

3.7 Cultural Resources

3.7.1 Regulatory Setting

The term “cultural resources” as used in this document refers to all “built environment” resources (structures, bridges, railroads, water conveyance systems, etc.), culturally important resources, and archaeological resources (both prehistoric and historic), regardless of significance. Laws and regulations dealing with cultural resources include:

The National Historic Preservation Act of 1966 (NHPA), as amended, sets forth national policy and procedures for historic properties, defined as districts, sites, buildings, structures, and objects included in or eligible for listing in the National Register of Historic Places. Section 106 of the NHPA requires federal agencies to take into account the effects of their undertakings on historic properties and to allow the Advisory Council on Historic Preservation the opportunity to comment on those undertakings, following regulations issued by the Advisory Council on Historic Preservation (36 Code of Federal Regulations [CFR] 800). On January 1, 2004, a Section 106 Programmatic Agreement (PA) between the Advisory Council, Federal Highway Administration (FHWA), State Historic Preservation Officer (SHPO), and Caltrans went into effect for Caltrans projects, both state and local, with FHWA involvement. The PA was amended in 2014 (First Amended PA). The PA implements the Advisory Council’s regulations, 36 CFR 800, streamlining the Section 106 process and delegating certain responsibilities to Caltrans. The FHWA’s responsibilities under the PA have been assigned to Caltrans as part of the Surface Transportation Project Delivery Program (23 United States Code [USC] 327).

Historic properties may also be covered under Section 4(f) of the U.S. Department of Transportation Act, which regulates the “use” of land from historic properties. See Appendix B for specific information about Section 4(f).

Historical resources are considered under the California Environmental Quality Act (CEQA), as well as CA Public Resources Code (PRC) Section 5024.1, which established the California Register of Historical Resources. PRC Section 5024 requires state agencies to identify and protect state-owned resources that meet the National Register of Historic Places listing criteria. It further specifically requires Caltrans to inventory state-owned structures in its rights-of-way.

3.7.2 Affected Environment

This section is based on the *Supplemental Historic Property Survey Report* (September 2015) prepared for the Proposed Project which includes the *First Supplemental Archaeological Survey Report* (September 2015).

The Area of Potential Effects (APE) for the Proposed Project was established as being the maximum area of disturbance and is mostly within existing Caltrans right-of-way, with the exception of a 5-acre (ac) area south of SR-91 in the Irvine Ranch National Natural Landmark (NNL). The APE includes construction staging and access areas, retaining wall locations, drainage and bridge structures, and advance signage areas. The vertical APE is expected to extend to 70 feet (ft) below grade for bridge piles and 30 ft below grade around the bridge piles. The majority of the APE has previously been disturbed by construction of SR-241 and SR-91, and ongoing maintenance of those roads. Areas in the NNL have been previously disturbed by ranching activities. However, the depth of the proposed excavations will exceed the depth of the current disturbance in some areas.

The APE for the ETC Final EIR and Final EIS overlaps much of the APE for the Proposed Project. However, the end point of the ETC APE was not clearly identified. At approximately 3,600 ft west of Coal Canyon, the ETC APE map states that its APE continues along SR-91 within Caltrans right-of-way.

3.7.2.1 Records Search

On May 5, 2011, a records search was conducted at the South Central Coastal Information Center (SCCIC) of the California Historical Resources Information System (CHRIS) at California State University, Fullerton. The records search included review of all recorded historic and prehistoric archaeological sites for the part of the APE in the County of Orange and an area extending 0.25 mile (mi) from the boundary of the APE. It also included review of known cultural resource survey and excavation reports for the same area. A records search was conducted for the part of the APE in the County of Riverside at the Eastern Information Center (EIC), at the University of California, Riverside, on February 21 and 22, 2008. In addition, the following inventories were examined:

- National Register of Historic Places (National Register)
- California Register of Historical Resources (California Register)
- California Inventory of Historic Resources
- California Historical Landmarks

- California Points of Historical Interest
- Caltrans Historic Highway Bridge Inventory

3.7.2.2 Field Survey

On May 17, 2011, a windshield and pedestrian survey of the APE (which at that time did not include the approximately 5 ac area in the NNL) was conducted. That survey only included areas not previously surveyed in June 2008 for the *91 Express Lanes Extension and State Route 241 Connector Feasibility Study*. That APE was completely within Caltrans right of way. The area in the APE was previously disturbed by the construction of the SR-241 and SR-91, and ongoing maintenance of those roads. No cultural resources were identified during the windshield and pedestrian survey of that APE.

A second survey was conducted on March 17, 2015. That survey was a pedestrian survey of the approximately 5 ac area in the NNL, which was not surveyed during the May 17, 2011, survey. That survey area included the drainage and ridge terrace within the northernmost part of the NNL. That 5 ac area was added to the Project Disturbance Limits to accommodate an access road. The survey was conducted in transects spaced 7–10 meters apart. No cultural resources were observed in that part of the APE in the 2015 pedestrian survey.

