character-defining features that qualify
31 the Delta TCL for listing in the CRHR. All project alternatives would materially impair affiliated
32 Tribes' ability to physically, spiritually, or ceremonially experience these character-defining
33 features: the Delta as a holistic place that is a Tribal homeland and place of origin, terrestrial and
34 aquatic plant and animal species habitats that are part of the Delta's ecosystem and the heritage of
35 Tribes, ethnohistorical locations that are sacred places and historically important, archaeological
36 sites, and views and vistas of and from the Delta that are sacred and important to the heritage of
37 Tribes. While other chapters have identified mitigation measures to address project effects on
38 several of the natural resources that also qualify as character-defining features for the Tribal
39 cultural resource (such as the *Compensatory Mitigation Plan for Special-Status Species and Aquatic
40 Resources*) these are aimed at satisfying certain regulatory requirements for ecological conservation,
41 rather than for the protection of cultural resources. Because the project would materially impair
42 character-defining features of the Delta TCL, and project commitments and mitigation measures
43 would not fully avoid or reduce such impacts, the impact on the Delta TCL would be significant. DWR
44 has identified four measures for mitigating this impact.

1 DWR would implement Mitigation Measure TCR-1a: *Avoidance of Impacts on Tribal Cultural*
2 *Resources*, discussed in more detail below with the other related mitigation measures, to incorporate
3 preconstruction surveys and feasible avoidance or protection measures in the design, construction,
4 operations, and maintenance activities to avoid or protect Tribal cultural resources. Avoidance or
5 protection under Mitigation Measure TCR-1 would offset the potential material impairment of the
6 Delta TCL character-defining features; however, avoidance or protection may not be feasible in all
7 cases. Where avoidance or protection of a character-defining feature is feasible, this measure would
8 reduce the magnitude of this impact; if all affected character-defining features can be avoided or
9 protected, the impact would be reduced to a less-than-significant level. However, due to the
10 complexity of the Delta TCL and the scale and scope of the project, it is unlikely that comprehensive
11 avoidance or protection would be feasible. Where avoidance or protection is not feasible, DWR
12 would implement Mitigation Measures TCR-2: *Plans for the Management of Tribal Cultural Resources*,
13 TCR-3: *Implement Measures to Restore and Enhance the Physical, Spiritual, and Ceremonial Qualities*
14 *of Affected Tribal Cultural Resources*, and TCR-4: *Incorporate Tribal Knowledge into Compensatory*
15 *Mitigation Planning (Restoration)*, as applicable.

16 DWR recognizes that there may be impacts on locations within the Delta TCL that cannot be avoided,
17 and thus DWR would implement Mitigation Measure TCR-1b: *Plans for the Management of Tribal*
18 *Cultural Resources*. This measure would incorporate Tribal preferences about the approach for
19 identification or treatment of each of the types of character-defining features of the Delta TCL, and
20 would also ensure incorporation of Tribal perspectives to the development and implementation of
21 Mitigation Measure CUL-3a (related to archaeological resources) and Mitigation Measure CUL-5
22 (related to burials). Mitigation Measure TCR-1b requires the preparation of an overall management
23 plan that spells out the procedures for ongoing Tribal consultation, Tribal surveys and monitoring,
24 and resource-specific treatments. This measure would reduce the impact on the Delta TCL where it
25 successfully restores an affiliated Tribe's ability to physically, spiritually, or ceremonially experience
26 the affected character-defining features.

27 Mitigation Measure TCR-1c: *Implement Measures to Restore and Enhance the Physical, Spiritual, and*
28 *Ceremonial Qualities of Affected Tribal Cultural Resources* would reduce impacts on archaeological,
29 ethnohistorical, ceremonial, or other features of the Delta TCL. The feature-specific procedures
30 would preserve some cultural values of the character-defining features of the Delta TCL, for instance
31 by recording detailed information that is important to affiliated Tribes or by granting Tribes access
32 to natural character-defining features for stewardship or ceremonial purposes. This measure would
33 reduce the impact on the Delta TCL where it successfully restores an affiliated Tribe's ability to
34 physically, spiritually, or ceremonially experience the affected character-defining features.

35 Mitigation Measure TCR-1d: *Incorporate Tribal Knowledge into Compensatory Mitigation Planning*
36 *(Restoration)* would seek out and incorporate Tribal knowledge, including Tribal Ecological
37 Knowledge, into restoration planning aspects of the project. The objectives and restoration actions
38 described in the plan would also mitigate for impacts on plant and animal species habitats that are
39 character-defining features of the Delta TCL. This measure would supplement the compensatory
40 mitigation efforts described in Appendix 3F by ensuring the character-defining feature aspects of
41 the species habitat are also considered and addressed in the CMP (such as Tribal spiritual
42 connection to the landscape or specific ceremonial locations). However, the primary objective of the
43 CMP would be to meet applicable regulatory species and aquatic resource mitigation requirements,
44 and thus they may not fully repair or restore the affiliated Tribes' physical, spiritual, or ceremonial
45 experience of affected features.

1 Application of these mitigation measures has the potential to reduce the impact on character-
2 defining features of the Delta TCL because they could restore affiliated Tribes' ability to physically,
3 spiritually, and ceremonially experience the materially impaired qualities of the features. However,
4 there may be instances where even with the mitigation measures described above, the impacts
5 would not be mitigated to a less-than-significant level. There may also be instances where the
6 project components would permanently damage a character-defining feature of the Delta TCL, such
7 as where ground disturbance and construction of a project feature would occur in an ethnohistoric
8 location, disturb an archaeological site, or a facility would block an important view. Project impacts
9 would remain significant and unavoidable for all project alternatives after implementation of
10 Mitigation Measures TCR-1, TCR-2, and TCR-3, and TCR-4 because complete avoidance or protection
11 is unlikely and operations and maintenance of the intakes and tunnels may still materially impair
12 the Tribal experience of the spiritual qualities of the Delta TCL even with the efforts to repair or
13 restore the Tribal experience.

14 DWR will continue to consult with affiliated Tribes to obtain additional input on mitigation
15 measures to minimize and mitigate the project's potentially significant impacts on the Delta TCL. As
16 with all mitigation measures presented in the Draft EIR, if additional information about feasible
17 mitigation measures is made available to DWR through the Draft EIR comment period and
18 continued consultation with the affiliated Tribes, DWR will assess whether changes or additions to
19 the mitigation would be necessary prior to certifying the Final EIR.

20 **Mitigation Measure TCR-1a: Avoidance of Impacts on Tribal Cultural Resources**

21 Efforts have been made during project planning to identify locations where construction
22 activities have the potential to damage known ethnohistorical or archaeological locations and to
23 assess the feasibility of adjusting the project locations to avoid the potential impact. For
24 example, access roads related to one or more of the north Delta intakes are in proximity to
25 known mound sites. The project design team deemed that relocation of access roads to a safer
26 distance away from the known sites would be feasible, and could be a realistic solution to avoid
27 this impact. However, the exact location and extent of impacts on character-defining features of
28 the Delta TCL are unclear due to the lack of confirmation of the extent of resource boundaries, as
29 described in this chapter. Therefore, the first step in avoidance of impacts through adjusting the
30 design will be to field-verify the extent of the resource relative to the proposed project activity
31 and determine avoidance options.

32 Based on Tribal consultation and input from the engineering design team, DWR has concluded
33 that avoidance at certain locations of known archaeological resources is feasible through
34 collaboration with Tribes during the project design phase. For example, many consulting Tribes
35 raised a concern with DWR about a known archaeological site near Intake B that is a character-
36 defining feature of the Delta TCL. The physical extent had not been confirmed through site
37 surveys in many decades, but based on previous mapping and consultation with the Tribes
38 regarding potential protective buffers, the engineering design team developed options for
39 feasible avoidance near Intake B that both DWR and consulting Tribes agreed would likely avoid
40 impacts.

41 DWR will coordinate with affiliated Tribes to inform project design refinements to avoid or
42 minimize, whenever feasible, physical disturbances to character-defining features, such as
43 Native American archaeological resources, village sites, ceremonial locations, and other
44 character-defining features that may be physically affected by project related activities. Through

1 the continuing collaborative process used during consultation, DWR and consulting Tribes
2 discussed an avoidance strategy which DWR will implement that includes the following steps:

- 3 1. Where Native American archaeological resources, ceremonial sites, or other character-
4 defining features have been identified, DWR will conduct site-specific surveys, in
5 coordination with affiliated Tribes, to delineate the resource boundaries and inform further
6 design refinements for avoidance.
- 7 2. Based on the results of the site-specific surveys, DWR will design or redesign project
8 facilities to avoid Native American archaeological resources, ceremonial sites, or other
9 character-defining features to the greatest extent possible, while still practicably meeting
10 the purpose of the facility.

