

## 2.7 Cultural Resources

### 2.7.1 Regulatory Setting

“Cultural resources” as used in this document refers to all “built environment” resources (buildings and 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 following:

The National Historic Preservation Act of 1966 (NHPA), as amended, 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 (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 Code of Federal Regulations [CFR] 800). On January 1, 2004, a Section 106 Programmatic Agreement (PA) among the Advisory Council, the Federal Highway Administration (FHWA), the State Historic Preservation Officer (SHPO), and the California Department of Transportation (Caltrans) went into effect for Caltrans 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 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.

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

## **2.7.2 Affected Environment**

This section is based on the Historic Property Survey Report (HPSR; April 2013), Archaeological Survey Report (ASR; March 2013), and Historical Resources Evaluation Report (HRER; March 2013).

### **2.7.2.1 Area of Potential Effects**

The Area of Potential Effects (APE) within the project includes all areas in which the project has the potential to directly or indirectly affect historic properties, if any such properties exist. These include the horizontal and vertical areas proposed for (1) direct effects associated with ground-disturbing activities, including but not limited to existing and proposed ROW, temporary and permanent construction easements, and staging areas (Direct APE); and (2) indirect effects that are the result of visual, noise, or other effects (Indirect APE). The area of indirect effects generally includes all developed properties that are adjacent to the proposed direct effects unless those effects are limited to minor improvements (such as pavement striping) that have no potential to indirectly impact adjacent properties. The APE extends around the entirety of those parcels where the built environment may be directly or indirectly affected. The APE is shown as Map 3 in the HPSR.

### **2.7.2.2 Records Search**

On April 6, 2011, a records search was conducted at the South Central Coastal Information Center (SCCIC) of the California Historical Resources Information System (CHRIS), located at California State University, Fullerton. The records search included a review of all recorded historic and prehistoric archaeological sites within a one-mile (mi) radius of the Direct APE as well as a review of known cultural resource survey and excavation reports. In addition, the following inventories were examined:

- National Register
- California Register
- California Historical Landmarks (CHL)
- California Points of Historical Interest (PHI)
- California Historic Resources Inventory (HRI)

The records search identified 42 archaeological sites that have been recorded within one mi of the Direct APE. One historic Native American site, P-30-000016, is recorded as within the Direct APE. A total of 21 isolates have been identified within the one mi radius, three of which were recorded within the Direct APE: P-30-100297, P-30-100371, and P-30-100466. Six historic resources were recorded within the

one mi radius, two of which are within the Direct APE: P-30-176663 and P-30-176664. One resource that is within the one mi radius but outside of the Direct APE is listed as a California Point of Historical Interest. This same resource is listed in the California Historic Resources Inventory as having been evaluated for historical significance with a status code of 7W (submitted to the Office of Historic preservation [OHP] for action – withdrawn). The California Historical Landmarks, California Register, and the National Register list no properties within the search area.

There have been 233 cultural resources studies completed within the records search area, 45 of which included various small areas of the Direct APE. Very little of the Direct APE has been previously surveyed.

In addition to the records search, background research was also conducted on the project area using a variety of primary and secondary sources, including published literature regarding the history and development of Orange County; the Cities of Laguna Hills, Lake Forest, Mission Viejo, and Laguna Niguel; the surrounding areas; historic aerial photographs and maps of the project APE and vicinity; online sources; and conversations with historical societies. On the basis of this research, the primary historical themes in the project area were developed.

The following repositories and resources were contacted and utilized to access historical information pertinent to the parcels within the project APE and the project vicinity:

- City of Mission Viejo Community View™, accessed online in August 2012.
- Los Angeles Public Library, various newspaper and map archives accessed online, August 2012.
- Orange County Historical Society (letter mailed on August 8, 2012; no response received).
- Laguna Niguel Historical Society (letter mailed on August 8, 2012; no response received).
- Historical Society of Laguna Woods (letter mailed on August 8, 2012; no response received).
- San Juan Capistrano Historical Society (letter mailed on August 8, 2012; no response received).
- Mission Viejo Heritage Committee (letter mailed on August 8, 2012; no response received).

