

## 4.18 TRIBAL CULTURAL RESOURCES

This section of the Draft Environmental Impact Report (EIR) evaluates the potential for the proposed Menifee Valley Specific Plan (proposed Project) to impact tribal cultural resources. Potential impacts to other cultural resources, including historic and non-Native American archaeological resources, are evaluated in **Section 4.5** of this Draft EIR. The analysis in this section summarizes pertinent information from the Native American consultation process between the City of Menifee (City) and the Native American tribes described below as well as findings in *Updated Cultural Resource Study for the Menifee Valley Specific Plan Project*,<sup>1</sup> *Supplemental Cultural Resource Study of Off-Site Improvement Areas for the Menifee Valley Specific Plan Project*,<sup>2</sup> and *Cultural Resource Assessment of the Brookfield Minor Ranch Project in the City of Menifee, Riverside County, California*<sup>3</sup> provided in **Appendices E-1, E-2, and E-3**, respectively.

### 4.18.1 Scoping

The City received ten comment letters during the Notice of Preparation (NOP) public review (refer to **Appendix A-1** of this EIR.) One comment letter included comments related to Tribal Cultural Resources.

- The letter from the Native American Heritage Commission (NAHC) (March 10, 2022) recommended that the City consult with the Native American tribes that are traditionally and culturally affiliated with the geographic area of the proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. The letter also recommended measures for conducting cultural resource assessments.

### 4.18.2 Methodology

A cultural resource assessment had previously been conducted for the 590.3-acre parcel by Applied Earthworks, Inc. in April 2019.<sup>4</sup> An updated cultural resource records search from the Eastern Information Center (EIC) was requested in June 2021 to identify prehistoric and historical cultural resources that may have been documented within a 1-mile radius of the Project area since 2016. An updated Sacred Lands File (SLF) search was also requested from the NAHC to determine if any updated information on Native American cultural resources (traditional use or gathering area, place of religious or sacred activity, etc.) in the project vicinity had been reported since 2016. On April 9, 2021, the NAHC provided a list of 24 contacts from 20 Native American groups.

On September 21, 2021, a field survey revisited the two previously identified archaeological sites. A resurvey of the entire Project area was determined to be unwarranted due to the previous intensive pedestrian surveys that were completed in 2016 and 2018, and the relatively unchanged nature of

<sup>1</sup> PaleoWest, LLC. 2022. Updated Cultural Resource Study for the Menifee Valley Specific Plan Project in the City of Menifee, Riverside County, California.

<sup>2</sup> PaleoWest, LLC. 2022. Supplemental Cultural Resource Study of Off-Site Improvement Areas for the Menifee Valley Specific Plan Project, City of Menifee, Riverside County, California.

<sup>3</sup> Applied EarthWorks, Inc. 2019. Cultural Resource Assessment of the Brookfield Minor Ranch Project in the City of Menifee, Riverside County, California. Prepared by Tiffany Clark, PhD, RPA and Dennis McDougall.

<sup>4</sup> *Ibid.*

the Project area. A Phase 1 field survey of off-site improvement areas was conducted on May 3, 2022. The area was recorded with digital photographs that included general views of the topography and vegetation density. Photographs were also taken of each identified cultural resource. A photo log was maintained to include, at a minimum, a photo number, date, orientation, a photo description, and comments. (Refer to **Appendices E-1 and E-2.**)

### 4.18.3 Existing Environmental Setting

The proposed project site is located on 590.3 acres of undeveloped land, a majority of which is currently used for agricultural production. The project site is generally flat to gently sloping property with the exception of a granitic hill on the southeastern corner of the site. According to the cultural resource assessment conducted in 2019, two prehistoric archaeological sites were identified within the Project limits, as described below.

CA-RIV-3429, which was first recorded in 2000, is a bedrock milling site described as 14 meters by 4 meters in area and containing a total of three grinding slicks. Each of the slicks exhibit an overall oval shape that ranges in length from 24 to 35 centimeters and shows signs of heavy weathering. No prehistoric artifacts were observed on the ground surface in the vicinity of the bedrock milling features. A series of five shovel test pits (STPs) and a test unit were excavated around the two bedrock outcrops to assess the potential for subsurface archaeological deposits; however, no prehistoric artifacts were recovered as a result of the test excavations.

CA-RIV-12345 is located within a plowed field on site. This resource was measured at 27 meters by 21 meters in area and consisted of a very sparse scatter of flaked stone materials. Although eight artifacts were identified within the site area, the site displays a high level of disturbance. A total of five shovel probes were excavated within the known extent of the lithic scatter. The sediments encountered consist of extremely hard and compacted, fine sandy-silt alluvium containing extremely small, angular gravels of granite, quartz, and schist. No cultural materials were recovered. Because the site is located within an agriculturally active field, it is likely that plowing activities have damaged the artifacts and moved them from their original locations.

### 4.18.4 Regulatory Setting

This section includes applicable federal, State, regional, and City of Menifee regulations.

#### 4.18.4.1 Federal Regulations

**Archaeological Resources Protection Act.** The Archaeological Resources Protection Act was enacted in 1979 with the purpose of securing the protection of archaeological resources and sites on public lands and Native American lands, and to foster increased cooperation and exchange of information between governmental authorities, the professional archaeological community, and private individuals.

