

5.1 Introduction

This chapter reviews the existing conditions related to cultural resources in and adjacent to the North Coast Study Region (Study Region) and presents the Proposed Project's potential effects on historic, archaeological, and paleontological sites; Traditional Cultural Properties (TCPs); and traditional and current tribal practices. It also describes federal, tribal, state, and local regulations related to cultural resources that would apply to the Proposed Project.

A cultural resource is defined as a location of human activity, occupation, or use identified through field survey, historical documentation or research, or information from Native American tribal representatives (BLM 2004). Cultural resources in the study area are the remains and sites associated with past human activities and include shell mounds, burial grounds, historic village sites, Paleolithic art and petroglyphs, remnants of original structures, ceremonial artifacts and sites, tool-making sites, fossil remains, and other prehistoric artifacts. The term includes archaeological sites as well as historic buildings and structures more than 50 years of age that may be important in history or have important scientific use. Cultural resources also include TCPs, which are sites or locations embodying the beliefs, customs, and practices of a living community of people that have been passed down through generations, usually orally or through practice (Parker and King 1998).

The majority of this chapter has been derived from the following sources:

- *Regional Profile of the North Coast Study Region: California/Oregon Border to Alder Creek* (Regional Profile; MLP AI 2010a)
- "California Tribes and Tribal Communities," Appendix E of the Regional Profile (MLPAI 2010b). This source is a compendium of documents as submitted to the California Marine Life Protection Act Initiative (MLPAI) by 20 tribes (including 10 individual tribal profile submittals and a submittal representing 10 tribes provided by the Intertribal Sinkiyone Wilderness Council)
- "Cultural Resources Analysis Memorandum: North Coast Study Region" (Appendix E)
- "Supplemental Information Provided by the Yurok Tribe of the Yurok Reservation" (Appendix F)
- *List of Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs* (annual publication from the Federal Register)

The focus of CEQA analysis is on the potential for physical changes to the environment. Economic or social impacts that do not directly or indirectly result in adverse physical impacts on the environment are not subject to analysis under CEQA (California

Administrative Code, Title 14, Section 15131). CEQA includes guidance for analyses of a project's impact on physical archaeological and historical resources (see section 5.2.2, "State Laws, Regulations, and Policies," below). Economic or social effects of the Proposed Project have been included in Appendix B of this document, to help the Commission determine the significance of physical changes caused by the Proposed Project.

5.2 Regulatory Setting

5.2.1 Federal Laws, Regulations, and Policies

Federally Recognized Tribes (25 CFR Part 83)

The Bureau of Indian Affairs, of the U.S. Department of the Interior implements Code of Federal Regulations (CFR) Title 25, Part 83 (25 CFR Part 83), which identifies procedures for establishing federal recognition of Native American Group tribes (U.S. Department of the Interior Indian Affairs 2011). The mandatory criteria are:

- the petitioner has been identified as an American Indian entity on a substantially continuous basis since 1900;
- a predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present;
- the petitioner has maintained political influence or authority over its members as an autonomous entity from historical times until the present;
- a copy of the group's present governing document including its membership criteria. In the absence of a written document, the petitioner must provide a statement describing in full its membership criteria and current governing procedures;
- the petitioner's membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes which combined and functioned as a single autonomous political entity;
- the membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe; and
- neither the petitioner nor its members are the subject of congress.

For purposes of this document, and consistent with the Bureau of Indian Affairs, "federally recognized tribe" means any tribe on the *List of Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs*, published annually in the Federal Register.

National Historic Preservation Act of 1966

The National Historic Preservation Act (NHPA) of 1966, as amended in 2004, is the primary mandate governing projects under federal jurisdiction that may affect cultural resources. If improvements implemented as a part of this Proposed Project were funded by the federal government or were part of a federal action such as a permit, then this statute would apply. Section 106 of the NHPA requires that all federal agencies review and evaluate how their

actions or undertakings may affect historic properties, including those already listed in national registers or that have not yet been reviewed and considered for such.

Historic properties are cultural resources that have been determined eligible for listing in the National Register of Historic Places (NRHP), according to criteria for evaluating the significance found in 36 CFR 60.4, which states:

The quality of significance in American history, architecture, archaeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and that:

- are associated with events that have made a significant contribution to the broad patterns of our history; or
- are associated with the lives of persons significant in our past; or
- embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- have yielded, or may be likely to yield, information important in prehistory or history.

5.2.2 State Laws, Regulations, and Policies

California Environmental Quality Act

CEQA provides extensive guidance on archaeological and historical resources management. It is the primary mandate governing projects under state jurisdiction that may affect cultural resources. Local agencies are required to consider potential significant environmental impacts to cultural resources that would result from proposed projects. The State CEQA Guidelines define three ways that a property may qualify as a *historical resource* for the purposes of CEQA review:

- The resource is listed in or determined eligible for listing in the California Register of Historical Resources (CRHR).
- The resource is included in a local register of historical resources, as defined in PRC Section 5020.1(k) or identified as significant in a historical resource survey that meets the requirements of PRC Section 5024.1(g), unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- The lead agency determines the resource to be significant as supported by substantial evidence in light of the whole record.

The CRHR criteria for evaluation of significance of historic properties are based on the NRHP. A cultural resource is eligible for inclusion in the CRHR if it:

- is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
- is associated with the lives of persons important in our past;
- 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
- has yielded, or may be likely to yield, information important in prehistory or history.

CEQA defines a unique archaeological resource as an archaeological artifact, object, or site that contains information needed to answer important scientific research questions; has a special and particular quality, such as being the oldest of its type or the best available example of its type; or is directly associated with a scientifically recognized important prehistoric or historic event or person.

California PRC Section 15064.5

This PRC section establishes rules for the CEQA analysis of historical resources, including archaeological resources, to determine whether a project may have a substantial adverse effect on the significance of the resource. This incorporates provisions previously contained in Appendix K of the State CEQA Guidelines. PRC Section 15064.5(b) defines a project with an effect that may cause a substantial adverse change in the significance of an historical resource as a project that may have a significant effect on the environment. As significant adverse change is the "physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired."

When an initial study of the Proposed Project location identifies the existence of, or the probable likelihood, of Native American human remains, a lead agency shall work with the appropriate Native Americans, as identified by the Native American Heritage Commission (NAHC) and as provided in PRC Section 5097.98 (see below).

California PRC Sections 5097.9 and 5097.995 (Native American Heritage)

PRC Sections 5097.9 and 5097.995 define cultural places as (1) a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine (PRC, Section 5097.9); and/or (2) a Native American historic, cultural, or sacred site that is listed or may be eligible for listing in the CRHR, pursuant to PRC Section 5024.1, including any historic or prehistoric ruins, any burial ground, or any archaeological or historic site (PRC, Section 5097.995). PRC Section 5097.9 states that no public agency or private party on a public property shall "interfere with the free expression or exercise of Native American Religion." It also 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 located on public property, except on a clear and convincing showing that the public interest and necessity so require."

California Health and Safety Code Section 7052 and PRC Section 5097.98

According to state law (California Health and Safety Code, Section 7050.5; PRC, Section 5097.98), if human remains are discovered or recognized in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the county coroner has been informed and has determined that no investigation of the cause of death is required. Further, if the remains are of Native American origin, the descendants from the deceased Native Americans may make a recommendation to the landowner or person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods, as provided in PRC Section 5097.98. If NAHC is unable to identify a descendent or the descendent fails to make a recommendation within 24 hours after being notified, the landowner or his or her authorized representative shall reinter the human remains and items associated with Native American human remains with appropriate dignity on the property, in a location not subject to further and future subsurface disturbance. According to the California Health and Safety Code, disturbance of Native American cemeteries is a felony (PRC, Section 7052).

