



## 8.0 CULTURAL RESOURCES AND TRIBAL CULTURAL RESOURCES

### 8.1 REGULATORY SETTING

Federal and state laws and regulations governing cultural resources exist to protect cultural and historic resources from damage and destruction. Violation of these laws and regulations would constitute a significant impact to cultural and historic resources. The laws and policies that pertain to the cultural resources potentially present in the Park or affected by implementation of the PWP are discussed below.

#### 8.1.1 California Environmental Quality Act (CEQA)

CEQA establishes statutory requirements for the formal review and analysis of projects. CEQA recognizes archaeological and historical resources as part of the environment. According to the Public Resources Code (PRC), a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment (PRC § 21084.1).

CEQA Guidelines (§ 15064.5(b)(2)) state that the significance of a historical resource is materially impaired when a project:

*Demolishes or materially alters in an adverse manner those physical characteristics of a historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the California Register of Historic Resources (CRHR).*

#### 8.1.2 National Register of Historic Places (NRHP) Criteria

The criteria for determining whether a property is eligible for listing in the NRHP are found in Title 36 of the Code of Federal Regulations (CFR) section 60.4 and are reproduced below:

- 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
  - That are associated with the lives of persons significant in our past; or
  - That 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 distinctions; or
  - That have yielded, or may be likely to yield, information important in prehistory or history.

For a property to qualify for the NRHP, it must meet at least one of the above National Register Criteria for Evaluation by being associated with an important context and retaining historic integrity of those features necessary to convey its significance.



### 8.1.3 California Register of Historic Resources

The California Office of Historic Preservation administers the California Register of Historic Resources (CRHR), which was established in 1992 as an authoritative guide to be used by state and local agencies, private groups, and citizens to identify the state's historical resources and to indicate what properties are to be protected from substantial adverse change. The CRHR includes all cultural resources that have been formally determined eligible for, or listed in, the NRHP, State Historical Landmark Number 770 or higher, Points of Historical Interest recommended for listing by the State Historical Resource Commission (SHRC), resources nominated for listing and determined eligible in accordance with criteria and procedures adopted by the SHRC, and resources and districts designated as city or county landmarks when the designation criteria are consistent with CRHR criteria.

Typically, a resource also must be at least 50 years old to be eligible for listing, although some properties of "exceptional importance" may be eligible even if the period of significance was achieved less than 50 years ago. Additionally, properties must possess several of the seven aspects of integrity to be eligible for listing in the NRHP and/or the CRHR. Integrity is defined as "...the authenticity of an historical resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance." The seven levels of integrity are location, design, setting, materials, workmanship, feeling, and association. Resources that are listed in the NRHP are automatically eligible for the CRHR (PRC § 5024.1(c)).

Pursuant to CEQA Guidelines section 15064.5 (a), the term "historical resources" includes the following:

- A resource listed or determined to be eligible by the SHRC for listing, in the CRHR (PRC § 5024.1, 14 CCR § 4850 et seq.).
- A resource 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 meeting the requirements of PRC section 5024.1 (g), shall be presumed historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- Any object, building, structure, site, area, place, record, or manuscript that a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be a historical resource, provided the lead agency's determination is supported by substantial evidence considering the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets one of the criteria for listing on the CRHR (PRC § 5024.1, 14 CCR § 4852), including the following:
  - a) Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
  - b) Is associated with the lives of persons important in our past;
  - c) Embodies the distinctive characteristics of type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values;



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

The fact that a resource is not listed in, or determined to be eligible for listing in the CRHR, not included in a local register of historical resources (pursuant to PRC § 5020.1(k)), or identified in a historical resources survey (meeting the criteria in PRC § 5024.1(g)) does not preclude a lead agency from determining that the resource may be a historical resource as defined by PRC section 5020.1(j) or 5024.1.

### **8.1.3.1 Unique Archaeological Resources**

Pursuant to CEQA (PRC § 21083.2(g)), a unique archaeological resource is an archaeological 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 meets any of the following criteria:

- Contains information needed to answer important scientific research questions and that there is a demonstrable public interest in that information;
- Has a special and 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.

To the extent that unique archaeological resources are not preserved in place or not left in an undisturbed state, mitigation measures shall be required (PRC § 21083.2(c)). If an archaeological resource is neither a unique archaeological nor a historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment, and it shall be enough that both the resource and the effect on it are noted in the Initial Study or Environmental Impact Report (EIR) (14 CCR § 15064.5(c)(4)).

### **8.1.3.2 Assembly Bill 52 -Tribal Cultural Resources**

Assembly Bill 52 (AB52) creates a formal role for California Native American tribes in the environmental review process by creating a formal consultation process and establishing that a substantial adverse change to a tribal cultural resource is considered a significant effect on the environment. Tribal cultural resources are defined as:

1. Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:
  - a. Included or determined to be eligible for inclusion in the CRHR
  - b. Included in a local register of historical resources as defined in PRC section 5020.1(k)
2. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in PRC section 5024.1 (c). In applying the criteria set forth in PRC section 5024.1 (c) the lead agency shall consider the significance of the resource to a California Native American tribe.

