

4.15 Tribal Cultural Resources

This section evaluates effects on tribal cultural resources related to implementation of the 2040 MTP/SCS.

4.15.1 Setting

The AMBAG region was historically occupied by the Costanoans, or coast people, Esselen, Salinan and Northern Valley Yokuts. Monterey County was occupied by the Esselen in the west, the Costanoan in the north and the Salinan to the south. The northwestern portion of San Benito County was occupied by the Costanoan, the southeastern by the Northern Valley Yokuts and the southwestern by the Salinan. Santa Cruz County was occupied by the Costanoan.

The Costanoans occupied permanent village sites in the valleys and maintained numerous hunting camps in the mountain terrain that they occupied seasonally. The subsistence for the Costanoan depended heavily on acorns and plant species during the various seasons (San Benito County 2015b).

The Costanoans, like most Native California groups, were organized according to politically independent land-holding groups referred to by anthropologists as tribelets. There were approximately 40 Costanoan tribelets. The basic Ohlone social unit was the family household of about 15 individuals, which was extended patrilineally (Broadbent 1972; Harrington 1933). Households grouped together to form villages and villages combined to form tribelets. Tribelets exchanged trade goods such as obsidian, shell beads and baskets; participated in ceremonial and religious activities together; intermarried; and could have extensive reciprocal obligations to one another involving resource collection.

Contact was established in the Costanoan territory with the founding of the Mission Nuestra Señora de la Soledad in 1791. The Costanoans suffered disenfranchisement and cultural collapse during the post-contact period and by 1810 the traditional lifeway of the Costanoans had virtually ceased. In 1971 descendants of the Costanoans united as a corporation, the Ohlone Indian tribe (San Benito County 2015b).

The Esselen inhabited the upper Carmel Valley in the Santa Lucia Mountains between Point Sur and Lopez Point, with the inland boundary just east of the Salinas River. The Esselen occupied seasonal villages depending on resource availability (Breschini and Haversat 2001).

Salinan territory ranged from Carmel Valley south to Morro Bay. They occupied permanent villages. Salinan subsistence was centered on the gathering of acorns and other edible plants and the hunting of animals such as dove, quail, rabbit and deer (Taylor 2013).

Northern Valley Yokuts populations were concentrated along waterways in the San Joaquin River. Settlements were typically composed of single-family dwellings, sweathouses and ceremonial structures. Subsistence revolved around water resources in the San Joaquin Valley, with a focus on salmon and acorns (Wallace 1978).

Tribal cultural resources that could be present within the AMBAG region include but are not limited to Native American burial sites, village or occupation sites, traditional resource gathering locations and natural landforms such as mountain peaks, ridge tops, or rivers. For example, as discussed in the AB 52 consultation meeting with Louise Miranda-Ramirez for the 2040 MTP/SCS (see below), Moss Landing is a special site to the Ohlone Costanoan Esselen Nation (Ramirez 2017). Such

resources are present throughout the AMBAG region, including known and documented sites as well as undocumented sites that will be identified through cultural resources survey or ground disturbance.

Regulatory Setting

Assembly Bill 52

California Assembly Bill 52 of 2014 (AB 52) was enacted on July 1, 2015 and expands CEQA by defining a new resource category, “tribal cultural resources.” AB 52 establishes that “A project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment” (PRC Section 21084.2). It further states that the lead agency avoid impacts that would alter the significant characteristics of a tribal cultural resource, when feasible (PRC Section 21084.3). PRC Section 21074 (a)(1)(A) and (B) defines tribal cultural resources:

1. “Sites, features, places, cultural landscapes, sacred places and objects with cultural value to a California Native American tribe” and meets either of the following criteria: Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
2. A cultural 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 Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

AB 52 also establishes a formal consultation process for California tribes regarding those resources. The consultation process must be completed before a CEQA document can be certified. AB 52 requires that lead agencies “begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project.” Native American tribes to be included in the formal consultation process are those that have requested notice of projects proposed within the jurisdiction of the lead agency.