Executive Order B-10-11 and California PRC Section 11019.8(a)

California Executive Order (EO) B-10-11, which became law in September of 2011, mandates that every state agency and department shall encourage communication and consultation with California Indian Tribes. Agencies and departments shall permit elected officials and other representatives of tribal governments to provide meaningful input into the development of legislation, regulations, rules, and policies on matters that may affect tribal communities. EO B-10-11 defines California Indian Tribes as all federally recognized tribes and other California Native Americans. This EO does not create any rights or benefits against the State of California or its agencies, departments, entities, officers, employees, or any other person. California PRC Section 11019.8(a) specifically states that all state agencies “are encouraged and authorized to cooperate with federally recognized California Indian tribes on matters of economic development and improvement for the tribes.”

California Government Code Section 6254.10

Pursuant to California Government Code, Section 6254.10, records about Native American graves, cemeteries, and sacred places, as well as information about the location of archaeological sites, are exempt from being disclosed to the public under the California Public Records Act.

California Shipwreck and Historic Maritime Resources Program

PRC Sections 6309, 6313, and 6314 pertain to the California State Lands Commission’s (SLC) Shipwreck and Historic Maritime Resources Program in the following ways. All abandoned shipwrecks and all submerged archaeological sites and historic resources on or in the tide and submerged lands of California are under the jurisdiction of SLC (PRC, Section 6313[a]). SLC PRC Section 6314 prohibits unauthorized removal or damage to submerged archaeological or historic resources, including shipwrecks, aircraft, and Native American sites. The SLC may grant permits for salvage operations, including archaeological

investigations, on submerged archaeological or historic sites when the proposed activity is justified by an educational, scientific, or cultural purpose, or there is a need to protect the integrity of the site or the resource (PRC, Section 6313[d]). Recreational diving that does not disturb the subsurface or remove artifacts from a submerged archaeological site or historic resource does not require a permit (PRC, Section 6309[g]).

Marine Managed Areas Improvement Act (PRC, Section 36600 et seq.)

The Marine Managed Areas Improvement Act (MMAIA) of 2000 established a new classification system for all marine managed areas (MMAs) with a mission, statement of objectives, clearly defined designation guidelines, specific classification goals, and a scientifically based process for designating sites and determining their effectiveness. Types of MMAs include state marine reserves (SMRs), state marine parks (SMPs), state marine conservation areas (SMCAs), state marine cultural preservation areas (SMCPAs), state marine recreational management areas (SMRMAs), and state water quality protection areas (SWQPAs). These classifications fall under the jurisdiction of different state regulatory agencies. The entities authorized to designate or manage MMAs are summarized, as follows:

- The California Fish and Game Commission may designate, delete, or modify SMRMAs established by the commission for hunting purposes, SMRs, and SMCAs. Pursuant to this section, and consistent with Section 2860 of the Fish and Game Code, the Fish and Game Commission may regulate commercial and recreational fishing and any other taking of marine species in MMAs.
- The State Parks and Recreation Commission may designate, delete, or modify SMRs, SMPs, SMCAs, SMCPAs, and SMRMAs.
- The State Water Resources Control Board (SWRCB) may designate, delete, or modify SWQPAs.
- The Department may manage SMRs, SMCAs, SMRMAs established for hunting purposes and, if requested by SWRCB, SWQPAs, as well.
- The California Department of Parks and Recreation (State Parks) may manage SMRs, SMPs, SMCAs, SMCPAs, and SMRMAs. State Parks' authority over units within the state park system shall extend to units of the state MMAs system that are managed by State Parks.
- SWRCB and the state's Regional Water Quality Control Boards may take appropriate actions to protect SWQPAs. SWRCB may request the Department or State Parks to take appropriate management action.

California Department of Parks and Recreation

State Parks has been involved in the planning and implementation of underwater parks and reserves since 1960. Prior to the passage of the Marine Life Protection Act (MLPA), State Parks had established 14 marine managed areas statewide. In 1979, State Parks prepared its first Underwater Parks Master Plan and updated the plan in 1984. There are many archaeological and cultural artifacts, such as shipwrecks, in the areas of the designated Underwater Parks. These parks provide opportunities for diving and underwater photography. Many of the planning elements and goals fundamental to State Parks'

Underwater Parks Program mirror those of the MLPA and the Marine Managed Areas Improvement Act (State Parks 2008). Underwater Parks in the Study Region include MacKerricher State Park, Point Cabrillo, Russian Gulch State Park, and Van Damme State Park (State Parks 2011a).

State Parks' program goals include:

- preservation of outstanding and representative examples of marine habitats found in each seascape province off the coast of California;
- protection of marine resources (flora and fauna) and ecosystems;
- preserving scenic underwater resources;
- providing a variety of nearshore recreational opportunities, such as nature observation, diving, underwater photography, fishing and boating; and
- providing public education and interpretation of marine environments, including intertidal areas.

5.3 Environmental Setting

The environmental setting is divided into three primary sections. The first section summarizes the prehistory of the Study Region, history of the region before contact with nonindigenous people, and history after exploration and settlement by nonindigenous communities. The second section addresses the ethnographic and present-day cultural landscapes. This discussion of the prehistoric, historic, and ethnographic contexts is useful to evaluate the impacts on cultural resources in and adjacent to the Study Region. The final section discusses the known physical cultural resources.

Much of Northern California's legacy is connected to both its precontact Native American past and the European exploration and colonization by sea. The Study Region spans 225 statute miles (mi), measured in a straight line, but 517 mi of actual shoreline. Accordingly, it has a very rich maritime heritage. Cultural sites that are located off the coast of California include offshore rocks and islands, submerged Native American archaeological sites and objects, historic shipwrecks, cargo spills, and landing sites. Sea level rise over the past 10,000 years has submerged many archaeological and historical sites and artifacts, some of which have yet to be discovered (State Parks 2011b).

5.3.1 Historical Setting

Paleontological Resources

Paleontological resources are the fossilized remains of plants and animals, including vertebrates (animals with backbones), invertebrates (e.g., starfish, clams, ammonites, and marine coral), and fossils of microscopic plants and animals (microfossils). The age and abundance of fossils depend on the location, topographic setting, and particular geologic formation in which they are found. Fossil discoveries provide scientific value because they help establish a historical record of past plant and animal life and can assist geologists in dating rock formations. The Study Region includes fossilized geologic strata and unique

geologic features, such as rocky intertidal zones, the intertidal portion of beaches of varying grain sizes, rocky reefs, and underwater pinnacles.

Note that the Proposed Project is located entirely in submerged waters or on offshore rocks and small islands. It is unlikely that the Proposed Project will affect geological resources; therefore, paleontological resources are not analyzed further in this document.

Archaeological Resources

Archaeological resources have the potential to provide material evidence for cultures of precontact populations and answer important research questions about human history. The archaeological remains of indigenous North American societies as they existed before substantial contact with Europeans and written records provide valuable information about particular native people and communities. The physical evidence usually takes the form of artifacts, such as fragments of tools or ceramic vessels; features, such as remnants of walls, cooking hearths, or trash middens; and ecological evidence, such as pollens remaining from plants that were in the area when the activities occurred (Little et al. 2000).

Coastal sites in the Study Region include areas for precontact and ethnographic subsistence fishing ("fishing camps"), marine mammal hunting, and other resource gathering activities. The same is true of islands. Because of inaccessibility and lack of development, however, archaeological survey information for smaller offshore islands and rock pinnacles is extremely limited (BLM 2004).

