

3.5 Cultural Resources

This chapter addresses the potential impacts of the proposed project to cultural resources in the project vicinity in accordance with the CEQA Statute and *CEQA Guidelines*. Cultural resources include prehistoric and historic sites, structures, districts, places, and landscapes, or any other physical evidence associated with human activity considered important to a culture, a subculture, or a community for scientific, traditional, religious or any other reason. Under CEQA, paleontological resources, although not associated with past human activity, are grouped within cultural resources. For the purposes of this analysis, cultural resources may be categorized into the following groups: archaeological resources, historic resources (including architectural/engineering resources), contemporary Native American resources, human remains, and paleontological resources.

Archaeological resources are places where human activity has measurably altered the earth or left deposits of physical remains. Archaeological resources may be either prehistoric-era (before European contact) or historic-era (after European contact). The majority of such places in California are associated with either Native American or Euro-American occupation of the area. The most frequently encountered prehistoric or historic Native American archaeological sites are village settlements with residential areas and sometimes cemeteries; temporary camps where food and raw materials were collected; smaller, briefly occupied sites where tools were manufactured or repaired; and special-use areas like caves, rock shelters, and rock art sites. Historic-era archaeological sites may include foundations or features such as privies, corrals, and trash dumps.

Historic resources include standing structures, infrastructure, and landscapes of historic or aesthetic significance that are generally 50 years of age or older. In California, historic resources considered for protection tend to focus on architectural sites dating from the Spanish Period (1529-1822) through World War II (WWII).

Contemporary Native American resources, also called ethnographic resources, can include archaeological resources, rock art, and the prominent topographical areas, features, habitats, plants, animals, and minerals that contemporary Native Americans value and consider essential for the preservation of their traditional values. These locations are sometimes hard to define and traditional culture often prohibits Native Americans from sharing these locations with the public.

Paleontology is a branch of geology that studies the life forms of the past, especially prehistoric life forms, through the study of plant and animal fossils. Paleontological resources represent a limited, non-renewable, and impact-sensitive scientific and educational resource. As defined in this section, paleontological resources are the fossilized remains or traces of multi-cellular invertebrate and vertebrate animals and multi-cellular plants, including their imprints from a previous geologic period. Fossil remains such as bones, teeth, shells, and leaves are found in the geologic deposits (rock formations) where they were originally buried. Paleontological resources include not only the actual fossil remains, but also the collecting localities, and the geologic formations containing those localities.

3.5.1 Environmental Setting

The following section describes the cultural resources environmental setting, which was identified through record searches and site surveys that were conducted for the proposed project.

Archival Research

Records searches of the project site were conducted on April 17, 2013 and May 1, 2013 at the South Central Coastal Information Center (SCCIC) housed at California State University, Fullerton, and the Eastern Information Center (EIC) housed at University of California, Riverside. The records searches included a review of: all recorded archaeological sites and cultural resource reports within a one-mile radius of the project site; California Points of Historical Interest; California Historical Landmarks; the California Register of Historical Resources (CRHR); the National Register of Historic Places (NRHP); and the California State Historic Resources Inventory listings.

Previous Studies: The records searches indicate that 28 cultural resources studies have been previously conducted within a one-mile radius of the project site. Of these 28 previous studies, three include approximately 15 percent of the project site. In addition, a cultural resources study for the entire project site was prepared in 2005- 2008 (Underbrink and O’Neil, 2008), which states that dense vegetation and steep terrain of the project site prohibited the use of fixed interval transects. However, roads, creek beds, grassy flats, and ridgelines were surveyed for the presence of cultural resources. In addition, all accessible granite outcrops were investigated for the presence of bedrock milling features. During the survey of the Phase 2 (north parcel) a number of structures and features were noted and include: a residence area consisting of a trailer and workshop; a dirt landing strip; an orchard; a horse corral; and a junk car yard. During the survey of the Phase 1 (south parcel), an unoccupied residence and an associated storage shed were identified but not determined to be cultural resources. Overall, no cultural resources were identified in the previous surveys.

Previously Identified Resources: The records search conducted for this EIR identified 22 cultural resources that were previously recorded within one-mile of the site, which are listed in **Table 3.5-1**. Of the 22 resources, eleven (CA-ORA-35, -241, -299, -994, -995, -1116, 33-000506, -000507, -003435, -004811, and -004885) are prehistoric archaeological sites, one (33-003837) is a historic-period archaeological site, and ten (33-000040, -007165, -007166, -007174, -007234, -020524, -020525, -020664, -020665, and -020666) are built historic resources. No cultural resources have been previously recorded with the boundaries of the project site.

**TABLE 3.5-1
 PREVIOUSLY IDENTIFIED CULTURAL RESOURCES WITHIN ONE MILE OF THE PROJECT SITE**

P-Number	Trinomial	Forest Service Number	Other Designation	Description	Date Recorded
-	CA-ORA-299	-	-	Prehistoric site consisting of bedrock milling features and groundstone artifacts	1970
-	CA-ORA-1116	02-52-67	-	Lithic scatter	1986

