

AN INTRODUCTION TO CULTURAL RESOURCES MANAGEMENT

(Text from Native American Heritage Commission website, drawn from 1995 "A Guide to Cultural Resource Management for California Planners, Developers, Contractors, and Property Owners" by Chambers Group, Inc. (Philip de Barros and Carmen Weber)
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WHAT ARE CULTURAL RESOURCES?

Cultural resources relate only to remains and sites associated with human activities and include the following:

- ❖ Prehistoric and ethnohistoric Native American archaeological sites;
- ❖ Historic archaeological sites;
- ❖ Historic buildings;
- ❖ Elements or areas of the natural landscape which have traditional cultural significance.

Prehistoric and Ethnohistoric Native American Archaeological Sites

Prehistoric sites represent the material remains of Native American societies and their activities. Ethnohistoric sites are defined as Native American settlements occupied after the arrival of European settlers in California.

Such sites include villages, seasonal camp sites, stone tool quarry sites, hunting and butchering sites, traditional trails, and sites with rock carvings or paintings.

Archaeologists identify such sites by the presence of one or more of the following:

- ❖ Stone flakes made of chert, jasper, quartzite, quartz;
- ❖ Basalt, obsidian, and other rock types;
- ❖ Shell, animal bone, and/or fish bone;
- ❖ Groundstone tools used for grinding seeds;
- ❖ Plant foods, such as manos, metates, or bedrock mortars;
- ❖ Artifacts, such as arrow or spear points;
- ❖ Fragments of pottery vessels;
- ❖ Dark, ashy soil, called "midden";
- ❖ Circular depressions representing houses or ceremonial structures.

Areas of Traditional Cultural Significance

These are areas that have been, and often continue to be, of economic and/or religious significance to peoples today. They include Native American sacred areas where religious ceremonies are practiced or which are central to their origins as a people. They also include areas where Native Americans gather plants for food, medicinal, or economic purposes. California State Law provides a certain measure of protection for such resources.

WHOSE CULTURAL RESOURCES?

The study and preservation of California's Native American cultural resources are important to all Californians. Both State and Federal governments have recognized the importance of protecting our Nation's cultural resources since the late nineteenth century. States across the nation have enacted laws designed to protect these resources for today's and future generations.

HOW DO I DEAL WITH CULTURAL RESOURCES?

Selecting Qualified Cultural Resources Managers and Archaeologists

Regional Information Centers (ICs) of the California Historical Resources Information System (CHRIS), and often City Planning Departments and County Planning Departments, maintain lists of professional cultural resources managers and archaeologists and their firms.

There are several ways to judge whether the professional cultural resources manager or archaeologist is qualified for the task at hand:

- ❖ For archaeologists, determine in what fields (e.g., prehistoric archaeology, historic archaeology) has been certified by the Register of Professional Archaeologists (see RPA List);
- ❖ Determine whether he or she has past experience in dealing with the appropriate resources, for example, by requesting company information and/or the resumes of key personnel. Some Regional Information Centers (ICs) provide lists that specify a professional's areas of expertise;
- ❖ Experience working with the local Native Americans.

Cultural Resource Study Phases Under the California Environmental Quality Act (CEQA)

There are three basic phases of concern to the developer, landowner, and County or City Planning Agencies--

Phase I - Identify Cultural Resources

Phase II - Evaluate the Significance of Cultural Resources

Phase III - Treat or Manage Significant Cultural Resources

A qualified professional archaeologist or cultural resources manager should implement all of these phases.

Phase I - Identify Cultural Resources

This phase generally involves four steps:

1. A formal records search at the appropriate Regional Information Center and background research about the area of study (e.g., ethnography, land-use history);
2. A field survey;
3. Interviews and consultations with knowledgeable persons having heritage ties to the cultural resources;
4. A written report.

Records Search. For a fee, the professional cultural resources manager or archaeologist requests a formal records search at the appropriate Regional Information Center (IC) of the California Historical Resources Information System (CHRIS) by submitting a USGS topographic map showing the project boundaries (see CHRIS Contacts). This records search will minimally determine the following:

- ❖ Whether a part or all of the project area has been previously surveyed for cultural resources;
- ❖ Whether any known cultural resources have already been recorded on or adjacent to the project area;
- ❖ Whether the probability is low, moderate, or high that cultural resources are located within the project area; and
- ❖ Whether a field survey is required to determine whether previously unrecorded cultural resources are present.

Native American Consultation. Consultation with local California Native Americans is necessary to determine whether a project area contains resources of traditional cultural significance to living Indian communities. Upon request, the Native American Heritage Commission provides contact lists of Native American tribes, groups, and individuals who may have special knowledge about traditional cultural properties.

Field Survey. In most instances, a field survey by a professional archaeologist will be required. The purpose of the field survey is to examine the entire property for cultural resources. Except for large projects covering hundreds or thousands of acres, no cultural resources are encountered perhaps 30-40% of the time.

