

2.1.6 Cultural Resources

This section describes the historical and archaeological resources present or potentially present within the proposed project area and evaluates the potential effects of the interchange improvements on those resources. The information presented in this section is based upon the Historic Property Survey Report (ECORP Consulting, Inc., 2007b) prepared for the project.

2.1.6.1 Regulatory Setting

“Cultural resources” as used in this document refers to all historical and archaeological resources, regardless of significance. Laws and regulations dealing with cultural resources include the following:

A National Historic Preservation Act

The National Historic Preservation Act of 1966, as amended, (NHPA) sets forth national policy and procedures regarding historic properties, defined as districts, sites, buildings, structures, and objects included in or eligible for the National Register of Historic Places (NRHP, National Register). Section 106 of NHPA requires federal agencies to take into account the effects of their undertakings on such 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 CFR 800). On January 1, 2004, a Section 106 Programmatic Agreement (PA) between the Advisory Council, FHWA, State Historic Preservation Officer (SHPO), and the Department went into effect for Department projects, both state and local, with FHWA involvement. The PA implements the Advisory Council’s regulations, 36 CFR 800, streamlining the Section 106 process and delegating certain responsibilities to the Department. The FHWA’s responsibilities under the PA have been assigned to the Department as part of the Surface Transportation Project Delivery Pilot Program (23 CFR 773) (July 1, 2007).

B Archaeological Resources Protection Act

The Archaeological Resources Protection Act (ARPA) applies when a project may involve archaeological resources located on federal or tribal land. ARPA requires that a permit be obtained before excavation of an archaeological resource on such land can take place.

C Section 4(f)

Historic properties are also protected under Section 4(f) of the U.S. Department of Transportation Act, which regulates the “use” of land from historic properties by transportation facilities.

D National Register of Historic Places

Established in 1966, the National Register is the nation’s official list of districts, sites, and buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture. The National Register recognizes “The quality of significance in American history, architecture, archaeology, engineering, and culture is

present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- That are associated with events that have made significant contribution to the broad patterns of our history; or
- That are associated with the lives of persons significant in our past; or
- That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- That have yielded, or may be likely to yield, information important in prehistory or history (36 CFR Part 60.4).”

To be considered for National Register eligibility, properties must generally have been completed at least 50 years prior to the evaluation. Properties that do not meet that age criteria must demonstrate to possess exceptional significance to be considered for listing.

E California Register of Historical Resources

Historical resources are considered under CEQA, as well as California Public Resources Code (PRC) Section 5024.1, which established the California Register of Historical Resources (CRHR). PRC Section 5024 requires state agencies to identify and protect state-owned resources that meet NRHP listing criteria. It further specifically requires the Department to inventory state-owned structures in its rights-of-way. PRC Sections 5024(f) and 5024.5 require state agencies to provide notice to and consult with SHPO before altering, transferring, relocating, or demolishing state-owned historical resources that are listed on or are eligible for inclusion in the National Register or are registered or eligible for registration as California Historical Landmarks.

F City of San Juan Capistrano Municipal Code, Heritage Tree Provisions

The City’s Municipal Code, Section 9-2.349 includes provisions for the City’s designation and protection of “Heritage Trees”. The main points of the City’s Heritage Tree Provisions are summarized below.

A tree shall be deemed a heritage tree and shall be protected from removal when such tree has a trunk diameter at breast height (dbh) of 36 inches or greater, and is a specimen of the following species: *Schinus molle* (California Pepper); *Quercus spp.* (oak); *Cedar spp.* (cedar); *Eucalyptus globulus* (blue gum eucalyptus); *Juglans spp.* (walnut); *Olea europaea* (olive); *Platanus spp.* (sycamore); *Populus spp.* (cottonwood); or as otherwise designated by the Planning Commission based on the tree’s unique and intrinsic value to the community because of its size, age, historic association or ecological value.