P-Number	Trinomial	Forest Service Number	Other Designation	Description	Date Recorded
-	CA-ORA-241	-	-	Prehistoric site described as a large village or acorn gathering camp	1968
-	CA-ORA-994	05-02-52-10	Chiquito Basin Mortar Site	Prehistoric site described as a gathering and processing camp	1981
-	CA-ORA-995	05-02-52-10	Chiquito Basin Mortar Site	Prehistoric site described as a gathering and processing camp	1981
30-000035	CA-ORA-35	05-02-5	-	Prehistoric site described as an acorn gathering camp consisting of bedrock milling features, lithics, groundstone, and ceramics	2003
33-000040	CA-RIV-40H	05-02-52-58H	El Cariso Bridge	Footbridge constructed rocks and mortar	1982
33-000506	CA-RIV-506	-	-	Prehistoric site consisting of bedrock mortars and a pair of pictographs	1971
33-000507	CA-RIV-507	-	-	Prehistoric site consisting of bedrock mortars and a pit petroglyph	1971
33-003435	CA-RIV-3435	-	-	Prehistoric site consisting of one bedrock mortar, two slicks, and one possible pictograph on a single granite boulder	1991
33-003837	CA-RIV-3837H	05-02-52-74	CCC Dump Site	Historic period refuse dump consisting of glass, metal, and lumber fragments	1989
33-004811	CA-RIV-4811	05-02-52-85	Long Canyon Site	Prehistoric site consisting of bedrock mortars and a lithic scatter	1992
33-004885	CA-RIV-4885	05-02-52-88	Long Canyon BRM	Prehistoric site consisting of one bedrock milling feature	1991
33-007165	-	-	-	Small cabin built in a vernacular style constructed of stone in 1941	1982
33-007166	-	-	The Stone House	Rectangular shed constructed of stone in approximately 1900	1982
33-007174	-	-	-	Four historic period, wood-framed cabins constructed in 1945	1982
33-007234	-	-	Ortega Highway	Two-lane, asphalt highway constructed in 1925	1982
33-020524	CA-RIV-10425	-	-	A historic period asphalt-paved road	2011
33-020525	CA-RIV-10426	-	-	A historic period single lane, asphalt-paved road	2011
33-020664	CA-RIV-10571	-	-	Masonry bridge that served as an entrance to the El Cariso Campground	2011
33-020665	CA-RIV-10572	-	El Cariso Road	A historic period single lane, asphalt-paved road	2011
33-020666	CA-RIV-10573	-	Mountain Vista Road	A historic period asphalt-paved road	2011

Source: SCCIC and EIC, 2013.

The identified resources listed above suggests that prehistoric subsistence and occupation in the project vicinity that was periodic and limited in duration. Recorded sites within one mile of the project site appear to be relatively short-term encampments focused on plant resources that are recognized at ground surface as scattered groundstone and/or chipped stone. Although limited in number, sites tend to occur on somewhat gently sloping surfaces within small valleys and canyons, and in relative proximity to springs/seeps (i.e., Chiquito Spring) or seasonal stream channels.

Based on this, there appears to be a low potential to encounter archaeological resources in ridgetop locations. Hill slopes, some quite steep, may have offered resources such as acorns and other plant foods, as well as game, but these settings would not have been conducive to any sustained occupation and, therefore, are unlikely to have accumulated substantial cultural resources. Additionally, a high rate of erosion is likely to have further removed or reduced whatever archaeological resources may once have existed.

Based on the location of the resources listed in Table 3.5-1 that are generally in areas with slopes of less than 10 degrees, the potential for the presence of archaeological resources was determined. Areas with slopes of less than 10 degrees have greater potential for the presence of surficial or subsurface archaeological resources than those with slopes of 11 degrees or greater. Thus, the proposed development area, which is focused on flatter portions of the project site, has the potential to contain archaeological resources.

Historic Map Review

A review of the 1901 Lake Elsinore 30' United States Geological Survey (USGS) topographic quadrangle and the 1954 (photorevised 1973) and 1997 Alberhill 7.5' USGS topographic quadrangles as well as historic aerial photographs from the years 1938, 1952, 1967, 1978, 1981, and 2005 (Historic Aerials, 2013) was conducted. The 1901 Lake Elsinore and 1954 Alberhill topographic maps as well as the 1938 and 1952 historic aerials indicate very little development within the project site. Roads generally corresponding to the present-day Ortega Highway and Long Canyon Road are present, as is the Old Dominion Mine located northwest of the project site. The 1938 and 1952 aerial photographs show several dirt roads within and adjacent to the project site. The 1954 topographic map shows the Ortega Highway located east of the project site and the McConville Nudist camp located immediately adjacent to the west-central portion of the project site. The 1967 aerial photograph shows a building located in the northeast portion of the Phase 1 (south parcel). The northeast-southwest oriented landing strip located in the northwestern portion of the Phase 2 (north parcel), which was not depicted on the 1973 photorevised portion of the Alberhill map, first appears in the 1978 aerial photograph. The 1981 aerial photograph shows the landing strip and several cleared or graded areas in the Phase 2 (north parcel). The 2005 aerial photograph shows a structure in the central portion of the Phase 2 (north parcel), as well as several cleared or graded areas in both parcels. Two of the cleared areas in the Phase 2 (north parcel) appear to be used as storage areas for old cars.

Cultural Resources Survey

Cultural resource surveys of the Phase 2 (north parcel) and Phase 1 (south parcel) were conducted on Wednesday, August 21, 2013 and Friday, September 6, 2013 by ESA Associates Cultural Resources staff Madeleine Bray, M.A. Michael Vader, Laura MacDonald, and Robert Ramirez. They were accompanied by Native American monitors Augie Ortiz, Cody Schlater, and Brian Robbins of the Pechanga Band of Luiseño Indians.

Only those portions of the project site subject to development, as detailed in Chapter 2, Section 2.5, *Project Characteristics*, were surveyed. This includes all areas where the project proposes improvements or would be subject to ground disturbance, including the development of residences, new roads, road improvements, vineyards and landscaping, utility infrastructure, water tanks, and fuel modification zones. Areas that would remain as undisturbed open space were not surveyed as part of this effort.

The 2013 surveys resulted in identification and recordation of three new resources; two of which are prehistoric sites (Preserve-001 and -003) and one is a prehistoric isolate (Preserve-Iso-002), which are described below.