3.7.2.3 Native American Consultation

On April 6, 2011, a letter was sent to the Native American Heritage Commission (NAHC) requesting a search of the Sacred Lands File (SLF) in order to identify areas of religious or cultural significance to Native Americans in or near the APE. The NAHC responded on April 12, 2011, to say that while the SLF search did not identify any Native American cultural resources within a 0.5 mi radius of the APE, cultural resources were recorded in proximity to the APE. The NAHC recommended contacting 11 Native American tribes/groups/individuals that may have additional information. A letter dated May 10, 2011, discussing the Proposed Project and requesting information on Native American heritage resources in the area that may be significant to their communities was sent via certified mail to the following:

- Ti'At Society/Inter-Tribal Council of Pimu: Cindi Alvitre, Chairwoman-Manisar
- Gabrielino Tongva Nation: Sam Dunlap, Chairperson
- Juaneño Band of Mission Indians Acjachemen Nation: David Belardes, Chairperson
- Juaneño Band of Mission Indians Acjachemen Nation: Anthony Rivera, Chairman

- Tongva Ancestral Territorial Tribal Nation: John Tommy Rosas, Tribal Administrator
- Gabrielino Tongva Indians of California Tribal Council: Robert Dorame, Tribal Chair/Cultural Resources
- Gabrieleno/Tongva San Gabriel Band of Mission Indians: Anthony Morales, Chairperson
- Juaneño Band of Mission Indians: Alfred Cruz, Cultural Resources Coordinator
- Gabrielino-Tongva Tribe: Bernie Acuna, Tribal Chairman
- Juaneño Band of Mission Indians Acjachemen Nation: Joyce Perry, Representing Tribal Chairperson
- Gabrielino-Tongva Tribe, Linda Candelaria, Chairwoman

The responses to the May 10, 2011, letter from, and consultation with, the Native American representatives are discussed in more detail in Chapter 5.0, Comments and Coordination, in this Supplemental EIR/EIS.

Anthony Morales, Gabrielino/Tongva San Gabriel Band of Mission Indians, stated that he knows there are cultural resources around the base of the foothills, and hopes the Proposed Project proponents will be vigilant. Mr. Morales also stated he is aware that the Project Area is disturbed by previous freeway construction; however, he recommends monitoring by an archaeologist and a Native American when construction activities associated with the Proposed Project are in deeply buried intact native soil (i.e., when digging for the support structures) because there is the potential to encounter buried cultural resources. No initial responses were received from the other 10 parties contacted.

Two rounds of follow-up communications were attempted by email and/or telephone between May 31 and June 7, 2011. As a result of the follow-up communications, Robert Dorame, Gabrielino Tongva Indians of California Tribal Council, stated that he would like to be notified of any cultural resources discoveries. Alfred Cruz, Juaneño Band of Mission Indians, stated that he believes the Project Area to be sensitive for cultural resources given its proximity to the Santa Ana River. Mr. Cruz also stated that his people inhabited the area for over 9,000 years and SR-91 runs along what were once ancient travel and trading routes, and that there is no way to know the extent of what is located there. Mr. Cruz recommended monitoring by a Native American and an archaeologist when construction activities associated with the Proposed Project are in undisturbed native soil. Sam Dunlap, Gabrielino Tongva Nation, stated that if there is no potential for cultural resources to be impacted

because construction will occur in previously disturbed soil, then he has no concerns. No further responses were received from any of the other Native Americans contacted.

3.7.2.4 Cultural Resources within the Area of Potential Effects

The records search at the SCCIC showed that no historic resources are recorded in the APE or within 0.25 mi of the APE. The records search revealed that a total of 24 previous studies have been conducted within 0.25 mi of the APE. Thirteen previously conducted studies were within the APE. Four other studies were in areas on the *Black Star Canyon, California*, and the *Prado Dam, California*, 7.5-minute United States Geological Survey (USGS) quadrangle maps that could potentially be within 0.25 mi of the APE. However, those previous reports were not mapped due to insufficient data.

The records search at the EIC indicated that one historic archaeological resource, 33-10819/CA-RIV-6532H (the Green River Camp/Alta Vista site), extends into the APE. That site was determined not eligible for listing in the National Register and on March 8, 2001, the SHPO concurred with that finding. The part of that site recorded within the APE was completely destroyed by construction of SR-91.

The records search at the SCCIC indicated that one archaeological site (CA-ORA-303/30-000303) was previously recorded in the APE. However, the 2008 archaeological field survey for the *91 Express Lanes Extension and State Route 241 Connector Feasibility Study* revealed that this site was destroyed by construction of SR-241.

The APE within existing Caltrans right-of-way is completely disturbed to depth by the construction and maintenance of SR-241 and SR-91. The part of the APE that is on the NNL property has been disturbed by ranching and grazing activities, and the survey in this area was negative. Therefore, the likelihood of encountering intact buried archaeological resources is low, and the APE does not appear sensitive for cultural resources.

