

3.4 Cultural Resources

An archaeological survey and cultural resources evaluation for the Project impact footprint was prepared by Brian F. Smith and Associates (BFSA) in June 2005 and updated in October 2011 and March 2014 in conformance with the County Report Requirements for Format and Content for Cultural Resources (December 2007). This subchapter summarizes information from the study, which is included in its entirety in Appendix F to this EIR. Confidential records and maps are on file at PDS and deposited with the South Coastal Information Center (SCIC) at San Diego State University and the San Diego Museum of Man.

3.4.1 Regulatory Framework

3.4.1.1 *Federal*

National Historic Preservation Act

The National Historic Preservation Act (NHPA) was passed in 1966 and set the foundation for more specific legislation that guides cultural resource protection and management in local jurisdictions such as the County of San Diego. The Act established an Advisory Council on Historic Preservation to help implement and monitor it.

Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties and afford the Advisory Council a reasonable opportunity to comment on such undertakings. The goal of the Section 106 process is to identify historic properties potentially affected by the undertaking, assess its effects, and seek ways to avoid, minimize or mitigate any adverse effects on historic properties.

National Register of Historic Places

Developed in 1981, the National Register of Historic Places (NRHP) is an authoritative guide to be used by Federal, State, and local governments, private groups, and citizens to identify the nation's cultural resources and to indicate what properties should be considered for protection from destruction or impairment. Listing of private property on the NRHP does not prohibit under Federal law or regulation any actions which may otherwise be taken by the property owner with respect to the property.

Native American Graves Protection and Repatriation Act

Enacted in 1990, Native American Graves Protection and Repatriation Act (NAGPRA) conveys to American Indians of demonstrated lineal descent, the human remains and funerary or religious items that are held by Federal agencies and federally supported museums, or that have been recovered from Federal lands. It also makes the sale or purchase of American Indian remains illegal, whether or not they derive from Federal or Indian lands.

3.4.1.2 State

Section 15064.5 of the CEQA Guidelines, as amended

A cultural resource would be considered significant if it is:

- (1) A resource listed in or determined to be eligible by the State Historical Resources Commission for listing in, the California Register (PRC §5024.1; Title 14 CCR, §4850 et seq.).
- (2) A resource included in the local register of historical resources, as defined in Section 5020.1(k) of the PRC or identified as significant in an historical resource survey meeting the requirements of Section 5024.1(g) of the PRC, shall be presumed to be 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.
- (3) Any object, building, structure, site, area, place, record, or manuscript which 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 considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the California Register of Historical Resources (PRC Section 5024.1, Title 14 CCR, Section 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 a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
 - (d) Has yielded, or may be likely to yield, information important in prehistory or history.
- (4) The fact that a resource is not listed in the California Register, determined not to be eligible for listing in the California Register, not included in a local register of historical resources (pursuant to Section 5020.1[k] of the PRC), and not identified in an historical resources survey (meeting the criteria in Section 5024.1[g] of the PRC) does not preclude a lead agency from determining that the resource may be an historical resource as defined in PRC Sections 5020.1(i) or 5024.1.

In accordance with CEQA, any cultural resources must be assessed for project-related actions that could directly or indirectly impact them. Under this scenario, impacts to cultural resources not deemed important according to the above criteria would be considered less than significant. A summary of on-site and off-site cultural resources is provided below in Section 3.4.2.6, along with

a determination as to the significance of the impact pursuant to Section 15064.5 of the CEQA Guidelines.

California Register of Historical Resources

The California Register of Historic Places (CRHR) is an authoritative guide for use by State and local agencies, private groups, and citizens to identify the State's historical resources. An historical resource can include any object, building, structure, site, area, or place that is determined to be historically or archaeologically significant. The CRHR also identifies historical resources for State and local planning purposes, determines eligibility for State historic preservation grant funding, and provides a certain measure of protection under CEQA.

Senate Bill 18 – Traditional Tribal Cultural Places

Senate Bill (SB) 18, enacted in 2004, requires local governments to conduct government-to-government consultations with Native American groups at the earliest point in the local government land use planning process. SB-18 consultation is required for the adoption of a General Plan and any project that proposes a General Plan Amendment, Specific Plan, or Specific Plan Amendment. Consultations are for engaging in a meaningful dialogue with affected Native American groups to preserve and mitigate impacts to Native American prehistoric, archaeological, cultural, or sacred sites, features, objects, spiritual or ceremonial places that are not located on Tribal reservations or rancherias. It provides the opportunity for Tribes to hold conservation easements and requires Traditional Tribal Cultural Places to be included in open space planning.