11 **Mitigation Measure TCR-1b: Plans for the Management of Tribal Cultural Resources**

- 12 1. DWR will prepare a Tribal Cultural Resources Management Plan (TCRMP) prior to field
13 investigations and construction activities to guide continued consultation, refinement of
14 resource identification, and procedures for developing resource-specific treatment to be
15 conducted prior to and during construction activities. The TCRMP will describe procedures
16 for avoiding, minimizing, and mitigating project impacts on known or potential Tribal
17 cultural resources. The TCRMP will be developed during the permitting and design process
18 and will be adopted within 2 years of certification of the EIR. Preparers of the TCRMP will
19 meet professional qualification standards established in the Secretary of the Interior's
20 Professional Qualification Standards for cultural resources disciplines (history, archaeology,
21 and/or architectural history). DWR will coordinate with the Tribes that participated in
22 consultation on the project to ascertain whether they have standard procedures that may be
23 applicable or other input on the content of the TCRMP. The Tribes will be afforded an
24 opportunity to review and comment on the draft TCRMP. The TCRMP will include
25 procedures for the following:
 - 26 a. Tribal Consultation
 - 27 b. Principles and Procedures for the Identification of Tribal Cultural Resources
 - 28 c. Developing Resource-Specific Treatment
 - 29 d. Native American Burial Treatment
 - 30 e. Post-Review Discovery
 - 31 f. Tribal Monitoring
- 32 2. Native American archaeological resources that are character-defining features of the Delta
33 TCL will be subject to Chapter 19, *Cultural Resources*, Mitigation Measure CUL-3a: *Prepare
34 and Implement an Archaeological Resources Management Plan* with additional recognition of
35 their role as part of the Delta TCL. As described in Mitigation Measure CUL-3a, the
36 Archaeological Resources Management Plan (ARMP) will include procedures for
37 archaeological resources phased identification, archaeological treatment, post-review
38 discovery, and archaeological monitoring. In accordance with (1)(a) of Mitigation Measure
39 CUL-3a, DWR will consult with affiliated Tribes regarding the methods for identification,
40 treatment, post-review discovery, and monitoring during the preparation of the ARMP and
41 incorporate Tribal input into the ARMP to the greatest extent practicable. Tribes will be
42 afforded an opportunity to review and comment on the draft ARMP. The ARMP will reiterate

- 1 DWR's commitment to avoidance for Native American archaeological resources in
2 accordance with Mitigation Measure TCR-1a: *Avoidance of Impacts on Tribal Cultural*
3 *Resources*. DWR recognizes that different affiliated Tribes may have different preferences
4 about the approach for identification or treatment of Native American archaeological
5 resources, and thus application of the ARMP for one location may differ from application at
6 another location. Some examples of resource identification methods recommended by
7 affiliated Tribes include:
- 8 a. Canine forensic surveys
 - 9 b. Intensive pedestrian surveys
 - 10 c. Light detection and ranging (LiDAR) imagery analysis
 - 11 d. Geophysical studies, such as the use of ground-penetrating radar
 - 12 e. Subsurface investigations (which may include excavation of test pits)
- 13 3. Where Native American archaeological resources cannot be avoided through
14 implementation of Mitigation Measure TCR-1a, other treatment measures will be applied as
15 defined in the TCRMP.
- 16 4. For Native American archaeological resources where burials have been identified, DWR will
17 implement burial treatment plans as described in Mitigation Measure CUL-5: *Follow State*
18 *and Federal Law Governing Human Remains If Such Resources Are Discovered during*
19 *Construction*. DWR will implement these plans prior to, during, and following construction,
20 depending on how the treatments are described in the final ARMP or burial treatment
21 plan(s). As part of the burial treatment plans, DWR will provide access to designated land to
22 the affiliated Tribe (or most likely descendant), in perpetuity, for repatriation of disturbed
23 cultural materials associated with burials.

24 **Mitigation Measure TCR-1c: Implement Measures to Restore and Enhance the Physical,**
25 **Spiritual, and Ceremonial Qualities of Affected Tribal Cultural Resources**

26 Through consultation with Tribes, DWR has identified preferred mitigation measures for the
27 material impairment of the physical, spiritual, and ceremonial qualities of character-defining
28 features of the Delta TCL. For character-defining features of the Delta TCL that would be
29 materially impaired by construction activities DWR will:

- 30 1. Provide affiliated Tribes the opportunity to participate in surveys for all project footprint
31 locations. DWR will provide Tribes with Tribal survey forms to document site-specific
32 information the Tribe wishes to share with DWR.
- 33 2. Allow affiliated Tribes to monitor ground-disturbing construction activities with surface
34 effects.
- 35 3. Develop Tribal resources awareness training in coordination with affiliated Tribes to
36 support avoidance and protection of character-defining features. Prior to the start of ground
37 disturbance, a mandatory Tribal resource awareness training will be provided for all
38 personnel involved in ground-disturbing work. DWR will maintain the record of training
39 and make it available, upon request.

- 1 4. Support Tribal stewardship activities through funding and access opportunities, to be
2 defined in coordination with affiliated Tribes, that allow Tribes to restore land and develop
3 conservation projects. Techniques may include:
 - 4 a. Providing funding to develop conservation projects that allow Tribes to reintroduce
5 ancestral languages.
 - 6 b. Facilitating access agreements, as appropriate, for restored areas.
 - 7 c. Restoring traditional use areas and restoration of plants and animals affected by the
8 project (see Mitigation Measure TCR-1d for additional information on Tribal
9 involvement of planned restoration activities for mitigation for project impacts).
 - 10 d. Promoting access to areas where Tribes can continue to conduct their ceremonial
11 practices.
 - 12 e. Providing funding for the development of indigenous science by establishing education
13 programs and scholarships; and support of academic programming development in
14 selected academic institutions.
 - 15 f. Supporting co-management partnerships for access to state lands currently not publicly
16 accessible.

17 **Mitigation Measure TCR-1d: Incorporate Tribal Knowledge into Compensatory Mitigation** 18 **Planning (Restoration)**

19 While the CMP (Appendix 3F) was developed to address impacts on habitat for special-status
20 species and aquatic resources, the objectives and restoration actions described in the plan
21 would also mitigate for impacts on the plant and animal species habitats that are character-
22 defining features of the Delta TCL. By restoring character-defining habitat features, the CMP
23 would mitigate the project's impact on the physical, spiritual, and ceremonial qualities of these
24 character-defining features.

- 25 1. In addition, to ensure the character-defining feature aspects of the species habitat are also
26 considered and addressed in the CMP (such as Tribal spiritual connection to the landscape
27 or specific ceremonial locations) DWR will seek and incorporate Tribal Knowledge,
28 including Tribal Ecological Knowledge (sometimes referred to as TEK), into restoration
29 planning, as follows:
 - 30 a. Facilitate a scoping workshop between the technical authors of the CMP, and plans
31 identified therein, and affiliated Tribes for the purpose of orienting the Tribes to the
32 objectives of the plan, presenting baseline data that is either known or being developed
33 for the plan, requesting input from the Tribes, and sharing the schedule for preparation
34 and implementation of the site-specific plans.
 - 35 b. Invite affiliated Tribes to participate in field visits conducted as a part of restoration
36 planning.
 - 37 c. Clearly identify the future role for affiliated Tribes to participate in implementation of
38 the plan.
 - 39 d. Provide affiliated Tribes the opportunity to review and comment on mitigation site
40 designs and management plans.

- 1 e. Provide a copy of the final mitigation site designs and management plans to all affiliated
2 Tribes who participated in plan development.
- 3 2. DWR will assist Tribes with access to lands and waters, as appropriate, including facilitation
4 of access agreements as noted above, and will discuss feasible opportunities for access to
5 restored areas—with approval from the fish and wildlife regulatory agencies—for ceremony
6 and other spiritual practices, as well as collecting and gathering of resources for traditional
7 uses.

8 ***Mitigation Impacts***

9 *Compensatory Mitigation*

10 Implementation of the CMP described in Appendix 3F may result in impacts on character-defining
11 features of the Delta TCL while at the same time enhancing habitat for special-status species that
12 may or may not be character-defining features of the Delta TCL. The CMP involves the creation and
13 enhancement of habitat restoration areas on Bouldin Island and at the I-5 ponds.

14 The construction of the compensatory mitigation on Bouldin Island has the potential to cause
15 impacts on character-defining features of the Delta TCL. This may include habitat for species that are
16 not special-status, locations of ceremonies, or archaeological or ethnographic locations. Although
17 there are no previously recorded archaeological resources or identified Tribal cultural resources on
18 Bouldin Island, a mound site has been previously mapped to the east of Bouldin Island on the
19 Terminous Tract indicating traditional uses in the vicinity that suggest a likelihood for related
20 activities nearby. Views and viewsheds from the island have been noted by consulting Tribes.