There are five State agency bridges in the APE: 55 0790G (N241/W91 Connector OC), 55 0791G (N241/E91 Connector OC), 55 0793G (E91-S241 Connector), 55 0794F (W91-S241/91 Connector Separation), and 55 0941F (W91-S241/N241-W91 Separation). All of these bridges were constructed in 1998 as part of the construction of SR-241. These bridges are listed on the Caltrans Historic Highway Bridge

Inventory (June 2011) as Category 5 Bridges and are not eligible for the National Register.

3.7.2.5 Previously Unrecorded Cultural Materials and Human Remains

If previously unrecorded or buried cultural materials are discovered during construction, all earth-moving activity within and around the immediate discovery area will be diverted until a qualified archaeologist can assess the nature and significance of the find. This requirement is provided in Section 3.7.4

If human remains are discovered, State Health and Safety Code Section 7050.5 states that further disturbances and activities shall stop in any area or nearby area suspected to overlie remains, and the County Coroner contacted. Pursuant to California PRC Section 5097.98, if the remains are thought to be Native American, the Coroner will notify the NAHC, which will then notify the Most Likely Descendent (MLD). At this time, the person who discovered the remains will contact the California Department of Transportation District 12 Environmental Branch Chief so that they may work with the MLD on the respectful treatment and disposition of the remains. Further provisions of PRC 5097.98 are to be followed as applicable. This requirement is provided in Section 3.7.4

3.7.3 Environmental Consequences

3.7.3.1 Temporary Impacts

Build Alternative (Two-Lane Express Lanes Connector) (Preferred Alternative)

Any impacts to buried cultural resources as a result of the Build Alternative would be considered permanent; therefore, an analysis of temporary impacts is not applicable.

No Build Alternative

Impacts to buried cultural resources are considered permanent impacts; furthermore, the No Build Alternative does not propose any construction or other disturbance in the Project Area. No temporary impacts would occur.

3.7.3.2 Permanent Impacts

Build Alternative (Two-Lane Express Lanes Connector) (Preferred Alternative)

Based on the findings reported in the *Supplemental Historic Property Survey Report*, there are no Section 106 Historic Properties or CEQA Historical Resources within the APE for the Proposed Project.

As described earlier, the records search at the SCCIC showed there was one previously recorded site (CA-ORA-303/30-000303) in the APE. However, the 2008 archaeological field survey for the *91 Express Lanes Extension and State Route 241 Connector Feasibility Study* revealed that this site was destroyed during construction of SR-241. As a result, the Proposed Project will not result in impacts related to this site.

The 2008 records search at the EIC indicated that one historic archaeological resource, 33-10819/CA-RIV-6532H (the Green River Camp/Alta Vista site), previously extended into the APE. The part of the site recorded in the APE was destroyed during construction of SR-91. The site was determined not eligible for listing in the National Register and on March 8, 2001, SHPO concurred with that finding. This part of the APE for the Proposed Project consists of an advance signage area, and there will be no ground disturbance in that area as part of the Proposed Project. As a result, the Proposed Project will not result in impacts on this site.

There are no properties requiring evaluation in the APE. Therefore, Caltrans determined that, pursuant to Stipulation IX.A of the Section 106 PA, a finding of No Historic Properties Affected is appropriate for this undertaking. Caltrans also determined that a finding of No Impact is appropriate pursuant to CEQA Guidelines Section 15064.5(b)(3) because there are no historical resources within the Project Area.

There are no National Register listed or eligible cultural properties in the APE that would trigger the requirements for protection under Section 4(f).

Although considered unlikely, there is the potential to encounter unknown buried cultural materials or human remains during construction of the Proposed Project. In the event that previously unknown buried cultural materials or human remains are encountered during construction, those materials and remains would be handled as described earlier in Section 3.7.2.5, *Previously Unrecorded Cultural Materials and Human Remains*, which would avoid and/or minimize potential impacts to previously unknown cultural resources or human remains.

No Build Alternative

The No Build Alternative does not include any improvements to SR-241 or SR-91 in the Project Area. The No Build Alternative would not result in ground disturbance or excavation. Therefore, the No Build Alternative would not impact any cultural resources.

3.7.4 Avoidance, Minimization, and/or Mitigation Measures

The measures listed below are required and will be incorporated during construction of the Build Alternative to avoid and/or minimize permanent impacts to cultural resources.

Measure CR-1 **Cultural Materials.** If cultural materials are discovered during construction, all earthmoving activity within and around the immediate discovery area will be diverted until a qualified archaeologist can assess the nature and significance of the find. At that time, the Caltrans District 12 Environmental Branch Chief will be contacted to ensure that Section 106 compliance is maintained.

Measure CR-2 **Human Remains.** If human remains are discovered, State Health and Safety Code Section 7050.5 states that further disturbances and activities will cease in any area or nearby area suspected to overlie remains, and the County Coroner will be contacted. Pursuant to Public Resources Code (PRC) Section 5097.98, if the remains are thought to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC), who will designate the Most Likely Descendent (MLD). At this time, the Caltrans District 12 Environmental Branch Chief will be contacted so that they may work with the MLD on the respectful treatment and disposition of the remains. Further provisions of PRC 5097.98 are to be followed as applicable.