A heritage tree shall not be removed without Planning Commission review and approval of a heritage tree removal permit, based on an affirmative finding that the tree is

unsuitable for the planting area (e.g., the tree has outgrown the available space or there are excessive trees on the site requiring thinning to maintain tree health) or the heritage tree is diseased, infested, structurally unsound, or dead.

Any proposal for ground-disturbing activity within the drip line or critical root zone of a heritage tree shall require Administrative Approval by the Planning Director pursuant to Section 9-2.303(4) prior to issuance of permits, to ensure that such work will not adversely impact the health of the heritage tree. The Planning Director may require a report prepared by a Qualified Tree Expert to document that such work will not adversely impact the tree.

2.1.6.2 Affected Environment

The proposed project is located within an urban area, adjacent to commercial development and Mission San Juan Capistrano to the west. Residential and commercial areas are located to the north, south, and east of the project site. See Figures 1-1 and 1-2 for maps of the Project Location and Vicinity, respectively.

The following cultural resources studies were completed for this project:

- Historic Property Survey Report (HPSR), July 2007
- Historic Resources Evaluation Report (HRER), July 2007
- Archaeological Survey Report (ASR), July 2007
- Extended Phase I Report, July 2007

The methods that were used to support the studies performed for this project are described below.

A Records Search/Literature Review

A records search was performed on December 8, 2005, by the staff of the South Central Coastal Information Center (SCCIC) of California Historic Resources Information System (CHRIS) at California State University, Fullerton, for previously recorded cultural resources within the survey area and within a 1-mile radius. In addition to site records and reports on file at SCCIC, SCCIC staff consulted the following resources for this project:

- National Register of Historic Places, 2005
- California Register of Historical Landmarks, 2005
- California Points of Historical Interest, 2005
- California Historic Resources Inventory, 2005
- Historical maps, including the 1942 United States Geological Survey (USGS) San Juan Capistrano 15' quad and the 1942 and 1943 Santiago Peak USGS 15' quads

B Background: Historical Setting

Pre-contact Native American History: The project area was part of territory occupied by the Juaneño or Acjachemen Native American group when the Spanish arrived in A.D. 1769. The Juaneño lived in villages of up to 250 people and were located near

permanent water sources and a variety of food resources (Earle and O’Neil 1994). The village was the center of a territory from which resources were gathered. Work parties left the village to hunt, fish, and gather plant foods (Earle and O’Neil 1994). While away from the village, they established seasonal residential bases, temporary camps, and resource processing locations (Mason and Peterson 1994).

Several Juaneño villages were located in the project area (O’Neil 1988; Earle and O’Neil 1994; Earle 1997). The San Juan Basin was densely populated and villages were closely spaced because of the year-round availability of water in San Juan Creek and its tributaries (Earle 1997). The village of *Acjachemen* was located just east of the present location of Mission San Juan Capistrano and the village of *Putiidem* was located at the intersection of Trabuco and Oso Creeks. *Tobna* was located on the east bank of San Juan Creek near its mouth. The village of *Sajavit* was located at the original Mission site (O’Neil 1988). The original Mission site was half way between the mouth of Cañada Gobernadora (on the north side of San Juan Creek about 5 miles east of its confluence with Trabuco Creek) and the present Mission location (Geiger 1967; Meadows 1967). Meadows (1967) places the original Mission site at LaCoaugue Ranch (on the south side of San Juan Creek about 1.5 miles east of its confluence with Trabuco Creek).

The villages of Acjachema and Putiidem were within 1.6 km of each other and were part of the same socio-political unit, ruled by one chief who lived at Putiidem. The estimated population of Acjachema was 33 with 100 people estimated for Putiidem (O’Neil 2006).