Site Forms and Written Report. If cultural resources are identified, these must be properly recorded on official state forms, and a report must be written which describes how the survey was conducted with recommendations for further work, if needed. Copies of both the site forms and the written report must be filed with the appropriate IC. The California Office of Historic Preservation has developed guidelines for the format and content of all types of archaeological reports, and reports will be reviewed by IC staff to determine whether they meet those requirements.

It cannot be stressed enough how important it is for the landowner or developer to complete the Phase I identification stage as early as possible, and City and County Planners are strongly urged to make this recommendation to their applicants. If cultural resources constraints for a project are known from the beginning, it is usually possible to redesign the project to avoid impacts to significant cultural resources, resulting in great savings of both time and money.

Phase II - Evaluate the Significance of Cultural Resources

The purpose of this phase is to determine whether a cultural resource is "significant" in accordance with criteria set forth by State (or Federal) law. Only impacts to significant cultural resources *determined eligible for inclusion on the California Register of Historical Resources* (or eligible for or listed in the National Register of Historic Places) will be considered under the CEQA environmental review process. Non-significant resources are not considered or protected.

The California Register significance criteria (Pub. Res. Code 5024.1, Title 14 CCR, Section 4852) mirror those defined for the National Register. For a cultural resource (i.e., building, site, structure, object, or district) to qualify for the California Register, it must have integrity and meet one or more of the following criteria:

- (1) *Is associated with events* that have made a significant contribution to the broad patterns of California's history and cultural heritage;

Examples include: Traditional Cultural Properties (TCPs) such as a mountain peak associated with a Native American creation story; historic and ethnohistoric archaeological sites associated with the Modoc War of 1872-73.

- (2) *Is associated with the lives of persons* important in our past;

Examples include: Archaeological sites such as the Stronghold at Lava Beds National Monument that are associated with the life of the Modoc Indian Leader, Captain Jack; TCPs such as a prominent rock that represents one of the first beings in a Tribe's traditional creation story.

- (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; or

Examples include: Historic buildings that represent different architectural styles through the ages; the Golden Gate Bridge; prehistoric rock art sites.

- (4) *Has yielded, or may be likely to yield, information* important in prehistory or history.

These typically include well-preserved, complex prehistoric sites representing ancient Indian villages, or historic archaeological sites associated with ethnic groups (e.g., Chinese) that are not well documented in the written record of California history.

Prehistoric Archaeological Sites. There are many types of prehistoric archaeological sites. Some can be evaluated during the course of the Phase I survey. Others can be evaluated during an extended Phase I survey in which the archaeologist excavates a few shovel test pits to determine whether a subsurface deposit is present.

Perhaps 10-20% of sites encountered, usually those that were habitation sites, may require formal test excavations. It is important to note that test excavations have limited goals and should be limited in scope. These goals include:

- ❖ The determination of site boundaries.
- ❖ An assessment of the site's integrity, i.e., how intact the site is?
- ❖ The evaluation of the site's importance or significance through a study of its features and artifacts.

Large scale excavations are not necessary during the evaluation stage.

Phase III - Treat or Manage Significant Cultural Resources

If Phases I and II (identification and evaluation) determine that no California Register-eligible cultural resources are present within the project area, then no further work is needed. A Negative Declaration can be issued for cultural resources.

If significant cultural resources are identified, there are several ways to treat and mitigate impacts to these resources. These include preservation through:

- ❖ Avoidance;
- ❖ Site capping (covering with soil);
- ❖ Creation of conservation easements; and/or
- ❖ Data recovery.

Avoidance. The preferred mitigation measure under the California Environmental Quality Act is site avoidance. If Phase I studies are conducted early on, perhaps 80% of all projects can be designed so as to avoid significant cultural resources. This can be done by ensuring they fall into areas designated as open space or otherwise undeveloped areas. This is the least costly mitigation measure and is favored by archaeologists, local historical societies, and Native American groups.

Site Capping. In those instances where avoidance is not possible, one solution is to cover the site with a layer of fill prior to development. However, before a site can be capped, several requirements must be met. A site cannot be capped until its significance has been determined (under Criterion C above, what important information has or might the site yield through archaeological study?), and its boundaries (horizontal and vertical) have been adequately mapped.

This allows the archaeologist, local Native Americans, and planners to know what has been buried and precisely where it is located. In addition, the fill must be of the appropriate materials and should be thick enough to contain all types of utility trenches and other ground disturbances.

In some instances, site capping may not be feasible due to local soil conditions or because the proposed buildings are so massive that their weight would severely damage the site through compaction. Deed restrictions should be considered to restrict owners from excavating below the fill for any future improvements.

Conservation Easements. In some instances, it maybe possible to deed that portion of the property containing the significant cultural resource.

Data Recovery. This is by far the most costly and often the most time consuming alternative. There are two types of data recovery:

- ❖ Data recovery excavations at prehistoric or historic archaeological sites; or
- ❖ Data recovery through archival and photographic documentation of historic buildings.

