

## 4.5 CULTURAL RESOURCES

This section summarizes information on the cultural resources in the Parkway Plan Area and provides an evaluation of the potential effect of the implementation of the proposed Plan on these sensitive resources. Cultural resources evaluated in this section include archaeological, paleontological, and historic resources. Appendix F of this Draft Environmental Impact Report (Draft EIR) includes an existing conditions report.

### 4.5.1 ENVIRONMENTAL SETTING

#### 4.5.1.1 REGULATORY FRAMEWORK

There are several federal, State, and local laws and regulations applicable to historical, paleontological, and archaeological resources in the Parkway Plan Area. The key regulations are briefly discussed below.

#### Federal Laws and Regulations

##### *National Historic Preservation Act*

The federal law which governs the treatment of cultural resources is Section 106 of the National Historic Preservation Act (NHPA). Under Section 106, when a federal agency is involved in an undertaking, it must take into account the effects of the undertaking on historic properties, which are defined as those properties that meet criteria for inclusion on the National Register of Historic Places (National Register). Properties are not required to be listed on the National Register to be considered historic properties. The National Register is administered by the National Park Service.

Properties eligible for listing in the National Register possess integrity of location, design, setting, materials, workmanship, feeling and association, and:

- are associated with important historical events (Criterion A); or
- are associated with the lives of significant persons in our past (Criterion B); or
- embody the distinct characteristics of a type, period, or method of construction (Criterion C); or
- may yield information important in prehistory or history (Criterion D).

Listing in the NRHP does not guarantee specific protection or assistance for a property, but it does ensure its recognition in the planning for federal or federally assisted projects (see Section 106), eligibility for federal tax benefits, and qualification for federal historic preservation assistance. The NRHP is influential beyond its statutory role because it achieves uniform standards of documentation and evaluation. Additionally, project effects on properties listed in the NRHP must be evaluated under California Environmental Quality Act (CEQA).

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### *Executive Order 11593 (May 13, 1971), 36 Code of Federal Regulations, Section 8921 as incorporated into Title 7, United States Code*

Executive Order 11593, Protection of the Cultural Environment, orders the protection and enhancement of the cultural environment through providing leadership, establishing State offices of historic preservation, and developing criteria for assessing resource values.

### *American Indian Religious Freedom Act, Title 42 United States Code, Section 1996*

The American Indian Religious Freedom Act protects Native American religious practices, ethnic heritage sites, and land uses.

### *Native American Graves Protection and Repatriation Act (NAGPRA) (1990), Title 25, United States Code*

Native American Graves Protection and Repatriation Act (NAGPRA) defines “cultural items,” “sacred objects,” and “objects of cultural patrimony;” establishes an ownership hierarchy; provides for review; allows excavation of human remains, but stipulates return of the remains according to ownership; sets penalties; calls for inventories; and provides for return of specified cultural items. NAGPRA applies only to federal or Indian lands.

## State Laws and Regulations

### *California Register of Historic Resources (California Register)*

California Code of Regulations Title 14, Chapter 11.5, Section 4850 creates the California Register. The California Register establishes a list of properties to be protected from substantial adverse change (Public Resources Code Section 5024.1). Under the Public Resources Code, a historical resource may be listed in the California Register if it meets any of the following criteria:

- It is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage.
- It is associated with the lives of persons important in our history.
- Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic value.
- Has yielded, or may be likely to yield, information important in prehistory or history.

The California Register includes properties that are listed or have been formally determined eligible for listing in the National Register, State Historical Landmarks, and eligible Points of Historical Interest. Other resources that may be eligible for the California Register, and which require nomination and approval for listing by the State Historic Resources Commission, include: resources contributing to the significance of a local historic district; individual historical resources; historical resources identified in history surveys conducted in accordance with Office of Historic Preservation (OHP) procedures; historic resources or districts designated under a local ordinance consistent with the procedures of the State Historic Resources Commission; and local landmarks or historic properties designated under local ordinance.

### *California Environmental Quality Act*

Section 15064.5 of the CEQA Guidelines states that a project may have a significant impact on the environment if it causes a substantial adverse change in the significance of a historical resource. The CEQA Guidelines define four ways that a property may qualify as a significant historical resource for purposes of determining CEQA compliance:

- The resource is listed in or determined to be eligible for listing in the California Register of Historical Resources, as determined by the State Historical Resources Commission.
- The resource is included in a local register of historical resources, as defined in Section 5020.1(k) of the Public Resources Code, or identified as significant in a historical resource survey meeting the requirements of Section 5024.1(g) of the Public Resources Code, unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- The lead agency determines the resources to be significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California, as supported by substantial evidence in light of the whole record.
- The lead agency determines that the resource may be a historical resource as defined in Public Resources Code Sections 5020.1(j) or 5024.1 (CEQA Guidelines Section 15064.5) which means, in part, that it may be eligible for the California Register.

In addition, Public Resources Code Section 21083.2 and Section 15126.4 of the CEQA Guidelines specify lead agency responsibilities to determine whether a project may have a significant effect on archaeological resources. If it can be demonstrated that a project will damage a unique archaeological resources, the lead agency may require reasonable efforts for the resources to be preserved in place or left in an undisturbed state. Preservation in place is the preferred approach to mitigation. The Public Resources Code also details required mitigation if unique archaeological resources are not preserved in place.

Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land. These codes protect such remains from disturbance, vandalism and inadvertent destruction; establish procedures to be implemented if Native American skeletal remains are discovered during construction of a project; and establish the Native American Heritage Commission (NAHC) as the authority to identify the most likely descendant and mediate any disputes regarding disposition of such remains.