- **Resource Preserve-001** is a prehistoric archaeological site consisting of a sparse lithic scatter located within the Phase 2 (north parcel). Artifacts include six dark gray fine-grained metavolcanic flakes, one coarse grained light green metavolcanic flake, and one dark gray fine-grained metavolcanic spent core. The site is located along the margins of a dirt road on a southeast facing slope. The site measures 42 meters by 10 meters and due to its location on a slope within a dirt road, it is likely a secondary deposit of artifacts that have been washed down from their original location, and it does not contain diagnostic artifacts or any other dateable materials. Because it is likely a secondary deposit of artifacts, it is unlikely that the site contains a subsurface component. Resource Preserve-001 has not contributed to the broad patterns of history or cultural heritage (Criterion A/1). It is not associated with the lives of persons significant to the past (Criterion B/2). It does not exhibit the distinctive characteristic of a type, period, or method of construction, nor does it represent the work of an important creative individual, or possess high artistic values (Criterion C/3). The resource has not yielded and is unlikely to yield information important in prehistory (Criterion D/4). Moreover, resource Preserve-001 does not contain information needed to answer important scientific research questions that have demonstrable public interest; it does not have special or particular quality such as being the oldest of its type or the best available example of its type; and it is not directly associated with a scientifically recognized important prehistoric or historic event or person. For these reasons the resource is not eligible for listing in the NRHP or the CRHR, and is not considered a historical or unique archaeological resource under CEQA.
- **Resource Preserve-Iso-002** is a prehistoric isolate consisting of a single unifacial (worn on one side) mano fragment recorded at the margin of a dirt road within the Phase 2 (north parcel). Due to its isolated nature and lack of clear cultural context, isolates are generally considered ineligible for inclusion on the NRHP and CRHR, unless the artifact itself is of exceptional significance. Resource Preserve-Iso-002 does not have the

potential to yield information important to the study of prehistory. The information potential of the isolate was exhausted in the process of documenting it on DPR Primary Record forms and mapping its location. This resource is not eligible for listing in the NRHP or the CRHR, and is not considered a historical or unique archaeological resource under CEQA.

- **Resource Preserve-003** is a prehistoric archaeological site consisting of a diffuse lithic scatter in the Phase 2 (north parcel). Artifacts include seven metavolcanic flakes, two metavolcanic flake tools, one of which exhibits retouch on one margin, and one quartz core. The site is located within a dirt road and immediately adjacent to a cleared lot that is being used as a storage for old cars. The site measures 68 meters by 32 meters, and appears to have been highly disturbed.

The site has been highly disturbed and the artifacts are likely not within their original depositional context. Moreover, the site does not appear to contain diagnostic artifacts or any other dateable materials. Because it is likely a secondary deposit of artifacts, it is unlikely that the site contains a subsurface component. Resource Preserve-003 has not contributed to the broad patterns of history or cultural heritage (Criterion A/1). It is not associated with the lives of persons significant to the past (Criterion B/2). It does not exhibit the distinctive characteristic of a type, period, or method of construction, nor does it represent the work of an important creative individual, or possess high artistic values (Criterion C/3). The resource has not yielded and is unlikely to yield information important in prehistory (Criterion D/4). Resource Preserve-003 does not contain information needed to answer important scientific research questions that have demonstrable public interest; it does not have special or particular quality such as being the oldest of its type or the best available example of its type; and it is not directly associated with a scientifically recognized important prehistoric or historic event or person. For these reasons the resource is not eligible for listing in the NRHP or the CRHR, and is not considered a unique archaeological resource under CEQA.

Paleontological Resources

A paleontological records, map, and literature search was conducted by staff at the Los Angeles County Natural History Museum (LACM) (McLeod, 2013). This included a review of regional geological maps and a search of the LACM's collections and fossil locality database to identify any paleontological resources known to exist within or near the project site.

The results of the records search indicated that most the project site appears to be underlain by plutonic igneous rocks that have no paleontological sensitivity. In Long Canyon, which runs through the middle of the project site, there are exposures of younger Quaternary Alluvium derived as fluvial deposits in the drainage. These deposits do not typically produce significant fossils in the upper layers, but may contain significant fossils at depth. In the very northeastern part of the project site are exposures of the marine late Cretaceous Bedford Canyon Formation, which has been known to produce significant vertebrate fossils.

No fossil localities have been previously recorded within the project site, but several fossil localities had been recorded in the Bedford Canyon formation, notably LACM 3797, located near

Modjeska Peak, which is approximately 8.4 miles northwest of the project site, that produced a fossil specimen of plesiosaur (McLeod, 2013).

Regulatory Setting

Section 106 of the National Historic Preservation Act

Archaeological resources are protected through the National Historic Preservation Act (NHPA) of 1966, as amended (16 USC Section 470f), and its implementing regulation, Protection of Historic Properties (36 Code of Federal Regulations [CFR] Section 800). Prior to implementing an “undertaking” (e.g., issuing a federal permit), Section 106 of the NHPA requires federal agencies to consider the effects of the undertaking on historic properties, in consultation with the State Historic Preservation Officer (SHPO), Indian Tribes, and other interested parties, and to afford the Advisory Council on Historic Preservation a reasonable opportunity to comment. The term “historic properties” refers to “any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register” (36 CFR Section 800.16(l)(1)). As indicated in Section 101(d)(6)(A) of the NHPA, properties of traditional religious and cultural importance to a tribe are eligible for inclusion in the National Register of Historic Places (NRHP). Under the NHPA, a resource is considered significant if it meets the NRHP listing criteria at 36 CFR 60.4 (36 CFR Section 800.16(l)(1)).

The implementing regulations (36 CFR Part 800) describe the process for identifying and evaluating historic properties, for assessing the potential adverse effects of federal undertakings on historic properties, and seeking to develop measures to avoid, minimize, or mitigate adverse effects. The steps of the Section 106 process are accomplished through consultation with the SHPO, federally-recognized Indian Tribes, local governments, and other interested parties. The goal of consultation is to identify potentially affected historic properties, assess effects to such properties, and seek ways to avoid, minimize, or mitigate any adverse effects on such properties. The agency also must provide an opportunity for public involvement (36 CFR Section 800.1(a)).