Senate Bill 18

SB 18 of 2004 (California Government Code §65352.3) requires local governments to contact, refer plans to and consult with tribal organizations prior to making a decision to adopt or amend a general or specific plan. The tribal organizations eligible to consult have traditional lands in a local government’s jurisdiction and are identified, upon request, by the Native American Heritage Commission (NAHC). As noted in the California Office of Planning and Research’s Tribal Consultation Guidelines (2005), “The intent of SB 18 is to provide California Native American tribes an opportunity to participate in local land use decisions at an early planning stage, for the purpose of protecting, or mitigating impacts to, cultural places.”

Existing Conditions

AMBAG has conducted AB 52 consultation for the 2040 MTP/SCS. This consultation included written communication with the Torres Martinez Desert Cahuilla Indians, who are not affiliated with the AMBAG region and are thus not discussed in the setting above, and written and verbal

communication with the Ohlone/Costanoan-Esselen Nation (OCEN). These communications are summarized below:

OCEN

- On July 6, 2015, AMBAG received a letter from the Ohlone/Costanoan-Esselen Nation (OCEN) requesting formal notice of proposed projects pursuant to AB 52
- On December 21, 2015, AMBAG sent a letter to Louise Miranda Ramirez, OCEN Tribal Chairwoman, notifying the tribe of the 2040 MTP/SCS and transmitting a copy of the Notice of Preparation (NOP)
- On January 17, 2017, OCEN submitted a letter in response to the NOP requesting consultation on projects affecting their aboriginal homelands.
- AMBAG contacted Louise Miranda Ramirez, OCEN Tribal Chairwoman, via phone and email during preparation of the 2040 MTP/SCS EIR and met in person on September 12, 2017 for formal consultation.

Torres Martinez Desert Cahuilla Indians

- On May 17, 2016, AMBAG received a letter from the Torres Martinez Desert Cahuilla Indians (letter dated May 9, 2017) requesting formal notice of proposed projects pursuant to AB 52
- On June 13, 2016, AMBAG sent a letter to Michael Mirelez, Cultural Resource Coordinator for the Torres Martinez Desert Cahuilla Indians, notifying the tribe of the 2040 MTP/SCS and transmitting a copy of the NOP; no response to this letter was received, and therefore formal AB 52 consultation was not required (Public Resources Code Section 21080.3.1(d))

Written communications between AMBAG and the OCEN and Torres Martinez Desert Cahuilla Indians tribes is provided in Appendix E. A summary of the results of the in person meeting are provided in the analysis below.

4.15.2 Impact Analysis

a. Methodology and Significance Thresholds

Appendix G of the State CEQA Guidelines identifies the following criteria for determining whether a project's impacts would have a significant impact to tribal cultural resources:

1. Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
 - a. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or
 - b. 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 Public Resources Code section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

b. Project Impacts and Mitigation Measures

This section describes generalized tribal cultural resources impacts associated with the 2040 MTP/SCS. Due to the programmatic nature of the 2040 MTP/SCS, a precise, project-level analysis of the specific impacts associated with individual transportation and land use projects is not possible. However, all projects under the 2040 MTP/SCS that are subject to CEQA must comply with AB 52. In general, implementation of proposed transportation improvements and future projects under the land use scenario envisioned by the 2040 MTP/SCS could result in tribal cultural resources impacts as described in the following section.

Threshold 1: Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe

IMPACT TCR-1 IMPLEMENTATION OF PROPOSED TRANSPORTATION IMPROVEMENTS AND FUTURE PROJECTS INCLUDED IN THE LAND USE SCENARIO ENVISIONED IN THE 2040 MTP/SCS HAVE THE POTENTIAL TO IMPACT TRIBAL CULTURAL RESOURCES. IMPACTS WOULD BE LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED.