### *Health and Safety Code*

Section 7050.5 of the Health and Safety Code requires that construction or excavation be stopped in the vicinity of discovered human remains until the County Coroner can determine whether the remains are those of a Native American. Section 7050.5(b) outlines the procedures to follow should human remains be inadvertently discovered in any location other than a dedicated cemetery. The section also states that the County Coroner, upon recognizing the remains as being of Native American origin, is responsible for contacting the NAHC within twenty-four hours. The NAHC has various powers and duties to provide for the ultimate disposition of any Native American remains, as does the assigned Most Likely Descendant.

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### *California Historical Building Code, California Code of Regulations, Title 24, Part 8*

The California Historical Building Code, defined in Sections 18950 to 18961 of Division 13, Part 2.7 of Health and Safety Code, provides regulations and standards for the rehabilitation, preservation, restoration (including related reconstruction) or relocation of historical buildings or structures deemed by any level of government as having importance to the history, architecture, or culture of an area.

### *Native American Historic Resource Protection Act; Archaeological, Paleontological, and Historical Sites; Native American Historical, Cultural, and Sacred Sites (Public Resources Code Sections 5097-5097.994)*

Public Resources Code Section 5097 specifies the procedures to be followed in the event of the unexpected discovery of human remains on non-federal public lands. California Public Resources Code 5097.9 states that no public agency or private party on public property shall “interfere with the free expression or exercise of Native American Religion.” The code further states that:

*No such agency or party [shall] cause severe or irreparable damage to any Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine...except on a clear and convincing showing that the public interest and necessity so require.*

County and city lands are exempt from this provision, except for parklands larger than 100 acres.

### *Government Code 65352.3-5, Local Government – Tribal Consultation*

California Government Code Section 65352.3-5, commonly referred to as Senate Bill (SB) 18, states that prior to the adoption or amendment of a City or County’s General Plan, or Specific Plans, a City or County must consult with California Native American tribes that are on the contact list maintained by the NAHC. The intent of this legislation is to preserve or mitigate impacts on places, features, and objects that are culturally significant to Native Americans. The bill also states that the City or County shall protect the confidentiality of information concerning the specific identity, location, character, and use of those places, features, and objects identified by Native American consultation.

## Parkway Master Plan Policies

The Conservancy will implement its mission and the Parkway Master Plan in a manner consistent with its adopted Parkway Master Plan goals, objectives, policies, design guidelines, and best management practices (BMPs) to the extent practicable.

## Local Regulations and Policies

The Conservancy is the lead agency responsible for preparing, approving, and implementing the proposed Parkway Master Plan. The Conservancy may assist other government agencies and nonprofit organizations in implementing elements of the proposed Plan. The Conservancy’s authorities and jurisdiction are described in Chapter 3. Local land use policies relevant to Parkway development and implementation are discussed in this section.

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*Madera County General Plan*

Section 4, Recreational and Cultural Resources, Part D of the Madera County General Plan includes policies and goals to protect cultural resources for projects under the jurisdiction of the County of Madera. Table 4.5-1, below, lists those policies.

**TABLE 4.5-1 MADERA COUNTY GENERAL PLAN POLICIES RELEVANT TO CULTURAL RESOURCES**

| <b>Policy/Goal Number</b> | <b>Policy/Goal</b>  |
|---------------------------|---|
| <i>Goal 4.D</i>           | <i>To identify, protect, and enhance Madera County's important, historical, archaeological, paleontological, and cultural sites and their contributing environment.</i>   |
| Policy 4.D.1              | The County shall solicit the views of the local Native American community in cases where development may result in disturbance to sites containing evidence of Native American activity and/or sites of cultural importance.  |
| Policy 4.D.2              | The County shall coordinate with the cities and advisory councils in the county to promote the preservation and maintenance of Madera County's paleontological, archaeological, and historical resources.   |
| Policy 4.D.3              | The County shall require that discretionary development projects identify and protect from damage, destruction, and abuse, important historical, archaeological, paleontological, and cultural sites and their contributing environment.  |
| Policy 4.D.4              | The County shall, within its power, maintain confidentiality regarding the locations of archaeological sites in order to preserve and protect these resources from vandalism and the unauthorized removal of artifacts. If significant archaeological and cultural resources are open to the public, the County shall control public access to prevent damage or vandalism. |
| Policy 4.D.5              | The County shall provide for the placement of historical markers or signs on adjacent county roadways and major thoroughfares to attract and inform visitors of important historic resource sites.  |
| Policy 4.D.6              | The County shall encourage the preservation of the original architectural character of significant historic structures and districts. To this end, the County shall use the <i>State Historic Building Code</i> .   |
| Policy 4.D.7              | The County will use existing legislation and propose local legislation for the identification and protection of cultural resources and their contributing environment.  |
| Policy 4.D.8              | The County shall support the registration of cultural resources in appropriate landmark designations (i.e., National Register of Historic Places, California Historical Landmarks, Points of Historical Interest, or Local Landmark). The County shall assist private citizens seeking these designations for their property.   |

Source: Madera County General Plan, October 24, 1995.

*Fresno County General Plan*

The Open Space and Conservation Element of the Fresno County General Plan contains several policies and goals that address the preservation of cultural and historical resources within the County. Table 4.5-2 identifies the goals and policies that would apply to projects under the jurisdiction of the County of Fresno with respect to the preservation and protection of cultural resources.