21 Mitigation Measures TCR-1a: *Avoidance of Impacts on Tribal Cultural Resources*, TCR-1b: *Plans for*
22 *the Management of Tribal Cultural Resources*, and TCR-1c: *Implement Measures to Restore and*
23 *Enhance the Physical, Spiritual, and Ceremonial Qualities of Affected Tribal Cultural Resources* would
24 mitigate this impact by exploring options to avoid the affected character-defining feature if feasible,
25 or planning for appropriate treatment where avoidance is not feasible. Mitigation Measure TCR-1d:
26 *Incorporate Tribal Knowledge into Compensatory Mitigation Planning (Restoration)* would also
27 mitigate this impact by identifying opportunities to restore habitats that would support species that
28 contribute to the Delta TCL and that have cultural value to one or more affiliated Tribe. This, in turn,
29 would improve the overall Tribal experience of the character-defining features of the Delta TCL. The
30 impact of compensatory mitigation would be less than significant with mitigation.

31 The CMP also includes the proposed tidal restoration activities in the Delta, though exact locations
32 have not been identified, and purchase of mitigation bank credits and site protection instruments for
33 specific habitats. Because the exact location of the compensatory mitigation is unknown at this time
34 and likely involves ground disturbance, these areas could impact character-defining features.
35 Therefore, even with mitigation, this impact would be significant and unavoidable.

36 *Other Mitigation Measures*

37 Implementation of other mitigation measures may result in impacts on character-defining features
38 of the Delta TCL. This could include some mitigation measures that would involve surface excavation
39 using heavy equipment, such as graders, excavators, dozers, and haul trucks that could result in
40 ground-disturbance that physically disturbs cultural materials or locations. Mitigation measures

1 may require temporary use of heavy equipment that could create noise levels that could disrupt
2 ceremonial activities or spiritual experience of an important location or view.

3 These impacts would be addressed by the application of Mitigation Measures TCR-1a: *Avoidance of*
4 *Impacts on Tribal Cultural Resources*, TCR-1b: *Plans for the Management of Tribal Cultural Resources*,
5 and TCR-1c: *Implement Measures to Restore and Enhance the Physical, Spiritual, and Ceremonial*
6 *Qualities of Affected Tribal Cultural Resources*. Implementing these other mitigation measures likely
7 involves ground disturbance which could affect character-defining features of the Delta TCL in ways
8 that may not be avoided or reduced by the mitigation measures. Therefore, even with mitigation, the
9 impact from other mitigation measures would be significant and unavoidable.

10 Overall, the impacts on character-defining features of the Delta TCL from construction of
11 compensatory mitigation and implementation of other mitigation measures, combined with project
12 alternatives, would not change the impact conclusion of significant and unavoidable.

13 **Impact TCR-2: Impacts on Individual Tribal Cultural Resources Resulting from Construction,** 14 **Operations, and Maintenance of the Project Alternatives**

15 As discussed in Section 32.1.3.2, *Individual Tribal Cultural Resources*, in addition to evaluating the
16 Delta TCL for CRHR eligibility, DWR considered whether the character-defining features, or other
17 identified resources, were individually eligible for the CRHR and should be characterized as Tribal
18 cultural resources. DWR applied a three-step assessment of significance, known attributes, and
19 integrity using the information shared by consulting Tribes and collected independently by DWR to
20 assess which individual landscape components (character-defining features) warranted further
21 CRHR evaluation as potential individual Tribal cultural resources. DWR concluded that the current
22 evidence in DWR's record supports a finding that individual resources hold significance for
23 consulting Tribes primarily, or exclusively, when considered holistically from a landscape
24 perspective. However, as discussed above, DWR continues to consult with affiliated Tribes who
25 continue to share their knowledge and, thus, expand DWR's understanding regarding the
26 importance of these resources.

27 Although Tribal consultation has been ongoing since January 2020, consulting Tribes may continue
28 to provide DWR with a greater depth of understanding regarding the cultural significance of the
29 Delta TCL character-defining features, or identify other sites, features, places, cultural landscapes,
30 sacred places, and objects with cultural value to consulting Tribes that are not character-defining
31 features of the Delta TCL. If additional information is made available to DWR, based on this more in-
32 depth understanding, DWR may determine that character-defining features should be reevaluated
33 for individual CRHR eligibility or that a new resource should be evaluated for individual CRHR
34 eligibility.

35 For these reasons, the precise nature of the impact on an individual Tribal cultural resource is not
36 currently known because DWR has not identified any individual Tribal cultural resources at this
37 time; therefore, the features that make an individual resource eligible for CRHR listing, its
38 significance, attributes and location, and integrity have not been established.

39 ***All Project Alternatives***

40 The manner in which the project has the potential to affect individual resources likely would be the
41 same, or very similar to, how the project would affect character-defining features of the Delta TCL
42 discussed in Impact TCR-1. See impact mechanisms in Section 32.3.1.1, *Impact Mechanisms for Tribal*

1 *Cultural Resources*. DWR has, therefore, concluded that the project has the potential to result in
2 impacts on individual Tribal cultural resources, should they be identified.

3 ***Construction***

4 Construction activities have the potential to cause a significant impact on features that DWR
5 concludes are individually CRHR eligible by materially impairing an affiliated Tribes' ability to
6 physically, spiritually, or ceremonially experience the feature. Ground disturbance where an
7 individually eligible feature, including ethnohistorical or archeological sites, is present may damage
8 or destroy the site, and ground disturbance as part of levee improvements could damage or destroy
9 an individually eligible site. Construction activities also may affect affiliated Tribes' ability to
10 perform ceremonies at certain locations, and if the location is CRHR eligible, this could materially
11 impair an affiliated Tribes' spiritual or ceremonial experience. The introduction of new aboveground
12 project features at the north Delta intakes, Twin Cities Complex, maintenance, reception, and launch
13 shaft locations, and Southern Complex or Bethany Complex (depending on the alternative) or at
14 important viewshed locations could materially impair affiliated Tribes' ability to access an
15 individually eligible location or perform ceremonies at an individually eligible location.

16 ***Operations***

17 Operations activities have the potential to cause a significant impact on features that DWR concludes
18 are individually CRHR eligible, where such features occur in areas affected by project operations, by
19 materially impairing an affiliated Tribes' ability to spiritually experience the feature. Consulting
20 Tribes have expressed that their ability to experience the spiritual qualities of ethnohistorical sites
21 located at ground surface would be affected wherever the tunnel underlies the site because they
22 would be disturbed by the awareness that water from sacred waterways is being transported in a
23 way that does not provide sustenance and transportation for deities, spirits and ancestors, and fish.

24 ***Maintenance***

25 Maintenance activities have the potential to affect features that DWR later concludes are
26 individually CRHR eligible, where such features occur in areas affected by project maintenance
27 activities, as described in Section 32.3.1.1, *Impact Mechanisms for Tribal Cultural Resources*, by
28 materially impairing an affiliated Tribes' ability to spiritually or ceremonially experience the feature.

29 ***CEQA Conclusion—All Project Alternatives***

30 The potential impact on individual Tribal cultural resources, if DWR determines they are present, is
31 similar to the project's potential impact on the Delta TCL. Through the combined effects of
32 construction, operations, and maintenance on any individually eligible resources, all of the project
33 alternatives have the potential to result in a substantial adverse change to the significance of an
34 individual Tribal cultural resource. As discussed previously regarding the potential impacts on the
35 Delta TCL, project construction operation, and maintenance activities have the potential to
36 materially impair affiliated Tribes' ability to physically, spiritually, or ceremonially experience Tribal
37 cultural resources. The magnitude of the impact on individual Tribal cultural resources is the same
38 for all of the project alternatives, and the nature and magnitude of the impact would be the same or
39 similar.

40 The precise nature of the impact on an individual Tribal cultural resource is not currently known
41 because DWR has not identified any individual Tribal cultural resources at this time; therefore, the

1 features that make an individual resource eligible for CRHR listing, its significance, attributes and
2 location, and integrity have not been established. In general, DWR anticipates that if an individual
3 resource is identified, the project has the potential to materially impair an affiliated Tribes' ability to
4 physically, ceremonially, or spiritually experience the resource.