The archaeological record of the north coast includes Native American data from over 12,000 years ago. According to the California Native American Heritage Commission (2009), tribal groups with ancestral territories adjacent to the north coast Study Region include Cahto, Chilula, Hupa, Karuk, Lassik, Mattole, Nogati, Pomo, Tolowa, Sinkyone, Wailaki, Whilkut, Wiyot, Yuki, and Yurok. While the people historically lived in permanent villages along the coast and rivers, both coastal and inland groups moved to seasonal coastal villages for specific harvesting and gathering opportunities (MLPAI 2010a). These and other tribes made and continue to make significant contributions to the history of the Study Region. Each tribal group is unique with its own distinct language, belief system, practices, and other elements of culture. A number of north coast tribes submitted specific details about archaeological resources that are unique to their tribes. These details can be found in the Tribal Profiles in Appendix E of the Regional Profile (MLPAI 2010b).

Nonindigenous Exploration and Settlement

Russia, Spanish, and British ships sailed off the coast of Northern California starting in the late 1500s in Mendocino County and the 1700s in Del Norte and Humboldt Counties (Van Kirk 1999). A number of shipwrecks remain in the waters of the Study Region, several of which are in areas currently designated as underwater parks, including *Brother Jonathan* off the St. George Reef in Del Norte County and the *Frolic* near Pt. Cabrillo (see 5.3.3, "Known and Recorded Cultural Resources," below). People of European and Asian descent began arriving en masse in 1850 when many were lured by abundant gold mining in the Klamath, Salmon, and Trinity Rivers (Van Kirk 1999). The towns of Crescent City, Eureka, Union (later Arcata), and Trinidad became major centers during the gold mining era (Del Norte

County Visitors Bureau 2011; MLP AI 2010a). As the rush for gold subsided in the late 1800s, commercial activity in the region shifted to salmon fishing in the rivers and timber harvesting in the redwood forests. This shift brought new groups of people to the north coast. Dairy farming also played a significant role in the development of the region since the late 19th century, and attracted yet another set of people (MLPAI 2010a; Van Kirk 1999). Resource extraction, especially timber, dominated the economics and politics of the region well into the 1970s. College students and environmentalists began discovering the north coast toward the end of the 20th century. These new residents began a movement to address resource protection and restoration throughout parts of the North Coast (Van Kirk 1999).

As nonindigenous settlers colonized the north coast, many tribes were relocated inland and/or became landless or homeless. In the early 1900s, the U.S. Congress passed a series of laws that provided funds to purchase land for landless and homeless California Indians. These parcels of land were called *rancherias* and were often occupied by small family groups or unrelated families. With the passage of Public Law 83-280 in the mid 1950s, California tribes lost control of 40 rancherias, and their lands no longer had the protection conferred by federal status. In 1983, a lawsuit resulted in restoring federal recognition to 17 rancherias, while others are still waiting for the reversal of termination. Rancherias in the north coast that regained their federal status through this lawsuit include Blue Lake, Elk Valley, Pinoleville, Potter Valley, Redwood Valley, Rhonerville, and Smith River (MLPAI 2010c).

5.3.2 Cultural Landscape

Ethnographic Setting

The north coast tribes and tribal communities, specifically the tribes of Mendocino, Lake, Humboldt, and Del Norte Counties, have a long cultural tradition of gathering, harvesting, and fishing for living marine resources for cultural and religious purposes as well as for subsistence. These tribes highlight that they inherited and possess strong values with regard to the stewardship and conservation of marine resources, including an understanding of the seasonal cycles important for subsistence fishing, hunting, and gathering (see Appendix E of the Regional Profile [MLPAI 2010b]). Despite historic events that resulted in relocation or assimilation of tribes of the north coast of California, many continue to reside in or near their ancestral homelands in far greater numbers than in other coastal California regions. This has led to culturally, politically, and socially strong tribal governments and communities that are closely connected to particular locations in and adjacent to the Study Region (MLPAI 2010a). As noted under 5.3.1, “Historical Setting,” above, more specific details can be found in the Tribal Profiles submitted to the MLPA Initiative (see Appendix E of the Regional Profile [MLPAI 2010b]). See below for a more general discussion of the existing ethnographic environment.

For tribes and tribal communities, everything in the natural world is culturally significant—“natural” is inseparable from “cultural” (InterTribal Sinkyone Wilderness Council 2010). The ocean, beaches, estuaries, and tidelands with their diverse animal and plant resources continue to be a fundamental part of tribal identity and way of life. Their relationships and interactions with the natural world reflect their deep connection to the environment. Tribal people believe they have an ongoing responsibility to be stewards of their ancestral lands

and resources through sustainable use and management. It is general practice to take only those resources needed in a spirit of respect and reciprocity. The use of traditional ecological knowledge enabled tribes to thrive for thousands of years while creating significant environmental benefits, as evidenced by the ecosystem conditions found by European explorers during the contact period of the early to mid 19th century (MLPAI 2010a).

Tribal members practice many traditional cultural uses of the coast and ocean waters that are consumptive and nonconsumptive. Traditional practices are specific to different tribes; they are not a single, large group of people. Consumptive uses include traditional subsistence, medicinal, spiritual, and ceremonial contexts. Nonconsumptive use examples include use of the viewshed¹ from a particular place for spiritual purposes. These cultural uses are not recreational or commercial, though some tribes have commercial fishing interests, as well. Particular locations are important for certain resources and/or uses by a given family, tribe, or tribal community (MLPAI 2010a).

The rich diversity of marine and coastal resources continues to be part of the daily lives of tribes. Important marine resources include salmon, clams and abalone (both as food sources and for the shells), mussels, seaweed, eels, crab, rockfish, steelhead, trout, sea bass, perch, lingcod, surf fish, candle fish (or eulachon), and sea salt. Subsistence fishing for crab, salmon, steelhead, surf fish (smelt), eels, mussels, and clams, among other coastal resources, occurs regularly from rocky beaches and in other coastal areas. Marine shells, such as abalone and olivella, are especially important for repairing and making traditional regalia used in ongoing ceremonies. Geological resources with cultural significance found in the coastal zone include, but are not limited to, steatite and chert, which are mined or collected to make items such as polished stone bowls and pipes, and flaked-stone knives and arrow points, respectively. Other geological features along the coast and in nearshore and offshore settings figure prominently in the stories and cultural traditions of tribes and tribal communities. For example, most sea stacks, offshore rocks, and rocky points or prominences have ancient tribal names and histories associated with them, as well as certain protocols for respecting these sites. Tribes of the north coast have expressed the importance of retaining access to such places, resources, and activities, as they are an integral part of their culture and identity. Additionally, certain areas along the coast have historic, archaeological, and traditional cultural significance, including submerged burial grounds and village sites (MLPAI 2010a).

Each tribe in the north coast is unique and complex. The following is a list of federally recognized tribes currently practicing traditional fishing and gathering in the Study Region (MLPAI 2010a; Rosales, pers. comm., October 19, 2011), with names as reflected on the current *List of Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs*, published in the Federal Register. The asterisk (*) identifies tribes that comprise the InterTribal Sinkiyone Wilderness Council, which is a consortium of 10 federally recognized tribes in Mendocino and Lake Counties. Note that some additional non-federally recognized tribes may not be included in this list, though they are considered in the discussions that follow.

■ Bear River Band of the Rohnerville Rancheria

¹ A viewshed is an area of land, water, or other environmental feature that is visible to the human eye from a fixed vantage point.