- Saddleback Area Historical Society (letter mailed on August 8, 2012; no response received).
- City of Lake Forest (letter mailed on August 20, 2012; no response received).
- City of Laguna Hills (letter sent via email on August 20, 2012; no response received).
- City of Laguna Niguel (letter sent via email on August 20, 2012; response received on August 24 indicating that the City does not have any designated resources in the project APE).
- Saddleback Valley Unified School District, email conversation with Tammy Blakely, Assistant to the Superintendent/Director, Pupil Services, on August 23, 2012; referred to Noemi Avila in the Facilities Department but no response received.
- Mission Viejo High School (email to Marlene Foster, Library Clerk on August 29, 2012 regarding history of high school; no response received). Follow up on September 18, 2012, with Marlene Foster. Received response September 25, 2012: no information.
- City of Mission Viejo, phone/email conversations with Robert Schick, City Clerk's Office, and Tim Martin, Associate Planner, Community Development, regarding building permits, September 18, 2012.
- City of Lake Forest, email conversations with Susan Entner, Records Specialist, City Clerk Office, regarding building permits, September 13, 18, and 19, 2012.
- Saddleback Valley Unified School District, email sent to Noemi Avila, Facilities Department, Saddleback Valley Unified School District August 23, 2012; referred to by Tammy Blakely, Assistant to the Superintendent/Director, Pupil Services, Saddleback Valley Unified School District.
- Historic aerial photographs, accessed online at [historicaerials.com](http://historicaerials.com) in July and August 2012.
- Historic *Los Angeles Times*, news articles accessed online via the Los Angeles Public Library website in July and August 2012.
- Historic news articles, accessed online via [Genealogybank.com](http://Genealogybank.com) in August 2012.
- United States Geological Survey (USGS) topographic maps.
- Caltrans Historic Highway Bridge Inventory.

### **2.7.2.3 Field Survey**

Archaeological surveys of the project's Direct APE were conducted on August 18, 20, 29, and December 11, 2012. Architectural surveys of the Indirect APE were conducted on August 15, 21, and 23, 2012. During the surveys, 11 historic-period

(45 years of age or older) resources were identified and evaluated within the project APE. These include 10 single-family houses dating from 1963 to 1966 and Mission Viejo High School, which dates to 1966. None of the resources that were evaluated as part of this study appears eligible for listing in the National Register or California Register.

Reconnaissance-level architectural surveys of the project APE were conducted on August 15 and 21, 2012, and buildings in the APE were observed. Consistent with general cultural resources practices and in order to account for lead time between preparation of Section 106 compliance and actual project construction, buildings 45 years of age or older (rather than 50 years of age and older) are being considered for this project. Based on these surveys and basic property-specific research, the majority of buildings in the APE were determined to meet the criteria for classification under Property Types 2–4 and 6, as defined in Attachment 4 (Properties Exempt from Evaluation) in the Caltrans Section 106 PA and therefore, were not further documented. Most of the buildings that were found to be exempt are modern or significantly altered. An intensive field survey of the remaining buildings was conducted on August 23, 2012. The field surveys of the properties within the APE resulted in the identification and evaluation of 11 historic-period built environment resources. These include 10 single-family residences and one high school. All of these resources date to the 1960s and are related to post-World War II (WWII) development in the Cities of Lake Forest and Mission Viejo. None of these resources was evaluated as eligible for listing in the National Register and none appears to qualify as a historical resource pursuant to CEQA.

An archaeological reconnaissance windshield survey of the Direct APE along Interstate 5 (I-5) was conducted on August 18, 2012. The purpose of the windshield survey was to identify areas within the Direct APE that could possibly contain archaeological remains. Pedestrian surveys of these areas were conducted on August 18, 20, 29, November 9, and December 11, 2012. Areas surveyed were generally flat or of a slope less than 45 degrees and possibly had not been impacted by construction of the I-5 or any supporting structures. Of special interest was a previously recorded historic Native American site, P-30-000016, which was described as “no middens or shells of any kind found here,” and artifacts were listed as “a great many common broken artifacts and frags found.” In proximity to where this site is mapped is the historical marker for the Juan Avila Adobe. The entire area was intensively examined for any evidence of either the historic Native American site or the adobe. On the east

side of I-5 in Sycamore Park is a metal plaque set in cobbles identifying the location of the Serrano Adobes.