**Native American Graves Protection and Repatriation Act.** The Native American Graves Protection and Repatriation Act (NAGPRA) was passed in 1990 with the purpose of outlining a process for museums and federal agencies to return certain Native American cultural items (e.g., human remains, funerary objects, sacred objects, or objects of cultural patrimony) to lineal descendants,

and culturally affiliated Indian tribes. NAGPRA also establishes procedures for the inadvertent discovery or planned excavation of Native American cultural items on federal or tribal lands. While these provisions do not apply to discovery or excavations on private or State lands, the collection portions of NAGPRA may apply to cultural items if they are under the control of an institution that receives federal funding. NAGPRA also makes it a criminal offense to traffic in Native American human remains without right of possession or in cultural items obtained in violation of NAGPRA.

#### 4.18.4.2 State Regulations

**Native American Heritage Commission.** In 1976, the California State Government passed Assembly Bill (AB) 4239, creating the Native American Heritage Commission (NAHC). The NAHC is responsible for identifying and categorizing Native American cultural resources as well as preventing damage to designated sacred sites and associated artifacts and remains. Legislation passed in 1982 authorized the NAHC to identify a Most Likely Descendant (MLD) when Native American remains are found outside the boundaries of a designated cemetery. An MLD has the authority to make recommendations in regard to the treatment and disposition of the discovered remains.

**California Public Resources Code Sections 5097.9–5097.991.** California Public Resources Code (PRC) Sections 5097.9–5097.991 provide protection to Native American historical and cultural resources (including sanctified cemeteries, places of worship, religious sites, or sacred shrines) and sacred sites, and gives the NAHC enforcement authority.

Specifically, California PRC Section 5097.98 outlines procedures that must be followed in the event that human remains are discovered. The County Coroner shall make a determination within 2 working days from the time the person responsible for the excavation, or designee, notifies the County Coroner of the discovery or recognition of the human remains. If the County Coroner identifies the remains to be of Native American origin or has reason to believe that the remains are those of Native American origin, the County Coroner must contact the California NAHC within 24 hours. The NAHC representative will then alert a Native American MLD to conduct an inspection of the site and to determine the following course of treatment and action. Additionally, *State CEQA Guidelines* Section 15064.5 sets forth a procedure if human remains are found on land outside of federal jurisdiction.

**Health and Safety Code Section 7050.5.** Section 7050.5 of the California Health and Safety Code protects Native American burials, remains, and associated grave artifacts in the event they are discovered in any location other than a designated cemetery. The Health and Safety Code mandates the immediate stop of excavation in the site as well as any adjacent or overlying area where the remains or associated items are found and provides for the sensitive disposition of those remains. Should remains be discovered, the County Coroner must determine that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner, and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or designee, in the manner provided in PRC Section 5097.98.

**Assembly Bill 52.** The Native American Historic Resource Protection Act, or AB 52, defines guidelines for reducing conflicts between Native Americans and development projects and activities. Projects are subject to AB 52 if an NOP for an EIR is filed or a notice of intent to adopt a Negative Declaration or Mitigated Negative Declaration is filed on or after July 1, 2016. “Tribal cultural resources” are protected under the California Environmental Quality Act (CEQA) and are defined as a site, feature, place, cultural landscape (must include the size and scope of landscape), sacred place, or object with a cultural value to a California Native American tribe that is either included or eligible for inclusion in the California Register of Historical Resources (California Register), or included in a local register of historical resources. At the Lead Agency’s discretion, a resource can be treated as a tribal cultural resource if a Native American Tribe provides substantial evidence. Additionally, AB 52 allows tribes to engage in consultation with lead agencies and sets guidelines for such consultation.

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

#### 4.18.4.3 Regional Regulations

There are no regional regulations that are applicable to cultural resources relevant to the proposed Project.

#### 4.18.4.4 Local Regulations

**City of Meniffee General Plan.** The City of Meniffee General Plan identifies goals and policies related to Land Use, Housing, Circulation, Open Space and Recreation, Community Design, Economic Development, Safety, and Noise. The following goals and policies from the Open Space and Conservation Element apply to the proposed Project relative to the protection of tribal cultural resources:<sup>5</sup>

**Goal OSC-5:** Archaeological, historical, and cultural resources are protected and integrated into the city’s built environment.

**Policy OSC-5.2:** Work with local schools, organizations, appropriate Native American tribes with ancestral territories located within the city and other agencies to educate the public about the rich archaeological, historic, and cultural resources found in the city.

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<sup>5</sup> City of Meniffee General Plan. 2013. Website: [https://www.cityofmeniffee.us/DocumentCenter/View/1085/ExhibitOSC-4\\_Paleologic\\_Resource\\_Sensitivity\\_HD0913?bidId=](https://www.cityofmeniffee.us/DocumentCenter/View/1085/ExhibitOSC-4_Paleologic_Resource_Sensitivity_HD0913?bidId=) (accessed February 17, 2022).

**Policy OSC-5.3:** Preserve sacred sites identified in consultation with the appropriate Native American tribes whose ancestral territories are within the city, such as Native American burial locations, by avoiding activities that would negatively impact the sites, while maintaining the confidentiality of the location and nature of the sacred site.

**Policy OSC-5.4:** Establish clear and responsible policies and best practices to identify, evaluate, and protect previously unknown archaeological, historic, and cultural resources, following applicable CEQA and [National Environmental Policy Act] NEPA procedures and in consultation with the appropriate Native American tribes who have ancestral lands within the city.

**Policy OSC-5.5:** Develop clear policies regarding the preservation and avoidance of cultural resources located within the city, in consultation with the appropriate Native American tribes who have ancestral lands within the city.