- Big Lagoon Rancheria
- Big Valley Band of Pomo Indians of the Big Valley Rancheria
- Blue Lake Rancheria
- Cahto Indian Tribe of the Laytonville Rancheria*
- Cher-Ae Heights Indian Community of the Trinidad Rancheria
- Coyote Valley Band of Pomo Indians*
- Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria
- Elk Valley Rancheria, California
- Guidiville Rancheria
- Habematolel Pomo of Upper Lake
- Hoopa Valley Tribe
- Hopland Band of Pomo Indians of the Hopland Rancheria*
- Lower Lake Rancheria
- Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria
- Middletown Rancheria of Pomo Indians
- Pinoleville Pomo Nation*
- Potter Valley Tribe*
- Redwood Valley Rancheria of Pomo Indians*
- Resighini Rancheria
- Robinson Rancheria of Pomo Indians*
- Round Valley Indian Tribes of the Round Valley Reservation*
- Scotts Valley Band of Pomo Indians*
- Sherwood Valley Rancheria of Pomo Indians*
- Smith River Rancheria
- Wiyot Tribe
- Yurok Tribe of the Yurok Reservation

Traditional Cultural Properties

Cultural landscapes are the result of the interaction between people and the natural landscape. The features of a cultural landscape include topography, vegetation, water features, and structures. For a cultural landscape to be listed on the NRHP as a TCP, it must have significant cultural worth. Examples of landscapes possessing such significance include:

- a location associated with the traditional beliefs of a Native American group about its origins, its cultural history, or the nature of the world;

- a rural community whose organization, buildings and structures, or patterns of land use reflect the cultural traditions valued by its long-term residents;
- an urban neighborhood that is the traditional home of a particular cultural group, and that reflects its beliefs and practices;
- a location where Native American religious practitioners have historically gone, and are known or thought to go today, to perform ceremonial activities in accordance with traditional cultural rules of practice; and
- a location where a community has traditionally carried out economic, artistic, or other cultural practices important in maintaining its historic identity.

A TCP, then, can be defined generally as a cultural landscape that is eligible for inclusion in the NRHP because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community (Parker and King 1998). In the Study Region, TCPs are of particular significance to tribes and tribal communities for the continuation of traditional religious and ceremonial activities, and also for the continuation of traditional cultural harvesting and gathering (Buckskin, pers. comm., 2011). Practically the entire Study Region is a TCP for one or several of the tribes or tribal communities that have inhabited the region for millennia (Buckskin, pers. comm., 2011; Pfieffer, pers. comm., 2011)

For many of the tribes of the North Coast of California, offshore rocks and islands play an important role in their mythologies. These offshore rocks and islands also have served, and continue to serve, as traditional resource procurement areas (BLM 2004). The tribes regard areas where they have gathered and harvested for many generations as sites of traditional cultural resources that should be entitled to protection under the law, regardless of whether they are formally acknowledged as TCPs under the applicable historic preservation laws (Rosales, pers. comm., October 13, 2011).

5.3.3 Known and Recorded Cultural Resources

Archival research was completed at the Northwest Information Center (NWIC) of the California Historical Resources Information System (NWIC file number P-12-001174). This records search of the study area was completed to (1) determine whether known cultural resources had been recorded within or adjacent to the Study Region, (2) assess the likelihood of unrecorded cultural resources based on historical references and the distribution of environmental settings of nearby sites, and (3) develop a context for identification and preliminary evaluation of cultural resources. Any submerged resource that has remained in state waters for more than 50 years is presumed to be historically significant. The titles to all abandoned shipwrecks, archaeological sites, and historic and cultural resources on or in the tide and submerged lands of state waters are under the jurisdiction of SLC (Oggins, pers. comm., 2011). Using the archival research results, the locations of known cultural resources were evaluated and compared with the proposed locations for the Proposed Project.

The cultural resources research area incorporated the area from Alder Creek in Mendocino County north to the California/Oregon border, and extended from the mean high water line

west for 3 nautical miles (nm) (3.4 mi). Where offshore rocks within state water jurisdiction were present, an area extending 3 nm beyond the rocks was included. A field survey was not conducted for this analysis because of the spatial extent of the Study Region. Instead, the cultural resources discussion relies on geographic information from variable historic sources. Accordingly, a larger area was included to account for mapping errors that might be present within the dataset of cultural resource locations. Consequently, some of the cultural resources identified are possibly outside of state waters.

One hundred and fifty-seven cultural resources were identified along the entire length of the research area. Of the 157 known sites, there are 14 site types, with some sites being more than one type. There are 48 lithic scatters, 45 midden sites, 38 shell scatters, 17 historic debris sites, 10 village sites, four buildings, three campsites, two structures, one quarry, one ceremonial site, one gathering area, one rock shelter, one railroad grade, and one lithic isolate recorded. Owing to cultural sensitivity, the exact locations are confidential. However, the majority of these sites are not located within the Proposed Project Study Region. Most are located above the mean high water line, and thus are outside the Project Study Region, often on coastal bluffs. One exception is the Mattole Lumber Company Wharf and Railroad, which is located partially below the mean high water line and adjacent to a proposed MPA; this site is discussed below.

It is important to note that less than 10% of the area has been surveyed for cultural resources. Thus, it is likely that additional resources would be identified. Below is a discussion of known physical historical and cultural resources in the Study Region.

Mattole Lumber Company Wharf and Railroad

The Mattole Lumber Company Wharf was 20 feet wide and extended north along the coast of Humboldt County, from the mouth of the Mattole River for 2000 feet and then across the ocean to a large rock. This location is just east of the proposed Mattole Canyon SMR, which is an offshore MPA located starting 1 mi from shore. A railroad was laid on top of the wharf and continued inland for 2 mi toward the town of Petrolia. All that remains visible are several lengths of rusty rails that have been displaced and now rest north of the mouth of the Mattole River. One locomotive was salvaged and placed in McKinleyville. All other remnants of the Mattole Lumber Company Wharf and Railroad have been washed out to sea (State Parks 1993).

Offshore Rocks and Islands

There is evidence that California's offshore rocks and islands have been used by humans for at least 10,000 years. Native populations along the coast continue to use offshore areas as temporary landing areas, resource procurement locations, habitation sites, and landmarks for both offshore and onshore navigation (BLM 2004). Historical literature and photographs show that offshore rocks and islands have also been used for multiple purposes since the arrival of Europeans to the California coast. Owing to the hazards that they cause to navigation, they have also been responsible for numerous shipwrecks over the years and some of the debris is still present. Ships' logs from Cabrillo in 1539 and Drake in 1579 indicate that they hunted sea lions and birds that rest on offshore rocks along the northern California coast. Later, the Spanish and Russians used offshore rocks for hunting activities

and for docking or anchoring their ships. These rocks were also used to stabilize the transfer of timber to ships that were anchored offshore (State Parks 1993). Some of the offshore rocks and islands are locations for historic lighthouses (BLM 2004).

The U.S. Bureau of Land Management (BLM) manages the California Coastal National Monument (CCNM) that encompasses more than 20,000 small islands, offshore rocks, reefs, and pinnacles exposed above mean high tide within 12 nm of the coast statewide. Many of these islands, rocks, pinnacles, and exposed reefs occur within marine protected area (MPA) boundaries of the Proposed Project, and all of the proposed special closures are identified around named rock features that are also part of the CCNM. Regulations regarding BLM's CCNM are discussed in further details in Section 6.1, "Land Use and Utilities."

Shipwrecks

A shipwreck database maintained by SLC was consulted to identify wrecks that could be within proposed MPAs or special closures. A review of the SLC shipwreck database revealed that 132 wrecks are documented offshore of the Mendocino County, 131 in Humboldt County, and 23 in Del Norte County. A handful of these are outside the 3-nm boundary. Wreck locations were plotted using latitude and longitude information from the SLC database. Initial plotting was done using NAD 27, the standard datum for mapping until recently. This plotted several wreck locations well inland, and thus locations were adjusted to NAD 83, the default for many modern mapping applications. While this improved most of the locations, it is clear that in some cases, location information contains errors in the original data. **Table 5-1** shows the historic shipwreck locations that appear inside or less than 1 mi from the Proposed Project and relevant proposed Options. The nearby locations are included in the table to account for the possibility of mapping error described above. Additionally, shipwrecks identified in the SLC database are for the most part merely the last reported sighting of a sinking ship rather than a verified location of a shipwreck. These limitations notwithstanding, the shipwreck database is a useful indicator of an area's sensitivity for shipwrecks.