Based on consultation with OCEN Tribal Chairwoman Louise Miranda Ramirez, tribal cultural resources are present throughout the AMBAG region. This includes Native American burial sites, village or occupation sites, traditional resource gathering locations and natural landforms. Other places are special to OCEN for spiritual or familial reasons. One example of such a site is Moss Landing. Other sites may be known to OCEN but are confidential and were not disclosed during consultation. Therefore, tribal cultural resources could be encountered during implementation of the transportation improvement projects listed in the 2040 MTP/SCS and the land use scenario envisioned by the 2040 MTP/SCS. Effects on tribal cultural resources are highly dependent on the individual project site conditions and the characteristics of the proposed project. Both documented and undocumented potential tribal cultural resources are known to exist throughout the AMBAG region. Impacts to tribal cultural resources may include damage or destruction of the resources. Adherence to the requirements of AB 52 would encourage tribal consultation with local California Native Americans, and require the identification of project-specific substantial adverse effects on tribal cultural resources and appropriate project-specific mitigation measures. If the implementing agency determines that a specific transportation or land use project could cause a substantial adverse change in the significance of a tribal cultural resource, the impact would be significant.

Mitigation Measures

To minimize impacts to tribal cultural resources identified as a result of project-specific AB 52 consultation, for transportation projects under their jurisdiction, TAMC, SBtCOG and SCCRTC shall, and transportation project sponsor agencies can and should, implement the following mitigation developed for the 2040 MTP/SCS program where applicable for transportation projects that result in impacts to tribal cultural resources. Cities and counties in the AMBAG region can and should implement these measures, where relevant to land use projects implementing the 2040 MTP/SCS. Project-specific environmental documents may adjust these mitigation measures as necessary to respond to site-specific conditions.

TCR-1 Tribal Cultural Resources Impact Minimization

Implementing agencies shall comply with AB 52, which may require formal tribal consultation. If the implementing agency determines that a project may cause a substantial adverse change to a tribal cultural resource, they shall implement mitigation measures identified in the consultation process required under PRC Section 21080.3.2, or shall implement the following measures where feasible to avoid or minimize the project-specific significant adverse impacts:

- Avoidance and preservation of the resources in place, including, but not limited to: planning and construction to avoid the resources and protect the cultural and natural context, or planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- Treating the resource with culturally appropriate dignity taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource
 - Protecting the traditional use of the resource
 - Protecting the confidentiality of the resource
- Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- Native American monitoring by the appropriate tribe for all projects in areas identified as sensitive for potential tribal cultural resources and/or in the vicinity (within 100 feet) of known tribal cultural resources
- If potential tribal cultural resources are encountered during ground-disturbing activities; work in the immediate area must halt and the appropriate tribal representative(s), the implementing agency, and an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for archaeology (National Park Service [NPS] 1983) shall be contacted immediately to evaluate the find and determine the proper course of action

Implementing Agencies

Implementing agencies for transportation projects include RTPAs and transportation project sponsor agencies. Implementing agencies for land use projects include cities and counties.

Significance After Mitigation

Mitigation Measure TCR-1 would require AB 52 compliance and would result in necessary mitigation being identified through tribal consultation to avoid impacts to tribal cultural resources. These measures would protect the resource's character, traditional use and confidentiality. With such protection, implementation of the above measure would reduce impacts to tribal cultural resources to a less than significant level.

c. Specific MTP/SCS Projects that May Result in Impacts

All 2040 MTP/SCS projects that require construction may result in impacts as discussed above; and therefore, are not specifically identified in table format below. All 2040 MTP/SCS projects are referenced in Appendix B. Additional analysis and AB 52 consultation with local tribes would be needed as the individual projects are implemented in order to determine the project-specific impact. The mitigation measure discussed above would apply to these specific projects.

d. Cumulative Analysis

Tribal cultural resources are regionally specific and determined by the local tribes. However, development in the AMBAG area would increase under buildout of the 2040 MTP/SCS by increasing mobility and growth. The increase in growth in previously undisturbed areas contributes to regional impacts on tribal cultural resources. If there may be tribal cultural resources at the location of a project site, tribal consultation in accordance with AB 52 would occur to ensure protection of tribal cultural resources. However, tribal territory often crosses the boundaries of multiple jurisdictions within and outside of the AMBAG region, and there could be several minor impacts to tribal cultural resources that together would result in a significant cumulative impact. Therefore, the potential for cumulative impacts related to tribal cultural resources is significant and the 2040 MTP/SCS contribution would be cumulatively considerable. The mitigation measure described earlier in this section would reduce these impacts, but not to less-than-cumulatively-considerable levels.