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TABLE 4.5-2 FRESNO COUNTY GENERAL PLAN POLICIES RELEVANT TO CULTURAL RESOURCES

| Policy/Goal Number | Policy/Goal   |
|--------------------|---|
| Goal OS-J          | <i>To identify, protect, and enhance Fresno County's important historical, archeological, paleontological, geological, and cultural sites and their contributing environment.</i>   |
| Policy OS-J.1      | The County shall require that discretionary development projects, as part of any required CEQA review, identify and protect important historical, archeological, paleontological, and cultural sites and their contributing environment from damage, destruction, and abuse to the maximum extent feasible. Project-level mitigation shall include accurate site surveys, consideration of project alternatives to preserve archaeological and historic resources, and provision for resource recovery and preservation when displacement is unavoidable. |
| Policy OS-J.2      | The County shall, within the limits of its authority and responsibility, maintain confidentiality regarding the locations of archeological sites in order to preserve and protect these resources from vandalism and the unauthorized removal of artifacts.   |
| Policy OS-J.3      | The County shall solicit the views of the local Native American community in cases where development may result in disturbance to sites containing evidence of Native American activity and/or sites of cultural importance.  |
| Policy OS-J.4      | The County shall maintain an inventory of all sites and structures in the County determined to be of historical significance (Index of Historic Properties in Fresno County).   |
| Policy OS-J.5      | The County shall support the registration by property owners and others of cultural resources in appropriate landmark designations (i.e., National Register of Historic Places, California Historical Landmarks, Points of Historical Interest, or Local Landmark).   |
| Policy OS-J.6      | The County shall provide for the placement of historical markers or signs on adjacent County roadways and major thoroughfares to attract and inform visitors of important historic resource sites. If such sites are open to the public, the County shall ensure that access is controlled to prevent damage or vandalism.  |
| Policy OS-J.7      | The County shall use the State Historic Building Code and existing legislation and ordinances to encourage preservation of cultural resources and their contributing environment.   |
| Policy OS-J.8      | The County shall support efforts of other organizations and agencies to preserve and enhance historic resources for educational and cultural purposes through maintenance and development of interpretive services and facilities at County recreational areas and other sites.   |
| Policy OS-J.9      | In approving new development, the County shall ensure, to the maximum extent practicable, that the location, siting, and design of any project be subordinate to significant geologic resources.  |
| Policy OS-J.10     | The County shall encourage property owners to enter into open space easements for the protection of unique geologic resources.  |
| Policy OS-J.11     | The County shall consider purchasing park sites for the purpose of preserving unique geologic resources for public enjoyment.   |
| Policy OS-J.12     | The County should encourage the inclusion of unique geologic resources on the National Registry of Natural Landmarks.   |
| Policy OS-J.13     | The County shall encourage State and Federal agencies to purchase significant geologic resources for permanent protection.  |

Source: Fresno County General Plan, October 2000.

### *City of Fresno General Plan*

The City of Fresno General Plan addresses cultural and historical resources under the Resource Conservation Element applicable to projects under the jurisdiction of the City. Table 4.5-3 identifies those policies.

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**TABLE 4.5-3 CITY OF FRESNO 2025 GENERAL PLAN POLICIES RELEVANT TO CULTURAL RESOURCES**

| <b>Policy/Objective Number</b> | <b>Policy Objective</b>  |
|--------------------------------|--|
| Objective HCR-2                | Identify and preserve Fresno's historic and cultural resources that reflect important cultural, social, economic, and architectural features so that residents will have a foundation upon which to measure and direct physical change.  |
| Policy HCR-2-c                 | Project Development. Prior to project approval, continue to require a project site and its Area of Potential Effects (APE), without benefit of a prior historic survey, to be evaluated and reviewed for the potential for historic and/or cultural resources by a professional who meets the Secretary of Interior's Qualifications. Survey costs shall be the responsibility of the project developer. Council may, but is not required, to adopt an ordinance to implement this policy. |
| Policy HCR-2-d                 | Native American Sites. Work with local Native American tribes to protect recorded and unrecorded cultural and sacred sites, as required by State law, and educate developers and the community-at-large about the connections between Native American history and the environmental features that characterize the local landscape.  |
| Policy HCR-2-g                 | Demolition Review. Review all demolition permits to determine if the resource scheduled for demolition is potentially eligible for listing on the Local Register of Historic Resources. Consistent with the Historic Preservation Ordinance, refer potentially eligible resources to the Historic Preservation Commission and as appropriate to the City Council.  |
| Policy HCR-2-k                 | City-Owned Resources. Maintain all City-owned historic and cultural resources in a manner that is consistent with the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties, as appropriate.   |

**4.5.2 EXISTING CONDITIONS**

The Parkway Plan Area consists of the floodplain on both sides of an approximately 23-mile reach of the San Joaquin River between Friant Dam and State Route 99, as shown in Figure 3-2 of the Project Description. Portions of the river channel and floodplain have been severely altered by grazing and agriculture, sand and gravel extraction, residential development, and recreational activities. Of the 2,552 acres of land owned by the Conservancy for the Parkway, 1,950 acres (76 percent) were once mined for gravel. Over 70 percent of the total existing public lands in the Parkway reach have been mined. Nearly 1,000 additional acres in private ownership are currently being mined. These lands are eligible for future Parkway acquisition. During the mining process, surface soils and unusable “overburden” are stockpiled, sand and gravel are excavated and exported, and the stockpiled materials are re-distributed. Except for unmined setbacks along the current river banks and other unmined areas, the surface and subsurface of these mined properties would not contain undisturbed cultural historic, paleontological, or geological resources. The general topography is characterized by these gravel ponds, level terrain, and some areas of gently rising terrain. The floodplain is surrounded by steep bluffs in various locations. Elevations in the Plan Area range from approximately 230 to 400 feet above mean sea level.

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Within the San Joaquin Valley and adjacent foothills of the Sierra, there has been a long and complex cultural history consisting of distinct regional patterns that extend back more than 11,000 years.<sup>1</sup> Evidence has suggested that early Paleo-Indian hunters once existed in these areas. As a result, some of the oldest archaeological deposits discovered in California are in the general area of the San Joaquin Valley.

Prior to Euro American settlement, most of the San Joaquin Valley and the foothills of the Sierra Nevada and Diablo Range were inhabited by speakers of Yokutsan languages. The Yokuts people typically occupied the eastern side of the San Joaquin Valley and, as a result, the Plan Area falls within the territory where several Yokuts tribes including the Foothill Yokuts Wakichi, Kachaye, Dumna, and the Valley Yokuts Hoyim'a and the Pitkachi were settled.