5 If during ongoing Tribal consultation, DWR concludes that an individual character-defining feature,
6 or new resource warrant further evaluation, DWR would implement Mitigation Measure TCR-2:
7 *Perform an Assessment of Significance, Known Attributes, and Integrity.*

8 If the conclusion of implementing Mitigation Measure TCR-2 is that DWR finds a character-defining
9 feature or other resource that is individually eligible, DWR would implement Mitigation Measure
10 TCR-1a: *Avoidance of Impacts on Tribal Cultural Resources*, to incorporate preconstruction surveys
11 and feasible avoidance or protection measures in the design, construction, and operations activities
12 to avoid or protect Tribal cultural resources. Avoidance or protection under Mitigation Measure
13 TCR-1a would reduce the impact on individually eligible character-defining features, or other
14 individually eligible features; however, avoidance or protection may not be feasible in all cases.
15 Where avoidance or protection of an individual Tribal cultural resource is feasible, this measure
16 would reduce the magnitude of this impact; if all affected individual Tribal cultural resources can be
17 avoided or protected, the impact would be reduced to a less-than-significant level. However, because
18 DWR does not know which, if any, of the character-defining features may be determined individually
19 eligible, or whether other individually eligible resources exist, DWR does not know if comprehensive
20 avoidance or protection would be feasible.

21 Where avoidance or protection is not feasible, DWR would implement Mitigation Measures TCR-1b:
22 *Plans for the Management of Tribal Cultural Resources*, TCR-1c: *Implement Measures to Restore and*
23 *Enhance the Physical, Spiritual, and Ceremonial Qualities of Affected Tribal Cultural Resources*, and
24 TCR-4: *Incorporate Tribal Knowledge into Compensatory Mitigation Planning (Restoration)*, as
25 applicable.

26 Where the affected individual Tribal cultural resource is archaeological in nature, DWR would
27 implement Mitigation Measure TCR-1b: *Plans for the Management of Tribal Cultural Resources*. This
28 measure would incorporate Tribal preferences about the approach for identification or treatment of
29 Native American archaeological resources in Mitigation Measure CUL-3a and the approach for
30 treatment of burials in Mitigation Measure CUL-5.

31 Mitigation Measure TCR-1c: *Implement Measures to Restore and Enhance the Physical, Spiritual, and*
32 *Ceremonial Qualities of Affected Tribal Cultural Resources*, would reduce impacts on individually
33 eligible archaeological, ethnohistorical, ceremonial, or other features. The feature-specific
34 procedures would preserve some cultural values of the individually eligible resource, for instance,
35 by recording detailed information that is important to affiliated Tribes or by granting Tribes access
36 to natural features for stewardship purposes. This measure would reduce the impact on an
37 individual Tribal cultural resource where it successfully restores an affiliated Tribe's ability to
38 physically, spiritually, or ceremonially experience the resource.

39 Mitigation Measure TCR-1d: *Incorporate Tribal Knowledge into Compensatory Mitigation Planning*
40 *(Restoration)*, would seek out and incorporate Tribal Knowledge, including Tribal Ecological
41 Knowledge, into restoration planning aspects of the project. While natural features such as plant and
42 animal species are not CRHR eligible, the objectives and restoration actions described in the plan
43 would also mitigate for impacts on plant and animal species and habitats that may be character-
44 defining features of other individually eligible locations. This measure would supplement the

1 compensatory mitigation efforts described in Appendix 3F by ensuring the Tribal cultural resource
2 aspects of the species habitat are also considered and addressed in the CMP (such as Tribal spiritual
3 connection to the landscape or specific ceremonial locations). However, the primary objective of the
4 CMP would be to meet applicable regulatory species and aquatic resource mitigation requirements
5 and, thus they may not fully repair or restore the affiliated Tribes' physical, spiritual, or ceremonial
6 experience of affected features.

7 Application of these mitigation measures has the potential to reduce the impact on any individually
8 eligible Tribal cultural resources, because they could restore affiliated Tribes' ability to physically,
9 spiritually, and ceremonially experience the materially impaired qualities of the features. However,
10 there may be instances where even with the mitigation measures described above, the impacts
11 would not be mitigated to a less-than-significant level. There may also be instances where the
12 project components would permanently damage an individual Tribal cultural resource, such as
13 where ground disturbance and construction of a project feature would disturb an individually
14 eligible ethnohistoric location or a facility would block an important view that is a character-
15 defining feature of an individual Tribal cultural resource. Project impacts on individual Tribal
16 cultural resources would remain significant and unavoidable for all project alternatives after
17 implementation of Mitigation Measures TCR-1a, TCR-1b, TCR-1c, TCR-1d, and TCR-2: *Perform an*
18 *Assessment of Significance, Known Attributes, and Integrity for Individual CRHR Eligibility*, because
19 complete avoidance or protection is unlikely.

20 DWR continues to consult with affiliated Tribes to obtain additional input on mitigation measures to
21 minimize and mitigate the project's potentially significant impacts on the Delta TCL, as well as refine
22 DWR's understanding of the character-defining features, or other features, that may be individual
23 Tribal cultural resources. As with all mitigation measures presented in the Draft EIR, if additional
24 information about feasible mitigation measures is made available to DWR through the Draft EIR
25 comment period and continued consultation with the affiliated Tribes, DWR will assess whether
26 changes or additions to the mitigation for the purposes of mitigating potential impacts on individual
27 Tribal cultural resources would be necessary prior to certifying the Final EIR.

28 **Mitigation Measure TCR-1a: Avoidance of Impacts on Tribal Cultural Resources**

29 See description of Mitigation Measure TCR-1a under Impact TCR-1.

30 **Mitigation Measure TCR-1b: Plans for the Management of Tribal Cultural Resources**

31 See description of Mitigation Measure TCR-1b under Impact TCR-1.

32 **Mitigation Measure TCR-1c: Implement Measures to Restore and Enhance the Physical, 33 Spiritual, and Ceremonial Qualities of Affected Tribal Cultural Resources**

34 See description of Mitigation Measure TCR-1c under Impact TCR-1.

35 **Mitigation Measure TCR-1d: Incorporate Tribal Knowledge into Compensatory Mitigation 36 Planning (Restoration)**

37 See description of Mitigation Measure TCR-1d under Impact TCR-1.

Mitigation Measure TCR-2: Perform an Assessment of Significance, Known Attributes, and Integrity for Individual CRHR Eligibility

Efforts have been made during Tribal consultation to identify individual Tribal cultural resources. DWR considered whether any of the character-defining features of the Delta TCL, such as biological species habitats, waterways, archaeological sites, built mound structures, trails, villages, ceremonial places, and cemeteries and burials, possess cultural value separate from what they contribute to the Delta TCL, and established a three-step screening process for identifying which landscape components warranted further CRHR evaluation as potential individual Tribal cultural resources.

DWR is committed to continuing Tribal consultation and recognizes that during the course of the ongoing consultation, DWR may gain further understanding of the significance of Delta TCL character-defining features, or other resources, that have cultural value to an affiliated Tribe. If this occurs, DWR would reevaluate a character-defining feature, or evaluate a resource, for individual CRHR eligibility using the following three-step assessment of significance, known attributes, and integrity:

1. DWR will assess whether the additional evidence, in the form of Tribal expert opinion shared through consultation, and other relevant data that DWR has collected, demonstrates a discrete resource has cultural value (significance) separate and apart from the holistic Delta TCL (though it may also contribute to the landscape).
2. DWR will assess whether the additional evidence, in the form of Tribal expert opinion shared through consultation, and other relevant data that DWR has collected, demonstrates a discrete resource that has demonstrated significance is described and mapped sufficiently for CRHR evaluation.
3. DWR will assess whether the additional evidence, in the form of Tribal expert opinion shared through consultation, and other relevant data that DWR has collected, demonstrates a discrete resource that has demonstrated significance has integrity of its characteristics to convey its cultural value (significance) separate and apart from the holistic Delta TCL (though it may also contribute to the landscape). DWR will continue to assess integrity through a Tribal perspective. If DWR finds that any resources pass all three screening steps, DWR will assess the resources' CRHR eligibility in accordance with Public Resources Code Section 21074(a)(1) and (2). If an individual resource is CRHR eligible, DWR will assess the project's potential effect on the resource to determine whether there would be a substantial adverse change to the resource's independent significance. If the project would cause a substantial adverse change to the individual Tribal cultural resource, DWR will implement Mitigation Measures TCR-1a, TCR-1b, TCR-1c, and TCR-1d to avoid or reduce the impact.

Mitigation Impacts

Compensatory Mitigation

The manner in which the compensatory mitigation has the potential to affect individual Tribal cultural resources likely would be the same, or very similar to, how the project would affect character-defining features of the Delta TCL discussed in Impact TCR-1. Implementation of the CMP described in Appendix 3F may result in impacts on individual Tribal cultural resources, if any are identified, while at the same time enhancing habitat for special-status species. The CMP involves the creation and enhancement of habitat restoration areas on Bouldin Island and at the I-5 ponds.