The results of windshield, pedestrian, and focused pedestrian surveys determined that no archaeological resources were present within the Direct APE.

A total of 12 State Agency bridges were also identified in the project APE. All of the bridges are Category 5 (not eligible for the National Register). All other historic-period resources within the project APE have been determined exempt from further evaluation per the Caltrans Section 106 PA.

#### **2.7.2.4 Native American Consultation**

On July 11, 2012, 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. The NAHC responded on July 19, 2012, to say that the SLF did not identify Native American cultural resources within 0.5 mi of the project APE, but recommended that 14 Native American individuals, representing 10 Gabrielino and Juaneño groups, be contacted for additional information regarding cultural resources that could be impacted. As a result, the following groups and individuals were contacted by certified letter on July 24, 2012:

- Ti'At Society/Inter-Tribal Council of Pimu: Cindi M. 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 Administration
- 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
- Juaneño Band of Mission Indians: Anita Espinoza
- Gabrielino-Tongva Tribe: Linda Candelaria, Chairwoman
- United Coalition to Protect Panhe (UCPP): Rebecca Robles

- Gabrieleno Band of Mission Indians: Andrew Salas, Chairperson
- Gabrielino-Tongva Tribe: Bernie Acuna
- Juaneño Band of Mission Indians Acjachemen Nation: Joyce Perry, Representing Tribal Chairperson

One initial response to the letters was received. John Tommy Rosas, Tongva Ancestral Territorial Tribal Nation, responded by email on July 24, 2012, to say that he will comment more at a later date.

Three rounds of follow-up contact in the form of telephone calls and emails were conducted between August 9 and September 11, 2012, depending on whether contact was successful. As a result, 10 additional responses were received.

- Sam Dunlap, Gabrielino Tongva Nation, replied by email on August 21, 2012, to say that he has no comments at this time.
- Anthony Rivera, Juaneño Band of Mission Indians Acjachemen Nation, stated in an email on August 20, 2012, that the tribe would like to comment on this project. He requested additional information on the archaeological programs and the summary reports. This information was emailed to Mr. Rivera on August 21, 2012. No further comment has been received.
- John Tommy Rosas, Tongva Ancestral Territorial Tribal Nation, responded further by email on August 9, 2012, to request construction drawings and agency contact information. Contact information was emailed to him, and construction drawings were sent to him on August 15, 2012. Mr. Rosas also requests government-to-government consultation and copies of the cultural resources reports. Although there are no federally recognized Tribes within the jurisdiction of Caltrans District 12 in Orange County, Caltrans initiated consultation with Mr. Rosas via email on September 7, 2012. No response was received. Caltrans contacted Mr. Rosas again via email on September 24, 2012. Mr. Rosas responded via email on September 24, 2012, stating that he has heard there are project changes. On September 24, 2012, Caltrans responded to Mr. Rosas via email, stating that ground disturbance particulars would be reviewed and then discussed with Mr. Rosas. On September 24, 2012, Mr. Rosas responded via email to thank Caltrans. On October 4, 2012, Caltrans contacted Mr. Rosas via email to say that Caltrans will review the HPSR (which was still in preparation) before responding to Mr. Rosas. On October 4, 2012, Mr. Rosas responded via email to show appreciation for Caltrans' email and to request a copy of the report when it was finished. On November 6, 2012, Caltrans contacted Mr. Rosas via