National Register of Historic Places

The NRHP was established by the NHPA of 1966, as “an authoritative guide to be used by federal, State, and local governments, private groups and citizens to identify the Nation’s historic resources and to indicate what properties should be considered for protection from destruction or impairment” (36 CFR Section 60.2). The NRHP recognizes both historical-period and prehistoric archaeological properties that are significant at the national, state, and local levels.

To be eligible for listing in the NRHP, a resource must be significant in American history, architecture, archaeology, engineering, or culture. Districts, sites, buildings, structures, and objects of potential significance must meet one or more of the following four established criteria (36 CFR Section 60.4):

- A. Are associated with events that have made a significant contribution to the broad patterns of our history;
- B. Are associated with the lives of persons significant in our past;

- C. Embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. Have yielded, or may be likely to yield, information important in prehistory or history.

Unless the property possesses exceptional significance, it must be at least 50 years old to be eligible for NRHP listing (36 CFR Section 60.4).

In addition to meeting the criteria of significance, a property must have integrity. Integrity is defined as “the ability of a property to convey its significance” (U.S. Department of the Interior 1995). The NRHP recognizes seven qualities that, in various combinations, define integrity. To retain historic integrity a property must possess several, and usually most, of these seven aspects. Thus, the retention of the specific aspects of integrity is paramount for a property to convey its significance. The seven factors that define integrity are location, design, setting, materials, workmanship, feeling, and association (36 CFR Section 60.4).

The State implements the NHPA through its statewide comprehensive cultural resources surveys and preservation programs. The California Office of Historic Preservation (OHP), as an office of the California Department of Parks and Recreation, implements the policies of the NHPA on a statewide level. The OHP also maintains the California Historic Resources Inventory. The SHPO is an appointed official who implements historic preservation programs within the State’s jurisdictions.

California Register of Historical Resources

The California Register of Historic Resources (CRHR) is “an authoritative listing and guide to be used by State and local agencies, private groups, and citizens in identifying the existing historical resources of the State and to indicate which resources deserve to be protected, to the extent prudent and feasible, from substantial adverse change” (California Public Resources Code [PRC] Section 5024.1[a]). The criteria for eligibility for the CRHR are based upon NRHP criteria (California PRC Section 5024.1[b]). Certain resources are determined by the statute to be automatically included in the CRHR, including California properties formally determined eligible for, or listed in, the NRHP.

To be eligible for the CRHR, a prehistoric or historical-period property must be significant at the local, State, and/or federal level under one or more of the following criteria (PRC Section 5024.1[c]):

1. Is associated with events that have made a significant contribution to the broad patterns of California’s history and cultural heritage;
2. Is associated with the lives of persons important in our past;
3. 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
4. Has yielded, or may be likely to yield, information important in prehistory or history.

A resource eligible for the CRHR must meet one of the criteria of significance described above, and retain enough of its historic character or appearance (integrity) to be recognizable as a historical resource and to convey the reason for its significance (14 CCR Section 4852(c)). It is possible that a historic resource may not retain sufficient integrity to meet the criteria for listing in the NRHP, but it may still be eligible for listing in the CRHR.

Additionally, the CRHR consists of resources that are listed automatically and those that must be nominated through an application and public hearing process. The CRHR automatically includes the following (PRC Section 5024.1[d]):

- California properties listed on the NRHP and those formally Determined Eligible for the NRHP;
- California Registered Historical Landmarks from No. 770 onward; and,
- Those California Points of Historical Interest that have been evaluated by the OHP and have been recommended to the State Historical Commission for inclusion on the CRHR.

Other resources that may be nominated to the CRHR include (PRC Section 5024.1[e]):

- Historical resources with a significance rating of Category 3 through 5 (Those properties identified as eligible for listing in the NRHP, the CRHR, and/or a local jurisdiction register);
- Individual historical resources;
- Historical resources contributing to historic districts; and,
- Historical resources designated or listed as local landmarks, or designated under any local ordinance, such as an historic preservation overlay zone.

California Senate Bill 18

Senate Bill 18 (SB 18) (Amended Section 815.3 of Civil Code, Chapter 905; 65352.3, 65352.4, and 65562.5 of Government Code), which went into effect January 1, 2005, requires local governments (city and county) to consult with California Native American tribes before making certain planning decisions and to provide notice to tribes at certain key points in the planning process, which is commonly referred to by tribes as “SB 18 Consultation. The intent 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” (Governor’s Office of Planning and Research [OPR], 2005). Because the project requires a General Plan Amendment, the provisions of SB 18 are applicable.

The purpose of involving tribes at these early planning stages is to allow consideration of cultural places in the context of broad local land use policy, before individual site-specific, project-level, land use designations are made by a local government. The consultation requirements of SB 18 apply to general plan or specific plan processes proposed on or after March 1, 2005.

According to the *Tribal Consultation Guidelines: Supplement to General Plan Guidelines* (OPR, 2005), the following are the contact and notification responsibilities of local governments:

- Prior to the adoption or any amendment of a general plan or specific plan, a local government must notify the appropriate tribes (on the contact list maintained by the NAHC) of the opportunity to conduct consultations for the purpose of preserving, or mitigating impacts to, cultural places located on land within the local government's jurisdiction that is affected by the proposed plan adoption or amendment. Tribes have 90 days from the date on which they receive notification to request consultation, unless a shorter timeframe has been agreed to by the tribe (Government Code Section 65352.3).
- Prior to the adoption or substantial amendment of a general plan or specific plan, a local government must refer the proposed action to those tribes that are on the NAHC contact list and have traditional lands located within the city or county's jurisdiction. The referral must allow a 45-day comment period (Government Code Section 65352). Notice must be sent regardless of whether prior consultation has taken place. Such notice does not initiate a new consultation process.
- Local government must send a notice of a public hearing, at least 10 days prior to the hearing, to tribes who have filed a written request for such notice (Government Code Section 65092).