1 The construction of the compensatory mitigation on Bouldin Island and at the I-5 ponds has the
2 potential to cause impacts on individual Tribal cultural resources, if any are identified in these
3 mitigation areas. This may include habitat for species that are not special-status, locations of
4 ceremonies, or archaeological or ethnohistorical locations. For example, although there are no
5 previously recorded archaeological resources or identified Tribal cultural resources on Bouldin
6 Island, a mound site has been previously mapped to the east of Bouldin Island on the Terminous
7 Tract, indicating traditional uses in the vicinity that suggest a likelihood for related activities nearby.
8 If further information is shared by Tribes that suggests a need to reevaluate, DWR will apply the
9 three-step screening process for determining whether it qualifies as a TCR and consider whether the
10 compensatory mitigation would materially impair an affiliated Tribes' ability to physically,
11 ceremonially, or spiritually experience the resource.

12 Mitigation Measures TCR-1a: *Avoidance of Impacts on Tribal Cultural Resources*, TCR-1b: *Plans for*
13 *the Management of Tribal Cultural Resources*, and TCR-1c: *Implement Measures to Restore and*
14 *Enhance the Physical, Spiritual, and Ceremonial Qualities of Affected Tribal Cultural Resources*, would
15 mitigate this impact by exploring options to avoid the affected Tribal cultural resource if feasible, or
16 planning for appropriate treatment where avoidance is not feasible. Mitigation Measure TCR-1d:
17 *Incorporate Tribal Knowledge into Compensatory Mitigation Planning (Restoration)* would also
18 mitigate this impact by identifying opportunities to restore habitats that would support species that
19 contribute to the Delta TCL and that have cultural value to one or more affiliated Tribe. This, in turn,
20 would improve the overall Tribal experience of the character-defining features of the Delta TCL. The
21 impact of compensatory mitigation would be less than significant with mitigation.

22 The CMP also includes the proposed tidal restoration activities in the Delta, though exact locations
23 have not been identified, and purchase of mitigation bank credits and site protection instruments for
24 specific habitats. Because the exact location of the compensatory mitigation is unknown at this time
25 and likely involves ground disturbance, these areas could affect individual Tribal cultural resources,
26 if any are present. Therefore, even with mitigation, this impact would be significant and
27 unavoidable.

28 Other Mitigation Measures

29 Implementation of other mitigation measures may result in impacts on individual Tribal cultural
30 resources. This could include some mitigation measures that would involve surface excavation using
31 heavy equipment, such as graders, excavators, dozers, and haul trucks that could result in ground-
32 disturbance that physically disturbs cultural materials or locations. Mitigation measures may
33 require temporary use of heavy equipment that could create noise levels that could disrupt
34 ceremonial activities or a spiritual experience of an important location or view.

35 These impacts would be addressed by the application of Mitigation Measures TCR-1a: *Avoidance of*
36 *Impacts on Tribal Cultural Resources*, TCR-1b: *Plans for the Management of Tribal Cultural Resources*,
37 and TCR-1c: *Implement Measures to Restore and Enhance the Physical, Spiritual, and Ceremonial*
38 *Qualities of Affected Tribal Cultural Resources*. Other mitigation measures likely involve ground
39 disturbance, which could affect Tribal cultural resources in ways that may not be avoided or
40 reduced by mitigation measures. Therefore, even with mitigation, the impact from other mitigation
41 measures would be significant and unavoidable.

42 Overall, the impacts on individual Tribal cultural resources from construction of compensatory
43 mitigation and implementation of other mitigation measures, combined with project alternatives,
44 would not change the impact conclusion of significant and unavoidable.

1 32.3.4 Cumulative Analysis

2 This cumulative impact analysis considers projects that could affect the same resources and, where
3 relevant, in the same time frame as the project alternatives, resulting in a cumulative impact. Tribal
4 cultural resources are expected to be affected as a result of past, present, and reasonably foreseeable
5 future projects.

6 Proposed projects and plans that have the potential to contribute to cumulative impacts on Tribal
7 cultural resources in the vicinity of the project alternatives are listed in Table 32-3. This table lists
8 projects, as described in Appendix 3C, *Defining Existing Conditions, No Project Alternative, and*
9 *Cumulative Impact Conditions*, which have been identified as cumulative projects. Cumulative
10 projects include those within and in proximity to the areas of impact. Projects that lie outside of the
11 areas of impact (e.g., projects occurring in the upper Sacramento Valley, lower San Joaquin Basin,
12 and farther south) are not included. Only projects that would materially impair an affiliated Tribe's
13 physical, spiritual, or ceremonial experience of character-defining features of Tribal cultural
14 resources are included in this section.

15 When the effects of any of the project alternatives are considered in combination with the effects of
16 programs or projects listed in Table 32-3, the cumulative effect on the character-defining features of
17 the Delta TCL would be significant and the cumulative effect on the character-defining features of
18 individual Tribal cultural resources that are yet to be identified would also be significant. The
19 specific plans, policies, programs, and projects identified below for each impact category are
20 identified based on their potential to contribute impacts on Tribal cultural resources and are
21 described for effects related to the construction of the water conveyance infrastructure in particular.

22 **Table 32-3. Cumulative Impacts on Tribal Cultural Resources from Plans, Policies, and Programs**

Program/ Project	Agency	Status	Description of Program/Project	Impacts on Tribal Cultural Resources
Central Valley Flood Protection Plan	DWR	Ongoing	CVFPP is a sustainable, integrated flood management plan that reflects a system-wide approach for protecting areas of the Central Valley currently receiving protection from flooding by existing facilities of the State Plan of Flood Control (SPFC). Produced in partnership with federal, Tribal, local, and regional partners and other interested parties, the CVFPP also identifies the mutual goals, objectives, and constraints important in the planning process; distinguish plan elements that address mutual flood risks; and, finally, recommend improvements to the state-federal flood protection system.	CVFPP would result in site-specific repairs or levee upgrades over areas of varying sizes. Some of the Delta's earliest levees were built by incorporating high points in the landscape, some of which were Native American mounds. Significant impacts could occur where improvements to the flood protection system require ground-disturbing activities, other direct physical harm, or introduction of incongruent features that materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland or an individual Tribal cultural resource. This would be an incremental contribution to Tribal cultural resources impacts in the study area.

Program/ Project	Agency	Status	Description of Program/Project	Impacts on Tribal Cultural Resources
Delta Flood Protection Fund	DWR	Ongoing	<p>This is a grants program that works to maintain and improve the flood control system and provide protection to public and private investments in the Delta including water supply, habitat, and wildlife. The program funds two major programs: the Delta Levees Maintenance Subventions Program and Delta Levees Special Flood Control Projects.</p> <p>The Delta Levees Maintenance Subventions Program provides financial assistance to local levee maintaining agencies for the maintenance and rehabilitation of non-project levees in the Delta for flood control and habitat projects as implemented by local agencies. The Delta Levees Special Flood Control Projects provides financial assistance to local levee maintaining agencies for rehabilitation of levees in the Delta originally focused on flood control projects and related habitat projects for eight western Delta Islands (Bethel, Bradford, Holland, Hotchkiss, Jersey, Sherman, Twitchell and Webb Islands) and for the towns of Thornton, New Hope, and Walnut Grove. It has since expanded to include the entire Delta, as well as portions of Suisun Marsh as outlined in Section 12311 of Water Code.</p>	<p>This program would result in site-specific repairs, levee upgrades, and habitat projects over areas of varying sizes. Significant impacts could occur where ground-disturbing activities, other direct physical disturbance, or introduction of incongruent features that materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland, including waterways, aquatic or terrestrial habitats, archaeological or ethnohistorical locations, or views that contribute to the Delta TCL. This would be an incremental contribution to Tribal cultural resources impacts in the study area.</p>
Levee Repairs Program	DWR	Ongoing	<p>This is a program to repair state and federal project levees. Hundreds of levee sites were identified for immediate repair throughout the Central Valley. These repairs were necessary to maintain the functionality of flood control systems that have deteriorated over time and/or do not meet current design standards. While many of the most urgent repairs have been completed or are near completion, other sites of lower priority are still in progress, and still more are in the process of</p>	<p>This program would result in site-specific repairs or levee upgrades over areas of varying sizes. Some of the Delta's earliest levees were built by incorporating high points in the landscape, some of which were Native American mounds. Significant impacts could occur where improvements to the flood protection system require ground-disturbing activities, other direct physical harm, or introduction of incongruent features that materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland. This would be an</p>

