Appendix 32D
Principles for the Identification of the Tribal Cultural Resources for the Proposed Delta Conveyance Project

FINAL

PRINCIPLES FOR THE IDENTIFICATION OF TRIBAL CULTURAL RESOURCES FOR THE PROPOSED DELTA CONVEYANCE PROJECT

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Principles for the Identification of Tribal Cultural Resources for the Proposed Delta Conveyance Project

Introduction

The purpose of this document is to present the California Department of Water Resources' (Department) principles and methods for identifying Tribal Cultural Resources (TCR), as defined by the California Environmental Quality Act (CEQA), for preparation of the Delta Conveyance Project (DCP) environmental impact report (EIR). This document is intended to inform Department staff and others working with the Department to prepare the EIR. This introduction includes descriptions of the Assembly Bill 52 (2014) amendment to CEQA, a discussion of how resources are determined to qualify as TCRs, and an overview of how the concept of "a good faith effort" guides the Department's goal of achieving meaningful consultation with culturally and geographically affiliated Tribes.

Tribal expertise regarding Native American heritage has not traditionally been applied to CEQA cultural resources evaluations. The principles for the Department's identification of TCRs ensure that Tribal perspective is incorporated into application of the CEQA criteria for evaluating significance and is a means of getting important information from Tribes so that the Department has the necessary information for CEQA evaluation.

Establishment of Tribal Cultural Resources in AB 52

Under California Assembly Bill (AB) 52 (2013-2014), which went into effect July 2015, and the CEQA Guidelines, adopted by the Governor's Office of Planning and Research in 2016, CEQA lead agencies must engage in a consultation process with California Native American Tribes[1] (that may include both federally and non-federally recognized) and address impacts on TCRs as part of the CEQA environmental review process. As defined in Public Resources Code (PRC) Section 21074, a TCR is a site, feature, place, cultural landscape, sacred place, or object with cultural value to a California Native American Tribe that is either in, or determined eligible for inclusion in, the California Register of Historical Resources (California Register); or included on a local historic register; or is a resource that the lead agency determines, after applying the PRC criteria, should be treated as a TCR.

Determination of Tribal Cultural Resources

As a CEQA lead agency, the Department determines if a resource is a TCR by applying the definitions established by CEQA. The Department will consider the following questions when determining whether a resource qualifies as a TCR as defined in Chapter 21074 of the Public Resources Code:

- Is it a site, feature, place, cultural landscape, sacred place or object with cultural value to a California Native American Tribe that is either:

[1] This term and its variants is defined in Executive Order B-10-11 (9/19/2011) as follows: "…the terms "Tribe," "California Indian Tribe", and "tribal" include all Federally Recognized Tribes and other California Native Americans."

- Included in or determined eligible for inclusion in the California Register (21074(a)(1)(A))

  or

- Included in a local register of historical resources as defined in Section 5020.1(k). (21074(a)(1)(B))

- Is it a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe. (21074(a)(2)) If a resource meets the criteria above, do either of the following considerations apply:
  - If it is a cultural landscape that meets one of these criteria, is it geographically defined in terms of the size and scope of the landscape (21074(b))
  - Archaeological resources (both unique and non-unique) may be TCRs if they meet the criteria above. (21074(c))

In other words, a resource may qualify as a TCR if it has been listed or determined eligible for listing on the California Register previously. If resources are deemed significant by a California Native American Tribe but have not been previously listed or evaluated, these resources would involve further consideration by the Department to determine listing eligibility. In applying the California Register of Historical Resources criteria, the Department will rely on the professional judgment of technical experts, which may include Department staff, consultants, and Tribal representatives.

If a resource has not been formally listed or determined eligible for listing in the California Register, the Department may also use its discretion, supported by substantial evidence and pursuant to criteria set forth in PRC Section 5024.1(c), to make a determination as to whether the resource qualifies as a TCR in accordance with CEQA, which includes evaluation under the applicable historic register criteria.

If the Department evaluates a resource under PRC 21074(a)(2), the Department has discretion to find a resource is a TCR, but must still apply the PRC 5024.1(c) criteria, with due deference to Tribal expertise when assessing the significance of the resource. Again, the Department will rely on the professional judgment of technical experts, which may include DWR staff and consultants, and must also include Tribal representatives.