**Policy OSC-5.6:** Develop strong government-to-government relationships and consultation protocols with the appropriate Native American tribes with ancestral territories within the city in order to ensure better identification, protection and preservation of cultural resources, while also developing appropriate educational programs, with tribal participation, for Meniffee residents.

#### 4.18.5 Thresholds of Significance

The thresholds for cultural resources impacts used in this analysis are consistent with Appendix G of the *State CEQA Guidelines*. The proposed Project may be deemed to have a significant impact with respect to tribal cultural resources if it would:

- Threshold 4.18-1:** Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
- (i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1 (k).
  - (ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

#### 4.18.6 Project Impacts

- Threshold 4.18-1(i):** Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with

**cultural value to a California Native American tribe, and that is: Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1 (k)?**

**On-Site Improvements.** The cultural resource assessment conducted in 2019, which included an intensive cultural resource pedestrian survey, confirmed the presence of a bedrock milling site (P-33-003429/CA-RIC-3429) and also identified a previously unrecorded sparse flaked stone scatter site (P-33-024902/CA-RIV-12345).

As stated in the 2019 assessment, the location and condition of the previously recorded features at the bedrock milling were confirmed. Additionally, previously unrecorded bedrock milling features containing five additional grinding slicks were also identified. As currently recorded, CA-RIV-3429 contains six outcrops and/or exposures of granitic bedrock with a total of nine milling slicks. Per the 2019 assessment, the CA-RIV-12345 site consisted of a very sparse scatter of flaked stone material, including eight artifacts (one biface fragment and seven pieces of lithic debitage). The 2019 assessment concluded, "...this site displays a high level of disturbance. The site is located within an active agricultural field. As such, it is likely that plowing/disking activities have likely moved artifacts from their original provenience and may have damaged the artifacts to some extent."

During the 2019 survey, testing at the two sites was conducted to determine if intact subsurface cultural deposits were present in either location. Five STPs were excavated at each location. No prehistoric artifacts were recovered at either site.

The 2019 cultural resources assessment concluded that the following two resources do not meet the criteria for listing on either the California Register or the National Register for Historic Places (National Register). Through Tribal consultation, the identification and full understanding of the sites have greatly expanded due to development within the direct vicinity of the current project location. While CA-RIV-3429 and CA-RIV-12345 do not qualify individually for listing on the California or National Register of Historic Places, they are contributing features of a listed Tribal Cultural Property (TCP) on the Sacred Lands File with the California Native American Heritage Commission. The consulting Tribes recognize that CA-RIV-3429 is being avoided through the Project's open-space design; however, the Project's off-site improvements and the re-alignment of Briggs Road may encroach onto the current Project's open space and the Tribes' understanding of the site's boundary.

- **CA-RIV-3429:** Cultural Resource CA-RIV-3429 consists of several milling features across multiple boulders.
- **CA-RIV-12345:** Cultural Resource CA-RIV-12345 is a lithic scatter.

**Off-Site Improvements.** A supplemental cultural resources study was completed in 2022 to address off-site improvement areas that were not previously identified in the original Cultural Resource Study or the Updated Cultural Resource Survey. The study included a cultural resources literature and records search at the EIC, an NAHC SLF search, and a pedestrian survey of the off-site project improvement areas. During the survey, three additional sites were identified but determined to be

not eligible for listing on the California or National Register of Historic Places. Through consultation with the Tribes, CA-RIV-1175 was discussed as being connected to CA-RIV-3429 as well as a contributing feature of the previously identified Tribal Cultural Property. As a result of this assessment, three historic period cultural resources were identified. Two of these resources, Menifee Road and Briggs Road, were evaluated for listing on the California Register, and neither resource meets the criteria for listing on the California Register.

The third cultural resource is a 590-foot-long segment of the San Jacinto Railroad starting at Matthews Road and extending southeast. The railroad provided transportation of products from the San Jacinto Valley to markets in San Diego and Los Angeles as well as passenger services to Los Angeles. The resource has been previously determined eligible for listing on the California Register under Criterion 1 due to its importance in the development of Riverside County's agri-business from 1888 until 1950. The portion of the railroad within the proposed off-site improvement area retains sufficient integrity to convey its significance, and thus must be avoided by project construction activities. The proposed pedestrian bridge would cross over the railroad and would not physically impact the railroad or result in significant impacts to the railroad. However, to ensure that impacts remain less than significant, **MM CUL-1** (see **Section 4.5, Cultural Resources**) is proposed.

**Off-Site Roadway Improvements.** A supplemental assessment of the potential cultural resource impacts to off-site areas was prepared for the proposed project.<sup>6</sup> The supplemental cultural resource study for the off-site roadway improvement areas along Matthews Road (Case Road), McCall Boulevard, and McLaughlin Road consisted of a review of existing EIC record search data, an NAHC SLF search, and a Phase 1 survey that included a reconnaissance survey followed by an intensive pedestrian survey, resource updates, and significance evaluations. The supplemental cultural resource study identified no cultural resources within the off-site roadway improvement areas. Two cultural resources, a prehistoric lithic scatter and a historic railway, are mapped adjacent to the off-site improvement areas along McCall Boulevard and Matthews Road, respectively. However, the survey of these areas found no evidence that cultural materials associated with the resources extended into the proposed off-site improvement areas. As such, Project activities within the proposed off-site improvement areas are not expected to impact these identified cultural resources.