Based on information available at the time of the Draft EIR, there are a minimum of 34 documented cultural resources sites within or adjacent to the Parkway Plan Area, this includes 25 prehistoric/ethnographic Native American resources and 11 non-Native American historic-era sites. There are a minimum of at least 16 known but undocumented historic-era sites within the Parkway Plan Area.

There are no officially designated sites on the National Register or the California Register within the vicinity of the Parkway Plan Area.<sup>2</sup> However, there are two historic-era structures/facilities within the study area which are currently in Parkway use. The Phelps Mansion/Riverview Ranch is located on Friant Road and served as the first plant nursery in Fresno County, started by William Macca in 1881. There is a 112-plus year old Victorian home, a barn, and carriage house on the property. After being abandoned in the 1990s, the home has been restored by the San Joaquin River Parkway and Conservation Trust as a Parkway visitor center now known as the Coke Hallowell Center for River Studies. The second structure is the California Department of Fish and Wildlife's San Joaquin River Fish Hatchery which was established in 1954 and is currently in use.

### 4.5.3 STANDARDS OF SIGNIFICANCE

The proposed Project would result in a significant cultural resources impact if it would:

1. Cause a substantial adverse change in the significance of a historical resource.
2. Cause a substantial adverse change in the significance of an archaeological resource.
3. Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature.
4. Disturb any human remains, including those interred outside of formal cemeteries.

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<sup>1</sup> McGuire, Kelly R., 1995. Occasional Papers in Anthropology 5. *Test Excavations at CA-FRE-61, Fresno County, California*. Museum of Anthropology, CSU Bakersfield, CA.

<sup>2</sup> Historic Fresno, map of Nation Register Historic Places in Fresno County, <https://maps.google.com/maps/ms?ie=UTF8&hl=en&msa=0&msid=214335035244636624140.00044cfa46e7e397a508e&ll=36.813683,-119.848137&spn=0.164091,0.41851&z=12>, accessed April 21, 2017.

#### 4.5.4 IMPACT DISCUSSION

This section analyzes potential project-specific and cumulative impacts with regard to cultural resources. The proposed Project itself is intended to be a conceptual, long-range document, and is not proposing specific projects, but is instead identifying opportunity sites within the Parkway Plan Area. Future projects proposed under the proposed Plan would be subject to separate project-level CEQA review to identify potential impacts and mitigation measures, if necessary.

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**CULT-1                      The proposed Project would not cause a significant substantial adverse change in the significance of a historical resource.**

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The proposed Project would result in a significant impact if it resulted in a significant substantial adverse change in the significance of a historical resource. Implementation of the proposed Project would result in acquisition of lands for conservation purposes; historic resources on these lands could be protected. Implementation will also involve habitat restoration and construction and operation of additional facilities and structures to support low-impact recreational activities such as hiking, biking, kayaking and canoeing, and camping. Additionally, the proposed Project would add new trails and connect existing Parkway multi-use trails and secondary trails.

As a result of implementation of the proposed Plan, habitat restoration and construction of additional facilities and trails could occur in areas that may contain historical resources. However, as stated in the existing conditions section of this chapter, there are no official federal or State registered historical resources in the immediate Parkway Plan Area that would be afforded special consideration under CEQA Guidelines. Although there are no officially designated historical structures in the Parkway Plan Area, there are at least two historical-era structures of particular importance. The Riverview Ranch which contains a 112-plus year old Victorian home, and the San Joaquin River Fish Hatchery, which was established in 1954, are located within the Parkway Plan Area. Although these structures are considered to be of the historical-era, they are neither federally nor State registered places.

Even in the absence of officially designated and/or registered historical resources, several policies under the proposed Project would ensure the protection of historical resources in the Parkway Plan Area, and would provide opportunities to identify additional historical resources as specific projects are proposed. Further, projects proposed as a result of implementation of the proposed Project would be subject to additional CEQA review to identify project-level potential impacts and necessary mitigation measures. The following policies in the proposed Plan would serve to protect historical resources:

#### **Parkway Master Plan Policies: Cultural and Historic Resources**

**Goals:**

- Preserve and protect cultural and historic resources on Parkway public lands.
- Foster community pride, attract visitors and tourists to distinctive areas, provide recreational opportunities, enhance educational opportunities, and augment the body of scientific and historic knowledge through identification, appropriate recognition, and promotion of historic and cultural resources.

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- Utilize Parkway cultural and historic resources to educate the public about the values of this heritage.

### **Policies:**

- CULTURE.1 Develop operations and management measures to protect cultural or historical resources within the Parkway, including providing training for Parkway staff.
- CULTURE.2 Develop educational materials and provide them at key public use locations instructing the public on value of cultural heritage and the need to leave sites undisturbed. Include what to do in the event a cultural site is disturbed or an artifact is discovered.
- CULTURE.3 Evaluate the potential for cultural resources at project sites and protect all such resources from disturbance during project construction.
- CULTURE.4 Work with local Native Americans organizations to develop programs allowing ceremonial use of Parkway lands.
- CULTURE.5 Work with local Native Americans organizations to develop programs allowing cultivation and harvesting of culturally significant plants.
- CULTURE.6 Solicit the views of the local Native American community in cases where development may result in disturbance to sites containing evidence of Native American activity and/or sites of cultural importance.
- CULTURE.7 Coordinate with the City of Fresno, counties of Madera and Fresno, and relevant advisory councils to promote the preservation and maintenance of paleontological, archaeological, and historical resources within the Parkway.
- CULTURE.8 Within the Conservancy's power, maintain confidentiality regarding the locations of archaeological sites in order to preserve and protect these resources from vandalism and the unauthorized removal of artifacts. If significant archaeological and cultural resources are open to the public, the Conservancy shall manage public access to protect against damage or vandalism.
- CULTURE.9 Promote the placement of historical markers or signs on adjacent roadways and major thoroughfares to attract and inform visitors of important historic resource sites.
- CULTURE.10 To the extent feasible, preserve the original architectural character of significant historic structures acquired for the Parkway in accordance with the State Historic Building Code.
- CULTURE.11 As part of any required CEQA review, identify and protect important historical, archeological, paleontological, and cultural sites and their contributing environment from damage, destruction, and abuse to the maximum extent feasible. Project-level mitigation shall include accurate site surveys, consideration of avoidance and project alternatives to preserve archaeological and historic resources, and provision for resource recovery and preservation when displacement is unavoidable.