Program/ Project	Agency	Status	Description of Program/Project	Impacts on Tribal Cultural Resources
			being identified, planned, and prioritized.	incremental contribution to Tribal cultural resources impacts in the study area.
North Delta Flood Control and Ecosystem Restoration Project	DWR	Ongoing	The project is intended to improve flood management and provide ecosystem benefits in the North Delta area through actions such as construction of setback levees and configuration of flood bypass areas to create quality habitat for species of concern. These actions are focused on McCormack-Williamson Tract and Staten Island. The purpose of the Project is to implement flood control improvements in a manner that benefits aquatic and terrestrial habitats, species, and ecological processes. Flood control improvements are needed to reduce damage to land uses, infrastructure, and the Bay-Delta ecosystem resulting from overflows caused by insufficient channel capacities and catastrophic levee failures near where the Mokelumne River, Cosumnes River, Dry Creek, and Morrison Creek converge.	The project would result in the conversion of existing land uses to restored habitat and the enhancement of marginal habitats to increase habitat value. It may also include ground disturbance and activities such as dredging and levee breaching. Significant impacts could occur where ground-disturbing activities, other direct physical harm, or introduction of incongruent features materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland, including waterways, aquatic or terrestrial habitats, archaeological or ethnohistorical locations, or views that contribute to the Delta TCL. This would be an incremental contribution to Tribal cultural resources impacts in the study area. This project could also result in beneficial impacts through the reintroduction of habitats that had been lost through the original conversion of natural lands to agriculture, possibly including species with cultural value to affiliated Tribes as part of the Delta TCL.
Yolo Bypass Salmonid Habitat Restoration and Fish Passage Project	DWR and USBR	Ongoing	The project will construct a two-way fish passage gateway at the head of the Fremont Weir, a 1.8-mile concrete wall that provides flood protection to Sacramento and surrounding communities. The 100-foot-wide gateway, or "big notch," will open each winter, allowing juvenile salmon to move from the Sacramento River onto the floodplain and then back into the Sacramento River at Cache Slough. Providing fish access to the food-rich floodplain will expand survival rates for native fish on their migratory journey to the Pacific Ocean.	The project involves construction activities and alteration of the movement of salmon through the Sacramento River and floodplain. Significant impacts could occur where ground-disturbing activities, other direct physical harm, or removal of character-defining features materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland, including waterways and aquatic species habitat that contribute to the Delta TCL. This would be an incremental contribution to Tribal

Program/ Project	Agency	Status	Description of Program/Project	Impacts on Tribal Cultural Resources
			The project will also allow adult salmon, steelhead, and sturgeon to more easily access the Sacramento River from the bypass.	cultural resources impacts in the study area. This project could also result in beneficial impacts through the expanded survival rate for native fish, which may be a component of the Delta TCL.
Delta Fish Agreement (Four Pumps Project)	DWR and CDFW	Ongoing	The agreement provides a mechanism for offsetting adverse fishery impacts caused by the diversion of water at the Harvey O. Banks Delta Pumping Plant, a part of the State Water Project located at the head of the California Aqueduct. Direct losses of Chinook salmon, steelhead, and striped bass are offset or mitigated through the funding and implementation of fish mitigation projects.	The project involves construction activities and alteration of the movement of fish. Significant impacts could occur where ground-disturbing activities or other direct physical harm materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland, including waterways and aquatic species habitat that contribute to the Delta TCL. This would be an incremental contribution to Tribal cultural resources impacts in the study area. The agreement would fund and implement fish mitigation projects, which would likely enhance certain character-defining features of the Delta TCL.
Dutch Slough Tidal Marsh Restoration Project	DWR and California State Coastal Conservancy	Ongoing	The project would restore wetland and uplands, and provide public access to the 1,187-acre Dutch Slough property. The project would provide ecosystem benefits, including habitat for sensitive aquatic species. Two neighboring projects proposed by other agencies that are related to the Dutch Slough Restoration Project collectively contribute to meeting project objectives: These include the City of Oakley's proposed Community Park and Public Access Conceptual Master Plan for 55 acres adjacent to the wetland restoration project and four miles of levee trails on the perimeter of the DWR lands. The City Community Park will provide parking and trailheads for the public access components of the Dutch Slough Restoration Project. Construction on two of the parcels, Emerson and Gilbert, started in	The project would result in the conversion of existing land uses to restored habitat. It may also include ground disturbance and activities such as dredging and levee breaching. Significant impacts could occur where ground-disturbing activities, other direct physical harm, or introduction of incongruent features materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland, including waterways, aquatic or terrestrial habitats, archaeological or ethnohistorical locations, or views that contribute to the Delta TCL. This would be an incremental contribution to Tribal cultural resources impacts in the study area. This project could also result in beneficial impacts through the reintroduction of habitats that

Program/ Project	Agency	Status	Description of Program/Project	Impacts on Tribal Cultural Resources
			May 2018 and site grading was completed in 2019, followed by revegetation planting. Breaching of these two parcels will be completed in 2021. Restoration planning of the third parcel, Burroughs, would begin in 2022.	had been lost through the original conversion of natural lands, possibly including species with cultural value to affiliated Tribes as part of the Delta TCL.
Canal Modernization Project	CCWD	Ongoing	The project will replace the canal with a pipeline along a portion of the 48-mile Contra Costa Canal near Oakley. The first phase was initiated in 2009. The project will encase a 1,900-foot portion of the Contra Costa Canal to reduce salinity and water quality impacts of groundwater seepage from adjacent agricultural areas, as well as to increase public safety and flood protection. Contra Costa Water District will be initiating plans for the remaining sections.	This project would involve ground-disturbing construction to replace visible canals with a buried pipeline and remove embankments. Significant impacts could occur where ground-disturbing activities, materially impair an affiliated Tribe's ability to experience the Delta TCL. This would be an incremental contribution to Tribal cultural resources impacts in the study area.
Delta Protection Commission Land Use and Resource Management Plan Update	Delta Protection Commission	Ongoing	DPC is currently updating its LURMP, which was last adopted in 2010. The LURMP outlines the long-term land use requirements for the Sacramento-San Joaquin Delta and sets out findings, policies, and recommendations in the areas of environment, utilities and infrastructure, land use, agriculture, water, recreation and access, levees, and marine patrol/boater education/safety programs. The updated LURMP will place increased emphasis on the requirement for local government general plans to provide for consistency with the provisions of the LURMP. DPC develops priorities and timelines for tasks to be implemented each year, and provides annual progress reports to the Legislature.	The updated plan would give rise to projects that would affect the visual landscape. Significant impacts could occur where infrastructure, recreation, or levee improvement projects require ground-disturbing activities, other direct physical harm, or introduction of incongruent features materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland. This would be an incremental contribution to Tribal cultural resources impacts in the study area. Beneficial impacts could result where restoration and enhancement activities improve existing conditions of natural systems that define the character of the Delta TCL.
Liberty Island Conservation Bank	Reclamation District 2093	Ongoing	This project received permits and approvals in 2009 to create a conservation bank on the northern tip of Liberty Island that would preserve, create, restore, and enhance habitat for native Delta fish species, including Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook	The project involves construction activities and alteration of the movement of fish. Significant impacts could occur where ground-disturbing activities or other direct physical harm materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape

Program/ Project	Agency	Status	Description of Program/Project	Impacts on Tribal Cultural Resources
			salmon, California Central Valley steelhead, delta smelt, and Central Valley fall- and late fall-run Chinook salmon. The project consists of creating tidal channels, perennial marsh, riparian habitat, and occasionally flooded uplands on the site. The project also includes the breaching of the northernmost east-west levee, and preservation and restoration of shaded riverine aquatic habitat along the levee shorelines of the tidal sloughs.	representing their homeland, including waterways and aquatic species habitat that contribute to the Delta TCL. This would be an incremental contribution to Tribal cultural resources impacts in the study area. Potential beneficial impacts on Tribal cultural resources include improving habitat for native Delta fish species, which would likely enhance certain character-defining features of the Delta TCL.
Flood Management Program	SAFCA, Central Valley Flood Protection Board, and U.S. Army Corps of Engineers	Ongoing	The program provides flood-control improvements. Projects include the South Sacramento Streams Project and the Sacramento River Bank Protection Project. The South Sacramento Streams Project consists of levee, floodwall, and channel improvements along the Sacramento River to protect the City of Sacramento from flooding. The Sacramento River Bank Protection Project addresses long-term erosion protection along the Sacramento River and its tributaries. Bank protection measures typically consist of large angular rock placed to protect the bank, with a layer of soil/rock material to allow bank revegetation.	This program would result in site-specific repairs or levee upgrades over areas of varying sizes. Some of the Delta's earliest levees were built by incorporating high points in the landscape, some of which were Native American mounds. Significant impacts could occur where improvements to the flood protection system require ground-disturbing activities, other direct physical harm, or introduction of incongruent features materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland. This would be an incremental contribution to Tribal cultural resources impacts in the study area.
South Sacramento HCP	South Sacramento Conservation Agency JPA	Ongoing	The South Sacramento Habitat Conservation Plan (HCP) is a regional plan to address issues related to species conservation, agricultural protection, and urban development in south Sacramento County. Adopted in 2018, the HCP covers 40 different species of plants and wildlife including 10 that are state or federally listed as threatened or endangered and allow landowners to engage in the "incidental take" of listed species (i.e., to destroy or degrade habitat) in return for conservation commitments from local jurisdictions.	Significant impacts could occur where construction of conservation projects requires ground-disturbing activities, other direct physical harm, or introduction of incongruent features materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland. This would be an incremental contribution to Tribal cultural resources impacts in the study area. Beneficial impacts could result where restoration and enhancement activities improve existing conditions of natural