On September 21, 2021, pursuant to provisions of SB 18 and AB 52, the City provided consultation requests (via certified mail) to the Native American entities identified in **Table 4.18.A: Native American Consultation**.

The Pechanga Band of Indians, the Agua Caliente Band of Cahuilla Indians (ACBCI), the Soboba Band of Luiseño Indians, the Rincon Band of Luiseño Indians, and the Pala Band of Mission Indians requested to remain informed and updated on the project's progress.

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<sup>6</sup> Tiffany Clark, PhD, RPA, PaleoWest. 2023. Supplemental Cultural Resource Study of Off-Site Improvement Areas for the Menifee Valley Specific Plan Project.



**Table 4.18.A: Native American Consultation**

Native American Government/Contact <sup>1</sup>	Date of Contact	Summary
Agua Caliente Band of Cahuilla Indians	09/21/2021	The Tribe responded on October 29, 2021, requesting the following: a cultural resources inventory of the project area by a qualified archaeologist; a copy of the Eastern Information Center (EIC) records search results; copies of cultural resource documentation (report and site records) generated as a result of the cultural resource studies; and the presence of cultural resource monitor(s) during any ground-disturbing activities.
Augustine Band of Cahuilla Mission Indians		No further contact or consultation request received.
Cabazon Band of Mission Indians		No further contact or consultation request received.
Cahuilla Band of Indians		No further contact or consultation request received.
Campo Band of Diegueno Mission Indians		No further contact or consultation request received.
Ewiiapaayp Band of Kumeyaay Indians		No further contact or consultation request received.
La Posta Band of Diegueno Mission Indians		No further contact or consultation request received.
Los Coyotes Band of Cahuilla and Cupeno Indians		No further contact or consultation request received.
Manzanita Band of Kumeyaay Nation		No further contact or consultation request received.
Mesa Grande Band of Diegueno Mission Indians		No further contact or consultation request received.
Morongo Band of Mission Indians		No further contact or consultation request received.
Pala Band of Mission Indians		The Tribe responded on November 10, 2021, requesting to receive project updates, reports of investigations, and any documentation that might be generated regarding archaeological sites as the Project progresses. Further, if the project boundaries are modified to extend beyond the currently proposed limits, the Tribe requested updated information and the opportunity to respond to said changes. Finally, the tribe recommended that approved cultural monitors be present on site during all survey and ground-disturbing activities.
Pechanga Band of Indians		The Tribe responded on September 28, 2021, stating that they are interested in participating in the Project. The Tribe requested the following: <ul style="list-style-type: none"> <li>The Tribe receives a notification once the Project begins the entitlement process.</li> <li>The Tribe receives copies of all applicable archaeological reports, site records, grading plans, and environment documents.</li> <li>Government-to-government consultation occurs between the Tribe and the lead agency.</li> <li>Ground-disturbing activities associated with the Project be observed by a Riverside County qualified archaeologist and Pechanga Tribal Monitor.</li> </ul>
Quechan Tribe of the Fort Mojave Reservation		The Tribe responded on September 21, 2021, and noted that they did not wish to provide comments on the Project and would defer to more local tribes.
Rincon Band of Luiseño Indians		The Tribe responded on November 3, 2021, stating that they believe the area is culturally sensitive and recommended that a cultural resource record search is conducted with a copy of the results provided to the tribe.
Ramona Band of Cahuilla		No further contact or consultation request received.
Santa Rosa Band of Cahuilla Indians		No further contact or consultation request received.
Soboba Band of Luiseño Indians		The Tribe responded on November 1, 2021, stating that the Project location and adjacent areas are considered sensitive to the Tribe, and substantial information relating to the presence of Tribal Cultural Resources will be disclosed to the lead agency during formal consultation.
Sycuan Band of the Kumeyaay Nation		No further contact or consultation request received.
Torres-Martinez Desert Cahuilla Indians		No further contact or consultation request received.

Source: Compiled by LSA (2022).

<sup>1</sup> Multiple contacts to some Tribes (based on Native American Heritage Commission contact list)



Although no tribal cultural resources listed or eligible for listing in the California Register exist within the project site, according to the archaeologist at the ACBCI Tribal Historic Preservation Office, and the Pechanga Band of Indians, previous surveys and projects in the area had been positive for cultural resources. Further, several other tribes noted that the project location and adjacent areas are considered sensitive to the tribes.

The TCP is eligible for listing in the California Register; however, because the Proposed Project would avoid the majority of the TCP within the Project's APE, no further analysis of the TCP is required. Impacts are considered less than significant.

Although two cultural resources are found on the project site, one resource would remain undisturbed during project construction and operation while CA-RIV-12345 would be collected and relocated. The potential for resources to be discovered is addressed below under Threshold 4.18.1(ii). Although the proposed project would not cause a substantial adverse change in the significance of a known tribal cultural resource defined as a site, feature, place, or cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is listed or eligible for listing in the California Register or in a local register of historical resources as defined in PRC Section 5020.1(k), regulatory compliance measures and mitigation measures are required for the proposed project. **RCM TCR-1, RCM TCR-2, RCM TCR-3, and RCM TCR-4**, have been identified to reduce impacts to tribal cultural resources that may inadvertently be found during construction activities. Mitigation measures **MM TCR-1 and MM TCR-2** have been included to ensure that potential impacts to two known sites remain less than significant. **RCM CUL-1, RCM CUL-2, and RCM CUL-3**, which are identified in **Section 4.5**, have also been identified to reduce impacts to archaeological resources that may inadvertently be found during construction activities.