Acjachema and Putiidem are important places in the history of the Juaneño. Putiidem was founded by a group of people who came from the San Gabriel River area and were led by Chief Oyaison and his daughter, Coronne. When her father returned home, Coronne became the chief of Putiidem. Other Juaneño villages, including Acjachema, were founded by people from Putiidem. After attending a feast at Putiidem, people returning to their villages slept in a heap at Acjachema, giving the place its name. Acjachema means “a heaped up pile of animate things” (O’Neil 2006). Contemporary Juaneño refer to themselves as “Acjachemen” or people from Acjachema. Because many contemporary Juaneño/Acjachemen people are descended from ancestors who lived at Acjachema, they have spiritual and cultural ties to this place.

Mission Period: Mission San Juan Capistrano was sited originally on October 30, 1775, and founded on November 1, 1776, for the purpose of Christianizing the indigenous peoples living between the coast and the Santa Ana Mountains (Geiger, 1967; Meadows, 1976). The Mission was moved and re-established in its present location in October 1778 (Hallen, 1976: 12, 13). The growth of the settlement of San Juan Capistrano was concentrated primarily in the immediate vicinity of the Mission plaza during the early years. The success of the Mission is revealed in records of 1796 that count nearly 1,000 Native American converts living in or near the Mission compound and working the various farming, herding, candle and soap making, iron smelting, and weaving and tanning operations. In addition, 1,649 baptisms were recorded that year. An increasing population led to the building of adobe homes for the native and intermarried families with ties to the Mission beginning in 1794 (O’Neil and Brown, 2003:9). In 1807, an additional 34 adobes were built or remodeled. Records from 1811 reveal a prosperous

year, with the Mission producing many tons of wheat, barley, corn, and beans, and thousands of head of cattle, sheep, and horse (SJC, 2004).

Rancho Period: Mexico gained independence from Spain in 1821, and along with this independence came the secularization of the missions and emancipation of Native Americans in 1826. Some Mission land was redistributed to the Native Americans as a Native American pueblo or town. In 1841, the Native American Pueblo of San Juan Capistrano was dissolved, and the proposed new town was to organize as a municipal government with both Native American and petitioning settlers to receive town lots (Hallen, 1975: 28). This was the first time that non-Native Americans could own land in San Juan Capistrano.

Americanization Period: The Mexican government of Alta California, Pio Pico, sold the Mission to his brother-in-law, John Forster, in 1845 (Hallen 1975: 30). After Alta California became part of the United States in 1848, the federal government began to survey the boundaries of the Mexican land grants and to survey the remaining public land into townships, ranges, and sections. The U.S. Land Commission made a decision regarding ownership of the land grants. The U.S. Land Commission decided in 1855 that the Mexican government's appropriation of the Mission land from the Catholic Church and its sale to John Forster was illegal; therefore, the Mission ownership should be restored to the Catholic Church. Mission lands were surveyed in 1854 and 1860, and in 1865 a patent was issued that restored the Mission land and four adjacent tracts of land, including the Mission Garden and Mission Orchard tracts, to the Catholic Church (Hallen, 1975:41).

Between 1862 and 1864, two catastrophes struck the south coastal community and other parts of southern California. A severe drought decimated the huge cattle herds, and a plague of small pox devastated the human population, killing 200 people (Hallen, 1975:43).

In 1875, the township of San Juan Capistrano was surveyed, streets were laid out, and blocks and lots were recorded on a plot map. In 1877, the town had a schoolhouse, a telegraph office, a post office, two stores, a hotel, four saloons, and 46 to 50 mostly adobe houses (Hallen, 1975:45). The school was a wooden building located near the large pepper tree on Spring Street. It replaced a one-room adobe school building on the same site, which may date to 1854 when the records of the San Juan Capistrano School District begin (Hallen, 1975:45-46).

In 1887, the coastal California Southern Railroad, which later became part of the Santa Fe Railroad, was completed from Los Angeles to San Diego, fueling a land boom that introduced a new century of prosperity and stability for San Juan Capistrano (Hallen, 1975:58,60). The late 19th and early 20th centuries were a period of stability for San Juan Capistrano. The early years saw the community become a tight-knit group of farm families and merchants that were relatively untouched by the explosion of development to the north and south. The Capistrano Valley developed into an agricultural center for the surrounding walnut and orange orchards, cattle and sheep ranches, and wheat fields. A fruit canning plant opened near the railroad depot in 1890 (Hallen, 1975: 62).