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- CULTURE.12 Register cultural resources within public lands in the Parkway in appropriate landmark designations (i.e., National Register of Historic Places, California Historical Landmarks, Points of Historical Interest, or Local Landmark).
- CULTURE.13 Preserve and enhance historic resources for educational and cultural purposes through maintenance as feasible and through development of interpretive programs and facilities within the Parkway.
- CULTURE.14 To the extent feasible, preserve any unique geologic resources within the Parkway for public enjoyment.
- CULTURE.15 Cooperate with other jurisdictions, agencies, and organizations to collect information on historic and candidate sites in the Parkway. Coordinate with the State Office of Historic Preservation and other agencies and interested parties to determine needs, design alternatives, and funding strategies to encourage people to enjoy the Parkway's historical and cultural features.
- CULTURE.16 Before demolishing any structures over fifty years old, evaluate the historical significance, including reviewing the historical register and records, and consulting with the State Office of Historic Preservation.
- CULTURE.17 Before any nonemergency/nonhazard removal of historic trees or landscapes, determine potential alternative actions to avoid or otherwise preserve the resources to the extent feasible.
- CULTURE.18 If the site of a proposed project is found to contain unique prehistoric (archaeological or paleontological) resources, and the project will cause damage to these resources, reasonable efforts shall be made to permit any or all of the resource to be scientifically removed, or it shall be preserved in situ (left in in an undisturbed state). In situ preservation may include the following option, or equivalent measures: amending construction plans to avoid prehistoric resources; dedicating sites containing these resources for permanent protection and conservation; capping or covering these resources with a protective layer of soil before building on the sites; and/or leaving prehistoric sites undisturbed within parks, green space, or other open space areas.

### **BMP Cult-1 – Evaluate Cultural Resources for Eligibility for Inclusion in the California Register of Historic Resources (CRHR), and Implement Appropriate Measures for Eligible Resources**

The Conservancy shall ensure that all cultural resources identified prior to or during construction of the various proposed Project components will be evaluated for eligibility for inclusion in the CHRR. Where implementation of the proposed Project necessitates ground disturbance, a records search and pedestrian survey shall be conducted prior to construction. Resource evaluations will be conducted by qualified individuals who meet professional standards in archeology and architectural history. If any of the resources that are identified during this evaluation meet the eligibility criteria identified in PRC Section 5024.1 or PRC Section 21083.2 the Conservancy will develop and implement mitigation measures according to CEQA Guidelines section 1526.4(b) before construction begins or resumes.

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For resources eligible for listing in the CRHR that would be rendered ineligible by project construction, the Conservancy shall implement mitigation measures selected from the following: avoidance; dedication of sites within parks, green-space or other open space; capping the site; or date recovery excavation. Mitigation measures for archaeological resources shall be developed in consultation with responsible agencies, including but not limited to the State Office of Historic Preservation and, as appropriate, interested parties such as Native American tribes. Implementation of the approved mitigation would be required before beginning any construction activities with potential to affect identified eligible resources at the site.

### **BMP Cult-2 – Immediately Halt Construction if Cultural Resources are Discovered**

If any cultural resources, such as structural features, unusual amounts of bone or shell, flaked or ground stone artifacts, historic-era artifacts, human remains, or architectural remains are encountered during any project construction activities, work shall be suspended immediately at the location of the find and within an appropriate radius of at least 50 feet. A qualified archaeologist shall conduct a field investigation of the specific site and recommend mitigation necessary for the protection or recovery of any cultural resource concluded by the archaeologist to represent a historical resource or unique archaeological resource.

### **BMP Cult-3 – Immediately Halt Construction if Human Remains are Discovered and Implement California Health and Safety Code**

If human remains are accidentally discovered during the proposed Project's construction activities, the requirements of California Health and Human Safety Code section 7050.5 must be followed. Potentially damaging excavation must halt in the area of the remains, with a minimum radius of 50 feet, and the local County Coroner must be notified. The Coroner is required to examine all discoveries of human remains within 48 hours of receiving notice of a discovery on private or state lands (Health and Safety Code section 7050.50(b).) If the Coroner determines that the remains are those of a Native American, he or she must contact the NAHC by phone within 24 hours of making that determination (Health and Safety Code section 7050 (c)). Pursuant to the provisions of the PRC section 5097.98, the NAHC shall identify a Most Likely Descendant (MLD). The MLD designated by the NAHC shall have at least 48 hours to inspect the site and propose treatment and disposition of the remains and any associated grave goods.

Through implementation of the proposed Plan, specifically Parkway Master Plan Policy CULTURE.5, tribal stakeholders would be able to harvest plants for traditional purposes. Currently, the riparian and floodplain habitat throughout the Parkway Plan Area has been widely degraded, and plants important for traditional ceremonial, spiritual, medical, and craft purposes are no longer widely available. However, implementation of the proposed Plan would improve native plant populations, including those traditionally used by tribal stakeholders, and native tribal members could harvest those materials through arrangement with the Conservancy.

