## Exhibit 8-A — Cultural and Tribal Consultation Violations Summary Box

Poverty Flats Ranch UP 23-09 / IS 23-20 (PL 25-198)

Chapter 8 — Cultural Resources and Tribal Consultation

(Sorted by jurisdictional severity — Federal → State → County/Local)

## Federal / Cross-Jurisdictional Violations

Citation Brief Description

Archaeological Resources Protection Act Protects archaeological materials and data (ARPA) § 9(a) from unauthorized disclosure or

disturbance; grading occurred without qualified archaeological monitoring or

tribal participation.

Native American Graves Protection and

Repatriation Act (NAGPRA)

Mandates notification and repatriation protocol for any human remains or associated cultural items; no NAGPRA-

aligned plan submitted.

## State Law / CEQA / Tribal Consultation Compliance

Citation Brief Description

Pub. Res. Code §§ 21080.3.1 - 21082.3 (AB

52)

Requires lead agency to notify tribes within 14 days and conduct government-to-

government consultation within 30 days of request; Elem Indian Colony consultation was abandoned after one meeting without

resolution or agreement.

PRC § 21082.3(d)(1) Prohibits adoption of an MND until

consultation is completed in good faith; Lake County adopted the ISMND despite

incomplete consultation.

CEOA Guidelines § 15064.5 Requires identification and evaluation of

tribal cultural resources beyond

archaeological artifacts; County failed to

include documented Elem sites (Schindler Creek, High Valley Ridge, Timber Road).

CEQA Guidelines § 15125(a) Mandates accurate environmental setting;

Cultural Assessment misattributed the Patwin tribe as occupants instead of Elem

Pomo, creating a false baseline.

CEQA Guidelines § 15126.2(a) Omission of impact discussion for known

tribal sites and practices constitutes

prejudicial CEQA error.

CEQA Guidelines § 15126.4(a)(1) Requires feasible mitigation developed in

consultation with tribes; none was

proposed or negotiated.

Pit River Tribe v. County of Fresno (2006)

140 Cal.App.4th 1420

Failure to consult in good faith is a

prejudicial abuse of discretion invalidating

approval.

Madera Oversight Coalition v. County of

Madera (2011) 199 Cal. App. 4th 48

Cultural shortcuts invalidate CEQA documents where full review and

consultation were required.

Golden Door Properties v. County of San

Diego (2020) 50 Cal.App.5th 467

Confirms failure to act in good faith under

AB 52 triggers EIR requirement.

California Clean Energy Comm'n v. San

Diego (2014) 220 Cal.App.4th 1063

Substituting informal or applicant-led processes for formal consultation renders

CEQA approval invalid.

## **County / Local Violations**

Citation Brief Description

Lake County Code Ch. 21 (Zoning - Use

Permits)

Major Use Permit approved without completed tribal consultation or verified

mitigation measures.

County Administrative Practice Substituted 'tribal sensitivity training' for

formal consultation contrary to PRC §§ 21080.3.1 – 21080.3.2 requirements.

Planning Commission Record Staff slide ('AB 52 Tribal Notification')

misrepresented single-day meeting as

completed consultation, misleading

decision-makers.

CDD and Consultant Errors Cultural report misidentified tribal ancestry

(Patwin instead of Elem Pomo) and omitted

documented sacred sites.

Gov. Code § 6200 / Pen. Code § 118 False representation or concealment of

consultation records constitutes felony

offense.

Summary Note: This exhibit summarizes the tribal consultation and cultural resource deficiencies documented in Chapter 8. The record shows that Lake County abandoned government-to-government consultation with the Elem Indian Colony after one inconclusive meeting and misrepresented this as a completed process. The Cultural Assessment misidentified tribal ancestry, omitted sacred sites, and substituted an unauthorized training program for formal consultation. These failures violate Public Resources Code §§ 21080.3.1 – 21082.3 and CEQA Guidelines §§ 15064.5, 15125(a), and 15126.2(a). Under AB 52 and CEQA case law (Pit River Tribe, Golden Door), the ISMND is procedurally invalid and must be replaced with a recirculated Environmental Impact Report that includes direct Elem Tribal consultation and field verification.