A cultural landscape that meets the criteria above may also be a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape. In addition, a historical resource described in PRC section



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21084.1, a unique archaeological resource as defined in PRC section 21083.2(g), or a “non-unique archaeological resource” as defined in PRC section 21083.2(h) may also be a tribal cultural resource if it conforms to the above criteria. AB52 requires a lead agency, prior to the release of a negative declaration, mitigated negative declaration, or EIR for a project, to begin consultation with a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if:

1. the California Native American tribe requested to the lead agency, in writing, to be informed by the lead agency through formal notification of proposed projects in the geographic area that is traditionally and culturally affiliated with the tribe, and
2. the California Native American tribe responds, in writing, within 30 days of receipt of the formal notification and requests the consultation. AB52 states: “To expedite the requirements of this section, the [Native American Heritage Commission (NAHC)] shall assist the lead agency in identifying the California Native American tribes that are traditionally and culturally affiliated with the project area.”

Additionally, State Parks has had a formal Native American consultation policy since 2017 (California State Parks 2017). The Department’s policy and implementation procedures can be found in Departmental Notice No. 2007-05 and the Department Operations Manual (DOM), Chapter 0400 – Cultural Resources.

#### **8.1.4 California Public Resources Code (PRC)**

PRC Sections 5024 and 5024.5 require each state agency to make a good faith effort to formulate policies to preserve and maintain all state-owned historical resources under its jurisdiction and to submit to the SHPO an inventory of all state-owned historic or potentially historic structures under its jurisdiction. Additionally, section 5024 permits the SHPO to determine which historical resources identified in these inventories meet NRHP and state historical landmark criteria for inclusion on the master list of historical resources. The SHPO will maintain this master list comprised of all inventoried structures submitted and determined significant pursuant to PRC section 5024 (d), along with all state-owned historical resources currently listed in the NRHP or registered as a state historical landmark under state agency jurisdiction. PRC section 5024.5 sets limits on and establishes a protocol for review of any state agency action or undertaking that may adversely affect historical resources identified pursuant to section 5024.

State Parks has had an active and ongoing historic preservation program and has coordinated with the SHPO formally since 1982 and is required to submit annual inventory updates as well as preservation and protection measures of historical resources to SHPO. To comply with PRC section 5024 and 5024.5, state agencies can establish a Cultural Resource Management Program. State Parks’ program includes Cultural Resource Management Guidelines that ensure that all cultural resources under State Parks jurisdiction are inventoried, evaluated, monitored, and protected (DPR DOM Chapter 0400 – Cultural Resources). 7.1.4.2 Public Resources Code Section 5090 PRC section 5090.35(f) requires the Off Highway Motor Vehicle Recreation (OHMVR) Division to protect cultural and archaeological resources within State Vehicular Recreation Areas (SVRAs). PRC section 5097.5 states, “It is illegal for any person to knowingly and willfully excavate or remove, destroy, injure, or deface cultural resources.” Furthermore, the crime is a misdemeanor punishable by a fine not to exceed \$10,000 and/or county jail time for up to 1 year. In addition to a fine and/or jail time, the court can order



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restitution, and restitution will be granted of the commercial and archaeological value of the property. The OHMVR Division’s law enforcement officers are the primary personnel responsible for the protection of OHMVR Division cultural resources on a daily basis.

### **8.1.5 California Health and Safety Code**

California Health and Safety Code section 7050.5 regulates procedures in the event of human remains discovery. Pursuant to PRC section 5097.98, in the event of human remains discovery, no further disturbance is allowed until the County Coroner has made the necessary findings regarding the origin and disposition of the remains. If the remains are determined to be Native American, the County Coroner is required to contact the NAHC. The NAHC is responsible for contacting the most likely Native American descendent, who would consult with the local agency regarding how to proceed with the remains. Departmental policies also require California State Parks to initiate consultation on the treatment of any such remains.

### **8.1.6 State Parks Native American Consultation Policy and Implementation**

It is State Parks policy to involve Native California Indian groups in all plans and practices that have impacts on the cultural resources under State Park stewardship (CDPR, 2007). Prior to implementing projects or policies that may result in impacts on Native American sites within the State Park System, State Parks will actively consult with local Native California Indian groups regarding the protection, preservation, and/or mitigation of cultural sites and sacred places in the State Park System. Departmental Notice 2007 “*Native American Consultation Policy and Implementation Procedures*” (CDPR, 2007) identifies the following nine areas of activity where consultation between local Native California Indian groups and State Parks is required:

- Acquisition of properties where cultural sites are present;
- During the General Plan process and/or development of Management Plans (such as the PWP);
- Planning, design, and implementation of capital outlay projects;
- Issues of concern identified by the tribes;
- Plant and mineral gathering by Native people;
- Access to Native California Indian ceremonial sites;
- Archaeological permitting;
- Mitigation of vandalism and development of protective measures at Native American sites; and
- When using the Native voice in presenting the story of California native Indian people in park units.

### **8.1.7 Executive Order B-10-11**

Executive Order B-10-11 acknowledges the important relationship that many Native American California Tribes have with their native home of California. As described in the Executive Order, the term “Tribes” includes all Federally Recognized Tribes and additional California Native Americans. The Executive Order affirms that the State of



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California recognizes and reaffirms the inherent right of these Tribes to exercise sovereign authority over their members and territory. Most importantly, the order states that it is the policy of the Administration that every state agency and department subject to the Governor’s control shall encourage communication and consultation with California Indian Tribes.