email to inform him that Caltrans had just completed review of the HPSR and had submitted comments to the consultant. Caltrans provided Mr. Rosas with a summary of the cultural study to date. On November 6, 2012, Mr. Rosas responded via email to Caltrans to say thank you. On January 23, 2013, Caltrans contacted Mr. Rosas via email to inform him that the revised HPSR was currently under review. Caltrans informed Mr. Rosas that the previously recorded site CA-ORA-16 and the historic adobes had been destroyed. On January 23, 2013, Mr. Rosas responded via email to thank Caltrans and inquire as to the status of the project. On January 24, 2013, Caltrans contacted Mr. Rosas via email to provide an explanation of the environmental process as it pertains to this project, specifically cultural resources. Mr. Rosas was asked whether he would like to meet in the field to view the project area and/or whether he would like to provide general comments for inclusion in the HPSR. Mr. Rosas contacted Caltrans via email on January 24, 2013, to thank Caltrans for its expertise and respectful ways. On February 20, 2013, Caltrans contacted Mr. Rosas via email to say that the Draft HPSR had been reviewed by Caltrans Headquarters and that HQ concurred with the findings that site CA-ORA-16 and the historic adobes had been removed prior to or for highway and residential construction, and that no archaeological monitoring would be conducted for this project. Mr. Rosas responded via email on February 20, 2013, to thank Caltrans for the update and to state that he believes there should be an archaeological monitor present to “check material and project excavation.” He made additional requests including “photos and testing records” if a Caltrans archaeologist monitors. He also stated that while Caltrans may think a Native American monitor is not needed, “we have had some bad events recently when we haven’t had someone watching the fort.” He requested any documents that he does not already have. On February 20, 2013, Caltrans contacted Mr. Rosas via email to thank him for his comments and ensure him that the consultant would incorporate his comments into the HPSR.

- Robert Dorame, Gabrielino Tongva Indians of California Tribal Council, responded by email on August 20, 2012, to say that while he is not familiar with specific sites that may be impacted by the project, he knows of significant rock shelters and many artifacts found during construction of State Route 73 (SR-73). He also noted that there is always the possibility of finding something in this region of Southern California.
- Anthony Morales, Gabrieleno/Tongva San Gabriel Band of Mission Indians, responded by telephone on August 29, 2012, to say that the majority of the project is in Juaneño territory. However, he considers the area to be of concern due to the

- presence of Aliso Creek and I-5, which likely follows historic and prehistoric trails. He recommends vigilance and would like to be notified of any discoveries.
- Alfred Cruz, Juaneño Band of Mission Indians, left a voicemail on August 16, 2012, requesting more information regarding cultural resources in the project area. A voicemail was left for Mr. Cruz on August 17, 2012, with the information he requested. No further comment has been received.
  - Linda Candelaria, Gabrielino-Tongva Tribe, responded by email on August 20, 2012, to say that the project is in Juaneño territory and to please contact them. The Juaneño were contacted as documented previously in this section.
  - Rebecca Robles, Coalition to Protect Panhe (UCPP), stated in a telephone conversation on August 11, 2012, that she is concerned about resources that could be affected by the project and is preparing a response. She requested additional information that was emailed to her. She also requested to be kept informed on the progress of the project. No further comment has been received.
  - Andrew Salas, Gabrieleno Band of Mission Indians, emailed on August 21, 2012, to request that the map attachment be sent again because he could not open it. It was sent again. Mr. Salas emailed on September 12, 2012, to say that the project is in a highly culturally sensitive area of villages, and it was occupied and shared by both the Gabrielinos and Juaneños. In order to protect their resources, he requests that a certified and trained monitor from their group be present during all ground disturbing activities.
  - Joyce Perry responded on August 9, 2012, asking to be informed of any “red flags” that would indicate cultural resources could be affected. An email was sent to Ms. Perry on August 20, 2012, informing her of a cultural resource recorded in the project APE. She responded by email on August 26, 2012, to say that she spoke about the project to David Belardes. Mr. Belardes is aware that historic adobe foundations are thought to be located on both sides of the freeway. They are likely unrecorded, as the freeway and housing development were built prior to current environmental laws, and the resources would have lacked protection.

No response was received from Cindi Alvitre, Ti’ At Society/Inter-Tribal Council of Pimu; Anita Espinoza of the Juaneño Band of Mission Indians; or Bernie Acuna, Gabrielino-Tongva Tribe.

### **2.7.2.5 Properties Identified within the APE**

As a result of the field surveys, a total of 11 historic-period built environment resources were identified and evaluated within the Indirect APE. These include 10

single-family residences and one high school. All of these resources date to the 1960s and are related to post-WWII development in the Cities of Lake Forest and Mission Viejo. None of these resources was evaluated as eligible for listing in the National Register, and none appears to qualify as a historical resource pursuant to CEQA. No historic-period built environment resources were identified within the Direct APE.

In addition, 12 State Agency bridges were also identified in the project APE. All of the bridges are Category 5 (not eligible for the National Register). All other historic-period resources within the project APE have been determined exempt from further evaluation per the Caltrans Section 106 PA.