The Department will seek consulting Tribes' participation in the identification of CEQA TCRs. This will assist the Department in identifying the importance of a resource or its significance to a Tribe and Tribal members also may have special technical expertise that can contribute to a determination of whether a resource qualifies for listing on the California Register. The Department will also examine existing ethnographic information and previous studies and recordation of archaeological resources, both of which may help identify locations where resources associated with Tribal cultural heritage may occur. However, the Department recognizes that Tribes will have an expert role in describing the significance of resources to Tribal heritage. Tribes who share information through consultation about significance and integrity of resources can assist the Department in evaluating these resources since thresholds for TCR significance and integrity are not well established elsewhere.

The determination of whether a resource qualifies as a TCR may involve consultation about a resource's location and character that are culturally sensitive to the Tribe. The Department recognizes that a Tribe may be reluctant to share information that the Tribe believes may compromise the resource's cultural value. In these circumstances, the Department will make a good faith effort to work collaboratively with a Tribe to establish how much information the Department needs in order to determine whether a resource qualifies as a TCR, including the nature of the resource's cultural significance to a Tribe, its location, and other data that the Tribe deems confidential, and the Department will take steps to protect the data's confidentiality. The Department will take into consideration the Tribal perspective shared through consultation, which has not been a perspective traditionally taken for archaeological or historical architectural resources, when applying the California Register eligibility criteria. This way, the Tribal significance of the resource will be reflected in the assessment.

When the Department relies on information provided by a Tribe, it will be important to carefully document who was in attendance during discussions about the resource, who provided the statements on behalf of the Tribe as to the importance of the resources in question, and the type of evidence presented to the agency. Similarly, it will be important for the Department to document its determination of whether the resource qualifies as a TCR. Expectations for such documentation are discussed further in the steps for applying the Principles presented in the second half of this document.

The Department recognizes that resources that do not qualify under CEQA as a TCR may still be important to a Tribe. The Department may therefore work with Tribes as part of an AB 52 consultation, or with Tribes the Department is engaging with under the Department's Tribal Engagement Policy, to find mutually agreeable ways to avoid, minimize, or potentially mitigate for impacts to these resources.

Good Faith Effort

CEQA requires meaningful consultation with culturally and geographically affiliated Tribes to identify TCRs and to develop avoidance or mitigation as appropriate. The AB 52 legislation explicitly recognizes that:

> California Native American tribes may have expertise with regard to their tribal history and practices, which concern the tribal cultural resources with which they are traditionally and culturally affiliated. Because the California Environmental Quality Act calls for a sufficient degree of analysis, tribal knowledge about the land and tribal cultural resources at issue should be included in environmental assessments for projects that may have a significant impact on those resources.

The Department's good faith efforts to foster meaningful consultation related to the identification of TCRs begins with a recognition that Tribal participants bring special expertise to the consultation process due to their unique cultural and geographical affiliation with an area; an affiliation that non-Tribal participants to the consultation may not possess. To some extent, the recent addition of AB 52 language to CEQA reflects the State's efforts to offset a degree of unintended cultural bias that may have existed in the regulations and within the non-Tribal community that has historically been responsible for evaluating the significance of Tribal resources. The principles set forth in this document, and the associated steps for identifying TCRs, offer a framework for recognizing these subconscious historical biases and reframing the context in which Tribal resources are evaluated as part of the Department's good faith effort to meet both the letter and the intent of AB 52.

The consultation requirements of AB 52 do not preclude additional consultation with Native American Tribes to address the consideration of resources that do not meet criteria to be considered *Historical Resources,* or the consideration of impacts that are not *significant* under CEQA. The Department recognizes that potential impacts that are not found to be *significant* impacts under CEQA nonetheless may be important to California Native American Tribes. The Department recognizes that various resources, including burials and associated materials and even resources lacking the technical integrity needed to qualify for the California Register, often represent important elements of Tribal heritage, and in applying the Department's Tribal Engagement Policy to the DCP, the Department will make good faith effort to identify and protect such resources, even if not judged at the level of s*ignificant* under CEQA.

While lead agencies are required to reach out specifically to those Tribes that have previously requested project notifications under AB 52, California Native American Tribes that did not submit requests to receive project notifications from the Department may also have resources of significance to them. Therefore, contacting local Tribes beyond those that have previously requested AB 52 project notifications from the Department is part of the Department's good faith effort to identify potential TCRs for the DCP. Contact information for additional Tribes is available from the Native American Heritage Commission (NAHC).