The proposed Plan includes policies which call for the preservation and protection of cultural and historic resources. Further, these policies are consistent with the policies of the general plans of Madera County, Fresno County, and the City of Fresno: Madera County's General Plan includes Goal 4.D, Policy 4.D.2, Policy 4.D.3, Policy 4.D.5, Policy 4.D.6, and Policy 4.D.8. Fresno County includes protective measures Goal OS-J, Policy OS-J.1, Policy OS-J.4, Policy OS-J.5, Policy OS-J.6, and Policy OS-J.7. The City of Fresno's General Plan includes Policy HCR-2-c, Policy HCR-2-d, Policy HCR-2-g, and Policy HCR-2-k.

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Although there are no officially designated historical resources in the Parkway Plan Area, the overall area in the vicinity has a rich history, which could, upon site-specific investigation, include historical resources. With application of federal and State laws and regulations, along with the policies under the proposed Project that seek to protect historical resources, the impact would be *less than significant*.

**Applicable Laws, Regulations, and Permits, Relevant Local Land Use Policies:**

- National Historic Preservation Act, Section 106
- California Code of Regulations, Title 14, Chapter 11.5, Section 4850 (California Register)
- Madera County General Plan (Goal 4.D, Policy 4.D.2, Policy 4.D.3, Policy 4.D.5, Policy 4.D.6, and Policy 4.D.8.)
- Fresno County General Plan (Goal OS-J, Policy OS-J.1, Policy OS-J.4, Policy OS-J.5, Policy OS-J.6, and Policy OS-J.7)
- City of Fresno General Plan (The City of Fresno’s General Plan includes Policy HCR-2-c, Policy HCR-2-d, Policy HCR-2-g, and Policy HCR-2-k)

**Significance Without Mitigation:** Less than significant.

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**CULT-2                      The proposed Project would not cause a significant substantial adverse change in the significance of an archaeological resource.**

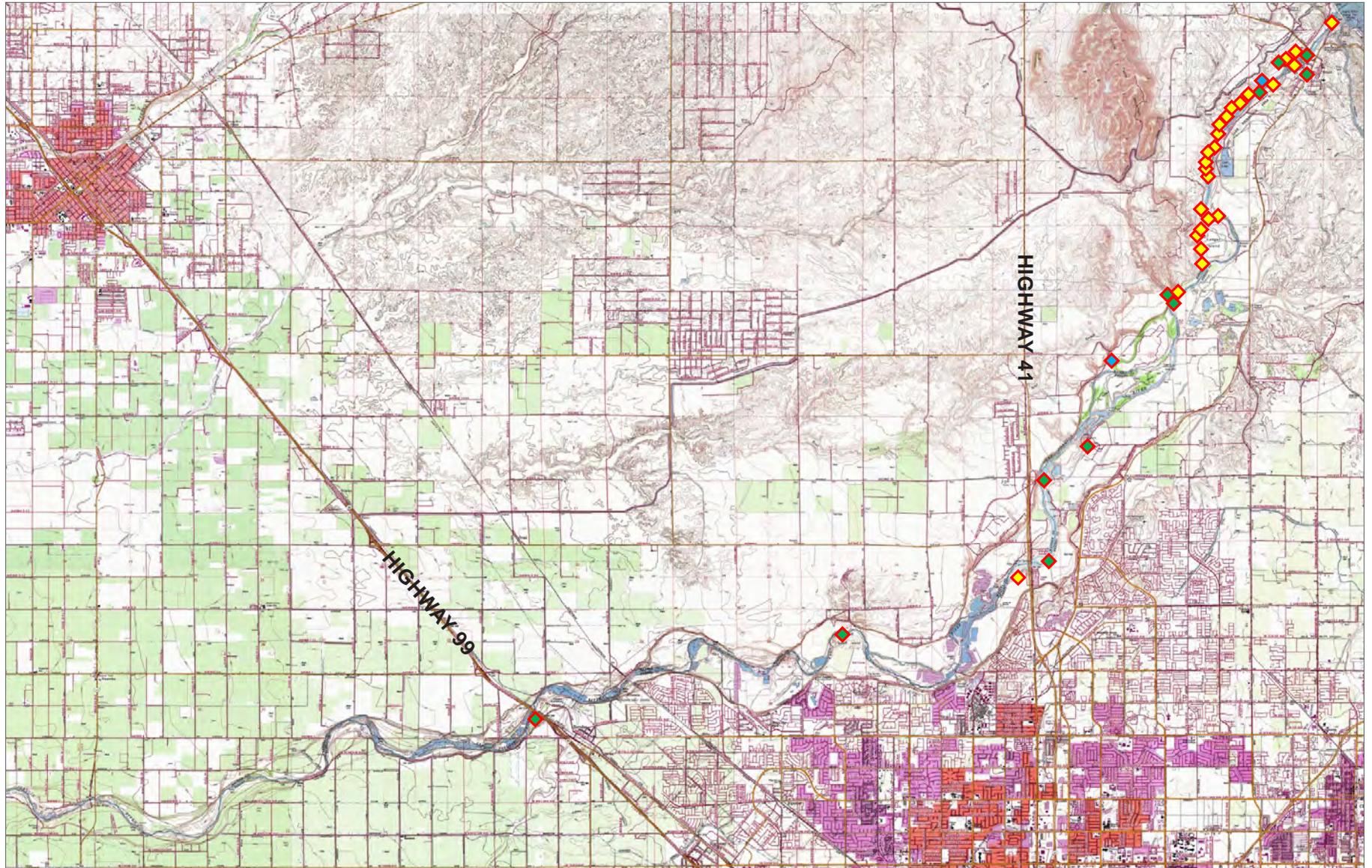
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The proposed Project would have a significant impact if it resulted in a substantial adverse change in the significance of an archaeological resource. The proposed Project would result in the conservation of open space, habitat restoration, and introduction of new structures and facilities within the Parkway Plan Area to support low-impact recreational activities. Grading for habitat restoration and the construction of facilities such as additional restrooms, drinking-water fountains, multi-use trail connections, parking lots, campsites, and boat and canoe launches, would result in ground disturbing activities that could result in potential impacts to archaeological resources.