The Proposed Project would extend the boundaries of four of the existing MPAs, and so they are included in Table 5-1. The fifth existing MPA, Punta Gorda SMR, which would be removed under the Proposed Project, contains one known shipwreck, the *Wizard*, and is adjacent to several others (i.e., specifically, the *Humboldt*, *Norfolk*, *Quinalt*, and *Waldero*).

Table 5-1. Proposed MPAs and Special Closures, and Known Shipwreck Sites*

Proposed MPAs, Proposed MPAs with Boundary Options, and Special Closures	Known Shipwrecks Inside the MPA or Special Closure	Known Shipwrecks Within 1 Mile of the MPA or Special Closure
Pyramid Point SMCA	None	None
<i>Pyramid Point SMCA Option (boundary extension)</i>	None	<i>Caritas</i> <i>Nicholas Van Bergen</i>
Point St. George Reef Offshore SMCA	<i>Queen Christina</i>	None
Southwest Seal Rock Special Closure	None	None
Castle Rock Special Closure	None	None
False Klamath Rock Special Closure	None	None
Reading Rock SMCA (onshore)	<i>Amanda Ager</i>	None

Table 5-1. Proposed MPAs and Special Closures, and Known Shipwreck Sites*

Proposed MPAs, Proposed MPAs with Boundary Options, and Special Closures	Known Shipwrecks Inside the MPA or Special Closure	Known Shipwrecks Within 1 Mile of the MPA or Special Closure
	<i>Ashme</i> <i>Dawn</i>	
Reading Rock SMR (offshore)	None	None
Samoa SMCA	<i>Collaroy</i> <i>Wilmington</i>	None
South Humboldt Bay SMRMA	None	None
<i>South Humboldt Bay SMRMA Option (boundary extension)</i>	None	None
Sugarloaf Island Special Closure	None	<i>Hyack</i> <i>Junta</i> <i>Walla Walla</i>
South Cape Mendocino SMR	None	<i>Alaska</i> <i>Cleone</i> <i>Emidio</i> <i>Hyack</i> <i>Junta</i> <i>Maryland</i> <i>Mary Hanlon</i> <i>Riverside</i> <i>Sea Pirate</i> <i>Walla Walla</i>
Steamboat Rock Special Closure	None	None
Mattole Canyon SMR	None	<i>North Fork</i> <i>Waldero</i>
Sea Lion Gulch SMR	None	<i>Indian Harbor</i> <i>Merced</i>
<i>Sea Lion Gulch SMR Option (boundary extension)</i>	None	None
Big Flat SMCA	None	<i>Columbia</i> <i>Daisy Putnam</i> <i>Occidental</i>
Double Cone Rock SMCA	None	<i>Venture</i>
Rockport Rocks Special Closure	None	<i>Venture</i>
Vizcaino Rock Special Closure	None	<i>Venture</i>
Ten Mile SMR	None	<i>John and Samuel</i>
Ten Mile Beach SMCA	None	None
<i>Ten Mile Beach SMCA Option</i>	None	None
Ten Mile Estuary SMCA	None	None
MacKerricher SMCA	<i>Achille Paladini</i>	None
Point Cabrillo SMR	<i>Frolic</i>	None
Russian Gulch SMCA	<i>Anna Sophia</i> <i>Far West</i> <i>Stockton City</i>	
Big River Estuary SMCA	None	None
Van Damme SMCA	<i>Francis Helen</i> <i>Sunol</i>	<i>Agnes Nicholaisen</i> <i>Golden Rule</i> <i>LC Lane</i> <i>LA Paz</i>

Table 5-1. Proposed MPAs and Special Closures, and Known Shipwreck Sites*

Proposed MPAs, Proposed MPAs with Boundary Options, and Special Closures	Known Shipwrecks Inside the MPA or Special Closure	Known Shipwrecks Within 1 Mile of the MPA or Special Closure
		<i>NL Drew</i> <i>Silias Coombs</i>
Navarro River SMCA	None	<i>J Eppinger</i> <i>JF Lunt</i> <i>Sovereign</i> <i>Venus</i>

Notes: MPA = marine protected area, SMCA = state marine conservation area, SMR = state marine reserve, SMRMA = state marine recreational management area

* Data are from the California State Land Commission's Shipwreck Database, which can be found at http://shipwrecks.slc.ca.gov/ShipwrecksDatabase/Shipwrecks_Database.asp.

Source: Data compiled by Horizon Water and Environment in 2011

Underwater Parks

State Parks established an underwater parks program in 1968 to preserve areas that are representative of California's unique natural underwater ecosystems. The objectives of the underwater parks program include providing recreational opportunities, particularly near urban areas (see Section 6.3, "Recreation"). The areas were established by State Parks through obtaining water bottom leases from SLC adjacent to terrestrial state parks (State Parks 2010). They are managed by State Parks to achieve both preservation and recreation (State Parks 2011c).

State Parks prepared its first Underwater Parks Master Plan in 1979 and updated the plan in 1984. In 1998, the California Natural Resources Agency convened marine program planners from State Parks, the Department, and other agencies to review the state's existing marine managed areas and to recommend a unified classification system for marine managed areas. The committee's recommendations formed the foundation of the classification statutes in the MMAIA of 2000. State Parks' Underwater Parks Program goals served as a framework for the MPA designation of SMP, defined in the MMAIA (State Parks 2010). In light of this application of the MMAIA to implementation of the MLPA, State Parks shifted its planning efforts from updating its 1984 Underwater Parks Master Plan to helping to ensure that the Commission's *California Marine Life Protection Act: Master Plan for Marine Protected Areas* and Marine Life Protection Program adopted pursuant to the MLPA incorporates those shared goals of the State Parks' Underwater Parks Program (State Parks 2010).

State Parks is the only entity with authority to designate, delete, or modify SMPs. SMPs are primarily intended to protect natural resources; however, they may also contain heritage characteristics such as superlative underwater scenery and geology, or important cultural features that enhance educational opportunities (see also Section 6.4, "Research and Education"). Where important cultural heritage elements exist but natural resource values do not justify the classification of SMP or SMR, the area could be considered for classification as a SMCPA by the State Park and Recreation Commission outside the MLPA master plan process (State Parks 2010).

In the Study Region, there are four existing underwater parks. These underwater parks are contained within four of the five existing MPAs in the Study Region. All of the underwater parks contain shipwrecks and are popular with sport divers. Remnants of landing sites are in some of them. Most of these areas have been well explored and are known to contain other prehistoric and historic artifacts.

MacKerricher State Park

The underwater park at MacKerricher State Park is off the coast, north of Fort Bragg. Archaeological surveys have found prehistoric artifacts, including shell middens, shell scatters, and lithic scatters. The terrestrial portion of the park contains many reminders of the rich natural and cultural resources of the area relating to the sea. Of special note are historic era resources, such as remnant guide wire pins driven into the rocky shoreline that once held a wire lumber chute and wharf, railroad rails, and support timbers for a pedestrian overpass (State Parks 2011a).

Point Cabrillo Light Station

In 1850, the clipper ship *Frolic* wrecked on a reef near Casper Headlands, off the coast of Mendocino County, while carrying cargo from China to San Francisco during the Gold Rush. Her story is among the most fascinating in California shipwreck history, and was critical in the designation of Point Cabrillo as an underwater park. The artifacts provide a glimpse of the flurry of activity that brought people and goods from all over the world to the Golden State. Silver tinder boxes, oyster shell window glass, and Chinese porcelain have been recovered and exhibited. The wreck site remains an impressive undersea historical feature. Historians consider the shipwreck as "the most significant shipwreck on the west coast" (State Parks 2011a, 2011b).

The Point Cabrillo Light Station Preserve is on the land adjacent to the underwater park. The lighthouse began operation in 1909. The preserve's land includes the lighthouse and three original lightkeepers' houses and outbuildings (State Parks 2011a).