**Level of Significance Prior to Mitigation:** Less Than Significant Impact with Mitigation Incorporated.

**Regulatory Compliance Measures and Mitigation Measures:** The following Regulatory Compliance and Mitigation Measures would be implemented to reduce potential impacts to undiscovered tribal cultural resources during Project construction.

**RCM TCR-1: Cultural Resources Disposition.** In the event that Native American cultural resources are discovered during the course of ground-disturbing activities (inadvertent discoveries), the following procedures shall be carried out for final disposition of the discoveries:

- One or more of the following treatments, in order of preference, shall be employed with the Tribes. Evidence of such shall be provided to the City of Menifee Community Development Department:
  - **Preservation-in-Place of the Cultural Resources, If Feasible.** Preservation in place means avoiding the resources, leaving them in the place where they were found with no development affecting the integrity of the resources.

- **Reburial of the Resources on the Project Property.** The measures for reburial shall include, at least, the following: Measures and provisions to protect the future reburial area from any future impacts in perpetuity. Reburial shall not occur until all legally required cataloging and basic recordation have been completed, with an exception that sacred items, burial goods, and Native American human remains are excluded. Any reburial process shall be culturally appropriate. Listing of contents and location of the reburial shall be included in the confidential Phase IV Report. The Phase IV Report shall be filed with the City under a confidential cover and will not be subject to Public Records Requests.

If preservation in place or reburial is not feasible, then the resources shall be curated in a culturally appropriate manner at a Riverside County curation facility that meets State Resources Department Office of Historic Preservation Guidelines for the Curation of Archaeological Resources, thereby ensuring access and use pursuant to the Guidelines. The collection and associated records shall be transferred, including title, and are to be accompanied by payment of the fees necessary for permanent curation. Evidence of curation in the form of a letter from the curation facility stating that subject archaeological materials have been received and that all fees have been paid, shall be provided by the landowner to the City. There shall be no destructive or invasive testing on sacred items, items of Native American Cultural Patrimony, burial goods, and Native American human remains. Results concerning finds of any inadvertent discoveries shall be included in the Phase IV monitoring report.

- RCM TCR-2: Non-Disclosure of Location Reburials.** It is understood by all parties that unless otherwise required by law, the site of any reburial of Native American human remains or associated grave goods shall not be disclosed and shall not be governed by public disclosure requirements of the California Public Records Act. The Coroner, pursuant to the specific exemption set forth in California Government Code 6254 (r), parties and Lead Agencies will be asked to withhold public disclosure information related to such reburial, pursuant to the specific exemption set forth in California Government Code 6254 (r).
- RCM TCR-3: Native American Monitoring (Pechanga Band of Indians).** Tribal monitor(s) shall be required on site during all ground-disturbing activities, including grading, stockpiling of materials, engineered fill, rock crushing, etc. The land divider/permit holder shall retain a qualified tribal monitor(s) from the Pechanga Band of Indians. Prior to issuance of a grading permit, the developer shall submit a copy of a signed contract between the above-named Tribe and the land divider/permit holder for the monitoring of the Project to the Community Development Department and to the Engineering Department. The Native American Monitor(s) shall have the authority to temporarily divert, redirect or halt the ground-disturbance activities to allow recovery of cultural resources, in coordination with the Project Archaeologist.

**RCM TCR-4: Native American Monitoring (Soboba Band of Luiseño Indians).** Tribal monitor(s) shall be required on site during all ground-disturbing activities, including grading, stockpiling of materials, engineered fill, rock crushing, etc. The land divider/permit holder shall retain a qualified tribal monitor(s) from the Soboba Band of Luiseño Indians. Prior to issuance of a grading permit, the developer shall submit a copy of a signed contract between the above-named Tribe and the land divider/permit holder for the monitoring of the Project to the Community Development Department and to the Engineering Department. The Native American Monitor(s) shall have the authority to temporarily divert, redirect or halt the ground-disturbance activities to allow recovery of cultural resources, in coordination with the Project Archaeologist.

**MM TCR-1: Cultural Resource ESA Fencing.** Prior to any ground disturbing activities of the area that encompasses CA-RIV-3249, the Project Archaeologist and Tribal monitors shall ensure that appropriate temporary fencing is installed (i.e., orange fabric/barrier fencing) around the resource to prevent any unintentional disturbances during ground disturbing activities on the Project site. The fencing will be installed before clearing and grubbing and will not be removed until all earthmoving activities within the immediate vicinity of the resource have been completed. The Project Archaeologist and Pechanga Tribal monitor will be on site to monitor the fence installation and removal and will conduct daily inspections of the fencing to make sure that it is intact and has not been breached.

**MM TCR-2: Relocation and Reburial of CA-RIV-12345.** Prior to ground disturbance of the area that encompasses CA-RIV-12345, the Project Archaeologist and Tribal Monitors shall identify and collect elements of the site for reburial in open space. It is anticipated that reburial can occur within the Project's designated open space; however, given that there is an existing cultural resource site within the open space, the reburial location shall be reviewed by the Tribe to confirm it is located outside of the existing site boundary.