California Assembly Bill 52

Assembly Bill 52 (AB 52), which became effective in January 2016 as Public Resource Code Section 21080.3.1, established a new requirement under CEQA to consider "tribal cultural values, as well as scientific and archaeological values when determining impacts and mitigation." Tribal Cultural Resources are defined as "sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American Tribe" that are either included or determined to be eligible for inclusion in the California Register of Historical Resources or local registers of historical resources.

In addition, AB 52 implemented a new consultation process, in which lead agencies are required to offer Native American tribes that have submitted written requests to participate in consultations to protect tribal cultural resources and that Native American tribes have the opportunity to consult on CEQA documents prior to submitting an EIR. Pursuant to AB 52, lead agencies are required to provide formal notice to the tribes requesting to participate within 14-days of the lead agency's determination that an application package is complete. Tribes have 30-days to respond to request consultation on the project.

Although the provisions of AB 52 do not apply to this project, prior to implementation, the County and project team have worked in coordination with interested tribes regarding development of the project site. As described above, Native American monitors Augie Ortiz, Cody Schlater, and Brian Robbins of the Pechanga Band of Luiseño Indians participated in the 2013 cultural resource surveys of the proposed development areas. In addition, the County began the formal public outreach process as part of the NOP processes in 2013 and 2014 as further detailed below in Section 3.5.3 *Methodology*.

California Public Resources Code Section 5097

Section 5097 of the Public Resources Code provides procedures to be followed in the event of the unexpected discovery of human remains on nonfederal land. Section 5097.5 of the code states:

No person shall knowingly and willfully excavate upon, or remove, destroy, injure, or deface any historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological or historical feature, situated on public lands, except with the express permission of the public agency having jurisdiction over such lands. Violation of this section is a misdemeanor.

As used in this section, “public lands” means lands owned by, or under the jurisdiction of, the state or any city, county, district, authority or public corporation, or agency thereof. Consequently, the City of Inglewood is required to comply with Public Resources Code Section 5097.5 because the TOD Plan is within its jurisdiction.

Section 5097.98 further defines the standards for the handling of Native American human remains. Section 5097.993 sets requirements related to the unlawful and malicious excavation, removal, destruction, injury, or defacing of a Native American historic, cultural, or sacred site that is listed or may be eligible for listing in the California Register of Historic Resources.

California Health and Safety Code Section 7052

Section 7052 of the California State Health and Safety Code makes the willful mutilation, disinterment, or removal of human remains a felony. Section 7052.5 requires that any construction or excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. If the remains are determined to be Native American, the coroner must contact the California NAHC.

County of Orange General Plan Resources Element

The Orange County General Plan Resources Element contains a Cultural-Historic Resources Component that includes the following applicable goals, objectives, and policies, relevant to cultural resources:

Goal 2: To encourage through a resource management effort the preservation of the county’s cultural and historic heritage.

Objective 2.2: Take all reasonable and proper steps to achieve the preservation of archaeological and paleontological remains, or their recovery and analysis to preserve cultural, scientific, and education values.

Objective 2.3: Take all reasonable and proper steps to achieve the preservation and use of significant historic resources including properties of historic, historic architectural, historic archeological, and/or historical preservation value.

Objective 2.4: Provide assistance to County agencies in evaluation the cultural environmental impact of proposed project and reviewing EIRs.

Policies: The following policies addressing archeological, paleontological, and historical resources shall be implemented at appropriate stage(s) of planning, coordinated with the processing of a project application, as follows:

- Identification of resources shall be completed at the earliest stage of project planning and review such as general plan amendment or zone change.
- Evaluation of resources shall be completed at intermediate stages of project planning and review such as site plan review, subdivision map approval, or at an earlier stage of project review.
- Final preservation actions shall be completed at final stages of project planning and review such as grading, demolition, or an earlier stage of project review.

Archaeological Resources Policies

1. To identify archaeological resources through literature and records research and surface surveys.
2. To evaluate archaeological resources through subsurface testing to determine significance and extent.
3. To observe and collect archaeological resources during the grading of a project.
4. To preserve archaeological resources by:
 - a) Maintaining them in an undisturbed condition, or
 - b) Excavating and salvaging materials and information in a scientific manner.

Paleontological Resources Policies

1. To identify paleontological resources through literature and records research and surface surveys.
2. To monitor and salvage paleontological resources during the grading of a project.
3. To preserve paleontological resources by maintaining them in an undisturbed condition.

Goal 3: To Preserve and enhance buildings, structures, objects, sites, and districts of cultural and historic significance.

Objective 3.1: Undertake actions to identify, preserve, and develop unique and significant cultural and historic resources.

3.5.2 Thresholds of Significance

Based on Appendix G of the *CEQA Guidelines*, cultural resources impacts could be considered significant if the project would:

- Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5;
- Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5;
- Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature; or

- Disturb any human remains, including those interred outside of formal cemeteries.

According to the *CEQA Guidelines* (CCR Title 14, 15064.4), 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 (CCR Title 14, 15064.4(b)). The guidelines further state that a substantial adverse change in the significance of a resource means the physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of a historic resource would be materially impaired. Actions that would materially impair the significance of a historical resource are any actions that would demolish or adversely alter those physical characteristics of a historical resource that convey its historical significance and qualify it for inclusion in the CRHR or in a local register or survey that meet the requirements of PRC Sections 5020.1(k) and 5024.1(g).

As described in Section 1.0, *Introduction*, Notice of Preparations and Initial Studies were prepared and circulated for public review in both 2013 and 2014; the following comments related to cultural resource topics were received:

- Requests to provide Native American information and consultation regarding cultural resource sensitivity, as further detailed below.
- Potential existence of Native American artifacts in the project vicinity.
- Identification of any historic monuments on the project site.
- Request for Native American Monitoring during disturbance of the project site.
- Field monitoring for biological resources is required for utility installation.