Delta Conveyance Project Principles for Tribal Cultural Resource Identification

Principle #1: The Department recognizes that Tribal Cultural Resources are a distinct category of CEQA environmental concern because they represent the unique heritage of California Native American Tribes.

Principle #2: The Department recognizes that California Native American Tribes have knowledge, expertise, and values regarding the significance of Tribal Cultural Resources that are distinctive from non-Tribal people.

Principle #3: The Department seeks to conduct meaningful and culturally sensitive consultation with California Native American Tribes for the purpose of identifying potential Tribal Cultural Resources in the CEQA process.

Principle #4: Consulting with Tribes during the Department's effort to identify Tribal Cultural Resources helps the Department achieve the CEQA objective of making decisions based on substantial evidence about the resources affected by the DCP.

Principle #5: The Department is committed to proactively and transparently sharing information with California Native American Tribes about the project's CEQA process and facilitating a consultation process that promotes Tribes' ability to meaningfully affect project outcomes.

Principle #6: The Department recognizes that information shared by consulting Tribes regarding potential Tribal Cultural Resources is sensitive and may be confidential, and the Department is committed to ensuring that any sensitive and confidential information shared with the Department is prohibited from public disclosure unless expressly authorized.

Principle #7: The Department recognizes its responsibility and authority to determine which resources qualify as Tribal Cultural Resources for the purpose of CEQA, and that the DCP may affect other resources that are important to Tribes.

Principle # 8: The Department recognizes that the identification of Tribal Cultural Resources is fundamental to the AB 52 consultation process and that identification, information sharing, and proposal of mitigation is to be achieved through culturally sensitive consultation with California Native American Tribes.

Applying the Principles

At the beginning of the environmental planning and review process for the DCP, the Department established a Tribal Work Group (TWG) comprised of the project's environmental permitting manager, members of the project's CEQA review team, cultural resources staff from the Division of Integrated Science and Engineering (DISE), staff from the Department's Office of the Tribal Policy Advisor, and cultural resources professionals from the DCP consultant team. The TWG regularly communicates about progress on Tribal consultation efforts, logistics for upcoming Tribal consultation and coordination, and best practices for development of the project's CEQA documentation regarding Tribal Cultural Resources. The TWG prepared a fact sheet that describes major milestones in the CEQA review process, opportunities for Tribal input to inform the process, and opportunities for Tribal review of the environmental documentation. Many other resources may be developed and shared with Tribes to support meaningful consultation, promote collaboration, and facilitate information sharing.

The set of principles listed above evolved as an organic process through the combined expertise of the TWG and ongoing Tribal engagement as the TWG met to address the project's Tribal engagement objectives. The remainder of this document describes the process for identifying the TCRs potentially affected by the DCP in light of the project's *Principles for Tribal Cultural Resource Identification*.

Step 1: Initiate Consultation or Engagement with California Native American Tribes

A. Initial Outreach

- The DCP is adhering to the Department's Tribal Engagement Policy and the California Natural Resources Agency's Tribal Consultation Policy, both of which call for a good faith effort to consult with, and engage, Tribes. In addition, the Department has an AB 52 list of Tribes who have, pursuant to the requirements of AB 52, provided notice to lead agencies that they wish to be consulted.
- The Department conducted an informational meeting for Tribes about the status and next steps related to Delta conveyance in September 2019 that included information on how to notify the Department of their interest to consult under AB 52. The Department also requested a contact list from the NAHC in November 2019, to help inform planning efforts and development of the NOP.

- Pursuant to AB 52 and State consultation policies, the Department initiated formal consultation by sending project notification letters for the DCP on January 15, 2020. Based on the information provided by the NAHC, 119 Tribes were notified. In March, DWR sent additional project notification letters to two Northern California Tribes during the public scoping process.
- DISE cultural resources staff and Tribal Policy Advisor's Office staff maintain a master list of Tribes that have sent DWR a request to be notified of projects under AB 52.
- The TWG has dedicated staff for tracking all Tribal communication (letters, emails, phone calls), providing regular updates to DCP environmental managers, and ensuring that the project follows the legally defined process, paying careful attention to the deadlines and consultation requirements (PRC §§ 21080.3.1 and 21080.3.2)
- The TWG keeps any confidential information provided by the Tribes separate, securely stored, and clearly marked as confidential.
- DCP consultants requested a Sacred Lands File search from the NAHC in September 2020 due to new alternatives being proposed that were outside of the initial defined planning area. Additional notification letters were sent to any additional Tribes identified. If new alternatives or design options are developed for environmental review the DCP consultants will request updated Sacred Lands File searches.