**RCM CUL-1: Inadvertent Archaeological Find.** If during ground-disturbance activities, unique cultural resources are discovered that were not assessed by the archaeological report(s) and/or environmental assessment conducted prior to project approval, the following procedures shall be followed. Unique cultural resources are defined, for this condition only, as being multiple artifacts in close association with each other, but may include fewer artifacts if the area of the find is determined to be of significance due to its sacred or cultural importance as determined in consultation with the Native American Tribe(s).

All ground disturbance activities within 100 feet of the discovered cultural resources shall be halted until a meeting is convened between the developer, the archaeologist, the tribal representative(s), and the Community Development Director to discuss the significance of the find.

At the meeting, the significance of the discoveries shall be discussed and after consultation with the tribal representative(s) and the archaeologist, a decision shall

be made, with the concurrence of the Community Development Director, as to the appropriate mitigation (documentation, recovery, avoidance, etc.) for the cultural resources. The Pechanga tribe has indicated preference for reburial of inadvertent finds within the Project's open space; however, the Tribes will be consulted at this meeting to ensure that the reburial location is outside the boundaries of other known cultural resource sites.

Grading or further ground disturbance shall not resume within the area of the discovery until an agreement has been reached by all parties as to the appropriate mitigation. Work shall be allowed to continue outside of the buffer area and will be monitored by additional Tribal monitors if needed.

Treatment and avoidance of the newly discovered resources shall be consistent with the Cultural Resources Management Plan (CRMP) and Monitoring Agreements entered into with the appropriate tribes. This may include avoidance of the cultural resources through project design, in-place preservation of cultural resources located in native soils and/or reburial on the Project property so they are not subject to further disturbance in perpetuity as identified in Non-Disclosure of Reburial Condition.

If the find is determined to be significant and avoidance of the site has not been achieved, a Phase III data recovery plan shall be prepared by the Project archeologist, in consultation with the Tribe, and shall be submitted to the City for review and approval prior to implementation of the said plan.

Pursuant to Calif. Pub. Res. Code § 21083.2(b) avoidance is the preferred method of preservation for archaeological resources and cultural resources. If the landowner and the Tribe(s) cannot agree on the significance or the mitigation for the archaeological or cultural resources, these issues will be presented to the City Community Development Director for decision. The City Community Development Director shall make the determination based on the provisions of the California Environmental Quality Act with respect to archaeological resources, recommendations of the Project archeologist, and shall take into account the cultural and religious principles and practices of the Tribe. Notwithstanding any other rights available under the law, the decision of the City Community Development Director shall be appealable to the City Planning Commission and/or City Council.

**RCM CUL-2: Archaeologist Retained.** Prior to issuance of a grading permit the Project applicant shall retain a Riverside County qualified archaeologist to monitor all ground-disturbing activities in an effort to identify any unknown archaeological resources.

The Project Archaeologist and the Tribal monitor(s) shall manage and oversee monitoring for all initial ground-disturbing activities and excavation of each portion of the Project site including clearing, grubbing, tree removals, mass or rough grading, trenching, stockpiling of materials, rock crushing, structure demolition, etc.

The Project Archaeologist and the Tribal monitor(s), shall have the authority to temporarily divert, redirect, or halt the ground-disturbance activities to allow identification, evaluation, and potential recovery of cultural resources in coordination with any required special-interest or tribal monitors.

The developer/permit holder shall submit a fully executed copy of the contract to the Community Development Department to ensure compliance with this condition of approval. Upon verification, the Community Development Department shall clear this condition.

In addition, the Project Archaeologist, in consultation with the Consulting Tribe(s), the contractor, and the City, shall develop a Cultural Resources Management Plan (CRMP) in consultation pursuant to the definition in AB 52 to address the details, timing and responsibility of all archaeological and cultural activities that will occur on the Project site. A consulting tribe is defined as a tribe that initiated the AB 52 tribal consultation process for the Project, has not opted out of the AB 52 consultation process, and has completed AB 52 consultation with the City as provided for in Cal Pub Res Code Section 21080.3.2(b)(1) of AB 52. Details in the Plan shall include:

- Project grading and development scheduling.
- The Project archaeologist and the Consulting Tribes(s) shall attend the pre-grading meeting with the City, the construction manager, and any contractors, and will conduct a mandatory Cultural Resources Worker Sensitivity Training to those in attendance. The Training will include a brief review of the cultural sensitivity of the Project and the surrounding area; what resources could potentially be identified during earthmoving activities; the requirements of the monitoring program; the protocols that apply in the event inadvertent discoveries of cultural resources are identified, including who to contact and appropriate avoidance measures until the find(s) can be properly evaluated; and any other appropriate protocols. All new construction personnel that will conduct earthwork or grading activities that begin work on the Project following the initial Training must take the Cultural Sensitivity Training prior to beginning work, and the Project archaeologist and Consulting Tribe(s) shall make themselves available to provide the training on an as-needed basis.
- The protocols and stipulations that the contractor, City, Consulting Tribe(s), and Project archaeologist will follow in the event of inadvertent cultural resources discoveries, including any newly discovered cultural resource deposits that shall be subject to a cultural resources evaluation.

**RCM CUL-3: Archaeology Report – Phases III and IV.** Prior to final inspection, the developer/permit holder shall prompt the Project Archaeologist to submit two copies of the Phase III Data Recovery report (if required for the Project) and the Phase IV Cultural Resources Monitoring Report that complies with the Community

Development Department's requirements for such reports. The Phase IV report shall include evidence of the required cultural/historical sensitivity training for the construction staff held during the pre-grade meeting. The Community Development Department shall review the reports to determine adequate mitigation compliance. Provided the reports are adequate, the Community Development Department shall clear this condition. Once the report(s) are determined to be adequate, two copies shall be submitted to the Eastern Information Center (EIC) at the University of California Riverside (UCR) and one copy shall be submitted to the Consulting Tribe(s) Cultural Resources Department(s).