### **8.1.8 California Coastal Act**

As described in greater detail in Chapter 4 in Volume 1 of this PWP, the California Coastal Act (PRC § 30000 et seq.) governs development within the Coastal Zone. Chapter 2, section 30116 of the California Coastal Act defines “sensitive coastal resource areas” to mean those identifiable and geographically bounded land and water areas within the coastal zone of vital interest and sensitivity, including archaeological sites referenced in the California Coastline and Recreation Plan (CDPR 1971) or as designated by the SHPO. Chapter 3 of the Act, Coastal Resources Planning and Management Policies, sets forth the policies that constitute the standards for development subject to the Coastal Act. The applicable standards (or parts of standards) of this chapter related to cultural resources include:

- Reasonable mitigations are required where development would adversely impact archaeological or paleontological resources as identified by the SHPO (PRC § 30244)

#### **8.1.8.1 Coastal Development Permit (CDP) 4-82-300**

Oceano Dunes SVRA currently operates subject to CDP 4-82-300, issued in 1982 by the California Coastal Commission (CCC), and last amended in 2001. Since CDP 4-82-300 predates the County Local Coastal Plan (LCP), the CCC retains permit jurisdiction for activities governed by the permit. CDP 4-82-300, as amended, requires the OHMVR Division to protect archaeological resources located within Oceano Dunes SVRA with fencing. The PWP (Volume 1), once approved, will supersede the CDP. However, any resource protection programs already ongoing in the Park will continue to be implemented, and will become part of the PWP management programs, as described in Section 3.5, “Other Park Management Programs and Plans,” in Chapter 3 of Volume 1.

### **8.1.9 State Parks Project Evaluation Process and BMPs for Cultural Resources**

State Parks has an internal project review process for assessing projects and actions for compliance with applicable environmental laws and regulatory mandates and permitting processes. The complete review process is documented in DOM Chapter 0600 – Environmental Review. These procedures require both a State Archaeologist and State Historian to review all projects and actions to ensure that all prudent and feasible measures are made to avoid impacts to any historical, cultural or tribal resources.

In addition, State Parks field districts such as Oceano Dunes District include permanent staff, along with access to other Department cultural resource specialists at both the Cultural Resources Division and Service Centers to assist in cultural resource program and project support. Such District and technical staff are regularly consulted early in the planning, development and implementation processes. This early consultation is essential to ensure cultural resource protection and stewardship measures are implemented at all levels of park management activities.

Project components have been designed, and will continue to be designed, to avoid and minimize impacts to known significant archaeological resources and tribal





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cultural resources, if identified. Additionally, once triggered, the CDPR 5024 Review is designed to assist projects in avoiding any significant impacts to resources. Determining potential unforeseen impacts to archaeological and tribal cultural resources must consider scope and extent of new ground disturbance, degree of previous disturbance and development, environmental and geomorphological factors, previous resource identification efforts, and proximity to known cultural resources. Projects without ground disturbance or those with disturbance limited to previous footprints in areas of decreased cultural sensitivity have little potential to impact archaeological or tribal cultural resources. Projects with new ground disturbance in locations of increased cultural sensitivity, in locations previously undeveloped or undisturbed, or existing in developed areas where ground disturbance may exceed the previous footprint, have increased potential to inadvertently impact previously unknown resources. This also includes projects occurring in mobile dune environments or dense vegetation, creating increased levels of uncertainty regarding resource locations. In mobile dune environments, it is common to locate newly revealed archaeological resources in shifting sands where identification efforts previously had negative results. Projects may be required to meet one or more conditions of Avoidance (Condition-1), Archaeological and Native American Monitoring (Condition-2), and Inadvertent Discovery Protocols (Condition-3). Implementation of appropriate protection measures and conditions when determined necessary will reduce potential impacts to a level less than significant. The following outlines the process followed by State Parks in the planning, design, and implementation process.

#### **8.1.9.1 C-1: AVOIDANCE**

Avoidance and preservation in place of archaeological and tribal cultural resources is the preferred method to prevent impacts. If documented archaeological resources are located within the project areas, then no extensive ground disturbance or potential impactful activities would be implemented within or immediately adjacent to any known archaeological or Tribal cultural resources. If new resources are identified before or during project implementation, avoidance must be prioritized.

#### **8.1.9.2 C-2: ARCHAEOLOGICAL AND NATIVE AMERICAN MONITORING**

Archaeological and Native American monitoring will be required during certain components of project implementation. Project components with ground disturbance in previously undisturbed soils and sediments in culturally sensitive areas (i.e., near fresh water sources) or areas of increased archaeological uncertainty due to environmental factors such as mobile sand dunes should expect monitoring. Monitoring may be required for ground disturbance that expands beyond the footprint of previously disturbed and developed areas containing increased cultural sensitivity. These areas, and other determined at the discretion of the archaeologist and Native American representatives, will be determined culturally sensitive and monitored when requested. Implementing the condition of archaeological and Native American monitoring will reduce potential impacts to any undocumented subsurface resources that might be encountered during project implementation. Ongoing consultation with interested Native American representatives will refine which project components necessitate Native American monitoring.