Step 2: Consult with California Native American Tribes about Tribal Cultural Resources

A. Disclosures to Tribes During Engagement and Consultation

- The Department informed Tribes that the Department is seeking to identify TCRs in the CEQA process during general information meetings as well as formal consultation meetings with individual Tribes.
- During the September 2020 informational meeting, the Department discussed the status and next steps related to Delta conveyance, including future CEQA and AB 52 requirements, the process for TCR identification, and opportunities for Tribal engagement.
- The Department will continue to update Tribes about the progress of the CEQA environmental document, opportunities to review TCR technical studies (see Steps 3, 4, and 5), and the schedule for major milestones.
- If a Tribe that was not on the Department's list of AB 52 consulting Tribes as of release of the NOP requests consultation, the Department will engage with that Tribe under the Department's Tribal Engagement Policy.

B. Request for Information from Tribes During Consultation

- The Department is committed to meaningful consultation.
- In recognition of Tribal cultural knowledge and expertise, the Department will ask if the Tribes' knowledge of places, objects, or other definable things with cultural significance to their Tribe can be discussed and shared. The Department will inform Tribes that information about culturally important resources will help the Department understand the Tribes' concerns about

its heritage resources and will support the Department's identification of CEQA TCRs in the DCP study area.

- The Department is committed to maintaining confidentiality for all sensitive information shared by Tribes (unless a Tribe explicitly requests that the information be made part of the public record).

C. Resources of Cultural Significance to Tribes

The Department recognizes that a wide range of resources could be identified as potential TCRs—topographic formations on the landscape, archaeological sites, ancient trees, basketry or medicinal plants, the homes and businesses that are connected with important Tribal events, trails, creeks, springs, rivers, beaches, important animals (and by extension, their habitat), viewsheds—all of these and more could conceivably be identified by a Tribe as holding cultural importance.

The Department also recognizes that each Tribe may have its own perspective on whether sites, features, places, cultural landscapes, sacred places, and objects have a cultural value to a Tribe, and the nature of the cultural value. What one Tribe considers or does not consider important may be irrelevant to another Tribe. Moreover, two Tribes whose ancestral boundaries overlap can attribute cultural value to a resource for different reasons, and therefore a single potential TCR can have cultural value to multiple Tribes for different reasons. Even within a Tribe, different families may ascribe cultural value to a resource that others outside that family might not know about.

Examples of resources that California Native American Tribes have described as holding significance include the following:

- A place where an ancestral figure passed through, named a place on the landscape, and/or left a mark on the landscape
- A place where ceremony is or has been performed
- A place where an important event in a Tribe's history took place
- A place associated with a dreamer, spiritual leader, or prominent political leader
- Named places occurring in the early written records
- A place important to traditional teaching methods or part of instructional stories
- A home or business of a Tribal member crucial to the establishment of the Tribe's political autonomy
- A location where medicinal, basketry, or ceremonial items are harvested, gathered, or stored
- A place that contains human remains
- Archaeological sites seen as imbued with ceremonial or spiritual importance

This is only a partial list, and each Tribe will likely have knowledge of other resources with cultural value to them that fall outside these examples. What is important is that the identification process be conducted openly and collaboratively, with sensitivity to Tribal concerns, particularly where a Tribe's view of a resource's cultural value is outside the experience or expertise of those acting on behalf of the Department.

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Step 3: Prepare an Ethnographic Summary

Ethnography is a recognized anthropological approach to studying a specific cultural group, and understanding the beliefs, rituals, and institutions of that group. An Ethnographic Summary will be prepared by the Department to review existing ethnographic and cultural resources documentation to identify potential locations of resources that may qualify as TCRs, recognizing that the purpose of the original studies was to collect cultural data more generally and not the identification of potentially significant resources. The Ethnographic Summary will be treated as a confidential document since it may include written details or mapped locations of places with potential cultural significance to Tribes.