As discussed in the existing conditions there are 34 archaeological sites within the Parkway Plan Area, which consist, specifically, of sites related to Native American uses and/or structures, historic-era structures, and Native American archaeological sites. As shown in Figure 4.5-1, the highest concentrations of Native American and historic period resources are located along the San Joaquin River toward Friant Dam. Other sites are scattered throughout the remainder of the Plan Area.

Implementation of the proposed Project will result in 5,900 acres of public Parkway lands, the unimproved portions of which would permanently conserve any archeological resources they contain. Implementation of the proposed Project could result in grading, excavation, or construction of low-impact recreation facilities within these general areas. However, implementation of the goals and policies listed in CULT-1 above would ensure that as projects are proposed, potential impacts to both identified and as of yet undiscovered archaeological resources would be evaluated, and these resources protected. Such policies require that project sites be evaluated for presence of potential cultural resources, including archaeological resources and the avoidance, protection, and preservation of archaeological and cultural resources.

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Source: National Geographic.

- ◆ Native American site
- ◆ Multi-Component site
- ◆ Historic period site

Figure 4.5-1  
Native American and Historic Period Resources in the Parkway Plan Area

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Additionally, consistency with the policies of the general plans of Madera County, Fresno County, and the City of Fresno would serve to preserve and protect archaeological resources. Madera County includes Goal 4.D, Policy 4.D.2, Policy 4.D.3, and Policy 4.D.4. Fresno County’s General Plan Goal OS-J, Policy OS-J.1, Policy OS-J.2, and Policy OS-J.3 would ensure the protection of archaeological resources within their jurisdiction. The City of Fresno includes protective measures, such as Policy HCR-2-c, Policy HCR-2-d, Policy HCR-2-g, and Policy HCR-2-k. As the proposed Project is implemented, future projects would be required to comply with CEQA to provide a project-level review, which would identify potential impacts. In addition to independent project-level CEQA review, compliance with all applicable federal, State, and local laws and regulations would ensure impacts of the proposed Project would be *less than significant*.

**Applicable Laws, Regulations, and Permits, Relevant Local Land Use Policies:**

- National Historic Preservation Act, Section 106
- California Code of Regulations, Title 14, Chapter 11.5, Section 4850 (California Register)
- Madera County General Plan (Goal 4.D, Policy 4.D.2, Policy 4.D.3, and Policy 4.D.4)
- Fresno County General Plan (Goal OS-J, Policy OS-J.1, Policy OS-J.2, and Policy OS-J.3)
- City of Fresno (The City of Fresno’s General Plan includes Policy HCR-2-c, Policy HCR-2-d, Policy HCR-2-g, and Policy HCR-2-k)

**Significance Without Mitigation:** Less than significant.

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**CULT-3                      The proposed Project would not cause significant impacts that would directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature.**

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The proposed Project would result in significant impacts if it would directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature. Implementation of the proposed Project would result in the acquisition of conservation areas, restoration of native habitat, and construction and operation of low-impact recreation facilities, such as restrooms, campsites, parking lots, and trails. Grading for habitat restoration and construction could potentially alter or destroy, either directly or indirectly, a unique paleontological resource or site, or a unique geologic feature.

Although habitat restoration and buildout of recreational facilities under the proposed Project could result in impacts that could alter or destroy, directly or indirectly, a unique paleontological or geologic resource, several measures under the proposed Project (listed in CULT-1 above) would ensure that as individual future developments and enhancements are proposed in the Plan Area, potential paleontological or geological resources will undergo site-specific investigation and evaluation, and assure that future Parkway development protects and preserves paleontological and geologic resources.

Further, consistency with the respective general plans of local jurisdictions would protect paleontological and geological resources. Madera County’s General Plan includes protective measures with respect to paleontological and geologic resources through Goal 4.D, Policy 4.D.2, Policy 4.D.3, Policy 4.D.4, and Policy 4.D.7. Fresno County’s General Plan includes Goal OS-J, Policy OS-J.1, Policy OS-J.2, Policy OS-J.3, Policy OS-J.6, Policy OS-J.9, Policy OS-J.10, Policy OS-J.11, and Policy OS-J.13. Paleontological and geologic resources within the City of

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Fresno are protected through The City of Fresno's General Plan includes Policy HCR-2-c, Policy HCR-2-d, Policy HCR-2-g, and Policy HCR-2-k.

Although enhancements and individual developments within the Parkway Plan Area could result in direct or indirect effects to paleontological and/or geological resources, policies under the proposed Project and compliance with all applicable laws and regulations would ensure that those impacts are reduced to *less-than-significant* levels.

### **Applicable Laws, Regulations, and Permits, Relevant Local Land Use Policies:**

- Madera County General Plan (Goal 4.D, Policy 4.D.2, Policy 4.D.3, Policy 4.D.4, and Policy 4.D.7)
- Fresno County General Plan (Goal OS-J, Policy OS-J.1, Policy OS-J.2, Policy OS-J.3, Policy OS-J.6, Policy OS-J.9, Policy OS-J.10, Policy OS-J.11, and Policy OS-J.13)
- City of Fresno General Plan (The City of Fresno's General Plan includes Policy HCR-2-c, Policy HCR-2-d, Policy HCR-2-g, and Policy HCR-2-k)

**Significance Without Mitigation:** Less than significant.

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| <b>CULT-4</b> | <b>The proposed Project would not result in significant impacts that would disturb any human remains, including those interred outside of formal cemeteries.</b> |
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The proposed Project would result in significant impacts if it disturbed any human remains, including those interred outside of formal cemeteries. Implementation of the proposed Plan would result in habitat enhancement and construction and operation of low-impact recreation and education facilities, including but not limited multi-use and secondary trail construction, restroom facilities, canoe and kayak launches, campsites, and parking lots. Such projects could include potential grading, digging and excavation in various areas throughout the Parkway, which could result in the disturbance of human remains. However, several protective measures, including BMP Cult-3 (listed above under CULT-1), would require that any activity that results in the discovery of and/or disturbance to any human remains cease immediately until the proper authorities are contacted to investigate the remains.