Restoration and Tourism Period: During this early period, the Mission languished in ruins after the departure of Father Mut in 1886 (Hallen, 1975:47). Despite an early stabilization effort by the Landmark Club, it was not until 1910, when Father John O’Sullivan came to town, that the Mission was restored to a semblance of its earlier self. San Juan Capistrano then became a destination for those interested in a glimpse of early California life, and visitors included Hollywood stars and tourists from around the world. In 1939, a live NBC radio broadcast spread the fame and legend of the swallows return to a nationwide audience (SJC, 2004).

C Field Survey

The project site investigation, which included photographing all of the building within the project’s area of potential effects (APE), was conducted on June 22 and 23, 2006. Photographs obtained during this survey were used for the historic properties evaluation process.

Archaeological field surveys were also performed during this time. Because most of the cultural survey area is developed with buildings, pavement, and landscaping, the field survey consisted of reconnaissance of the places where known archaeological sites and subsurface features are recorded. An archaeological survey of the small undeveloped parcel south of the east end of Spring Street was also performed.

2.1.6.3 Area of Potential Effects

This section defines the APE within the proposed project limits. The APE was established in consultation with a Department Archaeologist and Project Manager on June 8, 2006. The APE includes the properties from which new right-of-way (ROW) would be acquired and the adjacent properties subject to indirect effects (see Figure 2.1.6-1). The direct APE includes the maximum extent of ground disturbance from both alternatives combined. It includes the existing interchange, Ortega Highway from just west of Del Obispo Street to just west of Rancho Viejo Road, the northern end of Del Obispo Street, and the east end of Spring Street, along with the surrounding land, which includes part of San Juan Elementary School, part of the Mission Inn property, restaurants, gas stations, and other commercial uses. The archaeological survey area is the same as the direct APE. Once the APE was established, letters were sent to tribal groups and individuals of the Juaneño Band of Mission Indians Acjachemen Nation, and the Juaneño Band of Mission Indians. Both of these groups considered the portion of the APE near San Juan Elementary School to be sensitive. They requested that the alternatives that would affect the school site not be selected and requested monitoring during construction. A letter was also sent to the Native American Heritage Commission (NAHC) and four local historical societies. The NAHC conducted a sacred land file search that produced negative results, and no replies were received from the local historical societies.

A total of 126 previous studies have been performed within a one mile radius of the APE. Seventeen (17) of these included portions of the project APE. Three archaeological sites have been recorded within the direct APE, and four archaeological sites and two historic structures have been recorded in the indirect APE. A California Pepper Tree (purported to

be the oldest living pepper tree in the United States) that has been designated as a Heritage Tree by the City of San Juan Capistrano is located within the indirect APE on the San Juan Elementary School site adjacent to Spring Street. An additional 19 archaeological sites have been recorded within one mile of the project.

A Properties Identified within the APE

The historic properties evaluation of the proposed project has resulted in the investigation of 26 properties within the APE. Twenty-two (22) of those properties were found to meet the exemption criteria for a Section 106 PA and required no further evaluation. Four properties were considered not exempt from evaluation under the Section 106 PA. One property within the APE is currently listed on the National Register; no other properties have been previously determined to be eligible for listing. Table 2.1.6-1 summarizes each of the four properties not exempt from the Section 106 PA.