**Level of Significance After Mitigation:** Less Than Significant Impact.

**Off-Site Improvements.** Implementation of the Project would result in physical disturbance to up to 59.0 acres for the installation of off-site improvements including roadway improvements to existing roadways (e.g. Menifee Road, SR-74, and Briggs Road), utility connections (e.g. water, sewer, stormwater, electricity, internet, and natural gas), landscaping, and construction of a non-vehicular bridge to connect the Specific Plan site to the Heritage Lake community to the south. A supplemental assessment of the potential cultural resource impacts to off-site areas was prepared for the proposed project.<sup>7</sup> The supplemental cultural resource study consisted of a review of existing EIC record search data, an NAHC SLF search, and a Phase 1 survey that included a reconnaissance survey followed by an intensive pedestrian survey, and resource updates, and significance evaluations. No specific information on known Native American resources located within off-site improvement areas was received as a result of the outreach. During the survey, three additional sites were identified but determined to be not eligible for listing on the California or National Register of Historic Places. Through consultation with the Tribes, CA-RIV-1175 was discussed as being connected to CA-RIV-3429 as well as a contributing feature of the previously identified Tribal Cultural Property.

- **CA-RIV-1175:** Cultural resource CA-RIV-1175 contains milling features, hand tools, and historic aged trash scatters.

Therefore, because the supplemental assessment did not reveal direct impacts to any tribal cultural resources in the off-site improvement areas, there would be no potentially significant impact to tribal cultural resources for the proposed project. With implementation of **RCM TCR-1** through **RCM TCR-4**, and **RCM CUL-1** through **RCM CUL-3** identified above, impacts to tribal cultural resources in off-site improvement areas would be *less than significant*.

**Off-Site Roadway Improvements.** Implementation of the Project would also result in off-site roadway improvements along Matthews Road (Case Road), McCall Boulevard, and McLaughlin Road to address traffic impacts in conflict with the General Plan Circulation Element policies that strive to maintain desired LOS. The City's General Plan Environmental Impact Report (Certified 2013 EIR) also indicated that the entire City is considered sensitive for archaeological resources and the potential to uncover undiscovered archaeological resources in the City is high. Therefore, a supplemental

<sup>7</sup> PaleoWest, LLC. 2022. Supplemental Cultural Resource Study of Off-Site Improvement Areas for the Menifee Valley Specific Plan Project.

assessment of the potential cultural resource impacts to off-site roadway areas was prepared.<sup>8</sup> The supplemental cultural resource study consisted of a review of existing EIC record search data, an NAHC SLF search, and a Phase I survey that included a reconnaissance survey followed by an intensive pedestrian survey, resource updates, and significance evaluations. No specific information on known Native American resources located within off-site roadway improvement areas was received as a result of the outreach. Therefore, because the supplemental assessment did not reveal the presence of any tribal cultural resources in the off-site improvement areas, there would be no potentially significant impact to tribal cultural resources for the off-site roadway areas.

**RCM CUL-1, RCM CUL-2, and RCM CUL-3** have been identified to reduce impacts to archaeological resources that may inadvertently be found during construction activities. In addition, similar to off-site improvement areas within Menifee Road, SR-74, and Briggs Road, off-site roadway improvements along Matthews Road (Case Road), McCall Boulevard, and McLaughlin Road would be required to comply with **RCM TCR-1** through **RCM TCR-4**, and **RCM CUL-1** through **RCM CUL-3**. With implementation of **RCM TCR-1** through **RCM TCR-4**, and **RCM CUL-1** through **RCM CUL-3** identified above, impacts to tribal cultural resources in off-site improvement areas would be *less than significant*.

**Significance Determination Prior to Mitigation:** Less Than Significant Impact

**Regulatory Compliance Measures:** **RCM TCR-1** through **RCM TCR-4** as well as **RCM CUL-1** through **RCM CUL-3** would be implemented to reduce potential impacts to undiscovered tribal cultural resources during Project construction.

**Significance Determination After Mitigation:** No mitigation is required, and impacts are considered Less Than Significant.

**Threshold 4.18-1(ii):** **Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is: A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.**

**On-Site Improvements.** As noted in response to Threshold 4.18-1(i) above, the SLF was completed with negative results; however, Pechanga and Soboba identified a TCP within the Project site. Two cultural resources, the bedrock milling site (P-33-003429/CA-RIC-3429) and a previously unidentified

<sup>8</sup> PaleoWest, LLC. 2023. Supplemental Cultural Resource Study of Off-Site Improvement Areas for the Menifee Valley Specific Plan Project.



sparse flaked stone scatter (P-33-024902/CA-RIV-12345) were also identified on the project site by the 2019 assessment.

The 2022 assessment of CA-RIV-4329 confirmed identification of the nine previously recorded milling slicks. As stated under **Threshold 4.18-1(i)**, as an individual resource, the site does not meet any of the four criteria for listing on the National Register or California Register.

Based on the current Specific Plan design, the area of Granite Hill, which includes the bedrock milling site (CA-RIV-3429), will be a passive open space park. Although limited trail development may occur in the vicinity of CA-RIV-3429, the site will be preserved and avoided by construction activities.