3.5.3 Methodology

The significance determination for the cultural resources analysis is based on evaluation of the archival research, historic map survey, pedestrian surveys of the project site, documentation of cultural resources, and evaluation of the resources' significance. The paleontological resources analysis is based on a paleontological records, map, and literature search by staff at the LACM (McLeod, 2013). The evaluation identifies the potential for existence of unknown resources to be located within the development areas of the project site; then considers the risk of loss of resources that could result from construction and development activities pursuant to implementation of the proposed project.

Native American Contact Program

The Native American Heritage Commission (NAHC) maintains a confidential Sacred Lands File (SLF) which contains sites of traditional, cultural, or religious value to the Native American community. The NAHC was contacted on April 15, 2013 to request a search of the SLF. The NAHC responded to the request in a letter dated April 19, 2013. The letter indicated that Native American cultural resources are not known to be located within the project site on the Alberhill 7.5-minute USGS quadrangle. The letter also included an attached list of Native American contacts.

Contact letters to all individuals and groups indicated by the NAHC as having affiliation with the project site were prepared and mailed on May 9, 2013. The letters described the proposed project and included a map depicting the location of the project. Recipients were requested to reply with any information they are able to share about Native American resources that might be affected by the proposed project. To date, responses from the Juaneño Band of Mission Indians Acjachemen Nation, Rincon Band of Luiseño Indians, Pechanga Band of Luiseño Indians, Pala Band of Mission Indians, and Soboba Band of Luiseño Indians have been received and are summarized below.

On May 16, 2013 Joyce Perry of the Juaneño Band of Mission Indians, Acjachemen Nation, responded indicating that she would like to share information regarding the project site; and in an e-mail from August 19, 2013, Ms Perry provided information regarding the Juaneño Band of Mission Indians cultural resource organization and expressed a strong interest in being informed of the results of the cultural resources survey. Pursuant to her request, Ms. Perry was sent an email after the surveys in September 2013, which summarized the results.

In a letter dated May 21, 2013, Rose Duro of the Rincon Band of Luiseño Indians Culture Committee expressed concerns that development within the project site may impact cultural resources. However, Ms Duro stated that the project site is not within the Rincon Band's Historic boundaries and recommended that the Pechanga and Soboba Bands of Luiseño Indians be contacted. The Pechanga and Soboba Bands were included in the list of groups provided by the NAHC, and contact letters were mailed to them on May 9, 2013.

In a letter dated June 10, 2013, Tuba Ebru Ozdil, the Tribal Planner for the Pechanga Band of Luiseño Indians expressed concerns about development within the project site. The letter states that the project site is located within the Pechanga's ancestral territory and that the tribe is interested in participating in the project. According to the letter, the project site is surrounded by known village sites and ceremonial places. Additionally, Long Canyon, which bisects the central portion of the project site, was likely used as a trail connecting villages in the area. There is also a known rock art panel located near the project site. The letter states that the Pechanga would like to be consulted regarding all proposed developments within the project site. Furthermore, the Pechanga have requested the following: to be notified once the project begins the entitlement process, if applicable; copies of all applicable archaeological reports, site records, proposed grading plans, and environmental documents; government-to-government consultation with the Lead Agency; that an archaeological monitor and a Pechanga Tribe monitor be present during any earthmoving activities within the project site; and, in the event that subsurface cultural resources are identified, the Tribe request consultation with the project proponent and Lead Agency regarding the treatment and disposition of all artifacts.

A meeting was held on August 1, 2013, between ESA archaeologists and Pechanga cultural resources personnel, including Tuba Ebru Ozdil, Anna Hoover, and Paul Macarro, in order to discuss the proposed project. Pechanga cultural resources staff emphasized the sensitivity of the project site by highlighting the large number of prehistoric archaeological sites nearby that contained rock art and milling features. They suggested that a possible trail or travel corridor may have traversed the project site via Long Canyon. Pechanga representatives also expressed concern about potential impacts to oak trees and manzanita. Additionally, as described above, the Native

American monitors Augie Ortiz, Cody Schlater, and Brian Robbins of the Pechanga Band of Luiseño Indians also participated in the August 21, 2013 and Friday, September 6, 2013 cultural resource surveys of the proposed development areas.

In response to the NOP for the proposed project, the Pechanga sent a letter dated October 25, 2013 requesting to be included in the CEQA environmental review process, and to consult with the Lead Agency per SB 18. The Pechanga also provided information regarding cultural resources in the vicinity of the project area, including a known Luiseño village (*Taráxa*), several traveling routes and trails, and important rock art.

In a letter dated June 13, 2013, Shasta Gaughen of the Pala Band of Mission Indians Tribal Historic Preservation Office stated that the project site is located outside the boundaries of the territory that the Tribe considers its Traditional Use Area. Ms. Gaughen expressed no objections to the project, and deferred to the wishes of Tribes in closer proximity to the project area.

In an email dated September 3, 2013, Laura Shaker of the Soboba Band of Luiseño Indians asked for the contact information for the lead agency and inquired as to whether other Native American groups had expressed an interest in the project. In response, Ms. Shaker was given the contact information of the lead agency as well as information on the other groups expressing interest in the project.

Although the above-referenced Tribes responded to the NOP and discussions and surveys have commenced, these activities may supplement but do not replace formal SB 18 consultation. Therefore, the County has provided the following Tribal Governments with a written invitation notice to consult:

- Agua Caliente Band of Cahuilla Indians
- Campo Band of Mission Indians
- Ewilaapaayp Tribal Office
- Jamul Indian Village
- Juaneno Band of Mission Indians
- Juaneno Band of Mission Indians Acjachemen Nation – Belardes
- Juaneno Band of Mission Indians Acjachemen Nation – Romero
- La Jolla Band of Luiseno Indians
- La Jolla Band of Mission Indians
- La Posta Band of Mission Indians
- Manzanita Band of Kumeyaay Nation
- Mesa Grande Band of Mission Indians
- Pala Band of Mission Indians
- Pauma Band of Luiseno Indians – Pauma and Yuima Reservation
- Pechanga Band of Mission Indians
- Rincon Band of Mission Indians
- San Luis Rey Band of Mission Indians
- San Pasqual Band of Mission Indians
- Soboba Band of Luiseno Indians
- Sycuan Band of the Kumeyaay Nation
- Viejas Band of Kumeyaay Indians

3.5.4 Project Impacts

Impacts 3.5-1 and 3.5-2: Would the project result in a substantial adverse change in the significance of a historical or archaeological resource, as defined in *CEQA Guidelines* Section 15064.5?