**Table 2.1.6-1
Summary of Properties that were not Exempt from Historic Evaluation**

Property	Address	Historic Resource under Section 106 of the NHPA	Historic Resource under CEQA
Frank A. Forster House	27182 Ortega Highway San Juan Capistrano, CA	Yes. This property was listed as part of the National Register on September 11, 1986.	Yes. This property was listed as part of the California Register of Historic Places in 1984.
Spring Street (portion of)	Between El Camino Real and I-5 San Juan Capistrano, CA	No. This property is not listed or eligible for listing in the National Register.	Yes. This property is listed as a City of San Juan Capistrano Landmark.
San Juan Elementary School	31562 El Camino Real San Juan Capistrano, CA	No. This property is not listed or eligible for listing in the National Register.	No. This property does not meet the criteria for a Historic Resource under CEQA.
Mission Cemetery	Ortega Highway and Rancho Viejo Road San Juan Capistrano, CA	No. This property is not listed or eligible for listing in the National Register.	Yes. This property is listed as a City of San Juan Capistrano Landmark.

This page intentionally left blank.



**Figure 2.1.6-1
 Project APE Map**

This page intentionally left blank.

B Archaeological Sites Identified within the Direct APE

Three archaeological resources were identified within the APE; each of these sites is described below. Because of the sensitive nature of archaeological sites, specific locations of the sites are not provided in this section.

Archaeological site CA-ORA-600Ha/CA-ORA-1190¹, which is located in the area occupied by San Juan Elementary School, is thought to be the site of the Native American Juaneño village of Acjachemen. When the Mission was relocated to its present site in 1778, it was built next to the village of Acjachemen. Preliminary studies did not determine whether this site occurred within the project direct APE; consequently, an extended Phase I cultural resources investigation study was conducted. Although the site, as recorded in 1988, extended into the direct APE in the eastern part of the school property, the extended Phase I study completed for this project indicated that this site does not indeed extend into the direct APE for the project (ECORP Consulting, Inc., 2007a). This site is not listed or eligible for listing on the National Register and is therefore not considered a Historical Resource under NEPA. However, the site is included on the City of San Juan Capistrano's list of local historic properties and is therefore considered a Historical Resource under CEQA.

Archaeological site CA-ORA-1215H is described as a portion of the wall foundation for the adobe wall around the Mission's orchard and garden. This site is located within the direct APE, but it was destroyed by the original construction of I-5 in the late 1960s. Within the direct APE, the areas that once contained the mission wall foundations are now 10 to 15 feet below the surrounding ground surface levels, thus providing compelling evidence of the wall's destruction within this location during the original construction of the I-5 freeway. This site is not listed or eligible for listing on the National Register and is therefore not considered a Historical Resource under NEPA. However, the site is included on the City of San Juan Capistrano's list of local historic properties and is therefore considered a Historical Resource under CEQA.

Archaeological site P30-150082 is described as a brick cistern (or concrete weir box), which was a component of the Mission irrigation ditch (or *zanja*) that carried water from San Juan Creek along the base of the hill north of what is now Ortega Highway. Based on field surveys, a dissimilar concrete pipe, which appears to be a section of standard concrete pipe usually used for sewers, was found on the site. The age of this pipe feature was not determined, but it supports the conclusion that the concrete weir box described by literature sources may have been replaced. Additionally, the concrete standpipe falls in the Water Conveyance and Control Features category of Property Type 1 in Attachment 4 of the PA; therefore, it is exempt from evaluation. This site is not listed or eligible for listing on the National Register and is therefore not considered a Historical Resource under NEPA. However, the site is included on the City of San Juan Capistrano's list of local historic properties and is therefore considered a Historical Resource under CEQA.

No other archaeological artifacts were found in any undeveloped areas within the APE.

¹ Although two site numbers have been assigned, both numbers reference the same archaeological site.

2.1.6.4 State Historic Preservation Officer (SHPO) Consultation

On August 20, 2007, SHPO issued a letter of concurrence with the findings of the HPSR that Spring Street and San Juan Elementary School are not eligible for listing in the National Register. Refer to Appendix E of this EIR/EA for a copy of the SHPO letter of concurrence.