#### **8.1.9.3 C-3: INADVERTENT DISCOVERY PROTOCOLS**

Ground disturbing activities have the potential to inadvertently encounter resources that were previously unknown because of their subsurface nature. Construction workers and equipment operators are asked to watch for cultural resource deposits



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during earth moving activity. Archaeological and Native American monitors will be present during project components occurring in areas of increased cultural sensitivity. Specific protocols exist for inadvertent discovery of archaeological resources, tribal cultural resources, and human remains.

### C-3.1 Inadvertent Discovery of Archaeological Resources

In the event that construction activity or other ground disturbance encounters unexpected archaeological resources, all work will halt within 100 feet of the discovery and the area will be secured and protected. The District Archaeologist or other state-qualified archaeologist will formally document, assess, and evaluate the significance of the potential discovery in accordance to CEQA Guidelines Section 15064.5. If determined significant, the archaeologist will work with the Project Manager and consult with the Native American monitor (if present) and/or other interested Native American representatives to develop avoidance measures and appropriate treatments. Preservation in place through project redesign is the preferred method to avoid substantial adverse changes (CEQA Guidelines Section 15126.4(b)(3)). If avoidance is unachievable, additional treatment measures such as data recovery or additional cultural resource review compliant with all applicable laws and department resource directives will be developed in consultation with interested local Native American representatives. Additionally, if the archaeological resource meets the criteria for a unique archaeological resource, treatment will occur in accordance with California Public Resources Code Section 21083.2.

### C-3.2 Inadvertent Discovery of Human Remains

During inadvertent discovery of human remains, all construction activity and ground disturbance will immediately halt within 100 feet of the discovery. Remains are to be covered and locations within 100 feet of the discovery secured and protected. Notifications are to be immediately sent to the District Superintendent and County Coroner. Procedures outlined in Section 7050.5 of the Health and Safety Code and Public Resources Code Section 5097.98 will be initiated. The County Coroner will assess the remains and determine if they are Native American in origin. If so, consultation will occur with the Native American Heritage Commission (NAHC) and Most Likely Descendant (MLD) and/or appropriate Tribal Representative(s) in compliance with all applicable laws and guidelines to determine appropriate treatment for the remains.

### C-3.3 Inadvertent Discovery of Tribal Cultural Resources

If a Native American monitor identifies a potential Tribal cultural resource, all construction and ground-disturbing activity will halt within 100 feet of the discovery. The Native American and archaeological monitors will work together to document, assess, and evaluate the significance of the potential discovery in accordance to AB52, PRC Section 21084.2, and CEQA Guidelines Section 15064.5. If determined significant, the archaeologist and interested Native American representatives will work with the Project Manager to develop avoidance measures or other appropriate treatments. Preservation in place through project redesign is the preferred method to avoid substantial adverse changes. If avoidance is unachievable, additional treatment measures compliant with all applicable laws and department resource directives will be developed in consultation with interested local Native American representatives and other relevant parties.





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## 8.2 Environmental Setting

### 8.2.1 Summary of Cultural Resources in the Park

For a thorough description of existing and potential cultural resources within the Oceano Dunes District, see Section 1.6, Chapter 1, Volume 2.

There are at least 48 identified and recorded cultural resources within the PWP planning area. Documentation for 45 of the resources is provided by a Cultural Resource Inventory (CRI) prepared in 2011 for the OHMVR Division (Perez, 2011). The CRI covered both Oceano Dunes SVRA and Pismo State Beach. The other three resources have since been discovered within the PWP area due to natural dune migration. Details regarding the three resources have been recorded by State Parks (Baker, 2018). Of the known resources, 43 are prehistoric, 4 are historic-era, and 1 is multi-component (i.e., contains elements of both prehistoric and historic periods). Twenty-five of the prehistoric sites are considered eligible for inclusion in the NRHP and/or the CRHR. One prehistoric site is considered ineligible for any register. The remaining prehistoric sites require further archaeological investigation before a determination of eligibility can be made. Additionally, there were 29 archaeological sites previously discovered prior to the 2011 CRI, which were not included in the CRI because State Park archeologists were unable to relocate these sites during the 2011 CRI because of the highly mobile dune environment in the Park. However, because of the shifting sands, there is potential for some or all the sites to still be present beneath the surface. Although there have been several cultural resource surveys in the PWP area over the years, additional cultural resources could be present in the Park but have not yet been discovered because of the shifting environment. The PWP area, therefore, has a high degree of sensitivity in terms of archaeological cultural resources.

#### 8.2.1.1 Archaeological Resources

Approximately 40 percent of the Parks has been surveyed for archaeological resources. Approximately 80 archaeological sites and nine archaeological isolates have been identified and recorded in the Park. Of these sites, one has been formally evaluated and determined eligible for listing in the National Register of Historic Places. Nearly half of recorded archaeological sites are believed to be potentially eligible for listing in the National Register, though additional study and evaluation is required. All sites are treated as eligible until they are evaluated and a formal determination made. Considering the active nature of the dune landscape and the already high concentration of archaeological resources, there is a potential that unknown or unexpected archaeological resources exist.