Program/ Project	Agency	Status	Description of Program/Project	Impacts on Tribal Cultural Resources
				systems that define the character of the Delta TCL.
San Joaquin County General Plan Update	San Joaquin County	Ongoing	<p>The San Joaquin County General Plan 2010 was adopted on July 29, 1992. The general plan provides guidance for future growth in a manner that preserves the county's natural and rural assets. Most of the urban growth is directed to existing urban communities.</p> <p>In December 2016, San Joaquin County began the process to update the 2008 general plan. The general plan update will provide the blueprint for growth in the county unincorporated areas through 2035.</p>	The general plan includes protection of built resources. If growth is guided to areas where archaeological resources are located, or to areas where other character-defining features of the Delta TCL occur, then this would be an incremental contribution to Tribal cultural resources impacts in the study area.
Sacramento River Bank Protection Project	USACE	Planned	The project is a long-term flood risk management project designed to enhance public safety and help protect property along the Sacramento River and its tributaries. While the original authorization approved the rehabilitation of 430,000 linear feet of levee, the 1974 Water Resources Development Act added 405,000 linear feet to the authorization and a 2007 bill authorized another 80,000 linear feet for a total of 915,000 linear feet of project.	This program would result in site-specific repairs or levee upgrades over areas of varying sizes. Some of the Delta's earliest levees were built by incorporating high points in the landscape, some of which were Native American mounds. Significant impacts could occur where improvements to the flood protection system require ground-disturbing activities, other direct physical harm, or introduction of incongruent features materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland. This would be an incremental contribution to Tribal cultural resources impacts in the study area.
Sacramento Deep Water Ship Channel Project	USACE and Port of Sacramento	The project has been on hold since 2014.	The proposed project would complete the deepening and widening of the navigation channel to its authorized depth of 35 feet. Deepening of the existing ship channel is anticipated to allow for movement of cargo via larger, deeper draft vessels. Widening portions of the channel would increase navigational safety by increasing maneuverability. The 46.5-mile-long ship channel lies within Contra Costa, Solano, Sacramento, and Yolo Counties and serves the marine terminal	The widening of the ship channel would include alteration or removal of existing levee structures. Some of the Delta's earliest levees were built by incorporating high points in the landscape, some of which were Native American mounds. Significant impacts could occur where improvements to the flood protection system require ground-disturbing activities, other direct physical harm, or introduction of incongruent features materially impair an

Program/ Project	Agency	Status	Description of Program/Project	Impacts on Tribal Cultural Resources
			facilities at the Port of Sacramento. The Sacramento Deep Water Ship Channel joins the existing 35-foot-deep channel at New York Slough, thereby affording the Port of Sacramento access to San Francisco Bay Area harbors and the Pacific Ocean.	affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland. This would be an incremental contribution to Tribal cultural resources impacts in the study area.
Anadromous Fish Screen Program	Reclamation and USFWS		The primary objective of the Anadromous Fish Screen Program (AFSP) is to protect juvenile Chinook salmon (all runs), steelhead, green and white sturgeon, striped bass and American shad from entrainment at priority diversions throughout the Central Valley, including unscreened or inadequately screened diversions on the Sacramento and San Joaquin Rivers, their tributaries, the Delta, and the Suisun Marsh.	This project would result in ground disturbance and incremental additions to the amount of infrastructure seen on water bodies and waterways in the study area. Significant impacts could occur where improvements to diversions require ground-disturbing activities, other direct physical harm, or introduction of incongruent features materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland. This would be an incremental contribution to Tribal cultural resources impacts in the study area. Beneficial impacts could result where restoration and enhancement activities improve existing conditions of natural systems that define the character of the Delta TCL.
Delta Fish Species Conservation Hatchery	USFWS, Reclamation, DWR, and CDFW	Rio Vista facility plans being developed	Reclamation proposes to partner with DWR to construct and operate a conservation hatchery for Delta smelt at Rio Vista by 2030. The conservation hatchery would breed and propagate a stock of fish with equivalent genetic resources of the native stock and at sufficient quantities to effectively augment the existing wild population, so that they can be returned to the wild to reproduce naturally in their habitat. Federal agencies expect to partner with the State and local agencies in conducting initial engineering design, site demolition and preparation activities, planning and environmental compliance consultation, and other activities.	Significant impacts could occur where construction of new facilities require ground-disturbing activities, other direct physical harm, or introduction of incongruent features materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape. This would be an incremental contribution to Tribal cultural resources impacts in the study area. Beneficial impacts could result where restoration and enhancement activities improve existing conditions of natural systems that define the character of the Delta TCL.

Program/ Project	Agency	Status	Description of Program/Project	Impacts on Tribal Cultural Resources
West Sacramento Levee Improvements Program	WSAFCA and U.S. Army Corps of Engineers	Planned	The program would construct improvements to the levees protecting West Sacramento to meet local and federal flood protection criteria. The program area includes the entire WSAFCA boundaries which encompasses portions of the Sacramento River, the Yolo Bypass, the Sacramento Bypass, and the Sacramento Deep Water Ship Channel. The system associated with these waterways includes over 50 miles of levees.	This program would result in site-specific repairs or levee upgrades over areas of varying sizes. Some of the Delta's earliest levees were built by incorporating high points in the landscape, some of which were Native American mounds. Significant impacts could occur where improvements to the flood protection system require ground-disturbing activities, other direct physical harm, or introduction of incongruent features materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland This would be an incremental contribution to Tribal cultural resources impacts in the study area.
Franklin Bulk Substation	Sacramento Municipal Utility District	Planned	This project will construct a new distribution substation, the Rancho Seco-Pocket 230 kV No. 1 Line will be looped into the substation, and 2-16.2 MVAR of capacitor banks will be installed.	This project would introduce project facilities on open space lands where none presently exist and would increase the presence of utility infrastructure in the area. This project would result in ground disturbance and incremental additions to the amount of infrastructure. Significant impacts could occur where improvements to the flood protection system require ground-disturbing activities, other direct physical harm, or introduction of incongruent features materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland. This would be an incremental contribution to Tribal cultural resources impacts in the study area.
Grizzly Slough Floodplain Project	DWR	As of July 28, 2021, the grantee was securing final permits and subcontrac	The GS Project is one of two main elements of the North Delta Flood Control and Ecosystem Restoration Project that consists of flood management and habitat improvements where the Mokelumne River, Cosumnes River, Dry Creek and Morrison Creeks converge. Flood flows and high-water conditions in this area	The project would result in the conversion of existing land uses to restored habitat. It may also include ground disturbance and activities such as dredging and levee breaching. Significant impacts could occur where ground-disturbing activities, other direct physical harm, or introduction of incongruent

Program/ Project	Agency	Status	Description of Program/Project	Impacts on Tribal Cultural Resources
		tors prior to construction.	threaten levees, bridges, and roadways. The North Delta project will reduce flooding and provide contiguous aquatic and floodplain habitat along the downstream portion of the Cosumnes Preserve by modifying levees on Grizzly Slough. Benefits to ecosystem processes, fish and wildlife, will be achieved by recreating floodplain seasonal wetlands and riparian habitat on the Grizzly Slough proper.	features materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland, including waterways, aquatic or terrestrial habitats, archaeological or ethnohistorical locations, or views that contribute to the Delta TCL. This would be an incremental contribution to Tribal cultural resources impacts in the study area. This project could also result in beneficial impacts through the reintroduction of habitats that had been lost through the original conversion of natural lands, possibly including species with cultural value to affiliated Tribes as part of the Delta TCL.
Lower Putah Creek Realignment	CDFW	Implemented	The project will restore 300–700 acres of tidal freshwater wetlands, creating 5 miles of a new fish channel, improving anadromous fish access to 25 miles of stream, and restoring at least 5,000 square feet of salmon spawning habitat.	Beneficial impacts could result where restoration and enhancement activities improve existing conditions of natural systems that define the character of the Delta TCL.
Wallace Weir Improvements and Tule Canal Agricultural Crossings	Reclamation District 108 and DWR	Ongoing	The project replaced the seasonal earthen dam at Wallace Weir with a permanent, operable structure that would provide year-round operational control. The project also included a fish rescue facility that returns fish back to the Sacramento River.	Significant impacts may have occurred where ground-disturbing activities damage character-defining features of the Delta TCL. This would be an incremental contribution to Tribal cultural resources impacts in the study area. Beneficial impacts also occurred where restoration and enhancement activities improve existing conditions of natural systems that define the character of the Delta TCL.
Prospect Island Tidal Habitat Restoration Project	DWR and CDFW	Final EIR was certified in 2019.	The intent of the project is to restore freshwater tidal marshes and associated aquatic habitat, including establishing a wildlife refuge and several restoration activities are in the planning process.	Significant impacts could occur where ground-disturbing activities damage character-defining features of the Delta TCL. This would be an incremental contribution to Tribal cultural resources impacts in the study area. Beneficial impacts could result where restoration and enhancement activities improve