Less than Significant Impact with Mitigation Incorporated. As described above, three cultural resources, including two prehistoric lithic scatters and one prehistoric isolate, were recorded during 2013 cultural resources surveys within the project site. However, no other resources have been identified on the project site and none of the resources identified in 2013 is eligible for listing on the CRHR or meet CEQA's definition of a unique archaeological resource or historical resource. Thus, impacts to known resources onsite would not occur with implementation of the proposed project.

However, archival research indicates the project site lies within an area that is highly sensitive for cultural resources. A total of 22 previously recorded cultural resources are located within a one-mile radius of the project site. Of these, 11 are prehistoric in age and consist primarily of artifact scatters, bedrock milling features, and habitation sites. In addition, there is a potential for surface and subsurface archaeological resources to be located in valleys and canyons that have received alluvial deposits. Furthermore, representatives of the Pechanga Tribe indicate the project site is sensitive for cultural resources, and may have been within a prehistoric village site and travel corridor.

Of the 22 previously recorded cultural resources located within 1 mile of the project site, none are within 500 feet of the project site, and the majority are farther than 0.75 mile from the project site. Although no significant unique archaeological resources or historical resources have been identified on or adjacent to the development areas of the project site; and although 71 percent of the project site would be retained as undeveloped open space, which would reduce the potential for impacts to occur; it is possible that unknown unrecorded cultural resources may be located within the development portion of the project site that is located on the flatter portions of the project site, which have a greater potential for archaeological resources than steep portions of the site. Therefore, the proposed project may have the potential to unearth, expose, or disturb surface and/or subsurface archaeological, historical, or Native American resources. The project includes Project Design Features that would minimize potential impacts to unknown historical and archaeological resources, which include:

- The provision of 414.6 acres or approximately 71 percent of the project site would preserve large areas of open space onsite, which would preserve any archaeological resources within a large portion of the project site (PDF-1).
- Open space would be concentrated in the western and northern portions of the project site and the single-family residences would be clustered, which would buffer open space areas from future disturbances and focus ground disturbance, which would limit the potential impacts to unknown archaeological resources (PDF-2).

In addition, Mitigation Measures MM 3.5-1 and MM 3.5-2 would be implemented, which would provide for archaeological and Native American Monitors and a Cultural Resource Monitoring Plan that would prevent impacts to unanticipated discoveries of resources during project implementation. With implementation of Project Design Features PDF-1 and PDF-2 and Mitigation Measures MM 3.3-1 and MM 3.3-2, impacts related to historical or archaeological resources would be less than significant.

In addition to potential impacts to historical and archaeological resources described above, Tribal cultural places, if present on the site, could be impacted from project implementation. Based on the existing information described above and including a previously prepared confidential report, impacts to Tribal cultural places are presumed to be potentially significant. Because SB 18 consultation has yet to occur, it is unknown at this time if such resources are located on the project site. If present on the site it is unknown the extent and type of the resource. Therefore, formulation of specific mitigation measures is infeasible and impractical at this time. Moreover, and assuming the presence of Tribal cultural places, the existing mitigation measures may be adequate as provided and not need to be revised. Upon completion of SB 18 consultation with each of the tribes listed on the consultation request letter, the existing mitigation measures will be reviewed and revised as necessary, or additional mitigation measures will be provided.

Mitigation Measures

MM 3.5-1 Prior to the issuance of a grading permit, the applicant/developer shall provide written evidence to the County Building and Safety Division that a qualified archaeologist has been retained to address the potential discovery of unanticipated archaeological discoveries. In addition, written evidence must be provided that Native American monitors shall be allowed to monitor earthmoving activity related to the project.

In the event that archaeological materials, including stone tools, shells, bones, glass shards, ceramics, or other materials older than 50 years in age, are encountered during ground-disturbing activities, work in the immediate vicinity of the resource shall cease until a qualified archaeologist has assessed the discovery and appropriate treatment pursuant to CEQA Guidelines Section 15064.5 is determined.

If archaeological resources are found to be significant, the archaeologist shall determine, in consultation with the County and local Native American groups expressing interest, appropriate avoidance measures or other appropriate mitigation. Per CEQA Guidelines Section 15126.4(b)(3), preservation in place shall be the preferred means to avoid impacts to archaeological resources qualifying as historical resources. Consistent with CEQA Guidelines Section 15126.4(b)(3)(C), if it is demonstrated that resources cannot be avoided, the qualified archaeologist shall develop additional treatment measures, such as data recovery or other appropriate measures, in consultation with the implementing agency and local Native American representatives expressing interest in prehistoric

or tribal resources. If an archaeological site does not qualify as an historical resource but meets the criteria for a unique archaeological resource as defined in Section 21083.2, then the site shall be treated in accordance with the provisions of Section 21083.2.