The Ethnographic Summary is an early step in developing the ethnographic context that the Department may use in tandem with the results of oral histories or field visits to support its evaluation of whether a specific resource qualifies as a TCR. It will also be shared with Tribes during consultation discussions aimed at identifying TCRs, including, but not limited to, oral history interviews or field visits. The results of Tribal consultation, oral histories, or field visits will be incorporated into the Tribal Cultural Resources Identification Report.

- The Department will notify consulting Tribes about the preparation of an Ethnographic Summary that compiles existing ethnographic data from public sources.
- The Department will express that the Tribes' review and discussion of the Ethnographic Summary during consultation meetings may contribute to TCR identification.
- The Department will share the Ethnographic Summary with Tribes actively engaged in consultation and consider their comments and additions prior to finalizing the Ethnographic Summary.
- When sharing the Ethnographic Summary with Tribes, the Department will inquire if the Tribes have information that they would like to see included in the Tribal Cultural Resources Identification Report (described below).

Step 4: Tribal Cultural Resources Identification Report

A Tribal Cultural Resources Identification Report (TCRIR) will document the evaluation of all potential TCRs identified during Tribal consultation as well as the Department's own research and identification efforts. This document serves an important role in the CEQA review of the DCP. The TCRIR documents the evidence used by the Department to conclude whether or not a resource qualifies as a TCR. Resources identified in the TCRIR as meeting the criteria to qualify as TCRs will be analyzed in the EIR (likely a confidential appendix) to determine whether the project will have significant impacts on those resources. The TCRIR will also contain information about each TCR that may inform the development of avoidance options or mitigation measures for those TCRs that may be impacted by the project.

The Department is committed to listening to Tribes' own descriptions of any resource's heritage significance, integrity, periods of significance, and physical boundaries. It can be challenging for lead agencies to translate traditional cultural knowledge into language designed to fit standard criteria, such as the California Register criteria that was originally drafted with historic buildings and archaeological data in mind. Tribal Cultural Resources evaluation thus relies most heavily on information about resources provided by consulting Tribes.

For resources that a Tribe indicates as having important historical or cultural value to the Tribe, but for which information about significance, integrity, periods of significance, and physical boundaries are private to the Tribe and cannot be shared with the Department, the Department will make a good faith effort to establish this information based on its knowledge of the resource, for the purposes of evaluation.

A. Consult with Tribes about Tribal Cultural Resources Evaluation

- The Department will notify consulting Tribes about the schedule for preparation of draft TCR evaluations and notify Tribes about their opportunities to contribute information and review draft evaluations.
- The Department may begin evaluating whether a resource qualifies as a TCR when it is first identified during consultation or through ethnographic research. An evaluation may be a continual process through Steps 2, 3, and 4 and during preparation of the TCRIR.
- The Department will ask Tribes if they want to provide information that would contribute to the Department's evaluation of resources identified during Steps 2-4. Contributions may include descriptions, boundary delineations, historical significance, and physical integrity. If possible, field visits to resource locations will be facilitated or conducted with consulting Tribes.
- The Department will continue to communicate with Tribes about the method for identifying TCRs through the evaluation process and express how the Tribes' participation will contribute to TCR identification.
- The Department will express the project's commitment to listening to Tribes' own descriptions of any resource's heritage significance, integrity, periods of significance, and physical boundaries.
- The Department will confirm the confidentiality of sensitive information, affirming that sensitive information will not be publicly disclosed (unless explicitly requested by the Tribe whose information it is).

B. Conduct Oral Histories or Field Visits with Delegated Tribal Representatives

Oral histories conducted with Tribal elders or other knowledgeable Tribal experts, or interviews with delegated Tribal representatives, have the potential to provide information about sites, features, places, cultural landscapes, sacred places, or objects that have cultural value to the Tribe. This type of information can add valuable Tribal perspective and expertise to the Department's evaluation of whether a resource meets the California Register criteria. For those Tribes that are willing to participate, the Department will conduct oral histories pertaining to Tribal history in the DCP study area and may schedule field visits, if feasible, with Tribal elders or representatives to refine the mutual understanding of sensitive areas or specific resources.

- The Department will support facilitating or conducting Tribal oral histories, as informed through consultation.
- The Department will inform Tribes about how their participation in oral histories contributes to the Department's TCR identification efforts. Participation may include such actions as identifying oral history candidates, facilitating interviews, or reviewing the oral history summary.