#### 8.2.1.2 Fieldwork

As described in Section 1.6 of Volume 2 (Existing Conditions), some fieldwork was conducted specifically in support of the PWP and this EIR in 2018.

In addition to this PWP specific inventory, the OHMVR Division recently conducted two archaeological surveys within the PWP area. The first survey was conducted in support of preparation of the 2011 Oceano Dunes District CRI. The areas that were surveyed for archeological resources during the 2011 Oceano Dunes District CRI were chosen based on a predictive model adapted from previous archaeological surveys of areas within the Park boundary. The second survey occurred in April 2013, when archaeological and Native American monitoring was conducted during installation of dust control fencing. The monitoring was conducted by Elise Wheeler and Matthew Goldman on May 2, 8, and 16, 2013.



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Because of the archaeological monitoring program, all culturally sensitive areas were avoided during this 2013 monitoring. The results of the project monitoring were recorded in an archaeological monitor report (Perez, 2013). State Parks archeologists provided copies of the archaeological survey and archaeological monitor reports to representatives of the Northern Chumash Tribal Council, Santa Ynez Tribal Elders Council, Yak Tityu Tityu, Northern Chumash Tribe, and the Odom family. The project concluded in October 2013. Prior research and field studies show areas of archaeological sensitivity, where there is a higher chance of discovery of archaeological finds. GIS data has been created by State Parks using information from previous studies to show areas of archaeological sensitivity.

### **8.2.1.3 Archaeological Resources and Mobile Dune Environments**

Most archaeological resources in the Oceano Dunes District exist within an active and mobile dune environment where dramatic changes in dune formation are observed seasonally and annually. The constantly shifting sands generate cycles of covering and revealing archaeological deposits. These factors often make it difficult to identify new resources or relocate previously identified resources. Dependent upon timing, these resources may be covered or revealed during cultural resource identification efforts. For this reason, there is a level of uncertainty associated with cultural resource identification in sand dune environments (i.e., increased cultural sensitivity). Additionally, the sand dune terrain makes it difficult to perform systematically spaced and linear transects, as is the standard for an archaeological pedestrian field survey. Migrating dunes can make previously surveyed areas an entirely different landscape and steep dunes faces may not be possible to ascend. Important components of cultural resources management at the Park is persistent site condition monitoring to check changes in archaeological deposit visibility and frequent resurveys of sensitive areas to document any newly revealed deposits.

When new resources are located or significant changes are observed in previously documented site extent and deposits, State Parks archaeologists record and catalog the discoveries and provide the Central Coast Information Center with their findings for recordation within the California Historical Resources Information System (CHRIS) database. Consistent with PRC section 5090.35(f), State Park resource staff ensure any newly discovered cultural resources are protected, including by installations of fences or other barriers if needed.

### **8.2.2 Native American Consultation and Coordination**

A request for a Sacred Lands File (SLF) records search and Native American contacts list for the PWP project areas was sent to the California Native American Heritage Commission (NAHC) in 2018. The NAHC confirmed the presence of Native American cultural sites in the Park and provided a list of Native American individuals who may have knowledge of cultural resources within the Park and subsequently the PWP Development Project areas. State Parks sent letters to each of these individuals inviting them to participate in consultation pursuant to departmental policy and under AB52 regarding tribal cultural resources. State Parks has received responses from three tribal groups, including the Santa Ynez Band of Chumash Indians, the Northern Chumash Tribal Council, and the YTT Northern Chumash. Table 8-1 documents the results of the consultation efforts to date and provides a summary of the responses received and the relevant outcomes.



**Table 8-1. Summary of PWP Consultation Efforts**

<b>Group</b>	<b>Individual</b>	<b>Date Sent</b>	<b>Response/Comments</b>
Northern Chumash Tribal Council	Fred Collins	May 15, 2018	Yes; avoidance of cultural resources and compliance with all applicable preservation laws; continued project updates.
Salinan Tribe of Monterey	Patti Dunton	May 15, 2018	No
Santa Ynez Band of Chumash Indians	Kenneth Kahn	May 15, 2018	Yes
yak tityu tityu Northern Chumash Tribe	Lei Lyn Odom	May 15, 2018	Coordination occurring with Mona Tucker of the YTT.
yak tityu tityu Northern Chumash Tribe	Mona Tucker	May 15, 2018	Yes; avoidance of cultural resources and continued project updates; Native American monitoring.
Salinan Tribe of Monterey, SLO Counties	Fred Segobia	May 15, 2018	No
San Luis Obispo Chumash Tribal Council	Chief Mark Vigil	May 15, 2018	No
Salinan-Chumash Nation	Xielolixi	May 15, 2018	No

### 8.2.2.1 Tribal Cultural Resources

Consultation conducted in support of the PWP EIR has not resulted in the identification of tribal cultural resources within or immediately adjacent to the PWP planning area. If ongoing consultation reveals the presence of newly identified tribal cultural resources, State Parks will implement procedures to avoid any substantial adverse changes to the significance of those resources. Continued cooperation and information sharing gathered through ongoing consultation will minimize potential for impacts.