Russian Gulch State Park

Russian Gulch State Park is located approximately 10 miles south of Fort Bragg. The underwater park extends out around the northern headland. Archaeological surveys have found prehistoric artifacts, including shell middens. Sport divers have salvaged an anchor, chain, and vessel transom piece recovered within the underwater park that are now displayed on the front lawn of the Park's Mendocino District Headquarters (State Parks 2011a).

The 6-foot-tall iron anchor has a folding stock and shackle, placing it historically in the second half of the 19th century. The salt corrosion on the iron and the broken arm and fluke suggest that it had been underwater for a long period of time before removal, and the broken arm further indicates that the anchor was probably embedded in reef when removed. Lying next to the anchor is a length of iron chain associated with sea-going vessels. The link style on the chain is oblong single link. The size and oval shape of the individual links place the chain circa mid-19th century. A short fragment of starboard,

transom cap-rail leans against the anchor. The fragment still retains remnants of paint and curvature of the transom. The piece could possibly be off a schooner or fishing vessel (State Parks 2011a).

Van Damme State Park

The underwater park of Van Damme State Park encompasses a small cove. The terrestrial portion of Van Damme State Park and the historic community of Little River wrap around the bluffs overlooking the underwater park and include the famous Mendocino pygmy cypress forest. Prehistoric artifacts in the park include shell middens. Located near the visitor's center is a large, iron kedging anchor. Strapped to a wooden post with iron wheels, the anchor is of the folding stock variety. The shackle at the top of the anchor places the date of the artifact in the second half of the 19th century (State Parks 2011a).

5.4 Impact Analysis

5.4.1 Methodology

Cultural resource surveys were not performed for this analysis because the geographic extent of the Study Region rendered such surveys infeasible. Instead, this discussion relies on publicly available documents, in particular, the tribal profiles submitted by the north coast tribes (MLPAI 2010b), appended to the Regional Profile of the Study Region (MLPAI 2010a), and made publicly available through North Coast MLPA planning documents. Additionally, this analysis considered information from an archival record search at the NWIC of the California Historical Resources Information System.

Subsistence fishing and gathering is addressed in Section 6.6, "Environmental Justice," and will not be discussed in detail in this chapter. Paleontological resources (Significance Criterion D, below) have been previously discussed under section 5.3.1, "Historical Setting," and are dismissed from this impact discussion.

5.4.2 Criteria for Determining Significance

Based on significance criteria from Appendix G of the State CEQA Guidelines and professional expertise, the Proposed Project would have a significant impact on cultural resources if it would:

- A. cause a substantial adverse change in the significance of a historical resource that is either listed or eligible for listing on the NRHP, the CRHR, or a local register of historic resources (including TCPs);
- B. substantially alter the characteristics of, or reduce access to, locations that provide unique ethnic or cultural values to Native Americans (such as religious or sacred sites), or otherwise substantially impair the ability for Native Americans to engage in traditional cultural practices;
- C. cause a substantial adverse change in the significance of unique archaeological resources (i.e., an artifact, object, or site about which it can be clearly

demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it contains information needed to answer important scientific research questions, has a special and particular quality such as being the oldest or best available example of its type, or is directly associated with a scientifically recognized important prehistoric or historic event or person);

- D. disturb or destroy a unique paleontological resource or site or unique geologic feature; or
- E. disturb any human remains, including those interred outside of formal cemeteries.

5.4.3 Environmental Impacts

Impact CR-1: Adverse Effects to Underwater Maritime-related Historical Resources (Significance Criterion A)

This impact discussion highlights the potential for the Proposed Project to adversely affect historic-era resources, particularly sunken vessels, loading docks, and related artifacts. As noted under 5.3.3, "Known and Recorded Cultural Resources," shipwreck locations are often recorded at the site where the vessel was last seen and might not indicate where the sunken vessel actually settled on the seafloor. Also, there might be some mapping discrepancies resulting from a difference in datum used to map the sites; however, spatial analysis of the locations mapped with the two different reference standards (NAD 27 and NAD 83) resulted in negligible differences. Nonetheless, this evaluation includes a radius of 1 mi around each MPA. According to Table 5-1, the Proposed Project would include the following MPAs known to contain or be adjacent to features conducive to shipwrecks (total numbers of recorded sunken vessels are in parentheses):

- Point St. George Reef Offshore SMCA (1)
- Reading Rock SMCA (3)
- Samoa SMCA (2)
- Sugarloaf Island Special Closure (3)
- South Cape Mendocino SMR (10)
- Mattole Canyon SMR (2)
- Sea Lion Gulch SMR (2)
- Big Flat SMCA (3)
- Double Cone Rock SMCA (1)
- Rockport Rocks Special Closure (1)
- Vizcaino Rock Special Closure (1)
- MacKerricher SMCA (1)
- Point Cabrillo SMR (1)
- Russian Gulch SMCA (3)

- Van Damme SMCA (8)
- Navarro River SMCA (4)

The following four proposed MPAs are sites that are currently designated as underwater parks and managed by State Parks: MacKerricher SMCA, Point Cabrillo SMR, Russian Gulch SMCA, and Van Damme SMCA. The protection of historical resources is one of the objectives behind the establishment of the existing underwater parks. Enlarging these MPAs as proposed would add additional protection to these areas.

There are other artifacts in addition to shipwrecks submerged in the Study Region; however, very few of these have been documented. One exception is the Mattole Lumber Company Wharf and Railroad. This historic site is located 1 mi inland from the proposed offshore Mattole Canyon SMR; therefore, this MPA would not directly alter activity around this known historic resource. The Proposed Project would remove the Punta Gorda SMR where there are a number of known shipwrecks.

The proposed Options would alter the boundaries of some of the proposed MPAs. The boundary extension for Pyramid Point SMCA would increase protection of known shipwrecks, while moving the southern boundary of Sea Lion Gulch SMR would decrease protection of known shipwrecks.

The Proposed Project involved the extensive input of regional stakeholders, including local residents, conservation organizations, scientists, commercial and recreational fishermen, tribes and tribal communities, and recreational users of the ocean. Thus, the design of the network of MPAs in the Proposed Project included the communities' desire to protect heritage sites. Furthermore, current state law prohibits all unauthorized salvage and removal of artifacts from submerged shipwrecks, aircraft, and other historical resources in state waters (PRC, Sections 6313 and 6314). The Proposed Project would not modify this existing state law. Additionally, the Proposed Project would not result in construction or disturbance of the seafloor or bottoms of bays or estuaries; therefore, it would not directly disturb any historical resources. The Proposed Project would minimize the potential for fishing activity to accidentally disturb underwater historical resources, resulting in protection of submerged historical maritime resources. On the other hand, there is a possibility that fishing might increase in areas adjacent to the MPAs and that nonconsumptive recreational activity might increase within some areas of the Proposed Project. These increases might lead to more disturbances to historical resources outside of MPAs from displaced fishing effort, and inside MPAs by divers and other nonconsumptive users. In summary, certain aspects of the Proposed Project would be protective of cultural resources (e.g., reduced potential for disturbance of submerged resources), while others could be adverse, but not significantly so (e.g., increased nonconsumptive recreational activities in the locations of these resources). Overall, this impact would be less than significant.