- The Department will confirm the confidentiality of sensitive information, including that each interview is confidential and will not be part of the public record unless explicitly requested by the Tribe.

Each interview will be included in a confidential oral history summary as an individual document, and each individual document will be shared with the Tribe whose member was interviewed. Oral histories commonly pertain to the knowledge and experiences of living people and are very sensitive information for both the speaker and for the Tribal culture. The oral history summary is documentation of cultural knowledge and values as told by members of consulting Tribes. The project's oral histories are not part of the public record unless explicitly requested by a Tribe.

The oral history summary report will contain:

- Fully transcribed Tribal oral history interviews that were conducted by, facilitated by, or provided to the Department and which had been reviewed and approved by the Tribe.
- Additional content as deemed useful by the Department, which may include maps showing ancestral or cultural affiliation territories or information gleaned during field visits.
- Statement of sensitivity and confidentiality.

C. Identify Resources for Consideration as Tribal Cultural Resources

The Department will analyze the ethnographic summary, the input from consulting Tribes, and current environmental mapping of the project area to identify discreet sites, features, places, landscapes, or objects that may have cultural value to a California Tribe and thus warrant consideration as a resource that may meet the CEQA definition of Tribal Cultural Resource. The Department will prepare a written description of the current physical characteristics of each resource, with particular attention to any qualities of the resource that help define its unique character (sometimes referred to as a resource's character-defining features). The Department will also prepare a summary of the history or cultural value of the resource, including its role in Tribal events or cultural practices, its association with important people or ancestral figure, its use for creating or teaching the traditional techniques for creating utilitarian, ceremonial, or artistic goods, or other associations with Tribal cultural values. This individual history or cultural association will be compared against broader themes with recognized importance to determine whether the resource possesses significance as defined by the California Register evaluation criteria.

D. Evaluate California Register Historical Significance

The Department recognizes that Tribes consulting or engaging with the Department on the Delta Conveyance Project have knowledge, expertise, and values regarding the cultural and historical significance of potential TCRs. Preparation of the draft evaluation statements should be done by a cultural resources professional with education and professional experience in cultural resources management, including qualified Tribe members, Department staff, or consultants.

For each of the potential resources identified by Tribes during consultation or by the Department through other research, determine if the resource meets one or more of the California Register criteria:

Criterion 1: Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.

Criterion 2: Is associated with the lives of persons important in our past.

Criterion 3: Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.

Criterion 4: Has yielded, or may be likely to yield, information important in prehistory or history.

Once the significance of a resource has been defined in relationship to the criteria, a period of significance must be established for each resource found to possess significance under one or more of the criteria. The Department's engagement with Tribes as described in Steps 2, 3 and 4 will include efforts to establish periods of significance for each resource. If information is lacking, the Department will make a good faith effort to establish an appropriate period.

E. Assess California Register Historical Integrity

The Department's California Register evaluation of integrity will rely heavily on a Tribe's description of how well the resource conveys its significance, consistent with Public Resources Code 21074(a)(2). This is evaluated with regard to the retention of location, design, setting, materials, workmanship, feeling, and association in relation to the resource's significance under the four associative criteria and in consideration of the resource's period of significance and physical boundary.

In some instances, the ability for a resource with cultural value to a Tribe to convey its significance is in relation to the Tribe's perception, not the perception of non-Tribal people. A resource that has the integrity of feeling to a Tribal elder, or delegated Tribal representative, does not need to convey that significance to, for example, a historian or archaeologist. The characteristics that contribute to the resource's significance and their ability to continue to convey that significance, must be described in sufficient detail to support a finding of California Register eligibility. The Department will make a good faith effort to work collaboratively with Tribes' to prepare appropriate documentation.

While an assessment of a resource's integrity is required, the aspects of integrity are not well defined at the state level. To address this, guidance from the federal evaluation process has been used to illustrate how the aspects of integrity might be applied to a resource. It is important to understand that integrity is the ability to convey significance, and the significance of each resource is unique. Thus, each resource may require a different combination of integrity aspects in order to be able to continue conveying its significance. This relationship between significance and integrity will be documented for each resource in the TCRIR.

Association

The integrity of association is described as "the direct link between an important historic event or person and a historic property" (National Park Service 1995:45)[2]. For resources with cultural value to a Tribe, this association may come in a number of forms. Landforms, bodies of water, trails, villages, viewsheds, or resource areas can all be associated with cultural heroes, ancestral figures, or deities, and this association imbues these places with power.