Assembly Bill 52 – Gatto. Native Americans: California Environmental Quality Act

Assembly Bill (AB) would specify that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. This law applies to projects that file an NOP on or after July 1, 2015. Since the NOP for this EIR was dated March 17, 2011, AB 52 does not apply to the Proposed Project.

3.4.1.3 Local

County of San Diego Code of Regulatory Ordinances Sections 87.101-87.804, Grading, Clearing, and Watercourses Ordinance

Section 87.429 of the County's Grading and Clearing Ordinance requires that grading operations cease if human remains or Native American artifacts are found; and Section 87.216(a)(7) requires changes to grading plans/operations if it is determined that historic or archaeological resources may be located on site, in which case avoidance or mitigation will be required.

County of San Diego Code of Regulatory Ordinances Sections 86.601-86.608, Resource Protection Ordinance

This ordinance requires that cultural resources be evaluated as part of the County's discretionary environmental review process and if any resources are determined significant under the Resource Protection Ordinance (RPO), they must be preserved. Prehistoric or historic sites are defined by the RPO as a "location of past intense human occupation where buried deposits can provide

information regarding important scientific research questions about prehistoric or historic activities that have scientific, religious, or other ethnic value of local, regional, State or Federal importance.” RPO prohibits development, trenching, grading, clearing, and grubbing, or any other activity or use damaging to significant prehistoric or historic site lands, except for scientific investigations with an approved research design prepared by an archaeologist certified by the Register of Professional Archaeologists. Sites determined to be RPO significant must be avoided and preserved.

3.4.2 Environmental Setting

3.4.2.1 Archaeological Records Searches

Archaeological records searches were conducted at the SCIC at San Diego State University and the San Diego Museum of Man in order to identify previously recorded cultural resources in the vicinity of the Project impact footprint. A total of 70 cultural resource sites have been recorded within one mile of the Project impact footprint boundaries, and are listed in Appendix F. Most of these sites have not been tested; therefore, their subsurface characteristics are not known. In addition to the 70 sites, more than 20 isolated prehistoric artifacts (primarily one or two flakes or tested cobbles not associated with a concentration of artifacts) are recorded within one mile of the Project impact footprint.

Twenty-three cultural resource studies related to environmental impact studies have been conducted within one mile of the Project impact footprint, in some cases overlapping the Project site; these are listed in Appendix F. A 2004 study by ASM Affiliates included the entire 30-acre northern portion of the Project area and was negative for cultural resources.

3.4.2.2 Archaeological Field Surveys

BFSA conducted an intensive pedestrian survey of the entire 105-acre Project impact footprint in June 2000, employing a series of parallel transects spaced at 10-meter intervals to relocate five recorded cultural resources identified in previous archaeological surveys (sites SDI-7,195, SDI-10,297H, SDI-10,298, SDI-11,793 and SDI-19,788), as well as to identify any other cultural resources. These surveys resulted in the identification and recordation of two additional archaeological sites (SDI-17,431 and SDI-17,433H).

3.4.2.3 Cultural Resources Testing Program

A cultural resources testing program was conducted intermittently between 2005 and 2007 for the seven resources discussed above. For all the resources, the testing consisted of a surface collection (except SDI-17,433H which was negative for surface artifacts), subsurface investigations, detailed recordation of all milling and historic features, and significance evaluations.

To initiate this process, a site datum was established and all surface artifacts and features, as well as test excavations, were mapped using a handheld Global Positioning System (GPS) unit. The collected artifacts were bagged, labeled, and returned to the BFSA laboratory for further analysis, which included cataloging, identification, and packaging for permanent curation. No radiocarbon dating or other specialized studies were conducted, due to a lack of appropriate material. After collection of surface artifacts, a series of shovel test pits were excavated at each site to identify the

nature and extent of any subsurface deposits. Additional information regarding the testing program and laboratory methods is included in Appendix F of this EIR.

The archaeological survey and testing program did not locate evidence of Native American ritual, religious, or other special activities at this location. In compliance with the requirements at the time (2005), no consultation with the Native American community was initiated nor was a Native Monitor engaged. However, in accordance with more recently established requirements, a search of the Sacred Lands File was conducted by the Native American Heritage Commission (NAHC) for the Project area. The results of this search are provided in Appendix F and the NAHC search failed to indicate the presence of Native American Traditional Cultural Properties (TCPs) within the Project site.