2.1.6.5 Environmental Consequences

A Temporary Impacts

Alternative 3. Temporary impacts to any of the archaeological and historic resources described in this section are not anticipated. Construction activities associated with Alternative 3 (the Preferred Alternative) would not have the potential to directly or indirectly affect the California Pepper Heritage Tree located on the San Juan Elementary School site adjacent to Spring Street.

Alternative 5. Temporary impacts to any of the archaeological and historic resources described in this section are not anticipated. Construction activities associated with Alternative 5 would involve the removal of a classroom building on the San Juan Elementary School site and reconstruction of Spring Street adjacent to the Heritage Tree. As such, the construction activities associated with Alternative 5 would have potential to damage the Heritage Tree. All necessary protection measures in accordance with City Municipal Code, Section 9-2.349 would be taken to ensure that construction work under Alternative 5 would not cause damage to the California Pepper Heritage Tree. Measures MM BIO-6 and MM BIO-7 (as proposed in Section 2.3.3, Biological Environment, Plant Species) would serve to avoid construction-related adverse effects to the California Pepper Heritage Tree if Alternative 5 is adopted and constructed.

B Permanent Impacts

Historic Properties

Alternatives 3 and 5. Under the authority of FHWA, the Department has determined that a Finding of No Historic Properties Affected, in accordance with Section 106 PA Stipulation IX.A and 36 CFR 800.4(d)(1), is appropriate for the undertaking of the proposed project.

There would be no direct property take at the Frank A. Forster House (property listed on both the National Register and CRHP). Construction of a replacement curb and sidewalk along the roadway frontage adjacent to the Frank A. Forster House is proposed as part of the project; however, the work would occur within the existing public ROW along Ortega Highway. This proposed curb and sidewalk replacement would not affect any historic feature or contributing element on the property and therefore would not adversely affect the integrity this resource.

The project would not encroach on Spring Street between El Camino Real and I-5 and the Mission Cemetery; therefore, adverse effects to both properties are not expected.

Archaeological Resources

Alternatives 3 and 5. The project was also determined to have no potential adverse effect upon any of the archaeological resources within the APE. This determination is based on the following:

- Site CA-ORA-600Ha/CA-ORA-1190 is considered to be outside of the direct APE.
- Remnants of Site CA-ORA-1215H were not found within the direct APE during field surveys.
- Site P30-150082 may have been replaced with a concrete pipe. The nature of this feature also exempts it from further evaluation.

The Department avoids cultural resources whenever possible. Further investigations may be needed if cultural resources cannot be avoided by the project. If buried cultural materials are encountered during construction, it is the Department's policy that work stop in that area until a qualified archaeologist can evaluate the nature and significance of the find. Additional survey would be required if the project changes and includes areas not previously surveyed.

Section 4(f)

Alternatives 3 and 5. 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. The proposed project would not cause an adverse effect upon any property that falls under this designation.

City of San Juan Capistrano Heritage Tree

Alternatives 3 and 5. The long-term operation of the project would not have the potential to directly or indirectly affect the California Pepper Heritage Tree located on the San Juan Elementary School site adjacent to Spring Street.

2.1.6.6 Avoidance, Minimization, and/or Mitigation Measures

A Temporary Measures

MM CR-1 If cultural materials are discovered during construction, then all earth-moving activity within and around the immediate discovery area must be diverted until a qualified archaeologist can assess the nature and significance of the find.

MM CR-2 If human remains are discovered, State Health and Safety Code Section 7050.5 states that further disturbance and activities shall cease in any area or nearby area suspected to overlie remains, and the county coroner contacted. Pursuant to Public Resources Code (PRC) Section 5097.98, if the remains are thought to be Native American, then the coroner will notify the Native American Heritage Commission (NAHC), who will then notify the Most Likely

Descendent (MLD). At this time, the person who discovered the remains will contact Caltrans District 12 so that they can 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.

B Permanent Measures

No permanent avoidance, minimization, or mitigation measures are required.