#### **2.7.2.6 Archaeological Sites Identified within the Direct APE**

Three historic resources and three isolates were previously recorded within the Direct APE.

Two of the historic resources are segments of the Burlington Northern Santa Fe/Metrolink Railroad that cross the APE immediately south of La Paz Road. However, due to surrounding development and routine maintenance, the existing track and other railroad features have been replaced over the years and show no particular historic characteristics.

The third historic resource is the historic Native American site associated with the historic Juan Avila, Jose Serrano, and Stein Adobes (P-30-000016). Originally this site was described as “no middens or shells of any kind found here,” and artifacts were listed as “a great many common broken artifacts and frags found.” Research determined that the entire site was destroyed by the original construction of I-5. The three isolates were mapped and identified to be within the current alignment of I-5; however, no visible remains are present and are presumed destroyed by its construction.

A groundstone metate fragment presumably associated with historic Native American site P-30-000016 was identified during the field survey approximately 1,100 feet outside the Direct APE. However, no archaeological resources were identified during the project surveys within the Direct APE.

## **2.7.3 Environmental Consequences**

### **2.7.3.1 Temporary Impacts**

#### ***No Build Alternative – Alternative 1***

The No Build Alternative does not propose any construction or other disturbance in the Study Area. Therefore, the No Build Alternative would result in no adverse impacts related to known cultural resources.

#### ***Build Alternatives – Alternative 2 (Preferred Alternative) and Alternative 3***

Alternatives 2 and 3 would require ground disturbance and modification to existing freeway structures. These construction activities could result in impacts to unknown buried cultural materials or human remains. Any direct or indirect impacts to buried resources would be considered permanent; therefore, an analysis of direct or indirect temporary impacts to cultural resources is not applicable.

### **2.7.3.2 Permanent Impacts**

#### ***No Build Alternative – Alternative 1***

The No Build Alternative proposes no construction or other disturbance in the Study Area. Therefore, the No Build Alternative would result in no adverse impacts related to cultural resources.

#### ***Build Alternatives – Alternative 2 (Preferred Alternative) and Alternative 3***

Based on the results of the HPSR, it was determined that no built environment resource within the project APE qualifies as a “historical resource” pursuant to CEQA, nor does any such resource qualify as a historic property per Section 106. Therefore, no historical resources will be impacted, and no historic properties will be affected by this project. The HPSR was submitted to the SHPO for consultation in April 2013; the SHPO responded on May 16, 2013 that they concur that the 11 built environment evaluations are not eligible for the NHRP. However, the SHPO recommended that a qualified archaeologist monitor be present during ground disturbing activities in the vicinity of the former Adobe locations and the vicinity of site P-30-000016.

As stated in the ASR, the Direct APE is extensively disturbed by development, and the likelihood of encountering intact archaeological resources during construction of Alternatives 2 and 3 is low. The ROW is completely disturbed by previous

infrastructure development or consists entirely of fill. Therefore, the Build Alternatives are not anticipated to have an impact on any archaeological resources.

Although considered unlikely, there is the potential to encounter unknown buried cultural materials or human remains within the APE during construction of Alternatives 2 and 3.

Historic properties are protected under Section 4(f) of the United States (U.S.) Department of Transportation Act, which regulates the “use” of land from historic properties by transportation facilities. The proposed project would not cause a direct or indirect adverse effect on any property that falls under this designation.

#### **2.7.4 Avoidance, Minimization, and/or Mitigation Measures**

The measures below are required to avoid or minimize potential project impacts related to the discovery of previously unknown cultural materials and human remains during construction:

- CR-1** Within the vicinity of the previously documented historic adobes (Avila, Stein, and Serrano) and associated site location (P-30-000016), ground disturbing activities will be monitored by a qualified archaeologist. An Archaeological Monitoring Area (AMA) will be delineated on plans during the project’s Plans, Specifications, and Estimates (PS&E) phase and incorporated into the final construction contract. A final Archaeological Monitoring Report will be required after construction is completed.
  
- CR-2** 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.
  
- CR-3** 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 of Orange (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), which will then notify the Most Likely Descendant (MLD). At this time, the person who

discovered the remains will also contact the California Department of Transportation (Caltrans) District 12 Environmental Branch Chief so that he/she 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.

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