The Discovery of Cultural Resources During Construction

This is to be avoided whenever possible. This can be done by following the recommendations of a professional archaeologist for exploratory trenching and/or archival research in old urban areas. When such exploratory trenching is not practical or feasible, grading or construction monitoring may be recommended as a mitigation measure.

Section 15064.5 of the California Environmental Quality Act, as amended, encourages County or City Planning Agencies to draw up provisions for the inadvertent discovery of archaeological sites. These should include the immediate evaluation of such finds by a professional archaeologist. If the archaeological site is deemed to be a significant cultural resource, impacts should be mitigated by one of the measures described above. If impacts to the site cannot be avoided, sufficient time and funds should be allotted to recover important data through a sample excavation. However, provision should also be made for construction work to continue at other parts of the site while such archaeological excavations take place.

Involvement of Local Native American Representatives in the Cultural Resource Management Process

It is strongly recommended that County or City Planning Agencies involve local Native American groups in the identification, evaluation, and management of cultural resources. Native American leaders and representatives must be kept informed about proposed development projects, particularly those situated in potentially or known sensitive areas, so that their concerns may be heard and considered early and throughout the planning process. It is also recommended that City and County Planners encourage the use of Native American Monitors during the course of archaeological excavations. (See Native American Heritage Commission's *Guidelines for Monitors/Consultants of Native American Cultural, Religious, and Burial Sites*.)

The Discovery of Human Remains During Construction

California state law regulates the treatment and disposition of human remains encountered during archaeological excavation or project grading and construction. The Native American Heritage Commission publishes a useful guide for dealing with the discovery of human remains entitled, *A Professional Guide for the Preservation and Protection of Native American Human Remains and Associated Grave Goods*.

PROTECTING CULTURAL RESOURCES

Federal, State or Local laws usually require a project's environmental impact to be assessed. The parties proposing the project must attempt to find ways to avoid or mitigate environmental damage before they can proceed. These requirements apply to projects on public land, and they often apply to projects on private property.

Archaeological and cultural resources are considered a part of the environment. The Native American Heritage Commission maintains a confidential Sacred Lands File of cultural resources important to Native Americans, and reviews environmental impact documents to protect these sites from damage or destruction.

Native American cultural resources can be divided into three categories:

- (1) Native American skeletal remains and grave-related artifacts. Different types of burials may occur in one geographic area inhabited by the same tribal group, especially if it was inhabited over an extended period of time. There is no way to generalize about the burial practices of California Native Americans; the possibility of discovering remains and methods for preventing or minimizing disturbance of burials must be evaluated individually for each project. Native American skeletal remains and grave goods discovered on private or State lands in California are protected under State law; such

remains and offerings found on Federal or Tribal lands are protected under Federal law (NAGPRA).

- (2) Traditional Cultural Properties (TCPs). Traditional locations for events or rites with spiritual significance. A dance ground, a place for gathering traditional medicine items, or a place for an Indian doctor or shaman to gather strength might be a spiritual site. It could be a prominent peak, a rock formation, a quiet glen, or a cave. TCPs may also include villages, campsites, gathering and harvesting areas, quarries, tool manufacturing areas, rock painting and carving areas, and burial grounds. See *National Register Bulletin 38, Guidelines for Evaluating and Documenting Traditional Cultural Properties*.
- (3) Artifacts. Cultural remains left by past peoples. Artifacts often found in California may be made of fish or animal bone, shells of sea animals, stone or wood.

CULTURAL RESOURCES: AN OPPORTUNITY NOT A PROBLEM

Developers can receive benefits from cultural resources in several ways. First, the public benefit of data recovery projects can be publicized. An archaeologist with the appropriate experience can use public participation for the benefit of the resources and the developer in a variety of ways. For example, the public enjoys visiting archaeological sites; tours of a large data recovery project can go a long way in promoting community goodwill for a development project. Sometimes a community would like to see exhibits on the history of the area, often using placards or signs, incorporated into the design of the development project. The critical factor is to find the ways in which the community would like to participate, and to incorporate their goals into the design of the cultural resources project. The archaeologist managing such a project must have past experience in working with the public and the press. The good press and community good will that can come from this type of project have obvious benefits to the developer.

There can also be economic advantages in preserving or incorporating cultural resources in planned developments. These advantages usually take the form of tax credits or tax incentives. On the federal level, a tax credit of up to 20% is offered for the rehabilitation of significant historic buildings. These buildings must meet the following criteria:

1. They must be included on the National Register of Historic Places or meet state certification criteria;
2. The rehabilitation must be done to the Secretary of the Interior's standards; and
3. The planned use must be income-producing.

The California Office of Historic Preservation can offer guidance to developers on evaluating their property's eligibility for the federal tax credit program. (See <http://www.ohp.ca.gov>) Other incentive programs may apply to a particular property; it is recommended that developers discuss this issue with the appropriate planning agencies for their particular project. For example, other programs may include benefits for granting easements (see above for conservation easements), for rehabilitating facades, and for easing zoning requirements.

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