MM 3.5-2 Prior to the issuance of a grading permit, a Cultural Resources Monitoring Plan shall be prepared by a qualified archaeologist in consultation with the County and local Native American groups expressing interest. The plan shall identify the location and timing of cultural resources monitoring. Monitoring would occur in areas most likely to contain resources, such as valleys and canyons. The plan shall allow the qualified archaeologist, based on observations of subsurface soil stratigraphy or other factors during initial grading, and in consultation with the Native American monitor and the lead agency, to reduce or discontinue monitoring as warranted if the archaeologist determines that the possibility of encountering archaeological deposits is low. The plan shall provide the appropriate measures to be followed in the event of unanticipated discovery of a cultural resource consistent with *CEQA Guidelines* Section 15126.4(b)(3), as well as identify the appropriate data recovery methods and procedures to reduce or eliminate the effect of the project if avoidance of significant historical or unique archaeological resources is determined to be infeasible. The plan shall also include reporting of monitoring results within a timely manner, curation of artifacts and data at an approved facility, and dissemination of reports to local and state repositories, libraries, and interested professionals. The plan shall be submitted to the County Department of Building and Safety for review and approval prior to the issuance of a grading permit and any resulting archaeological requirements shall be incorporated into all development plans and included on project permits.

Impact 3.5-3: Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

Less than Significant Impact with Mitigation Incorporated. The majority of the project site is underlain by plutonic igneous rocks that have no paleontological sensitivity. In Long Canyon, which runs through the middle of the project site, there are exposures of younger Quaternary Alluvium derived as fluvial deposits in the drainage. These deposits do not typically produce significant fossils in the upper layers, but may contain significant fossils at depth.

The northeastern portion of the project site contains exposures of the marine late Cretaceous Bedford Canyon Formation, which has been known to produce significant vertebrate fossils; however, this area would be retained as open space and would not be impacted by the proposed project. Because the plutonic igneous rocks that underlie the majority of the project site have no paleontological sensitivity, ground disturbance in this formation would not impact paleontological resources. Shallow excavations in the younger Quaternary Alluvium that is present in Long Canyon would likely not impact paleontological resources; however, deeper excavations in Quaternary Alluvium soils may encounter vertebrate fossils, which would be a

significant impact. The project would maintain open space (Project Design Feature PDF-1) and cluster development (Project Design Feature PDF-2) listed above in the Impacts 3.5-1 and 3.5-2 discussion, thereby minimizing ground disturbance and reducing potential impacts to paleontological resources. In addition, Mitigation Measure MM 3.5-3 has been provided to reduce potential impacts to paleontological resources related to excavations in Quaternary Alluvium soils to a less than significant level.

Mitigation Measure

MM 3.5-3 Prior to the issuance of a grading permit, the applicant/developer shall provide written evidence to the County Department of Building and Safety that a qualified paleontologist has been retained to respond on an as-needed basis to address unanticipated paleontological discoveries, and the paleontological requirements shall be incorporated into all development plans submitted and included as conditions of approval. In the event that paleontological resources are encountered during grading and construction operations, all construction activities shall be halted or redirected to provide for the qualified paleontologist to assess the find for significance and, if necessary, develop a paleontological resources impact mitigation plan (PRIMP) for the review and approval by the County prior to resuming construction activities.

Impact 3.5-4: Would the project disturb human remains, including those interred outside of formal cemeteries?

Less than Significant Impact. There is no indication, either from the archival research results, the archaeological survey, or input received to date from Tribes, that any location in the project site has been used for human burial purposes in the recent or distant past. The Pechanga have expressed concern that burials may exist in proximity to waterways; however, the project would not develop areas directly adjacent to waterways. In addition, the project includes Project Design Features that would reduce the development area, which would also reduce the potential for discovery of unknown human remains. The project would dedicate 71 percent of the site to open space (Project Design Feature PDF-1) and cluster development (Project Design Feature PDF-2), thereby minimizing ground disturbance and reducing potential impacts to unknown human remains.

In the event of an inadvertent discovery or recognition of any human remains during ground disturbance activities, regulations pursuant to California Health and Safety Code Section 7050.5 would be implemented. These regulations require that if human remains are unearthed during construction, then no further disturbance shall occur until the County Coroner has made the necessary findings as to the origin and disposition of the remains pursuant to Public Resource Code Section 5097.98, which outlines the NAHC notification process and the appropriate procedures if the Coroner determines the human remains to be Native American. Compliance with applicable regulations during implementation of the project would protect unknown and

previously unidentified human remains, and impacts related to unknown human remains would be less than significant.

3.5.5 Cumulative Impacts

The geographic scope for cumulative impacts to cultural and paleontological resources includes an area encompassing the northern Santa Ana Mountains. This geographic scope of analysis is appropriate because the archaeological, historical, and paleontological resources within this area are expected to be similar to those that occur on the project site because of their proximity and similar environments, landforms, and hydrology would result in similar land-use—and thus, site types. Similar geology within this vicinity would likely yield fossils of similar sensitivity and quantity.

The project vicinity contains archaeological and historical resources; thus, there is potential for ongoing and future development projects to disturb areas that may contain cultural resources. Three projects have been proposed near Lake Elsinore within the geographic scope for cumulative impacts to cultural resources and would be expected to have similar impacts on cultural resources as the proposed project. However, because the project would maintain the majority of open space onsite (Project Design Feature PDF-1), would cluster development (Project Design Feature PDF-2), and implement mitigation measures to avoid potential impacts to any unknown cultural resources that are encountered during construction activity, which would reduce project impacts to a less than significant level. Thus, with implementation of mitigation, the proposed project would not result in a cumulatively considerable impact. Therefore, cumulatively considerable impacts to archaeological and historical resources would be less than significant.

Similarly, excavation activities associated with the proposed project in conjunction with other projects in the area could contribute to the progressive loss of fossil remains, as-yet unrecorded fossil sites, associated geological and geographic data, and fossil bearing strata. However, the proposed project would have less than significant impacts by implementing Mitigation Measure MM 3.5-3. With implementation of Mitigation Measure MM 3.5-3, the proposed project would not result in a cumulatively considerable impact related to paleontological resources, and cumulative impacts related to paleontology would be less than significant. Furthermore, through implementation of California Health and Safety Code Section 7050.5 and Public Resource Code Section 5097.98 the project's potential to disturb any human remains would be less than cumulatively considerable, and less than cumulatively significant.