3.4.2.4 Evaluation of Site Significance

The cultural resources tested within the Project impact footprint were evaluated according to the criteria presented in Section 15064.5 of CEQA, as amended; the County of San Diego guidelines dated December 5, 2007. According to these criteria, a cultural resource would be considered significant if it is:

- (1) A resource listed in or determined to be eligible by the State Historical Resources Commission, for listing in the CRHR (PRC §5024.1, Title 14 CCR, Section 4850 et seq.).
- (2) A resource included in the local register of historical resources, as defined in Section 5020.1(k) of the PRC or identified as significant in an historical resource survey meeting the requirements of Section 5024.1(g) of the PRC, shall be presumed to be 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.
- (3) Any object, building, structure, site, area, place, record, or manuscript which 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 considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record. Generally, a resource shall be considered by the lead agency to be "historically significant" if the resource meets the criteria for listing on the CRHR (PRC §5024.1, Title 14 CCR, Section 4852) including the following:
 - (a) Is associated with the 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 a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or

- (d) Has yielded, or may be likely to yield, information important in prehistory or history.
- (4) 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 Section 5020.1(k) of the PRC), or identified in an historical resources survey (meeting the criteria in Section 5024.1(g) of the PRC) does not preclude a lead agency from determining that the resource may be an historical resource as defined in PRC Sections 5020.1(i) or 5024.1.

Resources within the Project impact area also were evaluated against the listing information included in the County of San Diego's cultural resources guidelines, including the requirements of the RPO. Significant prehistoric or historic sites are defined by RPO as a "location of past intense human occupation where buried deposits can provide information regarding important scientific research questions about prehistoric or historic activities that have scientific, religious, or other ethnic value of local, regional, State, or Federal importance." Sites eligible for inclusion in the National Register of Historic Places, the State Landmark Register, or the San Diego County Historical Site Board List or sites protected under Public Law 95-341, the American Indian Religious Freedom Act or Public Resources Code Section 5097.9 are also protected under RPO. It should be noted that, pursuant to Section 86.605(d)(3) in Chapter 6 of Ordinance 9842, the Proposed Project would be exempt from RPO requirements, provided certain mitigation measures related to vegetation, wetlands and slopes are required as a condition of the Project's MUP.

In accordance with CEQA, any resources found to be significant under the above criteria must be assessed for project-related actions that could directly or indirectly impact them. Under this scenario, impacts to cultural resources not deemed important according to the above criteria would be considered less than significant.

3.4.2.5 Cultural Setting

The prehistoric cultures that have been identified in the general vicinity of the Project consist of a possible Paleo-Indian manifestation of the San Dieguito Complex, the Archaic and Early Milling Stone horizons represented by the La Jolla Complex, and the Late Prehistoric Kumeyaay culture. Artifact collections from the latter two cultures often include large numbers of milling tools, shell, and faunal, and in the case of the Kumeyaay culture, also may include ceramics, projectile points, scrapers, planes, beads, shaft straighteners and hammerstones.

The area was used for ranching and farming following the Hispanic intrusion into the region and continuing into the historic period. The Project site was part of a land grant by the Mexican government in the early 1800s known as Rancho Otay. This tract was bordered on the east by Rancho Janal and on the north by Rancho de la Nacion. A discussion of the prehistoric and historical cultural elements in the Project area is provided in Appendix F of this EIR.

3.4.2.6 Report of Findings

As mentioned above in the description of archaeological field surveys, five cultural resources had been identified within the Project impact footprint and recorded in previous archaeological surveys (SDI-7,195, SDI-10,297/H, SDI-10,298, SDI-11,793 and SDI-16,788). The archaeological field

survey conducted by BFSa identified two additional cultural resources: SDI-17,431 and SDI-17,433/H.

A detailed discussion of each site can be found in Appendix F. Seven cultural sites were located within the Project impact footprint boundary. The majority of the sites were characterized as prehistoric short-use resource extraction/processing sites exhibiting moderately disturbed contexts. The historic element includes a cistern feature which was mapped, documented, and evaluated.

Of the seven sites tested and evaluated, two sites (SDI-10,297/H and SDI-10,298) are identified as significant based on CEQA and County guidelines, and the remaining five represent sites of limited significance as defined by the County of San Diego Cultural Resources Guidelines. The seven resources are listed by significance category in Table 3.4-1, *Cultural Resources within the Project Impact Footprint*.

Table 3.4-1 CULTURAL RESOURCES WITHIN THE PROJECT IMPACT FOOTPRINT			
Site Number	Site Description	Previously Tested?	Evaluation
Within Project Impact Footprint			
CA-SDI-7,195	Lithic scatter	Yes	Limited Significance
CA-SDI-10,298	Lithic scatter	Yes	Significant
CA-SDI-11,793	Lithic scatter	Yes	Limited Significance
CA-SDI-16,788	Lithic scatter	Yes	Limited Significance
CA-SDI-17,431	Prehistoric limited-use area	Yes	Limited Significance
CA-SDI-17,433/H	Historic rock enclosure	Yes	Limited Significance
CA-SDI-10,297/H	Lithic scatter/historic cistern	Yes	Significant

Source: BFSAs 2011