Level of Significance: *Less than Significant*

Impact CR-2: Indirect Adverse Effects to Land-based Maritime Historical Resources (Significance Criterion A)

The Proposed Project would affect fishing regulations in state waters from the mean high-tide line to 3 nm seaward. It would not involve any construction or disturbance of the earth, neither onshore nor offshore; thus, it would not directly impact land-based historical resources. However, the Proposed Project could potentially result in the loss of some existing commercial and recreational uses that could lead to an indirect decay of buildings and structures related to the maritime history of coastal communities. This loss would only occur if substantial business failure occurred throughout the coastal communities; if historical resources were altered or demolished; or if no measures were taken by preservation, planning, or cultural organizations to preserve them. Such a result is not likely because the Proposed Project would not impose new restrictions that would impair the fishing industry throughout the entire north coast. The Proposed Project would result in take restrictions in 13% of the region. The most restrictive of the MPAs, the SMRs, would include less than 5% of the Study Region. The remaining 8% of the Study Region that would be designated as SMCAs would allow some amount of recreational and/or commercial take. The Proposed Project would not place any new restrictions on areas between and beyond the MPAs; thus, it is not likely that the fishing industry would suffer from a widespread collapse. Furthermore, the proposed MPAs are spaced over a straight-line distance of 225 mi (517 mi of actual shoreline) and, except in a few cases, there are no MPAs within 5 miles of either side of a port (and in many cases MPAs are at least 10 mi away). The goals and objectives of the design of the MPAs included consideration of the health and vitality of coastal communities, ports, and harbors. Distance from ports was a major priority in the design of the MPA network, to minimize socioeconomic impacts on the north coast region (MLPAI 2010c); therefore, it is not likely that the Proposed Project would cause community-wide economic failure and decay that would lead to the loss of historical maritime properties. This impact on land-based maritime historical resources would be considered less than significant.

Level of Significance: *Less than Significant*

Impact CR-3: Adverse Impacts on Traditional Cultural Properties and Activities Involving Take² by Federally Recognized Tribes (Significance Criterion B)

A number of tribal lands are on the borders of proposed MPAs. Tribal jurisdiction includes the area inland from mean high tide. However, the proposed MPAs are below the mean high tide line; therefore, the Proposed Project is adjacent to, but does not occur on, tribal reservations or rancherias. Nonetheless, TCPs may be located within the boundaries of the proposed MPAs. As described above under 5.3.2, "Cultural Landscapes," TCPs are locations that are eligible to be listed on the NRHP if they have significant cultural worth. The

² Some tribes and tribal communities have raised concern about the term 'Tribal take' used in the proposed regulations. Based on information received by tribal members, to completely encompass the full range of traditional cultural extractive activities of California Indian Tribes in this area, it is necessary to understand that, to members of the north coast tribes and tribal communities, the term "tribal take" includes gathering, harvesting and fishing for cultural and religious purposes as well as for subsistence. Pursuant to tribal culture, all three terms must be used because each conveys specific and unique kinds of activities that cannot be adequately encompassed by a single term. Under state statute, the term "take" is clear and, combined with the allowed uses defined in the MPA specific regulations, unambiguous. In Fish and Game Code Section 86, "Take" means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. The California Code of Regulations Title 14 Section 1.80 defines "Take" as hunt, pursue, catch, capture or kill fish, amphibians, reptiles, mollusks, crustaceans or invertebrates or attempting to do so.

traditional cultural significance of a historic property is determined by the importance of the property to the beliefs, customs, and practices of a living community of people that have been passed down through generations (Parker and King 1998). For the tribes of the north coast, TCPs include locations for religious and spiritual ceremonies and sites for implementing cultural traditions of harvesting and gathering. In addition to TCPs other locations not eligible for listing may also be of cultural significance to tribes. This discussion evaluates potential adverse impacts on locations where federally recognized tribes have cultural ties that involve consumption of marine resources (including both TCPs and other locations).

Chapter 2, "Project Description," relates that the Commission requested that federally recognized tribes submit to the Commission factual records of historic and current uses in specific geographies proposed as MPAs, other than SMRs. The submittals received by the Commission were used to provide for non-commercial take in proposed MPAs, except for those designated as SMRs, by tribes who submitted factual records³ (see Table 2-1). The Proposed Project's SMRs where no take would be allowed are as follows:

- Reading Rock SMR (Option A)
- South Cape Mendocino SMR
- Mattole Canyon SMR
- Sea Lion Gulch SMR
- Ten Mile SMR
- Point Cabrillo SMR

Altogether, the Proposed SMRs total less than 5% of the Study Region. Two of the SMRs (Reading Rock and Mattole Canyon) are offshore and difficult to access owing the rough conditions off the north coast. The Proposed Project would remove fishing restrictions from the existing Punta Gorda SMR and place two new larger SMRs (Mattole Canyon and Sea Lion Gulch) on either side of the Punta Gorda SMR site, for a net increase of 18 mi² or 3.9 mi in alongshore span (note that the 3mi span of Mattole Canyon SMR is offshore).

The special closures would prevent all people, including tribes, from accessing water within 300 feet of the shoreline around offshore rocks and islands. Four of the special closures (False Klamath Rock, Steamboat Rock, Rockport Rocks, and Vizcaino Rock) would be closed for 6 months of the year. The remaining three special closures (Southwest Seal Rock, Castle Rock, and Sugarloaf Island) would be closed year-round. Details regarding the rationale for these protective closures are listed in Table 4-9 of Chapter 4, "Biological Resources." These areas are designed to protect several species of seabirds and marine mammals from disturbance by approaching watercraft. Many of these species are federally listed and/or state-listed as endangered, threatened, or species of special concern (MLPAI 2010d). Although tribes traditionally have hunted on some of the areas surrounded by proposed special closures, existing laws are in place for the protection of many of these species that currently prevent their take. The Proposed Project would not conflict with or supersede any state or federal laws regarding the take of protected, threatened, or endangered species.

³ All the tribes listed above in section 5.3.2 "Cultural Landscape," submitted factual records to the Commission, except for the Big Lagoon Rancheria, Blue Lake Rancheria, and Hoopa Valley Tribe.

Among the proposed Options for individual MPAs in the Proposed Project, one Option would change the designation of Reading Rock SMR to an SMCA so that traditional tribal take could continue within its boundaries. Other proposed Options would extend or change boundaries of some of the MPAs; however, regulations regarding allowable take by federally recognized tribes would be the same as in the Proposed Project.

Because of the large number of tribes adjacent to the Study Region still practicing traditional cultural activities (see section 5.3.2, "Cultural Landscapes"), the MLPAI staff made efforts to communicate with tribes and tribal communities throughout the planning process. In August 2009, MLPIA hosted a Tribal Informational Session in Eureka, California (see Table 6.6-4 in Section 6.6, "Environmental Justice"). The tribes did not create their own proposals, but instead joined the North Coast Regional Stakeholders Group (NCRSG), a diverse group of people with local knowledge including, among others, representatives of recreational angling and diving groups, tribes, commercial fishing and other ocean-dependent business interests, ports and harbors, conservation groups, educational and research interests, and government agencies (MLPAI 2010e). The members of the NCRSG were able to analyze and visualize how their uses were incorporated into various MPA network proposals by using MarineMap, a mapping tool created to facilitate the design of MPA networks of the MLPAI (MLPAI 2011). Tribes that had representatives on the NCRSG were able to directly voice their concerns and provide input that was used in the design of the proposed MPAs.

The planning process is discussed in further detail in Section 6.6, "Environmental Justice." A total of 10 meetings were held in the north coast specifically for tribes, and all other meetings were open to the public, including tribes. See Table 6.6-4 for a complete list of meetings near the Study Region. The north coast tribes, MLPAI staff, the Department, and the Commission worked together to find a solution to ensure that the Proposed Project would not affect the diverse and culturally important traditional tribal use and gathering practices taking place on ancestral territories throughout the north coast, through either avoidance of identified areas or inclusion of take allowances that would accommodate (not impede) tribal gathering and harvest (MLPAI 2010f).

The SMRs and special closures would restrict the tribal members' ability to conduct tribal practices involving varying types of take, as well as nonconsumptive practices conducted in conjunction with practices involving take. However, as a result of the extensive coordination effort described above, and the fact that other locations would continue to be available for such practices, the Commission considers this impact to be less than significant.