## 8.3 Project Impacts

### 8.3.1 Thresholds of Significance

Based on Appendix G of the CEQA Guidelines, implementation of the PWP would have a significant impact on cultural resources if it would:

- Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5;
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5;



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- Disturb any human remains, including those interred outside of formal cemeteries;
  - Cause a substantial adverse change in the significance of a tribal cultural resource, defined in PRC 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 CRHR or in a local register of historical resources as defined in PRC section 5020.1(k); or
    - 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 PRC section 5024.1. In applying the criteria set forth in subdivision (c) of PRC section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

### 8.3.2 Issues Not Discussed Further in this EIR

**Adverse change to historical resources.** Currently there are no potentially eligible or recognized historic properties located within the Park. Therefore, no historical resources (buildings or structures) would be affected by implementation of the PWP. The Department will continue to provide qualified historical resource specialists to document and evaluate any potentially eligible historical properties (buildings, sites, landscapes) as required to assure compliance with CEQA and PRC 5024.5 mandates for assuring no adverse effects occur to historic properties. If a resource is identified later, and there is the possibility of any PWP implementation action having an effect on this resource, the specific project and its potential impact would be reviewed by a State Historian qualified to make such determinations, and the information would be included in any environmental documentation prepared for the implementation action, as required. Implementation of the PWP is not expected to result in impacts to any known or unknown historical resources as defined in PRC Section 5024.1(q). Therefore, this impact is not discussed further in this EIR.

### 8.3.3 Impacts and Mitigation

**Impact 8-1.** Substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?

Implementation of the PWP is not expected to result in a substantial adverse change in the significance of an archaeological resource as defined in Section 15064.5. District staff will continue to implement the existing cultural resources management program for all actions within the Park as described above under Section 8.2.1.6.

Archaeological resources have been identified in the Park, and some have been identified within the footprint of the PWP Development Projects and other Small Development Projects; however, where known resources have been documented, Development Projects have been designed to avoid impacts to previously documented archeological resources. If any newly encountered archaeological resources were discovered as the designs move forward, projects would be redesigned if necessary, to avoid any adverse impacts on archeological resources.

Prior to implementing PWP projects, Department archaeologists will establish conditions and treatments for avoidance and monitoring if determined



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necessary. If conditions have changed since environmental review and indicate the need for additional archaeological inventory or indicate newly identified project impacts, avoidance measures will be developed prior to and during project implementation. There is the possibility that unknown buried archaeological resources are present and susceptible to damage or discovery during project implementation. State Parks has policies and procedures to ensure proper treatment of inadvertently discovered archaeological resources. Because State Parks will continue to implement its cultural resources management project to avoid impacts and because PWP Development Projects and other Small Development Projects have been designed and will continue to be designed and implemented to avoid sensitive archeological resources, implementation of the PWP would result in a **less-than-significant impact** on archaeological resources. A summary of each Development project assessment is described below.

### **8.3.3.1 Ongoing Park Operations and Regular Maintenance Activities**

Park operations and regular maintenance activities consists of ongoing and completed activities depicted in Volume 1, Chapter 3 and Volume 2, Chapter 1. The cultural resource management program monitors support park operations and maintenance through routine survey and monitoring during special events and park maintenance, maintaining protective barriers, recording and maintaining records, updating and preparing reports, and regular consultation with Native American tribes.

### **8.3.3.2 General Facilities Maintenance**

Mechanical Trash Removal (CA-21). Mechanical trash removal would only occur in areas that are already disturbed by recreation and would not be allowed in any areas with known, covered or uncovered, cultural sites. A cultural monitor would review all proposed trash removal areas to confirm all known cultural sites, including sites currently buried, are avoided. Mechanical trash removal would thus not significantly increase the potential for disturbance of cultural resources. As described in EIR section 8.1.9.3, should an unknown cultural resource site be discovered, it would be recorded, assessed and protected from further disturbance. As a result, the proposed mechanical trash removal would have a less-than significant impact on cultural resources.

CDPR UAS Use for Park Activities (CA-52). CDPR's use of drones for data collection does not involve ground disturbance in culturally sensitive areas. As a result, drone use would have no impact on cultural resources.

### **8.3.3.3 Oso Flaco Improvement Project (Initial)**

The project site is an agricultural field with a long history of this land use. Department archaeologists and historians have examined the project location and there are no known archaeological sites or historical resources. Native American monitoring is recommended for ground disturbing components of the project, as well as continued Native American consultation and coordination. Project implementation must prioritize avoiding impacts to cultural resources, and should resources be encountered during construction, inadvertent Discovery protocols will be implemented.

### **8.3.3.4 Oso Flaco Improvement Project (Future)**

The Oso Flaco (Future) Improvement Project would require an amendment to the General Plan, which only envisioned and authorized the improvements proposed under the Oso Flaco (Initial) Improvement Project at the site.



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The project site is an agricultural field with a long history of this land use. Department Archaeologists and Historians have examined the project location and there are no known archaeological sites or historical resources there. Native American monitoring is recommended for ground disturbing components of the project, as well as continued Native American consultation and coordination. Project implementation must prioritize avoiding impacts to cultural resources, and should resources be encountered during construction, inadvertent Discovery protocols will be implemented.