[2] National Park Service. 1995. *How to Apply the National Register Criteria for Evaluation*. National Register Bulletin 15. U. S. Department of the Interior, National Park Service; Washington, D. C.

Setting

The National Park Service (NPS) defines setting as "the physical environment of a historic property…[and] refers to the *character* of the place in which the property played its historical role" (National Park Service 1995:45). The integrity of setting is a complicated topic for indigenous sites, as so many have been affected by development, agriculture, ranching, mining, land reclamation, or other large-scale disturbances that have occurred since the 1800s. A critical part of Tribal history is survival and continued traditions and culture in the face of colonization, genocide, and settlement by nonindigenous peoples, and the juxtaposition of colonial incursion may contribute to integrity of the resource's setting.

Feeling

National Register Bulletin 15 describes the integrity of feeling as a resource's "expression of the aesthetic or historical sense of a particular period of time" (National Park Service 1995:45). For Tribes, the integrity of feeling may have a strong emotional component, such as awe, reverence, sorrow, or joy. This aspect of integrity can transcend the aesthetic value or historical sense of a place. A bedrock mortar from an ancestral village within a housing complex might not be able to convey its importance as an historical resource because of the loss of other aspects of integrity. However, that same bedrock mortar, used by the ancestors of a Tribal viewer and still extant despite the destruction of the rest of the site around it, may invoke a strong feeling of place and loss that conveys the site's importance.

Materials

The integrity of materials is defined as "the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property" (National Park Service 1995:45). Non-Tribal historical elements, or modern materials of any kind, that have been introduced to a resource may not rule out the resource from being significant to a Tribe. The use of modern construction materials—such as nails, screws, and milled wood—doesn't necessarily negate the sacredness of those buildings.

Workmanship

NPS defines the integrity of workmanship as "the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory" (National Park Service 1995:45). While NPS refers specifically to diagnostic artifacts associated with different indigenous cultures as examples of workmanship—and California culture groups do indeed have their own sets of diagnostic artifacts—there are other broader applications that specifically apply to California Tribes. Roundhouses, regalia houses, ramadas, or other architectural features could fall into this category. Pictographs and petroglyphs are also potentially relevant. Bedrock mortars, quarries, lithic scatters, and bead production sites might also rely on their integrity of workmanship in order to convey their significance.

Design

Design is defined as "the combination of elements that create the form, plan, space, structure, and style of a property" (National Park Service 1995:44). For instance, the integrity of pictographs and petroglyphs may require consideration of not only the actual artistic elements themselves, but the

decision to place it on a certain type of rock, facing a certain direction, in relation to other nearby features and resources, some natural and others human made. Important buildings such as roundhouses, and regalia and sudatory houses, not only have their own design elements individually but are distributed within a village in culturally specific ways and face certain directions. For some cultures, trails link a series of important locations, and the placement of the trail, the direction walked, and the songs sung on the trail are part of the sacredness of these important locations.

F. Resource Boundary

To meet the criteria established in PRC 5024.1(c) a physical boundary and boundary justification must be established for each resource.

- The Department will consult Tribes to establish physical boundaries for each resource.
- If information is lacking, the Department will make a good faith effort to establish an appropriate boundary.
- In addition to the mapped physical boundary, the Department will include a written statement that defines and justifies the chosen boundary.

G. Documentation of the Department's TCR Determinations

- The TCRIR will present an overview of the resources identified in the DCP study area, including the methods and consultation for evaluation, and a general overview of the conclusions of the evaluation process (e.g., quantity of resources evaluated, quantity that met the TCR criteria, etc.).
- Documentation of individual resource evaluations may be organized in separate confidential appendices organized by Tribal affiliation. This documentation will include application of the California Register criteria for each resource, and a clear statement of the Department's determination of whether or not the resource qualifies as a TCR
- The Department may share the draft TCR evaluations with the consulting Tribes that identified the resource(s), for content review and to continue consultation.
- All comments and additional information provided by the consulting Tribes within the timeframes allotted for reviews will be carefully considered by the Department when finalizing the evaluation report and making the CEQA determination of which resources qualify as TCRs.
- The Department may share the final TCR determinations with the consulting Tribes. The determinations will inform the project's EIR, and the TCRIR will be a part of the Department's confidential CEQA administrative record.

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