Program/ Project	Agency	Status	Description of Program/Project	Impacts on Tribal Cultural Resources
				existing conditions of natural systems that define the character of the Delta TCL.
McCormack-Williamson Tract Flood Control and Ecosystem Restoration Project	DWR	Planned	This project is a part of the North Delta Flood Control and Ecosystem Restoration Project and will implement flood-control improvements principally on and around McCormack-Williamson Tract in a manner that benefits aquatic and terrestrial habitats, species, and ecological processes. Flood-control improvements are needed to reduce damage to land uses, infrastructure, and the Bay-Delta ecosystem caused by catastrophic levee failures in the project study area.	This program would result in site-specific repairs or levee upgrades over areas of varying sizes. Some of the Delta's earliest levees were built by incorporating high points in the landscape, some of which were Native American mounds. Significant impacts could occur where improvements to the flood protection system require ground-disturbing activities, other direct physical harm, or introduction of incongruent features materially impair an affiliated Tribe's ability to experience the Delta as a holistic landscape representing their homeland. This would be an incremental contribution to Tribal cultural resources impacts in the study area.
Hill Slough Restoration Project	CDFW	Planned	The purpose of the project is to restore brackish tidal marsh and associated upland ecotone at the northern Suisun Marsh near the corner of Highway 12 and Grizzly Island Road to benefit endangered as well as migratory and resident species. This project will meet Ecosystem Restoration Program (ERP) goals and objectives by reducing the risk of entrainment of at-risk, native anadromous species of concern including spring-run and winter-run Chinook salmon, steelhead trout, and green sturgeon, as well as other resident and transitory fish species in the Suisun Bay. The project will also meet goals calling for restoration of tidal brackish marsh that will aid in the recovery of listed plant and wildlife species while contributing to primary productivity in the estuary.	Significant impacts could occur where ground-disturbing activities damage character-defining features of the Delta TCL. This would be an incremental contribution to Tribal cultural resources impacts in the study area. Beneficial impacts could result where restoration and enhancement activities improve existing conditions of natural systems that define the character of the Delta TCL.
Goat Island at Rush Ranch Tidal Marsh Restoration	Solano Land Trust	Planned	This project aims to restore tidal marsh habitat by reconnecting and reestablishing tidal marsh hydrology and related physical and ecological processes within and	Significant impacts could occur where ground-disturbing activities damage character-defining features of the Delta TCL. This would be an incremental

Program/ Project	Agency	Status	Description of Program/Project	Impacts on Tribal Cultural Resources
			around Goat Island Marsh. This project will be implemented in conjunction with construction of an Interpretive Nature Trail to Goat Island Marsh to offset public access impacts resulting from closure of the levee trail.	contribution to Tribal cultural resources impacts in the study area. Beneficial impacts could result where restoration and enhancement activities improve existing conditions of natural systems that define the character of the Delta TCL.
Knights Landing Outfall Gates Fish Barrier Project	California Natural Resources Agency	Complete	The project rehabilitated the outfall gates by repairing known structural deficiencies (including scouring found at the inlet and outlet gates), replacing worn out appurtenances, construct a trash barrier system to protect the gates and ease debris collection, and upgrading the electrical and communication system to include backup capability to meet current USACE O&M standards	Significant impacts could occur where ground-disturbing activities damage character-defining features of the Delta TCL. This would be an incremental contribution to Tribal cultural resources impacts in the study area.
SR-239 Project (East Bay – Contra Costa, Alameda, northern San Joaquin Counties)	Caltrans, Contra Costa Transportation Authority, and Contra Costa County	Planned	The State Route 239 project will provide a new, four-lane highway from State Route 4 at Marsh Creek Road in Contra Costa County to Interstate 580 in Alameda County. This new state route will ultimately improve the transportation network for an area that had few viable north-south roadway connections between East Contra Costa and the Central Valley.	This project would introduce project facilities on open space lands where none presently exist and would increase the presence of utility infrastructure in the area. This project would result in ground disturbance and incremental additions to the amount of infrastructure. Significant impacts could occur where improvements to the flood protection system require ground-disturbing activities, other direct physical harm, or introduction of incongruent features materially impair an affiliated Tribe’s ability to experience the Delta as a holistic landscape representing their homeland. This would be an incremental contribution to Tribal cultural resources impacts in the study area.

1 AFSP = Anadromous Fish Screen Program; BDCP = Bay Delta Conservation Plan; CCWD = Contra Costa Water District;
 2 CDFW = California Department of Fish and Wildlife; Caltrans = California Department of Transportation; CVFPP = Central
 3 Valley Flood Protection Plan; Delta TCL = Delta Tribal cultural landscape; DWR = California Department of Water
 4 Resources; EIR = environmental impact report; EIS = environmental impact statement; HCP = Habitat Conservation Plan
 5 LURMP = Land Use and Resource Management Plan; DRMS = Delta Risk Management Strategy; I- = Interstate; NMFS =
 6 National Marine Fisheries Service; O&M = operations and maintenance; Reclamation = U.S. Bureau of Reclamation; SR=
 7 State Route; SRWTP = Sacramento Regional Water Treatment Plant; USACE = U.S. Army Corps of Engineers; USFWS = U.S.
 8 Fish and Wildlife Service; WSAFCA = West Sacramento Area Flood Control Agency.
 9

1 **32.3.4.1 Cumulative Impacts of the No Project Alternative**

2 The ongoing projects and programs in the Delta under the No Project Alternative, in addition to the
3 cumulative projects, involve constructing new facilities or implementing restoration and habitat
4 enhancement goals. SWP/CVP operations would require repair, maintenance, or protection of
5 infrastructure such as levees and may also include actions for water quality management, habitat
6 and species protection, and flood management. These actions require construction activity
7 throughout the Delta and other areas of California and could materially impair an affiliated Tribe's
8 ability to spiritually, physically, or culturally experience the character-defining features of the Delta
9 TCL.

10 **32.3.4.2 Cumulative Impacts of the Project Alternatives**

11 The projects in Table 32-3 and all project alternatives involve construction that, in combination with
12 the closely related past, present, and reasonably foreseeable probable future projects, would result
13 in cumulatively significant impacts on affiliated Tribes' ability to physically, spiritually, or
14 ceremonially experience the Delta TCL. Levee improvements included in flood protection projects
15 could physically harm Native American mound sites that may have been incorporated into the
16 earliest levee construction projects. Ground-disturbing construction activities in general could
17 result in similar damage to archaeological or ethnohistorical locations that may contribute to the
18 Delta TCL or that may be identified as individual Tribal cultural resources. Many of the projects in
19 Table 32-3 would introduce new features into the landscape, sometimes converting land from open
20 space or agriculture through linear transportation projects, urban development expansion,
21 restoration and enhancement projects, aqueduct or ship channel expansion and flood control
22 projects. Introduction of these incongruous features into the Delta TCL would materially impair
23 character-defining features of the Delta TCL.

24 Mitigation Measure TCR-1a: *Avoidance of Impacts on Tribal Cultural Resources*, Mitigation Measure
25 TCR-1b: *Plans for the Management of Tribal Cultural Resources*, Mitigation Measure TCR 1c:
26 *Implement Measures to Restore and Enhance the Physical, Spiritual, and Ceremonial Qualities of*
27 *Affected Tribal Cultural Resources*, and Mitigation Measure TCR-1d: *Incorporate Tribal Knowledge*
28 *into Compensatory Mitigation Planning (Restoration)* would reduce the impacts of the project by
29 avoiding or protecting character-defining features of the Delta TCL where feasible, incorporating
30 Tribal knowledge, including Tribal Ecological Knowledge, into compensatory mitigation program
31 and other plans for the protection or restoration of natural communities, terrestrial biological
32 resources or aquatic resources, or by preparing treatment plans to address specific project impacts
33 at discrete locations. However, in some localized cases, impacts would not be reduced to a less-than-
34 significant level even though environmental commitments and mitigation measures would reduce
35 some aspects of the impact on character-defining features of the Delta TCL. Based on input from
36 consulting Tribes, it is likely that the construction and ongoing operations of the project would
37 materially impair character-defining features of the Delta TCL.

38 The Delta Conveyance Project, in combination with other projects, plans, policies, and programs
39 identified in Table 32-3, could result in a substantial cumulatively significant impact on Tribal
40 cultural resources.