#### **8.3.3.5 Park Corporation Yard Improvement Project**

Department Archaeologists have examined the project area. Archaeological resources are located near some project footprints. Archaeological and Native American monitoring are recommended for ground disturbance at these locations of increased sensitivity, as well as continued Native American consultation and coordination.

#### **8.3.3.6 Oceano Campground Infrastructure Improvement Project**

Department Archaeologists have examined the project area. Archaeological resources have been identified in proximity to proposed project locations. Considering increased cultural sensitivity, archaeological and Native American monitoring are recommended for ground disturbing components of the project. Continued Native American consultation and coordination are required. Project implementation must prioritize avoiding impacts to cultural resources. Should resources be encountered during construction, Inadvertent Discovery protocols will be implemented.

#### **8.3.3.7 Pier and Grand Avenue Entrances & Lifeguard Towers Project**

The site falls within the City of Grover Beach Local Coastal Program and permitting jurisdiction. The Pier Avenue Lifeguard Tower is in the San Luis Obispo County Local Coastal Program jurisdiction.

Department Archaeologists have examined the project area. No archaeological resources have been identified; however, the lifeguard towers involve ground disturbance. Archaeological and Native American monitoring is recommended for ground disturbing components of lifeguard tower construction. Continued Native American consultation and coordination are required.

#### **8.3.3.8 North Beach Campground Facility Improvements Project**

According to the Department's CCC and Post-World War II State Parks Administrative Facilities Cultural Resource Survey Report (Allen and Newland 2017), the entrance kiosk is less than 50 years old. Therefore, the project would not harm any recorded or potentially significant historic resources.

Department Archaeologists have examined the project area. There are no known archaeological sites within or immediately adjacent to the project location. No further review by a Department Archaeologist (e.g., construction monitoring) will be necessary.

#### **8.3.3.9 Butterfly Grove Public Access Project**

The site is currently developed and the project would not harm any recorded or potentially significant historic resources.





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Department Archaeologists and Historians have examined the project location and documented archeological or historical resources in the vicinity; the current plan was designed to avoid potential impacts. Considering the increased cultural sensitivity, archaeological and Native American monitoring are recommended for ground disturbing activities. Continued Native American consultation and coordination are required. Project implementation must prioritize avoiding impacts to cultural resources. Should resources be encountered during construction, Inadvertent Discovery protocols will be implemented.

#### **8.3.3.10 Pismo State Beach Boardwalk Project**

Department Archaeologists and Historians have examined the project location. Archaeological resources have been documented in the vicinity. Considering the increased cultural sensitivity, archaeological and Native American monitoring are recommended for ground disturbing activities. Continued Native American consultation and coordination are required. Project implementation must prioritize avoiding impacts to cultural resources. Should resources be encountered during construction, Inadvertent Discovery protocols will be implemented.

#### **8.3.3.11 Phillips 66/Southern Entrance Project**

Portions of the proposed project area has not been surveyed for cultural resources. A cultural resources inventory is required. Archaeological resources have been identified in the vicinity of proposed project improvements. Project developments will be designed to avoid impacts to any identified significant archaeological and tribal cultural resources. Archaeological and Native American monitoring may be required for project components in areas to be determined.

If any buildings or structures are acquired or obtained from this property, a historical resources evaluation would be undertaken to ascertain if any are potentially eligible to be determined historical resources. If so, measures would be undertaken to avoid impacts to any identified significant historic resource properties.

Native American consultation is required per AB52, Executive Order B-10-11, Senate Bill 18, and CDPR Native American Consultation Policy.

#### **8.3.3.12 Small Development Projects**

In addition to the specific projects described above, this PWP also includes several Small Development Projects that are currently known or anticipated, and several project and program activities that may occur in the future over the lifetime of the PWP, but for which specific details are not known at this time. Both types are described in Volume 1, Chapter 3 at the level of detail currently available.

Other small repair and maintenance projects could occur at any existing facilities, as described in Volume 2 (Existing Conditions) of this PWP. Some of these would be considered simple repair and maintenance, and do not have a nexus for compliance with the Coastal Act. For disclosure, they are briefly described under 3.4.7.1. Other small projects would be subject to the Coastal Act. These are described under 3.4.1 through 3.4.6. Projects will comply with the requirements of this PWP, where applicable. Small project footprints shall be adjusted as needed, including required minor expansion within existing developed or disturbed areas, to meet regulatory and operational requirements for maintenance, upgrades for code compliance, safety, and responses to sea level rise.



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All projects would comply with all applicable regulatory permits. Where applicable, projects that are also “covered actions” under the PWP are identified.

**Mitigation Measure:** No mitigation is required.

**Impact 8-2.** Disturbance of any human remains, including those interred outside of formal cemeteries

Implementation of the PWP, including the management programs and the Development Projects, is not expected to disturb any human remains, including those interred outside formal cemeteries. No human remains have been identified in the Park; however, ground-disturbing activities in areas previously undeveloped or containing undisturbed soils and sediments may result in the inadvertent discovery of human remains. Encountering human remains would initiate specific treatment plans, conditions, and procedures as mandated by Health and Safety Code Section 7050.5, by the Public Resources Code Section 5097.98, and CEQA California Code of Regulations Section 15064.5(e). Incorporating CDPR policies and protocols of avoidance, monitoring, inadvertent discovery, and project redesign (if required) would reduce potential disturbance of human remains to **less than significant**.