Level of Significance: *Less than Significant*

Impact CR-4: Adverse Impacts on Traditional Cultural Properties and Activities Involving Take by Non-Federally Recognized Tribes (Significance Criterion B)

Section 6.6, "Environmental Justice," describes populations of non-federally recognized tribes and tribal communities in the north coast. The same concerns and rationale exist for the non-federally recognized tribes as those expressed in Impact CR-3: Adverse Impacts on Traditional Cultural Properties and Activities Involving Take by Federally Recognized Tribes. However, the restrictions on consumptive tribal practices (and nonconsumptive practices conducted in conjunction with these practices) would be greater for non-federally

recognized tribes compared with federally recognized tribes because they would not be allowed to take inside any of the MPAs beyond the allowable recreational take regulations for the general public. That said, owing to the extensive coordination effort with local communities described above, to avoid areas identified as important to tribes and tribal communities, and the fact that other locations would continue to be available for gathering, harvesting, and take by non-federally recognized tribes (almost 87% of the Study Region), the Commission considers this impact to be less than significant.

Level of Significance: *Less than Significant*

Impact CR-5: Adverse Impacts on Nonconsumptive Tribal Practices (Significance Criterion B)

As described above in Impact CR-3: Adverse Impacts on Traditional Cultural Properties and Activities Involving Take by Federally Recognized Tribes, areas of cultural worth for tribes of the north coast include locations for religious and spiritual ceremonies. This discussion evaluates potential adverse impacts on locations where federally recognized and non-federally recognized tribes have cultural ties that involve nonconsumptive practices.

None of the Proposed MPAs would restrict access. The special closures, on the other hand, would prevent all people, including tribes, from accessing particular offshore rocks and islands. These are small areas where several endangered or threatened species, or species of special concern nest and breed (MLPAI 2010a). More details describing the rationale behind the designation of these areas are listed in Table 4-9 in Chapter 4, "Biological Resources."

Four of the special closures would be closed for 6 months (March through August) of the year:

- False Klamath Rock
- Steamboat Rock
- Rockport Rocks
- Vizcaino Rock

Three of the special closures would be closed year-round:

- Southwest Seal Rock
- Castle Rock
- Sugarloaf Island

With the exception of the special closures, no actions would be taken that would affect nonconsumptive tribal practices in any way (with the exception of those practices not currently legal under state or federal law, or those practices performed in conjunction with practices involving take, as described above under Impacts CR-3 and CR-4). These special closures constitute a very small portion of the Study Region (0.02%) and are not anticipated to have a substantial adverse effect on nonconsumptive practices, such as religious and

spiritual ceremonies. As a result, the Commission considers this impact to nonconsumptive tribal practices to be less than significant.

Level of Significance: *Less than Significant*

Impact CR-6: Adverse Effects on Unique Archaeological Resources (Significance Criterion C)

This impact discussion focuses on prehistoric and historic-era archaeological resources, including archaeological resources of importance to tribes and tribal communities of the north coast. Prehistoric archaeological sites may include submerged habitation sites, food processing locations, and other artifacts. The Proposed Project is located in state waters extending seaward from the mean high-tide line; it includes submerged lands as well as offshore rocks and islands in state waters. As noted under section 5.3.1, "Historical Setting," archaeological survey information for offshore rocks and islands is extremely limited owing to difficulty of access and a lack of development. Furthermore, as described in Impact CR-3, Adverse Effects on Traditional Cultural Properties, some tribes do not disclose information regarding locations of their ancestral archaeological sites pursuant to California Code Section 6254.10. Despite the limited amount of documentation regarding archaeological resources in the Study Region, there are several existing management plans and regulations in place that would not conflict with or be superseded by the Proposed Project.

BLM currently manages many of the offshore rocks and islands in the Study Region through the CCONM (see Section 6.1, "Land Use and Utilities," for more information). BLM has developed partnerships with Trinidad Rancheria and Yurok Tribe in areas where offshore rocks are known to be part of tribal ancestral territory (BLM 2011). The goals of the CCONM align with the goals of the MLPA. Some archaeological sites might be present on offshore rocks and islands. Special closures would restrict access for 6 months out of the year at False Klamath Rock, Steamboat Rock, Rockport Rocks, and Vizcaino Rock and year-round at Southwest Seal Rock, Castle Rock, and Sugarloaf Island. The special closures would enhance protection of archaeological resources at these sites.

Four of the Proposed MPAs (MacKerricher SMCA, Point Cabrillo SMR, Russian Gulch SMCA, and Van Damme SMCA) are currently designated as Underwater Parks and managed by State Parks (see also Section 6.1, "Land Use and Utilities," for more information). The preservation of submerged lands is one of the objectives behind the establishment of the existing underwater parks. The Proposed Project would not conflict with SLC goals regarding the protection of submerged archaeological resources at these sites. The Proposed Project would remove from designation Punta Gorda SMR, where there might be some submerged archaeological resources. However, two larger SMRs (Mattole Canyon and Sea Lion Gulch) would flank either side of the existing SMR.

Although no archaeological sites have been documented within the proposed MPAs, the Proposed Project would minimize the potential for fishing activity to accidentally disturb underwater archaeological resources, if they are present, resulting in protection of submerged archaeological resources. On the other hand, as noted in Impact CR-1: Adverse Effects to Underwater Maritime-related Historical Resources, there is a possibility that displaced fishing effort might increase on the edges of MPAs and that nonconsumptive recreational activity might increase within some areas of the Proposed Project. These

increases might lead to more disturbances to archaeological resources outside of MPAs from fishing boats and gear and inside MPAs from divers and other nonconsumptive users.

The Optional regulations would alter the boundaries of some of the proposed MPAs. The boundary extension for Pyramid Point SMCA, South Humboldt Bay State Marine Recreational Management Area, Sea Lion Gulch SMR, and Ten Mile Beach SMCA would enlarge the protected areas. On the other hand, the proposed Options for Reading Rock Offshore, Big River Estuary, and Navarro River SMCAs would increase allowable take. Therefore, these Options would potentially result in more accidental damage from boat anchors or fishing gear to submerged archaeological resources than from the Proposed Project.

Current state law (PRC, Sections 6313 and 6314) prohibits all unauthorized salvage and removal of artifacts from submerged archaeological sites in state waters, which are under the jurisdiction of SLC. The Proposed Project would not modify this existing state law. The Proposed Project would not result in construction or disturbance of the seafloor or bottoms of bays or estuaries, would not directly disturb any archaeological resources, and would have limited potential for indirect disturbance. Therefore, the Proposed Project would have a less-than-significant impact submerged archaeological resources.

Level of Significance: *Less than Significant*

Impact CR-7: Adverse Impacts to Human Remains (Significance Criterion E)

The Proposed Project does not include the disturbance of earth onshore or offshore, or otherwise in proximity to any known cemeteries or Native American burial grounds. However, there is potential for Native American remains to be located in the waters of the Proposed Project owing to the long history of tribes in the north coast. State law makes the disturbance of Native American remains a felony (PRC, Section 5097.98; California Health and Safety Code, Section 7050.5).

As with Impact CR-1: Adverse Effects to Underwater Maritime-related Historical Resources and CR-4: Adverse Effects on Unique Archaeological Resources, the Proposed Project would protect the seafloor and any submerged human remains from damage by fishing gear in some areas, but might increase nonconsumptive boating and diving in those same locations. Although the presence of human remains has not been documented in the areas of the proposed special closures, these areas would provide more extensive protection for human remains if they are present, especially those special closures that are closed to access year-round (Southwest Seal Rock, Castle Rock, and Sugarloaf Island). One existing SMR (Punta Gorda) would be removed, but two others would replace it (Mattole Canyon and Sea Lion Gulch). The Proposed Project would not have adverse impacts on human remains.

Level of Significance: *No Adverse Impact*