Although the proposed Project does not identify specific projects to be completed, future development would be required to comply with all applicable laws and regulations. Section 15064.5 of the CEQA Guidelines specifies procedures to be used in the event of an unexpected discovery of Native American human remains on non-federal land, which would protect the remains and require the proper authorities to be contacted to identify any discovered human remains prior to continuing construction activities. Section 7050.5 of the Health and Safety Code requires that construction or excavation be stopped in the vicinity of discovered human remains until the County Coroner can determine whether the remains are those of a Native American. Public Resources Code, Section 5097 specifies procedures to be followed in the event of the unexpected discovery of human remains on non-federal public lands. Such consultation, as identified under BMP Cult-3 would ensure that places, features, and objects culturally significant to Native Americans, including human remains, are protected and that any impacts to these resources are mitigated.

Since all future projects will comply with all applicable laws would require both cessation of construction activities and consultation with local authorities in the event human remains are discovered, such impacts from implementation of the proposed Project would, therefore, be considered *less than significant*.

**Applicable Laws, Regulations, and Permits, Relevant Local Land Use Policies:**

- CEQA Guidelines, Section 15064.5
- Health and Safety Code, Section 7050.5
- Government Code Section 65352.3-5 (Senate Bill 18)
- Native American Graves Protection and Repatriation Act, Title 25

**Significance Without Mitigation:** Less than significant.

## 4.5.5 CUMULATIVE IMPACTS

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**CULT-5                      The proposed Project, in combination with past, present, and reasonably foreseeable projects, would not result in significant impacts with respect to cultural resources.**

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A cumulative impact would occur if the proposed Project, in combination with past, present, and reasonably foreseeable projects, would result in significant cumulative impacts with respect to cultural resources. For purposes of the cumulative impact discussion, the geographic scope would be the general areas surrounding the Parkway Plan Area in Madera County, Fresno County, and the City of Fresno.

As discussed in the impact analyses above, the Parkway Plan Area does not contain any officially designated historical resources; however, there are at least two historic-era structures within the Parkway in Fresno County. Additionally, there are several locations of cultural resources identified within the Plan Area, concentrated primarily near the base of the Friant Dam and in some scattered locations along the San Joaquin River, as shown in Figure 4.5-1.

According to the City of Fresno Historical Preservation Development and Resource Management department, there are 292 individual properties on the local register as of August 2016 that are considered to be of or have significant importance to Fresno’s history;<sup>3</sup> and 30 sites on the National Register of Historic Places<sup>4</sup>; however, as mentioned above, there are no officially designated properties or structures within the Parkway Plan Area.

The proposed project will result in the acquisition of 5,900 acres of land for the purposes of conservation in perpetuity. Development will be limited to habitat restoration and low-impact recreation facilities to the extent they are consistent with conservation of natural, cultural and historic resources. These resources can be protected

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<sup>3</sup> City of Fresno, Historical Preservation Development and Resource Management, <http://www.fresno.gov/Government/DepartmentDirectory/DARM/HistoricPreservation/HistoricResorces.htm>, accessed April 21, 2017.

<sup>4</sup> Historic Fresno, A Guide to Historic Architecture in Fresno, California, <http://www.historicfresno.org/nrhp/nrhp.htm>, accessed April 21, 2017.

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through avoidance as well as protective polices and BMPs. Therefore, the proposed Project may result in the permanent protection of cultural and historic resources that might otherwise have been disturbed or degraded over time.

Although future development under the proposed Plan could impact cultural resources, compliance with federal, State, and local laws protecting cultural resources would ensure that such resources are protected to the greatest extent feasible. Additionally, future development under the proposed Project would be subject to several policies and BMPs within the proposed Plan, listed above in CULT-1, which would further ensure the protection of cultural resources above and beyond federal, State, and local laws. As such, the proposed Project would not contribute to cumulative impacts with respect to cultural resources. Assuming that other projects unrelated to Parkway Master Plan implementation adhere to all applicable federal, State, and local laws and regulations, cultural resources would not be significantly cumulatively impacted.

Further, consistency with each jurisdiction's general plan further ensures protection of cultural resources as relevant to future projects that fall within their jurisdictional boundaries. Madera County's General Plan includes protective measures with respect to cultural resources through Goal 4.D, and Policy 4.D.1 through Policy 4.D.8. Fresno County's General Plan includes Goal OS-J, and Policy OS-J.1 through Policy OS-J.13. Cultural resources within the City of Fresno are protected through The City of Fresno's General Plan includes Policy HCR-2-c, Policy HCR-2-d, Policy HCR-2-g, and Policy HCR-2-k.

Compliance with policies under the proposed Project and compliance with all applicable federal, State, and local laws and regulations would ensure that cumulative impacts with respect to cultural resources would be *less than significant*.

### **Applicable Laws, Regulations, and Permits, Relevant Local Land Use Policies:**

- National Historic Preservation Act, Section 106
- Executive Order 11593
- Native American Graves Protection and Repatriation Act, Title 25
- CEQA Guidelines, Section 15064.5
- Health and Safety Code, Section 7050.5
- Government Code 65352.3-5 (Senate Bill 18)
- Madera County General Plan (Goal 4.D, and Policy 4.D.1 through Policy 4.D.8)
- Fresno County General Plan (Goal OS-J, and Policy OS-J.1 through Policy OS-J.13)
- City of Fresno General Plan (The City of Fresno's General Plan includes Policy HCR-2-c, Policy HCR-2-d, Policy HCR-2-g, and Policy HCR-2-k)

**Significance Without Mitigation:** Less than significant.