**Mitigation Measure:** No mitigation is required.

**Impact 8-3** Substantial adverse change in the significance of a Tribal cultural resource, pursuant to Assembly Bill 52?

The PWP is not expected to result in a substantial adverse change in the significance of a tribal cultural resource as defined in Public Resources Code Section 21074. As described above, a request for a Sacred Lands File (SLF) records search and Native American contacts list for the PWP project areas was sent to the California Native American Heritage Commission (NAHC). The NAHC confirmed the presence of Native American cultural sites and provided a list of Native American individuals who may have knowledge of cultural resources within the PWP project areas. State Parks sent letters to each of these individuals inviting them to participate in consultation pursuant to AB52 regarding Tribal cultural resources and has received responses from three groups. To date, consultation has not identified any tribal cultural resources in the planning area that could be impacts because of project implementation. Therefore, impacts on tribal cultural resources from implementation of the PWP is **less than significant**. Consultation will continue throughout project planning and implementation to ensure no newly identified tribal cultural resources are impacted.

**Mitigation Measure:** No mitigation is required.



**Table 8-2. Development Projects: Archaeological and Tribal Cultural Resource Conditions**

<b>Project</b>	<b>Ground Disturbance Footprint</b>	<b>Resources Proximity</b>	<b>Environmental factors</b>	<b>Conditions/ Treatments</b>
Oso Flaco Improvements (Initial)	New disturbance	Yes	Yes (mobile dune environment and vegetation)	C-1, C-2 for ground disturbance in sensitive areas, C-3
Oso Flaco Improvements (Future)	New disturbance	Yes	Yes (mobile dune environment and vegetation)	C-1, C-2 for ground disturbance in sensitive areas, C-3
Park Corp. Yard (Initial Phase)	New disturbance	Yes	No	C-1, C-2 for ground disturbance in sensitive areas, C-3
Park Corp. Yard (Future Phase)	New disturbance	Yes	No	C-1, C-2 for ground disturbance in sensitive areas, C-3
Oceano CG Infrastructure	New disturbance	Yes	No	C-1, C-2 for ground disturbance in sensitive areas, C-3
Entrances and Lifeguard Tower	New disturbance	No	Yes (mobile dune environment)	C-1, C-2 for ground disturbance in sensitive areas, C-3
North Beach CG Facility Improve	No new disturbance	No	No	C-1, C-2
Butterfly Grove Public Access	New disturbance	Yes	No	C-1, C-2 for ground disturbance in sensitive areas, C-3
Pismo SB Boardwalk	New disturbance	Yes	Yes (mobile dune environment)	C-1, C-2 for ground disturbance in sensitive areas, C-3
Phillips 66	New disturbance	Yes	Yes (mobile dune environment)	C-1, C-2 for ground disturbance in sensitive areas, C-3; New Native American consultation requirements



**Table 8-3. Small Development Projects: Archaeological and Tribal Cultural Resource Conditions**

Project	Ground Disturbance Footprint	Resources Proximity	Environmental Factors	Conditions/Treatments
Pismo Creek Estuary Bridge	No new disturbance	No	Yes (mobile dune environment and vegetation)	C-1, C-2
40 Acre Trail	No new disturbance	Yes	Yes (mobile dune environment and vegetation)	C-1, C-2
Safety and Education Center	No new disturbance	Yes	Yes (mobile dune environment)	C-1, C-2
Oso Flaco Boardwalk	No new disturbance	Yes	Yes (mobile dune environment and vegetation)	C-1, C-2
Oceano CG Campfire Center	New disturbance likely	No	No	C-1, C-2 for ground disturbance in sensitive areas, C-3
Trash Enclosure	No new disturbance	No	No	C-1, C-2

#### 8.4 Cumulative Effects

No known or potential historical resources exist within the Pismo State Beach or Oceano Dunes SVRA. As such there is no potential for cumulative effects to any such historical resources from the projects or management actions proposed within the PWP.

Cumulative impacts on historic resources evaluate whether impacts of the proposed project and related projects, when taken as a whole, substantially diminish the number of historic resources within the same or similar context or property type. It is anticipated that historic resources that are potentially affected by related projects would also be subject to the same requirements of CEQA as the Proposed Project. These determinations would be made on a case-by-case basis and the effects of cumulative development on historic resources would be mitigated to the extent feasible in accordance with CEQA and other applicable legal requirements. It is not anticipated that there would be any cumulative effects to historic resources because of the implementation of the Public Works Plan.

In conjunction with past, present, and reasonably foreseeable projects, implementation of the proposed project can result in cumulative impacts to archaeological and tribal cultural resources. However, projects with any potential to impact archaeological and tribal cultural resources would initiated CDPR 5024 review. This would require resource identification, evaluation (if needed), and project conditions and treatments for avoidance, inadvertent discovery, and archaeological and Native American monitoring, if determined appropriate. Additionally, documented archaeological sites and areas of increased cultural sensitivity are frequently revisited to monitor the changing conditions prevalent in mobile dune environments. Any newly located resources or changes in known resources are documented and considered during any proposed project planning. Considering these treatments and conditions, project implementation is **not expected to result in significant cumulative effects.**