The revisit to the mapped location of CA-RIV-12345 for the 2022 assessment found that the area was currently under cultivation as a watermelon field, and ground visibility was extremely low with the ground surface covered with a moisture fabric and vegetation. No artifacts associated with CA-RIV-12345 were observed during the revisit.

Previous surveys in the area had been positive for cultural resources. Regardless of the analysis and findings provided in earlier evaluations, several area tribes noted that the project location and adjacent areas are considered sensitive to the tribes; therefore, development of the Project could potentially impact currently unknown prehistoric cultural resources.

The project as represented in the Specific Plan has been designed to avoid the cultural resources CA-RIV-12345 and CA-RIV-3429, and therefore, the proposed project would not affect those resources. **RCM TCR-1, RCM TCR-2, RCM TCR-3, and RCM TCR-4** have been identified to reduce impacts to tribal cultural resources that may inadvertently be encountered during construction activities.

**Significance Determination Prior to Mitigation:** Less Than Significant Impact

**Regulatory Compliance Measures:** **RCM TCR-1 through RCM TCR-4** as well as **RCM CUL-1 through RCM CUL-3** would be implemented to reduce potential impacts to undiscovered tribal cultural resources during Project construction.

**Significance Determination After Mitigation:** No mitigation is required, and impacts are considered Less Than Significant.

**Off-Site Improvements.** Implementation of the Project would result in physical disturbance to up to 59.0 acres for the installation of off-site improvements including roadway improvements to existing roadways (e.g. Menifee Road, SR-74, and Briggs Road), utility connections (e.g. water, sewer, stormwater, electricity, internet, and natural gas), landscaping, and construction of a non-vehicular bridge to connect the Specific Plan site to the Heritage Lake community to the south. A supplemental assessment of the potential cultural resource impacts to off-site areas was prepared for the proposed project.<sup>9</sup> The Supplemental Cultural Resource Study consisted of a review of existing EIC record search data, an NAHC SLF search, and a Phase 1 survey that included a

<sup>9</sup> PaleoWest, LLC. 2022. Supplemental Cultural Resource Study of Off-Site Improvement Areas for the Menifee Valley Specific Plan Project.

reconnaissance survey followed by an intensive pedestrian survey, and resource updates and significance evaluations. No specific information on known Native American resources located within off-site improvement areas was received as a result of the outreach. Therefore, impacts to tribal cultural resources in off-site improvement areas would be *less than significant*.

**Off-Site Roadway Improvements.** Implementation of the Project would also result in off-site roadway improvements along Matthews Road (Case Road), McCall Boulevard, and McLaughlin Road to address traffic impacts in conflict with the General Plan Circulation Element policies that strive to maintain desired LOS. The City's General Plan Environmental Impact Report (Certified 2013 EIR) also indicated that the entire City is considered sensitive for archaeological resources and the potential to uncover undiscovered archaeological resources in the City is high. Therefore, a supplemental assessment of the potential cultural resource impacts to off-site roadway areas was prepared.<sup>10</sup> The Supplemental Cultural Resource Study consisted of a review of existing EIC record search data, an NAHC SLF search, and a Phase I survey that included a reconnaissance survey followed by an intensive pedestrian survey, and resource updates and significance evaluations. No specific information on known Native American resources located within off-site roadway improvement areas was received as a result of the outreach. Therefore, impacts to tribal cultural resources in off-site improvement areas would be *less than significant*.

**Significance Determination Prior to Mitigation:** Less Than Significant Impact

**Regulatory Compliance Measures:** RCM TCR-1 through RCM TCR-4 as well as RCM CUL-1 through RCM CUL-3 would be implemented to reduce potential impacts to undiscovered tribal cultural resources during Project construction.

**Significance Determination After Mitigation:** No mitigation is required, and impacts are considered Less Than Significant.

#### 4.18.7 Cumulative Impacts

Cumulative impacts are the incremental effects of an individual project when viewed in connection with the effects of past, current, and probable future projects within the cumulative impact area for tribal cultural resources. Potential impacts of the proposed Project to unknown tribal cultural resources, when combined with the impacts of past, present, and reasonably foreseeable projects in Menifee, would not contribute to a cumulatively significant impact. However, the Project site contains known tribal cultural resources that could be impacted with development of the proposed Project. Because CA-RIV-3249 is being avoided and CA-RIV-12345 will be relocated through prescribed mitigation, there would be no substantial adverse change in the significance of a known tribal cultural resource that is listed or eligible for listing in the California Register or in a local register of historical resources as defined in PRC Section 5020.1(k). With incorporation of **RCM TCR-1, RCM TCR-2, RCM TCR-3, and RCM TCR-4**, impacts to tribal cultural resources that may inadvertently be found during construction activities would be reduced to a less than significant level.

<sup>10</sup> PaleoWest, LLC. 2023. Supplemental Cultural Resource Study of Off-Site Improvement Areas for the Menifee Valley Specific Plan Project.

Each discretionary development proposal received by the City is required to comply with the requirements of CEQA, including an environmental review, if applicable, to determine if a project subject to CEQA would have a significant impact on a tribal cultural resource. If there is any potential for significant impacts to tribal cultural resources as a result of present or reasonably foreseeable projects in Menifee, an investigation would be required to determine the nature and extent of the resources and identify appropriate mitigation measures. When tribal cultural resources are assessed and/or protected as they are discovered, impacts to these resources are less than cumulatively significant.